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Senate

The Senate met at 2 p.m. and was called to order by the Honorable MARTIN HEINRICH, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal God, Your kingdom will never end. Abide with our Senators and may they find favor with You. Lord, remind them that because of Your omnipotence, nothing is impossible for You. May their reverence for You provide them this day with a foundation of wisdom that will enable people everywhere to live in peace, untroubled by fear of harm. Teach our lawmakers to treasure Your commands, to walk with integrity, and to do what is right, just, and fair. May their relationship with You be like the first light of dawn, which shines even brighter until the full light of day.

We pray in Your sacred Name. Amen.

NOTICE

If the 113th Congress, 1st Session, adjourns sine die on or before December 24, 2013, a final issue of the *Congressional Record* for the 113th Congress, 1st Session, will be published on Tuesday, December 31, 2013, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Monday, December 30. The final issue will be dated Tuesday, December 31, 2013, and will be delivered on Thursday, January 2, 2014.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong_record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

PLEDGE OF ALLEGIANCE

The Presiding Officer 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. LEAHY).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 11, 2013.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARTIN HEINRICH, a

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

Senator from the State of New Mexico, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

WORKFORCE INVESTMENT ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 243, S. 1356.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The bill clerk read as follows:

Motion to proceed to Calendar No. 243, S. 1356, a bill to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the Senate will resume consideration of the nomination of Nina Pillard to be U.S. circuit judge for the DC Circuit, postcloture.

MEASURE PLACED ON THE CALENDAR—S. 1797

Mr. President, I am told S. 1797 is due for a second reading. Is that valid?

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The bill clerk read as follows:

A bill (S. 1797) to provide for the extension of certain unemployment benefits, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar under rule XIV.

SENATE AGENDA

Mr. REID. Mr. President, I congratulate the budget negotiators on reaching an agreement last night to roll back the painful and arbitrary cuts of sequestration and prevent another dangerous government shutdown in the new year. Their bargain also protects Medicare and Social Security benefits and reduces the deficit. That is a good package.

I commend Budget Chairman MURRAY and her House Republican counterpart Congressman PAUL RYAN for their diligence and cooperative spirit which made this agreement possible.

The process that led to this accord was long and very difficult. The Republican government shutdown—the first in 17 years—took a toll on our economy, on American families, and on our reputation around the world. It was also costly for the Federal Government in many different ways.

So when Congress reached a temporary settlement that ended the shortsighted shutdown, Democrats were committed to ending the terrible cycle of lurching from crisis to crisis. But understand this: When this measure went to the House of Representatives—it passed here to keep open the government, after 16 days; to stop the government from defaulting on its debt for the first time in history—about 75 percent of the Republicans in the House voted to keep the government closed and to default on the debt. Think about that. So this agreement is really a breath of fresh air—as we have been committed to setting sound fiscal policy through the regular order of the budget process and not through hostage taking or crisis making.

In this new agreement neither side got everything it wanted, but that is how it used to work around here. That is how it worked. Each side would move forward on what they wanted, and they would recognize—sometimes it was soon; sometimes it was not so soon—that the only way to work something out was to work together. That is what happened here.

So this is, I repeat, a breath of fresh air for the country. But I also hope it is a view of the future. I hope it is a view of the future. For example, I believe, as many Democrats do, that an extension of emergency unemployment insurance should be included in this package. I am very disappointed that the bills posted by the House last night do not include that. About 20,000 Nevadans who have been unemployed for more than 6 months—and more than a million people nationwide—will lose their earned unemployment benefits at the end of this year unless Congress acts.

I will stand for those Americans who want to get back to work as soon as possible but face a market where there is only one job opening for every three unemployed workers. That is why we are going to push here, after the first of the year, for an extension of unemployment insurance when the Senate convenes after the New Year, as I will also work very hard to raise the minimum wage.

It was stunning, Mr. President, the reports all over the national media today—radio, television, all the print media—that the vast majority of Americans believe the minimum wage should be raised to $10 an hour. The American people believe that if someone works for 40 hours, they should not be on the rating as being poor. They should be able to support themselves and their family. But that is not the way it is now. We need to raise the minimum wage, and there will be a sustained effort to do that when we come back.

Democrats, led by Senator MURRAY, stood for our party's priorities—protecting the middle class and growing the economy—but we were also ready and willing to compromise with our Republican counterparts. I admire Senator MURRAY for having proceeded forward along this line.

But while both sides made concessions and sacrifices, I repeat, that is the nature of negotiation and the point of a conference committee: to work together to work out our differences. So to their credit, members of the conference committee considered every option, no matter how painful to their own political party. They rejected many. They rejected most. They were able to come together on enough revenue and enough cuts to come up with this pact that they have.

Under the leadership of Chairman MURRAY, the committee crafted a 2-year bargain that charts a course for economic growth, maintains fiscal responsibility, and, perhaps most importantly, averts another manufactured crisis that would undercut the economic progress we have made these last 4 years.

So I look forward to working with my colleagues on both sides of the aisle and both sides of the Capitol to pass this agreement.

Last night, we also filed—I should not say ''we''—last night, the House filed a bill to ensure physicians are fairly compensated so Medicare patients can continue to see their doctors. It would be a shame if Medicare patients did not have the ability to have a doctor. But unless we did this agreement—short term as it is—physicians would receive a 27-percent cut in pay. So again in the new year we are going to work very hard to get rid of this so-called doc fix once and for all. We need to fix it once and for all.

Unfortunately, instead of beginning work on either of these things I have talked about, the two agreements—that is, the fix for doctors for Medicare patients, the budget; and the Defense bill, which I have not talked about, which also was posted last night in the House—Republicans are not facing reality. They are not. You are seeing, the American people are seeing before their eyes the face of obstruction. That is what is going on right now. We are eating up days of time—wasting hours, weeks, and days.

We could be voting on all this stuff now, all these nominations that are appearing before this body now, and move on to the substantive issues. This is why the rules were changed, Mr. President. You can see it right now. We are wasting hour after hour doing nothing.

The filibuster rule was established to get legislation passed. As it relates to nominations, the same thing applied: to get nominations processed. Our predecessors in the Senate set some rules saying that if cloture is invoked, the parties are entitled to some time to make their case before final passage or final vote on the nomination.

So now we have a number of nominations we are processing. To show how shallow the Republicans' obstructionism is, they have no objections to

any of these nominations. Nobody comes and gives these fire-and-brimstone speeches about how bad these people are. Why? Because they are not. They have just been stalling and stalling. I repeat, this is the face of obstruction which we have been facing for 5 years during the Obama administration. Is it any wonder that the rule was changed that relates to nominations? We were spending all of our time trying to get the President to have a team rather than doing work on substantive legislation.

So we will see how late we have to work tonight. Whatever it is, we are going to do it. We are going to finish these nominations this week. If it goes into Friday, if it goes into Saturday, that is what we are going to do. We have to get this done.

Christmas is approaching, and I understand that. We all understand that. But this session of Congress does not end at Christmastime. We have work to do. We have to pass this budget. We have to do something for those Medicare patients. We have to do something for the military of this country with this Defense agreement that has been reached between the leaders of those two important committees—Armed Services and their counterpart in the House, whatever it is called.

So why waste this time? There is no reason to do this. Republicans are stalling. For what? To stop these nominations from going forward? They are going to go forward with a simple majority vote. I understand one of them may not go forward because some Democrats do not like the nominee, but that is the way it should be.

So we could confirm Nina Pillard right now. No one is saying a single word contrary to her being the quality candidate that we have said she is. She is nominated to sit on the District of Columbia Appeals Court, I repeat, some say the most important court in America; most say second only to the Supreme Court.

But instead, Republicans are insisting that we vote on her nomination many hours from now, after they have frittered away 30 hours of the Senate's time. There are no objections to her qualifications. The outcome of her vote is a foregone conclusion. So when people around here complain that they are not home with their families at Christmastime, here is the reason: Republicans' obstruction.

It is hard to imagine a more pointless exercise than spending hour after hour waiting for a vote on an outcome we already know. Republicans insist on wasting time simply for the sake of wasting time. Is it any wonder, I repeat, that the rule was changed? Here is why. It is no wonder Americans overwhelmingly support the changes made to the rules last month in order to make the Senate work again.

The Republican's partisan sideshow is another example of the kind of blatant obstruction that has ground the Senate to a halt. The work of the Senate has come to a standstill over the last 5 years. Members should be aware if Republicans stop squandering the Senate's precious time, rollcall votes are possible at any time this afternoon or this evening. It does not have to be like this.

With just a little bit of cooperation, we could hold votes in a timely manner so we can move on with the business before us. Unfortunately, we can not schedule votes without cooperation; that is part of the Senate rules. Cooperation is in short supply at the moment.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF CORNELIA T. L. PILLARD TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination which the clerk will report.

The bill clerk read the nomination of Cornelia T. L. Pillard, of the District of Columbia, to be United States Circuit Judge for the District of Columbia Circuit.

RECOGNITION OF THE MINORITY LEADER

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

SENATE RULES AND HEALTH CARE

Mr. MCCONNELL. Mr. President, I just listened to the majority leader complaining about what we are doing this week. He is the one in charge of the schedule. He has spent a week here on nonessential nominations, none of which are emergencies, all of which could be handled later. It was his choice to spend the week on nominations that are not emergencies as opposed to doing things like passing a DOD authorization bill or things like taking up a budget resolution or things like doing a farm bill. So the majority leader has a choice as to what we are going to spend time on. He has chosen to spend this week on 10 nominations.

Yesterday I talked about the left's ''ends justify the means'' quest for power and the lengths to which they are willing to go to satisfy it. The Obama administration and its allies have done just about everything to get what they want one way or the other, even fundamentally altering the contours of our democracy when they could not get their way by playing by the rules.

We saw the culmination of that with the majority leader's power grab in the Senate last month. The real world consequences of that power grab are most sharply illustrated by the very nominee before us, which I believe I heard the majority leader commenting on what a stellar nominee this person is.

Professor Pillard may be a fine person, but she is not someone who should receive a lifetime position on the second highest court in the land. She will be confirmed, however, because of the Democratic majority's power grab a couple of weeks ago. So let's take a look at her legal views. They certainly make one thing clear: The nominee before us is a liberal ideologue; in other words, just the kind of person this administration is looking for to rubberstamp its most radical regulatory proposals on the DC Circuit.

Let's take the so-called Hosanna-Tabor case. Last year the Supreme Court reinforced a core First Amendment principle when it ruled unanimously that churches, rather than the government, could select their own leaders.

Every single justice sided with the church's argument in that case. Every single one. It makes sense. Freedom of religion is a bedrock foundation of our democracy. I think every member of this body would surely agree that the government does not have any business picking a group's religious leaders for them. But Professor Pillard seemed to have a very different view. Prior to the Court's unanimous decision, she said the notion that ''the Constitution requires deference to church decisions about who qualifies as a minister'' in the case before the Court seemed ''like a real stretch.''

This is the nominee, after the power grab, the Senate is about to confirm, who said that, ''It is a real stretch that a church would be able to pick its own leaders.'' This is an astonishing judgment from somebody who is about to end up on what we believe is the second most important court in the land.

But she went on from that. The position of the church in the Hosanna-Tabor case represented a ''substantial threat to the American rule of law.'' How do you like that, Mr. President? It is a substantial threat to the American rule of law that a church should be able to pick its own leaders. A substantial threat to the American rule of law.

This was a case decided the other way from Professor Pillard's position, 9 to 0. Talk about radical. Talk about extreme. No wonder they wanted a simple majority to be available to confirm a nominee like this. I mean, even the Court's most liberal justices, as I mentioned, disagreed with Professor Pillard on this one.

One of them characterized that kind of position as ''amazing.'' This is a member of the Supreme Court in the 9-to-0 decision, characterizing Professor Pillard's view as ''amazing.'' In other words, Professor Pillard must think that even the furthest left Supreme Court Justice is not far enough left for her. So you get the drift of where she is.

We rightly expect justices on our nation's highest courts to evaluate cases

before them with a judge's even-handed mindset, not the absolutism of an ideologue. But just listen. Listen to the kinds of things Professor Pillard has said.

She has expressed sympathy with the idea that the rights of our Constitution—the same Constitution she would be charged with upholding—have ''just about run out,'' and that this necessitates a shift toward international law—a shift toward international law. Apparently, she feels the U.S. Constitution is no longer adequate, and we need to rely on foreign law to determine what we do here in this country.

She has said that abortion, essentially without limits, is necessary to avoid ''conscription into maternity;'' That even commonsense laws many American men and women support serve to ''enforce incubation.''

She has referred to the types of ultrasound images that are now available to so many proud moms and dads to be as ''deceptive images.''

Ultrasound is a ''deceptive image,'' according to Professor Pillard, perpetrated by the ''anti-choice movement.'' In other words, she appears to think that proud moms and dads should not believe their own eyes when they look at the images science has made increasingly available to us over the past few years.

It is an understatement to say that these sorts of views are worrying for someone the President wants on one of our Nation's top courts. In short, Professor Pillard does not seem like a person with the mindset or the temperament of a judge. She seems like a person with the attitude and disposition of a leftwing academic, someone who seems to come to conclusions based on how well they support her own theories.

Judges are charged with fairly evaluating the law that is actually before them, not the law as they wish it to be. So I will be voting against the Pillard nomination. It is important to keep this in mind as well. Nearly every single Democratic Senator voted to enable the majority leader's power grab last month. Those Senators are responsible for its consequences. That includes the confirmation of Ms. Pillard, regardless of how they vote on her nomination.

So I would urge Democrats to rethink the kind of nominees brought to the floor moving forward because now they are all yours. You are going to own every one of them. A simple majority. You own them. Extremist nominees like Professor Pillard are the reason the President and Senate Democrats took the unprecedented step of going nuclear 2 weeks ago. They unilaterally changed more than two centuries of history and tradition and violated their own prior statements and commitments so nominees like this could rubberstamp the President's most leftwing agenda items.

This is the playbook. Forget the rules. Forget checks and balances. Certainly forget the will of the American people. Do whatever it takes—whatever it takes—to get the President's agenda through. The other side of this, of course, is that Democrats are determined to change the subject from ObamaCare—anything to change the subject.

We now know that this President engaged in a serial deception in order to get his signature health care bill enacted into law. The White House debated whether to tell the truth or not on whether folks would be able to keep the plans they have. They decided not to tell the truth, a conscious decision to mislead the American people going back to 2009.

Their view was that the talking point was just too useful. They needed it in order to get what they wanted. So I would probably be looking to change the topic too if I were our friends on the other side of the aisle. Change the subject to Senate rules or nominees or anything else for that matter.

The last thing the majority wants to talk about is ObamaCare, because they own it 100 percent. Not a single Republican in the House or Senate voted for it. Every single Senate Democrat did. The problem is what Senate Democrats have done by going nuclear here in the Senate is really no different from what they did on ObamaCare. Once again they said one thing and did another.

The majority leader said publicly and repeatedly he would not break the rules, and then he did. He said he would not break the rules, and then he did. As I said a couple of weeks back, he might as well have said: If you like your Senate rules, you can keep them.

Here we are today. Here we are today ready to watch Senate Democrats rubberstamp an extremely liberal nominee to a lifetime position on a vote threshold the majority leader, back when he was in the minority and supported minority rights in the Senate, said would be disastrous for our democracy.

Anything it takes. Anything it takes to get this President's agenda around the checks that have been established to restrain power. Anything it takes to get around anybody who disagrees with them, whether it is ObamaCare or the judges they expect to defend it. Anything it takes, they are willing to do.

Let me say again that nobody who supported this rules change can walk away from nominees like Professor Pillard or their rulings. They own them.

Let's get back to ObamaCare for a few minutes because that is the issue the American people are most concerned about now. That is the issue the Democrats want to distract us from.

The American people should know what the liberal playbook is. The left believes the President's agenda runs straight through the DC Circuit Court. That is why they pressured Democrats to change the rules of the Senate to pack this court with folks like Professor Pillard.

The goal here is actually twofold: First, grease the skids for an agenda that can't get through the Congress. Then build a firewall around it by packing this court with your ideological allies. That way Democrats can keep telling folks what they think they want to hear about ObamaCare and anything else, but they can also rest assured that nobody is going to tamper with it.

All of this is in the context in which the national debate over ObamaCare and its failures should be viewed. None of it should distract us from what ObamaCare is doing to our health care system or to the millions of ordinary Americans who have been suffering under its effects.

Over the past couple of months the American people have been witness to one of the most breathtaking indictments of big-government liberalism in memory. I am not only talking about the Web site—the subject of late-night comedy—I am talking about the way in which ObamaCare was forced on the public by an administration and a Democrat-led Congress that we now know is willing to do and say anything to pass the law. They are willing to do or say anything.

In the Senate we had the ''Cornhusker kickback,'' we had the ''Gator aid,'' we had the ''Louisiana Purchase,'' and they finally got up to the 60 votes they needed. They had to get every single Democrat, and they got them any way it took. This is coupled with the grossly misleading statement: If you have your policy and you like it, you can keep it. If you have your doctor and you like him or her, you can keep them. The President and his Democratic allies were so determined to force their vision of health care on the public that they assured them they wouldn't lose the plans they had, that they would save money instead of losing it, and that they would be able to keep using the doctors and hospitals they were already using. The stories we are hearing now on a near-daily basis range from heartbreaking to comic.

Americans are very upset. Finally, the big-government crowd messed with an issue that affects every single American. In my State they have shut down the coal industry. That has had a big impact by creating a depression in Central Appalachia. One could argue they can go after the coal industry because it is confined to certain areas of the country. But on health care they are messing with everybody. The one issue every single American is affected by and cares about is their own health care.

The attention-getting stunts the President has engaged in—we can have those until we are blue in the face, but they don't change anything. All they do is remind folks of the way Democrats continue to set up one set of rules for themselves and another for everybody else. There is one set of rules for us and another set for everybody else.

Whether it is ObamaCare or the IRS or the NLRB or pushing the button on the nuclear option, it is all basically the same debate: We are going to do what we are going to do. We don't care what the rules are; we will break the rules. We will do whatever it takes to get what we want. It is a party that is clearly willing to do and say just about anything to get its way.

Millions of Americans are hurting because of a law Washington Democrats forced upon them. What do they do about it? They cook up a fight over judges on a court that doesn't even have enough work to do. This is a court that they were arguing a few years ago shouldn't have any additional members because they had a light workload, and now the court has an even lighter workload.

We know what this is about. As I indicated, I would want to be talking about something else too if I had to defend dogs getting insurance while millions of Americans lost theirs. It isn't going to work. The parallels between the latest move and the original ObamaCare push are all too obvious to ignore.

The majority leader promised over and over that he wouldn't break the rules of the Senate in order to change them. On July 14 he went on ''Meet the Press'' and said: ''We're not touching judges.'' This was on July 14 of this year. That echoed the promise he made in January of this year. It sounds very similar to ''If you like your policy, you can keep it.''

Then there are the double standards. When the Democrats were in the minority, they argued strenuously against changing the rules. And let's not forget about the raw power at play. The American people decided not to give Democrats the House or to restore the filibuster-proof majority they had in the Senate in the last two elections—an inconvenient truth for our friends on the other side.

They don't own the place anymore. They did in the first 2 years, with 60 votes in the Senate and a 40-seat majority in the House, but not anymore. The American people took a look at that first 2 years and issued a national restraining order in November of 2010. Our friends don't want to be deterred by that. They are going to pursue their agenda through the courts and through the regulatory schemes the administration propounds. They changed the rules of the game to get their way. It is pretty clear that if one can write the rules of the game, they ought to be able to win.

Earlier this year the senior Senator from New York said Senate Democrats intended to ''fill up the DC Circuit one way or another.'' It couldn't be any more clear than that. We will do it one way or the other. We break the rules, change the rules, and do what we want to do. The arrogance of power is on full display by an arrogant majority. It is on full display in the Senate.

Our colleagues evidently would rather live for the moment and try to establish a storyline that Republicans—I just heard it here from the majority leader—Republicans are intent on obstructing President Obama's judicial nominees. It is a storyline that is patently ridiculous. One can keep saying things over and over, but it doesn't make it true. It doesn't make it true to keep saying the wrong thing over and over.

Here are the facts. Before this current Democratic gambit to ''fill up the DC Circuit one way or another,'' as the senior Senator from New York said, the Senate had confirmed 215 judges and rejected 2—some provocation for breaking your word and breaking the rules of the Senate in order to change the rules of the Senate. That is a confirmation rate of 99 percent. Republicans have been clearly willing to confirm the President's judicial nominees. And on the DC Circuit, we recently confirmed one of the President's recent nominees by a vote of 97 to 0.

The Democratic strategy of distract, distract, distract is getting old. It is not working. The American people are not listening to this ridiculous argument. They are worried about their health care and are angry at the people who caused them to lose their policies. In my State 280,000 people have lost their policies, and on the exchange 26,000 have been able to get private policies. The rest of them are all Medicaid recipients.

The Democratic playbook of broken promises, double standards and raw power—the same playbook that got us ObamaCare—has to end. With the help of the American people, we will end it in 1 year. Meanwhile, Republicans are going to keep pushing to get back on the drawing board on health care—to replace ObamaCare with real reforms that help rather than punish the middle class.

At this point I am going to refer to some constituent letters I have received related to ObamaCare that the Senate would find noteworthy.

This is a letter from a constituent in Bowling Green:

I am a 35-year-old college graduate and represent many hardworking middle-class Kentuckians who are being directly impacted by . . . ObamaCare. I am a married father of 2 young children. We are, by most accounts, an average American family. Before [ObamaCare] was passed, my family was insured through a health insurance policy purchased on the open market. We shopped several different policies and chose the one that was the best fit for our needs.

Recently, we received a notice from our insurer that our plan didn't meet the requirements of the [new health care law]. According to the letter, we were required by law to be transitioned into a plan that did meet these new requirements. Also included in the letter was our new premium. That is what shocked us. According to the letter, our premiums would be increasing by 124%, more than double what we had budgeted for this expense.

According to a speech by the Vice President on September 27th [of this year], a family of four earning $50,000 a year could get coverage for as little as $106 a month. Should I have to pay 8 times that amount because my wife and I both work hard to provide for our family and earn more than the Vice President's limit of $50,000 a year? Why should the price of a product be based on my ability to pay?

That is a very good question: ''Why should the price of a product be based on my ability to pay?''

He continues:

Would that work at the gas station? Should the price of a gallon of gas be decided by my income tax return? Or at the grocery store? Should the price of a gallon of milk be determined by my income tax return? Or in shopping for a home loan? Should the interest rate on my mortgage be higher if I earn more than $50,000 a year? This predatory pricing structure runs contrary to the basic American foundational principles of Free Enterprise and is illegal in every other marketplace. It should be illegal in health care too.

Larry Thompson from Lexington:

My health plan that I have had for 10 years just got canceled, and the least expensive plan on the exchange is a 246 percent increase—that means hundreds of extra dollars per month we don't have. Obama lied and made a promise he couldn't keep when he said repeatedly if we wanted to keep our current health care policy we could.

That is what Mr. Thompson from Lexington said. And he continues:

He has really affected our lives for the worse—much worse. I'm so mad. We must stop insurance companies from canceling policies—now.

And of course the reason they are having to cancel policies is because the law makes them.

Sherry Harris from Nicholasville in my State:

Did you know the Lake Cumberland Hospital in Somerset is not on the Anthem network? Which means anybody in Pulaski and surrounding counties that qualify for a subsidy and want to use it will have to drive to London, Corbin or Lexington to get care?

Harriet White from Rockfield, which is in Warren County, near Bolling Green:

Dear Senator MCCONNELL: I am deeply upset because of the effect this health care act has had on our family's health insurance. It has negatively impacted our finances and our quality of care. The President promised that if you had health care, you would not be impacted. The sad truth is that, like my coworkers, my deductible has doubled, along with my premiums. The only way to be able to adjust is for us to either reduce or stop our 401(k) contributions. This is hardly affordable health care. I don't understand why such a blatant lie has been allowed to go this far. Do we not as American citizens have the right to choose basic services? I don't think the government should make choices for the people that impact us in such a negative way. Thank you for your time, and please keep fighting this gross abuse of power.

Aaron McLemore from Louisville:

Seeing as I'm a single male (31, policy being cancelled) with no kids or dependents, and I'm paying for pediatric dental care and maternity care, it doesn't make a whole lot of sense to me.

This is a single male, age 31, having to pay for pediatric dental care and maternity care, and he says it ''doesn't make a whole lot of sense to me.'' He makes more than $100,000 a year and doesn't qualify for a subsidy on the

Obama exchange. So the current policy of this 31-year-old is being canceled. A new policy from the exchange will more than double his monthly premium and nearly double his yearly out-of-pocket maximum. His higher costs aren't subsidizing lower income policyholders whose subsidies have already been paid by the government, but he is providing a subsidy in another way: The new act requires him to buy a policy with features he doesn't need.

What ObamaCare is doing is moving McLemore out of the individual market, where people are sorted by age and health history and scope of coverage, to a market more like the traditional employer-based group policy in which young and old workers get the same coverage and pay the same premium.

Mr. and Mrs. Spears from Louisville:

I think you should know what is going on here in Kentucky with Kynect—

That is the Kentucky Web site—

I had to sign my wife up since our governor canceled all of the KyAccess policies effective January 1, 2014. I signed up through the benefits firm, advising them that I wanted no subsidies since we have always paid our way in 42 years of marriage. He told me the full pay option of $517 per month and advised no income verification was necessary since no subsidies were involved. So I chose the Kentucky Co Op plan, as I felt the monies would stay in Kentucky with this plan.

He went on to say:

And then I received four mailings from Kynect. One stating she was declined coverage unless I sent income verifications; also one stating I have to fill out a voter registration and return as they have no information on my voting record.

So what does whether you are registered to vote have to do with signing up for ObamaCare?

The letter continues:

I called Kynect today and advised them I am receiving no subsidies and do not feel I should be required to send this information to them. And if they wanted this information, I file taxes every year and would be easily accessed. In regards to voter registration, I advised this has nothing to do with health registration, and I strongly objected to the language linking the two in the letter. Any clear thinking person would be upset at our State government trying to bring voter registration into this mess, not to mention personal information they should not need since no subsidies are involved.

These stories go on and on.

Lana Lynch from Brandenburg:

My out-of-pocket expenses for my family of five went from $1,500 a year to $7,000 a year. The best policy that is available by my employer has a $7,000 out-of-pocket a year [provision].

And she works for a very large health care provider.

Jeannine Gentry from Ekron:

We are covered under my husband's policy through his employer. We have not found out exactly how much the premium is going to rise but have been told to expect between 150 to 300 percent increase per paycheck. We do know for certain that our deductible will rise from $5,000 annually to $8,500.

Ann Knauer from Sheperdsville:

I received my insurance papers from United Healthcare and found that my premiums had risen from $214 to $480 a month. I only get $1,181 in Social Security a month. That's after my Medicare payment. So I went online to see if I could get my husband signed up for this ACA insurance. I filled out the information, but was told that what I stated for our income was incorrect and that I needed to send in proof of my income. Then they insisted we fill out this form about voter registration. We are already registered to vote and felt this was completely unnecessary. The form did have a spot that stated that we were already registered, but I just don't trust the Web site, so we declined. We got forms in the mail anyway. I'm just going to stick with my old insurance and pay the higher premiums because I know what it covers. I have Medicare and United Healthcare. I have kept this insurance because of my husband, who is also retired but not covered under any other insurance. My insurance came from my job that I had before I retired, as part of the retirement package.

Mike Conn from Prestonsburg. And I might say that Prestonsburg is in eastern Kentucky, in the heart of Appalachia, which is also suffering a depression as a result of this administration's war on coal. So this person who corresponded with me is also living in the middle of a depression-riddled part of my State also created by the Obama administration.

Here is what he said:

A policy that has similar coverage to what we had would cost us around $1,100 a month. This is a 100 percent increase for me and my wife. I was informed by the individual that was helping me find coverage that it was because we live in eastern Kentucky.

Apparently their insurance company is not available there.

Finally, he says:

We will not pay that.

Giselle Martino from Prospect:

My premium health care, at premium cost to me, is being canceled. I paid a very high premium to have a major medical plan. I am now forced into the exchange for a lesser plan with more exclusions and higher deductibles. I will most likely never reach these deductibles. How does this help me? I'm basically paying into the plan for the others. If I must pay for my higher tier heart drugs anyway, why should I bother with the health plan? What a disappointment this administration has caused.

Cheryl Russell from Owensboro:

We got a letter from our insurance company saying our current policy will not meet the Affordable Care Act, which means it will go away. According to our insurance company, we will have to take pediatric dental and vision insurance. We don't have kids. They said it was because of ObamaCare. They are allowing us to keep our plan until December 2014, for an additional $38 more a month, so we can find another plan. Another plan through this company that we had our whole life will cost us at least $900 to $1,000 a month. It will cost us over $150 more a month plus our deductible goes up to $5,700. I sent you a message last week. I am sending this again. Please keep taking a stand against ObamaCare. Our President lied to us. Not only are we going to lose our insurance, but when we go to a different policy we have to pay more. We will never be able to retire. We are 58 and 56 years old. We will have to work the rest of our lives just to pay for our own insurance. The company we work for doesn't provide it. This isn't fair and it isn't right. Thanks for taking a stand for all those who are in Kentucky.

So, Mr. President, in wrapping up my remarks, here is the situation. On Christmas Eve 2009, on a straight party-line vote—60 Democrats voting for and 40 Republicans voting against—the administration jammed through a 2,700-page rewrite of 16 percent of our economy. The goal, one could argue, was a noble goal—that of trying to reduce the number of uninsured in America from an estimated group of about 45 million Americans.

The first problem with this particular solution is that CRS—the Congressional Research Service, which doesn't work for either Republicans or Democrats—says when all is said and done we are still going to have 30 million uninsured. So what is the cost-benefit ratio of taking $1 trillion out of the providers of health care—roughly $750 billion in reductions; cuts to hospitals, home health care, nursing homes and the like, hospice; billions of dollars in taxes on medical devices; taxes on health insurance premiums kicking in the first of a year; a $1 trillion impact on the providers of health care—and over on the consumer side I have just given a series of stories about how it impacts the consumers of health care: higher premiums, higher deductibles, lost jobs, a record number of part-time employees, and wreaking havoc on the American economy, the consumers of health care, and on the providers of health care—all to reduce the number of uninsured from 45 to 30 million.

This has to be the worst cost-benefit ratio in the history of American government, all of this disruption—this catastrophic impact on 16 percent of our economy—in order to make a marginal reduction in the number of uninsured. This has to be the biggest mistake in modern times. In fact, I am hard-pressed to think of a single bigger mistake the Federal Government has made, and it has made some whoppers over the years. I am hard-pressed to think of a single example that comes anywhere close to this, a gargantuan, massive mistake, which has had a lot to do with the fact that we have had such a tepid recovery in our country after a deep recession.

The pattern since World War II has been that the deeper the recession, the quicker the bounce-back—until this one: a deep recession, a tepid recovery. The government itself is the reason for that: massive overregulation, an army of regulators who will now have their work sped through the DC Circuit Court who believe if you are making a profit you are up to no good; you are obviously cheating your customers and mistreating your employees. They are here to help you. This massive bureaucratic overreach has definitely slowed our recovery.

So I hope the American people will give us an opportunity in the not too distant future to pull this thing out root and branch and start over and do this right.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. BALDWIN). The Senator from West Virginia.

A NUCLEAR-ARMED IRAN

Mr. ROCKEFELLER. Madam President, I wish to speak about an issue of great importance to the national security of the United States and to all of our allies—which is, preventing Iran from ever having a nuclear weapon. There is no doubt in my mind that we will in fact do that, but certain things have to happen. The question is how, not whether, we prevent a nuclear-armed Iran.

For the first time in years, there is a real opportunity to take a good step to verifiably eliminate Iran's nuclear weapons capability through tough negotiations rather than the alternative—which is, inevitably, acts of war.

The initial interim agreement between the P5+1 and Iran is an encouraging first step, and I urge my colleagues not to put it at risk. How would they do that? By passing new sanctions right now. There is a lot of talk about that, and it is easy to look tough. I am kind of amazed, to be honest with you, that, I don't think, anybody from our side has gotten up and made a speech about this subject on the Senate floor. I meant to yesterday but I couldn't. I thank Senator JOHNSON, chairman of the banking committee, who has come to the rescue of all of us. He is not going to allow it to happen, and I totally congratulate him for that act of quiet and strong courage.

Instead, we should simply state the obvious: If Iran reneges or plays games, there is no question in anybody's mind in this Senate that we will quickly pass new sanctions the very moment the need arises. To me, this is a clear-cut case. Again, I frankly do not understand why more of us, at least on this side, have not gotten up to make this case. I think I have some ideas, but I do wonder.

There is still a long way to go, no question. But this diplomatic opportunity is real. Why? Because Iran wants and needs to find a way out of the financial isolation that our crippling sanctions have inflicted on its government, its business, and its people. It is devastating what our sanctions have done.

Iran's people elected a president who proposed a different path. Ayatollah Khamenei, Iran's Supreme Leader, has given President Rouhani some flexibility to try and find an agreement. That is unprecedented, and most people think it is for real. We shall see. They did in fact agree to the initial deal. So already, one step has been taken with a good result. I don't think it is a coincidence.

The immense power of U.S.-led global financial sanctions, backed up by our allies, has created the opportunity to resolve this issue diplomatically, with verifiable agreements and skeptical inspectors, rather than with bombs or boots on the ground.

I have spent much of my tenure on the Intelligence Committee, going back before 9/11, with the Director of National Intelligence, the CIA, the NSA, the FBI, and the Treasury Department to build our tools to exploit and to freeze the international web of financial networks that enable terrorist and proliferation programs—particularly Iran's nuclear programs. I have staunchly supported the powerful multilateral sanctions regime that is currently suffocating the Iranian economy and forced the current Iranian regime to the negotiating table. They would not have been there otherwise. The effect of inflation and devastation of economic production and all the rest is devastating.

This initial agreement is the first concrete result of those sanctions. It stops progress on Iran's nuclear program. It neutralizes Iran's most dangerous stockpile of nuclear material—that is, 20 percent of enriched uranium—and it establishes strong monitoring mechanisms that enable inspectors to verify that Iran is in compliance with its commitments.

The first step maintains the powerful sanctions regime that has forced Iran to the table. The agreement maintains that. The very small amount of targeted and reversible financial relief that it provides—roughly $7 billion out of $100 billion in sanctions that the agreement leaves fully in place—only underscores the grip that we and our allies have on Iran's financial position. The grip will not loosen during this 6-month agreement as we try to go to a next step. We will continue to control and limit Iran's access to money during the 6-month agreement. If Iran in fact reneges on the terms of the interim deal, Iran will not even get all of the small relief that we have agreed to. They will, however, get more sanctions, and over the next 6 months, the small amount of financial relief that Iran can gain in the deal will be dwarfed by the amount of their loss in oil revenue that our continuing sanctions will deny Iran. That was in place; that is in place. Iran will be in worse shape financially 6 months from now than it is today. That is a fact. The pressure does not relent. It just keeps going. So it is a good situation—tough, agreed to, and in place.

That is why Iran needs to complete a final comprehensive agreement to eliminate its nuclear weapons capabilities. Does that guarantee it? No, it doesn't. But we are a step further than we were before because this interim agreement does not give Iran what it needs to escape financial ruin—which counts.

I appreciate the concerns of colleagues who want more now. But we must give this opportunity a chance. However you see the first step, whatever your view of it is, the fact is that today Iran is further from a nuclear weapon than it would have been without this deal that we have just completed. We have accomplished this first step through diplomatic strength, without a shot fired. I think we can agree that is pretty good.

We all want to put pressure on Iran to comply with the commitments it has made to the interim agreement—and we will—and to agree to a long-term comprehensive deal—and we hope—that will prevent it from ever developing a weapon. But we have taken the first step.

My colleagues, the pressure already exists for Iran to continue on this diplomatic path. Again, if Iran reneges on the commitments it has made in this agreement or balks at a final deal that verifiably ends its nuclear weapons capabilities, we will go right to, without doubt, the Congress imposing new and ever more powerful sanctions on Iran. But we don't have to do that now. In fact, it is a terrible mistake to do that now.

Given the indisputable credibility of that threat, I urge my colleagues to consider how unnecessary and how risky it would be to preemptively introduce new sanctions right now. New sanctions now could be criticized as a violation of the interim agreement. It could be blown up that way. Such a move would separate us from our negotiating partners in the P5+1 and it could complicate the already difficult negotiations of a final agreement which we all pray for.

I know some Senators doubt these risks. But I ask my colleagues this: If there is any chance at all that new sanctions right now might disrupt the agreement or jeopardize a future agreement, why on earth would we risk that? Why would we risk that? We know where we stand. We know where we are going. We can't be sure that we are going to get there, but we know that we always have the power to increase sanctions if they try to avoid certain things. But they haven't. So why pile on now and threaten to blow the whole thing up? Why would we risk an opportunity that may very well be the only chance we have to resolve this enormous problem without the use of military force? I do not know of an alternative to that.

If we lose this diplomatic opportunity, then the use of force will be the only option to stop Iran's path to a nuclear bomb. All of us have lived with war for the past 12 years. Intimately, painfully, horrifically, we have all seen close up the incalculable financial and human cost that has come with these wars and the burden that the wars now put on our troops, their families, our economy, and, therefore, our people. This has only hardened my resolve to ensure that this immense sacrifice never happens unnecessarily—that we take great care to exhaust every possible avenue to diplomatic resolution.

Colleagues, we have now an opportunity to eliminate Iran's nuclear weapons capabilities. We can do it peacefully. Let's not put that at risk.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, President Lincoln once said:

> Character is like a tree and reputation like its shadow. The shadow is what we think of it; the tree is the real thing.

It is my distinct privilege to rise today to speak on two nominees that are indeed the real thing—Justice Brian Morris and Judge Susan Watters. The Senate will soon take up both Justice Morris's and Judge Watters's nominations for United States District Judge for the District of Montana.

One of the most important responsibilities I have is providing advice and consent to the President on nominations to the Federal bench. I approach each vacancy with the same criteria—I want the best, regardless of whether they are Republican or Democrat, liberal or conservative. Justice Morris and Judge Watters are the best. Their quality of character and breadth of experience are remarkable.

Montana Supreme Court Justice Brian Morris is one of the brightest legal minds to ever come out of Montana. Justice Morris was born and raised in Butte, MT, and graduated from Butte Central High School. He earned bachelors and masters degrees in economics from Stanford University and received his law degree with distinction from Stanford University Law School in 1992.

Justice Morris's experience after law school is as varied as it is noteworthy. He clerked for Judge John Noonan, Jr., of the Ninth Circuit Court of Appeals and Chief Justice William Rehnquist of the United States Supreme Court. He spent time working abroad as a legal assistant at the Iran-U.S. Claims Tribunal in The Hague and as a legal officer at the United Nations Compensation Commission in Geneva, Switzerland. He also spent time in private practice, handling criminal and commercial litigation with the Bozeman, MT, firm of Goetz, Madden, & Dunn.

Justice Morris also served for years as the State's Solicitor General. He was elected to his current position on the Montana Supreme Court in 2004, and has demonstrated integrity, fairness, a steady disposition, and superb analytical skills on Montana's highest court. Justice Morris is known for his approachability, even-handedness, and down-to-earth manner. After all, he is from Butte. He can often be found reading to students at Smith Elementary School in Helena.

Justice Morris has commanded the respect of his colleagues at the highest levels of the law. For more than 8 years, he has served the people of Montana on the bench and in the community. His nomination is an extraordinary cap on an already remarkable career, and I have no doubt that he will continue to serve at the highest level. I congratulate Justice Morris, his wife Cherche, and their children Max, Mekdi, Aiden, and William, on this achievement.

In 1916, Montanans elected Jeanette Rankin to be the first woman to serve in Congress 4 years before women had the right to vote. We are especially proud of this fact. Judge Susan Watters, our second nominee, is another trailblazer we can be proud of. Not only is Judge Watters a respected jurist and dedicated public servant, but once confirmed, she will be the first woman to serve as a United States District Court Judge for the State of Montana.

Judge Watters was born and raised in Billings, MT, and graduated with honors from Eastern Montana College. Judge Watters raised 2 young daughters while attending the University of Montana Law School, receiving her law degree in 1988. Since then, Judge Watters has cemented her reputation as a skilled trial lawyer and judge.

After law school, Judge Watters served as Deputy County Attorney for Yellowstone County, handling civil and criminal cases. In 1995, Judge Watters entered private practice, taking hundreds of cases to final judgment in State and Federal court. In 1999, Governor Marc Racicot appointed her to sit as a State district court judge for Montana's 13th judicial district in Billings. Since her appointment, Judge Watters has been reelected 3 times, most recently with over 80 percent of the vote.

Judge Watters has tried hundreds of cases during her 14-plus years on the bench. She has heard civil, criminal, probate, juvenile, and family law cases. Her trial court experience is remarkable.

She further served her community by establishing the Yellowstone County Family Drug Treatment Court in 2001, the first of its kind in Montana. Its overwhelming success has made it a national model.

Judge Watters is known for being fair, hard-working, possessing strong analytical skills and an excellent judicial temperament. Her extensive trial experience as a practicing lawyer and trial judge will be an invaluable addition to Montana's Federal bench.

Judge Watters embodies the qualities that service on the Federal bench requires. She has served the people of Yellowstone County for over a decade, and I am absolutely confident that she will bring the same professionalism and dignity to the Federal bench. I want to congratulate Judge Watters, her husband Ernie, and their daughters Jessica and Maggie on this outstanding achievement.

Justice Morris and Judge Watters are supremely qualified. Their service is sorely needed. We have two vacancies in our State. We have three Federal district court judgeships. The vacancies that Judge Watters and Justice Morris will fill are both considered judicial emergencies. Chief Judge Dana Christensen, our lone active judge, travels over 300 miles round trip to hear cases. In fact, I just spoke to him yesterday, telling him we would be filling these positions in Montana. He said, Max, I am getting in the car right now to drive. What's the distance? I won't say the distance. It is a 4-hour drive to Great Falls, MT, from Missoula, so he could sit and hear some cases in Great Falls. Judge Don Molloy travels over 340 miles one way. That is greater than the distance between Washington, DC and Hartford, CT. He does that to hear cases. We need our replacements.

Justice Morris and Judge Watters embody the qualities Montanans demand of their Federal judges—their intellect, their experience, and integrity above reproach. I urge my colleagues to join me in supporting their nominations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Madam President, I rise to address the nomination of Cornelia Pillard for the DC Circuit. It appears to me the environment in which we are discussing these nominations is a good example of the new rules of the Senate. We are already getting a taste of the new world order around here. It did not take long. It has only been a few weeks but we are already experiencing life in the new Senate. Those in the majority who wanted to change the rules are now certainly getting their wish.

It should have been obvious that the rule change would impact the Senate in many unforeseen ways. We in the minority have had to find other ways to make our voices heard. As we watch the majority use its new power to move whomever it wants through this body, we should realize that we have started down a course from which we will never return. Indeed, we should expect more changes in the future. The majority changed the rules because it did not like how they were operating to frustrate their ambitions and agenda. If other things come about that frustrate the majority, we may have new changes to get rid of those frustrations too. The invocation of the nuclear option has set us on an irreversible course.

A few weeks ago I came to this floor and quoted our former Parliamentarian Bob Dove. He and Richard Arenberg, one-time aide to former majority leader George Mitchell, wrote a book called ''Defending the Filibuster.'' This is what they said, and it bears repeating:

> If a 51-vote majority is empowered to rewrite the Senate's rules, the day will come, as it did in the House of Representatives, when a majority will construct rules that give it near absolute control over amendments and debate. And there is no going back from that. No majority in the House of Representatives has or ever will voluntarily relinquish that power in order to give the minority greater voice in crafting legislation.

Unfortunately, the majority didn't seem to care about the concern these wise men raised and went ahead with their rule change anyway. Now we are feeling the effect.

This power grab is having other consequences too. Today I attended a hearing in the rules committee as the ranking member, for nominees to an agency called the Election Assistance Commission. You probably never heard of it. Madam President, I doubt if you have ever heard of it. It is a small agency with 4 commissioners—2 Democrats and 2 Republicans. Nominations to bipartisan commissions have traditionally been paired and moved jointly. This practice ensured each party has a voice in such bodies.

Before the rules were changed, the minority could be assured that their consent would be needed for appointments. That assurance is now gone. Will the majority just make its own appointments to commissions such as this now? I hope not. That is under discussion in the rules committee. But what motivation do they have to ever confirm any Republican nominee, if they so choose to even consider minority views in this regard? We are going down a dangerous path, and no one knows where it will lead.

The same is true in regard to the atmosphere that we find with the affordable health care act. For some reason, the executive has decided to make any changes to the law without really considering coming back to the Senate or the House or the Congress to make these changes. So in part I come to the floor to speak about an issue that continues to keep me up every night—and every Kansan as well—that is the implementation of this affordable health care act, the health reform law.

This is, indeed, the President's legacy legislation. Based on what I am hearing from Kansans at home, I would think the President would want to be remembered for something else entirely. Unfortunately, since the implementation of ObamaCare began, the stories and reports have only confirmed the many warnings that I and my colleagues have made during the debate for the last 3 years.

People cannot keep their coverage. Despite the many, even hundreds of promises made by this President and the supporters of this law, people are losing their coverage. Premiums are increasing, even though the President and supporters of this law said premiums would decrease by $2,500 for all Americans. Most of the stories I hear, and especially from Kansans, involve many hundreds of dollars in increases in monthly premiums.

Even more recently, folks are realizing that what they had to pay in out-of-pocket costs are going to skyrocket. Deductibles are higher and the products, drugs, and services Kansans have to pay to reach their deductible has virtually exploded. This doesn't even count the increases to copays and other costs that patients are seeing, especially with regard to prescription drugs.

This is being done in a way so that patients are getting the full information they need. So much for being the most transparent government in history.

Along these lines I believe it is my responsibility to come to the floor and remind Kansans about several other provisions of ObamaCare that patients may not be aware will put the government between the patient and the doctor—their doctor. During the health care reform debate, I spoke at length in the Health, Education, Labor, and Pensions Committee and in the Finance Committee, and on the Senate floor about something called rationing, a subject that is very controversial. Specifically, I want people to know about the four rationers—boards, commissions, whatever you want to talk about—the four rationers included in ObamaCare.

First is the CMS Innovation Center, the Center for Medicaid Services Innovation Center, which was given an enormous budget to find a way to reform payments and delivery models. What this really means is CMS can now use taxpayer dollars in ways to reduce patient access to care. It gives CMS new powers to cut payments to Medicare beneficiaries with a goal to reduce program expenditures, but the reality being that they will reduce patient access.

There are new authorities also granted to the U.S. Preventive Services Task Force. The USPSTF used to be a body that was scientific and academic, that reviewed treatment, testing, and preventive health data and made recommendations for primary care practitioners and health care systems.

I guess many would agree that is still what they do today. However, the weight of their recommendations holds significantly more weight as of today, due to the Affordable Care Act or ObamaCare. Because of this law, the health care law, the USPSTF, can now decide what should and, more importantly, should not be covered by health care plans. If the USPSTF doesn't recommend it, then it will not be covered by your health plan and you will bear the cost of the procedure. We are already seeing this with prostate exams, mammograms for breast cancer, which many people say have saved their lives. You reach a certain age and they will not do a PSA test. The same kind of criteria—with some degree—to mammograms.

Rationale No. 3, the Patient Centered Outcomes Research Institute or PCORI. This outfit was given millions and millions of dollars to do comparative effectiveness research, also known as CER. I am not opposed—I don't know of any Member in this body who is opposed—to research, especially when it is used to inform the conversation between a doctor and their patients.

But there is a reason this was formerly called cost-effective research. There is a very fine line between providing information to doctors and patients to help them make the right decision that works the best for them and then using that information to decide whether the care or treatment is worth paying for. I have long been concerned that this research will be abused to arbitrarily deny access to treatments or services in order to save the government money by Federal Government decree.

Finally, there is my personal nemesis IPAB, which stands for the Independent Payment Advisory Board, and is just now making news as various people within the media are finally recognizing IPAB. This is a board made up of 15 unelected bureaucrats who will decide what gets to stay and what gets to go in Medicare coverage. They will decide what treatments and services will be covered and which will not, all to allegedly save money with no accountability. There is no accountability whatsoever.

When proposed—I remember it well both in the HELP Committee and the Finance Committee—supporters of the health care law told me we are too close to our constituents. Really? We are too close to our constituents. It makes it too difficult to make the hard decisions. Let's have somebody else do it. It will be more fair. We know them too much. We trust them too much.

I could not believe it. I believe I am elected to make the hard decisions—I and others in this body—and take the hard votes. I believe that is the way Kansans and every other State constituency also wants it.

Even worse is the fine print of IPAB. Get this. If Kansans determine they do not like the direction the IPAB is taking and call my office, and every other office in the Senate, to ask us to do something about it—to ask me to do something about it—we in Congress can overturn their decision, but it has to be by a certain margin. On the surface this sounds OK until you realize the President will never support Congress overturning the recommendation of this Board, so he will veto it. Overriding a veto takes a two-thirds vote, which is 66 votes to overturn a decision by IPAB.

My colleagues have been changing the rules around here because they think 60 votes is too high a threshold. What are the chances of reaching 66 if a decision is made by IPAB with regard to Medicare?

But wait. There is more. If the Secretary appoints a board unable to make recommendations for cuts to Medicare, then she gets the authority to make the decision of what to cut. This President has already cut one-half trillion dollars from Medicare to pay for ObamaCare, and he gave himself the ability to go after even more Medicare dollars and have no accountability with IPAB. This is egregious, if not ridiculous, but it is not new.

I have been talking about the four rationers for a long time and what it means to patients. I will have more to say about it when the opportunity presents itself.

What scares me, as I watch all the other warnings and broken promises

come true, is what is going to happen to Kansans—and I know other Senators have this same fear—when the warnings about the four rationers do come true.

We need to protect the all-important relationship between the doctor and the patient, which I believe the four rationers put at risk. In order to do that, we need to repeal—and most important—and replace ObamaCare with real reforms that work for Kansans.

THE FARM BILL

In this atmosphere of uncertainty and new Senate order, I would like to talk about another subject that is related, for the lack of any progress we might have.

This is becoming an all too familiar situation for Kansas farmers and ranchers and all of American agriculture. In some respects we are closer to signing a farm bill into law than 1 year ago, but we still have not yet completed this important task. As 1 of the 41 Members named at the conference committee in October, I was able to give a quick opening statement outlining my biggest priorities for the farm bill, including addressing regulations that protect crop insurance and reforming SNAP; i.e., food stamps.

Unfortunately, that was the one and only time the full conference committee has met to date. With time in short supply, the four principals of the agriculture committee both in the House and the Senate—the ranking member, the chairwoman, the chairman, and the ranking member in the House—are trying to make the majority of decisions as best they can among themselves and behind closed doors.

Sometimes you can get things done behind closed doors without 37 people offering their opinion. I understand that. But with all due respect to those Members, we have real policy differences that deserve to be debated publicly, particularly in the commodity and the nutrition titles. The other 37 of us have been ready and willing to be put to work. Yet the conference committee has only met once with no future meeting scheduled.

I am very disappointed that an agreement on the farm bill may be close and yet some of our ideas and suggestions and concerns will go unheard or unanswered, such as the new environment we live in, in the Senate.

As I said during the agriculture committee markup and our only conference meeting, I have real concerns with the direction of the farm programs in this year's bill. We have what are called target prices—we might as well just say subsidies or countercyclical payments or adverse market payments—which have proven to be trade and market distorting.

For some commodities these prices are set so high that they may cover a producer's cost of production. That is right. We have a government subsidy over the producer's cost of production. That will essentially guarantee that a farmer profits if yields are average or above average.

In this budget environment, and at a time when we are looking to make smart cuts, I simply don't know how to justify this subsidy program that can pay producers more than the cost of production and essentially becomes nothing more than an income transfer program, not a risk management tool.

After the committee markup, I had hopes we could improve the farm bill to more resemble the risk-oriented and the market-based approach the Senate had previously taken, working with the distinguished chairwoman from Michigan and myself as ranking member.

Last year I worked with the Senate leadership from both parties to consider the farm bill through, of all things, regular order. Everybody had a chance to offer an amendment. The first amendment that was offered had nothing to do with the farm bill. That amendment was by Senator PAUL. Regular order gave all Senators the chance to improve the bill or make their concerns known.

However, this year we considered a mere 15 amendments. The last time around it was 73 with 300 offered. Although 250 amendments were offered this time, we only had 15 amendments. All amendments regarding the new target price program were blocked from consideration and votes on the Senate floor—all of them. Senator THUNE had amendments, Senator GRASSLEY had amendments, Senator JOHANNS had amendments, and I had amendments. We all serve on the agriculture committee.

Of course, the real problem with farmers planting for a government program and not for the market is that these programs only serve to extend the period of low prices due to overproduction.

Besides high target prices for all commodities, the House wants to recouple payments with current production for the first time since 1996. The Chamber of Commerce has warned that if we go down this road, we will quickly invite other Nations to initiate dispute settlements against the United States and do so with a good chance of success.

I also have longstanding WTO, World Trade Organization, concerns, and the United States lost—and I mean really lost—in a case to Brazil in part because of the decoupled price program. We are still paying for that.

I am hopeful we will come to some agreement that works without further setting us up for a further trade dispute not ruled in our favor.

Another sticking point seems to be SNAP, the Supplemental Nutrition Assistance Program. I think everybody is aware of that. It is important to note that at least 80 percent of the U.S. Department of Agriculture's budget goes to nutrition programs. SNAP was exempted from across-the-board cuts known as sequestration.

The Senate bill only trims $4 billion out of a nearly $800 billion program in a 10-year budget. That is less than 1 percent of a reduction. It doesn't cut anybody's benefits. It looks at eligibility and other problems that are within SNAP.

We have the responsibility to do more to restore integrity to SNAP, eliminate fraud and abuse, while providing benefits to those truly in need.

I offered an amendment during the committee markup and on the floor that would have saved an additional $31 billion for SNAP. I thought it was a smart and responsible way which would not take away food from needy families.

The House took a similar approach and also included work requirements for food stamps and found a total of $39 billion in savings. That is about a 5-percent reduction over 10 years.

It has also been mentioned that SNAP has already been cut by $11 billion this year. However, the end of the American Recovery and Reinvestment Act of 2009 stimulus boost for food stamps was a temporary increase in benefits to assist individuals and families hurt by the recession. The end of this temporary increase is in no way related to the farm bill, and the Congressional Budget Office agrees that no budgetary savings are achieved. Reconciling the difference between $4 billion and $40 billion in savings has proven very tough so far, if not impossible. However, unlike the majority of the programs in the farm bill, if we don't have a bill signed into law, the Food Stamp Program or SNAP will go unchanged and there will be no savings or reform to the program.

Last week I spoke with the Kansas Farm Bureau—800 members of the farm bureau and their families—and once again the No. 1 priority for virtually every producer was crop insurance. Even after the devastating drought over the last few years, crop insurance has proven to work. Producers from Kansas to Illinois and all over the country are still in business helping our rural families and our communities.

In 2013, producers across the country insured a record number of acres, covering nearly 295 million acres and over $123 billion in liabilities. The takeaway message is clear: More farmers are purchasing crop insurance policies to protect their crops than ever before. In both versions of the farm bill, we are able to strengthen and preserve crop insurance. We need to keep that commitment through the final legislation.

The farm bill is the appropriate time and place to also address regulatory overreaches by the Environmental Protection Agency and the rest of the administration that impacts farmers and livestock producers. In that respect, I appreciate the House addressing several burdensome regulations that I worked on in the Senate, including pesticides, farm fuels, tank storage, the lesser prairie chicken—bless their heart—GIPSA, mandatory country-of-origin labeling, also called COOL.

Overall, I am disappointed that it looks as though we will not finish the

farm bill before the end of this year, despite the need for certainty and predictability all throughout farm country, not to mention the Department of Agriculture. Our folks back home have to make business decisions regardless of the status of negotiations.

Just one example. Kansas wheat growers have already planted their 2014 wheat crop and have been required to certify their acres; they just don't know what programs will be available to them. While we all want to provide long-term certainty to farmers, ranchers, their families, and American consumers, we have already let one extension expire in September, and the House may pursue extending the 2008 bill yet again. However, our Senate majority leader, HARRY REID, said yesterday that even if the House passes a short-term extension of the farm bill, the Senate will not pass it.

A year ago in August I went to the floor, upset with the leader for failing to consider a bill the House passed to reinstate the livestock disaster programs from the 2008 farm bill in response to the devastating drought in the Midwest. It went on for 3 years. At the time, I called it shameful and an abdication of our duty to the cattlemen and women who feed the world and warned of the costs of inaction. We were able at that time to finalize a farm bill—still the same farm bill a year later—and our livestock producers are continuing to work to rebuild their herds after multiple years of drought. Yet livestock disaster programs remain on hold. Then the devastating blizzard hit the Dakotas and Nebraska this year, and those producers were left with little Federal support—a problem we could have addressed a year ago.

All of us on the conference committee and every Member throughout Congress should be equally troubled if we leave this year without addressing the farm bill. I am committed to resolving these difficult differences in order to provide certainty and a forward-thinking farm bill that is responsible to Kansans and farmers and ranchers and consumers as well as taxpayers.

We have to end this environment here where this so-called nuclear option has really gotten us into a hole that we keep digging, whether we are trying to get a farm bill done, whether we are striving to improve the affordable health care act or repeal it, or whether we have a commission that nobody has heard of in the rules committee that is sitting doing something, but we know not really what or what to do with it.

I see the distinguished Senator from Louisiana, who I think would like to be recognized at this time, so I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS CONSENT REQUEST—S. 1610

Ms. LANDRIEU. Madam President, I see my good friend the Senator from North Dakota on the floor today, and I wish to yield to her to begin this very important discussion on the importance of flood insurance relief for the country. She has been an outstanding spokesperson and a true advocate to help us get this right, this Flood Insurance Program that can help sustain the program itself for the benefit of the taxpayers as well as for the people in North Dakota, Louisiana, Pennsylvania, New York, and New Jersey who depend on it so much. So let me turn to our leader, Senator HEITKAMP.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Madam President, we are here today to talk about something that is critically important to very many middle-class families who enjoy home ownership across the country, and business ownership, and it is the truly bipartisan Homeowner Flood Insurance Affordability Act, which seeks to address the recent flood insurance rate escalations across the country.

This bill is measured, it is reasonable, and it allows for FEMA to complete a study on flood insurance affordability and provides Congress with assurance about FEMA's ability to accurately determine flood risk before implementing pieces of the Biggert-Waters Flood Insurance Reform Act. I think it is true in many cases that the Congress has good intentions. They passed the Biggert-Waters provisions, they passed the act, but implementation has been a nightmare. I don't think we are exaggerating in saying it has been a nightmare for very many of our community members, especially across the coastal areas. I think it is important that I speak as someone from a Plains State who has told people repeatedly that flood insurance is a huge impediment to success and to home ownership in North Dakota, in very many of my communities.

I wish to mention some of the provisions of the bill. The bill would delay a rate increase for the following properties: primary, non-repetitive loss residences that were grandfathered; all properties sold after July 6, 2012; and all property that purchased a new policy after that date. It is important that the folks out there who have already gotten these tremendous flood insurance bills understand that our effort is to make this bill retroactive to October 1 of this year so that those rate increases that were mandated by that date don't take effect.

The basement provision is something we have spent a lot of time educating other Members about. It is a provision that affects very many communities across the country, including 14 in North Dakota, where some of our largest communities have flood-proof basements. They have lived by the rules and they have done all that they should do, so they have been granted an exemption from flood insurance, taking a look at where the foundation is as opposed to where the basement floor is when they determine vulnerability. That basement exemption is in danger of being repealed by FEMA, and we want to make sure that whatever we do recognizes that when those homeowners have played by the rules, have done what is right and flood-proofed their basements, it is recognized in a flood insurance program.

Generally speaking, I came to the Senate to fight for North Dakotans. I have to imagine most of the Senators are here because they want to fight for the people of their States. A major way to do that is to protect American families and their homes and stop putting undue pressure on them. It is a simple idea, but it is proving much harder to implement than I would like.

Flooding is a reality far too often in North Dakota, and there are many other communities across the country that see the same kind of plains flooding. Just in the past few years we have seen communities such as Fargo, Minot, Grafton, and others impacted by severe flooding that has destroyed homes and businesses.

This fall flood insurance rates went up for millions of families. This puts families at risk. So many of them have to struggle to pay for flood insurance or they have to walk away, literally walk away from their investment in their home.

Biggert-Waters is having an immediate impact on homeowners in my State. I will give one example. There is a woman I know from Grafton, ND, named Alison Skari who, with her husband Kyle, purchased a home in that small community about a year ago. At the time, the flood insurance rate was $901 for $100,000 worth of coverage. But when the policy recently came up for renewal, their flood insurance skyrocketed to more than $4,200 a year. Let me repeat those statistics. Their flood insurance cost when they bought their home was at $901. Today their bill is $4,200—a 375-percent increase for the same amount of coverage. In an email to me, Allison expressed a desire to raise her children in Grafton, but unfortunately they no longer can afford their home—not with these new rates. She said had she and her husband known about these rates when they bought their home, they would never have purchased their home.

This story reinforces that we need to take a new look. We need to take a new look at this Flood Insurance Program. We need to take a new look at affordability of home ownership.

Everybody knows that in the last—certainly since 2008 we have seen a slow recovery in home ownership. We have tried to make sure people can realize the American dream, and a big part of that is, in fact, the owning of their own home. Yet here we are in the Congress making it virtually impossible for middle-class families to buy and live in and enjoy their homes. That was never the intention of the Biggert-Waters provision. The intention was to bring the Flood Insurance Program to a more reasonable, market-based evaluation.

But I don't think anyone in this body anticipated these dramatic and very devastating increases.

I believe we absolutely need to do something to send a message that we in this body are listening to the middle class. We are listening to the middle class. When every person who runs for office—in their campaign, I bet there isn't one person in this body who didn't say: I am there to help protect the middle class. This is our opportunity, in a bipartisan way, to step up and protect the middle class and to tell people that grasp of home ownership, that piece of the American dream is within their reach, and it is within their reach because we aren't doing devastating things here in Washington, DC.

I thank my great friend from Louisiana. As a new Member, I preside frequently on the floor of the Senate, and I think that if there has been a canary on this issue, that early bellwether whom we look to and who said we are going to have problems, it was Senator MARY LANDRIEU, who alerted this body from the very beginning, who knew these increases were coming and so ably advanced her leadership on this issue. I applaud her for that. I applaud Senator MENENDEZ and Senator SCHUMER and so many people on the other side who have worked with us to try to develop a bill that truly has bipartisan support. I urge this body to send a very important holiday present, a Christmas present to the middle class of America by passing this reform bill, by delaying these increases and making that dream of home ownership possible in the future.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank the Senator from North Dakota for her very kind and very generous comments. She underestimates her own tremendous leadership skills. Arriving here as a new Member, she jumped right into this issue. She didn't need a lot of prep work. She understands her State. She understands basements, which we don't have in Louisiana because if we dig down even a few inches, we will hit water. So I had to become very well educated by my good friends, the Senators from New York, New Jersey, and North Dakota, about true basements. It just goes to show that when we work together, we can come up with good legislation that can really help our people, give them relief, being in partnership with them, helping them to keep and strengthen the equity in their homes and businesses as well as do right by the taxpayer. So I thank the Senator very much for her kind comments.

I wish to through the Chair recognize the Senator from New York, who has been an absolutely outstanding advocate for the people of the east coast—particularly New York but the entire east coast in the aftermath of Sandy. It was so helpful to that region to bring them the relief they needed, which has worked, and I understand it is still going on and we have to do more. But if we don't fix this flood insurance issue, which, in fact, was a manmade disaster, it is going to make the natural disaster of Sandy that much worse.

I wish to ask Senator SCHUMER if he has any comments to add to what has already been said.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, first, I wish to assure my colleagues that they don't have to be wearing a blue jacket to be supportive of this legislation, as the Senator from North Dakota, the Senator from Louisiana, and I happen to be wearing this afternoon.

Second, I thank my friend and colleague from Louisiana. What my friend from North Dakota said is exactly right. She has been the Paul Revere of this issue, running up and down the aisles of the Senate, if you will, letting people know—''flood insurance increases are coming; flood insurance increases are coming''—because she saw it in her home State. She has been a great leader, and I hope we will pass the measure she has helped so importantly to craft when it is offered a little later by my colleague from New Jersey.

I wish to say to her that she is exactly right about Sandy. We have families who were devastated by Sandy. They struggled to rebuild their homes. Then, all of a sudden, because of remapping and because of changes in the flood insurance law, they are hit with a flood insurance bill of $800, $900, $1,000. Let's make no mistake about it. These are not wealthy people. Lots of people in New York State who live along the water in Long Island and Queens and Brooklyn and Staten Island are working-class and middle-class people. Their homes are modest. Their jobs are modest. They can't afford $9,000 a year. For those who were told: Yours isn't going to rise, but when you sell your home it will, now they can't sell their homes.

There are some things that make the rest of the Nation scratch their heads in wonderment, saying: What the heck is going on in Washington, DC? There are too many things, and one of them is flood insurance. How can we demand that average, middle-class people pay up to, in some cases, $25,000 or $30,000 a year for a policy that is capped at $250,000? How can we have so many homeowners have to pay $5,000, $8,000, $10,000 when they can ill afford it? We cannot do that. That is why this legislation is so important. It is just wrong.

When we wrote the original Sandy bill, we put in an affordability provision, and there was supposed to be a study about how people could afford the insurance before any increases were put into effect. That did not happen.

I have to say, the people at FEMA are good people, but they do not understand affordability. They are not measuring affordability. They are not paying attention to affordability.

What is the job of Congress? One of our jobs—when an agency does not do what it is supposed to do—is for us to correct it and oversee it, and that is what has happened with FEMA and flood insurance.

So we call for a delay until an affordability study is done, until we can figure out a new way to avoid average folks, middle-class folks, from being forced to either not have flood insurance, abandon their homes, or not sell their homes when they desperately need to do so.

FEMA is saying: If we do not charge these people, the program will not be solvent. I will tell you something. If they continue to charge these rates, no one is going to buy flood insurance. People will drop out of the flood insurance program, and it will be even less solvent. So we have to come to a reasonable, thoughtful, and careful solution.

As the first two of us who have spoken have shown—and my colleagues from Louisiana, New Jersey, Florida, New Hampshire, who are all here to discuss this issue—this affects every part of the Nation. It does not just affect Florida, although they have hurricanes. It does not just affect Louisiana, although they have hurricanes and floods. It affects our great river basins—the Missouri and Mississippi River basins. It affects the west coast, where flash floods can be very, very dangerous. It affects any place that is near water, which is most of America.

We have so many issues. The maps that are drawn are way off base. I have areas in my State that are 5 miles from water and have never been flooded and are included in flood insurance. FEMA actually did not even measure the flood plains in Nassau County and imposed Suffolk County's flood plain. We had to force them to go back and start over.

There is so much wrong with the way the program is now existing that it must be put on hold so we can come up with something better than FEMA is doing.

So I hope my colleagues will support us. We have bipartisan support. The Senator from Georgia has been a great advocate. Others have been great advocates on the other side of the aisle. If you say to yourself: I am going to object because this is not affecting my State, believe me, it will. As FEMA draws maps in State after State across the country, the very same thing that is now afflicting North Dakota, Louisiana, New York, Florida, and New Jersey will afflict your State. You will be coming back to us 2 years from now saying: Hey, let's move that legislation.

Let's avoid that problem. Let's do what we have to do. Put this on hold, go back to the drawing board, and create a FEMA program that both works and is affordable. I believe we can, if this Senate and this House will give us the chance.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Florida is recognized.

Mr. NELSON. Mr. President, before the Senator from New York departs, I want to say this is a real-life example. In Pinellas County, FL, which is the county that houses Saint Petersburg and Clearwater, a current flood insurance premium for a homeowner: $4,000. A new flood insurance premium—10 times as much—$44,000.

Do you think that homeowner can afford that? Do you think that homeowner can now sell their house since that is the flood insurance premium that is facing a potential buyer? And, of course, the real estate market dries up.

So it is a question of affordability, and I merely underscore what the Senator has already said and what the great Senator from Louisiana is going to talk about; that is, that you have a pause, you get FEMA to do an affordability study, and then you phase this in over time.

It just so happens that 40 percent of these policies are in my State of Florida. We have more coastline than any other State, save for Alaska, and they are not afflicted by the same things we are, and they do not have a population of 20 million people. Lo and behold, our people are hurting, and we have to give them relief.

So I beg anybody in the Senate: Please, when this unanimous consent request comes up, we have to have this relief for our homeowners and for the real estate market.

The maps are a different question, and eventually we need to address the issue of the maps because they are obviously drawing some areas that are not flood prone. They are well above the flood stage, and somehow these maps have gotten misaligned. We can address that. But right now we have to address the affordability question.

This is no fooling time, and I beg the Senate to let this legislation go by unanimous consent. I am anxious to have my colleagues make their statements.

Mr. President, I am chairing the Aging Committee hearing right now. I look forward to the Senator from Massachusetts joining us after her statement.

So with that, I yield the floor.

The PRESIDING OFFICER. The senior Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, in deference to my colleague, who I understand may object—and although I have a statement—let me first precede it by making this request. As in legislative session, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the banking committee be discharged from further consideration of S. 1610, the Homeowner Flood Insurance Affordability Act of 2013, and the Senate proceed to its consideration; that an amendment, which is at the desk, making technical changes to the bill, be agreed to; that no other amendments be in order to the bill; that there be up to 2 hours of debate equally divided between proponents and opponents of the bill; that upon the use or yielding back of time, the bill be read a third time and the Senate proceed to vote on passage of the bill; finally, the vote on passage be subject to a 60-affirmative-vote threshold.

The PRESIDING OFFICER. Is there objection?

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I object on behalf of the ranking member of the banking committee. This bill has not been through the committee process and would undo the important rate reforms to the National Flood Insurance Program that were put in place in the most recent flood reform bill to address the program's $25 billion debt to the taxpayer. We must ensure that all Members have the opportunity to understand and weigh in on the changes being made by this action. This unanimous consent request would bypass this important step in the legislative process, and I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I have to say, I am disappointed to hear an objection because this is a bipartisan effort that is being pursued in the Senate and the majority leader has been very gracious to offer us time to debate and vote on an important proposal. I am sure we will be back here again to try to achieve that. This is not a Republican bill or a Democratic bill. It is not a Republican or Democratic priority. It is a commonsense measure that has broad bipartisan support—exactly the type of support and cooperation the American people are yearning to see from their elected officials. More importantly, this legislation is critical to the lives of hundreds of thousands homeowners, and we should not simply let Senate procedure get in the way of finding solutions.

Let me just briefly speak in support of S. 1610, which is the Homeowners Flood Insurance Affordability Act that we just asked consent to bring to the floor. It is a bipartisan, bicameral piece of legislation that would help people afford flood insurance so they can stay in their homes and businesses can stay open—all the while preventing property values from plummeting.

At a time when there is far too little bipartisan cooperation, this bill stands as a notable exception. It currently is cosponsored by 23 of my colleagues, including 7 Republicans, representing States from all corners of the country.

It is supported by the National Association of Realtors, the National Association of Homebuilders, the American Bankers Association, and the Independent Community Bankers Association.

You have heard from several of my colleagues who have spoken to this issue—and there are others, such as Senator WARREN and my fellow colleague from New Jersey, Senator BOOKER, who I am proud to say has chosen this bill as the first piece of legislation to cosponsor in what I am sure will be a long and illustrious career in the Senate.

The reason for that broad support is because flood insurance is not just a coastal or Northeast issue, it is an issue that affects the entire country. Every State in the Nation has properties covered by the National Flood Insurance Program, and every State in the Nation will see premiums on some of these properties increase as a result of Biggert-Waters.

Some of these increases will be modest. Others are going to be prohibitively expensive and act as a de facto eviction notice for homeowners who have lived in their homes and played by the rules their entire lives. We certainly know this because we are already hearing from our constituents, and many more of our colleagues are hearing the same desperate cries from across the country, and many more will hear them as flood insurance maps get outlined by FEMA under the legislation, as renewals come up, and all of a sudden they are going to hear an outcry from their homeowners, who are going to say: This ultimately creates a set of circumstances for me where I am going to lose my home.

The value of their homes will be dramatically reduced. Their ability to sell it will be dramatically altered, and they will, in essence, have taken what they have worked a lifetime to achieve and have it become a human catastrophe—made by the Congress.

This is going to drive property values down. The housing market is still struggling to recover, and we all know that declining property values have a domino effect, causing neighborhood properties to decline in value, which, in turn, hurts the broader economy.

We need to understand the impact that these dramatic changes in Biggert-Waters will have on the housing market before it is too late. We need to understand the impact these rate reforms will have on program participation, which is already dismally low. In fact, recent reports suggest that only about 18 percent of properties in flood zones participate in the program. If rates are raised too high and too quickly, people will simply opt to drop their insurance, decreasing participation, and the risk pool in the National Flood Insurance Program will ultimately feel the consequences.

One study has shown that for every 10-percent increase in premiums, program participation decreases by approximately 2.6 percent; and the sharper the increases, the higher the proportion of dropouts.

As with any flood insurance fund, the smaller the risk pool, the greater the risk. So increasing rates could have the

unintended consequences of actually making the program less solvent.

Reduced program participation would also increase the amount taxpayers are on the hook for in disaster assistance payments. Since FEMA grants, SBA loans, and other disaster assistance are reserved for unmet needs, more uninsured homeowners mean more disaster assistance payouts.

We should be incentivizing people to purchase insurance so they have skin in the game and they will be motivated to take proactive mitigation measures—not pricing them out of insurance so they are forced to rely on taxpayer-funded disaster assistance.

There is no question that we need to reform the National Flood Insurance Program in order to put it on a long-term path towards solvency and sustainability. But, unfortunately, Biggert-Waters forces changes that are far too large and far too fast. It requires FEMA to increase rates dramatically, even before FEMA knows the scope of these changes or how they will impact program participation.

Think about that for a second. We are making dramatic changes in policy which could impact more than 5.5 million policyholders and have ripple effects throughout the housing market in our entire economy before we even know the extent of these changes or their impact.

I have heard from countless New Jerseyans, many who have come to me in tears, who are facing this predicament. These are hardworking middle-class families who played by the rules, purchased flood insurance responsibly, and are now being priced out of their home.

That is why we collectively introduced the Homeowners Flood Insurance Affordability Act that would impose a moratorium on the phaseout of subsidies and grandfathers included in Biggert-Waters for most primary residences until FEMA completes the study—that I offered as an amendment that was included in the legislation—completes the affordability study that was mandated in the law and proposes a regulatory framework to address the issues found in the study.

So we are going ahead with all of these actions and all of these increases without—without—knowing the consequences of that study.

It would also require FEMA to certify in writing that it has implemented a flood mapping approach that utilizes sound scientific and engineering methodologies before certain rate reforms are implemented. We saw this in New Jersey where, in fact, large swaths of communities were put in what we call the V zone, which is the most consequential zone in the opening maps. But when we pressed FEMA and brought information to them, those universes were dramatically reduced.

The difference between being in that V zone and not can mean the difference between being able to continue to own your home or not. So we believe that this legislation is critical.

Why do we come and ask unanimous consent? Why do we ask unanimous consent? Why did we ask unanimous consent? Why will we continue to ask unanimous consent? Because there is an urgency of ''now.'' If we do not act, and we go out of session and we come back next year, unless we get to this early on and make it retroactive, we are going to see the consequences of this take place across the landscape of this country. That is why we have Members from coast to coast; that is why we have Members from the South; that is why we have Members from the Midwest who all understand the consequences of not acting. That is why we have taken the unusual step, on a bipartisan basis, to ask for that unanimous consent request.

For any property sales that occur during this period, the homebuyer would continue to receive the same treatment as the previous owner of the property unless they trigger another provision in Biggert-Waters not covered by my bill.

For prospective homebuyers, the certainty that they will not see their rate dramatically increase simply because they purchased a home is critically important to maintaining property values.

Also, this new legislation would give FEMA more flexibility to complete the affordability study.

It would reimburse qualifying homeowners for successful appeals of erroneous flood map determinations.

It would give communities fair credit for locally funded flood protection systems.

It would continue the fair treatment afforded to communities with floodproof basement exemptions.

It would provide for a FEMA ombudsman to advocate for and provide information to policyholders.

Just as important as what this bill would do, it is also important to note what this bill would not do.

This legislation would not stop the phase out of taxpayer funded subsidies for vacation homes and properties that have been repetitively flooded. It would not encourage new construction in environmentally sensitive or flood-prone areas. And it would not stop most of the important reforms included in Biggert-Waters.

This legislation simply provides temporary relief to a targeted group of property owners who played by the rules and are now poised to see their most valuable asset become worthless, all through no fault of their own.

This bill does not include everything I wanted and I know there were many other ideas that other cosponsors wanted to include. But in order to reach a true consensus, we limited the provisions in this bill to those that had broad, bipartisan support. That is why we are here today—Democrats and Republicans—calling for debate and a vote on this vital piece of legislation.

I must say I am very disappointed to hear objection from the other side of the aisle.

My friend the majority leader has been very gracious to offer us time to debate and vote on this important proposal and we will be back here day after day to try to do that.

Because as I said before, this is not a Republican bill or a Democrat bill—it is not a Republican priority or a Democrat priority. It is a commonsense measure that has broad bipartisan support, exactly the type of support and cooperation the American people are yearning to see from their elected officials.

More importantly, this legislation is critical to the lives of hundreds of thousands of homeowners. We should not let arguments about Senate procedure get in the way of finding solutions to their problems.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, there are several other Members. Senator MENENDEZ is the leader of our efforts. He and Senator ISAKSON have joined and have put together an extraordinary coalition. I would like to read the names into the RECORD because it is a testimony. In a place that cannot get three Members to agree on anything, we have over 20 Members who agree to change the Biggert-Waters law. I want to read this into the RECORD and then ask through the Chair for the Senator from Massachusetts—both Senators are here—the senior Senator to be recognized for just a moment and then the junior Senator to speak on this issue.

But Senator MENENDEZ and Senator ISAKSON are our leads—again, New Jersey and Georgia. They are two very different States but have very similar challenges. They have people—middle-class families, small business owners—who have poured their life savings into homes and businesses, only to be destroyed by a piece of legislation that had great intentions but disastrous results. We do not have a lot of time to fix this. We need to do this before this body leaves, which is next week.

Myself, Senator COCHRAN, Senator MERKLEY, Senator VITTER, Senator HOEVEN, Senator SCOTT from South Carolina, Senator WICKER, Senator HEITKAMP from North Dakota, Senator SCHUMER, Senator GILLIBRAND, Senator MARKEY, Senator WARREN, Senator NELSON from Florida, Senator BEGICH from Alaska, Senator MANCHIN from West Virginia.

There is no ocean anywhere near West Virginia, but they have many middle-class families who are getting caught up in a quagmire here. This bill is the only bill that can release them and save taxpayers money. Senator CASEY from Pennsylvania, Senator KLOBUCHAR, Senator BOOKER, Senator GRAHAM—who is also on the floor—and our newest cosponsor today, Senator LISA MURKOWSKI from Alaska.

This is a very unusual coalition. I have been here a long time now. I have hardly seen a coalition this broad and diverse. So clearly we have something meaningful to say that needs change.

Please let us not let procedures and pride, bad tempers, keep us from doing what we know we need to do for our people.

I thank Senator WARREN who has been a tremendous help to us in putting this bill together, and might I add that it costs nothing. There is no score on this bill. So to anyone that could object because it costs the taxpayers: Nada. It does not cost anything. It is a zero score. We have done it that way to be respectful of all of the different opinions. But it will help to give us relief.

Through the Chair I would like to ask Senator WARREN to add her terrific voice and perspective on how it is affecting Massachusetts, one of our most important States.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Ms. WARREN. Mr. President, I rise to join my colleagues in urging support for S. 1610, the Homeowner Flood Insurance Affordability Act of 2013. This is a bipartisan bill that will help homeowners across our country who are getting hit with the newly revised flood maps and increased flood insurance premiums.

I am very pleased to join colleagues on both sides of the aisle to call for this commonsense delay which gives FEMA time to get this right. I thank Senator MENENDEZ who has been a tremendous leader, Senator ISAKSON, Senator LANDRIEU, who has gotten in there and gotten us all mobilized, Senator COCHRAN, many others of the cosponsors of this bill for their leadership and their commitment to work on this important issue.

I also thank my partner in all things, Senator MARKEY, for the work he has done on this bill and for giving me the chance to speak first here so we could get going. Families purchase flood insurance to prevent the loss of their homes. But now many families fear that the price of flood insurance could be just as devastating as any storm. You cannot protect someone's home by pricing them out of it. Yet that is exactly what is taking place around the country. Congress changed the National Flood Insurance Program to move toward a more market-based system that more accurately reflected the true cost and risks of flood damage.

This is a well-intentioned bill, but, unfortunately, homeowners are being blindsided by high rate increases and new flood zone maps. Many families are learning for the first time from news reports and letters that their mortgage companies are sending that they must purchase flood insurance. This is simply not an acceptable way of informing the public that flood insurance bills are skyrocketing.

When FEMA released these flood maps this year and last, they knew they were placing hundreds of thousands of homeowners into a flood zone for the very first time. It is critical that these maps be spot on and correct. But many people do not trust many of the new changes, and their concerns are growing by the day. In fact, a recent independent review conducted by coastal scientists at the behest of my colleague, Congressman BILL KEATING, concluded that FEMA used outdated wave methodology better suited for the Pacific coast when they drafted new flood maps for Massachusetts.

They believe this resulted in FEMA overpredicting the flooding that could occur from once-in-a-century storms for much of our State. We need to pass this bill to give the government the time it needs to make sure that the maps are accurate, reliable, and reflect the best available scientific data.

We also need to make sure that hard-working families who play by the rules can afford these policies. The Homeowners Flood Insurance Affordability Act that I have proudly cosponsored will provide relief to homeowners who built to code and were later remapped into a higher risk area.

Furthermore, this critical bill will delay rate increases until FEMA completes the affordability study that was mandated by the Biggert-Waters Flood Insurance Reform Act, and until subsequent affordability guidelines are enacted.

Homeowners are facing flood insurance premium increases that can cost $500, $1,000, even more per month. Most hard-working families and seniors do not have that kind of extra money on hand to spend on flood insurance premiums they never knew they were going to need.

FEMA has a lot of work to do.

In the meantime, these families should not be hit with high costs when they challenge the flood map and win their appeal. Our bill will help address this injustice and will allow FEMA to utilize the National Flood Insurance Fund to reimburse people who successfully appeal a map determination. It also gives FEMA the added financial incentive to get those maps right the first time.

I am pleased to join colleagues on both sides of the aisle in this call for a commonsense delay which will give FEMA time to get this right. I urge my Senate colleagues to support this much needed relief for homeowners. I thank Senator MARKEY for his leadership. I thank Senator LANDRIEU for her amazing leadership, and I thank all of my colleagues who are ready to move on something that is common sense and very much needed by families across this country.

I yield for my colleague from Massachusetts, Senator MARKEY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. I thank the Senator for her leadership. She and I have met with people all across the State of Massachusetts who are fearful of the impact that this can have upon their ability to live in their own homes, to sell their homes, to continue to operate their businesses, to sell their businesses.

This is a fundamental issue for our State. Senator WARREN and I bring this concern to the floor even as we know that it is a concern that is felt all across the country. It is Louisiana. It is New Jersey. It is South Carolina. It is West Virginia. It is the coastlines of our country. Yes, it is.

The warmer the climate becomes, the warmer the oceans become; the warmer the oceans, the higher the tides; the more devastating the storms, the more changes that take place in terms of the impact on the homes, the businesses, all along the coastline.

But climate change does not only affect the coastal areas. It is affecting our whole country—the whole planet. There is a huge change which is taking place. That is why we are out here. We are out here because of climate change. The storm that hit New Jersey, Hurricane Sandy, was devastating. We saw the courage of the people of New Jersey and New York in responding to that storm. But just with a couple of changes in the direction of that storm, it could have wiped out everywhere from Cape Cod up to Newburyport, Maine, and New Hampshire.

But for a small change in that storm, it could have been down in Delaware, Virginia, wiping out that coastline. But for the grace of God go the States that we represent. The same thing is true all across the country.

We know that the pollution we pump into the sky heats the water and the air. It gives storms more power. We know this scientifically. With more powerful and more frequent storms, we realize that this tragedy is lapping right at the doors of every citizen. We have to do something to prevent it from becoming worse.

But at the same time, we also have to realize that these families are innocent victims. They did not have anything to do with the policies that did not deal with climate change for a generation, that ignored the science. They are now dealing with the consequences of a failure to deal with that issue. We cannot allow the failure to act to be borne by those who are the least able to afford it.

That is what is happening. It is going to be innocent Americans who now have to suffer because we did not have the political will to deal with this issue of climate change.

I have heard, along with Senator WARREN, from people all over my State. I have one business that relocated several years ago thinking that was going to satisfy the need to protect against climate change, against the change in the flood plain. Now, under the new plan, they will have to move the business again.

It is unsustainable long term for any businesses, any family to think about living in these kinds of areas unless we begin to think through how we are going to adjust to this law that is on the books which will have an almost immediate impact upon families all over our country.

We need to fix the flood insurance provisions that would have devastating economic impacts on our coastal communities. That is why I am proud to support the legislation of the Senator from Louisiana, the Senator from Georgia, Senator ISAKSON, Senator MENENDEZ, Senator MERKLEY, and everyone who has worked on this issue.

We have to ensure that we address the issue of affordability for these homeowners, affordability for these businesses in terms of the increase of the flood insurance rate caused by the new flood maps and ensure that we put that before any crippling flood insurance rate increases.

We have to deal with affordability first. If affordability is not going to be dealt with, then there is going to be a devastation that is felt by millions of homeowners and businesses across this country.

Climate change is real. It is here. It is dangerous, but the fear of rising floodwaters should not be compounded by the fear of an unaffordable spike in insurance premiums for homeowners and businesses across this country.

I thank my colleagues for all their work on this issue. It is an indispensable part of the business of this Congress this year to pass this legislation. We must find a way to work together before we leave in order to pass this legislation.

I call upon all of my colleagues to work together with us. This is as bipartisan as it gets in the Senate. We have to find a way.

I congratulate the Senator from Louisiana for all of her great work.

I yield back.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I see the Senator from South Carolina on the floor to speak, but I wish to give some concluding remarks in this very important hour about this very important issue. We are down to the wire, and we do not have any time left to provide relief to homeowners and business owners all over this country.

About 1 hour ago there was an objection registered from the Republican ranking member of the banking committee. I have a great deal of respect for that particular Member. I hope he will consider the tragic ramifications of his objection for millions of homeowners and businesses around the country and work with us over the next few days to mitigate any of his objections so we can move this bill to the floor and provide 2 hours of debate. We will accept, those of us in our coalition, a 60-vote threshold.

Let me remind colleagues that a hearing was held in the banking committee by Senator MERKLEY, who chairs the subcommittee. This bill has been discussed for hours and hours in committee, in public. There are hundreds of stakeholder groups led by, I am very proud to say, GNO, Inc., Greater New Orleans, Inc., a very broad coalition of business owners and parish residents. They reached out across the country, down the coast, the gulf coast, to the east coast, to the west coast, North Carolina, to the good Senator on the floor from South Carolina, reaching out in areas in the Midwest and up in the Northwest.

The reason they did that is because there are new flood maps going into effect in all of these places. I call attention to the diagram of flood maps in the United States. In purple, these were the flood maps that were in effect as of July 2012. In the green, these are proposed flood maps that have been introduced. We can see how many green designations there are.

In the gold color, there are new flood maps possible. There is no State that is going to escape these new flood maps. As Senator ELIZABETH WARREN said, they are inaccurate. They don't have the capability, the finances, the resources to produce—or the technology, in some cases—accurate flood maps. There have been a record number of mistakes made that we have provided for from the public testimony.

In addition, I wish to show a map of where levees are. There are many levees. I was surprised, myself, having become an expert on levees, I thought. No, I am not the expert I thought I was because I did not realize how many levees there were in other States. I have been so focused on mine that broke in 52 places and almost destroyed a great international American city, New Orleans. We are on the mouth of the Mississippi River, and I am well aware of the levee system that was one of the great engineering feats ever in the world, on the planet. It keeps the Mississippi River in its channel so we can have the great commerce we have had that helped build this great Nation. I am well aware of the great story about that.

I was not aware of the tremendous flooding risk in California, in Arizona, in New Mexico, and in Montana, of all places. I knew about Arkansas, Illinois, and St. Louis because of the Mississippi River up to Minneapolis.

Look at Pennsylvania. I was shocked to see so many flooding areas in the State of Pennsylvania.

I wish to say it is not only a coastal issue, it is a national issue. We are the national Congress. These rates are going up now and it needs to be fixed now.

I hope the Republican opposition will think clearly about their objection, the ramifications it will have, and find a way to say yes—find a way to say yes.

The bill that Senator MENENDEZ and Senator ISAKSON are offering costs zero. It helps millions of people and ultimately will make the program fiscally sound.

As the Senator from New York said so eloquently and so accurately: If you price people out of the program, there will be no one to support the program. The program will default, taxpayers will still have to pick up the debt associated with that program, and then we will also have millions of people losing their homes and their businesses. It makes no sense. It makes no financial sense.

I am not going to speak too much longer, but I do wish to state I am very happy, as an American, there are many newspapers we can read. There are many blogs, a lot of radio shows, and all sorts of different opinions. We have to read a lot, think a lot, and get different views to find the truth.

I am going to read the first paragraph of the Wall Street Journal because they need to listen to a couple of other bloggers or writers because they are way off base. The Wall Street Journal said last week: ''Federal flood insurance is a classic example of powerful government aiding the powerful, encouraging the affluent to build mansions near the shore.''

That statement is so inaccurate it is laughable.

The people I represent in Louisiana—we hardly have a beach. I don't know if anyone has visited Louisiana. We don't have beaches. We have marshes. No one I know who lives in New Orleans or Baton Rouge is anywhere near a beach. I am going to read a letter from a very affluent and powerful person:

I am a 66-year-old woman and have lived in the same house in Broadmoor since 1974.

I knew this neighborhood when the letter arrived at my desk because that is the neighborhood where I grew up and still reside. There is not a beach within miles of Broadmoor.

She continues:

I lived there with my family, raised a son who also lives and owns a house in Broadmoor—

It is a very middle-class neighborhood that we come from.

Continuing:

—and plan to stay in my home for the remainder of my life. I live on a very strict budget and have just this month received my first Social Security payment. If something is not done to change the law that will potentially raise my flood insurance by the thousands, it will not be possible for me to keep my home nor sell it.

I wish to have the Wall Street Journal editorial board hear this. This is not a millionaire mansion on a beach. This is a 66-year-old woman who just received her first Social Security check. If this law is not changed by the 100 Members of this body in the next few days, she can either stay in her house or sell her house.

Please do not lecture to us from some high place in some big corporate office about Senators on the floor of the Senate trying to fight for powerful interests for people in mansions who live on fancy beaches. That is not what this bill is about.

I have hundreds of pictures. If the Wall Street Journal or any newspaper wants to editorialize about this, please check my Web site, ''My Home Story.'' I have hundreds of pictures and other Senators have hundreds of pictures. I don't see a mansion.

All I see are cries of people who say: Wait a minute. My house has never

flooded. I live in a simple neighborhood. I am a simple person. I am an American who works hard, and you are running me out of my home.

The bill that passed, Biggert-Waters, was well intentioned but drafted inappropriately and has some very pernicious guidelines or rules in it that can only be changed by Congress. Some people wish to think that FEMA can wave a magic wand and make it work. FEMA cannot wave a magic wand. We have to do our job as Senators. I hope the Senate will do its job.

We cannot agree on everything that needs to be fixed, I understand. There are many arguments about other things that some people think need to be fixed and others don't. But I don't know of anyone nor have I heard anyone on the floor give us one good, solid reason that the Menendez bill shouldn't pass, such as: I don't like section 1, I don't like section 2, I don't like section 10, maybe section 5—not one. It is all posturing.

Please let us get over the posturing and help people who live nowhere near a beach, who are going to lose their homes and need us to act. I believe we can do it. As I said, we have great Republican leadership and great Democratic leadership.

In closing, the Senator on the floor has my great respect. Also, Senator ISAKSON, who is the lead Republican Senator, is known in this body as an expert on real estate and finance. He is very clear in his appreciation and understanding that the real estate market is going to be shaken to its core, as well as homebuilders and community bankers who are holding mortgages on these 5 million properties.

We have come too far. We have come too far in restoring this housing market. This bill was well intentioned but poorly drafted, stuck into a conference committee report at the last minute, not with as much oversight as we should have given. We can fix it. Let's do this.

I thank the Senator for being so generous. It is a very important issue. I am prepared to stay here for as long as it takes before Christmas—even, I hate to say, up to Christmas Eve, as I wish to get home for a little bit of time, but this needs to be fixed before we leave for Christmas.

The House can come back in January, take up this bill, and we can send it to the President's desk early in February, make it retroactive, and give people relief. This is not about helping out powerful interests and millionaires on the beach. This is about helping many Americans who have done nothing wrong and everything right. They have been in their homes since the 1960s, 1950s, in some cases from the 1800s, and are going to be priced out of their home. Their equity will be stolen from them by a poorly drafted piece of legislation.

We can do better and we should.

I yield the floor.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I rise today to address the nomination of Cornelia Pillard for the DC Circuit.

My colleagues, I have enjoyed my time in the Senate very much, although we live in a very difficult time. Politically, there are a lot of influences on individual Senators and parties and the body as a whole, so these are very difficult times. I can only imagine writing the Constitution today. I always thought that would be a good ''Saturday Night Live'' skit: Go back to Philadelphia hall and have all the satellite trucks parked outside and the bloggers and talk radio, moveon.org—fill in the blank—all putting pressure on our Founding Fathers not to do this or that. We live in different times.

It is absolutely good that people have a voice and influence and create organizations to advocate their cause. There seems to be an organization for almost every aspect of the economy. So lobbying the government, having a say about legislation, trying to push your representatives to do something you think is good for the country is very much a part of democracy, but eventually we have to govern.

Democracy is a journey, sort of like when you are on vacation or you are driving to a place with your kids and they always ask: Are we there yet? But democracy is not an end state, it is a process. Democracy is really about protecting losers, not so much winners. Winners tend to do well in any system. Democracy protects the loser by having a rule of law, a process that says: If you lose the election or you are in the minority in a body, there will be rules there to give you a voice.

One of the problems in the Mideast and throughout the world is that people are afraid to lose. In the Mideast it is a winner-take-all environment. The reason there are so many militias is that people don't trust the police or the government to be fair to their sect or their tribe, so they arm themselves, believing that if they don't take care of themselves, nobody else will. But that just leads to an endless state of conflict.

So democracy is really a process, and it is designed to ensure that losers in a democratic process will still have basic rights. You can lose the election and not get fired. It is illegal to fire somebody because they are in the opposite party, unless it is a political job where one expects that to happen. You don't lose your right to speak up because you lost the election.

When you find yourself in the minority in politics, it is important that you have a say. It is also important that the majority has the ability, having won the election, to do certain things—to run the place, for lack of better words.

The Senate is an unusual body in traditional democracy. Parliamentarian systems are different from what we have set up. You have two houses in most places, such as the House of Lords. I don't know what power it has, but it is not too great. The parliamentary system is where you have to form coalitions. At the end of the day it is a completely different setup than we have here, where the party in charge, if they can form a big enough coalition, can basically just run the place.

The House is a winner-take-all body. If you are in the majority in the House, you can decide what bills to bring to the floor, what amendments will be allowed on those bills, and how long to debate those bills. You have an almost absolute dictatorial ability to run the House. You determine everything. The minority has some say but not a whole lot. The House is sort of gang warfare. I have been there and love the institution. You will find that majorities will be fighting among themselves a lot in the House because that is where the action is in the House.

I have been in the House, and I have been in the Senate. I loved being in the House, and I understood the way the rules worked—that if you were in the minority, what came to the floor was determined by the majority, what amendments were in order was determined by the majority, and that is just the way it was.

When I was in the House, we would pass one measure after another that would go to the Senate and never be heard from again, and that was frustrating. But the older you get, you sort of realize maybe some of the things you wanted were not in the best interest of the country as a whole. And the fact that you knew that if it went to the Senate there would be a filtering process, unlike in the House, became somewhat reassuring over time.

House majorities are more partisan, generally speaking. They are influenced by 2-year election cycles. It is a more passionate body because you are always up for election and the winner takes all. And when you win in the House, the people who got you there expect you to do things consistent with your party's agenda. Nothing wrong with that.

In the Senate there has been a conscious effort to put some brakes on that kind of governing. When you send a bill to the Senate, you still, to this day, have to get 60 votes to bring the legislation to the floor and to get cloture, and the minority has the ability to say not only whether they want the bill to come to the floor, with a certain amount of amendments, but then they can negotiate with our friends in the majority to get the amendments we want and to allow the legislation to come forward. There are probably a lot of times when Republicans in the House voted understanding that this idea wouldn't make it through the Senate and that was probably OK.

Here is what I feel. A lot of my colleagues have talked about Ms. Pillard, the nominee, being a radical judge and

being out of the mainstream. I don't want to get into that. All I can say is that my view of a Presidential appointment is for the Senate to provide advice and consent—constitutionally required—but to recognize that the President won the election and the Senate has the advise and consent powers, not the House.

I have found myself in all kinds of judge fights since I have been here. I was a lawyer before I was a politician. I love the law. What I love about the law is that, in theory, it is a place where the poorest guy, the most unpopular person can still get a fair shake. Of course, that wouldn't happen in a political environment. It is a place where the richest guy or gal in town doesn't have to pay because they can afford to, only because they have a legal responsibility to. I love the idea of an independent judiciary, a jury of one's peers, protecting people's interests in a way politics never could.

I would argue that the strength of the rule of law in this country has been our great saving grace. Elections happen all over the Mideast. Saddam Hussein got 90-some percent. We haven't been able to get there yet. I would argue that electing Saddam Hussein was a joke, that it is the institutions of government that really do provide freedom for people. An independent judiciary has been a Godsend to our country. It is not perfect by any means, but it was the courts that basically broke the stronghold of segregation because politically it would have taken far longer to get there.

At the end of the day, in Bush v. Gore, maybe one of Vice President Gore's finest moments contributing to democracy was his acceptance of the ruling of the court. He fought like crazy, he lost a national election by a few hundred votes, all of his supporters are telling him they did this here and they did that there, and the next thing you know the Supreme Court rules 5 to 4, and he graciously accepted the decision.

What has happened here is that the rules of the Senate have been changed in a very dramatic way for the first time really in 200-some years. Our colleagues on the other side decided that we would no longer require 60 votes to get a nomination to the floor or to approve a judge. Now it is majority rule—majority rule on judicial nominations, except Supreme Court and executive appointments.

A lot of average people might say: Well, they won the election; why isn't 51 enough? My response is this: I think we all understand the benefits of being able to slow things down that come out of the House. And having to pick up some votes from the other side to get the 60 to pass legislation has probably saved the country a lot of heartache in terms of emotional legislation coming through the House to the Senate that would never make it into law. A lot of things I wanted have been killed in the Senate, and a lot of things I hoped never would see the light of day have died in the Senate. So it kind of works out.

When it comes to judges, I have tried very hard to make sure that Republican and Democratic Presidents are treated fairly. I do not believe it is my job as a Senator from South Carolina to vote or block an appointment because I wouldn't have chosen that judge.

I remember during the Bush Presidency there was a wholesale filibuster of Bush's judicial nominations, and we were thinking about doing the nuclear option. But seven Democrats and seven Republicans said: Wait a minute. Unless there is an extraordinary circumstance, we shouldn't filibuster judges. An extraordinary circumstance really is about qualifications or something unusual.

I can say to my Democratic colleagues that we have denied two judicial picks by not allowing cloture. If advise and consent means anything, it means that, on occasion, you can say no. So there have been only two.

As to the DC Circuit Court, this dispute about how many judges there should be on the DC Circuit Court has been going on at least for a decade—ever since I have been here. The Bush administration wanted to add judges to the DC Circuit because that is the circuit all appeals go to when government regulation is challenged by somebody in the private sector, an individual or a business. If you want to sue about ObamaCare regulations or the detention policy or the NSA's programs, it goes to the DC Circuit. So every President, quite frankly, would like to have an advantage there because it protects their administration's policies.

I guess what I would say is that changing the rules because we have said no to two picks—outside of the DC Circuit—was, quite frankly, irresponsible, and it is going to change the Senate forever.

As to the DC Circuit, no one can say this debate hasn't been going on before we all got here. Senator GRASSLEY has been the most consistent guy in the world about the DC Circuit, even when Republicans were in charge. There are more needs out there. These judges are fine people. They could be put in the other spots where the need is greater.

But we are where we are. So our colleagues decided, after two—I don't know how many have been approved, but two have been denied—enough is enough on the judge side, along with the attempt to grow the court in the DC Circuit.

We have had disputes about executive nominations. I remember Ambassador Bolton. And MEL WATT—really, honest to God, I like Mel. He is a great guy. I just don't think he is the right choice for Fannie Mae and Freddie Mac. And to my colleagues here, you are all wonderful people, but there is not one person in the Senate whom I would pick for that job because it has a very technical requirement to it.

So here we are.

Very quickly—and then I will turn it over to Senator GRASSLEY—what does this matter in the long term? I think the first casualty of this rules change is going to be the judiciary itself, and here is what I mean by that. Now that we don't have to cross the aisle to pick up a few votes to get to 60 when there is a disagreement—and these are very rare; we don't filibuster everybody; they are fairly rare—we are going to have more ideological-driven picks on judicial nominations because once the filtering device of having to at least talk to the other side is removed, once that no longer exists, the pressure in the conference to pick the most ideologically pure, hardnosed, fire-breathing liberal or conservative is going to be immense.

So what my colleagues have done is they have changed the face of the judiciary probably forever. And shame on you. I think that is going to be your legacy that will stand out long after all of us have gone because I don't see how you go back and put this genie in the bottle.

I think we are going to find that judicial selections in the future are going to be those whom the most rabid partisans are going to pick—the most faithful to the cause, not the most faithful to the law.

I don't know what it is like on the Democratic side, but I can tell you what it will be like on the Republican side.

There are a lot of people out there who have a list of judges they want to see on the court—yesterday. Some of these people are going to be tough for you to swallow, and I am sure you will do the same to us.

What you are doing is making the majority self-regulated. There is no longer the excuse, for lack of a better word: I can't ''push'' this person through because I have to get somebody in. Those who want to make sure they are picking the best person who is not an ideologue, you are going to have a hard time of it.

I think the judiciary is the biggest casualty over time, only equal to the Senate itself. It will not be long—and I don't know how long it will be—before the rules change for Supreme Court picks, because there will be replacements of several members of the Supreme Court in the next decade. That is just the way the life is. There will be opposition from the party out of power. There will be frustration. Somebody will be blocked that makes the party in power mad and they are going to change the rules. That is just going to happen. We are now about outcomes. We are not about process.

The Senate is slowly but surely becoming the House, where winner takes all and ends justify the means: Anything you can do over there, we will do over here. That is just the way it is going to be.

It will not be much longer until we have a Senate and a House and a White

House in one party—as happens every now and then—and there is going to be a centerpiece of legislation that has been the Holy Grail to that party that is an absolute nightmare to the other side; it is going to pass the House on a party-line vote, it is going to come to the Senate, and somebody is going to get frustrated and say: I have 51-plus votes. I may have 57 votes. I don't have 60. And they are going to change the rule on legislation because the pressure to do it, now that we have gone down this road, is going to be immense. I am by no means perfect. But when this happened on our watch, I tried to find a way to avoid it. But we are where we are.

Finally, about ObamaCare. Let me tell you from a Member of Congress point of view something you should consider. All of us are Federal employees and we get a subsidy for our health care premiums similar to every other fellow employee. It is not a unique deal to Congress. If you are a member of the Federal Government, you get up to 72 percent of your premium subsidized. Other employers do that, but it is a darned good deal that is available to all Federal employees.

Again, I compliment Senator GRASSLEY. He said: If we are going to have ObamaCare, we ought to be in it. We, the Congress, and our staffs. Under the law that was passed—I think Senator GRASSLEY was the originator of this idea—Members of Congress and our staffs have to go into the exchanges. But we have the ability to go into the District of Columbia exchange, and the law is written such—and every Member of Congress who takes this subsidy is entitled to do it. I don't blame them one bit. You have to go into the exchange, and your premiums are going to go up, but the subsidy will continue.

Senator VITTER believes, and so do I, that because we are leaders we should take the road less traveled and experience more pain than those who follow. So I have been of the opinion that if you are going to change this law, the Congress should not only go into the exchange, we shouldn't get a subsidy any longer. Why? Because most Americans are going to lose their employer-sponsored health care as it exists today—maybe not in total but their premiums are going to go up dramatically because employers cannot afford to pay the increased premium under the old system. So they will either lose employer-sponsored health care and become an individual or they are going to have to pay more because their employer is in a bind and they can't afford the subsidies that once existed—because premiums for employers, similar to individuals, are going to go through the roof.

I wish to give an example about what I have chosen to do. I have chosen not to go into the DC exchange but to enroll in South Carolina because that is where I live. Enrolling in the South Carolina exchange, I will not get a subsidy. That was my choice. I accept that choice. Why am I doing this? To try to lead by example what I think is coming to a lot of Americans in some form or another.

So here is what happens with me: Under the old system, I was paying $186 a month. If I went into the DC exchange, my premiums would go up but not a huge amount. But now that I am enrolling as a 58-year-old short White guy in South Carolina, my premiums are based on the county I live in and my age, with no subsidy, because I make too much money to get a subsidy. People at my income level don't deserve a subsidy because it would bankrupt the Nation more than we are already doing if we did that.

Under ObamaCare in South Carolina, I chose the Bronze plan. Why? It is the cheapest one I could find. I am not independently wealthy. I make a very good living as a Member of the Senate, almost $180,000, but at the end of the day here is what is coming my way:

My premium goes up to $572 a month from $186. That is $400 a month, almost, a 200-percent increase.

Under my old health plan if I went to the doctor, I paid a $20 copay. Under the new Bronze plan, I pay $50.

Under the old plan if I saw a specialist, it was $30. Under the new plan, it is $100.

My old deductible was $350 a year. My new deductible is $6,350—a $6,000 increase.

My old plan had a $5,000 out-of-pocket limit. The new one is $6,350.

You also get rated not just on your age but where you live. I am paying $70 a month more than a county that is 40 miles away.

The bottom line is that what I am experiencing a lot of other people are going to experience. I am paying a lot more for a lot less. How can that be?

When you are told that you get more and you pay less and a politician tells you that, you ought to be very leery. That hasn't worked out in my life: You are going to get a lot more, but you are going to pay less.

The reason these premiums are going up is that all the uninsured—and I want to provide coverage to the uninsured as much as anybody else—get insurance coverage with a subsidy. Who is paying those subsidies? The rest of us.

So we are going to see next year employers having to back out of employer-sponsored health care either in total or in part. What we are going to find throughout this country is that people who had employer-sponsored health care, just like the individual markets, their premiums are going to skyrocket—maybe not as much as mine, maybe not 200 percent. The deductibles are going to go up—maybe not as much as mine at $6,000, but everybody in the country doesn't make $176,000.

So every Member of Congress should look at what would your life be like if you didn't have a Federal Government subsidy, if you didn't enroll in the DC exchange, if you went back home and had to pick a plan similar to everybody else in your State? You ought to sit down and look at what your individual life would be like. If you just look, you will be shocked. I sure was.

This is not about me, even though I am giving you an example about myself. It is about an idea called ObamaCare that is going to destroy health care as we know it in the name of saving it and making it better.

I think we all agree we need to reform health care. But I think most Americans believe their old health care system was working pretty good for them, but it could always be made better.

So I would ask every Member of Congress, whether you go into your State exchange, if one exists, or not, do the math. You are going to be shocked at how it would affect you. Let me tell you, it is going to affect people you represent in similar fashion.

So what do you do? Why don't we just try to sit down and start over and see if we can do better before it is too late?

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

UNEMPLOYMENT

Mr. SANDERS. Mr. President, there is a reason why the favorability rating of the Congress is somewhere, on a good day, around 10 percent. The reason I think is pretty simple: The American people are hurting. They look to their elected officials to try to do something to address the problems they have and the crises facing our country. Time after time, they see the Congress not only not responding to the needs they face but in many cases doing exactly the opposite. In poll after poll, the American people tell us the most pressing issue they face deals with the economy and high unemployment.

When we look in the newspapers, we are told the official unemployment rate is 7 percent. By the way, that is a rate which has in recent months gone down, and that is a good thing. But the truth is, if you include people who have given up looking for work and people who are working part time when they want to work full time, real unemployment in this country is 13.2 percent. That is enormously high.

The unemployment rate for our young people is close to 20 percent, and there are parts of the country where it is higher than that. African-American youth unemployment is close to 40 percent.

So what we are looking at all over this country are millions and millions of people who want jobs, who want to work, and who can't find those jobs. We are looking at a younger generation of workers who cannot get into the economy. If you are a young person and you leave high school, for example, and you can't get a job in your first year out there or your second year, if you think

this does not have a cataclysmic impact on your confidence, on your self-esteem, you are very mistaken.

I fear very much and worry very much about the millions of young people out there who are not in school, who are not working. Tragically, many of those young people will end up on drugs. Some of them are going to end up in jail. These are issues we have to consider.

What the American people tell us over and over is: Yes, the deficit is a serious problem. I believe it is. Everybody in the Congress believes it is. But what the American people also say is: High unemployment is an even more serious issue.

According to a March 2013 Gallup poll, 75 percent of the American people, including 56 percent of Republicans, 74 percent of Independents, and 93 percent of Democrats, support ''a Federal job creation law that would spend government money for a program designed to create more than 1 million new jobs.''

What the American people are saying is, yes, we have made progress in the last 4 years. We have cut the deficit in half. We have to do more. But what the American people are saying loudly and clearly is that we need to create jobs.

What they also understand, and poll after poll indicates this, is that when we have an infrastructure that is crumbling—roads, bridges, water systems, wastewater plants, our rail system—when we have an infrastructure that is crumbling, we need to invest in rebuilding that infrastructure. When we do that, we create significant numbers of jobs. That is what the American people want us to do. When is the last time you even heard that debate here on the floor of the Senate?

The unemployment crisis, the need to create jobs—that is what the American people want us to do, and we are not even talking about that issue.

There is a second issue about which the American people are very clear. It is a funny thing—sometimes the media writes about how partisan the Congress is, how divisive the Congress is. Senator GRASSLEY and I supposedly hate each other, we do not talk to each other, and all that nonsense. That is not the reality. The truth is that among the American people, surprisingly enough, there is a lot of consensus. I mentioned a moment ago that the American people very strongly believe that we should invest in our infrastructure and create jobs. Unfortunately, that is not what we are doing.

Here is another issue about which the American people are loud and clear. They understand that—tragically in today's economy—most of the new jobs that are being created are not good-paying jobs. That is the sad reality. Most of the new jobs that are being created in today's economy are low wage jobs and many of them are part-time jobs. If you are making $8 or $9 an hour and you are working 30 hours a week, you are going to have a very hard time supporting yourself, let alone a family.

What do the American people say? They say raise the minimum wage. Raise the minimum wage.

Let me quote from today's Wall Street Journal:

> Americans strongly favor boosting the Federal minimum wage to $10.10 an hour but oppose raising it above that, a Wall Street Journal/NBC News poll finds. In the survey, 63 percent supported a rise to $10.10 an hour from the current $7.25 rate.

Sixty-three percent of the American people support that. Democrats strongly support it, Independents support it, and many Republicans support it. One would think, therefore, when the vast majority of the American people understand that $7.25 an hour is a starvation wage and that we need to raise the minimum wage to at least $10.10 an hour, we would be moving on it. Maybe we would get a UC on it, a unanimous consent. Let's get it done. I fear very much that right here in the Senate we are going to have a very difficult time gaining 60 votes. I hope I am wrong, I sincerely do, but I am not aware at this point that there are any Republicans prepared to support an increase of the minimum wage to $10 an hour. I believe in the Republican-controlled House it would be extremely difficult to get legislation widely supported by the American people through that body.

But not only will my Republican colleagues not do what the American people want in terms of raising the minimum wage, quite incredibly, I have to tell you that many of my Republican colleagues do not believe in the concept of the minimum wage. Many of them believe we should abolish the concept of the minimum wage, so that if you are in a situation in a high-unemployment area where workers are desperate for work and an employer says: Here is $4 an hour; take it or leave it, that is OK for some of my Republican colleagues.

Again, we are in a situation where the vast majority of the American people want to do something about low wages. They want to raise the minimum wage, and we are going to have a very difficult time getting that legislation through. I hope I am wrong, but I do know that unless the American people stand up, get on the phone, start calling their Senators and Members of Congress, we probably will not succeed in doing what the American people want.

Interestingly enough, what the American people also understand is that raising the minimum wage will help us with the Federal deficit in a variety of ways. It may be a surprise to some Americans to know that the largest welfare recipient in the United States of America happens, coincidentally, to be the wealthiest family in America. The Walton family, which owns Walmart, is worth about $100 billion. They are the wealthiest family in America. They own more wealth as one family than the bottom 40 percent of the American people—extraordinary wealth. One of the reasons they are so wealthy is the American taxpayer subsidizes Walmart because Walmart pays low wages, provides minimal benefits, and many of their workers end up on Medicaid, they end up on food stamps, and they end up in government-subsidized housing. I am not quite sure why the middle-class working families of this country have to subsidize the Walton family because they pay wages that are inadequate for their workers to live a dignified life.

My hope is that when the American people are loud and clear about the need to raise the minimum wage, their Congress will respond, but I have to tell you that I have my doubts.

What we also hear—and most recently from Pope Francis—is an understanding that there is something profoundly wrong about a nation and increasingly a world in which so few have so much and so many have so little. In the United States of America today we have more wealth and income inequality than at any time since the late 1920s, and we have more wealth and income inequality than any other major country on Earth. Today the top 1 percent of our population owns 38 percent of the wealth of America, financial wealth of this country, and the bottom 60 percent owns 2.3 percent. The top 1 percent owns 38 percent of the wealth of America, and the bottom 60 percent owns 2.3 percent. Is that really what America is supposed to be about? I think not. I think Pope Francis recently talked about that issue. He talked about the moral aspects of that issue. He is exactly right.

Those are some of the issues we have to talk about.

Another issue out there that I think we have to be very clear about—and again the American people are extraordinarily clear about this—the American people understand that Social Security has been probably the most successful Federal program in the modern history of this country. For the last 70-plus years it has kept seniors out of poverty. In fact, before Social Security 50 percent of seniors in this country lived in poverty. Today that number, while too high, is about 9.5 percent. That is a significant improvement. And Social Security, despite what is going on in the economy—in good times and bad times—has never once failed to pay all of the benefits owed to every eligible American.

Today Social Security has a $2.7 trillion surplus. It can pay every benefit owed to every eligible American for the next 20 years. Do you know what the American people say about Social Security? They say it loudly and clearly. Republicans say it, Independents say it, and Democrats say it. Do not cut Social Security. Do not cut Social Security. Yet I have to tell you that virtually all Republicans think we should cut Social Security. Some Democrats believe we should cut Social Security. The President of the United States has talked about a chained CPI—a very bad idea—about cutting Social Security.

Maybe we should listen to the American people and make it very clear: No, we are not going to cut Social Security. In fact, we are going to take a new look at Social Security and see how we can make it solvent not just for 20 years but for 50 years and in addition to that increase benefits. There are pretty easy ways to do that, including lifting the cap on taxable income that goes into the Social Security trust fund. As you know, today, if somebody makes $100 million and somebody makes $113,000, they both contribute the same amount into the Social Security trust fund. Lift that cap. You can start at $250,000, and you will solve the Social Security solvency issue for the next 50 or 60 years. That is exactly what we should do, and that is what the American people want us to do.

In terms of Medicare, people say Medicare has financial problems, and it does. The issue—and interestingly enough, it gets back to what Senator GRAHAM was talking about. He was talking about his health care plan in South Carolina. It sounds like a pretty bad plan to me, I agree with him. What is the issue there? The issue we have to look at, which we don't for obvious issues, is how does it happen that in the United States of America—before the Affordable Care Act; things will change a little bit—before the Affordable Care Act, we have 48 million people who are uninsured, we have tens of millions more people who have high deductibles, like Senator GRAHAM—a $6,000 deductible is incomprehensible—and high copayments. At the end of the day, 48 million people uninsured, high deductibles, high copayments, health outcomes that are not particularly good—better than some countries, worse than other countries—infant mortality worse, longevity worse, life expectancy worse, yet we end up spending twice as much per person on health care as any other nation. How does that happen? How do we spend so much and get so little value? Is that an issue we are prepared to discuss? I guess not because the private insure companies say: Don't talk about that. We are making a whole lot of money out of the current health care system, including the Affordable Care Act. We make a lot of money, our CEOs do. Yes, we are spending 30 cents of every dollar on administrative costs, on bureaucracy, on advertising. Don't touch that because that is the American health care system. I suggest we have to take a hard look at what goes on in the rest of the world.

People have said we have the best health care system in the world. That is not what the American people say. The polls I have seen show that there is less satisfaction with our system than exists in other countries around the world, for obvious reasons. We spend a lot. We get relatively little.

Are we prepared as a Congress to stand up to the insurance companies? Are we prepared to stand up to the drug companies that charge us far higher prices for prescription drugs than any other country on Earth? Are we prepared to stand up to the medical equipment suppliers?

I don't think so because that gets us into the issue of campaign finance, where people get their money to run for office, because these guys contribute a whole lot of money.

Are we prepared to stand up to Wall Street? We have six financial institutions on Wall Street that have assets of over $9 trillion—equivalent to two-thirds of the GDP of the United States of America. They write half of the mortgages in this country, two-thirds of the credit cards. Do you think maybe it is time to break up these guys or are we going to march down the path of too big to fail and have to bail them out again? Do you hear a whole lot of discussion about that, Mr. President? No, not too often.

Let me conclude. We had the president of the World Bank here yesterday talking about global warming. As I think most people know, the entire—well, virtually the entire scientific community, people who study the issue of global warming, understands that the planet is warming significantly, that it is already causing devastating problems, that the issue is manmade, and that if we do not address this crisis by cutting greenhouse gas emissions and moving away from fossil fuels, the habitability of this planet for our kids and our grandchildren will be very much in question. That is what the scientific community says. Have you heard any debate on this floor about how we are going to aggressively transform our energy system? We do not do it.

Let me conclude by saying this. There is a reason the Congress has a favorability rating of about 10 percent, and that is that the American people are hurting and we are not responding to that pain. We are not addressing the many crises facing this country, and the American people are saying to Congress: What world do you live in? How about joining our world? How about changing your attention to our needs?

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are in postcloture debate on the nominee for the Circuit Court for the District of Columbia. I want to speak on that nomination, but I am also going to take time to speak on issues dealing with the Defense Department, the farm bill, and the new nominee for the Department of Homeland Security.

I will take a few minutes to discuss the President's ongoing scheme to stack the DC Circuit with committed ideologues so that the President's regulatory agenda doesn't run into judicial roadblocks.

Yesterday, the Senate confirmed the first of three nominees to the DC Circuit that the court does not need. Let me emphasize that: Does not need. Of course, the Senate denied its consent on these nominees just a few short weeks ago.

Some may ask: What has changed during that time? The vote count certainly has not changed. It is not as if Democrats persuaded some of their Republicans colleagues to change their minds.

That is what you would expect in a body that operates based upon rules that guarantee the minority a voice. That is what you would expect in what is supposed to be the greatest deliberative body on Earth. That is what you would expect under normal circumstances, but as I explained in an earlier speech this week on another nominee for the same court, these are not normal circumstances.

No, today's circumstances are different.

Today the President's legislative agenda cannot get traction in Congress. And, no, it is not because Republicans will not negotiate with the President. It is because the President of the United States is out of step with the American people.

Today the President's signature health care law, which was passed without a single Republican vote, is becoming more and more unpopular with each passing day. And no, it is not because the administration has not done a good job of ''messaging'' ObamaCare. It is precisely because of that message.

Today, the President can't get climate change legislation passed by Congress, and, no, it is not simply because of Republican opposition. It is because the President's agenda is too extreme even for some Senate Democrats.

The President and his agenda are out of step with the American people, and as a result, he cannot get his agenda adopted in this Congress. But that doesn't seem to matter to the radical liberal interest groups who support these policy initiatives. They want results—no matter what.

These liberal interest groups are not satisfied with constitutional separation of powers. They want the President and his allies in the Senate to do whatever it takes to get the same results they would get if there were 535 Members of Congress just as liberal as the President.

Those interest groups want the President to legislate by executive order and by administrative action. They want the President to suspend the law when it suits his purposes, just as the English kings used to do. In fact, the reason our Constitution requires—and let me emphasize requires—the President to ''faithfully'' execute the law is because the English kings would unilaterally—and selectively—suspend laws passed by the parliament. But none of this matters to the liberal interest groups. They want results—no matter what.

In fact, the President has made such a practice of legislating by Executive Order and administrative action, that he has created the expectation among

his most faithful supporters that there is nothing he cannot do unilaterally.

Just a week or two ago, the President was delivering a speech in California when one of his own supporters interrupted and heckled him for not issuing an executive order to stop all deportations.

The heckler shouted:

Use your executive order to halt deportations of 11.5 million undocumented immigrants in this country. You have the power to stop deportations right now.

The President responded:

Actually, I don't. We are a nation of laws.

I must say, I understand the confusion. The most extreme elements of the President's supporters have witnessed him pick and choose which laws he will faithfully execute and which he will suspend, or as the President likes to say, ''waive.'' So, it is no wonder that those supporters would say: Just issue an executive order. We want results.

It is just like King George III.

It is no wonder that those supporters would say: We don't care that there isn't support in the Congress to pass legislation imposing cap-and-trade fee increases. We want results

Just like King George III.

It is no wonder that those supporters would say: We don't care if Democrats block judges to the DC Circuit based on the standards the Republicans are applying today. That was then, this is now. We want results.

Just like King George III.

It is no wonder that those supporters would say: We don't care about two centuries of Senate history and tradition that has been passed down faithfully from one majority leader to the next. We want results.

Just like King George III.

Climate change regulations are too important. Salvaging ObamaCare is too important.

So as we all know, the majority buckled to the pressure from these extreme liberal interest groups and broke the rules of the Senate to change the rules. They tossed aside two centuries of Senate history and tradition. This history and tradition—until 2 weeks ago—had been carefully guarded and preserved by each succeeding majority leader.

Those leaders remembered the history of King George III.

They did all of this just so they could install the President's hand-picked judges, so they could hear challenges to his signature health care law and to the rest of his regulatory agenda, such as climate change regulation.

But when a President selects a nominee for the specific purpose of rubberstamping his agenda—an agenda that has proven too extreme for even Members of his own party—he needs a judge who can be counted upon to follow through.

Given that it is inappropriate to ask prospective nominees how they would rule on particular cases, how would this White House make certain that their nominees would follow through and rubberstamp the President's agenda?

Based upon Professor Pillard's record—and that is the nominee we will be voting on tomorrow—apparently the White House looked out over academia and selected the most liberal nominee they could find.

Because Professor Pillard fits that bill to a T.

I have heard my colleagues come to the floor and argue that these nominees to the DC Circuit are mainstream. Professor Pillard may be a fine person, but make no mistake about it, she is not mainstream. She is the furthest thing from it.

I am sure that the White House is confident she can be counted upon to rubberstamp its agenda, but don't confuse her views with the mainstream of American legal tradition. I have a sampling of things she has written and said. I will read some of what she has written, and I then ask you to determine if she is mainstream.

She has written this about abortion:

Casting reproductive rights in terms of equality holds promise to recenter the debate towards the real stakes for women (and men) of unwanted pregnancy and away from the deceptive images of fetus-as-autonomous-being that the anti-choice movement has popularized.

Think of ''deceptive images of fetus-as-autonomous-being.'' Is that mainstream?

She argued this about motherhood:

Reproductive rights, including the rights to contraception and abortion, play a central role in freeing women from historically routine conscription into maternity.

Now, think about that: ''historically routine constriction into maternity.'' Is that mainstream?

She has also argued this about motherhood:

Antiabortion laws and other restraints on reproductive freedom not only enforce women's incubation of unwanted pregnancies, but also prescribe a ''vision of the woman's role'' as mother and caretaker of children in a way that is at odds with equal protection.

Is that in the mainstream?

What about her views on religious freedom? This really ought to shock you. She argued that the Supreme Court case of Hosanna-Tabor Evangelical Lutheran Church, which challenged the so-called ''ministerial exception'' to employment discrimination represented a ''substantial threat to the American rule of law.''

The Supreme Court rejected her view 9 to 0. Nine to zero. And the Court held that ''it is impermissible for the government to contradict a church's determination of who can act as its ministers.''

Do my colleagues honestly believe that it is within the mainstream to argue that churches shouldn't be allowed to choose their own ministers? I don't think so.

I asked Professor Pillard about Hosanna-Tabor and religious freedom at her hearing. She testified this way:

And I have to admit, Senator GRASSLEY . . . I really called it wrong on that case. I did not predict that the Court would rule as it did.

In other words, she tried to dodge the question by leaving the committee members with the impression that she had merely taken a stab at predicting the case's outcome and that she had gotten it wrong.

Of course, I wasn't troubled that Professor Pillard had wrongly predicted the outcome. I was troubled because she actually argued that a ruling in favor of the church would represent a ''substantial threat to the American rule of law.''

I don't believe that there is a single Member of this body on either side of the aisle who would subscribe to that argument anymore than the nine justices of the Supreme Court did. If I am wrong about that, then I would like to hear the Senator explain how it is mainstream to argue that granting our churches the latitude to choose their own ministers represents a ''substantial threat to the American rule of law.''

These are the so-called ''mainstream views'' the President wants to install on a court that will hear challenges to his most important priorities. Is it any wonder that the President apparently has high confidence will Professor Pillard rubberstamp his agenda?

Before I close, let me make one final point.

Given the circumstances surrounding how these nominees were selected and nominated;

Given all three were nominated simultaneously for the purpose of changing judicial outcomes and rubberstamping the President's agenda;

Given they were nominated and rammed through the process, without regard to the fact that there is not even enough work for them to do;

Given the President was originally denied consent under the Rules of the Senate;

Given that the President and certain far-left liberal interest groups successfully persuaded the majority of the Senate to cast aside two centuries of Senate history and tradition in order to get them confirmed;

And given the extremely liberal record I discussed;

If you were a litigant challenging the President, or one of his administrative actions and you drew a panel comprised of Professor Pillard, Millett, and Judge Wilkins, can you honestly say that you would be confident you would get a fair shake?

Of course not.

And that, my colleagues, is a sad commentary on the damage the President and the Senate majority have inflicted not only on the Senate but also on our judiciary and fundamental notions of the rule of law.

I urge my colleagues to oppose the Pillard nomination.

HOW THE AUDIT PROCESS WAS COMPROMISED

For several years, I have been trying to get the Defense Department inspector general to do its job, and I have had

several investigations, a lot of them implemented because of information that comes to me from whistleblowers. I will speak to that point now and talk about two important audits bungled by the Department of Defense inspector general's office.

There is something very important I need to say right upfront. A brandnew inspector general, Mr. Jon Rymer, is now in place. The events I am about to describe happened a few years ago, but none reflect on his leadership which I hope will bring about a big change in the inspector general's office at the Department of Defense.

When faced with a frontal assault on its audit authority by the target of one of its audits, senior IG officials got a bad case of weak knees and caved under pressure. They trashed high-quality audit work that was critical of a certified public accounting firm and its opinions. In doing this, they covered up reportable deficiencies, they allowed the audit target to run roughshod over sacred oversight prerogatives, without uttering one word of protest or asking one single question.

I am talking about audits of the financial statements produced by the Department's Central Accounting Office. This is what I refer to as DFAS, which stands for Defense Finance and Accounting Services. The audits were conducted by a CPA firm, but supposedly under the watchful eye of the inspector general, or IG, but not really under his eye.

The story of the two bungled audits is told in an oversight report which I have now posted on my Web site.

While I received the first anonymous email on this matter in April of 2012, my audit oversight work actually began more than 5 years ago. It was triggered by a steady stream of tips from whistleblowers complaining about the quality of these audits. These reports then grabbed my attention.

My colleagues may wonder why the Senator from Iowa is down in the weeds in such arcane issues. The reason is simple. It is the importance of audits.

Audits are probably the primary oversight tool for rooting out fraud and waste in the government. To protect the taxpayers, Congress needs to ensure that government audits are as good as they can be. They must produce tangible results. They must be able to detect theft, waste, mismanagement, and then recommend corrective action.

With mounting pressure for serious belt-tightening under sequestration, audits have taken on an even greater importance. Audits should help senior management separate the wheat from the chaff and apply mandated cuts where they belong. Sequestration cuts should be guided by hard-hitting, rock-solid audits. Unfortunately, rock-solid audits produced by the inspector general's office are hard to come by, and that is the problem.

After evaluating hundreds of audits, I issued three oversight reports in the years 2010 and 2012. With a few notable exceptions, I found that the inspector general's Audits were weak, ineffective, and wasteful—wasteful when we consider that we spend $100 million a year to produce them. Poor leadership is part of the problem, but there is still another driver; that is, the Department's broken accounting system. It allows fraud and waste to go undetected and unchecked. That is bad enough, but the lack of credible financial information makes it very difficult to produce hard-hitting audits. Auditors are forced to do audit trail reconstruction work to connect the dots on the money trails and, of course, that is very labor intensive, very time-consuming work.

Although the Department continues to spend billions to fix the busted accounting system, I am sorry to say it is still not working right. The Department cannot pass the Chief Financial Officers Act audit test. It is unable to accurately report on how the taxpayers' money is spent as it is required to do each year under that law. By comparison, every other Federal agency has passed that test. Why not the Department of Defense?

So long as the accounting system is dysfunctional, audits will remain weak and ineffective and the probability of rooting out much fraud and waste during sequestration is low—and then still continuing to waste $100 million that we spend on the inspector general's office.

While I am talking about the need for better audits, I would like to offer a word of encouragement to the Special Inspector General for Afghanistan Reconstruction, John Sopko. He is the head of SIGAR, which is the name for the Special Inspector General for Afghanistan, or SIGAR, for short. SIGAR is cranking out aggressive, hard-hitting audits, and I commend SIGAR for doing that—setting a good example. The audits I am about to discuss, by contrast, deserve darts, not laurels.

I first came to the floor to speak on this subject on November 14, 2012. At that point, I completed a preliminary review of seven red flags or potential problem areas that popped up on my radar screen. Since then, I have double-checked the facts. I have confirmed my preliminary observations. I did this by examining the official audit records known as work papers. So I will not walk the same ground again tonight. Instead, I will briefly summarize what I did, how I did it, what I found, why it is important, and offer some fixes for consideration.

To conduct this investigation, I had to examine literally thousands of documents. I could not have done it without the help and guidance of CPA-qualified government auditors. Evidence uncovered in the work papers were validated with interviews and written inquiries with knowledgeable officials. Together, these tell the story of what happened and of course it is not a pretty picture.

True, my report is nothing more than a snapshot in time, but if this snapshot accurately reflects the work being produced by the IG audit office, then we have big problems.

In a nutshell, this is what I found out: A CPA firm, Urbach Kahn & Werlin, which goes by UKW, had awarded an unblemished string of seven clean opinions on the central accounting agency's financial statements. Then the IG stepped in and took a 2-year snapshot for fiscal years 2008 and 2009. It was supposed to report on whether those statements and opinions met prescribed audit standards, but due to a series of ethical blunders, that job was never finished.

A third review was planned for 2010, but after the 2008–2009 fiasco, it was canceled, allowing DFAS—the Defense, Finance, and Accounting Service—it allowed DFAS to rack up another string of clean opinions through last year. All together, this work probably costs the taxpayers in excess of $20 million.

The work performed by DFAS in 2008 and 2009 was substandard. The outside audit firm rubberstamped DFAS's flawed practices using defective audit methods.

For its part, the inspector general was prepared to call foul on the CPA firm for substandard work but got sidetracked and then steamrolled by DFAS. The contract gave the IG preeminent oversight authority to accept or reject the firm's opinions. The whole purpose of the contract was to position the auditors to make that determination. If the firm's opinions met prescribed standards, they would be endorsed. If not, the IG would issue a nonendorsement report.

On both the fiscal year 2008 and 2009 audits, the record clearly indicates the IG's audit team determined that the firm's opinions did not meet prescribed standards. They did not merit endorsement. Though I cannot cite work papers to prove it, whistleblowers alleged that top management ordered them to endorse the 2008 opinion with this caveat: If known deficiencies were not corrected in the 2009 opinion, a nonendorsement was guaranteed. When the very same deficiencies popped up again—in other words, in 2009 as they did in 2008—the auditors prepared a hard-hitting nonendorsement report as promised. It was even signed. The transmittal letter was ready to go out the door.

The nonendorsement decision had been communicated to DFAS via email in unmistakable terms. In line with that decision and contract requirements, the IG took steps to cut off payment to the CPA firm based on advice of the inspector general's legal counsel.

The next step was to issue the nonendorsement report. But this is where the inspector general chickened out. In a power vacuum, DFAS moved swiftly to block the report with a blatant end-run maneuver to bypass independent oversight. So DFAS literally neutered independent oversight by the inspector general with two bold moves: On the

same day the IG's office notified DFAS in writing that a nonendorsement report would be forthcoming, DFAS unilaterally and proudly declared that it had earned a clean opinion and ordered that all disputed invoices be paid. This was an act of out-and-out defiance.

Next, it kicked the IG off the contract. Yes, my colleagues heard me right. The agency being audited literally kicked the inspector general—the oversight agency—clean off the oversight contract. In making this end-run maneuver, DFAS broke every rule in the audit book.

What happened was a frontal assault on the inspector general's oversight authority. The frontal assault was mounted by the agency being subjected to the audit and by an agency whose financial reports were found to be grossly deficient. In the face of such outright defiance, I would like to think that any inspector general would have stood up to the offending agency and held its ground and protected and defended its oversight prerogatives. That is the law—but not the Department of Defense inspector general.

Instead, the IG's knees buckled under pressure. The IG retreated before the onslaught. The IG caved and trashed the report. The IG rolled over and played possum, giving DFAS the green light to proceed full speed ahead.

The IG accepted these blatant transgressions without expressing one word of criticism, without expressing one concern, without raising one single question.

Other than a lone hotline complaint that disappeared down a black hole, no protest was ever lodged, no corrective action was ever proposed, and obviously no corrective action ever taken.

The inspector general's silence appeared to signal total acquiescence to a series of actions that undermine the integrity of the audit process, which is the basis for ferreting out waste, fraud and mismanagement and illegal activity.

For a Senator who watches the watchdogs, what I see is a disgrace to the entire inspector general community. The IG allowed DFAS to run roughshod over the contract, the IG Act, audit standards, and independent oversight. The audit firm probably got paid for the work that was never performed—payments that were alleged to be improper.

Instead of exposing poor practices and improper actions by both the accounting agency and the CPA firm, the Office of Inspector General allowed sacred principles to be trampled. It just kept quiet. It turned a blind eye to what was going on. It hunkered down. It tried to cover its tracks.

Two misguided acts set the stage for the collapse of oversight of these audits.

The problem began with the contract. At the insistence of the Department's chief financial officer and accounting agency, the IG agreed to a contractual arrangement that put DFAS—the target of the audit—in the driver's seat. This contract allegedly violated the IG Act and standing audit policy, according to the assistant IG who spoke out at that particular time.

To address this issue, a fragile waiver arrangement was crafted. It was supposed to address the legal issues and protect the Office of Inspector General's interests under the DFAS contract. All the parties involved agreed to abide by this questionable setup.

But being nothing more than an informal trust, it came unglued under the pressure and controversy generated by the nonendorsement decision.

Even the Office of Inspector General legal counsel voiced grave concerns about the fragile waiver arrangement. In his opinion, the terms of the contract ''transferred''—those words come from the Office of Legal Counsel—''transferred'' the Office of Inspector General oversight function to DFAS, the very component whose financial data was being subjected to the oversight. In his words—meaning the Office of Legal Counsel's words—the contract terms will leave the Office of Inspector General ''open to criticism on the Hill. . . . In two years some Senator will yell at us [about this]. If I had known about the arrangement,'' he said, ''I would have advised against it.''

Counsel's concerns were well-founded, and similar to a modern day Nostradamus, this prediction has come to pass.

The second problem was a failure of leadership at the top. When the inspector general's auditors reached the conclusion that the CPA firm's opinions did not measure up to prescribed standards, the current deputy IG for audit drove the final nail into that coffin.

The official audit records make it crystal clear. The deputy IG gave the fateful order: ''There will be no written report.'' This was a lethal blow. This is how the report got bottled up. True, it disappeared from public view. It got buried, and DFAS was promised it would never see the light of day; that is, until one of my investigators came along and dug it out of a pile of work papers. Here—for the benefit of my colleagues—here it is in my hand. I hold it up. It did not get buried like they thought it would get buried.

Once the deputy IG had smothered the report, DFAS knew it had the green light to bypass oversight with impunity.

All of this bungling could have harmful consequences.

First, compelling audit evidence, which undermined the credibility of the financial statements prepared by the Department's flagship accounting agency, was shielded from public exposure. The suppression of that evidence has helped to immortalize the myth of DFAS's clean opinions. It is so bad now that the myth is an inside joke. It is laughable, according to a former accountant. Here is what he said on the record to McClatchy News on November 22, 2013:

When I was there, DFAS would brag about getting a clean opinion. We accountants would just laugh out loud. Their systems were so screwed up.

If the output of the Defense Department's flagship accounting agency, which disburses over $600 billion a year is, indeed, laughable, then Pentagon money managers have another big problem. As that famous whistleblower Ernie Fitzgerald liked to say: ''It's time to lock the doors and call the law.''

Since the myth involves the reliability of data reported by the Department's central accounting agency, it has the potential of putting the Secretary of Defense's audit readiness initiative in jeopardy. DFAS's apparent inability to accurately report on its own internal housekeeping accounts for $1.5 billion—it is $1.5 billion that they have—casts doubt on its ability to accurately report on the hundreds of billions DOD spends each year. If the Department's central accounting agency cannot earn a clean opinion, then who in the Department can?

Second, the integrity and independence of the inspector general's audit process may have been compromised. If the independence of the audit process was, in fact, compromised, as my report suggests, then the Department's primary tool for rooting out waste and fraud could be disabled—at least it was in these cases.

If that did indeed happen, then it probably happened with the knowledge and silent acquiesce of senior officials in the IG's office, the institution that exists to root out fraud, waste, and abuse.

In simple terms, the watchdog appointed to expose waste—not only expose but stop fraud and waste—may have been doing some of it himself or herself. If true, it clearly demonstrates a lack of commitment on the part of senior management to exercise due diligence in performing its core mission.

Almost all of the key players allegedly responsible for the bungled audits still occupy top posts in the IG's audit office today. Surely, these officials did not act alone. This was a concerted effort. According to recent news reports, other higher-ups were allegedly involved. Senior IG officials must bear primary responsibility for this unacceptable and inexplicable failure of oversight. They could have, in fact, stopped it.

To address and resolve these issues, I made four recommendations in a letter recently sent to Secretary Hagel and the new Inspector General Rymer.

First, the Department of Defense CFO should pull the DFAS financial statements for the fiscal years 2008 and 2009 and remove those audit opinions from official records.

Second, the OIG needs to undertake an independent audit of DFAS's financial statements for fiscal year 2012 and determine whether those statements and the CPA firm's opinion meet prescribed audit standards. The fiscal year

2012 beginning account balances must also be verified. In response to my oversight, the inspector general has initiated what he called a postaudit review of DFAS's fiscal year 2012 financial statements. This is, in fact, a good move. But to ensure that it is done right this time, I asked the U.S. GAO to watchdog the inspector general's work. I want independent verification because last time there was none. This process will be completed next year.

Third, the inspector general should address and resolve any allegations of misconduct involving DFAS officials and make appropriate recommendations for corrective action.

Fourth, I am referring unresolved concerns regarding the conduct of IG officials to the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency for further review as provided under the IG Reform Act of 2008.

What happened here is almost beyond comprehension.

All of it happened under the IG's watchful eye. All of it probably happened with top-level knowledge. Most of it probably happened with top-level approval. Some of it was probably allowed to happen through tacit approval or silent acquiescence. All of it was bad for the integrity and independence of the audit process and the accuracy of financial information in the government's largest agency.

As I said a moment ago, the Department has a new IG, Jon Rymer. I hope he is a genuine junkyard dog who likes aggressive, hard-hitting audits. I hope Mr. Rymer will take a long, hard look at what happened and work with Secretary Hagel and others to find a good way to right the wrongs and get audits back on track. I know he can do it, and I stand ready to help him in any way I can. I want Mr. Rymer to know my door is open to him.

THE FARM BILL

Mr. President, I wish to talk about the farm bill, specifically about reforming payment limits for farm programs, something this Senate agreed to in a bipartisan way.

Beyond saving money, these reforms help ensure farm payments go to those for whom they were originally intended, small- and medium-size farms. In addition, the reforms include closing off loopholes so nonfarmers cannot game the system.

Supporters of the farm bill need to take a hard look at what challenges were presented last year to getting a bill done. We need to forge ahead knowing some tough decisions need to be made.

There are more reforms we need to make in programs such as food stamps, and they are reforms that can cut down on waste, fraud, and abuse in the program but also safeguard assistance to the people who actually need it.

While I support closing loopholes in the food stamp program, I believe the farm bill should also close loopholes for farm programs that are so absurd they are just so obvious.

As we move forward on finalizing a new farm bill, I wish to state clearly that sections 1603 and 1604 relating to the farm payments—which are in both the House farm bill and the Senate farm bill—should stay in that bill. There should be a ''do not stamp'' on those provisions under negotiation now between the House and Senate. Most important, for House conferees, they should remember that these provisions were put on the floor of the House of Representatives in an amendment sponsored by Congressman FORTENBERRY of Nebraska, with an overwhelming vote in the House of Representatives. So this is a case of where the majorities of both bodies support these provisions. Yet they are under attack by House conferees.

These farm payment reforms strike a needed balance of recognizing the need for a farm safety net, while making sure we have a defensible and responsible safety net. In case there is any doubt, we do need a farm program safety net. For those who argue we do not need a safety net for farmers, I argue they do not understand the dangers to a Nation which does not produce its own food.

For all the advances in modern agriculture, farmers are still subject to conditions out of their control. While farmers need a safety net, there does come a point where a farmer gets big enough that he can weather tough times without as much assistance from the government. Somehow, though, over the years, there has developed this perverse scenario where big farmers are receiving the largest share of the farm program payments.

We now have the largest 10 percent of the farmers receiving 70 percent of those farm payments coming out of the Federal Treasury. There is nothing wrong with farmers growing an operation bigger. But the taxpayers should not be subsidizing large farming operations to grow even larger, making it very difficult for young farmers to buy land or to rent land to get into the operation.

By having reasonable caps on the amount of farm program payments any one farmer can receive, it helps ensure the program meets the intent of assisting small- and medium-sized farmers through tough times.

My payment reforms essentially say that we will help farmers up to 250,000 per year, but then the government training wheels come off. Those new caps will also help encourage the next generation of rural Americans to take up farming. I am approached time and again about how to help young people get into farming.

When large farmers are able to use farm program payments to drive up the cost of land and rental rates, our farm programs end up hurting those they are intended to help. It is simply good policy to have a hard cap on the amount a farmer or farm entity can receive in farm program payments.

While both bodies of Congress have decided to cap farm payments, crop insurance is still available to large operations, no limits on indemnity. Section 1603 and 1604 which I authored and which Congressman FORTENBERRY authored, in our current farm bill, set the overall payment caps at $250,000 for a married couple.

In my home State of Iowa, many people say that is still too high. On the other hand, other farmers in other parts of the country say it is way too low. But I recognize agriculture can look different around the country. So this is a compromise. Just as important, however, to setting a hard cap on payments is closing loopholes that have allowed nonfarmers to game the farm program. The House and Senate farm bills also end the ability of nonfarmers to abuse what is known as the actively engaged test. In essence, the law says one has to be actively engaged in farming to qualify for farm payments.

Is that not common sense? However, this has been exploited by people who have virtually nothing to do with farming or with a farming operation and yet receive payments from the farm program. Not citing myself, but the Government Accountability Office issued a report I released in October outlining how the current actively engaged regulations are so broad that they essentially are unenforceable. Those comments came from the USDA employees who administer the program.

The report illustrated that one farming entity had 22 total members of which 16 were deemed contributing ''active personal management only'' to the farm. What does ''active personal management only'' mean? That means they are becoming eligible for farm programs because of one of the eight overly broad and unenforceable eligibility requirements that currently exist. More simply put, they likely are not doing any labor and are nothing more than a participant on paper to allow the entity to get more government payment.

Our Nation has over a $17 trillion debt. We cannot afford to simply look the other way and let the people abuse the farm safety net. I mentioned earlier how we need to assess some of the challenging areas of farm policy as we look to pass a 5-year farm bill. Some tough decisions need to be made.

However, my reforms to payment limits do not pose a tough decision. They are common sense. They are necessary reforms that are included in both the House and Senate versions of the farm bill. I wish to take this opportunity to thank Senator STABENOW, the chairman of our Senate committee, for fighting for these Senate provisions. You see, these provisions were part of the Senate bill, representing a majority of the Senate.

More important, these same provisions were added on the House floor by Congressman FORTENBERRY of Nebraska by an overwhelming majority. So Senator STABENOW has the high

moral ground in conference with the House conferees in fighting for payment limitation. She represents a majority of the Senate; whereas, the House conferees, in opposing her, represent a minority of the House of Representatives.

HOMELAND SECURITY NOMINEE

The last issue I am going to speak about, then I will yield the floor, deals with the some correspondence I am trying to have with the nominee to be Secretary of Homeland Security.

On July 12, Secretary Napolitano announced she would be leaving the Department of Homeland Security after 4 years heading up one of the largest departments of the Federal Government. On October 17, the Obama administration announced it had finally found a replacement. The Committee on Homeland Security moved quickly on Jeh Johnson's nomination, approving him by voice vote on November 20.

On November 15, before the committee approved him, I sent a letter to Mr. JOHNSON, along with several colleagues on the Judiciary Committee. We on the Judiciary Committee asked for his views on a number of important matters, including our Nation's immigration policies and the fair treatment of whistleblowers.

We asked if he would cooperate with us on oversight matters and work with us to improve immigration policies going forward. Because the Judiciary Committee has primary responsibility on immigration matters, it is necessary for us to know any nominee's position on almost any issue. It has been nearly 1 month, and there has been no response to our letter and no indication that he might respond.

In fact, I would be surprised that any nominee would respond to Congress any more given the majority only needs a simple majority to vote for confirmation. Thanks to a rule change done unilaterally by the majority, there will no longer be a proper vetting of executive branch nominees. The rule change essentially takes away the Senate's constitutional role of advice and consent, thereby allowing nominees to ignore Congress on issues of extreme importance such as immigration.

But I am still going to pursue these questions, even though we do not have the leverage we used to have when a 60-vote majority was necessary, because Congress has a responsibility to know how laws are going to be enforced by the President's a appointees. President Obama promised this would be the most transparent administration in history. Yet getting answers from this President or his administration on legitimate Congressional oversight has been like pulling teeth.

They have stonewalled Congress at every turn. Over the last 5 years, the administration has gone around Congress and pushed the envelope with their authority. He has ignored his constitutional duties to faithfully execute the laws by picking and choosing which laws he wants to enforce. Congressional oversight, an important responsibility that holds the government accountable for its people has been nearly impossible.

In other words, the checks and balances of government do not work the way the Constitution writers intended. Now it is going to get worse. There will be more blatant disrespect for checks and balances than we have ever seen. So I would like to take time to read some of the questions—just some of the questions—that we asked Mr. JOHNSON. I think these would be reasonable questions that any Secretary ought to tell us what he is going to do if he gets sworn into that office. I think they underscore how important it is that we have answers before we move forward on the nomination.

First and foremost, we asked Mr. JOHNSON about his commitment to uphold the laws on the books. We asked if he would continue the lawless policies created by the former Secretary and her deputy. We asked about what he would do to improve the morale of immigration officials and agents who are concerned about their nonenforcement protocols. We want to know how he would strengthen cooperation between Federal and local law enforcement entities.

Secondly, we asked Mr. JOHNSON what he would do to improve border security. We want to know what specific measures he will implement to ensure that the Department will comply with the Secure Fence Act of 2006. In 2010, Secretary Napolitano suspended our Nation's only comprehensive border security measurements, known as the operational control metric.

More than 3 years have passed and the Department of Homeland Security has failed to replace that metric. Will Mr. JOHNSON then hold the Department accountable by regularly releasing a comprehensive border security metric? Will he commit to achieving operational control of the borders as required by our law? We do not know that. We would expect him to answer that he is going to enforce the laws. But will he? Will he answer?

Individuals who overstay their visas account for about 40 percent of the undocumented population of this country. This presents a national security risk. Without a biometric exit system, this country will have no clue who remains on our soil undocumented. Will Mr. JOHNSON make it a priority to finally implement the entry-exit system Congress mandated in 1996, still not being enforced?

Third, we asked about the culture of the U.S. Citizenship and Immigration Service. In January 2012, a Department of Homeland Security inspector general released a report criticizing the USCIS for pressuring its employees to rubberstamp applications for immigration benefits.

In that report, nearly 25 percent of the USCIS officers surveyed said supervisors had pressured them to improve applications that should have been denied. We want to know if he will take measures to better screen applicants and do away with the get-to-yes philosophy. That get-to-yes philosophy is a gigantic risk to our national security.

Just look at the EB–5 Program which allows foreign nationals to obtain green cards if they invest in the United States. We asked whether he would make it a priority to improve that program. We asked Mr. JOHNSON about his position on immigration reform, especially since the bill passed the Senate, and the House could act, sending a bill to the President.

We asked if people who are in the country illegally, in removal proceedings or subject to an order of removal, should be eligible for immigration benefits, including legal status. We asked whether illegal immigrants convicted of a felony or convicted of multiple misdemeanors should be eligible for benefits, including legal status.

We want to know if gang members, drunk drivers, domestic abusers, and other criminals should be allowed to stay in the country. It is important for us to know from Mr. JOHNSON because the Senate bill provides a way for those law breakers to gain citizenship. Mr. JOHNSON may be responsible for implementing that.

Finally, we asked Mr. JOHNSON to comment on issues generally impacting the Department. We asked if he would pledge to cooperate with congressional oversight efforts and be responsive to all congressional requests for information and do it in a timely manner. We asked that because we have received very little cooperation in the last 5 years from that Department. We asked if he believed whistleblowers who know of problems with matters of national security should be prevented from bringing that information to Congress. We asked if he would commit to ensuring that every whistleblower is treated fairly and that those who retaliate against whistleblowers would be held accountable.

No matter what department one manages, the answers to these questions are very important and should be simple to answer. We need a Secretary who is well versed on these issues. We need a Secretary who will implement policies that truly protect the homeland. We need cooperation and transparency. We need answers. In other words, what is wrong to expect answers to these questions I just related before we give advice and consent to this nomination?

Majority Leader REID has indicated through his cloture motion on Mr. JOHNSON that answers to these critically important issues are not warranted.

Senators cannot consent to just anyone to head this department. We should not fail in our constitutional responsibility of advise and consent.

This body should not move forward with this nomination, and I encourage my colleagues to consider these issues when the cloture vote ripens.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask unanimous consent that at 9 a.m., Thursday, December 12, all postcloture time on the Pillard nomination be considered expired and the Senate proceed to vote on confirmation of the Pillard nomination; that upon disposition of the Pillard nomination, the mandatory quorum required under rule XXII be waived with respect to the cloture motion on the Feldblum nomination and the Senate proceed to vote on the motion to invoke cloture on the Feldblum nomination; that if cloture is invoked on the Feldblum nomination, all postcloture time be yielded back and the Senate proceed to vote on confirmation of the Feldblum nomination; finally, that the motions to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. GRASSLEY. I object, and I wish to state the reason I object.

The PRESIDING OFFICER. The objection is heard.

The Senator's time has expired.

Mr. REID. I ask unanimous consent that the Senator be allowed to speak for whatever time he feels appropriate.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. The reason I object for the minority to moving these votes is we should follow what regular order we have left on nominations, especially after the way the majority changed the rules on nominations 2 weeks ago.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. My friend, the senior distinguished Senator from Iowa, that is what we are talking about here, the face of obstruction—not him, but the Republican caucus, stalling for no reason other than to stall for time.

No wonder the rules were changed. No wonder the American people look at the Senate as a dysfunctional body. A couple of weeks ago we voted to make it a functional body so that nominations can be confirmed for any President. The President deserves to have his team.

We have been wasting days, weeks, and months on nominations. We have scores of people and positions that need to be filled. We are only dealing with a handful. People understand the rules. We have changed the rules the last couple of Congresses—very little—but we have changed them.

If we have a Supreme Court Justice or a Cabinet officer or someone of that level, they get 30 hours of time following the cloture vote. What are they supposed to do during that 30 hours? Come and explain their position why they oppose a person.

For virtually every one of these nominations there hasn't been a single, single complaint about any of them. This culminated by virtue of the Republicans in the Senate making a decision that people who serve in the prestigious DC Circuit Court of Appeals were not entitled to have a full court. There are eight there now, and they said that is enough. That is, some say, the most important court in America; some say more important than the Supreme Court.

The Republicans arbitrarily have said we are not going to fill those spots, not only because of qualifications, not because of their education, their experience or their integrity, only because they don't want them filled. That is a new low.

I am disappointed to have to inform the Presiding Officer and all Senators tonight that because Republicans are wasting time, all of this staff, police officers—and some of them are getting paid over time—will have to work. Why? Because the Republicans are wanting to waste more of this body's time and this country's time. No wonder the American people feel about the Senate as they do. For 5 years the obstruction that has taken place is unprecedented.

We are going to continue to work tonight and remain in session as long as we need to. Republicans are forcing us to waste this week on nominees they know will be confirmed. Every one of them will be confirmed.

There are no objections to the qualifications of these nominees, with one exception, and there are only little squeaks here and there about what could be wrong. But the outcome of each vote we will take over the next 4 days is a foregone conclusion. Yet the Republicans insist on wasting time simply for the sake of wasting time. There is no reason these votes couldn't take place right now or in the morning, and we could move to some important items.

I have Senators come to me all the time—the chairman of the Veterans' Affairs Committee was here a few minutes ago, the distinguished junior Senator from Vermont. He has some important work he wants to move on this floor. They have passed some things in the House—and that doesn't happen very often, but they passed it. They sent it over, and it deals with veterans.

He wants to bring that to the floor, have a debate, and offer an amendment. We can't do that because we are wasting time in the Senate on this senselessness.

The junior Senator from the State of Delaware has spent weeks and weeks on manufacturing, which has shown some promise in America the last few years. Jobs are being created. Working on a bipartisan basis with other Senators, they have legislation they want to bring to the floor to talk about ways of improving manufacturing, capabilities, and capacity in the United States.

We can't do that. We are here postcloture looking at each other and doing basically nothing, as we have done for vast amounts of time because of Republican obstructionism.

I had a meeting with the chairman of the Environment and Public Works Committee and the junior Senator from the State of Rhode Island a few minutes ago. In the world today we have something called climate change. It is here. Climate is changing all over the world. We have global warming.

Are we doing anything legislatively to address that? No, nothing. She has a portfolio of legislation that she would like to take care of.

There is going to be zero done because we are sitting under these lights complaining about the Republicans wasting time. We could finish these votes now, but we are going to work into the weekend.

We had a break for Thanksgiving. It was very pleasant for me to be home for 2 weeks. Unfortunately, I had a death in the family that put a real cloud over things, and that is an understatement.

Christmas is coming. Everyone should know that we are going to work until we finish the items we have before us this week. I am going to file on a number of other nominees as soon as I get a chance, and we are going to finish those. If we have to work the weekend before Christmas, we are going to do that. If we have to work the Monday before Christmas, we are going to do that. If we have to work through Christmas, we are going to do that. I know the game they are playing. They have done it before. A lot of nominations they will ask to be sent back to the administration, and they will have to start all over again. We are not going to start all over again.

We need a director of the Internal Revenue Service. I think that is a very good idea. We need to fill Chairman Bernanke's spot as chairman of the Federal Reserve. That would be very important for us to do with all the problems we have financially.

We are going to do that before we leave. If it means we have to work through Christmas, we will work through Christmas.

Even if we are spending a lot of time—as we have done over the last 5 years because of their obstructionism—looking at the lights, and that is about all we have to look at because we are not looking at substantive legislation as we should be, the only impediment to holding votes without delay in reasonable hours is blatant, partisan Republican obstructionism.

It is pointless spending an entire week wasting time and waiting for a

vote. This is a foregone conclusion that is going to happen to every one of these votes. This is exactly the kind of blatant obstructionism and delay that has ground the Senate to a halt and prevented Congress from doing the work of the people over the last 5 years.

I remind Members that without cooperation there will be rollcall votes, perhaps after midnight tonight, and as early as 5:30 in the morning. With only a little cooperation, Senators can stop wasting time and resources.

The only way the Senate can stop wasting time is if we get some reasonableness and clarity from the Republicans. If there were ever an example why the rules had to be changed and how we tried during two successive Congresses to be reasonable—remember the exercise? Judges would only be opposed under extraordinary circumstances. There isn't a single judge that the President of the United States has nominated who has problems that are extraordinary. I think what is going on is a shame.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. I came to speak to a bipartisan bill which I hope to take a few minutes to talk about, but first I wish to comment on what is happening or not happening on the floor and the comments of the majority leader.

I have been a Senator for only 3 years, as the Presiding Officer well knows. We were sworn in as a group of those elected to the class of 2010. I just came from an inspiring event where the Vice President, who previously held this seat on behalf of Delaware, gave an award to the former majority leader, a real patriot, a veteran, former Senator Bob Dole. They talked about how compromise, principled compromise, made it possible for Senator McGovern and Senator Dole, folks from opposite ends of the political spectrum, to work together in the interests of hungry children in the United States.

Frankly, what I have seen in the 3 years that I have been in the Senate, the 3 years that we have served together on the Judiciary Committee, has been a slow walk.

There are minority rights in this body, but there are also minority responsibilities. There are majority rights but also majority responsibilities.

I wish to add to the comments of the majority leader that the nominees to serve on the DC Circuit, the nominees to many district court seats, whose confirmations I have either presided over or attended, were not objected to on substantive grounds. I have trouble with the idea that the three empty seats on the DC Circuit do not need to be filled.

I have listened at great length to the arguments about caseload and about workload. As the chair of the courts subcommittee of the Judiciary Committee, I presided over the presentation of the Judicial Conference's report on where we need additional judgeships and where we don't.

I will note briefly and in passing that Judge Tymkovich, who presented this report, did not suggest there was some need to reduce the DC Circuit by eliminating these currently vacant spots.

We could go through this chapter and verse. This has been debated to death on this floor. In my view, we have three excellent, qualified candidates. I regret that we have spent so much time burning the clock and that we have had to make changes that ultimately will make it possible for qualified nominees to be confirmed. It is, to me, a subject of some deep concern that we cannot work better together, Republicans and Democrats, to move work forward.

If I might, I would like to move for a moment to an example of exactly the sort of bipartisan bill that we should be able to move to here, that if there weren't this endless obstruction, if we weren't running out the clock on nothing, we might be able to get done together. This is an example of the sort of reaching across the aisle that used to dominate this body when giants such as Dole and McGovern served here but is no longer the case. They are no longer the daily diet of this body. We are no longer reaching across the aisle and finding ways to make our country more competitive, create more manufacturing jobs in partnership with the private sector, and responsibly reduce our deficit.

I was encouraged as a member of the budget conference committee that we seemed to be moving toward enacting a significant—small in scale but significant in its precedence—deal for the Budget Committee that could allow us to go back to regular order for appropriations. But here, as we waste hour after hour running out the clock to confirm nominees, I wonder. I wonder whether we are going to be able to take up, consider, and pass substantive legislation.

CHILDREN'S ADVOCACY CENTERS

If I might, I would like to take a few minutes to talk about why I initially came to the floor today; that is, to talk about the power of children's advocacy centers. Children's advocacy centers exist across the country today in large part because this Congress, on a bipartisan basis, passed back in 1990 the Victims of Child Abuse Act—a bill that for the first time authorized funding for an important nationwide network of what are called children's advocacy centers. These centers help deliver justice, they help heal victims of violence and abuse, and we must act to continue empowering their service to our Nation.

Today is a time when we could work together to reauthorize that initial landmark bill from 1990 and rededicate ourselves on a bipartisan basis to something that is one of our most sacred obligations: protecting our children, protecting the victims of child abuse and delivering justice for them. That is what this bipartisan bill does that was introduced earlier today along with my colleagues, Senators BLUNT and SESSIONS and HIRONO—a great example of being able to work together across the aisle.

As parents, as neighbors, as leaders of our Nation, we have no more sacred obligation than protecting our children. In most of our cases, we dedicate everything we have as parents to ensuring our children's safety, to providing for their future, and that is what this bill is all about—that responsibility.

Tragically, too often, despite our best efforts, too many of our children fall victim to abuse. We cannot guarantee their safety, but what we can do is ensure that when children in this country are harmed, we can deliver justice without further harming them. Thankfully, children's advocacy centers, for which this bill reauthorizes funding, are critical and effective resources in our communities that help us perform this awesome and terrible responsibility. Through this bill, we can continue to prevent future tragedies and deliver justice in ways that are effective and less costly than communities can deliver alone.

This bill helps prevent child abuse proactively. Just last year its programs trained more than 500,000 Americans, mostly in school settings, in how to spot and prevent child sexual abuse.

Secondly, and in my view most importantly, this bill delivers justice. Children's advocacy centers increase prosecution of the monsters who perpetrate child abuse. One study showed a 94-percent conviction rate for center cases that carried forward to trial.

Third, and in many ways equally as important, this bill helps to heal. Child victims of abuse who receive services at a child advocacy center are four times more likely to receive the medical exams and mental health treatment they desperately need compared to children who are served by non-center supported communities. No parent ever wants to go to one of these places or have to bring their child to one of these places, but those parents who have under these tragic circumstances, nearly 100 percent of them say they would recommend seeking this help to other parents.

How do these advocacy centers achieve all these different results of prevention, of justice, and of healing? Well, they are unique because they bring together under one roof everybody who needs to be present to help deal with the tragedy of child abuse: law enforcement, prosecutors, mental health and child service professionals—all focused on what is in the best interest of the child.

Through a trained forensic interviewer, they interview the child to find out exactly what happened. They ask difficult, detailed questions, and they structure the conversation in a trained and nonleading way so the testimony can be used later in court, preventing what otherwise is retraumatization, making it possible for child victims to testify in a way that will lead to justice but without forcing those children

to take the stand and to repeat over and over what they testified to once at a center.

Prosecutors take the information obtained in the interview all the way through the court system, while doctors and other child service professionals ensure the child is getting the help he or she badly needs to begin the process of healing.

One place, one interview, with all the resources a victim would need to move forward to secure justice and to heal.

In my home State of Delaware, we have three children's advocacy centers, one in each of our counties. In the last year, I visited the centers in Wilmington and in Dover and saw firsthand the extraordinary work the professionals there do. These are places haunted by the tragedies that are described and recorded there, but the staff are welcoming, nurturing professionals, and the law enforcement and mental health and child service professionals who are there are deeply dedicated to making sure that they achieve justice and that they promote healing.

It was striking on my tours, my visits, to see how strategically and thoughtfully each of these centers has been put together, how they have worked through every possible detail to enable obtaining the testimony needed to secure justice while enabling healing of child victims. This is critical in order to avoid retraumatization—a threat that is real for victims and for their long-term healing process. The centers in Wilmington and Dover and Georgetown in my home State show over and over how these centers create the sort of nurturing but effective space to ensure that we both meet the needs of victims and secure justice.

As I am sure the Chair knows, in my home State of Delaware just a few years ago we saw exactly the kind of evil we most dread in this world when a pediatrician, a man named Earl Bradley whom many Delawareans trusted with their children's health and safety, was found to have sexually assaulted more than 100 of our children. Delaware is a State of neighbors, and his horrific crimes against our children, our families, and our communities affected all of us. Attorney general Beau Biden and his team effectively led the investigation and prosecution of this monster. Thankfully, children's advocacy centers were able to play a key role in ensuring that the interviews and the assistance provided to the victims and their families were effective and that ultimately justice was rendered.

Randy Williams, the executive director of Delaware's Children's Advocacy Center in Dover, wrote to me:

> Our multidisciplinary team worked tirelessly and seamlessly in providing forensic interviews, assessments, medical evaluations and mental health services for every child referred to our centers.

Randy went on to say:

> I feel confident that our team's outstanding collaborative response was a direct result of the financial and technical assistance and training resources made possible over many years through the Federal Victims of Child Abuse Act.

In the end, Dr. Bradley was convicted on multiple counts. Over 100 victims were involved. He is now serving 14 life sentences plus 164 years in prison.

As a nation, we have no greater responsibility than to keep our children safe. As a father, there is nothing that keeps me up at night more than concerns about the safety and security and health of my own children. We must do everything we can to prevent sexual abuse of those most vulnerable and those most precious members of our society—our children. When that tragedy strikes, we need to be prepared with the best services we have to foster healing and deliver justice.

This specific bill is about upholding our responsibility to our children, to our families, and to this Nation's future. It is at the very core of why we serve and of what we believe. I am grateful that this is a bipartisan bill, that this is a bill which can demonstrate the best of what this Senate, this Congress, and this country is capable of. It represents the best of our Federal commitment to targeted, effective, and essential assistance to State and local law enforcement, to our communities, and to our children.

I urge my colleagues to join with us because in the end, no child should fall prey to physical or sexual abuse. No mother or father should have a haunting experience of finding that an adult they trusted took advantage of that trust and horribly hurt their child. No country should tolerate these crimes when there are things we can do now, today, on a bipartisan basis, to protect and to heal our children and to ensure that justice is secured.

With that, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I came to the floor to talk about several other things, but after hearing the majority leader and my colleague from Delaware, I think the revisionist history needs to stop.

This place ran from 1917 under a process where any one Senator could stop anything. That was changed by a two-thirds majority of those present voting to a number less than that. The point I am getting to is that we are in this process because the rules weren't good enough to accomplish what the majority wanted to accomplish and the majority leader wanted to accomplish. Majority Leader Byrd didn't have any trouble when he had the same vote number. Majority Leader Daschle didn't have any trouble. Neither did Frist or Dole. None of them had any trouble. As a matter of fact, what we have seen and what has happened is a lack of effective leadership in building bipartisanship.

The Senate wasn't designed to be the House, as my colleagues have recently made it. The Senate was designed to absolutely protect minority rights. And what happened the week before we went on Thanksgiving break actually hurt the majority more than it hurt the minority because now the majority has lost the ability to hold their own administration accountable.

The majority leader used the words ''reasonableness'' and ''clarity.'' Reasonableness is compromise. Reasonableness is allowing amendments on major bills. Clarity is the ability of Senators to offer their viewpoint on $600 billion bills. Reasonableness would be to say that every Member of this body ought to be able to contribute important ideas to the Defense authorization bill or to the farm bill or to any other major piece of legislation.

So we have gone down this road. It can be stopped. All this can be stopped, but it cannot be stopped without the recognition of the damage done to this body by a very frivolous act.

The revisionist history I am talking about is with the DC court. There is no difference in what the President is doing on the DC court than what Roosevelt decided to do or attempted to do. Everybody knows the workload there is enormously small compared to all the rest of the courts. Everybody knows there are also judicial vacancies that are much more important than those.

So what is the reason for this? It is so we can continue to have executive orders and bureaucratic rules and regs come through that are going to get challenged because they are not within the consent and the vision of the laws that are passed, and, in fact, they can be enforced by a stacked court. My colleagues can't claim anything other than that. We know that is what is going on, and they know that is what is going on. That is going to be there forever. That is a legacy of the Obama administration, and it is a planned legacy.

So it is not about what is claimed to be Republican obstructionism. It is about changing the very nature of our country. It is about changing the rule of law. It is about whether the President will be an emperor or be the President. And my worry is that we are moving fast and quickly toward an executive branch that has decided and has stated very proudly: If the Congress won't do it, we are going to do it anyway. Where does that fit in with the rule of law? And we have heard that three times from this President. In fact, they are doing it—ignoring law.

So now the very court where those laws will get challenged is going to be stacked with his nominees, and we refuse to admit this very same point was made by senior members of the Judiciary Committee when the Republicans were in charge. No one can deny that history. It is out there. Senator SCHUMER did it, as well as others, knowing that court should not be filled.

Now, we know it is going to get filled. We understand what is happening. What is at risk is the future of our country and whether we will really have balance between the powers of the judiciary, the executive, and the legislative branches in this country. What we are seeing is a reshaping of that. It is a dangerous trend. It was something our Founders worried about, and we have seen executive orders and executive privilege taken to new heights that have never been seen in this country before by this administration.

So let's be clear what we are talking about. This isn't about obstructionism. This is about you limited our rights. You also very well limited your own rights in the ability to extract information.

We just heard Senator GRASSLEY spend 1 hour on the floor talking about the lack of response from this administration. There is no tool for you to get answers anymore, there is no tool for any of us to get answers anymore, because we can no longer hold any nominations because they will go through. So there is no power. We have given up the one significant power to hold the executive branch accountable.

Not only that, but we have diminished the minority rights that are part of what the Founders created to force compromise—to force us to compromise, to bring us together. There is not ill will. There are damaged hearts in this institution today.

We understand the strong beliefs on the other side, but we don't understand the lack of moral fiber that is associated with avoiding and violating what has always been the tradition of the Senate—which is, you change rules with two-thirds votes of those duly elected and present. Rule XXII still stands. It just has a precedent in front of it.

So for the first time in our history in this body, one group—because they couldn't achieve compromise and wouldn't compromise—has forced a changing of the rules, not through two-thirds of duly elected and sworn members but by fiat and by simple majority. What is next? We are going to make it the House. That is what is next. That is coming. I know that is coming.

So consequently what is going to happen in our country is we are not going to have significant deliberation. We are going to have laws changed at public whim, rather than the long-term thinking and an embracing of what the Constitution says.

The whole purpose for this body is to be a counter to the House in terms of response to political and public demand; to give reasoned thought and forced compromise, so that what comes out of here is a blend of what both the public wants, but also what the public might have lost sight of in terms of a short-term view versus a long-term view. You are putting that at risk. It is coming at risk. The very the soul of the country can unwind right here in the Senate.

So what remaining powers do we have as minority Members—and you may get to find that out someday—is to use the rules that are there to our benefit.

In the past, nominations were agreed upon between the majority leader and the minority leader, and they were ferreted out and moved. We have had 21 nominations come through the homeland security committee. I voted positively for 19 of them, against one, and voted present on one today. I would say that is about 90 percent that I am in agreement of moving the nominations.

We actually force compromise on our committee. We actually work to compromise on our committee. But that is because of the leadership of Senator CARPER to create an atmosphere where you can have compromise and you can have back and forth. We don't have that leadership in the Senate as a whole. The Senate has never seen these problems. But it is not about the rules. It is about the leadership and who is running the place.

Most of my colleagues on the other side of the aisle haven't been here for a long time. They have never seen it in the majority work. Seventy-seven times the majority leader over the last 7 years has filled the tree and barred amendments. That is more than all the rest combined in the entire history of the Senate. Is that about us or is that about him not wanting to allow the place to work? He is a good man. But the problem is that leadership matters, and this place is not functioning.

I will make one other statement I think needs to be made. I believe that climate does change. I believe that climate is changing all the time. Global warming has been disputed now. It is undeniable; it is not global warming. We are now into a global cooling period, and that is OK. You can have cooling. But the fact is the science is still nebulous on all the claims being made. I have said before on this floor, I am not a climate change denier. But I am a global warming denier, because the facts don't back it up.

We heard what the majority leader had to say about the importance of getting things through on climate change. There may be important things we need to do, but we ought to be doing them together rather than in opposition. If that were the attitude, that we would work together, if we would have an open amendment process—a truly open amendment process where the majority leader isn't picking our amendments and deciding what we can offer—pretty soon you are going tell us what we can say on the floor. You are going to determine what I can say on the floor. This is the first step in this process. That is the ultimate conclusion to this process that you have started.

So it is about leadership, and it is either there or it isn't. Right now, it is not there.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, I appreciate the comments of the Senator from Oklahoma, and I would like to use his comments maybe as a springboard for some thoughts I have, not only on this nomination but on the terrible mess we find ourselves in today here in the Senate.

I am a fairly new Member of the Senate. I came here just 5 years ago. I thought a lot about reelection, and I announced some months ago that I would not seek a second term in the Senate. So you might say I don't really have a fighter in this ring. I am here for a limited period of time. I have already decided that. My interest is seeing the Senate operate in a way which will be in the best interests of our country, that will fulfill the vision that our Founders had of a country where there would be freedom and where the minority would be able to voice their view as well as the majority.

The process by which the House of Representatives and the Senate were put together was a very thoughtful process. Our Founders looked at our country and its future, and they decided there needed to be a body where the population would be represented based upon numbers, based upon the population, and that became the House of Representatives.

For a State like Nebraska, 200-some years later that doesn't work very well. It is pretty obvious that our three House Members can be consistently, routinely outvoted by a whole bunch of other States: California, New York, Pennsylvania, Florida, Texas. I could go on and on. We have three Members in the House. It is obvious that we are going to be on the losing end.

The other piece of that is it is a majority-based body. So if you are in the majority, with the Rules Committee, you pretty well set the rules. It just works that as long as the majority can keep their members together, they are going to win. That is just the way it works. About the only way you can change that is to change the majority.

When our Founders looked at that, they said: We have to have a different approach in the Senate. That led to the great compromise.

What we ended up with is just a remarkable system. If you think about it, Nebraska in the Senate is as powerful as California. Nebraska is as powerful as Pennsylvania because we each get two Members. We are equally represented.

They also recognize that the pendulum would swing. Sometimes one party would be in control, and sometimes another party would be in control. Originally, when the Senate was set up, any one Member of the body could come to the Senate floor and object or just debate something to death. That pretty well was how it operated, and it operated for decades and decades that way.

Then came World War I and Senators began to recognize that funding the

war was going to be a very serious problem. There was a tremendous amount of affinity between Senators and people back in the country where their ancestors came from—Germany—and they had to find a way to end debate. So they finally, after discussing this and debating it, decided the best way of doing that was to put something in place where you could literally take a vote. I think back then, if my memory serves me correctly, if two-thirds of the Senators voted, they could end debate.

That was quite a change for the Senate. The whole idea that a single Senator wasn't going to be able to literally force issues in the Senate was a very difficult issue. But that change was made, and it operated that way for many decades following. Then in the 1970s, the decision was made that it would take 60 votes to end debate. It would pull the number down to 60. But it was always recognized that the rules could only be changed by a two-thirds majority; that is, until just a few weeks ago. Then, something happened here in the Senate that literally shakes the foundation of this country and it shakes the foundation of this body.

I guess if you are in the majority at the moment, you are probably saying: Geez, Mike. It seems to work out pretty well. Well, it won't work out very well for the history of this body, for this institution, for its Members, and, most importantly, for the citizens of the United States, because it was the method chosen to change the rules that is the frightening piece.

Think about this. We came down here a few weeks ago. A ruling was made by the Chair, and the majority leader said: I will appeal that ruling.

Now, we all know, if we have read the Senate rules—and I hope to goodness we have all read the Senate rules—that by appealing the ruling of the Chair, you can overrule the Chair by a majority vote.

Let me repeat that. We bypassed the rule that says it takes two-thirds to change the rules of the Senate, and the majority said: We will appeal the ruling; and if we get a majority, we will overturn the ruling. That is what happened, and that is where we find ourselves tonight.

This isn't inconsequential, and we are not trying to be arbitrary and capricious, but we are trying to make the point that this is a huge issue for the future of our country. Let me point out what this now means for the Senate. What this means is that if the majority leader, whoever that is, Republican or Democrat, does not like the way things are going, they can appeal the ruling of the Chair and overturn that ruling by a majority vote because now the precedent is set. It is in our history. It is in our rules.

Some look at this and say: You need not panic; this only applies to circuit court nominees, district court nominees, and executive appointments.

Let's think about that for a second. Let's say we have a Supreme Court of the United States where there are four members who are pretty consistent in ruling one way—some might call it the liberal way—and we have four members who are pretty consistent in ruling another way—some might call it the conservative way—and there is one member of the Supreme Court who kind of moves back and forth between the four over here and the four over here, between the four liberal members and the four conservative members, whatever you want to call it. That is a pretty unpredictable vote.

Let's say something happens. Maybe there is a health issue. Maybe there is a decision by that member there in the middle to retire. I don't know. It could be a whole host of things. That is the human condition. Things happen to us. Let's say we are in the last 18 months of an administration. The President is due to go out. The campaign has already started. People are showing up in Iowa, New Hampshire, South Carolina, and everywhere else. They are raising money. They have Presidential races they are organizing, and they are doing all the things they need to do. You have Republicans thinking: By golly, it is our time. We either keep the White House or win the White House. You have Democrats thinking the same. And you have a President who all of a sudden has a Supreme Court appointment smack dab in the middle of four members on one side and four members on the other side.

Let's say the majority has the ability to put somebody of their own ilk into that position—whether it is Republican or Democrat or liberal or conservative. They look at this and they say: You know, we could lose the White House or we might not get the White House. These are appointments for life. It is not as if we are appointing somebody for 4 years; these are appointments for life. We have kind of come to the conclusion, as we talked about it on our side of the aisle, that, by golly, it is in the best interests of this country if we can make this appointment. You know what. We do not have 60 votes to get it done. We have counted the votes. It looks as though this is going to come out of the Judiciary Committee on a straight party-line vote. What are we going to do now?

I know what will happen. You know what will happen. Every Member of the Senate knows what will happen. I don't care if you are a Republican or a Democrat or a conservative or a liberal or a Socialist or whatever you want to call yourself, we know what will happen. There will be a ruling by the Chair. There will be an appeal by the majority leader. And all of a sudden we will have a rule where you can confirm a Supreme Court nomination—a nomination to a job for life—based upon a majority vote. Does anybody think for a minute that is not going to happen? Does anybody think for a minute that the circumstances surrounding that will not occur?

I guess if you are on the Republican side of the aisle and it is a very strong conservative who is going to the Supreme Court, maybe you look at that and say: Thank goodness. We saved the country.

Maybe if you are a Democrat and it is a good strong liberal who is going onto the Supreme Court, you say: Thank goodness. We saved the country, and it was worth it.

But you see, here is the dilemma in which we find ourselves. The dilemma in which we find ourselves is that the majority of this body has now set the precedent and you cannot pull it back. There is not any way now that you can unwind the clock and turn back the clock.

Let me offer another thought. Let's say we are a few years down the road and you have a piece of legislation and your side of the aisle has decided that piece of legislation is absolutely critical for the future of this country. Maybe it is cap-and-trade, maybe it is another health care bill—whatever. All of a sudden somebody says: We have to get this done. We are in the last 12 months of this administration. We are looking at the numbers. We are not going to win the White House again, the way it is looking. The precedent is there: Appeal the ruling of the chair.

The point I am making is this. It is not that the rules were changed. The rules have been changed in the Senate a number of times by the way the Senate rules contemplate—with a supermajority voting to change those rules. Now we have torn that up because now we have established a precedent.

I am in the process of reading Senator Byrd's history of the Senate—a remarkable man. I got to know him a little bit. He was still here when I came to the Senate, before he passed. He happened to be on the other side of the aisle, but I came to respect him so much. He would never have stood for this. He never would have tolerated that this institution would be so mistreated by anybody, Republican or Democrat. Boy, in his heyday he would have been at his seat screaming at the top of his lungs about what we were doing to the Senate with this vote, what the majority was going to do to the future of this great body.

In his history of the Senate, he talks about how important it is that there is this body where a minority view of the world can be represented.

If I were the majority leader, I guess I would like this to run efficiently and well-oiled and smoothly. I was a Governor. I was a mayor. The days when I got my way were much better than days when I did not get my way. I did not like being frustrated by the legislature. I didn't like the city council telling me I couldn't get my way. I could not understand, some days, why they could not figure out that I was right.

One day I was sitting down with a State senator. He had been there a lot of years. I was complaining about the way the legislature was treating me. I couldn't understand why the legislature couldn't follow everything the

Governor wanted done. He listened very patiently and he looked at me and he said: You know, Mike, nobody elected you king.

I think that is what Bob Byrd would have said—nobody elected any of us king. You see, our Founders set up this system with the whole idea that we would not have kings anymore, that there would be checks and balances, and that we would be forced to deal with each other, sometimes more artfully than at other times but that we would be forced to deal with each other.

The majority leader came down here and he said: I don't understand this, and he talks about this process. This process got started because he filed cloture on 10 nominations. Why are we not working on this? If you look at the history of the Senate over the last years—I have been here; I watched it; I turn on my TV in the office to see what is going on on the Senate floor. Do you know what I see? Exactly what you see, what all of us see. We sit hour after hour, in cloture or in quorum call hour after hour when amendments are pending.

I thought—I had this mistaken impression—that every Senator could file an amendment; that if I had a better idea on something, I could file an amendment and I would get a hearing on the amendment. I would be able to come down here and try to argue to my colleagues: Pass my amendment. We have not seen that kind of process for years under this majority.

I didn't think it was possible to mishandle the Senate when I came here. I looked at the books of rules and interpretations and volumes, chapter after chapter written about the rules of the Senate, and I said to myself: There is no way you could mismanage this body because these rules are as intricate as they could be. Boy, was I proven wrong. You can mismanage this body. We have seen it. And that is where we find ourselves today.

At the end of the day, why did it happen? Why did it happen? Why are we putting ourselves in this position? A former U.S. Senator from Nebraska who had been here—I think he was here three terms. He had a wonderful saying. When his party was not in power, he would say at speeches: Ladies and gentlemen, let me remind you, the worm will turn. It was his way of saying: You know what. I have been in the majority and I have been in the minority, and it will change because the people will send a message into this Chamber, just as they did on the health care bill. They will send a message that this is not the kind of country they want.

We somehow have to figure out how to put this back in the box. This nuclear option needs to be sealed up, hidden away, and never used again—I don't care if the Republicans are in the majority or the Democrats are in the majority. This basically means, today, that all of those rules, all of those chapters written about those rules have no meaning whatsoever because there are no rules. If I do not like what is going on here and I am in the majority, all I have to do is appeal the ruling of the Chair and get my team to stand together and we have changed the way the Senate operates. It is as simple as that.

I think at times in our history we would like to think that we are the smartest people in the world, that we thought of something no other person has thought of in the history of this country. Not true. If you read what Senator Byrd wrote about the history of the Senate, many times U.S. Senators, dissatisfied, losing personally because of a ruling of the Chair, had an opportunity to appeal that ruling and win and realized that was the wrong course of action because they would set a precedent that you could change the rules by breaking the rules. That is exactly what happened a couple of weeks ago. It is not the fact that the rule has changed, although I disagree with where we ended up, it is the method by which the majority—Democrats—changed those rules, because that method is now precedent and it is now available to Republicans and Democrats and it is wide open. I guarantee that in our lifetime we will see a Supreme Court nominee put on the Supreme Court by this method. I guarantee that we will see—whether it is in our lifetime or at some point after—that there will be a situation where legislation is now done by a majority.

What does that mean for the country? I will give a good example. The great compromise protected States such as Nevada, Nebraska, and Iowa. We all get two Senators. We all get to come to the floor and fight for what we believe in.

I imagine that every Senator would say something to the effect of: I come from a beautiful State, the State of Nebraska. We are conservative people by nature. I don't think you live in Nebraska unless you have a pioneer spirit and you are conservative by nature. That is who we are. We essentially believe that less government is a good idea.

When I was Governor, people didn't want me running their schools. They had a school board. They felt they could make thoughtful and intelligent decisions about running their schools. I thought they could too. That is the nature of who we are.

Do you realize that on executive appointments—district court and circuit court judges—we basically get dealt out of this. Let's say I have a problem with a nominee, and I want to put a hold on that nominee until they come to my office and deal with me. Everybody on both sides of the aisle gets the opportunity to use that. Well, guess what. That was voted away a few weeks ago.

Why would a Republican administration deal with anyone in today's majority? Why would they care? It doesn't make any difference.

I went through that process. I was a member of the President's Cabinet. I hope I would have the decency that if anybody asked me a question, I would answer the question or try to solve their problem or try to work with them. Quite honestly, why do they need to? How can that issue be forced now? They don't need your vote. They can get through the process if their party is the majority of the Senate. This body was never intended to operate that way.

I want to spend a few minutes of my time talking about what I really think this is about, and this makes it an even more tragic story. The majority leader was here a few minutes ago and said: Well, if you are going to be like this, then we will work on Christmas. We will work the weekend before; we will work the day before.

I was sitting there thinking: What is new about that? What's even threatening about that? I mean, that is the way business is done.

We sit through hours and hours of quorum calls and then all of a sudden they file cloture on 10 nominees 2 weeks before the break? It is kind of obvious to me what is going on here. Is it obvious to anyone else what is going on here? They are trying to force the issue.

Why didn't we start working on this weeks ago? Why don't you run the Senate 24/7 so we can move amendments and give us the opportunity to vote on amendments? Why sit hour after hour in a quorum call?

I think what this is really all about is this: We had reached an agreement. Remember that evening when we all walked down the hall—Republicans, Democrats, and Independents—and went into the Old Senate Chamber and shut the doors. There was no media or staff. It was just us talking about the Senate.

I am not going to share a lot about what was talked about in there, but I thought it was a pretty good meeting. We have done that a couple of times. We did that on the START treaty, and we did it that evening a few months ago.

It wasn't very pleasant, but over the next day or so we shook hands and said to each other: OK, we get it. We don't want to get in the business of breaking the rules to change the rules. We understand the precedent that is setting. Once you put that on the books, like I said, you can't unwind the clock.

So, OK, this is what we are going to do—and I must admit I didn't like it very much. I thought we were giving up too much. Having said that, the alternative was not very attractive. We shook hands, like gentlemen do, and we called a truce and those were the rules we would operate under.

Everybody said: We dodged a bullet on that one, and the Senate will continue to function like it has functioned the last 225 years. It will function as a place where the minority, whoever that might be at any given time, has a

voice. It is the only body in the world that operates like that.

As I said, I must admit I had qualms about it. I talked to some of my colleagues on both sides of the aisle about my qualms, and at the end of the day I reached the conclusion that it was better than the nuclear option.

So why did this come up again? If we had reached a deal—if we shook hands like gentlemen and women do, why did this come up again? I thought this was behind us. I thought we would make our way through nominations and work long hours. Most of these are very noncontroversial, and I thought we had reached an agreement.

We had reached an agreement. We all knew we had reached an agreement. So why did Democrats feel that all of a sudden we needed to revisit this?

The argument I want to make tonight is this—and I am going to draw on a little bit of history. When I first came here, I sat in a chair over there. I will never forget it. It was Christmas Eve day when we were brought in here to vote on a piece of legislation. Christmas Eve votes are pretty unusual around here. We all sat at our desks. We don't usually enforce that rule, but we all sat at our desks.

For people like me, I left this Chamber very, very sad and discouraged. On a pure party-line vote, a monumental piece of legislation that practically no one had read and was poorly understood—in fact, the Speaker said: We have to pass this to understand what is in it. No truer words were ever spoken. It passed. Not a single Republican in the House or the Senate voted yes on that legislation.

When I came here, I kind of had the idea that there would be give and take, that I would get my idea, you would get your idea, and at the end of the day the Senate was a body that would force compromise or the bill wouldn't pass.

Something unusual happened. The President was a Democrat, the Senate had 60 Democrats, so debate could end, and the majority of the House was overwhelmingly Democrat. It became very clear to me that my view of the world didn't matter, and it wasn't going to matter because as long as they could sweeten this thing up and do deals, and whatever else, my State was impacted by it. We all remember the Cornhusker Kickback. But at the end of the day it passed.

I could never figure out how that bill would work. It just didn't make any sense to me. I had been a Governor. I had seen how failed Medicaid was—40 percent of the doctors would not take Medicaid. I could not imagine how adding millions to that system was going to help poor people. To me it looked like it was going to hurt them. It was kind of like giving them the bus ticket and then saying: We are only running one bus in Washington, DC, these days. It is probably not going to be very successful.

I looked at what was happening in the rest of the bill, and it just didn't make any sense to me. I think I know why we revisited this rule. When the rollout occurred right about that time, all heck broke loose. The American people finally realized how bad this bill was. In fact, there is one State out there, the State of Oregon, that didn't sign anybody up because their system melted down.

The exchange was a mess. People found out that all of these promises—remember this one: If you like your plan, you can keep it, period. If you like your plan, you can keep it, period.

Not only was that used on the campaign trail—you know, we all get out on the campaign trail and hyperventilate here and there. That phrase was used by somebody in real authority: The President of the United States of America. He went to the American people and said: If you like your plan, you can keep it.

I said how could that possibly work. The whole idea is you have to force people off their plan and onto a different plan. If you like your plan, you get to keep it?

In 2010, the administration's own rule on this subject showed that as many as 80 percent of small business plans and 69 percent of all business plans would lose their grandfathered status.

A very thoughtful Senator, a guy by the name of MIKE ENZI, put in a resolution of disapproval which would have canceled that regulation. Back then he was able to get it to a vote. You would think that if you want to support the President of your party and his pledge to the American people—if you like your plan, you get to keep it, period—you would vote with your President. You would think that would be 100 to 0.

I don't know how Republicans could be against that. I don't know how Democrats could be against that. After all, that is what this person in authority promised the American people: If you like your plan, you get to keep it, period. He said it over and over. It was like a broken record.

You know how that vote went here? Let me remind everybody. It failed on party-line votes. Democrats voted no on the resolution: If you like your plan, you get to keep it. My goodness. Is that an embarrassment or what?

What was the message that day? Were they trying to say: No, if you like your plan, you don't get to keep it? The President isn't being truthful with you. Was that the message that day? What was going on? I mean, I was stunned by that vote.

How could you be against the President's own promise? That was back in 2010. That information was available to the President and his people back in 2010. Yet they kept saying it: If you like your plan, you get to keep your plan.

One other estimate by the Congressional Budget Office, which I think generally we all respect—they do good work for us. They do our scoring. They said that up to 20 million employees could lose their employer-sponsored insurance. Wait a second. That information was available too. So how has this promise worked out?

This fall, more than 4.7 million cancellation letters went out in 32 different States. I have read the articles. I imagine everybody in the Chamber has read the articles. They say 4.7 million people got cancellation letters in 32 different States. The cancellation letter basically said: Well, sorry. This big law got passed on a party-line vote, and you don't get to keep your plan, just as was predicted by the CBO and the administration's own people. This should not be stunning to anybody in this body, but it was stunning to the American people.

The President said: Oh my goodness. I think this is a problem. So he said to insurance companies: You have to fix this. You have to get people their plan. If they like their plan, they get to keep their plan. And it didn't matter whether it was Democrats or Republicans in given States, they said: Mr. President, you can't unwind that clock.

What I would say to that is, wait a second here. I don't like this law, but it passed. I was sitting there the day it passed. It passed on a completely party-line vote. And people literally were caught in a situation—millions of them—where they realized they wouldn't get to keep their plan. So could the President solve that problem? No. It wasn't a policy fix; it was a political fix. That is what he was doing. He was literally trying to solve a political problem for the majority that passed the darn bill. I mean, it is unbelievable.

Many weighed in. The American Academy of Actuaries said this:

> Changing the ACA provisions could alter the dynamics of the insurance market, creating two parallel markets operating under different rules, thereby threatening the viability of insurance markets operating under the new rules.

Now, I am as competitive as anybody. I have run a lot of elections. I understand the importance of being in the majority in this body. I especially understand that after what the majority did over the last few weeks. We went 225 years as a country, and it was only in the last couple of weeks that the majority said: Look, we are tired of dealing with you, minority. We are going to get our own way.

It reminded me of the day ObamaCare was passed. It was identical. It was like: JOHANNS, get lost. We don't care what you think about this. We have 60 votes. Sit down and shut up.

Is that the way the Senate is supposed to operate? I don't think so. I don't think that is what was envisioned when this body was put together, and it has been forever changed. It happened because ObamaCare is out of control. It is not the Web site. The Web site was a mess. It just proved to us that the White House couldn't manage this. That is what it proved to us. But we can fix a Web site. They can get smart people who go in and figure it out.

That wouldn't be me, but there are many people in the United States who could be brought to bear to solve this problem of dealing with the Web site. It is not the Web site, although it is a huge embarrassment. It was a huge embarrassment for the White House. It was a huge embarrassment for the President of the United States. It was a huge embarrassment for Kathleen Sebelius. It was a huge embarrassment for the Democrats who voted for this. But at the end of the day it can be fixed, and I would guess they would fix it. I kept saying to people back home that I think they will get it fixed. How tough is that? How tough would it be to do it the right way the first time? But they didn't. It just proves they are not very competitive.

What is happening here is the wheels are coming off this policy because the policy never made any sense. When the President made this announcement: Insurance companies, you fix it, America's health insurance plans said that premiums have already been set for the next year based on the assumption of when consumers will transition into the new marketplace. Who decided when they would transition into the new marketplace? The insurance companies didn't. The majority did. The White House did. Health and Human Services did.

They go on in their statement:

If now fewer younger and healthier people choose to purchase coverage in the exchange, premiums will increase and there will be fewer choices for consumers.

Well, let me say something that is obvious to everybody in this Chamber. Your premiums are going up. Why? Young people are so turned off. Young people are so turned off by what is happening. I had a young person show up at a town hall. This was a year and a half ago. They said: Here is kind of the deal. It is just my wife and I. We don't have children. We are both working. We are trying to get ahead. We don't make a lot of money, and we decided the best plan for us was kind of a catastrophic plan. We will deal with our day-to-day health care needs, which, incidentally, aren't much because we are young and fortunately we are healthy. We have a high deductible.

I was listening to that, and I said: God bless you. This is America. They can make that choice. That was the best choice for them. They thought about it and decided the money they were making might be better allocated someplace else. What a great country that people can decide that.

Well, what happened with this health care bill? That decision was taken away from that young couple. They were ordered by the Federal Government, under penalty, to buy a given plan. Now, I have not caught up with that young couple, but I bet they are mad as wet hens. I will bet they have looked at what has happened to them and they are saying: Why?

We all know the little secret here: Young people are paying more for coverage that they don't need to finance me in my sixties. Does that make any sense?

I could go on and on about what is happening here with this health care bill, but it is not sheer coincidence that Senators in the Senate reached an agreement months ago on the rules. We shook hands on it. We put that behind us. Right about the time ObamaCare rolled out, all of a sudden that agreement wasn't valid anymore, and we got set up on a manufactured crisis to force a vote, and the method chosen to change the rules forever changes how the Senate operates.

In our history, many Senators had the opportunity to change these rules and thought better of it because they so respected and admired this institution, that they believed there was a place for a minority whether that Senator was in the minority or the majority at the time. That is what happened.

I will take another step. All of us know what this is really about. This is about control of this body. All of a sudden, because of ObamaCare and the truth coming out about what a terrible piece of policy this is, it became evident that Members over here were in deep trouble and were going to lose their elections if their elections were held now, and the majority had to change the conversation. So the agreement we reached after that night we spent in the Old Senate Chamber hashing through this, debating and discussing it, basically got torn up and tossed out the window, and the majority forever changed how this body will operate and what this body is going to be about in the future.

So what I say to my colleagues tonight is this: I am not planning on being here much longer. I have made that decision. One could say I don't have a boxer in the ring. A year from now, I will be doing something else. Some will be here, some won't be here. But at the end of the day, what I will remember about this time in the Senate is that a precedent was set that is vastly different from the way this Senate operated for 225 years. A precedent was set that allows the majority to take control of executive branch appointments, district court appointments, circuit court appointments. It is a precedent that would allow a majority to take control of a Supreme Court appointment. It is a precedent that will allow a majority, when it chooses to—not if; I believe it is a question of when—to take control of the policymaking.

So it is true when we say that if they were attempting to change the conversation, I say to the majority Members of the U.S. Senate, away from ObamaCare to this, all they have done is reminded the American people that what they are really doing is abusing this institution in a way that, quite honestly, is going to be very hard to turn around.

My thought is this: I feel very strongly that we can reverse what has occurred here, but we can't do it as a minority. We need the majority to back off. We need the majority to recognize that this body has existed through difficult times, it has existed through wars, it has existed through attacks on our country, and we have found a way to operate. We need the majority to recognize that we reached an agreement many months ago after an evening spent together in the Old Senate Chamber where we debated these things and, like gentlemen and gentlewomen, we shook hands and put this behind us for this session.

We can do the work of the Senate. We can do the work for the American people. I have no doubt about that whatsoever.

I am very concerned, though, that we have put the Senate in a position where it is a very vulnerable body now. Any majority can now use this precedent to turn this into something that is entirely different than what anybody who founded this country believed it should be. When the majority decided that it would bypass the requirement that rules would be changed by a two-thirds vote and do it by appealing the ruling of the Chair, they put the Senate in a position where there are no rules. There are no rules. All you need is 51 Members—50 if you have the Vice President in the Chair—who decide to stick together and make that Supreme Court appointment. They can get it done. All you need is 50 Members, if you have the Vice President in the Chair, who decide they stick together, and they would do a legislative process by a majority vote.

Many, many times the nuclear option was discussed, it was debated, and Senators much wiser than I looked at the history of this great country and its future and decided it was a step that should never be taken—that was until a couple of weeks ago, all driven by the fact that this piece of legislation called ObamaCare has turned out to be such a train wreck and that there was a need to change the discussion and change the topic and try to draw the people's attention away from that legislation, and that is how this rule got adopted. It is a sad time in our Nation's history. It is a sad time in terms of what is going on.

What I would offer is my hope is that wise people will realize the problems they have created for this country in the future, realize that the precedent they have set forever changes the way we operate and back away from what occurred.

Let's start doing the work of the Senate. If that means we work through Christmas, good. I am here. If that means we work on weekends, if that means we work around the clock, fine with me. I am good. I will do it. I will be happy to do it. But to try to streamline this process in a way that silences the minority is not right, and it is not what this country should be about.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Connecticut is recognized.

Mr. MURPHY. Mr. President, I ask unanimous consent that after I finish speaking, Senator BLUMENTHAL be allowed to speak.

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

SANDY HOOK

Mr. MURPHY. Mr. President, this Saturday we are going to mark the 1-year anniversary of the shooting in Sandy Hook, CT, in which 20 little 6- and 7-year-old boys and girls lost their lives, as well as 6 adults who worked in that school who were charged with protecting them.

Senator BLUMENTHAL and I have come down to the floor today to offer some thoughts as we reflect on the 365 days that have passed since the most horrific mass shooting that most of us have ever seen in our lifetimes.

I think back a lot on that day—being in the Sandy Hook firehouse as the parents realized that their sons and daughters were not coming back from that school. One of the things I remember about that day is getting an awful lot of phone calls from my colleagues from all around the country, Senators and Congressmen who represented places such as Columbine and Aurora and Virginia Tech and Tucson. They all called because they had been through this before and they just wanted to offer their condolences and a little bit of advice on how a community can try to get through these awful, tragic, shattering incidents.

I sort of thought that day how awful it was that there were that many colleagues, that many representatives from across the country who could call and give me advice. What a tragedy it is that we are amassing this bank of expertise across the Nation on how to respond to mass shootings. It speaks to how far and wide the carnage and the devastation are from these mass shootings that are occurring now it seems almost on a weekly or monthly basis somewhere around the country. It is not getting better; it is getting worse.

In 1949 a guy by the name of Howard Unruh went through the streets of his town of East Camden, NJ, firing shots indiscriminately such that he killed 13 people. It was the Nation's first mass shooting. Now we have, unfortunately, had a lot of mass shootings since that first one in 1949.

But here is what is stunning: Of all of the mass shootings that have taken place since 1949, half of them took place from 1949 to 2007 and the other half have taken place in the last 6 years. Something has gone wrong. Something has changed. The problem is that it is not this place. We are approaching the 1-year mark of the school shooting in Sandy Hook, and it will be a week of mourning, but here in the Senate it should also be a week of embarrassment. It should be a week of shame that after 1 year passing since 20 little boys and girls were gunned down in a 5-minute hail of furious bullets, the Senate and the House of Representatives have done nothing to try to prevent these kinds of mass atrocities in the future.

I come down here today not just to challenge this place to act but to tell you a little bit about what I have learned in the last year. I have learned a lot, but I want to distill it down to two pretty simple things I have learned.

I did not work on the issue of gun violence when I was a Member of the House of Representatives, in part because my corner of Connecticut did not have tremendously high levels of gun deaths. Now it is central to my mission as a Senator.

What I have learned over the last year is that despite all the rhetoric we hear from the gun lobby, when you change gun laws to keep guns out of the hands of criminals and to take dangerous military-style weapons and ammunition off of the streets, guess what happens. Communities become safer. The data tells us this.

Since 1998 the National Instant Criminal Background Check System has blocked more than 2 million gun sales to prohibited purchasers. That is up to 2 million criminals—people with criminal histories who should not have bought a gun—who were prohibited from buying a gun. The background check system works but for the fact that only about 60 percent of gun purchases actually go through the system because more and more guns are being bought in online sales, more and more guns are being bought online, and more and more guns are being bought at gun shows.

We know background checks work because we have stopped 2 million people who would be prohibited from owning guns because they have a history of domestic abuse or serious felonies or mental illness. Two million times we have stopped those people from getting guns.

Second, we can compare what happens in States with near universal background check systems versus States that have looser laws. I will give you one statistic, for instance. In States that require a background check for every handgun sale, there is a 38-percent reduction in the number of women who are shot to death by intimate partners. Deaths from domestic violence are almost 40-percent less in States that have near universal background checks.

The same data exists for assault weapons as well. In 1994 we passed the assault weapons ban. Over the next 9 years crimes committed with assault weapons declined by two-thirds.

There are legitimate arguments that there are other factors that contributed to that decline, but certainly a portion of that decline is connected to the restriction on assault weapons. Thirty-seven percent of police departments reported a noticeable increase in criminals' use of assault weapons since the 1994 Federal ban expired.

When it comes to these high-capacity magazine clips, we do not need the data that is out there because common sense tells us that if somebody decides to do mass damage with a high-powered weapon, they are going to do less damage if they only have 10 bullets in a clip rather than 30. Adam Lanza in Sandy Hook Elementary School got off 154 bullets and killed 20 children and 6 adults in less than 5 minutes. In Tucson, a 74-year-old retired Army colonel and a 61-year-old woman were able to subdue the shooter when he went to change cartridges. In Aurora, the rampage essentially stopped when James Holmes went to switch cartridges. When you have to reload multiple times, there are multiple opportunities for these mass shootings to stop. We should do things to make sure the shootings never begin in the first place, but the carnage is much worse when these madmen are walking into shopping plazas, movie theaters, and schools with 30-round clips and 100-round drums.

But here is the second thing I have learned. I learned this as well over the last year. I have learned about the amazing ability of good to triumph over evil even when this place does not act to change the laws. I have learned that despite the evil of those 5 minutes in Sandy Hook, the community of Newtown has amazingly found a way over and over to bring so much beauty and goodness to essentially cover up and drown out that horror. I have seen these kids' memories become the inspiration for literally thousands of acts of generosity and kindness.

Daniel Barden was a genetically compassionate little kid. He was that kid who always sat with the kid in school who did not have anybody sitting next to them on the bus or in the classroom. When his parents would take him to the supermarket, they would be all the way to their car with their groceries, and they would look back and Daniel would still be at the door holding open the grocery store door for people who were leaving.

His parents started a Facebook page that challenges people to engage in little, small acts of kindness in Daniel's memory. It had about 40,000 likes the last time I had checked, and the stories are endless—a woman who bought coffee and doughnuts for a firehouse in New York State; a Missouri woman who helped restock a food pantry in Daniel's honor; a woman in Illinois who paid for a stranger's meal and just wrote ''Love from Daniel Barden'' on the bill.

Jack Pinto was a very active 6-year-old boy. He enjoyed playing sports of all kinds. He was buried in his New York Giants jersey. His parents, Dean and Tricia Pinto, have raised money and put some of their own money in to pay for hundreds of children all around the country to have access to the same kind of opportunity to play sports that Jack had, despite the fact that their families might not have the resources the Pintos do.

Jessica Rekos loved animals. She loved whales and horses most, so her parents started a foundation, the Jessica Rekos Foundation, and they have provided yearlong scholarships for horseback riding lessons for students who would not otherwise have the resources to be able to have the opportunity to enjoy horses in the same way Jessica did.

This week an effort is under way in Newtown and across the Nation to inspire people to every day do a different act of kindness as a way to pay tribute to the 1-year anniversary. These charities that have sprung up in the wake of Newtown are doing amazing work to change people's lives—just the small acts of kindness that maybe we all do in trying to pay tribute to the memory of those kids and those adults. That makes a difference.

Charitable acts and changes in behavior—they are necessary although insufficient responses to the scourge of gun violence that plagues our Nation.

This place has to change the laws. Do something because you do not want to be next. You do not want to be sitting on a train station platform, as I was on December 14, when you get a call that 10 or 20 or 30 or 40 kids or adults have been gunned down in your State. You certainly do not want to get that call when you had a chance, but you did not take it, to do something to prevent it.

I got calls that day from my colleagues all across the country because there are not many corners of the Nation that have not been touched by gun violence. Some 11,000 people have been killed by guns since December 14 of last year. When one person is killed, psychologists tell us there are 10 other people who sustain life-altering trauma as a result of that shooting. So just imagine when 26 kids and adults die in a small community.

So I wish to leave you not with my words but with the words of a mother from Sandy Hook who represents the scope of the trauma that has been the reality for Sandy Hook for the last 365 days. Sandy Hook is recovering but very slowly. The charities and the acts of kindness, they make a difference, but there is a lot of head shaking in that community as to why this place has not risen to the occasion, shown the same type of courage those families have and done something to change the reality of everyday and exceptional mass violence across this country.

Here is what this mother writes. These are her words in an open letter:

In addition to the tragic loss of her playmates, friends, and teachers, my first grader suffers from PTSD. She was in the first room by the entrance to the school. Her teacher was able to gather the children into the tiny bathroom inside the classroom. There she stood, with 14 of her classmates and her teacher, all of them crying. You see, she heard what was happening on the other side of the wall. She heard everything. She was sure that she was going to die that day and did not want to die before Christmas. Imagine what this must have been like. She struggles nightly with nightmares, difficulty falling asleep, and being afraid to go anywhere in her own home. At school she becomes withdrawn, crying daily, covering her ears when it gets too loud and waiting for this to happen again. She is 6.

And we are furious. We are furious that 26 families must suffer with grief so deep and so wide that it is unimaginable. We are furious that the innocence and safety of my children's lives have been taken. Furious that someone had access to the type of weapon used in this massacre. Furious that gun makers make ammunition with such high rounds and our government does nothing to stop them. Furious that the ban on assault weapons was carelessly left to expire. Furious that lawmakers let the gun lobbyists have so much control. Furious that somehow, someone's right to own a gun is more important than my children's right to life. Furious that lawmakers are too scared to take a stand.

She finishes by writing this:

I ask you to think about your choices. Look at the pictures of the 26 innocent lives taken so needlessly and wastefully, using a weapon that never should have been in the hands of civilians. Really think. Changing the laws may ''inconvenience'' some gun owners, but it may also save a life, perhaps a life that is dear to me or you. Are you really willing to risk it? There must not be another Sandy Hook. You have a responsibility and an obligation to act now and to change the laws.

I hope and pray that you do not fail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut

Mr. BLUMENTHAL. Mr. President, many words have been spoken since Newtown, including the very powerful words of my colleague just now. But the plain, simple fact is no words can capture what I feel about that day. No words ever will capture that day or the days and weeks and months afterwards, when we have grieved and healed and resolved that we will do everything within our power to make sure that kind of massacre never happens again.

But equally important is that the deaths by gunfire are reduced or prevented—those 26 senseless, unspeakable deaths of 20 beautiful children and 6 great educators but also the 194 children who have been killed by gunfire since Newtown, and the 10,000 or more deaths caused by gunfire, person by person, a tragic river of senseless deaths that we have the power to prevent, the power in this body and the power in this Nation.

As much as we should be shamed and embarrassed by the failure to act, we also must have hope and resolve that we will act. History is on our side. The example of courage and strength provided by those families ought to give us the resolve and the determination to act; likewise, the examples of courage and resolve by Father Bob Weiss, who had a service in St. Rose of Lima on the evening of December 14, one of the most moving public experiences I will ever have. As I said then, the world is watching Newtown. The world has watched Newtown. It has watched First Selectman Pat Llodra, who has led Newtown with her own courage and strength and determination, including coming here as my guest on the night of the State of the Union to be an example for all of us about what a public official can do by her own example, leading by her own example.

We will mark, this Saturday morning, at St. Rose of Lima the 1-year anniversary at a service Senator MURPHY and I will attend. I have worn since virtually that day a bracelet. I wear it now. It says, ''We are Newtown. We choose love.'' If there is a message for all of us in this Chamber, it is that we continue to choose love. We are all Newtown. Our town is Newtown. All of our towns are Newtown. I see this bracelet literally from the time I wake in the morning to when I go to bed. It will always be an inspiration for me, inescapably our hearts and minds go back to that moment when we first learned about this horrific, unspeakable tragedy.

Of course, I went to the Newtown firehouse that day. The sights and sounds of grief and pain are seared in my memory. They will be with me forever. So will be the story of the children whom we lost: Grace McDonnell and Allison Wyatt, who loved to draw pictures for their families and planned to be artists; Chase Kowalski, a Cub Scout who loved playing baseball with his father; Jessica Rekos, who wanted to research orca whales and become a cowgirl.

We will never forget the heroism and the bravery of the educators such as Vicki Soto and Anne Marie Murphy. Vicki Soto is in this picture. Her brother Carlos came to a service today here in Washington. He has continued, and so have his sisters, to come to events that provide impetus and movement and momentum to the effort to stop gun violence.

Vicki Soto and Anne Marie Murphy literally shielded their students, sought to save them with their own bodies. Dawn Hochsprunk and Mary Sherlach ran unhesitatingly toward the danger entering their school and perished doing so. There are heroes in this story. It is not only about bad people who used guns improperly and illegally; it is not only about evil; it is also about good. The good includes the first responders and police who stopped the shooting when they came to the school and ran toward danger and toward gunfire and thereby ended it, when the shooter took his own life.

It is also about Ana Marquez-Greene, a beautiful girl who loved music and flowers, loved to wear flowers in her hair. She was described by Bishop Leroy Bailey as a beautiful, adoring child. That picture evokes the stories of all of those children: beautiful, adoring, a future and a life ahead of them.

For all of those stories and the tears, and the teddy bears and tributes that were outside of the firehouse, Newtown has refused to be defined simply by tragedy; refused to be locked in its past. It has moved forward, because Newtown is not just a moment, it is a movement. It is not just a moment in

history defined by tragedy, it is a movement to make the world better. It is a movement to make America safer.

That is the movement we have articulated and sought to advance. Those families, including Neil Heslin, who has come here numerous times for his son Jesse, have been an example of courage. Indeed, they have been profiles in courage. When Neil Heslin dropped Jesse off at school on the morning of December 14, Jesse gave him a hug and said: ''It's going to be all right. Everything's going to be OK, Dad,'' because Jesse was that kind of kid, Neil told the Senate Judiciary Committee in his testimony. His pride in Jesse, as well as his grief, brought tears to all of our eyes.

Jesse was just that kind of kid. He never wanted to leave a baby crying. He never wanted to leave anybody feeling hurt. Jesse and Neil used to talk about coming to Washington, about meeting with the President. Neil met with the President but Jesse was not there, at least physically he was not there. He was with all of us as we worked with Neil to make America safer and make sure Newtown is not a moment but a movement toward a better, safer America.

I thank my colleagues for the outpouring of feeling and support on the eve of that tragedy. It was a rare moment of bipartisan unison and feeling as well as words. I wish to thank them as well for meeting with many of those families because they demonstrated a graciousness and generosity regardless of their views on any of the issues relating to gun violence and any of the bills on the floor. That graciousness and generosity I hope will prevail on this issue and again move us forward.

The acts of kindness and generosity that followed have been inspiring as well.

College students and firefighters have come together to build playgrounds in honor of the Sandy Hook victims. Bill Lavin of New Jersey, on behalf of the New Jersey firefighter system, has done yeoman's work. There are now new playgrounds in their memory in Norwalk, New London, Fairfield, Ansonia, Westport, and Stratford.

I have visited many of them. They are distinct, reflecting the character of those children such as Ana Marquez-Greene.

The Newtown High School football team took time away from celebrating a perfect winning season to devote their efforts to the children and educators we have lost.

The Sandy Hook Run for the Families not only raised more than $450,000 for the Sandy Hook Support Fund, but it also broke the world record for attendance. In millions of actions, large or small, in Connecticut, all around the country, the people of Newtown, the State of Connecticut, and the country showed what compassion, giving, and kindness truly means in action. They chose to honor them by action.

Often the compassion and kindness unleashed by the Newtown tragedy took many other forms that were unheralded, unreported, and unspoken. These were acts of kindness that were not in the newspapers or in the public view but simply acts that meant something to the recipient and to the giver.

These fundraisers and vigils, emails and postcards, small and large signs of recognition and love from our colleagues, from people across the country, are a form of giving back. They give me hope that eventually we will prevail in this effort to make a difference.

Scarlett Lewis, Jesse's mom, is also a hero. She heard about the Cruz family who had lost two of their children to a drunk driver. Scarlett responded with that same resilience and strength by offering to give a fundraiser for the Cruz family.

When she was asked about her family and about what she had done, she explained:

> What brings meaning to the suffering is doing something for someone else. . . . In doing something for them I'm also helping my own healing.

Nearly 90 percent of Americans support commonsense measures such as background checks, a number that is virtually unchanged since the issue soared to the forefront of our political discourse in the wake of Sandy Hook. Even in gun-owning households the support is virtually identical, 88 percent. That figure hasn't changed. A mountain of public support has failed to produce measures, but our resolve is unchanged because those memories of Sandy Hook, those examples of kindness and compassion, will drive us forward, as will the more than 10,000 other victims including at least 14 children under the age of 12 in 43 different States.

Congress has shamefully and disgracefully failed to act, but that is not the end of the story. There has been one vote, and we lost, but that vote is not the end of this movement. Newtown is not a moment. It is a movement. Surrender is unacceptable; the status quo is inexcusable. The families and Newtown community have refused to surrender to personal despair, and we cannot surrender to political dismay or difficulty.

I was moved the other day when I saw a clip of Ronald Reagan endorsing the Brady bill. Ronald Reagan, as President, was a victim of gun violence, as was Jim Brady, who was paralyzed by the same hail of bullets that struck the President of the United States when they were fired by a deranged person, John Hinckley.

Twelve years passed before the Brady bill was passed. It was 12 years of struggle, work, resolve, and courage by Sarah and Jim Brady, with eventually an endorsement by Ronald Reagan.

The sadness and anger I feel today, prompted by the memory of that tragedy and this body's failure to respond, is mitigated by the knowledge that history is on our side, that America is better than the oath we took in April. The people of Newtown have not failed. The people of America have not failed, and this body has not yet failed.

We can and we will do better because Newtown and that vote will be with us.

Newtown is more than a moment. It is a movement that eventually will prevail.

I yield the floor.

The ACTING PRESIDENT pro tempore.

Mr. BURR. I rise to address the nomination of Cornelia Pillard to the DC Circuit Court. This nomination is a good example of government overreach that has led to things such as the ObamaCare debacle.

Let me say to my colleagues who have been on the floor speaking about Newtown, I had an opportunity to spend an hour with parents of Newtown children. It is a compelling personal story that they shared.

No parent should have to watch a child die. No parent should have to live and a child die. My heart still goes out to those who lost children at Newtown.

Today, with the Affordable Care Act fresh on my mind, I venture back to think about when I came to the floor in 2009 and said in front of my colleagues of the Senate and the American people—I wish to spend the balance of this second half of the hour rehashing some of the things I came to the floor to talk about.

There were numerous opportunities before the legislation was passed. I remember it was very close to Christmas in December of 2009.

I said premiums will increase for younger and healthier individuals because of the new federally mandated rating rules. Over 40 percent of the uninsured are ages 18 to 34, the same group that will be hit with the highest increases if this bill passes.

What do we hear Americans are focused on today? Young people. Are they going to join?

Today their insurance is three times lower than what it will be in January of 2014. Why? Because of the Affordable Care Act.

No. 2, premiums will increase because of new federally mandated insurance standards. Experts estimate many of the health plans purchased today by individuals and small businesses will not meet the minimum requirements mandated by this bill, which means that all Americans will be forced to buy richer plans.

Let me remind those who are listening that this was in 2009 on the Senate floor. Listening to the comments of those today who say we never anticipated some of these things would happen—if they didn't anticipate, it is not because people weren't on the Senate floor. It wasn't because we made this up. It is because people who were experts, CMS actuaries, CBO administrators, were sharing with us what would happen if this legislation became law.

Premiums will increase because of new federally mandated benefit packages. The bill empowers the Secretary

of Health and Human Services to decide which benefits are covered and which benefits are not.

What are Americans learning every single day? When they can get on the exchange, they are finding that they are 65 years old and they have to have maternity coverage.

I turned 58 and my wife has pretty much informed me we are not going to have more children, but I can't buy coverage without maternity coverage. Why? Because they want to charge me more to shift that cost.

We didn't have health care reform. We just changed where we are shifting the cost from. Now we are embedding the premium versus charging more at the delivery point of health care and shifting it within the delivery system.

We are shifting it within the population by charging those of us who are a little bit older more—because we mandate that we have to have services we are never going to use—and younger people who are healthy who probably are never going to need to go to the doctor. I hope they do because prevention is actually one of the most beneficial things we can promote. Now we are going to charge them three times what they were paying, and we believe they will take it?

Premiums will increase because of the new excise tax on medical devices. Innovation is what saves health care dollars. Yet in the Affordable Care Act, or what some call ObamaCare, we actually put new taxes on medical devices.

Every time we have a stent that is inserted, every time a medical device is used on a person, their health care bill goes up because we have now taxed the device they are using. If the device price goes up, and the reimbursement goes up, the premium goes up.

It is starting to make some sense. Again, this was in 2009 before we passed the bill. Premiums will increase because of a new excise tax on health plans.

We actually taxed the same health plans that are in the exchange that we told everybody would save them money. Premiums will increase because of the new excise tax on prescription drugs. Wait a minute. I thought we were bringing down the cost of health care.

In 2009, again, new taxes on devices, new taxes on health plans, new taxes on prescription drugs, these were all things that we all knew. The President knew it. My colleagues who voted for the plan knew it, but everybody seems to have amnesia today: Oh, my gosh. How could the costs go up? I never knew this was going to require people to buy a health insurance policy that had benefits they would never use.

Premiums will increase because of a new fee to sell plans in the mandated exchanges. This phenomenal exchange market that created competition, we now created a new fee on the part of insurers to enter the exchange. Premiums will increase because of a new tax for comparative effectiveness.

Comparative effectiveness means we are trying to bring new generics, whether they are in pharmaceuticals or biologics to the marketplace. We have decided to tax that process. Premiums will increase because the bill forces 15 million more Americans to enroll in Medicaid.

Why is that happening? It happens because doctors are paid so little on Medicaid that they have to charge more for everybody else. We are cost shifting when we purchase the premium, and all of a sudden we are learning we are cost shifting even when the service is delivered. Reform? No.

In 2009, again I came to the floor and I talked about the Affordable Care Act, ObamaCare. Zero times did it mention provisions prohibiting the rationing of health care—zero. Nine times it mentioned new taxes created in the bill. Thirteen pages are in the table of contents. The bill weighed 20.88 pounds and it took 36 pages for the CBO to estimate the pricetag of ObamaCare; 70 government programs authorized by the bill, and 1,697 times in the Affordable Care Act the Secretary of Health and Human Services was given the authority to create, determine, and define things in the bill. This is a bureaucrat whom we allowed 1,697 times to determine what Congress's intent was in the legislation through almost 3,000 pages; 3,609 times the word ''shall,'' not ''may,'' was in the bill. It cost $6.8 million to taxpayers per word.

Let me remind you. This is what I came to the floor and talked about in 2009 before the Senate passed this legislation in the dark of night.

Twenty-four million people left without health care. This is the bill that was supposed to insure everybody. Twenty-four million people without health insurance; a $1.2 billion cost to the taxpayer per page, and $5 billion to $10 billion of additional funding needed for the IRS' implementation of the bill.

In other words, we are going to fund $5 billion to $10 billion for the IRS to chase down people who owe a penalty because they made the determination they couldn't afford or they didn't need health care insurance.

There are $8 billion in taxes levied on uninsured individuals. There is a way to make health care affordable—tax people who don't have it.

So $25 billion of additional Medicaid mandates placed on States; $28 billion in new taxes on employers not providing the government-approved plans; $100 billion estimated annually of fraud in Medicare and Medicaid; $118 billion in cuts in Medicare Advantage—to seniors all across this country who found this product to be the one that provided the most security and benefits for them; $465 billion in cuts to Medicare—cuts to Medicare. This was the health care system that was at that time projected to be insolvent by 2017.

There are $494 billion in revenues from new taxes, fees, levied on American families and businesses; a $2.5 trillion cost for full implementation of the legislation.

At that time we had a $12 trillion debt. Today, we have a $17 trillion debt. Health care was supposed to be more affordable because we reformed it. We didn't reform it. We took it over. The Federal Government took it over.

Let me go to another process I talked about in 2009. This is all marked up. It has been in my desk drawer since then. It is a word search of the bill. There are 4,677 times where the legislation said shall, must or require; 899 times it said tax, fee or revenue; 470 times it said agency, department, commission, panel or bureau; 196 times it said regulate or regulation; 134 times it mentioned treatment; 180 times it mentioned prevention; 40 times it mentioned choice; 25 times it mentioned innovation; and 13 times it mentioned competition.

If we listen to those who are out selling this awful plan today, what are the three words we hear? Choice, innovation, competition—those things that are mentioned the least in the almost 3,000 pages of health care legislation in 2009. This bill wasn't reform. This bill spent trillions of dollars at a time of record deficits and debt. When fully implemented, I said then, this bill is projected to cost $2.5 trillion over 10 years. CBO said at the time that this bill will increase Federal health costs, not lower it.

What have we heard from the President? It is going to lower health costs. It is going to bring it down. It is going to be more affordable. Middle class, this is the greatest deal for you.

The bill raised taxes by more than $500 billion at a time of record unemployment. The bill violated the President's own pledge to protect the middle class. Who gets taxed in this bill? Again, this is from 2009 on the Senate Floor, right here, before the vote. Uninsured Americans, insured Americans, families with high-value insurance plans, high health costs, small business, individuals who need medicines or medical devices, and employers that provide retiree drug coverage. Employers that provide retiree drug coverage, we tax them.

The bill cut $466 billion in Medicare to fund new government programs. Medicare faced at that time a $38 trillion underfunded liability and insolvency that was projected to occur in 2017. Instead of fixing those problems, this bill raided Medicare to start a new government entitlement. The bill cut Medicare Advantage. It cut hospitals, it cut nursing homes, it cut home health, and it cut hospice.

Nobody in the administration can go out today and say: Oh my gosh, we didn't know this was going to happen. We talked about it right here day after day after day.

These are not things we made up. If we did, we would be prophets, because they are all coming true. Everything is aligning with what we said.

The bill would increase premiums, making care more expensive, not less. I mean let's get past what was the easy

part, and that was setting up the exchange, setting up the Web site. Or at least it should have been.

New taxes in this bill will get passed on to consumers, increasing yearly premiums—this is what I said then; listen to this—by $488 a year, according to some estimates. The average premium would increase by $2,100 for a family policy in the individual market.

There are individuals who are seeing $488 a month in increase, and in addition to that a deductible they have never had applied to them before.

This bill imposed costly new burdens on struggling States. The bill threatens health care choices millions now enjoy with a tangled web of new rules, regulations, and government-run plans. The government will require you to purchase insurance or face a fine and will tell you what kind of insurance you have to have, even if you like what you currently have.

I am not a prophet. I was going by what the experts said in reading the bill. So for everybody who went out and said: If you like your insurance, you can keep it; if you like your doctor, you can keep him; if you like your hospital, you can keep it—we were on the Senate Floor saying: That is not what the bill says. It is not going to happen.

This bill cut $135 billion from hospitals, $120 billion from 11 million seniors on Medicare Advantage, nearly $15 billion from nursing homes, nearly $40 billion from home health agencies, nearly $7 billion from hospice. Cutting Medicare to fund a new government program in my book is not reform. It is ignorance.

The CMS Office of the Actuary—let me tell you, the Actuary is like the gold standard. The CMS Actuary is like the guy who puts that stamp of approval on it, and there is nobody higher from the standpoint of what the actuary says. He says the bill increases national health expenditures. National health expenditures under this bill would increase by an estimate of a total of $234 billion, 0.7 percent, during 2010 and 2019.

That is exactly the opposite of what everybody is out saying today. Despite promises that reform would reduce health care spending growth, the bill actually bends the health care curve upward. According to the analysis, the national health expenditure as a share of GDP is projected to be 20.9 in 2019, compared to 20.8 percent under current law.

How could you go out and make a claim this was bending the cost curve down? How could you promise the American people it was going to be cheaper?

The total number of persons with employer coverage in 2019, according to the CMS Actuary pre-2009, when the bill was passed, was projected to be 5 million lower under the reform package than under current law. Let me say that again. The CMS Actuary told us in 2009, before we passed this bill, that employer-based coverage would drop by 5 million individual covered lives. I might say that some estimates are coming in at 100 million employees losing their health care under employer plans right now.

The new fees for drugs, devices, and insurance plans in the bill will increase prices and health insurance premium costs for consumers, and this will increase the national health expenditure by approximately $11 billion per year.

The bill funds $930 billion in new Federal spending by relying on Medicare payment cuts which are unlikely to be sustainable or permanent. As a result, providers could find it difficult to remain profitable; and absent legislative intervention, they might end their participation in the Medicare program, possibly jeopardizing the care to beneficiaries.

See, it wasn't Republicans who talked about rationing, it was the Actuary at CMS in his analysis of the Affordable Care Act. He said: Here is what is going to happen. It is seniors who are going to get hosed on it because they are not going to have access to the doctors anymore.

The bill is especially likely to result in providers being unwilling to treat Medicare and Medicaid patients, meaning that a significant portion of the increased demand for Medicaid services would be difficult to meet.

How could anybody listen or read what the CMS Actuary said and remotely go out and tell the American people: Geez, this is going to increase coverage for everybody.

The CMS Actuary noted that the Medicare cuts in the bill could jeopardize Medicare beneficiaries' access to care. He also found that roughly 20 percent—20 percent—of all Part A providers—hospitals, nursing homes, et cetera—would become unprofitable within the next 10 years as a result of these cuts, meaning they are going to go out of business.

You know, pretty soon it is not going to be the network the insurance provider put together, it is going to be the fact the hospital went out of business because they couldn't withstand what this bill has done to them.

The CMS Actuary found further that reductions in Medicare growth rates through the actions of the Independent Medicare Advisory Board—now, that is going to sound a little odd to some because prior to the bill passing it was called the Independent Medicare Advisory Board, but it is now called the Independent Payment Advisory Board—IPAB—an entity that when set up and it is kicked in—16 members picked by the President—will determine reimbursements and scope of coverage. It is not the Congress of the United States. If we don't legislatively do something with their recommendation, it becomes law. It goes into effect.

The bill would cut payments to Medicare Advantage plans by approximately $110 billion over 10 years resulting in less generous benefit packages and decreasing enrollment in Medicare Advantage plans by about 33 percent. So 33 percent of seniors would lose their Advantage plan. Again, this is 2009. This is not today.

The President, in 3,000 pages said it would reduce costs. The chief actuary says that is not the case.

Let me read a letter I got in the last couple of weeks from Lori Perez from Willow Springs, NC.

> I am a divorced mom of three. I received insurance through my employer. My rate has increased $100 a month. This is a huge difference that will have to be budgeted by reducing groceries and foregoing my son's braces I had planned for 2014. I looked into dropping my company provided insurance to join an exchange but I do not qualify to receive a subsidy because my insurance rate is less than 9½ percent of my income. It is 9 percent. My yearly income qualifies. Apparently, Obama thinks I can afford an additional $1,200 a year. I am considering dropping my insurance, paying out of pocket as needed for health care, and paying the fine at the end of the year. It would be less expensive. This is ridiculous. What can we do?

What do you say to Lori? Oops. That is the law. Here is somebody who was 100 percent satisfied, an employer doing the right thing, and the Federal Government has now put her in a situation where she is considering just giving up her health care, doing away with it. Why? Because she can't afford it. This is a woman with a job. She is thinking about giving up her groceries and delaying her son's braces. Why? Because of ObamaCare.

Where are we today? Let me speed forward. I said we have the health care exchange, the healthcare.gov Web site. There are companies every day that get Web sites set up. This one is complicated. They had 3 years to do it. It still is not right today. But I am convinced they will get it right.

For the first time the American people are getting on the Web site and they are able to look at the health care options they have. And what are they finding? They are finding that the premium costs for something equal to what they had are two times, three times more expensive per month. They are finding this new thing they have never had before called deductibles. And I am not talking about a $100 deductible that you pay before you get participation in a doctor's visit or an emergency room visit; I am talking about $1,000, $3,000, $5,000. I have heard from friends who have now signed up for plans and have a $15,000 deductible.

I say to my colleagues—especially my colleague from Florida—it sounds like a health savings account, doesn't it? You have insurance, but you are responsible for the first $15,000. The guy who shared that with me, his premium is $1,444 a month with a $15,000 deductible. I don't think he is going to drop it, but sticker shock is rampant.

Benefit package. How many people have come up to me and said: I am not going to have any more children, but I have to have maternity coverage. Something is wrong.

They are right—something is wrong.

How many kids would like to have a scaled-down version that allows them to have a set of benefits, and they are willing to roll the dice, and if something bad happens, they will pay out of pocket? No, they don't get that option. The choice does not exist—unless it is a choice of the things created in the Affordable Care Act.

Networks. This is one the American people haven't gotten to yet, and I can't wait until it happens. I have gone through getting on the DC exchange and going through the process of trying to figure out whether my doctor in North Carolina is available in this plan or that plan. Wait until the American people go onto healthcare.gov and they start picking a plan and look to see: Is my primary doctor on there? Is my hospital on there? Is the specialist I see on there? Are the drugs that I take on this plan?

This is incredibly complicated. The American people were used to calling their insurance broker and saying: Here is how much coverage I want, here is how much I have to spend, and here is my health condition. And they designed a program to meet their health condition, their income, and their age. Now we penalize you for your age—if you are old or young—and we force everybody to take the same benefit package regardless of whether they can afford it, and we say: If you don't get it, we are going to charge you this year a 1-percent penalty on your income, and that goes up to 2½ percent at the end of the transition period.

We are going to get past this period which I call the enrollment plan period. Next, we get to the part the President delayed. We never understood that something that was in statute, the executive branch could just decide, no, it is not going to go into effect. But for large and small employers, they had a 1-year delay. All of a sudden, in 2015, their employees are going to be in the same marketplace that we are.

What makes that particularly difficult is we extended the enrollment period for individuals in healthcare.gov until March 31, 2014. They can still enroll. Well, April 1, 2014, through April 27, 2014, insurers will have to decide what their premium cost will be in 2015. So given that they have no real experience on what the mix of ages and health conditions in their plan is, what are they going to do? They are going to err on the side of higher premiums; that is, higher than we will see in 2014, which a majority of the American people say are higher than they can afford. Imagine what it is going to be like in 2015. And in that group is the 80 percent of America, not the 5 to 10 percent who are provided for by employers today.

I see my colleague here, and I am infringing on his hour, but I do want to stress one last thing. I mentioned only once the Independent Payment Advisory Board, IPAB. At the end of the day, mark my word, everything that I commented on I read from my 2009 notes—notes that I came to the floor then and said: This bill shouldn't become law, and here is why. I spent 5 minutes talking about that today.

But I am going to make this statement, and I will come back to the floor 2 years from now when IPAB is up and running and the benefit packages have been cut down and the reimbursements have been cut to doctors and hospitals, and I will point to the statement that I made here that picking a 16-member advisory panel that has the authority and the power to set the scope of coverage and, more importantly, the reimbursements will have a most devastating effect on health care in this country.

It will ration health care because of the doctors who choose not to participate in plans that participate in the exchange. It will force hospitals out of accepting plans that participate in the exchange. And for those of us forced by government to be in the exchange and to choose, our choices will be gone. Our costs will go up. We will get care—when we are queued in line or at the emergency room or from a doctor we don't know or don't trust or from a hospital we have to drive to. It is not going to be reassuring to that mother who now has maternity coverage but no obstetrician and no local hospital to deliver a child because, you see, we didn't reform health care. We didn't do anything to liability. We just changed the pocket we pay out of. We taxed everybody we could find to pay for it. And still—as I said in 2009 and I believe will be true today—at the end of the process, there will be 24 million people without health insurance. Why? Because of ObamaCare. Because of the choice—or the lack of choice—we gave them.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Florida.

Mr. RUBIO. Mr. President, I intend to be here for the next little bit—under an hour—sharing this time on the floor with you to discuss some of the issues before us, particularly the pending issue before us of nominations and the concern we have about that.

People back home and across the country may be watching the news tonight or perhaps over the last few weeks they have watched the news and wonder what this debate is about. I wish to use this opportunity tonight to address the nomination of Cornelia Pillard for the DC Circuit because it is a good example of the government overreach that has impacted all sorts of issues in our lives. So on this nomination issue, let's lay the groundwork here so people back home understand what is happening.

Last week or the week before last the Senate majority, by a simple majority vote, changed the practice of the Senate that has existed here since the beginning of the Senate, and they did so in an effort to grab more power for themselves and the President.

Basically, here is the precedent which has been set here and which is exemplified by the nomination before us. The precedent which has been established from now on is that any Presidential nominee, except for the Supreme Court—at least for now—is only going to need a simple majority vote to confirm them. There are problems with that because in the Constitution it gives the Senate—wisely—the power to advise and consent. The reason that was done, especially for judges, is that these are lifetime appointments. When someone is made a Federal judge, it is for the rest of their lives—unless they are impeached, which is a rare occurrence, thankfully. So these are people who are going to serve on the bench for the rest of their working lives, making decisions about the application and interpretation of our Federal laws. That is why the Senate was given this extraordinary opportunity to vet these people and to look for a supermajority of votes in this Chamber before someone is put in a position such as that. The other positions, of course, are Cabinet nominees, and so forth, and those are very important as well.

By breaking the rules to change the rules of the Senate—something that, by the way, we were told at least on two occasions this year was not going to happen but ultimately did—what we basically saw was the ramming through—just as ObamaCare was, on a party-line vote—of the President's nominees, and tonight's nominee is an example of that. This is going to have enormous consequences on this institution for sure. You are seeing it play out tonight.

I say to my colleagues in the majority party that the history of this body is that power trades hands. I believe that as early as January next year when a new Congress reconvenes, you won't be in the majority, you will be in the minority. Soon thereafter, there may be a Republican President appointing judges and appointing Cabinet members and other appointees. Now, all of a sudden, a simple majority is going to be enough, and you have set that precedent.

Beyond the impact that is going to have on this institution, it is going to have an impact on this country. It is going to have the impact of putting these activist judges, such as the nominee before us tonight, on the bench. It is going to have an impact on a wide range of issues, from ObamaCare, to the sanctity of life, to the Second Amendment, just to name a few.

Why does the majority want to pack this particulate bench, this particular DC Circuit Court of Appeals with a supermajority? Why? Well, it is because it is a court which is often called the second highest court in the country. It is a court which is key in reviewing all these regulations that are being imposed upon us. It is a court which is key in reviewing all these assertions of Executive power that this President and other Presidents have instituted.

The current DC Circuit as currently made up has proven to be somewhat of an obstacle to the big-government agenda the White House and the majority here in the Senate have been pursuing, and they don't like it. That is, by the way, why the majority leader earlier this year said: We need at least one more—meaning one more judge—and that will switch that majority on that court. Well, with that vote, by changing the rules, that is what they are setting up for here.

Now they seek to expand it tonight or early tomorrow with a nominee who, quite frankly, is completely out of the mainstream. For example, on the question of abortion, do you know what Professor Pillard calls pregnancy? ''Conscription into maternity.'' I don't know what that means, but I bet the vast majority of Americans would see that as outside the mainstream.

By the way, as you look at the majority pulling out all these stops to confirm controversial nominations, such as this one who is someone completely outside the mainstream, they do so despite the fact that they have spent most of the last 10 years basically filibustering some of former President George W. Bush's best nominations to the judiciary, especially to the DC Circuit. Let me give some examples.

Senate Democrats, over 2 years, refused to even give Peter Keisler a Judiciary Committee vote despite his extraordinary credentials and a record of public service. At the time, they argued among other things that maybe the DC Circuit wasn't busy enough to warrant filling some of these vacancies. He was just the most recent of several Republican nominees to the DC Circuit whom Senate Democrats blocked and filibustered. There were others. For example, they successfully filibustered Miguel Estrada, a Honduran-born legal superstar, a person who some said may one day be the first American of Hispanic descent to serve as a Supreme Court Justice. Senate Democrats voted seven times to filibuster this great American success story and this great judge. Other nominees to the DC Circuit, including then-California Supreme Court justice Janice Rogers Brown and Brett Kavanaugh, also faced long delays of failed cloture votes and filibuster attempts, as did, by the way, President Bush's nominees all across the country.

The numbers on this issue do not lie. Numbers are facts, and the numbers don't lie about the double standard that has been applied here today. For example, tonight's vote on Judge Pillard will come after just 190 days after her nomination. For historical context, Senate Democrats obstructed now-Chief Justice John Roberts' DC Circuit nomination by 729 days. Another impressive nominee whom I mentioned earlier, Mr. Cavanaugh, took 1,036 days. Miguel Estrada was obstructed for 184 days. Janice Brown's nomination took 684 days. Tonight, 190 days. And on that and similar cases, they have completely changed the rules of the Senate and how the Senate nominates people to lifetime appointments to the second highest court in the land.

But despite this record and despite the fact that the DC Circuit is still known to be underworked today, the majority presses ahead on what will be a midnight or 1 a.m. vote to install a controversial law professor on the Nation's second most important court.

So what has changed? What caused the same people who used to routinely filibuster highly qualified judges to now come here and make these changes?

What has changed is that now there is a Democrat in the White House. What has changed is they now want an ideologically compliant court. What they want is a liberal activist court, one that protects all the things they have rammed through Congress over the years and imposed through regulations and pushed through Executive order.

Now we know why Senate Democrats were less interested in the workload of the DC Circuit or the objective qualifications of the nominees over the past decade, why they were less concerned about that than they are today. It is because their dreams came true of having a Democrat in the White House and a majority in the Senate so their efforts to keep vacancies open, that is what has brought us here today, in order to fill them in order to radically change the Federal judiciary into their own image.

But I think what is important to understand is that this whole effort to start this debate about judges and all that is an effort to distract from another big government intrusion that everyone knows too well; that is, ObamaCare. Interestingly enough, this Sunday I was at a wedding. I was approached by someone who had a story similar to what my colleague from North Carolina just outlined. This is outside of ObamaCare. This is someone who has employer-provided care, but that is going to be impacted by these changes that are happening in the law. She had just gotten notice that her premiums had gone up, but here is what is worse. Her deductible had gone up to about $5,000 or $6,000. She doesn't have $5,000 or $6,000. The way she quickly figured it out is she is going to have to spend $6,000 she doesn't even have before she can even begin to use the health insurance plan that she can barely afford. She is basically uninsured.

I wish I could tell you that is a rare story and we are not getting a lot of input about that, but we are. This ObamaCare disaster is starting to take its toll. I think it is unconscionable, by the way, that the majority seeks to distract focus of this body on these important issues such as ObamaCare by pulling this stunt on the judges. But what it doesn't stop is the wave of letters we are getting from people all across the country. These letters are not talking points. These are not complex policy analysis. These are not opeds in newspapers. These are the letters from real people who are being impacted in real ways by this law.

I wish to share with you some of their stories. I am going to leave their last names out to protect their privacy, but I wish no share with you some of these examples because these are very typical of the kinds of things we are hearing about all across the country.

Philip in Winter Springs. Philip is retired. He is living on a fixed income with insurance from United Health Care that he has for himself and for his wife. His monthly premium increased from $530 to $867. That is over a 60-percent increase in his monthly premium and his $15 copay has doubled now to $30.

How about Charles in Winter Garden? Charles had employer-provided health care which ObamaCare caused to spike in price nearly 80 percent more for his plan and his deductible is $12,000. He cannot afford $156 a week for health insurance if he wants to be able to provide for his two children and pay his bills.

Here is one from Janet in Titusville. Janet is a single mom who is losing insurance for herself and her children in January. This is not Janet's first challenge with the economy, by the way. She has been unemployed for 3 years. She took an underemployed job to provide insurance for her kids but only to lose it 1 year later. She just wants insurance that doesn't cost nearly 10 percent of her income so she can provide for her kids.

David in Lakewood Ranch has an insurance plan that will be canceled as of April 1, 2014. His current policy costs him about $291 a month with a $6,000 deductible. The new policy his insurance company suggested raises his monthly premium over 60 percent to $466 with a $12,000 deductible as well. David also looked at the silver plan for the exchanges but the monthly costs would be $525, with a $7,500 deductible. David's other problem is if he waits until his current plan is canceled on April 1, 2014, any other costs he has leading up to his deductible did not count on the new policy so he will be spending even more trying to reach a deductible that will increase along with his much higher monthly premiums. As he wrote to our office: I just want my old plan back.

Colleen in Winter Park is self-employed. She chose to have a plan that costs her $60 a month because that is all she can afford. She says that while she knows if she had to use her policy there would be hospital costs, she is more than willing to accept the risks.

Guess what. Her policy has been canceled. The new option is a $600-a-month plan and there is no way she can afford that plan. There is no way she can afford it.

How about Sarah in Live Oak. Sarah had an individual policy for herself with a $2,000 deductible that ran $68 per month. Her plan has been canceled. Now she is looking at a $288-a-month plan with a $5,000 deductible. She feels she has been lied to by the President and by Congress and who can blame her for feeling that way.

How about Warren in Sanford. Warren in Sanford had health insurance for his family, four members of his family, with a monthly premium of $533 and a $10,000 deductible. While he would have preferred a lower deductible because his family is healthy and he was willing to take that risk, now that plan is gone. So Warren went on the exchanges to look for a new policy. His new monthly price was $1,300, more than double his old plan, with a $13,000 deductible. As Warren noted: ''Bottom line is I will be paying more and I will be getting less.'' He will be forced to do things like skip vacations or miss out on his children's activities.

Then there is Joe in Melbourne Beach. Joe had a health care plan that was canceled because of ObamaCare. He liked his plan. He told our office that he ''took great care in selecting my plan that I felt was right for me and for my needs.'' Now he has to shop for a new plan and all he sees are more expensive options. He tried the ObamaCare Web site, but it did not work for him, and on top of the Web site not working he is nervous about security risks when it comes to submitting his information to these Web sites.

There is Kenneth in Land O Lakes. He and his wife had a private insurance plan for over 11 years, but they do not anymore. They received a letter in the mail canceling their plan, telling them that ''due to the recent ACA legislation this policy is no longer available.'' The new option that is available to him, by the way, is from an insurance company that had a premium that was double the price of his current plan: $2,400 more a year. He doesn't know how he is going to cover this additional expense.

I don't think anyone disputes that we have a health insurance problem in America. But this is a disaster. Of course they want to do this judge thing. Of course they want to trigger some sort of fight about judges, Republicans objecting to judges and nominees. If you supported this, if you had voted for the law that does this to people, you don't want to talk about this. If you are responsible for the passage of this law, if you have gone around the last 2 years bragging about this law, if you are the one who went around telling me if you have a policy you like you can keep it, why would you ever want the world focused on this?

The problem is people are going to be focused on this because this is no longer a theory. ObamaCare is no longer some theoretical thing that is going to happen at some point in the future to someone else. ObamaCare is happening to real people right now. Right now, all over this country, people are feeling these impacts. These are real people. This is not some outside third-party group running a commercial. This is not someone here giving a speech about what they think is going to happen. This is what is happening now and there are going to be more of these and it is going to impact Republicans and Democrats and conservatives and liberals, red States and blue States. Everyone is going to be impacted by this. They already are being impacted by this. This is going to have a dramatically negative impact on our economy, on our people, and our country as a whole.

That does not mean we do not have a health insurance issue that should not be addressed. We could have addressed it and we still can by, for example, giving people more options in a truly vibrant, private, personal marketplace. Allow people to buy insurance from any company in America that will sell it to you. Allow people to buy it with money that is not taxed, just like when your employer buys it for you. Incentivize, encourage people, make it easier for people, make it more rewarding and more flexible to put money in a health savings account so you can have tax-free money you can use to pay your deductible, to pay your copayments, to pay out of pocket, to pay for your kid's braces. These are real options that are available to us, none of which were pursued.

Instead, what was pursued is this big government solution, one-size-fits-all plan rammed down the throats of the American people just like the judges, just like the nominee tonight. She is being rammed down our throat. Because when what you stand for cannot withstand scrutiny, when you have a judge such as the one before us tonight who is so outside the mainstream, you don't want a process that examines their record and requires consensus. You have to ram it through. When you have a law that so fundamentally alters the makeup of American health care, you don't want this thing being analyzed. You have to ram it through. They did it on ObamaCare and they did it on judges.

There is a reason our Republic was set up this way. There is a reason the system of checks and balances was set up this way. There is a reason the Senate was built this way, with people who serve 6-year terms, two per State. Because they wanted a Chamber that would slow things down and look at them carefully and weigh them.

But you cannot do that when you are changing the rules to ram things through. What you are going to get are radical lifetime appointments to the bench such as what we are on the verge of doing tonight in the Senate and what you get are these damaging changes to the law on health care which leave people with fewer choices, with more expenses and, here is the kicker, with less access to the quality health care that is second to none in the United States.

We have the best health care providers in the world. When rich and powerful people around this planet get sick, do you know where they come? They come to the United States. They come to our centers of excellence. Other places around the world have quality places similar to that too, but they are only available to people who have money to pay out of pocket. Their government-run insurance plans don't allow you to do that. They socialize you. They force you to wait in line behind other people until your turn is up. The only people who can go to the front and get the highest quality health care in many places on Earth are the richest people in the world who can afford to pay for that out of their pocket. This law brings us a little closer to that because many of these quality providers, the Sloan-Ketterings, the Mayo Clinics, the MD Andersons, these extraordinarily high-quality health care centers, many of these are not on the health care plans at all. In order to fit under ObamaCare, you have to cut people out of the plan so we get closer to the day when the only people who can afford to go to these centers are people who can afford to pay for it out of their pocket and everybody else, people on ObamaCare, they are just going to get whatever the plan covers. That is what you are stuck with. That is what we are headed toward.

We are going to deny the American people access to the highest quality health care system in the history of the world, not the best health insurance marketplace—there are reforms that need to happen there—but qualitywise, second to none. We are going to deny people access to that.

The other reason, by the way, this whole debate on judges is very bad for the country is it distracts us from the fundamental issue of our time, the central issue that faces our people and our country. It is one that I wish we spent more time focused on around here. I think both parties are a little guilty of not focusing on it enough.

When I was a child, when I was younger, I had all kinds of ideas about what I wanted to be when I grew up. I was blessed with parents who taught me that every single one of these dreams are within my reach. From my earliest memories, my parents instilled in me the belief that even though my family was not rich or powerful or connected, I could grow up to be anything I set my mind to because I was in America. Because I am an American. My parents knew America was special because they knew what life was like outside of it.

My parents were born into a society that most people are born into—where the success you have in life is predetermined by the family you were born into. By the grace of God, my parents were able to come here—the one place on Earth where that isn't true—and the promise of America changed their lives.

My parents never made it big. My mother worked as a cashier, a hotel maid, and even a stock clerk at Kmart. My dad was a bartender who primarily worked at banquets. Through hard work and determination, my parents made it to the middle class, and they gave us, their children, the opportunity to do all the things they were never able to do—to be anything we wanted to be. As I said, they were never rich, but my parents achieved the American dream.

That phrase, the ''American dream,'' is a phrase we use all the time, but it is a phrase that is often misunderstood. The American dream has never been about becoming wealthy or famous. Instead, it is about people, like me, who were born and raised here. It is about things I sometimes think we take for granted.

The American dream, what is it about? It is about a happy and stable home life where you can live without fear for your safety or the safety of your family. It is about the freedom to worship any way you want. It is about having the chance to get a good education and find a job that rewards hard work with financial security. The American dream is about being able to send your kids to college and being able to retire comfortably. It is about the opportunity to pursue happiness without being limited by your social status or your background. Perhaps most of all, the American dream is about being able to give your kids the chance and the opportunities you never had. This is the true American dream. It is not just a phrase. It is our identity as a nation. It is what it means to be an American.

We are still a country where the American dream is possible. We are still a place where, if you work hard and are determined, you can earn a better life. But we have to be honest. Over the last 10 years it has gotten harder to achieve this. It has gotten harder to find a good job and get ahead financially. It has gotten harder to save for retirement and send your kids to college. It has gotten harder to pay for health care, childcare, and the monthly payments on your student loan.

For the last 5 years we have been told that a bigger government that does more and spends more is the answer to this problem. Do you know what that has left us instead? It has left us with about $17 trillion in debt and millions of Americans chronically out of work. The result is that despite all of this news we get from time to time about how the economy is getting better or the stock market is climbing, for many people across this country there is a sense that recovery is not reaching them. That is creating true uncertainty and even fear about the future. There is the constant worry that you could lose everything you worked so hard for. There are doubts about whether you will ever make enough and have a few extra dollars after payday or be able to save for the future. Even for those who are enjoying the life they always wanted, you find a growing sense that their children may not get that same chance.

It is not surprising that some are starting to wonder whether the time has come for us to lower our expectations. Maybe the time has come to downgrade the American dream. This doesn't have to be the new normal. We have a choice. If we go in a new direction that gives us a government that creates less debt, an economy that creates more stable middle-class jobs, an education system that trains our people for the jobs available now and in the future, strong families who teach the values of success, and a financially healthy Social Security and Medicare system for retirees—if we are responsible enough to courageously and boldly fight to do these things, we can save the American dream. We can restore it. Actually, we can expand it to reach more people than it has ever reached before.

Our first priority here should not be ramming through rules changes to get liberal judges appointed. Our first priority should be more stable middle-class jobs. That should be our first priority. Stable middle-class jobs are the cornerstone of the American dream.

Let me break it to everybody here in Washington: Politicians don't create jobs. Politicians don't create these stable middle-class jobs. These stable middle-class jobs are created by everyday people when they start a business or grow an existing one. That, my friends, is the reason the American free enterprise system is the single greatest engine of prosperity the world has ever known. The key to our success as a country has always been a thriving free enterprise system, not a thriving bigger government.

What we need from our government are policies that foster a free enterprise system, that provide opportunities for everyone who is willing to work hard, and a government that stops spending money it doesn't have. We have to bring our $17 trillion debt under control.

We need to address our broken Tax Code. We need one that creates more taxpayers, not more taxes. The current one we have is a major obstacle to the American dream. Why? Because our current Tax Code is expensive and complicated. Our current Tax Code is rigged. It is rigged to help those who are politically connected. It is rigged to help them at the expense of everybody else.

We need to reform the runaway regulations we have. They are destroying job creation. By the way, they too favor the well connected. They too favor the people who can afford to hire lobbyists to help write these rules and lawyers to help write the loopholes.

We need government policies that remove unreasonable restrictions on energy exploration here in this country so we can be freed from our dependence on foreign oil and create more jobs in the energy sector but also in manufacturing.

As I mentioned earlier, we need to get the cost of health care under control but not through the big-government solutions, such as ObamaCare, that were rammed down the throat of the American people but by encouraging the development of an individual health insurance market that gives people more choices, not more mandates.

The middle-class jobs of today and in the future will require more education and skills than ever before. That is why one of the most important investments of our time and our resources that we can make—instead of wasting time on all of these distractions on changing the Senate rules to force through radical judges like the one being proposed here tonight—is in a quality and affordable education system that gives our people the unique skills they will need to succeed in a new global economy. To do that we need to take the power out of the hands of Washington, DC, and give it to the State and local school boards so they can undertake innovative reforms.

We need to pursue policies that expand access and interest in science, technology, engineering, and math because that is what the jobs of the future are going to be based on.

As mentioned a moment ago, we need to get the cost of college under control. I know. I graduated with over $100,000 in student loans. We need to give working Americans trapped in low-paying jobs access to college or a career education that is affordable and flexible so it meets within their busy lives. If you are a working parent—particularly a single parent who is working—you can't just quit your job and move to the nearest college town to go to school for 4 years. We have to create programs. We have to reform our existing programs so they are accessible and affordable for people who are in this position. It will give a receptionist at a law firm the ability to become a paralegal. It will give a mail clerk at a medical office the ability to become an ultrasound technician. We have to meet this issue. There is an extraordinary need.

By the way, we have to give all of our students more access to career and vocational education. You can still make a good middle-class living as an airplane mechanic or as an electrician. Why have we stigmatized these? Why have we told children in this country that if they go into these fields, they are not successful? These are good, stable, and necessary middle-class jobs. You know what happens when a kid wants to work with their hands but they are not learning it in high school. They drop out. We have to address that—not just at the Federal level but across the country.

In addition to a good education, the American dream was built on a set of

fundamental values such as hard work, discipline, honesty, and self-control. Teaching these values is the responsibility of our families. Government can't impose these values, and, quite frankly, it can't teach them. Government policies should encourage and reward them.

I think we should empower parents by giving them the ability to send their kids to any school they choose. There is no reason why a parent should not be able to put their kids in the best possible educational setting just because they are poor. There is no reason why we should force people to send their kids to failing schools just because that happens to be the school right down the street. That is not fair. If you are rich, you can send your kids to any school you want. You know what. They do. Do you know who can't do that? The people who can't afford to pay for that. That is wrong, and we should change it.

We should strengthen our charities and our churches, which make an extraordinary contribution in helping the less fortunate and reinforcing values that are so important to success. We should reinforce them by making important changes to our Tax Code that will encourage and reward Americans for donating more.

We need to have safety net programs. The free enterprise system doesn't work without a solid safety net. It needs to be a safety net that helps people who cannot help themselves or to help people who have fallen to get back up and try again. We don't need a safety net that is a way of life.

We need to reform our existing safety net programs—welfare, unemployment insurance, disability, and Medicaid. They should all be reformed so that in addition to providing for those who are in need, these programs should also be promoting work and education and self-reliance.

Last but not least, I think the American dream means the ability to retire with stability and security. That is why having a financially healthy Social Security and Medicare system is so important. We can bicker around here all we want about how many votes it takes to get a judge in or who is obstructing what. Here is a fundamental fact: Social Security is going to run out of money in 20 years, which happens to be right around the time I will be getting close to being eligible for it. Medicare is going to run out of money in as few as 8 years.

The good news is that if we act and start to take steps to address that now, we can fix these programs, and we can fix them without disrupting the lives of people who are on those programs now—like my mother. I would never support any changes to these programs that would hurt people like my mother, who is on Social Security and Medicare. We can fix it, but to fix it, people like me—decades from retirement—are going to have to accept that while our Medicare and Social Security will be the best in the world, it is going to be different than it was for our parents, but it is going to exist.

By the way, beyond this, we should do some other things. We should make it easier, through changes in our taxes, for people to work beyond their retirement years. We should expand access to tax-advantage savings accounts for those who don't have access to a 401(k). We should incentivize people to save for their retirement.

I think what has bothered me the most in the 3 years I have been here is the lack of urgency about any of this. People talk about it. They propose laws called good things that maybe they polled and it sounded good. But in terms of moving on any of these things I just talked about, there is not a lot of urgency about it. We need to have more urgency about it. We need to stop wasting time around here changing the rules of the Senate to get a couple more of the President's radical appointments to the bench confirmed and spend a little bit more time figuring this out.

For most of the history of the world, almost everyone who was born was poor, without power, and without wealth. That only belonged to a select few. For most of the history of the world, your future was determined by your past. If your parents were poor, you would be poor too. If a person was born without opportunities, so were their children. What makes our country special is that hasn't been true here. What makes America special is we are a people not united by a common race or a common ethnicity; we are a people united by a common value: The idea that everyone has the God-given right to achieve a better life without being held back by the government or by one's social standing.

Right now, I work here. Washington is broken. It was broken when I got here and it still is. It is a process that is unable to function. With all due respect, it is a process that is plagued with people—in both parties, by the way—who are more interested in being someone than in doing something. I am telling my colleagues that if we continue on this road we are on right now, if we continue on the road we have placed this country on, we are going to lose the things that make America special. That is what we should be focused on, because there is another direction we can take. If we can find the political courage to boldly and responsibly confront and solve the challenges before us, we can restore the American dream. Actually, we can expand it to reach more people than it ever has before.

Every generation of Americans before us has had to do this. Every generation before us has been asked to do something to keep America special. Each has been asked to make sacrifices and take bold steps to preserve what makes us exceptional, and now it is our turn.

I remember a few years ago, there was a moment that reminded me of what is truly at stake here. I have shared this story many times. I was about to give a speech in a hotel ballroom. I think it was in New York City. There was a bartender there who had heard me speak before about my father, who was also a bartender, and he approached me with a gift. The gift he gave me was a name tag that said ''Rubio, banquet bartender,'' a name tag the same as they give in hotels. At that moment, I was reminded of how this country literally changed my family's very life. Not so long ago, it was my father who stood behind a bar, just like the one that gentleman stood behind, in order to give me the chance to earn a better life, and America made that possible. It was never easy. Both of my parents worked well into their retirement years.

I remember when I was in high school, well past midnight, on many nights, I would hear my father's keys jingling at the door as he came home from another long day of work. When we are young, the meaning of moments such as that escapes us. But now, as I get older and my children get older, I think I understand that moment a little bit better. Like the man who gave me that name tag that night in New York, my father was coming back from more than just another day at work; he was coming back from a day of fighting, so that the doors that had closed for him would be open for me.

This is still one of the few places on Earth where a person can do that. That is what makes us special.

Before us is the question of whether this generation of leadership is up to the task of keeping this country that way. I don't personally have any doubt that we are up to the task. Despite our many differences, I believe our people are much more united than our politics would lead one to believe.

Every single one of us, every single American is the descendant of a go-getter, of an immigrant or of a slave or of someone who overcame extraordinary odds to stake their claim in this American dream. Every single one of us comes from someone who refused to accept the life they lived and always desired to have something better for themselves and for their families. Every single one of us is a descendant of someone who insisted that their future must always be better than their past.

This is who we are as a people. This is who we come from. I believe that is still who we are. All we need now are leaders that reflect that in their policies and in their priorities.

So I still have more faith in this country than perhaps the political coverage might lead us to have because we are free people, and we are always going to vigorously debate the best way forward. Sometimes, because of the nature of our Republic, it takes us a little longer to get it right, but we always have. I believe we will again. In the end, there is no such thing as the Republican dream or the Democrat

dream, there is only an American dream. Despite all the challenges this country faces and despite some of the skirmishes on the floor of the Senate—at times unnecessary, such as this debate with the judges and the rule change—despite all of that, I know for a fundamental fact that the American people are not willing or prepared to give up on this American dream.

That requires us to act. That requires us to stop wasting time around here and to focus on the issues. We have this golden opportunity to restore this American dream and to bring it within reach of more people than ever before. We have an opportunity before us to claim our heritage as a people who always leave behind a Nation better than the one that was left for them. We have a chance to usher in a new American century and to write the latest chapter in the story of the single greatest Nation that man has ever known. So I hope as we conclude these debates on issues such as this, we will somehow find a way to begin to work together on what really matters, on matters of importance, on what impacts Americans now and those yet to come.

That leads me to one final point. I see my colleague from Wisconsin is on the floor, as well as others who wish to speak. I will close with one more point, one more issue I think we are being distracted from because of the silliness of breaking the rules to change the rules so we can impose on the American people out-of-the-mainstream judges and cabinet appointments that are less than qualified, and that is the issue of American leadership in the world. Look around the world today. Look at the impact of uncertainty about our foreign policy and what effect it is having across the planet.

I am going to be honest and straightforward about this issue especially: This is an issue for both parties to reflect on for a moment. We all understand why we are wary—and we should be—of international engagement. We have gone through a decade of two conflicts in the Middle East. We turn on the television and we see people we have spent money and sacrificed lives on behalf of burning our flag and celebrating our tragedies, and we wonder, Why are we involved in the world. Why are we engaged in these places? But I hope everybody understands that in the absence of American leadership a vacuum is created, and that vacuum leads to chaos, and chaos ultimately impacts our national security and our economic well-being.

Take a brief tour around the world with me for a moment and my colleagues will see what I am talking about. Turn on the news and see what is happening in Ukraine where a country is being increasingly intimidated into going back into basically what looks like an effort to reconstitute the former Soviet Union, being torn between that and choosing modernization in the West with the European Union. There are people in the streets protesting against that and riot police going in there to force them out.

Look at the Middle East, where Iran proceeds full speed ahead with weaponizing, towards creating a nuclear weapon and the impact that would have—and not just on arming the one country in the world that most uses terrorism as a tool of statecraft. We had testimony today from the administration. No country in the world uses terrorism more than Iran does, and they are going to get a nuclear weapon. It won't just be Iran getting a nuclear weapon. If Iran gets a weapon, so will Saudi Arabia and potentially Turkey. Look at what is happening in Asia. The Chinese have announced that a certain area belongs to them and their airspace, that others have to get permission from them and notify them before anyone flies through there. South Korea and Japan and others, they are starting to wonder whether America will live up to its commitments to provide for their defense and to assist them or maybe they need to strike out on their own and provide their own defense capabilities.

Look at the opportunities in the Western Hemisphere we have abandoned because we have taken our focus elsewhere. I could go on and on.

Are we a strong enough voice on behalf of religious liberties? Meanwhile, religious minorities around the world are being oppressed in unprecedented ways. In particular, Christians in the Middle East are facing persecution that is reminiscent of the early days of the church.

How about human rights? How about human trafficking and modern day slavery? All of these things require American leadership.

We can't solve every problem. Foreign aid isn't charity. It needs to further our national interests and the funds need to be accountably spent. But this is something we should be more focused on and we are not. Why? Because we continue to get involved in these sorts of skirmishes here and, in particular, undermining the ability of this body to function by changing the rules by breaking them.

So I hope this will serve as an opportunity to reevaluate all of this, because the challenges before our country are real and the consequences of not acting appropriately are dramatic. I hope we will take this seriously, because we still have time to get this right, but we do not have forever.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

Mr. WHITEHOUSE. Mr. President, this is the 52nd consecutive week we are in session that I have come to the floor to ask us to please, for Lord's sake, wake up to the damage carbon pollution is already doing to our atmosphere, oceans, and climate, and to look ahead, to use our God-given sense, and to plan for what is so obviously coming.

In those weeks, I have spoken about all different aspects of carbon pollution, its effect on sports and our economy; its effect on oceans and coasts; its effect on agriculture and wildfires; its effect on storms and insurance costs. I have spoken about the measurements we can already make of the harm already happening: Sea level rise, which we measure with a yardstick, basically; ocean temperature, which we measure with a thermometer; and ocean acidification—the fastest in 50 million years, according to research published in ''Nature Geoscience''—which we can measure with litmus tests.

I have, I hope, to anyone listening with their logic turned on, thoroughly rebutted the deniers' phony arguments against solving carbon pollution, whether those arguments purport to be based in science or religion or economics or our competitiveness.

I have listed the thoughtful and responsible groups—from the Joint Chiefs of Staff to the U.S. Conference of Catholic Bishops, from Walmart to NASA, from Ford and GM to Coke and Pepsi, from America's garden clubs to just last month our major sports leagues—who understand the truth about climate change and are saying so.

I have done my best to expose the calculated campaign of lies that we are up against and the vast scandalous apparatus of phony organizations and engineered messages that are designed to propagate those lies. I have traced the connections back to, of course, the big carbon polluters and their billionaire owners. I have been obliged to point out that the money of those big polluters and billionaires floods this Chamber, that their lobbyists prowl the outer halls, and that to a sad and disappointing degree this Congress is bought and paid for by that polluter influence.

One factor we have yet to consider is whether as an institution Congress has just become completely irresponsible. Maybe this Congress just cannot operate as an institution at an intelligent level. Some Congresses are going to be smarter and more responsible than others. That is just the natural order of variation. Some Congress is going to be the sorriest Congress ever. Maybe we are it.

Some organizations, like NASA, for instance, are very smart. That is why NASA is driving a rover around on the surface of Mars right now. That is a seriously smart organization.

Some organizations take ordinary people and call them to be their very best, to play at a level above their natural talents, to heed a higher calling than their selfish inclinations. At their best, our military and our churches tend to achieve that.

Some organizations, however, take even the most talented people and drag them down to the lowest common denominator, and stifle the best and bring out the worst in even those very talented people.

I ask people watching, which type of organization do you think Congress is right now? Which type do you think we are? As an organization, it is hard to say anything kinder of Congress than that it is now a really irresponsible organization. We could not even keep the U.S. Government running. Standard & Poor's estimated that our tea party shutdown foolishness cost Americans tens of billions of dollars for no gain—none. We cannot sort out the basics of building and maintaining our American infrastructure. Our own American Society of Civil Engineers gives our country a D-plus for infrastructure.

That is not complicated stuff. Yet we flub it like a football team that fumbles the ball at the snap.

Get a little more complicated and Congress seems to get even worse.

Let me show you just one health care chart. This chart I have in the Chamber shows the average life expectancy—in years—in a country compared to the cost per capita of health care in that country. Together, they make a pretty good proxy for how a country's health care system is doing. This group shown here on the chart represents most of the OECD member and partner countries—our industrialized international competitors.

This, shown here on the chart, is us—way out here, all alone, spending the most by far for results that are mediocre at best. We would save nearly $1 trillion a year if we could just get our per capita cost down to what Norway and Switzerland spend. They are the next two most expensive countries on the planet, and we are $1 trillion a year more laid out per capita. Think of what we could do as a nation, what we could build and invent with $1 trillion a year if we were not wasting it on bad health care. And bad it is. We get worse results in longevity than virtually any modern economy.

Look who beats us: Japan, Great Britain, Switzerland, Netherlands, Norway. Germany does, Italy does, Greece does, Luxembourg does. They all beat us. Chile and the Czech Republic are the two countries we beat for longevity.

Look at the size of that problem—those lives lost, those trillions of dollars wasted—and then look at the quality of the health care discussion we are having in Congress, and tell me this is not a completely irresponsible organization.

That brings us to climate change. Yes, it is complicated, when you are trying to predict and model something as complex as what our climate is going to do in the years ahead. But it is also simple, when you look at the stuff that everyone agrees on, the stuff that you can measure, the stuff that you would have to be a nut or a crank or an eccentric to dispute.

Nobody responsible—nobody responsible—disputes the principle that adding carbon dioxide to the atmosphere raises the temperature of the Earth, and that it does so through the so-called greenhouse effect. A scientist named John Tyndall figured that out at the time of the American Civil War. I brought his musty old paper in here several speeches ago. Its old leather binding was flaking and peeling. When that report was first published, Abraham Lincoln had just been elected President. In all the years since then, this principle of science has always been confirmed and validated. It is not some questionable theory. The greenhouse effect is real. It would not just be wrong, it would be irresponsible to deny that.

Nobody responsible disputes that for over a century our modern economy has run on fossil fuels and that burning those fossil fuels has released gigatons of carbon dioxide into the atmosphere. The Global Carbon Project estimates that mankind has pumped about 2,000 gigatons of carbon dioxide into the atmosphere since 1870. That is a pretty solid estimate, and I have never even heard anyone dispute it.

So we know those two things: adding carbon dioxide to the atmosphere traps more heat; and we have released an estimated 2,000 gigatons—2,000 billion tons—of carbon dioxide into the atmosphere.

Let's go on from there. It is a known principle of science that a significant portion of that multigigaton carbon load is absorbed by the oceans, and that the chemical reaction when that absorption happens into the oceans makes the oceans more acidic. No responsible person disputes either proposition. It is not some theory. It is something that you can actually do and measure in a lab. Again, it would not just be wrong, it would be really irresponsible to deny that.

We also know that the oceans do more than absorb carbon. They absorb heat. Indeed, they have absorbed most of the excess heat trapped by greenhouse gases—over 90 percent of the heat between 1971 and 2010, according to the recent IPCC report. What happens when the oceans absorb heat? They expand. Thermal expansion is a basic physical property of liquids. It can also be shown in a very simple lab. It is not a theory. Again, it would be not just wrong but irresponsible to deny that too.

It would not just be wrong, it would be irresponsible to deny what those simple measurements and clear principles tell us. But we do. We do. We deny it. Congress will not wake up and address this problem. Like those monkeys: See no carbon, hear no carbon, speak no carbon.

Because we are so irresponsible, because we deny this reality, we are failing to take precautions and, as a result, many people will suffer.

For those of us who love this country and are proud of it, and are proud of our government, and want this country and its government to be a beacon of hope and promise and rectitude, it hurts a little extra for the Congress to be such a failure. It hurts a little extra that we in our generation have driven Congress—the hub of our noble American experiment in democracy, the beating heart of this great Republic—down to that low level.

It is a harsh judgment that this body is an irresponsible failure. But on climate this Congress got it the old-fashioned way; it earned it.

I will close with a final observation. Compare the irresponsibility of this ''see no carbon, hear no carbon, speak no carbon'' Congress with the recent exhortation from Pope Francis. Here is what the Pope said. I will quote him at some length.

There are other weak and defenceless beings who are frequently at the mercy of economic interests or indiscriminate exploitation. I am speaking of creation as a whole. We human beings are not only the beneficiaries but also the stewards of other creatures. Thanks to our bodies, God has joined us so closely to the world around us that we can feel the desertification of the soil almost as a physical ailment, and the extinction of a species as a painful disfigurement. Let us not leave in our wake a swath of destruction and death which will affect our own lives and those of future generations.

The Pope continued:

Here I would make my own the touching and prophetic lament voiced some years ago by the bishops of the Philippines:

And he quotes them:

''An incredible variety of insects lived in the forest and were busy with all kinds of tasks. . . . Birds flew through the air, their bright plumes and varying calls adding color and song to the green of the forests. . . . God intended this land for us, his special creatures, but not so that we might destroy it and turn it into a wasteland. . . . After a single night's rain, look at the chocolate brown rivers in your locality and remember that they are carrying the life blood of the land into the sea. . . . How can fish swim in sewers like the . . . rivers which we have polluted? Who has turned the wonderworld of the seas into underwater cemeteries bereft of color and life?''

Small yet strong in the love of God, like Saint Francis of Assisi, all of us, as Christians, are called to watch over and protect the fragile world in which we live, and all its peoples.

What is our answer to the Pope, to this great Christian leader? In Congress, it is the monkey answer: Hear no carbon, see no carbon, speak no carbon.

We still have time to mitigate the worst effects of climate change.

We can actually do it in painless ways. We can even do it in advantageous ways, in ways that will boost our economy, but we have to do it. We have to wake up. We simply have to wake up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON of Wisconsin. Mr. President, I rise to address the nomination of Cornelia Pillard to the DC Circuit. This nomination is a good example of the government overreach that has led to the ObamaCare debacle.

The good Senator from Rhode Island was talking about how much we spend on health care in this Nation. The very unfortunate fact is the Patient Protection and Affordable Care Act does not address that cost.

Let's face it. The Patient Protection and Affordable Care Act is about as Orwellian a name as you could possibly come up with for a piece of legislation. We are watching millions of Americans lose their health care coverage. Those patients are not being protected by the Patient Protection and Affordable Care Act. We certainly are not watching the cost of health care decline.

The Patient Protection and Affordable Care Act did not bend the cost curve down. It has dramatically increased or bent the cost curve up. Of course, anybody who even has the slightest knowledge of basic economics realizes that if you mandate expensive coverages on any insurance policy, the price is not going to go down, the price is going to go up. We are witnessing that.

We are certainly witnessing that in my home State of Wisconsin, where a young man aged 27, on average, is seeing his premium increase by 124 percent, going from a little over $1,100 per year, to closer to $2,500 per year. A young woman of that same age, 27, is seeing her premium increase by 78 percent, going from about $1,400 per year to about $2,500 per year. That is not bending the cost curve down.

That is not even talking about the added or the increased cost of their deductibles, the increases in their maximum out-of-pocket amounts they are going to be spending every year. So again the Patient Protection and Affordable Care Act does nothing that it promises. It is a disaster for our health care system. It is a disaster for our Federal budget. It is a disaster for people and their health and their lives.

I am on the floor of the Senate tonight, normally not down here at this time. Normally, I would be sitting at home doing a little bit of homework. So I guess what I would like to do is spend a few minutes doing what I would be doing at home, reading letters from constituents from Wisconsin.

When I introduced my piece of legislation, trying to protect as many Americans as possible from the damage of the health care law, trying to honor the promise President Obama and Members of this Chamber made repeatedly to the American public that if you liked your health care plan, you could keep it, I told a story about a couple in Wisconsin who contacted our office. Initially, this couple wanted to be identified. They wanted their story told. By the time I had gotten ahold of them on the phone, to make sure they were actually getting some help in securing some health care, the husband had second thoughts. He watched his government. He watched the Internal Revenue Service being used as a political weapon. So he feared for his privacy. He feared for his economic security. So he asked me: Please do not use my name. Tell my story, just don't use my name.

That is a pretty sad fact. That is something we need to ponder. It is something we need to address. But that couple, their story is pretty simple and pretty sad. His wife was suffering from stage IV lung cancer. He was recovering from prostate cancer. They were participating in the high-risk pool in the State of Wisconsin, a risk-sharing pool that worked.

It was expensive for them, but it was something they could afford. I knew it worked because in my 31 years of business, as I provided health care for the people who worked with me, every now and again, unfortunately, one of the people who worked for me would have a serious health condition. When we would go to renew our policy, frequently those individuals, if the condition was bad enough, would be lasered out. They would lose coverage under our plan. But that was OK because the State of Wisconsin, very responsibly, made a provision for those individuals, the high-risk sharing pool.

So what would end up happening is because they were denied coverage, they automatically qualified for the high-risk pool. I, of course, would pay for that coverage in the same way we would pay for coverage through our own health plan. What I found over the years, because this happened a number of times, is the coverage was very comparable. It was not a Cadillac plan but solid insurance coverage. So similar coverage and very comparable price.

It was a plan that worked. It was a plan that covered those individuals with high risks. It was a plan that covered 22,000 Wisconsinites until this body, this Congress, passed the Patient Protection and Affordable Care Act, which I describe here as neither of those two things.

As a result of the passage of that bill, those high-risk pools are now obsolete. So this couple got the letter saying they would lose coverage as of January 1. Put yourself in the position of people suffering from cancer or recovering from it. You have a lot of worries in life. You do not need the additional worry of losing your health care plan. But that is what this couple faced, as millions of Americans are facing the exact same worry, the exact same harm, the exact same damage. It is unconscionable.

They obviously went onto healthcare.gov, almost 40 times when I talked to them. They were never able to successfully log onto it at that point in time. So we helped this couple get in touch with the insurance carriers that would be operating within the exchange. They started getting quotes. They quickly learned their premiums were going to double. Their out-of-pocket maximums were also going to come close to doubling as well. So the Patient Protection and Affordable Care Act did not protect these two individuals, and it certainly did not offer them affordable care.

As I went through letters from our constituents, we did make a few phone calls, knowing I was going to come down here, and asked if anybody would want to be identified. A few brave souls agreed to be identified. I will read their names as I read their letters. The first Wisconsinite, Michael Wagner, writes:

> I am self-employed and have a family of four. The President said we could keep our plan if we liked it and our doctors. Not true. We are being pushed off our plan for the exchange. He said the average family of four would save an average of $2,500. Not true. I think he just makes numbers up. My equivalent policy on the exchange will cost $7,500 more per year. That is almost a 100 percent increase.
>
> He said we can keep our doctors. Not true. Our current company and PPO network is not offered on the exchange. The list goes on and on. The bottom line is that this needs to be stopped. If it is not, the American people will stand up and the landscape of Senators will be unrecognizable after the next midterm election. Thank you for your time, and I hope you have the gall to stand up for your constituents.

Mr. Wagner, I definitely have the gall to stand up for my constituents. The reason I ran for the Senate was not because I wanted to be a Senator. The primary reason I ran for the Senate was to be the vote to repeal this monstrosity, to be the vote to protect Americans from the damage I full well knew this law would inflict on millions of our fellow citizens.

The next constituent who wrote to me, Darren Schauf, wrote:

> We are a small manufacturer in Sparta, Wisconsin, who has been in operation since the mid 1960s. We currently employ 24 people and are a family-owned business, fabricating large fiberglass statues and water slides that are shipped all over the U.S. and Canada. We have been providing our employees health insurance for 15 years, paying for 100 percent of the premium.

Pretty responsible employer. Those are the types of businesspeople I know. Those are the types of businesspeople who are very concerned about the people who work with them. Those are the types of businesspeople who this President demonizes in his class warfare. Let me go on:

> We have experienced the increases in health care cost over the years and weathered them fine. I received our renewal this week for next year. Because of the Affordable Care Act, our premium went from $3,887.77 per month to $7,103 per month. How does this happen? What definition of ''affordable'' is being used to describe this effect? We will not be able to pay 100 percent of our employee's premium at this rate. How can we get a plan that is at least close to the cost that we were paying last year?

Mr. Schauf, I know how you can get a plan close to what you were buying last year. If this body would take up my bill, If You Like Your Health Plan, You Can Keep It Act, that is a true grandfather clause that actually would honor that promise for millions of Americans. We cannot save the policies that have already been lost. We cannot repair all the damage already done by this health care law. But we can still help millions of Americans if we act, if we are responsible, if we care.

The next two constituents to write me are Brad and Dawn Nielsen. They write:

My wife and I just received a notice that our monthly health care insurance cost will increase by 184 percent, increase by $1,330 per month starting in January 2015, and you need to understand how cheated we feel with this and what you have done.

I am assuming he is referring to President Obama and Democratic Senators and Democratic Members of the House who voted for this monstrosity. Again, I ran to be the vote to repeal this law.

We are both retired and have been paying our health care insurance for the past 3 years. We have what would be considered a good policy that falls in line with what would be considered a gold package as it relates to the ACA guidelines. We will be able to keep this policy with our insurance carrier through 2014 with a 7½ percent increase in the monthly premium that is to cover the new—

He puts in quotes—

''the Affordable Care Act'' cost. Although we were not happy about the increase, we were told by our carrier that the monthly premiums will increase to $2,054.51 per month starting January 2015. This is not right. You as our representative need to understand what you have allowed to happen to us as well as others.

Again, Mr. and Mrs. Nielsen, I wish—I wish we would have prevented this.

I wish the Members of this body would hear your plea and do something to protect you, as the bill claims to do, to repair the damage.

We have worked hard, made sacrifices to be able to retire, saved through our company's retirement plan, invested when we could and even put both our kids through college. Now to be forced to pay an outrageous amount for something we have had for the last 3 years isn't right. This increase is a game changer for us and will dramatically affect our standard of living moving forward.

It is important that you understand what is happening and the need to change this unfair law.

I hope the President, I hope Members are listening.

The next constituent, Jeff Cubinski, writes:

I am sending you this email about the 2014 ACA. I just received my letter from Humana stating my insurance is going to increase nearly 300% from $550/month to $1559/month. I cannot afford this—how is this Affordable Care? I have carried insurance all my life being self-employed—what is this plan trying to put the self-employed out of business???? I want to keep my plan the way it is—why are we being forced to change to a plan that has benefits we DON'T need?? Please help us citizens that have been carrying health care. Please make Government for the people by the people again!

I wish to quickly answer that question. Why is this individual being forced to change to a plan that has benefits that he doesn't need? It is because there are people in Washington, in this alternate universe, who believe they are so smart, so clever, they know what is best for every American. They are so compassionate. They are trying to help.

They are not helping much. This law is not helping much. It is doing real harm.

President Obama and Senate, Members of the House, please listen to these constituent letters. Have a change of heart. Work with us to limit the damage before it gets greater.

Those were the individuals we contacted who were willing to be identified. The rest of the individuals were either not contacted in time or decided, as the couple, that they had seen their government be used as a weapon against other citizens and decided to remain anonymous.

The next Wisconsinite writes:

I am writing you to inform you that as of January 1st 2014 my family of six and I will no longer have health care. This will be the first time in my life or the life of my children that we will be in this position. The reason for this is the Affordable Health Care Act, laughable name. On that day my premiums through work will go from $250/month to well over $1000/month. In looking through the Market place, my family's premium would also be well in excess of $1000/month.

We are a typical middle class family, my wife and I both work full time, our combined income is in the $75,000 range. We are home owners with a mortgage, we drive 8 to 9 year old cars, our children go to public schools, we do not live an extravagant life style.

I have been struggling to figure what to cut to be able to afford this new health care system the government stuck us in. No matter what we cut it will not add up to $1000. The other option is to put our house on the market and try to find something else outside of Madison. That is not what we want to do. Our kids are in high school, one with special needs and we feel that would be unfair to them.

So do I.

Continuing:

Mr Johnson please explain to me how on earth is this affordable and fair.

I can't. It is not affordable; it is not fair; it is utterly unfair. It is utterly unnecessary, but it is a fact. It is one I hope everyone who supported this bill can live with. I hope it is a fact that everyone who voted in support for this bill thinks about and is held fully accountable.

Continuing:

I find this Affordable Care Act to be divisive, unfair and an unjust tax on the middle class.

I will not vote for anyone that supported this Act or continues to support this Act given the effect that it is having on my family. Sir, I am begging for your help. Please find a way to help my family and the rest of the Americans like us.

Did we hear that, an American citizen begging for help from the harm that the Affordable Care Act, the Patient Protection and Affordable Care Act, inflicted on his family. He is begging this Congress, this chamber, this President, for help. Please hear him.

Another constituent writes:

I'm feeling very upset and stressed over the new health care laws. I feel they are unfair and hurting working families. Our household income has shrunk and our health care cost is going up over $300 a month. According to healthcare.gov if insurance costs more than 9.5% of gross income it is considered unaffordable. When a single person applies only his/her income is taken into consideration. When a family applies total household income is used to figure out affordability of single-only coverage. Single only coverage for myself is about 8% of our family income; single only coverage for my husband is about the same. That means 16% of our income would be used for insurance (throughout employers) just for us. 16% of our income would be gone and our 4 children would be uninsured. Family coverage costs 12% of our family income still higher than 9.5%. Where is our tax credit? We don't qualify for tax credits because we have ''affordable insurance through our employers.'' If total household income is used why isn't family coverage affordability taken into consideration. Last year my family made about $55,000 (174% of the poverty level.) Next year we will make less due to reduced hours. Money is already tight, this new law will make things very uncomfortable for my family. I am turning to my representatives for help. Please help families in the same situation to the best of your ability; we need your help! This law is hurting us; be our voice.

Another Wisconsinite writes:

I just called Physician's Plus to find out about the status of our Health Insurance policy. Our policy will not be renewed due to the Affordable Care Act.

It seems these constituents decided to drop the patient protection because he obviously wasn't feeling particularly protected.

Continuing:

My husband and I are freelancers in the video production field. My husband works so hard to support and take care of me and our two children. We are not rich, by any means, just taking care of business. We have paid 100% of our premiums for 15 years. We have bought coverage that makes sense for our family at different times. Currently, we pay $513.60/month with a $3000 deductible. When I called Physician's Plus yesterday, the person there said that my plan cannot be renewed. He said the new premium for a comparable plan will be $1743.00!!!

Again, that compares to $513 and it will be $1,743.

Continuing:

We cannot afford this in any way. I guess we are the collateral damage?

I have tried to get on the ACA to find out our options. I refuse to give them personal information so I can only go by the Kaiser Foundation estimate. There is only one plan that will keep our Pediatrician and it looks like we will be looking at a $12,000 deductible with close to a $1000/month premium. We are on the high end, so get a very minimal subsidy. We do not want to get any help from the government, we want to be independent, but the government is forcing their hand on us!

Again, we live in the land of the free, the home of the brave, and yet these brave Wisconsinites are being forced. They are being coerced. This is the antithesis of freedom of choice.

Continuing:

Please understand we want people to have health care, but why are they destroying us in the process? I am in the process of scrambling to find a job that provides insurance. I was offered a Educational Assistant job that has been changed to 29 hours, no health insurance.

I wonder what caused that change in employment.

Continuing:

Most opportunities I am finding have recently dropped insurance coverage has a benefit.

We are scared about the future.

This is what the Affordable Care Act has done. That is what the patient protection and Affordable Care Act has done to Americans, to Wisconsinites. It has made them fearful. They are afraid, they are scared for their futures. Good job, Congress. Good job, President Obama. My, aren't we a compassionate lot. Didn't we do a fine job. Aren't we smart.

The next Wisconsinite writes:

I'm extremely unhappy with the so called ''Affordable Care Act.'' Unfortunately, for my middle class family, the new law is creating un-affordable health insurance. I am a 35 year old project management consultant and my wife and I have 2 children. We currently purchase health insurance on the individual market and are very happy with our coverage. We currently pay $352 per month to cover our family of 4. The plan offers a copay of $35 when going to the doctor, and has a $7,500 deductible for our family.

I have begun researching what our health insurance premiums will cost going forward under ObamaCare and I am outraged with what I've found. The cheapest policy I can find is $761.71—

Let me refer back to the fact that they are paying $352, so that is more than a 100-percent increase.

Continuing:

—$761.71 per month for a Bronze plan and a $12,600 deductible!

Again, that compares to the $7,500 deductible under the plan that they are ''happy with.''

This is 116 percent more than what we currently pay, with a higher deductible. If I look at a comparable plan to what we have now, the new cost will be around $900 per month, which is a 156 percent increase. Also, our income is slightly above the threshold to get any subsidies.

The new regulations in ObamaCare will not benefit our family, but they will more than double our cost. We need to repeal this terrible law and replace it with simple, market based incentives. Health insurance should be more like car insurance. You don't submit a claim to get your oil changed in your car. Same goes for health care. We should pay out of pocket for routine health care using a transparent price structure that allows consumers to shop for the care they want. Then have a cheap insurance policy for major illness coverage. Republicans need to communicate this alternative, and make it simple for people to understand.

I could not agree with this individual more. He continues:

I realize repeal and replace is not possible until after the 2016 elections, but I appreciate and support wholeheartedly your new ''If You Like Your Health Plan, You Can Keep It Act.'' For the millions of people out there like me, we should be able to keep our current plan indefinitely. Hold the President to his promise and pass this law to grandfather in all existing policies.

Let me just stop a minute and talk a little about the bill I did introduce—If You Like Your Health Plan, You Can Keep It Act. It is a pretty simple act. I encourage my colleagues to cosponsor it and pass it as soon as possible. I wrote it a certain way. I wrote it using the exact same grandfather language that was in ObamaCare. The problem with the grandfather language within the Patient Protection and Affordable Care Act is that, yes, it grandfathered plans, as long as you totally changed them. We took the grandfather language and we just pulled out the you just have to totally change your plan. We made it a true grandfather provision: the same language, the true intent, the honest intent.

So I urge my Democratic colleagues to support that bill. Again, let me emphasize we cannot at this late hour, unfortunately, salvage most of these plans that have already been lost to the individuals whose emails I am reading from tonight. But there are millions of Americans who will lose their coverage in the future.

Let me tell you how it is going to happen. I bought health care for the people who worked for me for 31 years in my business. I always was going to do that. There was no way I was ever going to subject the people who worked with me to the financial ruin of not having a health care plan.

That being said, as the previous writer was saying, I didn't pay for their auto insurance, I didn't pay for their homeowners or property insurance. I always kind of wondered: Why am I having to make these very personal decisions for the people who work with me? Why am I having to decide on their levels of deductible and having to decide is it a PPO or an HMO? I know the reason why. It was government interference in the marketplace back in the 1940s, with wage price controls.

Unions very naturally said: You can't raise our wages, give us some other benefit tax free, and that began the destruction of our health care system in terms of patient involvement, in terms of a competitive marketplace. Back then, 68 cents of every health care dollar was actually paid by the patient. There was free-market competition to ensure cost restraint, to ensure high-quality and high levels of customer service. That is what the free market does. Today, only 12 cents of every $1 is paid by the patient.

But getting back to the millions who are going to be losing their employer-sponsored care, most employers care deeply about the people who work with them. They also would not expose the people who work with them to financial risk. But under the Patient Protection and Affordable Care Act, the decision is totally different now. Now an employer is going to be facing double-digit premium increases when these plans they were able to quickly renew before January 1 come due in 2014.

If the exchanges, as they should have been from day one, start operating properly, employers are going to be faced with a decision: Should I pay $15,000 per family for family coverage? By the way, that is up $2,500 per year, not down $2,500 per year as President Obama promised us. Do I pay $15,000 per family coverage and try to comply with the 20,000-plus pages of law and rules and regulation or do I pay the $2,000 or $3,000 fine, and I am not putting my employees at financial risk? I am potentially making them eligible for subsidies in the exchange.

That is the decision employers are going to be facing. Here is the kicker. Even those who are saying: I am not going to do that; I am going to keep providing that coverage, just wait until the first competitor drops coverage and pays the $2,000 fine rather than a $15,000 fine. Marketplace competition is brutal. It is not fun. It is why businesses that succeed should be celebrated, not demonized. But that is a decision to be made by millions of employers. As a result, tens of millions of additional Americans will lose the health care coverage they get through their employers using pretax dollars and get forced into the exchanges.

Maybe some will get subsidies paid for by the American taxpayer—actually, paid for by a debt burden placed on the backs of our children and grandchildren because we can't afford the Affordable Care Act. That is what is going to happen. That is what this Chamber, this Congress, this President needs to consider.

That is why I am asking my colleagues in the Senate to join with me to pass the If You Like Your Health Plan, You Can Keep It Act—so we can protect millions of Americans, so we can honor that promise that was made repeatedly by this President and Members of this Chamber who voted for and supported this bill. Accept responsibility, be held accountable, act responsibly, and join me in that effort to protect Americans.

Another Wisconsinite writes:

Please allow me to introduce myself and my family. We are an average, middle class Wisconsin family that is having a really bad year. My husband was diagnosed with cancer in May, I lost my job and our family health insurance in June. Because of preexisting conditions, our only insurance option was the high insurance risk sharing pool.

Again, that is the plan in Wisconsin I certainly found worked for real Americans. It worked. It will now be obsolete because of the health care law.

This individual continues:

For our family of three (myself, husband and college student daughter) our monthly premiums are $783 per month, with a $7,500 individual deductible. With the high insurance risk sharing pool ending December 31, 2013, I am searching for insurance, as I have yet to find employment. I have tried over 20 times to get on the affordable health care Web site with no luck. I have been able to set up a log in and user name, and have entered some information, which is never saved when I have to log out due to a ''please wait'' message that never goes away. I am working with an insurance agent to secure quotes outside of the government Web site, as I am sure we are way too middle class to be afforded any type of subsidy. Although I am unable to determine this through the defective Web site. Our cheapest quote is $1,580 per month—

Again, that compares to $783 per month. Again, basically a 100-percent increase.

—with a $12,500 deductible.

Her previous deductible was $7,500.

Therefore, the Affordable Care Act would cost my family over $9,500 more per year in premiums and our total deductibles to meet

will increase to $37,500 from $22,500 for the family. The total effect is $24,500 additionally in 2014. Are we seriously supposed to be able to absorb this into our budget? What does our family do in this situation? We simply cannot afford $1,580 per month for insurance or $24,500 per year. What are our options? My husband will undergo chemotherapy and has a surgery scheduled for 2014. I am feverishly—

Do you hear that word—''feverishly'' —looking for employment with health insurance coverage. I am sure we are not the only family adversely affected by the law. Please provide answers for all of us. I look forward to hearing from you.

Again, my plea is to please provide true protection. Please provide security. Please accept the responsibility of what this law, what your support for this law did and is doing to millions of Wisconsinites, to millions of Americans. It is simply immoral what this law is doing to people, to their lives.

It is not going to be pretty what this law is going to do to our health care system. It will lower quality and it will produce rationing because the only way the government can afford to provide all of this access is actually by limiting access. Of course, we are already seeing a very limited number of doctors who are actually accepting these contracts from the networks that are provided in the exchange, primarily because of all of the mandated coverages that are dramatically increasing the price of health care, as I have demonstrated this evening in these emails and these letters we are receiving from real people, from people who are suffering because of the Patient Protection and Affordable Care Act.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHATZ). The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I rise to speak on the topic of the nomination of Cornelia Pillard to the DC Circuit.

Before I go to that specific topic, I wish to address a broader topic, which is how we got in these circumstances in the first place and why we are here tonight, why we are having this discussion, and how this nuclear option, as it has been described, has come about.

Most immediately was November 21, 2013, just a few weeks ago, when the majority party in the Senate unilaterally decided to break the rules of the Senate, violate the rules and rewrite the rules themselves. Despite the fact the rules clearly say it takes a two-thirds majority of the Senate to do that, they decided to disregard that and change the rules themselves. So they did that on November 21, 2013.

What they specifically did, the specific rule change they imposed unilaterally on the Senate, was to completely eliminate the opportunity for the minority party to have any ability to be a check or a balance to the process of selecting and confirming the nominees of a given President to the judiciary of the United States of America, the Federal judiciary, or to the executive branch.

It is a little bit sweeping, but that is exactly what has been done. This is contrary to the entire history of the Republic, where this has never been done before, and it applies to lifetime appointees. Of course, Federal judges, as we all know, once they are confirmed, they hold that office until they decide they are done—at whatever age that might be. It is a lifetime appointment. Unless they commit an impeachable offense, there is nothing anybody can do about it.

One of the things that is interesting about this decision by our Democratic colleagues is they decided to eliminate the rights the minority party has had in the Senate for centuries. They decided to do that despite the fact that 20 of them warned vehemently against engaging in this very activity just a few years ago. As a matter of fact, none other than the Senate majority leader who personally led this effort, Senator REID, said in 2009:

The right to extend the debate is never more important than when one party controls the Congress and the White House. In these cases, a filibuster serves as a check on power and preserves our limited government.

In 2009 the senior Senator from New York said:

The checks and balances which have been at the core of this Republic will be evaporated by the nuclear option. The checks and balances say that if you get 51 percent of the vote, you don't get your way 100 percent of the time.

That is what our friends, the leadership of the majority party, the Democratic party, said very recently.

So you have to ask yourself, why would they do a complete reversal? Why would they do a 180-degree switch? Why would they go from a position of absolute vehement opposition to the nuclear option that denies the minority party any say whatsoever in the confirmation of Federal nominees—why would they go from that to where they were just a couple weeks ago when they executed their plan and unilaterally broke the rules so they could change the rules to inflict that very policy on the current minority party, the Republican Party?

We can look at what the majority leader said at the time. One of the things he said on November 21, 2013, the day on which the majority leader made this change:

There has been unbelievable, unprecedented obstruction. For the first time in the history of our Republic, Republicans have routinely used the filibuster to prevent President Obama from appointing his executive team or confirming judges.

That is what Senator REID has asserted as his justification for this unilateral, unprecedented deprivation of minority party rights. In fact, just this evening Senator REID was back on the Senate floor, and he used the word ''obstructionism'' about a dozen times. So I think it is worth considering what has actually happened. What does the record show? Let's go back to March 2011 because that is an interesting moment in this discussion about how and whether and when and under what circumstances to confirm nominees.

In March 2011, Republicans decided that, you know what, it probably would be a good idea for the President—President Obama at this time, obviously—to be able to get a very large number of nominees appointed and confirmed without even having to go through the Senate process. The legislation is called the Presidential Appointment Efficiency and Streamlining Act of 2011. Under this act, thousands of appointees from the executive branch were simply no longer subject to Senate confirmation.

So what Republicans did in March 2011—far from obstructing anything—was to say: Mr. President, here is a huge category of Federal nominees, and we won't even require a vote. We won't even require Senate consideration. You get these, all of them. You nominate them, they are done, period.

Does that sound like obstruction? Not to me. It was passed by a Republican-controlled House, supported by Republicans in the Senate, and signed into law.

So today the law of the land, as a result of Republican cooperation, is that this President enjoys a luxury no previous President has had—this huge category of nominees who are solely, exclusively at his discretion. It doesn't matter if a single Senator or every Senator strongly objects. It doesn't matter. It is totally irrelevant.

So I think we ought to consider that legislation in the context of this discussion. But let's take a look at those nominees who remain subject to and who prior to this legislation have been subject to Senate confirmation.

One category is Federal judges. We have many district courts around the country. So far, the President has nominated 174 candidates to Federal district courts around the country. Of the 174 the President has nominated, I wonder if you could guess how many have been confirmed. I will tell you how many have been confirmed—174. There have been 174 confirmed and zero rejected. At the circuit court level, prior to the recent episode, the President had nominated 41 candidates to the circuit court. Of the 41, 39 had been confirmed. So the total of judicial nominees President Obama has sent to us in the Senate is 217, and 215 have been confirmed and 2 have been objected to. By my math, that is something like 1 percent objected to, 99 percent confirmed. This doesn't strike me as unreasonable obstruction.

But judges aren't the whole story. There are also the nonjudicial nominees, and we ought to consider those as well. So far, at least as of when we compiled this data, the President has nominated 1,488 individuals to various Federal spots throughout the executive branch—the agencies, his departments, and so on. Of the 1,488, 1,486 have been confirmed and 2 have been blocked by Republicans. That would include 100 percent of the President's Cabinet

nominees and 100 percent of virtually every other category but not every last one. If we add those together, the total of the President's nominees, both judicial and nonjudicial, 1,707 confirmed, 4 rejected. So that works out to something like the Senate has confirmed with Republican support—because prior to the rule change, it couldn't happen without Republican support—the Senate has confirmed 99.9 percent of President Obama's nominees to judgeships and to nonjudgeships. You have to ask yourself, could that possibly constitute outrageous obstruction, unprecedented obstruction, as Senator REID has said, preventing President Obama from appointing his executive team or confirming judges? How can this possibly be?

The majority leader came down to the Senate floor on the date on which he decided to unilaterally change the rules by breaking the rules and he cited as an example the outrageous case of Chuck Hagel, who had served in this body. Chuck Hagel. Whatever became of Chuck Hagel? Oh, that is right, he was confirmed to be Secretary of Defense, as has virtually every single other nominee the President has proposed.

The leader seemed to think it was completely unreasonable that Republican Senators would demand some information from former-Senator Hagel along the way. It seems to me the fact that he is a former Senator should not change his obligation to provide the information the Senate requests, and when he provided that information, he was confirmed easily.

So it seems pretty clear to me, it seems pretty indisputable that this really never was about obstructionism. A 99.9-percent confirmation rate? It just can't be about obstruction. It is clearly not.

So we have to ask ourselves, if it is not the case that Republicans have been obstructing the President's team—and it is clearly not—then why did the majority in this body decide to unilaterally change the rules and deny the minority the opportunity to have any say whatsoever on the confirmation process? Fortunately, some of our colleagues on the other side have explained this for us. They have told us why they made this change. But let me put it in a little bit of context.

We are in a situation here where we have a divided government. It is true that the American people elected President Obama to a second term, and elections have consequences. But on the very same day, the American people reelected Republicans to be the majority party in the House. And all elections have consequences, not just Presidential elections.

So the reality is that the very liberal agenda President Obama would like to pursue is very difficult. He can't get most of the liberal things he wants to do, whether it is some kind of cap and trade or card check or his war on coal. This is well outside of the mainstream of where the American public is, and it is not where the consensus is in the House of Representatives. So his legislative agenda isn't going anywhere in the House. The administration understands that very well, the President understands that very well, and so do the members of the majority party here in the Senate.

What do you do if you have an agenda that is out of step with the American people and can't pass in a duly-elected House of Representatives? Well, some people think the thing to do is do an end run around the legislative body, bypass the legislation, and use an undemocratic—I would argue unconstitutional—process and have unelected, unaccountable bureaucrats impose by fiat and through regulation that which you cannot achieve through legislation.

Of course, that is completely inconsistent with our Constitution, with the way our Federal Government is intended to operate, and with the principle of the separation of powers. It would require pursuing an agenda that is out of step with the American people and without the consent of Congress, which, of course, is supposed to be a partner with any executive branch, with any President in pursuing any agenda.

Of course, our Founders foresaw the danger of an Executive who would try this sort of thing and would do an end run around the legislature and try to use the enormous power at the disposal of the Executive, who has massive staff and huge agencies and all kinds of resources, and understood that it is quite possible that you could have an Executive who would try, for instance, selective enforcement of laws, maybe unilateral suspension of laws, as we have seen this administration do, writing rules and regulations that are inconsistent with the laws. These are all behaviors we could anticipate.

Our Founders did. They did. They anticipated this could happen. So what they did is they built a system that would have some checks and balances, that would provide some limitations. Among the other ways they did it—there were many ways this was done, but one of them was the separation of powers and specifically the creation of a judiciary which would be a referee on whether, for instance, a given agency, a given regulator, was in fact complying with the laws or whether they had gone rogue, whether they had gone overboard, whether they were overreaching, whether they were pursuing some agenda for which they did not have authority.

These courts play an absolutely vital and I would say completely indispensable role in giving individual Americans their last hope in seeking to preserve their liberty against an unfair, arbitrary, and even unconstitutional executive overreach. That is what the courts do.

As it happens, there is one particular court that plays a disproportionate role in this process of adjudicating and officiating over Federal regulations. It just so happens that by virtue of its location, a big majority of cases in which an American citizen challenges a regulation because that citizen believes this is a regulation that is unfair, unconstitutional, illegal or otherwise not consistent with our laws—the venue where this ends up finally getting adjudicated is very often the DC Circuit Court of Appeals.

This has become a bit of a problem for the administration and some of our friends in the Senate because the DC Circuit Court of Appeals has become a bit of an obstacle to some of the ambitions they would like to impose. One example, for instance, is last year the DC Circuit Court of Appeals struck down for the second time in 4 years the EPA's regulations on cross-State air pollution. This is a complicated story. We do not have to get into all the details but, bottom line, these are regulations that would among other things have a devastating impact on States such as Pennsylvania that have a big coal industry and that have a big utility industry that uses coal to fire generators. The court found that the EPA had gone beyond its legal authority. The statute clearly says what the EPA may do and may not do. They were going beyond what they are permitted to do and the DC Circuit Court of Appeals said so.

That is not the only case in which the DC Circuit Court of Appeals has ruled in ways that are problematic to some of our friends here. Another was a decision they made regarding recess appointments. You may remember this. A while back, the President made a very extraordinary decision. The President decided for the first time in the history of the Republic that it was up to him to determine when the Senate was in recess and when it was not; that was his unilateral decision to make. No other President ever took it upon himself to decide it was his power to determine when a different branch of government was in recess, but this President did. He said that is his decision. So I guess by his logic he could decide when we are out on lunch, that is a recess; out on the weekend, that is a recess; that is up to him by his standard. So he created an opportunity for himself to make appointments that he knew would not be confirmed in the Senate or were unlikely to be confirmed.

There was bipartisan, in some cases, concern about some of these folks. He went ahead and made the appointments. The DC Circuit Court of Appeals said actually, no, the Constitution is pretty clear. You do not have that authority.

These are just a couple of examples where a nonpartisan, completely competent, and very highly respected appellate court made decisions about Executive behavior. This has not sat so well with some of our colleagues.

Why do I bring this all up? Because this is what this is truly all about. This

is not about Republican obstructionism. What this is about is our Democratic friends want to pursue a very liberal agenda. They cannot do it through legislation so they intend to do it through regulation. As they overreach and go beyond the legal authority, which they have already done and intend to continue to do, the victims, American citizens who are victims of this overreach, are going to challenge these rules and regulations in court. When they do, they are going to end up in the DC Circuit Court of Appeals.

Some of our friends want to do whatever it takes to make sure they can win those decisions. Those are not just my words. The senior Senator from New York complained about the DC Circuit. He was on record claiming the DC Circuit ''overturned the EPA's ability to regulate existing coal plants.''

OK. He further went on to say, ''The SEC cannot pass rulings unless they do what is called a cost-benefit analysis.'' That was another complaint the senior Senator from New York made about the DC Circuit.

So he told a group of supporters that in order to reverse this, Democrats will ''fill up the DC Circuit one way or another.''

I think this is about as clear as it could be. There are people who do not like the decisions coming out of the court and so their intention is to pack the court with people who share their political views and will therefore sustain decisions about the advancement of their liberal agenda.

But it was not only the senior Senator from New York who made these comments. The majority leader himself explained this as well. Referring to the DC Circuit Court he said:

> They're the ones that said . . . the president can't have recess appointments. . . . They've done a lot of bad things, so we're focusing a very intently on the D.C. Circuit. We need at least one more. There's three vacancies, we need at least one more and that will switch the majority.

Could there be a more direct, straightforward statement about what their real intent is? Their intent is to pack the court with partisan people who will give them the decisions they need so they can advance the agenda they want when it is blocked through the ordinary legal and constitutional legislative process. That is what is going on here. That is why we are here tonight. That is what is taking place.

When Republicans decided that we do not think it is a good idea to manipulate courts this way, to populate them with partisans, to try court stacking for the purpose of advancing an agenda, that is when our Democratic friends decided to go nuclear. The pity of this is our Founders had enormous foresight. They were absolutely brilliant. They constructed an incredible document, a series of documents that have guided this Republic for centuries now. They anticipated a lot. I do not think they anticipated that the leader of the majority party in the Senate would just turn it over to the control of the executive branch and make this institution just a rubberstamp for what the President wants to do. But that is where we are.

What is the practical consequence of all this? Why is it that this is such a terrible idea? Let me touch on a few of the reasons. There are a lot of reasons I think this is a disastrous policy, but let me touch on a few of them. One result of this is undoubtedly a further polarization, in fact a radicalization of the Federal Government.

The second is that as a direct result of this unilateral decision and the ability now of our Democratic friends to simply steamroll nominees through without any consideration by the minority party, we will have to expect fluctuations, volatility in administrative and regulatory rulings.

Then last and probably most disturbingly, I think there is a real danger that a justice system that has been the envy of the world and is recognized for its impartial and nonpartisan integrity may very well be increasingly viewed as a partisan and biased one.

Let me explain this a little bit, the idea that we have a more radicalized Federal Government. For 200 years, a President has always known that in order to nominate and to get confirmed one of his nominees he would need broad support in the Senate. It would not fly if he selected someone who was only appealing to a few or even a very small majority. So what does this do? That forces any President, whether it is a Republican or a Democrat, to nominate people who would have that broader bipartisan appeal. Frankly, Presidents of both parties are always under pressure from their respective bases to pick the most extreme people. That is what pleases the base of either party. It has always served the Republic well that a President can say I have to get that person confirmed through the Senate and if I pick the most extreme people that is going to be a problem. The fact that a President has needed that bipartisan support has essentially required that a President look for people who represent a broad consensus across America.

In this postnuclear Senate, that moderating influence is gone. There is no such influence anymore, and I think it is a safe bet that we can expect more extreme nominees. We have already seen some evidence of it. The Hill ran a story recently. It reported that now that the nuclear option has been detonated, far left interest groups are ''pressing President Obama to select left-wing nominees for key regulatory and judicial posts, nominees who could never have been confirmable before.'' That is no surprise. That is exactly the kind of consequence we should expect.

The second consideration is stability in rules and regulations that are promulgated by the various regulators and agencies. I hear every day across Pennsylvania one of the grave concerns of business that is hampering our ability to have a stronger economy, to have the kind of growth we would like to have, is uncertainty about regulations.

It is true and it is important. Guess what. It is likely to get worse because, first of all, this huge administrative, bureaucratic State that we have devolved into recently touches on virtually every aspect of our life and there are hundreds of agencies, boards, and commissions that the administration controls. What is likely to happen now is that if the White House and control of the Senate changes parties, we are likely to see big swings in the ideology and the partisanship of these folks because they were not consensus candidates in the first place, right. Given that now we have a situation where a majority party just steamrolls their way through whomever they want and has every incentive to go to the extremes, when they lose an election what are we going to have? We are going to have the exact opposite swing. So for businesses trying to make a decision about whether to invest in America to grow their company, to hire more workers, they are going to worry and wonder: What will the regulatory regime look like in just a few years, depending on how the election goes? It is much less predictability, less stability, and the direct result of that is going to be less investment and fewer jobs. This is not good news for our economy at all.

Finally, my concern is that for similar reasons we are going to see a diminishing of the judiciary, of the status of the judiciary among the American people, of the credibility, of the respect the American people have had.

A moment ago I said I think one of the great strengths of the American Federal Government throughout our history has been, generally speaking, that—and there have been exceptions, and there will always be some exceptions—by and large at all levels the American people have had a pretty high respect for the judiciary. They respect the fact that our judges are capable and competent and tend not to be partisan hacks. They tend not to be polarizing political figures who are trying to advance an agenda. They have tended to be men and women of ability and integrity who were calling balls and strikes the way they see fit. They realize they are the umps and referees; they are not the players on the field. They are not there to advance an agenda; they are there to officiate based on the law and the Constitution. That has been the case.

The reason our judiciary has been so respected is because it is nonpartisan. It is independent of the other branches of government, and it has behaved that way. The American people have the confidence that they can go before a Federal judge and receive a fair and unbiased hearing whether the judge is a Democrat, Republican, liberal, or conservative. The fact is that most Americans don't worry and say: Wait a minute. Is that judge a Republican? It

doesn't occur to most people to ask that question, nor should it because it doesn't matter in most cases.

This respect for the judiciary that the American people have is extremely important. In Federalist 78, Alexander Hamilton talked about the importance of this deep respect for the judiciary. He said:

The judiciary is beyond comparison the weakest of the three departments of power.

Whereas the executive branch has the military and Congress has the power of the purse, the judiciary cannot enforce its own decisions. It relies on Americans' respect for it and willingness to enforce its rulings as essential.

The fact is that the deep respect the American people have had for the judiciary has allowed our courts, including the Supreme Court of the United States, to issue decisions that have profoundly affected our lives, profoundly changed our society, and so many times so much for the better. A famous example would be Brown v. the Board of Education, which reversed the separate-but-equal doctrine. It ended the southern government laws that banned White and Black persons from associating with each other. This created a certain upheaval at the time, but it stuck, and part of the reason it stuck was because the public saw that this was a decision by a nonpartisan court that was acting as an arbiter of our Constitution. The respect the American people had for our courts was a big part of why a contentious decision quickly became accepted and became part of our fabric.

Alexander Hamilton explained that the judiciary's integrity and independence are absolutely critical; otherwise, Americans' ''confidence'' in the courts will be replaced by what he described as ''universal distrust and distress.'' He said:

The benefits of the integrity and moderation of the judiciary . . . must have commanded the esteem and applause of all the virtuous and disinterested.

Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts: as no man can be sure that he may not be to-morrow the victim of a spirit of injustice, by which he may be a gainer to-day.

The inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead universal distrust and distress.

When a President, with the cooperation of a legislature, rubberstamps judicial nominees for the purpose of ratifying a political agenda—when this happens, the American people's trust in the judiciary will be badly damaged, and we are at the threshold of that moment now. Of course, it also completely undermines our whole system of separation of powers. The fact is that when judges are seen as being at the beck and call of a legislature, a President, or a party, our individual liberty is simply not secure.

Again, to quote Hamilton:

The general liberty of the people can never be endangered from [the courts] . . . so long as the judiciary remains truly distinct from both the legislature and the Executive.

He goes on to say:

Liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments.

When you have one party ruling and completely controlling this process—and controlling it for the purpose of advancing a partisan agenda—that strikes me as exactly the danger Hamilton warned us of.

So where does that leave us in this regard? I don't think we are doomed, but I do think it is very important that the American people rise and make their objection to this clearly heard. It is important that the American people contact their Members of Congress. They need to exercise their ultimate control of this process at the ballot box and urge the Senate majority to give up its plan to use the courts to achieve a legislative agenda that they cannot get through a duly-elected Congress that represents the American people.

By the way, there is another big incentive for our friends to want to pack this DC Circuit Court, and that is because the front-burner and most prominent policy and political issue of the day is largely going to be litigated right there very soon. The DC Circuit is going to hear a very important case that goes to heart of ObamaCare. The DC Circuit is hearing a case about how the IRS has chosen to implement some rules. The law is very clear. The law unambiguously states that the subsidies ObamaCare has designed for many people who buy health insurance through their exchange—those subsidies will only be available through the State exchanges.

As the Presiding Officer knows, ObamaCare contemplates two different categories of exchanges through which people are forced to buy the mandated insurance. There are State exchanges, and in those States that don't operate an exchange, there are Federal exchanges. Well, the law says that the subsidies are available only for the people who purchase their health insurance through the State exchanges. What the administration is attempting to do is to completely disregard the law and make the subsidies available to people who buy through either the State exchange or the Federal exchange. That is not what the law says. I understand that this administration routinely disregards the law, but that is why we have an independent judiciary—to impose a check when they do this.

There is a legal scholar by the name of Mike Garvin who is following this case closely. He has explained what is going on. He said:

Congress knew that the federal government cannot require the states to establish or operate Exchanges, so it offered subsidized insurance premiums for residents of states with State-operated exchanges to entice states to undertake this responsibility. Instead, fully 33 states—from Texas to Ohio to President Obama's and Vice President Biden's home states of Illinois and Delaware—have said ''thanks, but no thanks.'' Instead, these states have chosen to shield their businesses and residents from the worst of the potential ''train wreck.''

That creates a bit of a problem for the administration because with so many States choosing not to participate in this disaster and having only a Federal exchange, if they actually comply with the law they signed, then there would be a lot of people who would not be eligible for the subsidy. If the DC Circuit Court of Appeals were to simply follow and impose the law, then that would create a huge problem, which strikes me as yet another incentive for why perhaps we have gone through what we have gone through over the last couple of weeks—because it is so important for our friends on the other side to get the decisions they want out of this court.

All of this brings me to what we really ought to be working on. By the way, all of these nominees who are before us and tying us up this week are all entirely at the choosing of the majority leader. None of these are essential, none of these are urgent, and none of these are emergencies. We could be passing legislation, such as our Defense authorization legislation. We have a budget deal that could be on the floor. We have a farm bill that is overdue. We have a lot of things we could be doing. We could be trying to deal with the enormous problems caused by ObamaCare, but we are not. We are dealing with nominees instead.

I think we ought to focus on the problems that ObamaCare is causing, and I will admit that sometimes it is hard to know where to begin because these problems are so huge. I will start with the taxes ObamaCare has been imposing on us and continues to impose on us. It is a pretty extraordinary list. As best we could tabulate, there are something like 20 different taxes that were created as part of ObamaCare. There is over $1 trillion worth of taxes to burden this economy and diminish our opportunities to grow and invest and create the jobs we need at a time when our economy is weak and needs an opportunity to recover. Instead, we saddle it with all of these taxes.

For instance, we have an excise tax on charitable hospitals.

We have a tax in the form of the codification of the economic substance doctrine. It is a tax hike of $4.5 billion that allows the IRS to completely disallow legal tax deductions.

We have the black liquor tax hike, which is a tax increase on a type of biofuel.

We have a tax on innovator drug companies.

We have a $2.3 billion annual tax on the industry. We have a Blue Cross Blue Shield tax hike, which is a special tax deduction in current law that would only be allowed if 85 percent or more of the premiums are spent on clinical services. That is a tax increase which went into effect in 2010.

We have a tax on indoor tanning services.

We have taxes that took effect in 2011. There is the medicine cabinet tax. Americans are no longer able to use health savings accounts or flexible savings accounts or health reimbursement pretax dollars to purchase nonprescription over-the-counter medicine. So the inability to use these taxpayer accounts for legitimate medical needs is a tax increase.

We have the HSA withdrawal tax hike.

Going into effect in 2012, we have the employer reporting of insurance on W–2.

In 2013 we have a surtax on investment income. We have a whole new 3.8-percent surtax on investment incomes, and this can only have the effect of diminishing investment in our economy. It diminishes the return on investment, diminishes the incentive to take a risk and start a new business, provide capital to a new business, grow a business, which is all due to ObamaCare.

We have the hike in the Medicare payroll tax.

One of the most egregious of them all—we have the tax on medical device manufacturers. This one is particularly egregious because it is so badly designed on top of being ill-conceived. This is a 2.3-percent tax on the sale of medical devices. Irrespective of whether a company has any income whatsoever or makes any money from this, we are imposing a tax on the sale of these products. The average medical device company has a profit margin of less than 5 percent. A 2.3-percent tax is about half of all their income that now goes to a new sales tax. By the way, they still have to pay income taxes, all the ordinary income taxes.

This is absolutely devastating, because what these companies are then forced to do is, if virtually the entire bottom line goes for taxes, they don't have the money to reinvest in their business. The medical device industry is one of the best industries we have in this country. It is so dynamic. It is so creative.

I wish my colleagues would come with me to parts of Pennsylvania where this industry is just thriving—or was thriving but not so much anymore. It was thriving because of the creativity, the innovation, the devices, and inventions that people are making, improving the quality of life and extending life. It is amazing, the marriage of technology and creative minds and experts in health care, what they are creating.

But, unfortunately, for a lot of these products, it takes a long time before they are actually profitable for the company that sells them, long after they have begun sales. This tax imposes the burden before they have ever become profitable. What is the effect of that? It is that it makes this whole industry less appealing to invest in, less attractive to entrepreneurs, to investors. Whether it is venture capital or private equity or wherever the source might be, less is going to medical devices, an industry that is saving lives and improving the quality of lives. It is a big manufacturing industry. Most of these companies manufacture their products in the United States and many in Pennsylvania. We sell a lot of them overseas. We have a big trade surplus in medical devices because we lead the world.

What does ObamaCare do? It slaps a new tax on the sales. It is a terrible policy.

We have a high medical bills tax. Currently, those people who face high medical bills are allowed a deduction for medical expenses to the extent that those expenses exceed 7.5 percent of adjusted gross income. The new provision, which took effect just earlier this year, raises that threshold before a person can take that deduction. That is just a complicated, convoluted tax increase on people who have high medical bills.

There is the flexible spending account cap. There is the elimination of the tax deduction for employer-provided retirement drug coverage in coordination with Medicare Part D. There is the individual mandate excise tax. There is the employer mandate tax. There is the tax on health insurers. There is an excise tax on comprehensive health insurance plans.

There are 20 different taxes, the combined effect of which is, without a doubt, to significantly weaken our economy.

But that is not the only way ObamaCare weakens our economy. The mandate ObamaCare imposes on employers kicks in on employers who have 50 or more employees. I have spoken with a number of Pennsylvania employers who have 45 or 47 or 48 employees. They are not subject to the hugely expensive mandates of ObamaCare, and do my colleagues know what they tell me? They are not going to be subject to it. They will go to great lengths to avoid hiring the fiftieth employee. They will hire temps. They will pursue automation. They will do all kinds of things they wouldn't otherwise do because this government makes it too expensive for them to hire a fiftieth employee. At a time when our workforce participation rate is at a record low because so many people have given up even trying to find work, ObamaCare makes it too expensive for employers to hire new workers.

It has a similar effect on hours worked, because this 50-employee count applies to anybody who works 30 hours or more, so one of the ways a business can avoid these crippling costs is to cut back on the number of hours for their workers. That doesn't work out so well for somebody who needs those hours to pay their bills to support their family. It is happening all across the country.

Another aspect that is really outrageous is this mandate in ObamaCare that employers must—regardless of whether the employees want it or not—provide contraceptive and abortifacient coverage. One of the problems with this is that these services run completely contrary to deeply held religious views for a lot of people, faith-based institutions, and others. So the administration decided they will offer an accommodation for faith-based institutions. The accommodation they offer is pure sophistry. What they offered was to say you won't have to—you, the faith-based institution—you won't have to actually pay for those services which you find objectionable based on your faith. You won't have to pay for them, but you have to buy an insurance plan that has them and the insurance company will just have to give you that for free.

This is the most ridiculous thing in the world. Private companies aren't in the business of offering their services for free. If there is an aspect of it that they supposedly have to give away, then they will pass on the costs for the services they provide. Nobody is fooled by this. This is yet another of the details of ObamaCare.

But, really, some of the biggest problems I have saved for the end, and that is the series of broken promises that ObamaCare constitutes. One of the most glaring is this promise we have all heard. I don't know how many times we have heard it, but we all have. We heard the President and so many of our Democratic colleagues who support this bill say: If you like your health plan, you can keep your health plan. Let's be very clear. Everybody who supported this bill who is familiar with it—and that would certainly include the President of the United States and my friends here—they knew from the beginning that was not possible. They knew that because the legislation was designed to prevent many people from keeping their health insurance. It was written for that purpose, in part, because they had to. The whole point, or a big part of the point of ObamaCare was to establish standards that the government determined were appropriate, regardless of whether an individual American thinks that a given plan is adequate or not or suitable for herself or her family. It was up to the government to make this decision, not the individual, and they would establish criteria, and if your plan didn't meet the criteria, your plan was going to be canceled. That is in the legislation. That is codified. It always was. It is at the heart of this legislation.

So for anybody to go around the country saying, If you like your health plan, you can keep your health plan, they were knowingly stating something that was completely untrue, was always untrue, and was necessarily untrue. The examples abound.

I have emails from constituents. I have too many. I won't have a chance to run through them all this evening. I may have to come back on another occasion. But I will share a few with my

colleagues. This is from a small business owner from Lancaster County, PA. I got this just—I think I got this earlier today. I will just quote from this email from my constituent, addressed to me. It says:

As my Congressional representative, you need to know how ObamaCare is harming my life and health care.

I work for a small construction company. My cost for family health care was already over $11,000 per year. We received notification that our policy was being canceled since it did not comply with the requirements of the Affordable Care Act.

Our company looked for the best rates they could find for comparable coverage which did comply. They chose a new insurance company. We just recently were given the costs for next year. My costs to cover myself and my family will be over $17,500, a 59-percent increase. Even with that, the deductibles and out-of-pocket maximums are higher. This is not ''Affordable Care''. This would eat up a major part of my income.

I attempted to log onto the healthcare.gov website several times, but always get kicked out. I do not hold much hope that I will get any better rates, because I don't qualify for a credit.

We were already struggling to live on my take home pay. We cannot afford to have it reduced by over $6,500.00. We may have to drop coverage for my wife or kids, and pay the penalty.

I suspect that this law will result in many more people losing more health care, at the expense of a few getting free or reduced cost healthcare.

I got this just a week ago from a man from Cumberland County, PA. He said:

My wife Barb and I have been trying for almost three weeks now to get signed up. . . . all income and health info and private information is on the unsecured web site and the application is accepted . . . but we have not been able to get on to pick the plan or get our price . . . so nobody has been paid. Thus our canceled insurance ends on Dec. 31st and we look to be out.

A BIG mistake by the folks who voted for this . . . I've had cancer a couple times, my wife has had cancer and we both see our doctors when needed. This ACA will ruin many families if we can't get onto an insurance plan.

A woman from Lebanon County, PA, sent me this email a week ago. She said:

We had our healthcare discontinued, and after an appeal we were able to get it reinstated, but only for this year. Currently we have a health care savings plan with a deductible of $3,000 a year. . . . In the new plan, our deductible would increase to $12,000 . . . and our premiums would increase to $9,000 a year. How is a middle class married family supposed to pay for that?

This is absolutely ridiculous, and this is our situation. I hope every government worker has to purchase their plan through this plan.

Here is another. A man from Delaware County in southeastern Pennsylvania:

I am 66 and I am on Medicare. My wife is 63. Her insurance company canceled her ''longstanding'' policy due to the requirements of the ACA. Her ''new'' policy costs $350 more per month. We are on a strict budget. . . . We are the hard working middle class. Who stands for us?

There was another promise we frequently heard, and that promise we frequently heard was that if you like your doctor, you will be able to keep your doctor. This too was known to be impossible. Since the law was designed to discontinue health insurance plans and force people on to alternative plans, not all plans cover the same doctors. Certainly, some were going to lose their coverage. Let me give an example of an email I got from Westmoreland County just last week. She writes:

I have been self-employed for 13 years and have never been without health insurance. 3 years ago I was diagnosed with multiple sclerosis. Having an expensive preexisting condition was not a problem for me as I had never let my insurance lapse. My medications cost (without insurance) $4,000+ per month. I received notice several weeks ago that they would now cancel my plan and would do so as of Jan 1, and I had to sign up for new coverage through the health insurance exchange.

My staff reached out to this woman and tried to help and, after several attempts, she was able to access the exchange. Do my colleagues know what she learned? She learned that in her region there were two options available to her. One covers her doctors who have been treating her for her MS for years. The other covers her prescription drugs. Neither one covers both.

These are the kinds of decisions people are being forced to make all over America. They are the kinds of decisions people are being forced to make every day. It is the direct result of the loss of personal freedom that this legislation imposes on people, and this is the topic that we ought to be addressing in this body so we can pursue the only solution, which is to repeal this bill and move health care in a completely different direction.

I believe my time has expired, so I will yield the floor.

The PRESIDING OFFICER. The Senator from New York.

FALLEN FIREFIGHTERS ASSISTANCE TAX CLARIFICATION ACT

Mr. SCHUMER. Mr. President, I rise to speak about a particular incident that occurred in Webster, NY, a beautiful town near the City of Rochester.

On Christmas Eve, 2012, nearly 1 year ago today, the 125-member West Webster Volunteer Firemen's Association—a volunteer fire department east of Rochester, NY—faced an unimaginable tragedy when four of their brave members were wounded, two fatally, when they responded to a fire but instead faced an ambush of unspeakable proportions.

While many families across our Nation were waking up last Christmas Eve morning to finish preparing Christmas dinner, shopping, wrapping presents, picking up the family from the airport, four Webster families were instead confronting a heart-wrenching tragedy.

The call of a house on fire came into the West Webster Fire Department at 5:30 a.m. on December 24, and although it was a cold snowy morning, still dark before the Sun rose, everyday heroes from the West Webster Fire Department courageously did what they volunteered to do on behalf of their neighbors and on behalf of their hometowns. They, similar to millions of brave volunteer firefighters throughout our country and throughout its history, left their homes and their families in safety to put out a fire that always creates danger.

This routine call turned into a tragedy which shocked the community, people throughout the country, and even people throughout the world.

Firefighter Joseph Hofstetter, a 14-year volunteer for West Webster Fire Department, arrived first on the scene. Firefighter Theodore Scardino arrived soon after with LT Mike Chiapperini in a pumper truck, followed by 19-year-old firefighter Tomasz Kaczowka driving the department's SUV.

What they did not know was that the fire was intentionally set by the home's owner in order to lure these innocent firefighters into a senseless sniper ambush. The sniper was hiding behind a berm amid the chaos of the fire and began shooting at the responding firefighters.

The firefighters were confused at first to hear popping sounds and thought it might be from the fire but LT Mike Chiapperini, who was also a Webster police officer, knew better and shouted to his fellow volunteers to take cover, but unfortunately it was too late.

Firefighter Hofstetter was shot in the pelvis while trying to alert dispatchers on the radio to the situation.

Ted Scardino was shot in the shoulder, and 5 minutes later he was shot again in the leg. The 16-year volunteer lay there while bleeding for over an hour, enduring the December cold while sustaining second-degree burns on his head as the fire now spread to consume six other neighboring homes.

Lieutenant Chiapperini and Firefighter Kaczowka both died in the ambush.

As news of this horrific, senseless Christmas Eve tragedy spread, well-meaning people from across the Rochester and Finger Lakes area, across New York State, across the Nation and the world reached out to the West Webster Volunteer Firemen's Association to offer support and prayers.

Thousands of incredibly generous people flooded the department with countless financial contributions to support the volunteer department, to support the four firefighters—and in the case of Lieutenant Chiapperini and Firefighter Kaczowka, to support the families they had left behind.

Not realizing that collecting and distributing the funds to the families would jeopardize the association's tax-exempt status with the IRS, the association accepted donations from generous people all around the Nation wanting to help the four families who suffered the most on that day.

They collected these donations for the victims, for their families, and they want to give these donations to

the victims and their families. It defies reason that they would be unable to do so now because of a technicality in the Tax Code.

Just as we did after 9/11, and again after a similar fire department tragedy in California in 2006, it is our obligation to make sure the West Webster Volunteer Firemen's Association can now disburse to these families the contributions that their neighbors and unknown, countless, generous others wanted them to have.

As it is, the disbursement of these funds has been delayed for months and now almost 1 year. That is why I am asking the Senate to proceed with consideration of the Fallen Firefighters Assistance Tax Clarification Act.

This proposal merely clarifies—as we did after 9/11 and again after the California tragedy in 2006—that the West Webster Volunteer Fire Department will not lose its status as a nonprofit association by distributing the donations to these firefighters and their families.

As we again enter the Christmas season and approach the 1-year anniversary of this tragedy, now is the time to make this right.

We need to do it on behalf of the families of the fallen and the injured. The family of 43-year-old LT Mike Chiapperini includes his wife Kim, his 19-year-old son Nick, and his daughters, 4-year-old Kacie and 3-year-old Kylie.

Known to many as Chip, Lieutenant Chiapperini was a West Webster Fire Department volunteer firefighter for 25 years. He was past chief of the West Webster Fire Department and adviser for its Fire Explorer Post. He also served with distinction for 19 years as a police officer with the Webster Police Department and rose through the ranks as a dispatcher, police officer, investigator, sergeant, and lieutenant. In short, he committed his entire life to public service for the town of Webster.

Likewise, 19-year-old firefighter Tomasz Kaczowka left behind his parents Janina and Marian Kaczowka, along with his older twin brothers and a large extended family. Firefighter Kaczowka was selflessly devoted to his family and his community. In fact, he was not even supposed to be on duty that Christmas Eve but elected to make the shift so that older department members could be home with their families that day.

The surviving firefighters, Ted Scardino and Joseph Hofstetter, have had to endure long rehabilitations for their injuries and their families have had to deal with life's ordinary challenges and day-to-day expenses as Ted and Joseph recover and move forward with their lives.

The fact is, ordinary Americans, moved by the heroic sacrifice of these volunteer firefighters, have offered their generous support. They have intended their contributions to help these families in the wake of the tragedy and in recognition of the service of these brave firefighters.

These were volunteer firefighters—volunteers. I know many of my colleagues on both sides of the aisle are well acquainted with the volunteer fire service. Many may even have a membership in a volunteer fire company themselves.

You all know men and women just like the members of West Webster. They are the epitome of the American spirit.

The French observer de Tocqueville was taken by that spirit when he visited America and the Rochester area in 1831 and thought voluntarism was one of the things that set America apart from the rest of the world. That was true then. It is still true today.

These heroes do not ask for anything. They just want to protect their neighbors and their community. It is just plain wrong that they would lose their not-for-profit status simply for being a passthrough to convey donations to these families after an unspeakable tragedy.

In that same spirit, I had hoped to request unanimous consent this evening to move forward with the consideration of this legislation. Who could object? Who could object? However, I understand that some of my colleagues on the other side of the aisle object to me making the request at this time. Therefore, I will withhold that request this evening and sincerely hope my colleagues will think about this overnight and allow us to proceed with consideration tomorrow. It is, indeed, the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I appreciate the comments of my colleague from New York. He has been a tireless champion for the terrific, dedicated, self-sacrificing firefighters of New York City.

Tonight we are on the floor addressing the question of whether we should confirm Cornelia Pillard as a candidate for the DC Circuit Court. She is a law scholar with a long track record of public service. She served twice in the Justice Department and successfully defended the Family and Medical Leave Act, a crucial piece of legislation for working families. She now teaches law at Georgetown University, one of the top law schools in the Nation.

The truth is, she is an extremely well-qualified nominee who will be an excellent addition to the DC Circuit Court. She has personally argued and briefed Supreme Court cases brought or defended by government lawyers from Republican administrations, and Republican-appointed Justices have often authored majority opinions in her favor.

She is currently the codirector of the Supreme Court Institute at Georgetown Law, where she personally assists lawyers preparing for the Supreme Court on a pro bono, first-come basis, without regard to which side they represent.

In fact, Professor Pillard chaired the American Bar Association Reading Committee that reviewed Samuel Alito's writings during his nomination process for the Supreme Court. Her committee's assessment led the ABA to give Justice Alito their highest rating of ''well-qualified.''

Professor Pillard's unbiased approach to the law has won the respect of her colleagues in law and in government, including former Department of Justice officials in Republican administrations who have endorsed her nomination to the DC Circuit.

In short, Professor Pillard is a fair-minded, highly accomplished litigator, with an outstanding reputation for public service.

Then why are we here now, after midnight, carrying on this debate? To get to the root of that question, we have to examine the dysfunction that is present in the Senate.

Virtually all Americans know Congress is not working well. Virtually all Americans know the Senate is broken. I saw a poll that said 92 percent of Americans believe Congress is dysfunctional, and I wondered: What is wrong with the other 8 percent? They must not be paying attention. Because what we have experienced in the Senate is a continuous campaign of obstruction and paralysis of the normal proceedings.

There was a time when we had a Senate that had a core principle, which was up-or-down votes, with rare exception—up-or-down votes, with rare exception. That was the tradition of the Senate. That tradition was rooted in the courtesy—the courtesy—of hearing out every Senator who wished to share their opinion on a topic before the Senate would make a decision.

Maybe that was something easier to do when there were only 26 Members of the Senate. We now have 100 Members of the Senate. So maybe it takes a while to hear the opinions of every Member, but still that courtesy has been honored through the years. But the counterpart to that is that folks knew in the end the Senate, with very rare exception, would get to a simple majority vote. The entire structure of our Constitution and the vision of our Founders was that this body would make decisions with a simple majority vote.

Recall, if you will, that the Founders put into the Constitution special occasions for a supermajority. Those special occasions were things such as overriding a Presidential veto. Those special occasions were things such as reviewing a treaty. But they envisioned a simple majority vote for the legislature because they felt the majority decision most of the time would be a better direction to go than the minority opinion. That is the principle of democracy. The direction that most Senators believe is the correct direction is the basis for going forward.

This principle has been completely lost in the last few years. A small

group of Senators decided they should replace the constitutional principle of a simple majority with a supermajority, that virtually every action would be subject to a requirement to have 60 votes to close debate rather than the constitutional 51.

This has been applied in ways American citizens cannot even imagine. Let's take motions to proceed. A motion to proceed simply says it is time to take up this bill. Let's vote yes or no on taking up this bill. That is the motion to proceed.

But in recent times the minority has said: You know what. We can use this motion to proceed as an opportunity to paralyze the Senate. We can object to having that simple majority vote, and then we can deny—there being this supermajority to close debate—even if we have nothing to say, and we can simply waste the Senate's time on debating whether to debate.

I have argued for a long time that this abuse must end. It is time to get rid of the filibuster on this motion to proceed. But nonetheless we have it and my colleagues in this permanent campaign to paralyze the Senate have chosen to exercise this filibuster, if you will, this supermajority requirement, simply on a motion to debate an issue as opposed to actually being in debate.

Let's take conference committees. It was extraordinarily rare for conference committees—the formation of them—to be subject to a supermajority in the history of the Senate. Conference committees were very common in the seventies and eighties. I was first here as an intern in 1976 with Senator Hatfield, here on Capitol Hill working for Congress in the 1980s.

If one Chamber of Congress and the other Chamber had both passed a bill, well then automatically you had a conference committee meet and resolve the differences. That is just common sense. Why would you delay that for a second? But when I came to the Senate in 2009 as a Senator, I was mystified to discover that conference committees were not being held. So I inquired why that was. The answer was that the minority had decided to use the filibuster, the supermajority, on establishing a conference committee; in other words, block the House and Senate from even talking to each other to resolve differences between two houses.

That drove the debate out of the public realm, in a public room with a TV camera, into private discussions as negotiators tried to resolve and develop a common version of the bill. There too I proposed that we need to get rid of this filibuster on conference committees. It is disrespectful of the most valuable commodity of this body; that is, time; that is, time is wasted on filibusters on whether to start a discussion with the House when both the House and Senate have passed a version of the bill.

Then, of course, we have the ongoing campaign of subjecting virtually every nomination to a supermajority. In fact, in the history of America, in the entire history, before President Obama, only three times was there a filibuster of a district court nominee. But in the time President Obama has been in office, we have had 20 filibusters of district court nominees. Only 3 in our history until President Obama is President and then 20 filibusters when he became President until now—20 out of 23.

That is just a pure deliberate campaign of paralysis and obstruction, undermining the contribution of this body, its responsibility as a legislative body. It is not only judicial nominees, it is executive nominees as well. In our entire history as a nation, 168 nominations have been filibustered—168 in our entire history—82 of them have been nominations by President Obama; 82 nominees just in the 5 years President Obama has been in office out of the 168 in our entire history. So we see, whether we are looking at motions to proceed or conference committees or judicial nominees or executive nominees, a campaign of deliberate paralysis and obstruction rather than a dedication to serving our Nation as the Constitution requires.

Indeed, some have justified this ongoing paralysis. Some of my colleagues have said: But remember, President Washington said the Senate should be a cooling saucer. That concept is that you have a cup of hot tea, and it is too hot to drink, you pour it into a saucer, it cools and then it is just right.

President Washington would never recognize this strategy of obstruction and paralysis as legitimate under the U.S. Constitution. Indeed, there were elements designed to make this body deliberative. But there is a difference between deliberation and the destruction of the legislative process. There is a difference between a cooling saucer, thoughtful deliberation, and a deep freeze.

But certain Members of this body have decided they did not come here to fulfill the constitutional vision of the Senate as a deliberative body, they instead have come to paralyze the function of this body, to obstruct this body.

So there we see it in the filibuster of the conference committees, in the filibuster of the motions to proceed, in the filibuster of the executive branch nominees, filibuster of the judicial nominees, and, of course, the filibuster of legislation that has reached extraordinary levels never seen in the history of our Nation.

Just a little while ago one of my colleagues chose to quote Alexander Hamilton in defense of this strategy of paralysis. I would encourage my colleague to actually read more of Alexander Hamilton because he actually directly addressed this question of filibusters and the potential to obstruct the will of the majority.

What did Alexander Hamilton say? He said: The real operation of the filibuster ''is to embarrass the administration, to destroy the energy of government, and to substitute the pleasure, caprice or artifices of a significant, insignificant, turbulent or corrupt junta, to the regular deliberations and decisions of a respectable majority.

He went on to say: When the majority must conform to the views of the minority, the consequence is ''tedious delays, continual negotiation and intrigue, contemptible compromises of the public good.''

That is a pretty good description of what Americans see happening in this Chamber as a result of the deliberate campaign of paralysis and obstruction: tedious delays, continual intrigue, contemptible compromises of the public good.

Many in this Chamber have tried to reason and convey to Members that we should return to the tradition of the Senate, up-or-down votes with rare exception. In 2005 it was the Democrats in the minority and it was the Republicans who were in the majority. At that time the Democrats decided to filibuster a series of judicial nominees. So this was certainly a tactic employed by both Democrats and Republicans.

Our Republican friends who were in the majority said: That is not acceptable. They said: That is not consistent with the philosophy of up-or-down votes with rare exception. They said that is not consistent with the power vested in the Constitution and the President to be able to place forward his nominees for consideration under the advice and consent clause of the Constitution.

Our Republican colleagues were persuasive. The Democrats in the minority agreed not to filibuster judges except under rare exceptions, exceptions of extraordinary flaws of character and experience. Then the clock turned. We came to 2009. Now we have a Democratic President and Democratic majority. The deal that was cut in 2005, agreed to by both sides, that there would be only rare filibusters based on exceptional flaws of character or experience disappeared. It disappeared completely. The new minority did not honor the deal that had been negotiated in 2005.

So come January 2011, there was a debate on this floor about trying to again restore the traditional understanding, up-or-down votes with rare exception. There was a deal made. It did not last but a few weeks. Then there was another attempt in January 2013. On this occasion, there was a promise made on the floor of the Senate. The minority leader came to the floor and said: The Republicans will return to the norms and traditions of the Senate regarding nominations.

What are those norms and traditions? Those norms and traditions are a simple majority vote with rare exception. Within weeks, that promise was completely shattered. The first ever filibuster in U.S. history of a Defense nominee, ironically a former colleague from the Republican side of the aisle.

Then we had 43 Senators write a letter and say they would not allow anyone to be confirmed for the position as

Director of the Consumer Federal Protection Bureau, certainly inconsistent with up-or-down votes with rare exception for issues of character.

Then there was another big effort in July of 2013, just earlier this year. We all got together in the Old Senate Chamber and we shared our frustrations and our views. Again, the promise was put forward: We will stop filibustering except under rare circumstances related to character or qualifications.

Well, that was terrific.

We had confirmation of the person who was awaiting to be Director of the Environmental Protection Agency, Gina McCarthy. We had confirmation of the person who had been waiting for a very long time as the nominee of the Labor Department, Tom Perez. We had the confirmation of the folks who had been waiting to be confirmed to the National Labor Relations Board. In fact, I think that was the first time we had all five members Senate confirmed in 10 years.

We had the Director of the Consumer Financial Protection Bureau, Richard Cordray was finally confirmed. Shortly thereafter, we had Samantha Powers confirmed to the United Nations, and so forth. The norm was restored but only for a couple of weeks.

Then came the nomination of MEL WATT to head the Federal Housing Finance Agency. Suddenly the commitment for up-or-down votes disappeared. Then we had a whole new strategy on the judiciary. This strategy had never been experienced in U.S. history. It was: No matter whom President Obama nominates for the DC Circuit Court, we are going to block that nominee because we only want to leave in place the nominees that were put in place by President Bush.

That is in direct contravention of the vision of the Constitution where each President as elected has the power to nominate. This Chamber is a check. It gets to vote up or down and decide whether they should be in office. But this was a deliberate strategy to pack the Court, to say that when a President of my party is in power, there will be up-or-down votes, as was insisted in 2005 when the tables were turned, but when the President is of the other party, we are going to have a perpetual campaign and we are going to block up-or-down votes.

Let's picture down the road and the new President is a Republican President. Is there truly any Member here who would say, from the Republican side, that when the Republican President is in place, they were still going to believe they should not fill vacancies on key courts around this country?

It is too bad this campaign of paralysis has been allowed to go on so long. We should have acted long before to fulfil our responsibility to have a deliberative body because that is what legislation is. It is doing enormous damage to the United States of America. First, because of the paralysis, we are not doing the work we should be on legislation. We are not addressing the big issues facing America. There are all kinds of job creation bills that have not been able to get to this floor because they have not been able to get through the gauntlet of paralyzing filibusters that have been laid down.

Americans actually want to work. Americans want to have living-wage jobs. They expect us to act, to make that happen, not to paralyze this institution so it is unable to do so. Indeed, in addition, we are damaging the view of the United States around the world because it used to be the world looked to the United States and said: Look how well their Congress works. They had this Great Depression. They took on and fixed all kinds of flaws in their financial system. They established insurance for bank accounts so there would not be runs on the banks. They replaced a flawed mortgage strategy, which involved callable balloon mortgages, with noncallable fully amortizing mortgages so we did not create a series of dominoes.

They took and created organizations, the Securities and Exchange Commission, to oversee stock markets so folks could have faith, invest in stocks, and put their capital in knowing there was a very good chance that capital would be well utilized because there were accounting standards and qualifications that block predatory practices on Wall Street.

The world saw the U.S. respond to World War II and convert our economy through enormous amounts of legislation in a single year to apply it to the war effort and take on the big challenge of defeating the Nazis.

Then the world saw America use its legislative power to build the largest middle class the world has ever seen. Those living wage jobs, every one of them means a foundation for a family. If we want to talk family values, then fight to have this body, this Senate, work on legislation that creates living-wage jobs. Quit paralyzing the Senate.

Then we have, of course, the fact of this new strategy in these recent months, a deliberate attack on the balance of powers. The Constitution envisioned three branches in balance. It has no hint of any kind that a minority of one branch should be able to undermine the operation of the other two branches. Some colleagues have seized upon a strategy of trying to undermine the integrity of our judiciary. Some colleagues have seized on a strategy of trying to undermine the capability of the elected executive branch, the President and his executive branch.

Read your history—balance of powers, not the ability of the minority or one branch to undermine the success of the other two branches. We need these three branches each doing their assigned roles.

We are at this point after this long set of strategies of paralysis, on motions to proceed, on legislation, on conference committees, on executive branch nominees, on judicial nominees. We have taken the first step toward restoring the function of the Senate, and we have said we should return to the notion of up-and-down votes as envisioned under advise and consent. This is as envisioned by Alexander Hamilton and the other Founders who railed against the notion that a minority would be able to block the will of a majority in the Chamber.

We have done that with nominations. In a continuation of a strategy of paralysis, we are here tonight rather than having voted much earlier in the day. Instead of working on legislation that would create jobs, we are standing here through a series of nominations as the minority insists on wasting the valuable commodity of time in this Chamber.

I hope my colleagues who are intent upon creating this huge imbalance between the branches will reconsider, that they will decide they want to see this Chamber become what it was when I was first here in the 1970s and when I worked for Congress in the 1980s, a great deliberative body. What it was when we took on the Great Depression, what it was when we took on World War II, what it was when we built the great middle class, this is what the United States wants to see. May we make it so.

Thank you, Mr. President.

Mr. LEAHY. Mr. President, tonight we will vote on the nomination of Nina Pillard to the U.S. Court of Appeals for the DC Circuit. On Tuesday, we were finally able to invoke cloture on her nomination, after it had been unjustifiably filibustered by Senate Republicans for nearly 3 months after being favorably voted out of the Senate Judiciary Committee. The DC Circuit is often considered to be the second most important court in the Nation and should be operating at full strength. We are finally taking another step towards making this Court operate at full strength for the American people.

Nina Pillard is an accomplished litigator whose work includes 9 Supreme Court oral arguments, and briefs in more than 25 Supreme Court cases. She drafted the Federal Government's brief in United States v. Virginia, which after a 7 to 1 decision by the Supreme Court made history by opening the Virginia Military Institute's doors to female students and expanded educational opportunity for women across the country. Since then, hundreds of women have had the opportunity to attend VMI and go on to serve our country.

She has not only stood up for equal opportunities for women, but for men as well. In Nevada v. Hibbs, Ms. Pillard successfully represented a male employee of the State of Nevada who was fired when he tried to take unpaid leave under the Family Medical Leave Act to care for his sick wife. In a 6 to 3 opinion authored by then-Chief Justice William Rehnquist, the Supreme Court ruled for her client, recognizing

that the law protects both men and women in their caregiving roles within the family.

She has also worked at the Department of Justice as the Deputy Assistant Attorney General in the Office of Legal Counsel, an office that advises on the most complex constitutional issues facing the executive branch. And prior to that, Ms. Pillard litigated numerous civil rights cases as an assistant counsel at the NAACP Legal Defense & Educational Fund. At Georgetown Law, Ms. Pillard teaches advanced courses on constitutional law and civil procedure, and co-directs the law school's Supreme Court Institute. She has earned the American Bar Association's highest possible ranking—Unanimously Well Qualified—to serve as a Federal appellate judge on the DC Circuit.

Today, however, I have heard some unfortunate and unfair attacks on this fine woman. I have heard comments that she would be ''the most left wing judge'' in U.S. history; that she has extreme views on abortion and religious liberty; and that she would ''rubber stamp'' the most radical legislative and regulatory proposals. One might expect these outrageous accusations to come from right wing fringe groups, but to hear some of these outlandish accusations on the Senate floor is unfortunate.

So let me clear the record. Nina Pillard is one of the finest nominees we have had before this body. On the issue of abortion, Republicans have cherry picked quotes and taken them out of context to try to paint her as someone she is not. The truth is that taken as a whole, her writings have focused on bridging the gap between pro-life and pro-choice advocates by ''finding common ground for ways to reduce reliance on abortion.''

More importantly, I cannot ignore the double standard of certain Senators on the issue of abortion. In 2002, the Senate unanimously confirmed President Bush's nomination of Michael McConnell to the Tenth Circuit by voice vote. Professor McConnell argued that Roe v. Wade was wrongly decided and urged the Supreme Court to overturn it. He applauded a Federal judge for refusing to convict anti-abortion protestors, even though they had clearly violated the law, because of his sympathetic reading of the defendants' motives.

Similarly, in 2002, the Senate confirmed William Pryor to the Eleventh Circuit, even though he called Roe v. Wade the ''worst abomination in the history of constitutional law.'' Another President Bush nominee, J. Leon Holmes, was confirmed to the Federal district court in Arkansas, even though he had argued that abortion should be banned even in case of rape because pregnancy from rape is as uncommon as ''snowfall in Miami.'' He had also written that wives should be submissive to their husbands. He was not filibustered. He was confirmed.

Each of these judicial nominees stated under oath in testimony before the Senate Judiciary Committee that they could set aside their personal beliefs and would interpret the law consistent with the Constitution and Supreme Court precedent. They were confirmed. Nina Pillard testified under the same oath that, ''A judge's opinions and views should have no role in interpreting the Constitution.'' Are we to believe that only judicial nominees who do not support a woman's access to abortion services are able to set aside their personal views to be fair and impartial judges? I cannot help but notice the glaring double standard that is imposed on Nina Pillard.

On the issue of religious liberty, Senate Republicans continue to misrepresent comments Ms. Pillard made about the possible outcome of a Supreme Court case to suggest she is hostile to religious freedom. In a 2011 briefing to educate the press on legal issues in Hosanna Tabor v. EEOC, she described the issue in the case, identified what was difficult about it, and offered a prediction of how the Court might resolve it. Her prediction turned out to be wrong.

If Senators, who have also sworn to uphold the Constitution, were held accountable every time they incorrectly predicted the outcome of a Supreme Court case, I am not sure how many of us would be left. Ultimately, she has testified that if confirmed she would uphold the Supreme Court's precedent on the issue.

The suggestion that Ms. Pillard will be ''the most left-wing judge in the history'' is simply outlandish hyperbole, as demonstrated by the bipartisan support she has received. Viet Dinh, the former Assistant Attorney General for the Office of Legal Policy under President George W. Bush, wrote in a letter of support for her nomination that ''Based on our long and varied professional experience together, I know that Professor Pillard is exceptionally bright, a patient and unbiased listener, and a lawyer of great judgment and unquestioned integrity. . . Nina has always been fair, reasonable, and sensible in her judgments. . . She is a fair-minded thinker with enormous respect for the law and for the limited, and essential, role of the federal appellate judge—qualities that make her well prepared to take on the work of a D.C. Federal Judge.''

Former FBI Director and Chief Judge of the Western District of Texas William Sessions has written that her ''rare combination of experience, both defending and advising government officials, and representing individuals seeking to vindicate their rights, would be especially valuable in informing her responsibilities as a judge.''

Nina Pillard has also received letters of support from 30 former members of the U.S. Armed Forces, including 8 retired generals; 25 former Federal prosecutors and other law enforcement officials; 40 Supreme Court practitioners, including Laurence Tribe and Carter Phillips, among many others.

Despite having filled nearly half of law school classrooms for the last 20 years, women are grossly underrepresented on our Federal courts. We need women on the Federal bench. A vote to end this filibuster is a vote to break yet another barrier and move in the historic direction of having our Federal appellate courts more accurately reflect the gender balance of the country.

I commend President Obama on his nominations of highly qualified women like Nina Pillard, Patricia Millett, Elena Kagan and Sonia Sotomayor. In each of these women, the Senate has had the opportunity to vote to confirm women practicing at the pinnacle of the legal profession. Once the Senate confirmed Justice Kagan, the highest court in the land had more women than ever before serving on its bench. With the confirmation and appointment of Nina Pillard, the same will be true for what many consider to be the second highest court in the land, the DC Circuit because she will be the fifth active female judge on the court. Never before have five women jurists actively served on that court at one time. I look forward to that moment and to further increasing the diversity of our Federal bench.

I urge my colleagues to vote to confirm this outstanding nominee. This Nation would be better off for Nina Pillard serving as a judge on the DC Circuit.

Today, the Senate will also vote on the nominations of Elizabeth A. Wolford, of New York, to be U.S. District Judge for the Western District of New York; Landya B. McCafferty, of New Hampshire, to be U.S. District Judge for the District of New Hampshire; Brian Morris, of Montana, to be U.S. District Judge for the District of Montana; and Susan P. Watters, of Montana, to be U.S. District Judge for the District of Montana.

Senate Republicans have continued to abuse the filibuster and required cloture to confirm all four of these noncontroversial district court nominees. All four of these nominees were reported unanimously by voice vote from the Senate Judiciary Committee. They all have the support of their home State senators. With the filibuster of these four district court nominees, Senate Republicans have now filibustered 24 of President Obama's district court nominees. Not a single district court nominee was filibustered under President Bush's 8 years in office. I hope Senate Republicans come around so that we can work together to meet the needs of our Federal judiciary so that the American people can have the justice system they deserve.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. SCOTT. To change the rules our friends on the left had to break the rules. We are here tonight because the Obama administration and our friends on the left needed a distraction by invoking the nuclear option leading up to the vote on Nina Pillard of the DC Circuit. They are attempting to quiet a disaster of their own making.

Please note that this is a court that will hear the ACA disputes. It was easy enough for them to paint a rosy picture of life after ObamaCare. For 3 years they did it, and they did their best to do so, but words could only go so far and no speech will help the failed implementation of the monster they have created.

Health care premiums for the average American family have already gone up by $2,500 since ObamaCare has become law. I wish to say that one more time. The average premium that an American family will have to face and then pay is $2,500.

As costs continue to rise for middle-class Americans, the median household income has dropped by more than $3,600 under President Obama. If we take $2,500 and add in the drop of income of $3,600, the difference for the average American household under President Obama's watch is significant. That doesn't even take into consideration the skyrocketing costs and the increasing deductibles under ObamaCare.

According to the Wall Street Journal, the average individual deductible for what is called a Bronze plan on the exchange, the lowest-priced coverage is a $5,000 average deductible. This is 42 percent higher than the average deductible today of $3,589 one would currently purchase in 2013.

Tell me how this helps those in need. How does this help the most vulnerable in our society? The answer is simple. It doesn't.

We are here because Democrats need a break from having this pointed out to them again and again as newspapers, magazines, and TV stations have been doing for the last several weeks.

In South Carolina we have about 4.7 million people and 600,000 or 700,000 folks do not have health insurance coverage. Think about that. There are 4.7 million South Carolinians, of which about 700,000 today do not have health insurance.

Under ObamaCare, we would hope that the number would go down, not up, that it would go down from 700,000 to 600,000 or 500,000 or 400,000. Over 430,000 of the 700,000 people are eligible for ObamaCare. The number is not going down. The number is going up because 150,000 South Carolinians have received cancellation notices.

Let us frame that a little bit. We have 700,000 uninsured, of which 430,000 are eligible for ObamaCare. Instead of seeing the number of uninsured go from 700,000 down to 600,000 or 500,000 or 400,000, we have seen the number go up because 150,000 people have received cancellation notices—150,000 South Carolinians have received cancellation notices.

Someone would obviously ask the question: How many folks have signed up for ObamaCare in South Carolina?

If 430,000 South Carolinians are eligible to sign up, we ought to answer the question of how many have signed up.

As of late November, only 600 South Carolinians have successfully signed up for ObamaCare. This means that under the implementation process of what some consider the solution to America's woes on health insurance, only 600 South Carolinians have been able to successfully sign up for ObamaCare, even though 430,000 are eligible and 700,00 do not have insurance. Only 600 of them have been able to sign up for ObamaCare.

When we think about those numbers, it reminds me of the challenges we face with going through the process of seeing the DC Circuit Court stacked to hear the disputes.

Part of the challenge we see is that ObamaCare hasn't worked, so stacking the court seems that it is the most likely option for our friends on the left.

When we started out having these conversations about ObamaCare, we started a conversation about those who are uninsured. I think every American in our country wants to see greater access to health insurance.

The vast majority of Americans do not want to see the government take it over, and now we understand why. In 2009—not 1999, but 2009—we had estimated for the unaffordable care act around $900 billion. In 2011 they came back and said: Wait, wait, I need to take another look at this.

The estimate came back at $1.8 trillion. In 2009, it was $900 billion and in 2011 the number had already increased to $1.8 trillion or a 100-percent increase in the estimated cost of the Affordable Care Act.

Only 2 more years later we could see that the number could perhaps eclipse $3 trillion. All we are talking about is the up-front pricetag, the price of ObamaCare on the front. We haven't delved into the actual cost of ObamaCare because those estimates say that on the back end of the Affordable Care Act we are going to see a $7 trillion increase or addition to our debt.

We started in 2009 with $900 billion; in 2011, $1.8 trillion; in 2013, perhaps over $3 trillion, adding $7 trillion to the deficit. That is not the whole picture.

Families in South Carolina still have to struggle with finding access to affordable health care, and ObamaCare is not simply providing the access. We see families such as the Hucks, the everyday American family. Mr. Hucks loves his family. He is in Greenville, SC. He loves his family. He spends 12 to 14 hours a day working as a financial adviser in South Carolina.

Mr. Hucks, unfortunately, faces the challenge of buying health insurance through ObamaCare. As he went through the process of trying to figure out what would happen—certainly he liked his coverage, but, of course, he can't keep it, period. He can't keep it. He cannot keep his coverage.

As I was talking to Jason Hucks in Greenville 2 weeks ago, Jason currently has a Blue Cross Blue Shield high-deductible plan. Remember the word ''deductible'' because we will come back and have a conversation about deductibles. He has a high-deductible plan that covers him, his wife, and their two cute little boys.

Instead of having a conversation between Mr. and Mrs. Hucks about planning for the college education of those two fine young men, they are having instead a conversation about whether they can afford the health care coverage.

What has happened? Let us take a look. Their current plan was a $10,000 deductible that cost them over $415 a month.

To stay on the Blue Cross Blue Shield plan under ObamaCare, Mr. Hucks and his family would have to pay nearly $1,000 a month—$895—almost $1,000 a month, more than doubling the premium. They will see their deductible increase by 150 percent.

A deductible that was $10,000 is pretty high, significantly high. It will go to $25,000 for this young family of four. That doesn't seem right to me; it doesn't seem fair.

We believe in fairness. For those who are most vulnerable, having access to $25,000 before their health insurance company is able to start paying is quite a high price to pay. Digging into your savings account for $25,000—because ObamaCare takes their $10,000 deductible, and not the $15,000, not the $20,000, but the $25,000—is simply not fair. This is not how we treat the most vulnerable in our society, by seeing their deductible go up by 150 percent. I simply don't understand. It is just wrong. It is not right.

Even if they were willing to switch companies, he would still see his rates rise almost 75 percent and his deductible would still rise from $10,000 to $12,000. No wonder they are trying to stack the DC courts. We see here a young family not planning for a 529 plan, not planning to send their kids to Clinton University or the University of South Carolina, but instead they are planning on tightening their belts because they have to have a budget that plans for not a $10,000 deductible but a $12,000 deductible, with a 20-percent increase in the deductible and a 75-percent increase in the cost. This is the effect of the Affordable Care Act. It becomes unaffordable for the average American family.

As for a plan with copays, Mr. Hucks says flatly that he can't afford to have a conversation about copays because a plan with a copay would skyrocket his premiums from $415 or so to as high as $1,200 or $1,500 a month. So instead of being able to go see a doctor and have a conversation and pay a 20-percent copay, instead of having the opportunity to do what many of us have been doing for the last decade-plus—pay a $15 or $20 or $25 or $30 copay when you go see your doctor—he has to first satisfy a deductible of not $15,000 but now a $25,000 deductible. This is higher than $15,000. This is wrong. It is not right.

Mr. Hucks' family is an example of how it is not just premiums that are

rising but deductibles are going through the roof. This is painful for a family who should be planning for college but instead is planning to spend more money on their health care because the Affordable Care Act is so unaffordable.

The New York Times recently quoted someone faced with this problem as saying the deductibles were so high—$4,000 to $6,000 a year—that it very much defeats the purpose of having insurance. I wonder why we say that. Well, think about it for a minute or two. Think about a family who has a $4,000 deductible. What does that mean to the average family, where Americans are spending over 100 percent of their income? What that means to the average family is they have to figure out how to pay $4,000 for visiting their doctors, getting their x rays, and having everything done at the doctor's office, getting their blood work done, before they can satisfy that $4,000 deductible and their health insurance plan starts paying. Under ObamaCare, one would think that number would go down, but it doesn't. It goes up. As a matter of fact, it goes up quickly in the first year of ObamaCare. It goes from an average out-of-pocket expense of $63.50 to over $12,000—not $4,000, not $5,000, not $6,000 but over $12,000 in out-of-pocket expenses.

So I am looking forward to the day we have a serious conversation about a free market solution that would reduce the cost of health insurance and at the exact same time create greater access for the average person in America to afford a free market health insurance policy. That is where we need to go. That is where the conversation should be. Instead of having that conversation, we are having a conversation about deductibles jumping $5,000, out-of-pocket expenses going up significantly. And I should have said that when you combine the out-of-pocket expenses and the deductibles, the out-of-pocket total for a year is the $12,000. The average deductible is a little over $5,000.

We are talking about a significant taking from the average American family—taking their money out of their pockets in the form of deductibles, taking money out of their pockets in the form of copays. And God forbid they actually go outside of the network. In many of these plans, we are talking about zero coverage out of network for ambulatory care. A family would bear 100 percent of the cost. So don't travel to the wrong place with the wrong plan at the wrong time. You will find yourself stuck without benefits because, unfortunately, the ACA isn't affordable for most Americans. I find that sad.

We think we are having a conversation about nominees here today, and we think we are having a conversation about nominees because President Obama has somehow, some way been treated differently than President Bush and other folks. But the facts are simply inconsistent with the reality of the alternate universe that has been created by the left.

The PRESIDING OFFICER. All postcloture time has expired.

The majority leader.

Mr. REID. Mr. President, we are going to have a confirmation vote on Cornelia Pillard. That will be the first vote. Then we are going to have—I don't believe there will be a need for a rollcall vote on the quorum. I think there will be enough Senators here that the Chair will be able to see clearly there are 51 Senators here. Then we will have a cloture on Executive Calendar No. 378, Chai Rachel Feldblum of the District of Columbia to be a member of the Equal Employment Opportunity Commission. Then, Mr. President, the next vote will be tomorrow morning at 9 a.m. This morning, yes; I am sorry.

We are going to do everything we can to finish our schedule before Christmas, but it is going to be pushing it. We will do our best. But this session doesn't end until the end of the year, so we are going to continue working until we get our work done. I am not going to yield back all of our time on all of our nominations. We are going to do those piece by piece.

I hope the body has been able to understand what a waste of time this has been, but we are going to confirm these nominations, and that is a step in the right direction.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Cornelia T.L. Pillard, of the District of Columbia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. COATS. 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 assistant bill clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 256 Ex.]

YEAS—51

Baldwin	Casey	Hirono
Baucus	Coons	Johnson (SD)
Begich	Durbin	Kaine
Bennet	Feinstein	King
Blumenthal	Franken	Klobuchar
Booker	Gillibrand	Landrieu
Boxer	Hagan	Leahy
Brown	Harkin	Levin
Cantwell	Heinrich	Markey
Cardin	Heitkamp	McCaskill
Menendez	Reid	Tester
Merkley	Rockefeller	Udall (CO)
Mikulski	Sanders	Udall (NM)
Murphy	Schatz	Warner
Murray	Schumer	Warren
Nelson	Shaheen	Whitehouse
Reed	Stabenow	Wyden

NAYS—44

Alexander	Fischer	Murkowski
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Pryor
Boozman	Hatch	Risch
Burr	Heller	Roberts
Coats	Hoeven	Rubio
Cochran	Inhofe	Scott
Collins	Isakson	Sessions
Corker	Johanns	Shelby
Cornyn	Johnson (WI)	Thune
Crapo	Lee	Toomey
Cruz	Manchin	Vitter
Donnelly	McCain	Wicker
Enzi	McConnell	

NOT VOTING—5

Carper	Coburn	Moran
Chambliss	Kirk	

The nomination was confirmed.

MESSAGE FROM THE HOUSE

At 4:23 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1402. An act to amend title 38, United States Code, to extend certain expiring provisions of law, and for other purposes.

H.R. 3521. An act to authorize Department of Veterans Affairs major medical facility leases, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1797. A bill to provide for the extension of certain unemployment benefits, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted on December 11, 2013:

By Mr. CARPER for the Committee on Homeland Security and Governmental Affairs.

*Alejandro Nicholas Mayorkas, of the District of Columbia, to be Deputy Secretary of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. COONS (for himself, Mr. BLUNT, Mr. SESSIONS, and Ms. HIRONO):

S. 1799. A bill to reauthorize subtitle A of the Victims of Child Abuse Act of 1990; to the Committee on the Judiciary.

By Mr. BARRASSO (for himself and Mr. SCHATZ):

S. 1800. A bill to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets; to the Committee on Energy and Natural Resources.

By Mr. MERKLEY (for himself and Ms. BALDWIN):

S. 1801. A bill to amend the Tariff Act of 1930 to include in the calculation of normal value the cost of paying adequate wages and maintaining sustainable production methods, and for other purposes; to the Committee on Finance.

By Mr. DONNELLY (for himself, Mr. INHOFE, Mr. LEAHY, Mr. WHITEHOUSE, Ms. HEITKAMP, Mr. COATS, Ms. COLLINS, and Mr. BLUNT):

S. 1802. A bill to provide equal treatment for utility special entities using utility operations-related swaps, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Ms. WARREN, Mrs. BOXER, and Mr. REED):

S. 1803. A bill to require certain protections for student loan borrowers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TESTER (for himself and Mr. BEGICH):

S. 1804. A bill to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. REED):

S.J. Res. 28. A joint resolution providing for the appointment of John Fahey as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. REED):

S.J. Res. 29. A joint resolution providing for the appointment of Risa Lavizzo-Mourey as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SESSIONS (for himself and Mrs. SHAHEEN):

S. Res. 317. A resolution expressing the sense of the Senate on the continuing relationship between the United States and Georgia; to the Committee on Foreign Relations.

By Mr. DURBIN (for himself, Mr. ENZI, and Mr. MURPHY):

S. Res. 318. A resolution expressing the sense of the Senate regarding the critical need for political reform in Bangladesh, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 38

At the request of Mrs. SHAHEEN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 38, a bill to amend title 28, United States Code, to prohibit the exclusion of individuals from service on a Federal jury on account of sexual orientation or gender identity.

S. 209

At the request of Mr. PAUL, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 209, a bill to require a full audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks by the Comptroller General of the United States, and for other purposes.

S. 489

At the request of Mr. THUNE, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 489, a bill to amend the Tariff Act of 1930 to increase and adjust for inflation the maximum value of articles that may be imported duty-free by one person on one day, and for other purposes.

S. 635

At the request of Mr. BROWN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 635, a bill to amend the Gramm-Leach-Bliley Act to provide an exception to the annual written privacy notice requirement.

S. 636

At the request of Mr. MENENDEZ, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 636, a bill to amend title XVIII of the Social Security Act to allow certain hospitals in Puerto Rico to qualify for incentives for adoption and meaningful use of certified EHR Technology under the Medicare program.

S. 862

At the request of Ms. AYOTTE, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 862, a bill to amend section 5000A of the Internal Revenue Code of 1986 to provide an additional religious exemption from the individual health coverage mandate.

S. 878

At the request of Mr. FRANKEN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 878, a bill to amend title 9 of the United States Code with respect to arbitration.

S. 947

At the request of Mrs. HAGAN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 947, a bill to ensure access to certain information for financial services industry regulators, and for other purposes.

S. 1011

At the request of Mr. JOHANNS, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1011, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of Boys Town, and for other purposes.

S. 1069

At the request of Mrs. GILLIBRAND, the name of the Senator from Wisconsin (Ms. BALDWIN) was added as a cosponsor of S. 1069, a bill to prohibit discrimination in adoption or foster care placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

S. 1114

At the request of Mr. BROWN, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 1114, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 1187

At the request of Ms. STABENOW, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1187, a bill to prevent homeowners from being forced to pay taxes on forgiven mortgage loan debt.

S. 1217

At the request of Mr. CORKER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1217, a bill to provide secondary mortgage market reform, and for other purposes.

S. 1235

At the request of Mr. WYDEN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1235, a bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property.

S. 1271

At the request of Mr. RUBIO, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1271, a bill to direct the President to establish guidelines for the United States foreign assistance programs, and for other purposes.

S. 1302

At the request of Mr. HARKIN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1302, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

S. 1417

At the request of Mrs. HAGAN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1417, a bill to amend the Public Health Service Act to reauthorize programs under part A of title XI of such Act.

S. 1419

At the request of Mr. WYDEN, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 1419, a bill to promote research, development, and demonstration of marine and hydrokinetic renewable energy technologies, and for other purposes.

S. 1510

At the request of Mr. COBURN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S.

1510, a bill to provide for auditable financial statements for the Department of Defense, and for other purposes.

S. 1622

At the request of Ms. HEITKAMP, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1622, a bill to establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.

S. 1659

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1659, a bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

S. 1690

At the request of Mr. LEAHY, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. 1690, a bill to reauthorize the Second Chance Act of 2007.

S. 1708

At the request of Mr. MERKLEY, the names of the Senator from Massachusetts (Mr. MARKEY), the Senator from Minnesota (Mr. FRANKEN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1708, a bill to amend title 23, United States Code, with respect to the establishment of performance measures for the highway safety improvement program, and for other purposes.

S. 1712

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1712, a bill to provide protections for workers with respect to their right to select or refrain from selecting representation by a labor organization.

S. 1725

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1725, a bill to amend the Securities Investor Protection Act of 1970 to confirm that a customer's net equity claim is based on the customer's last statement and that certain recoveries are prohibited, to change how trustees are appointed, and for other purposes.

S. 1735

At the request of Mr. ALEXANDER, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1735, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stoploss insurance obtained by certain plan sponsors of group health plans.

S. 1739

At the request of Mr. HOEVEN, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of S. 1739, a bill to modify the efficiency standards for grid-enabled water heaters.

S. 1740

At the request of Ms. LANDRIEU, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1740, a bill to authorize Department of Veterans Affairs major medical facility leases, and for other purposes.

S. 1747

At the request of Mr. REED, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 1747, a bill to provide for the extension of certain unemployment benefits, and for other purposes.

S. 1797

At the request of Mr. REED, the names of the Senator from Ohio (Mr. BROWN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 1797, a bill to provide for the extension of certain unemployment benefits, and for other purposes.

S. RES. 299

At the request of Mr. SCHUMER, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. Res. 299, a resolution congratulating the American Jewish Joint Distribution Committee on the celebration of its 100th anniversary and commending its significant contribution to empower and revitalize developing communities around the world.

AMENDMENT NO. 2155

At the request of Mr. COBURN, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of amendment No. 2155 intended to be proposed to S. 1197, an original bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2244

At the request of Mr. HEINRICH, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of amendment No. 2244 intended to be proposed to S. 1197, an original bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2365

At the request of Mr. MORAN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of amendment No. 2365 intended to be proposed to S. 1197, an original bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. WARREN, Mrs. BOXER, and Mr. REED):

S. 1803. A bill to require certain protections for student loan borrowers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 1803

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Loan Borrower Bill of Rights''.

SEC. 2. TRUTH IN LENDING ACT AMENDMENTS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 128 (15 U.S.C. 1638)—

(A) in subsection (e)—

(i) in paragraph (1)(O), by striking ''paragraph (6)'' and inserting ''paragraph (9)'';

(ii) in paragraph (2)(L), by striking ''paragraph (6)'' and inserting ''paragraph (9)'';

(iii) in paragraph (4)(C), by striking ''paragraph (7)'' and inserting ''paragraph (10)'';

(iv) by redesignating paragraphs (5) through (11) as paragraphs (8) through (14), respectively;

(v) by inserting after paragraph (4) the following:

''(5) DISCLOSURES BEFORE FIRST FULLY AMORTIZED PAYMENT.—Not fewer than 30 days and not more than 150 days before the first fully amortized payment on a private education loan is due from the borrower, the private educational lender shall disclose to the borrower, clearly and conspicuously—

''(A) the information described in—

''(i) paragraph (2)(A) (adjusted, as necessary, for the rate of interest in effect on the date the first fully amortized payment on a private education loan is due);

''(ii) subparagraphs (B) through (G) of paragraph (2);

''(iii) paragraph (2)(H) (adjusted, as necessary, for the rate of interest in effect on the date the first fully amortized payment on a private education loan is due);

''(iv) paragraph (2)(K); and

''(v) subparagraphs (O) and (P) of paragraph (2);

''(B) the scheduled date upon which the first fully amortized payment is due;

''(C) the name of the lender and servicer, and the address to which communications and payments should be sent including a telephone number and website where the borrower may obtain additional information;

''(D) a description of alternative repayment plans, including loan consolidation or refinancing, and servicemember or veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or other Federal or State law related to private education loans; and

''(E) a statement that a Servicemember and Veterans Liaison designated under paragraph (15)(F) is available to answer inquiries about servicemember and veteran benefits related to private education loans, including the toll-free telephone number to contact the Liaison pursuant to paragraph (15)(F).

''(6) DISCLOSURES WHEN BORROWER IS 30 DAYS DELINQUENT.—Not fewer than 5 days after a borrower becomes 30 days delinquent on a private education loan, the private educational lender shall disclose to the borrower, clearly and conspicuously—

''(A) the date on which the loan will be charged-off (as defined in paragraph (15)(A)) or assigned to collections, including the consequences of such charge-off or assignment to collections, if no payment is made;

''(B) the minimum payment that the borrower must make to avoid the loan being charged off (as defined in paragraph (15)(A)) or assigned to collection, and the minimum payment that the borrower must make to bring the loan current;

''(C) a statement informing the borrower that a payment of less than the minimum payment described in subparagraph (B) could result in the loan being charged off (as defined in paragraph (15)(A)) or assigned to collection; and

''(D) a statement that a Servicemember and Veterans Liaison designated under paragraph (15)(F) is available to answer inquiries about servicemember and veteran benefits related to private education loans, including the toll-free telephone number to contact the Liaison pursuant to paragraph (15)(F).

''(7) DISCLOSURES WHEN BORROWER IS HAVING DIFFICULTY MAKING PAYMENT OR IS 60 DAYS DELINQUENT.—

''(A) IN GENERAL.—Not fewer than 5 days after a borrower notifies a private educational lender that the borrower is having difficulty making payment or a borrower becomes 60 days delinquent on a private education loan, the private educational lender shall—

''(i) complete a full review of the borrower's private education loan and make a reasonable effort to obtain the information necessary to determine—

''(I) if the borrower is eligible for an alternative repayment plan, including loan consolidation or refinancing; and

''(II) if the borrower is eligible for servicemember or veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or other Federal or State law related to private education loans;

''(ii) provide the borrower, in writing, in simple and understandable terms, information about alternative repayment plans and benefits for which the borrower is eligible, including all terms, conditions, and fees or costs associated with such repayment plan, pursuant to paragraph (8)(D);

''(iii) allow the borrower not less than 30 days to apply for an alternative repayment plan or benefits, if eligible; and

''(iv) notify the borrower that a Servicemember and Veterans Liaison designated under paragraph (15)(F) is available to answer inquiries about servicemember and veteran benefits related to private education loans, including the toll-free telephone number to contact the Liaison pursuant to paragraph (15)(F).

''(B) FORBEARANCE OR DEFERMENT.—If a borrower notifies the private educational lender that a long-term alternative repayment plan is not needed, the private educational lender may comply with this paragraph by providing the borrower, in writing, in simple and understandable terms, information about forbearance or deferment options, including all terms, conditions, and fees or costs associated with such options pursuant to paragraph (8)(D).

''(C) NOTIFICATION PROCESS.—

''(i) IN GENERAL.—Each private educational lender shall establish a process, in accordance subparagraph (A), for a borrower to notify the lender that—

''(I) the borrower is having difficulty making payments on a private education loan; and

''(II) a long-term alternative repayment plan is not needed.

''(ii) CONSUMER FINANCIAL PROTECTION BUREAU REQUIREMENTS.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, shall promulgate rules establishing minimum standards for private educational lenders in carrying out the requirements of this paragraph and a model form for borrowers to notify private educational lenders of the information under this paragraph.'';

(vi) in paragraph (8), as redesignated by clause (iv), by adding at the end the following:

''(D) MODEL DISCLOSURE FORM FOR ALTERNATIVE REPAYMENT PLANS, FORBEARANCE, AND DEFERMENT OPTIONS.—Not later than 2 years after the date of enactment of the Student Loan Borrower Bill of Rights, the Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, shall develop and issue model forms to allow borrowers to compare alternative repayment plans, forbearance, and deferment options with the borrower's existing repayment plan with respect to a private education loan. Such forms shall include the following:

''(i) The total amount to be paid over the life of the loan.

''(ii) The total amount in interest to be paid over the life of the loan.

''(iii) The monthly payment amount.

''(iv) The expected pay-off date.

''(v) Related fees and costs.

''(vi) Eligibility requirements, and how the borrower can apply for the alternative repayment plan, forbearance, or deferment option.

''(vii) Any consequences, including the loss of eligibility for alternative repayment plans, forbearance, or deferment options.'';

(vii) in paragraph (11), as redesignated by clause (iv), by striking ''paragraph (7)'' and inserting ''paragraph (10)'';

(viii) in paragraph (14), as redesignated by clause (iv), by striking ''paragraph (5)'' and inserting ''paragraph (8)''; and

(ix) by adding at the end the following:

''(15) STUDENT LOAN BORROWER BILL OF RIGHTS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) BORROWER.—The term 'borrower' means the person to whom a private education loan is extended.

''(ii) CHARGE OFF.—The term 'charge off' means charge to profit and loss, or subject to any similar action.

''(iii) PRIVATE EDUCATION LOAN.—The term 'private education loan' has the meaning given the term in section 140(a).

''(iv) SERVICER.—The term 'servicer' means the person responsible for the servicing of a private education loan, including any agent of such person or the person who makes, owns, or holds a loan if such person also services the loan.

''(v) SERVICING.—The term 'servicing' means—

''(I) receiving any scheduled periodic payments from a borrower pursuant to the terms of a private education loan;

''(II) making the payments of principal and interest and such other payments with respect to the amounts received from the borrower, as may be required pursuant to the terms of the loan; and

''(III) performing other administrative services with respect to the loan.

''(B) SALE, TRANSFER, OR ASSIGNMENT.—If the sale, other transfer, or assignment of a private education loan results in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loan—

''(i) the transferor shall—

''(I) notify the borrower, in writing, in simple and understandable terms, not fewer than 45 days before transferring a legally enforceable right to receive payment from the borrower on such loan, of—

''(aa) the sale or other transfer;

''(bb) the identity of the transferee;

''(cc) the name and address of the party to whom subsequent payments or communications must be sent;

''(dd) the telephone numbers and websites of both the transferor and the transferee;

''(ee) the effective date of the sale, transfer, or assignment;

''(ff) the date on which the transferor servicer will stop accepting payment; and

''(gg) the date on which the transferee servicer will begin accepting payment; and

''(II) forward any payment from a borrower with respect to such private education loan to the transferee servicer, immediately upon receiving such payment, during the 60-day period beginning on the date on which the transferor servicer stops accepting payment of such private education loan; and

''(ii) the transferee shall—

''(I) notify the borrower, in writing, in simple and understandable terms, not fewer than 45 days before acquiring a legally enforceable right to receive payment from the borrower on such loan, of—

''(aa) the sale or other transfer;

''(bb) the identity of the transferee;

''(cc) the name and address of the party to whom subsequent payments or communications must be sent;

''(dd) the telephone numbers and websites of both the transferor and the transferee;

''(ee) the effective date of the sale, transfer, or assignment;

''(ff) the date on which the transferor will stop accepting payment; and

''(gg) the date on which the transferee will begin accepting payment;

''(II) accept as on-time and may not impose any late fee or finance charge for any payment from a borrower with respect to such private education loan that is forwarded from the transferor servicer during the 60-day period beginning on the date on which the transferor servicer stops accepting payment, if the transferor servicer receives such payment on or before the applicable due date, including any grace period;

''(III) provide borrowers a simple, online process for transferring existing electronic fund transfer authority; and

''(IV) honor any promotion or benefit offered to the borrower or advertised by the previous owner or transferor servicer of such private education loan.

''(C) MATERIAL CHANGE IN MAILING ADDRESS OR PROCEDURE FOR HANDLING PAYMENTS.—If a servicer makes a change in the mailing address, office, or procedures for handling payments with respect to any private education loan, and such change causes a delay in the crediting of the account of the borrower made during the 60-day period following the date on which such change took effect, the servicer may not impose any late fee or finance charge for a late payment on such private education loan.

''(D) APPLICATION OF PAYMENTS.—

''(i) IN GENERAL.—Unless otherwise directed by the borrower, upon receipt of a payment, the servicer shall apply amounts first to the interest and fees owed on the payment due date, and then to the principal balance of the private education loan bearing the highest annual percentage rate, and then to each successive interest and fees and then principal balance bearing the next highest annual percentage rate, until the payment is exhausted. A borrower may instruct

or expressly authorize the servicer to apply payments in a different manner.

''(ii) APPLICATION OF EXCESS AMOUNTS.—Unless otherwise directed by the borrower, upon receipt of a payment, the servicer shall apply amounts in excess of the minimum payment amount first to the interest and fees owed on the payment due date, and then to the principal balance of the private education loan balance bearing the highest annual percentage rate, and then to each successive interest and fees and principal balance bearing the next highest annual percentage rate, until the payment is exhausted. A borrower may instruct or expressly authorize the servicer to apply such excess payments in a different manner.

''(iii) APPLY PAYMENT ON DATE RECEIVED.—Unless otherwise directed by the borrower, a servicer shall apply payments to a borrower's account on the date the payment is received.

''(iv) PROMULGATION OF RULES.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, may promulgate rules for the application of payments that—

''(I) minimizes the amount of fees and interest incurred by the borrower and the total loan amount paid by the borrower;

''(II) minimizes delinquencies, assignments to collection, and charge-offs;

''(III) requires servicers to apply payments on the date received; and

''(IV) allows the borrower to instruct the servicer to apply payments in a manner preferred by the borrower.

''(E) REHABILITATION OF LOANS.—If a borrower successfully and voluntarily makes 9 payments within 20 days of the due date during 10 consecutive months of amounts owed on a private education loan, or otherwise brings a private education loan current after the loan is charged-off, the loan shall be considered rehabilitated, and the lender or servicer shall request that any consumer reporting agency to which the charge-off was reported remove the delinquency that led to the charge-off and the charge-off from the borrower's credit history.

''(F) SERVICEMEMBERS, VETERANS, AND PRIVATE EDUCATION LOANS.—

''(i) SERVICEMEMBER AND VETERANS LIAISON.—Each servicer shall designate an employee to act as the servicemember and veterans liaison who is responsible for answering inquiries from servicemembers and veterans, and is specially trained on servicemember and veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws related to private education loans.

''(ii) TOLL-FREE TELEPHONE NUMBER.—Each servicer shall maintain a toll-free telephone number that shall—

''(I) connect directly to the servicemember and veterans liaison designated under clause (i); and

''(II) be made available on the primary internet website of the servicer and on monthly billing statements.

''(iii) PROHIBITION ON CHARGE OFFS.—A lender or servicer may not charge off or report a private education loan as delinquent, assigned to collection (internally or by referral to a third party), or charged-off to a credit reporting agency if the borrower is on active duty in the Armed Forces (as defined in section 101(d)(1) of title 10, United States Code) serving in a combat zone (as designated by the President under section 112(c) of the Internal Revenue Code of 1986).

''(G) BORROWER'S LOAN HISTORY.—

''(i) IN GENERAL.—A servicer shall make available through a secure website, or in writing upon request, the loan history of each borrower for each private education loan, separately designating—

''(I) payment history;

''(II) loan history, including any forbearances, deferrals, delinquencies, assignment to collection, and charge offs;

''(III) annual percentage rate history; and

''(IV) key loan terms, including application of payments to interest, principal, and fees, origination date, principal, capitalized interest, annual percentage rate, including any cap, loan term, and any contractual incentives.

''(ii) ORIGINAL DOCUMENTATION.—A servicer shall make available to the borrower, if requested, at no charge, copies of the original loan documents and the promissory note for each private education loan.

''(H) ERROR RESOLUTION.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, shall promulgate rules requiring servicers to establish error resolution procedures to allow borrowers to inquire about errors related to their private education loans and obtain timely resolution of such errors.

''(I) ADDITIONAL SERVICING STANDARDS.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, may establish additional servicing standards to reduce delinquencies, assignment to collections, and charge-offs, and to ensure borrowers understand their rights and obligations related to their private education loans.

''(J) ARBITRATION.—

''(i) WAIVER OF RIGHTS AND REMEDIES.—Any rights and remedies available to borrowers against servicers may not be waived by any agreement, policy, or form, including by a predispute arbitration agreement.

''(ii) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable by a servicer, including as a third-party beneficiary or by estoppel, if the agreement requires arbitration of a dispute with respect to a private education loan. This subparagraph applies to predispute arbitration agreements entered into before the date of enactment of the Student Loan Borrower Bill of Rights, as well as on and after such date of enactment, if the violation that is the subject of the dispute occurred on or after such date of enactment.

''(K) ENFORCEMENT.—The provisions of this paragraph shall be enforced by the agencies specified in subsections (a) through (d) of section 108, in the manner set forth in that section or under any other applicable authorities available to such agencies by law.

''(L) PREEMPTION.—Nothing in this paragraph may be construed to preempt any provision of State law regarding private education loans where the State law provides stronger consumer protections.

''(M) CIVIL LIABILITY.—A servicer that fails to comply with any requirement imposed under this paragraph shall be deemed a creditor that has failed to comply with a requirement under this chapter for purposes of liability under section 130 and such servicer shall be subject to the applicable liability provisions under such section.''; and

(B) by adding at the end the following:

''(g) INFORMATION TO BE AVAILABLE AT NO CHARGE.—The information required to be disclosed under this section shall be made available at no charge to the borrower.''; and

(2) in section 130(a)—

(A) in paragraph (3), by striking ''128(e)(7)'' and inserting ''128(e)(10)''; and

(B) in the flush matter at the end, by striking ''or paragraph (4)(C), (6), (7), or (8) of section 128(e),'' and inserting ''or paragraph (4)(C), (9), (10), or (11) of section 128(e),''.

SEC. 3. STUDENT LOAN BORROWER BILL OF RIGHTS.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in part G of title IV (20 U.S.C. 1088 et seq.) by adding at the end the following:

''SEC. 493E. STUDENT LOAN BORROWER BILL OF RIGHTS.

''(a) DEFINITIONS.—In this section:

''(1) SERVICER.—The term 'servicer' means the person responsible for the servicing of any student loan, including any agent of such person or the person who makes, owns, or holds a loan if such person also services the loan.

''(2) SERVICING.—The term 'servicing' means—

''(A) receiving any scheduled periodic payments from a borrower pursuant to the terms of a student loan;

''(B) making the payments of principal and interest and such other payments with respect to the amounts received from the borrower, as may be required pursuant to the terms of the loan; and

''(C) performing other administrative services with respect to the loan.

''(3) STUDENT LOAN.—The term 'student loan' means a loan made, insured, or guaranteed under this title.

''(b) TRANSFER OF LENDER OR SERVICER.—If the sale, other transfer, or assignment of a student loan results in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loan—

''(1) the transferor shall—

''(A) notify the borrower in writing not fewer than 45 days before transferring a legally enforceable right to receive payment from the borrower on such loan, of—

''(i) the sale, transfer, or assignment;

''(ii) the identity of the transferee;

''(iii) the name and address of the party to whom subsequent payments or communications must be sent;

''(iv) the telephone numbers and websites of both the transferor and the transferee;

''(v) the effective date of the sale, transfer, or assignment;

''(vi) the date on which the current servicer will stop accepting payments; and

''(vii) the date on which the transferee servicer will begin accepting payment; and

''(B) forward to the transferee servicer any payment with respect to such student loan, immediately upon receiving such payment, from a borrower during the 60-day period beginning on the date on which the transferor servicer stops accepting payment for such student loan; and

''(2) the transferee shall—

''(A) notify the borrower in writing not fewer than 45 days before transferring a legally enforceable right to receive payment from the borrower on such loan, of—

''(i) the sale, transfer, or assignment;

''(ii) the identity of the transferor;

''(iii) the name and address of the party to whom subsequent payments or communications must be sent;

''(iv) the telephone numbers and websites of both the transferor and the transferee;

''(v) the effective date of the sale, transfer, or assignment;

''(vi) the date on which the current servicer will stop accepting payments; and

''(vii) the date on which the transferee servicer will begin accepting payment;

''(B) accept as on-time and may not impose any late fee or finance charge with respect to such student loan for any payment forwarded from the transferor servicer during the 60-day period beginning on the date on which the transferor servicer stops accepting payment, if the transferor servicer received such payment from the borrower on or before the applicable due date, including any grace period;

''(C) provide borrowers a simple, online process for transferring existing electronic fund transfer authority; and

''(D) honor any promotion or benefit offered to the borrower or advertised by the previous owner or transferor servicer of such student loan.

''(c) MATERIAL CHANGE IN MAILING ADDRESS OR PROCEDURE FOR HANDLING PAYMENTS.—If a servicer makes a change in the mailing address, office, or procedures for handling payments with respect to any student loan, and such change causes a delay in the crediting of the account of the borrower made during the 60-day period following the date on which such change took effect, the servicer may not impose any late fee or finance charge for a late payment on such student loan.

''(d) ELIGIBILITY FOR DISCHARGE.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary, shall promulgate rules requiring lenders and servicers to—

''(1) identify and contact borrowers who may be eligible for student loan discharge by the Secretary;

''(2) provide the borrower, in writing, in simple and understandable terms, information about obtaining such discharge; and

''(3) create a streamlined process for eligible borrowers to apply for and receive such discharge.

''(e) APPLICATION OF PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Director of the Consumer Financial Protection Bureau, in consultation with the Secretary, shall issue rules for the application of student loan payments that—

''(A) minimizes the amount of fees and interest incurred by the borrower and the total loan amount paid by the borrower;

''(B) minimizes delinquencies, assignments to collection, and charge offs;

''(C) requires servicers to apply payments on the date received; and

''(D) allows the borrower to direct the servicer to apply payments in a manner preferred by the borrower.

''(2) METHOD THAT BEST BENEFITS BORROWER.—In issuing the rules under paragraph (1), the Director of the Consumer Financial Protection Bureau shall choose the application method that best benefits the borrower and is compatible with existing repayment options.

''(f) SERVICEMEMBERS, VETERANS, AND STUDENT LOANS.—

''(1) SERVICEMEMBER AND VETERANS LIAISON.—Each servicer of a student loan shall designate an employee to act as the servicemember and veterans liaison who is responsible for answering inquiries from servicemembers and veterans, and is specially trained on servicemember and veteran benefits and options under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws related to student loans.

''(2) TOLL-FREE TELEPHONE NUMBER.—Each servicer of a student loan shall maintain a toll-free telephone number for the servicemember and veterans liaison designated under paragraph (1), which shall be made available on the primary Internet website of the servicer and on monthly billing statements.

''(3) PROHIBITION ON DEFAULT.—Notwithstanding any other provision of this Act, a servicer may not report a student loan as delinquent, assigned to collection (internally or by referral to a third party), charged off, or in default, to a credit reporting agency if the borrower is on active duty in the Armed Forces (as defined in section 101(d)(1) of title 10, United States Code) serving in a combat zone (as designated by the President under section 112(c) of the Internal Revenue Code of 1986).

''(4) ADDITIONAL LIAISONS.—The Secretary shall determine additional entities with whom borrowers interact, including guaranty agencies, that shall designate an employee to act as the servicemember and veterans liaison who is responsible for answering inquiries from servicemembers and veterans, and is specially trained on servicemember and veteran benefits and options under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws related to student loans.

''(g) BORROWER'S LOAN HISTORY.—

''(1) IN GENERAL.—A servicer of a student loan shall make available through a secure website, or in writing upon request, the loan history of each borrower for each student loan, separately designating—

''(A) payment history;

''(B) loan history, including any forbearances, deferrals, delinquencies, and defaults;

''(C) annual percentage rate history; and

''(D) key loan terms, including application of payments to interest, principal, and fees, origination date, principal, capitalized interest, annual percentage rate, including any cap, loan term, and any contractual incentives.

''(2) ORIGINAL DOCUMENTATION.—A servicer shall make available to the borrower, if requested, at no charge, copies of the original loan documents and the promissory note for each student loan.

''(h) ERROR RESOLUTION.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary, shall promulgate rules requiring servicers to establish error resolution procedures to allow borrowers to inquire about errors related to their student loans and obtain timely resolution of such errors.

''(i) ADDITIONAL SERVICING STANDARDS.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary, may establish additional servicing standards to reduce delinquencies, assignments to collection, and defaults, and to ensure borrowers understand their rights and obligations related to their student loans.

''(j) PROMULGATION OF RULES.—The Director of the Consumer Financial Protection Bureau, in consultation with the Secretary, shall promulgate rules implementing this section.'';

(2) in section 433 (20 U.S.C. 1083)—

(A) in subsection (b)—

(i) in paragraph (12), by striking ''and'' after the semicolon;

(ii) in paragraph (13), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(14) a statement that—

''(A) the borrower may be entitled to servicemember and veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws; and

''(B) a Servicemember and Veterans Liaison designated under section 493E(f) is available to answer inquiries about servicemember and veteran benefits, including the toll-free telephone number to contact the Liaison pursuant to section 493E(f).''; and

(B) in subsection (e)—

(i) in paragraph (2), by adding at the end the following:

''(D) A statement that—

''(i) the borrower may be entitled to servicemember and veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws; and

''(ii) a Servicemember and Veterans Liaison designated under section 493E(f) is available to answer inquiries about servicemember and veteran benefits, including the toll-free telephone number to contact the Liaison pursuant to section 493E(f).'';

(ii) in paragraph (3), by adding at the end the following:

''(F) A statement that—

''(i) the borrower may be entitled to servicemember and veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws; and

''(ii) a Servicemember and Veterans Liaison designated under section 493E(f) is available to answer inquiries about servicemember and veteran benefits, including the toll-free telephone number to contact the Liaison pursuant to section 493E(f).''; and

(iii) by adding at the end the following:

''(4) NOTIFICATION OF REPAYMENT OPTIONS AND ALTERNATIVES TO DEFAULT.—The Secretary shall require eligible lenders to, not later than 1 year after the date of enactment of the Student Loan Borrower Bill of Rights—

''(A) notify borrowers, in writing, in simple and understandable terms, about alternative repayment options, including income-based repayment, income contingent repayment, consolidation, and forgiveness options, as well as servicemember or veteran benefits under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or other Federal or State laws;

''(B) provide borrowers, in writing, in simple and understandable terms, information about alternative repayment plans, including all terms, conditions, and fees or costs associated with such repayment plans in a format that allows the borrower to compare the current repayment plan with alternative repayment plans; and

''(C) offer to enroll such borrowers in alternative repayment plans, if eligible.''; and

(3) in section 455(d) (20 U.S.C. 1087e(d)), by adding at the end the following:

''(6) NOTIFICATION OF REPAYMENT OPTIONS.—The Secretary shall carry out, not later than 1 year after the date of enactment of the Student Loan Borrower Bill of Rights, the activities described in subparagraphs (A), (B), and (C) of section 433(e)(4) with respect to loans made under this part.''.

SEC. 4. KNOW BEFORE YOU OWE.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) IN GENERAL.—Section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)), as amended by section 2, is further amended—

(A) by striking paragraph (3) and inserting the following:

''(3) INSTITUTIONAL CERTIFICATION REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), before a creditor may issue any funds with respect to an extension of credit described in this subsection, the creditor shall obtain from the relevant institution of higher education where such loan is to be used for a student, such institution's certification of—

''(i) the enrollment status of the student;

''(ii) the student's cost of attendance at the institution as determined by the institution under part F of title IV of the Higher Education Act of 1965; and

''(iii) the difference between—

''(I) such cost of attendance; and

''(II) the student's estimated financial assistance, including such assistance received under title IV of the Higher Education Act of 1965 and other financial assistance known to the institution, as applicable.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a creditor may issue funds, not to exceed the amount described in subparagraph (A)(iii), with respect to an extension of credit described in this subsection without obtaining from the relevant institution of higher education such institution's

certification if such institution fails to provide within 15 business days of the creditor's request for such certification—

''(i) notification of the institution's refusal to certify the request; or

''(ii) notification that the institution has received the request for certification and will need additional time to comply with the certification request.

''(C) LOANS DISBURSED WITHOUT CERTIFICATION.—If a creditor issues funds without obtaining a certification, as described in subparagraph (B), such creditor shall report the issuance of such funds in a manner determined by the Director of the Consumer Financial Protection Bureau.''; and

(B) by adding at the end the following:

''(16) PROVISION OF INFORMATION.—

''(A) PROVISION OF INFORMATION TO STUDENTS.—

''(i) LOAN STATEMENT.—A creditor that issues any funds with respect to an extension of credit described in this subsection shall send loan statements, where such loan is to be used for a student, to borrowers of such funds not less than once every 3 months during the time that such student is enrolled at an institution of higher education.

''(ii) CONTENTS OF LOAN STATEMENT.—Each statement described in clause (i) shall—

''(I) report the borrower's total remaining debt to the creditor, including accrued but unpaid interest and capitalized interest;

''(II) report any debt increases since the last statement; and

''(III) list the current interest rate for each loan.

''(B) NOTIFICATION OF LOANS DISBURSED WITHOUT CERTIFICATION.—On or before the date a creditor issues any funds with respect to an extension of credit described in this subsection, the creditor shall notify the relevant institution of higher education, in writing, of the amount of the extension of credit and the student on whose behalf credit is extended. The form of such written notification shall be subject to the regulations of the Consumer Financial Protection Bureau.

''(C) ANNUAL REPORT.—A creditor that issues funds with respect to an extension of credit described in this subsection shall prepare and submit an annual report to the Consumer Financial Protection Bureau containing the required information about private student loans to be determined by the Consumer Financial Protection Bureau, in consultation with the Secretary of Education.''.

(2) DEFINITION OF PRIVATE EDUCATION LOAN.—Section 140(a)(7)(A) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)(A)) is amended—

(A) by redesignating clause (ii) as clause (iii);

(B) in clause (i), by striking ''and'' after the semicolon; and

(C) by adding after clause (i) the following:

''(ii) is not made, insured, or guaranteed under title VII or title VIII of the Public Health Service Act (42 U.S.C. 292 et seq. and 296 et seq.); and''.

(3) REGULATIONS.—Not later than 365 days after the date of enactment of this Act, the Director of the Consumer Financial Protection Bureau shall issue regulations in final form to implement paragraphs (3) and (16) of section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)), as amended by paragraph (1). Such regulations shall become effective not later than 6 months after their date of issuance.

(b) AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.—

(1) PROGRAM PARTICIPATION AGREEMENTS.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by striking paragraph (28) and inserting the following:

''(28)(A) Upon the request of a private educational lender, acting in connection with an application initiated by a borrower for a private education loan in accordance with section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)), the institution shall within 15 days of receipt of a certification request—

''(i) provide such certification to such private educational lender—

''(I) that the student who initiated the application for the private education loan, or on whose behalf the application was initiated, is enrolled or is scheduled to enroll at the institution;

''(II) of such student's cost of attendance at the institution as determined under part F of this title; and

''(III) of the difference between—

''(aa) the cost of attendance at the institution; and

''(bb) the student's estimated financial assistance received under this title and other assistance known to the institution, as applicable;

''(ii) notify the creditor that the institution has received the request for certification and will need additional time to comply with the certification request; or

''(iii) provide notice to the private educational lender of the institution's refusal to certify the private education loan under subparagraph (D).

''(B) With respect to a certification request described in subparagraph (A), and prior to providing such certification under subparagraph (A)(i) or providing notice of the refusal to provide certification under subparagraph (A)(iii), the institution shall—

''(i) determine whether the student who initiated the application for the private education loan, or on whose behalf the application was initiated, has applied for and exhausted the Federal financial assistance available to such student under this title and inform the student accordingly; and

''(ii) provide the borrower whose loan application has prompted the certification request by a private education lender, as described in subparagraph (A)(i), with the following information and disclosures:

''(I) The availability of, and the borrower's potential eligibility for, Federal financial assistance under this title, including disclosing the terms, conditions, interest rates, and repayment options and programs of Federal student loans.

''(II) The borrower's ability to select a private educational lender of the borrower's choice.

''(III) The impact of a proposed private education loan on the borrower's potential eligibility for other financial assistance, including Federal financial assistance under this title.

''(IV) The borrower's right to accept or reject a private education loan within the 30-day period following a private educational lender's approval of a borrower's application and about a borrower's 3-day right to cancel period.

''(C) For purposes of this paragraph, the terms 'private educational lender' and 'private education loan' have the meanings given such terms in section 140 of the Truth in Lending Act (15 U.S.C. 1650).

''(D)(i) An institution shall not provide a certification with respect to a private education loan under this paragraph unless the private education loan includes terms that provide—

''(I) the borrower alternative repayment plans, including loan consolidation or refinancing; and

''(II) that the liability to repay the loan shall be cancelled upon the death or disability of the borrower or co-borrower.

''(ii) In this paragraph, the term 'disability' means a permanent and total disability, as determined in accordance with the regulations of the Secretary of Education, or a determination by the Secretary of Veterans that the borrower is unemployable due to a service connected-disability.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of the regulations described in subsection (a)(3).

(3) PREFERRED LENDER ARRANGEMENT.—Section 151(8)(A)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1019(8)(A)(ii)) is amended by inserting ''certifying,'' after ''promoting,''.

(c) REPORT.—Not later than 24 months after the issuance of regulations under subsection (a)(3), the Director of the Consumer Financial Protection Bureau and the Secretary of Education shall jointly submit to Congress a report on the compliance of institutions of higher education and private educational lenders with section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)), as amended by subsection (a), and section 487(a)(28) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)), as amended by subsection (b). Such report shall include information about the degree to which specific institutions utilize certifications in effectively encouraging the exhaustion of Federal student loan eligibility and lowering student private education loan debt.

SEC. 5. REPORT ON STUDENT LOAN SERVICERS.

Not later than 1 year after the date of enactment of this Act, the Director of the Consumer Financial Protection Bureau, in consultation with the Secretary of Education, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Financial Services of the House of Representatives, and the Committee on Education and the Workforce of the House of Representatives on private and Federal student loan servicers, including—

(1) any legislative recommendations to improve student loan servicing standards; and

(2) information on proactive early intervention methods by servicers to help distressed student loan borrowers enroll in any eligible repayment plans.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 317—EXPRESSING THE SENSE OF THE SENATE ON THE CONTINUING RELATIONSHIP BETWEEN THE UNITED STATES AND GEORGIA

Mr. SESSIONS (for himself and Mrs. SHAHEEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 317

Whereas Georgia is a highly valued partner of the United States and has repeatedly demonstrated its commitment to advancing the mutual interests of both countries, including through the deployment of Georgian forces as part of the NATO-led International Security Assistance Force (ISAF) in Afghanistan, where Georgia is currently the largest non-NATO contributor and serving without caveats in Helmand Province, and the Multi-National Force in Iraq;

Whereas, contrary to international law and the 2008 ceasefire agreement between Russia and Georgia, Russian forces have constructed barriers, including barbed wire and fences, along the administrative boundary line for the South Ossetia region of Georgia;

Whereas this ''borderization'' is inconsistent with Russia's international commitments under the August 2008 ceasefire agreement, is contrary to Georgia's sovereignty and territorial integrity, creates hardship and significant negative impacts for populations on both sides of these barriers, and is detrimental to long-term conflict resolution;

Whereas the peaceful transfer of power as the result of the October 2012 parliamentary elections in Georgia represents a major accomplishment toward the creation by the people of Georgia of a free society and full democracy;

Whereas the presidential election of October 2013 marks another step in this transition to a free and open democracy in Georgia;

Whereas international election observers from the Organization for Security and Cooperation in Europe (OSCE) concluded that the election ''was efficiently administered, transparent, and took place in an amicable and constructive environment [. . .]. Fundamental freedoms of expression, movement and assembly were respected, and candidates were able to campaign without restriction. [. . .] A wide range of views and information was made available to voters through the media, providing candidates with a platform to present their programmes and opinions freely'';

Whereas such election conduct is consistent with actions that demonstrate progress toward a mature and free democracy; and

Whereas, on November 29, 2013, Georgia initialed an Association Agreement with the European Union (EU), making Georgia a member of the Deep and Comprehensive Free Trade Area, removing significant trade restrictions with the European Union, and signifying an important preliminary step towards the signing and eventual implementation of the Association Agreement by all European Union members states and Georgia: Now, therefore, be it

Resolved, That the Senate—

(1) declares that the United States supports the sovereignty, independence, and territorial integrity of Georgia and the inviolability of its internationally recognized borders, and expresses concerns over the continued occupation of the Georgian regions of Abkhazia and South Ossetia by the Russian Federation;

(2) encourages the President to enhance defense cooperation efforts with Georgia;

(3) supports the efforts of the Government of Georgia to protect its government, people, sovereignty, and territorial integrity within its internationally recognized borders;

(4) reaffirms its support for Georgia's NATO membership aspirations, congratulates the Government of Georgia on the steps it has taken to further its integration with NATO, and commends the determination of the Government of Georgia to maintain its troop contribution to International Security Assistance Force and its willingness to extend its mission in Afghanistan beyond 2014;

(5) congratulates the Government and people of Georgia on the presidential election of October 27, 2013, commends the Government and people of Georgia on a peaceful and democratic transfer of power, and encourages all parties to work together constructively to maintain continued movement toward a free and democratic society;

(6) strongly encourages the Government of Georgia to defend the rule of law, improve the independence of the judiciary, and protect the rights of political opposition – all essential components of a free and open democracy and which can and should be demonstrated in the upcoming 2014 local elections;

(7) strongly supports a United States and international election monitoring mission for this final phase of Georgia's election cycle;

(8) further encourages the Government of Georgia to refrain from politically motivated arrests and prosecutions;

(9) affirms that the path to lasting stability in this region is through peaceful means and long-term diplomatic and political dialogue; and

(10) remains committed to assisting the people of Georgia in their efforts to establish an enduring democratic society with strong institutions within the rule of law.

SENATE RESOLUTION 318—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CRITICAL NEED FOR POLITICAL REFORM IN BANGLADESH, AND FOR OTHER PURPOSES

Mr. DURBIN (for himself, Mr. ENZI, and Mr. MURPHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 318

Whereas the nation of Bangladesh was established in 1971 after a bitter war in which it split from Pakistan, and for many of the ensuing years until 1990, it was ruled by military governments;

Whereas political tensions have at times turned to violence in Bangladesh, undermining the democratic process;

Whereas the last parliamentary elections in Bangladesh originally scheduled for January 2007, were postponed indefinitely after the military intervened amid rising violence and questions about the electoral process's credibility;

Whereas a military-backed civilian caretaker government held power until December 2008 when Bangladeshis returned to the polls to elect a new parliament for the first time in many years;

Whereas ongoing antagonism between the country's two ruling parties, the Awami League and the Bangladesh Nationalist Party, distracts from the important needs of the country;

Whereas concerns have grown about religious extremism in the otherwise usually tolerant country;

Whereas the United States-Bangladesh relationship is strong and involves many shared interests, including regional economic integration, counterterrorism, counter-piracy, poverty alleviation, food security, regional stability, and mitigation of natural disasters;

Whereas bilateral trade between the United States and Bangladesh now tops $6,000,000,000 annually, with major United States companies making significant long-term investments in Bangladesh;

Whereas the economy of Bangladesh has grown six percent per year over the last two decades, despite a range of challenges;

Whereas the poverty rate in Bangladesh dropped from 40 percent to 31 percent between 2005 and 2010—a notable accomplishment in a country in which poverty has been deep and widespread;

Whereas the Grameen Bank's revolutionary microfinance lending to the poor has helped reduce poverty not only in Bangladesh, but has served as an innovative and powerful model for helping the poor elsewhere in the world;

Whereas the Department of State, Congress, and other high profile international voices have recognized the Grameen Bank's innovative work and expressed great concern over actions by the Government of Bangladesh that undermine the Bank's independence;

Whereas Bangladesh, an example of a moderate and diverse Muslim-majority democracy, is scheduled to have national elections on January 5, 2014;

Whereas, in 2013, hundreds of Bangladeshis died in violent clashes as a result of political violence and unrest, and some opposition and human rights activists have been arrested;

Whereas trials held by the International Crimes Tribunal in Bangladesh—set up to prosecute those responsible for atrocities committed during Bangladesh's war of liberation with Pakistan in 1971—have fallen short of international standards;

Whereas the Government of Bangladesh eliminated a constitutional provision requiring the governing party to cede power to a neutral caretaker government three months before an election;

Whereas the 18-member opposition coalition in Bangladesh called for numerous nationwide strikes and transportation blockades in 2013, resulting in dozens of deaths;

Whereas Bangladeshi students cannot attend school and complete mandatory exams due to the strikes and blockades and related violence;

Whereas many citizens of Bangladesh have had their work and daily activities disrupted due to the strikes and related violence, which come at a cost to the economy and stability of Bangladesh;

Whereas a stable, moderate, secular, Muslim-majority democracy with the world's seventh-largest population, and the world's fourth-largest Muslim population, will have lasting positive impacts in the region and beyond;

Whereas the success of the democratic process in Bangladesh is of great importance to the United States and the world; and

Whereas during the week of December 8, 2013, United Nations Assistant Secretary General Oscar Fernandez-Taranco visited Bangladesh to foster political dialogue between Bangladeshi political parties and leaders in order to bring a halt to violence and allow for a credible peaceful election: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the political violence in Bangladesh and urges political leaders in that country to engage directly and substantively in a dialogue toward free, fair, and credible elections;

(2) expresses great concern about the continued political deadlock in Bangladesh that distracts from the country's many important challenges;

(3) urges political leaders in Bangladesh to take immediate steps to rein in and to condemn the violence as well as to provide space for peaceful political protests;

(4) urges political leaders in Bangladesh to ensure the safety and access of observers in its upcoming elections;

(5) supports ongoing efforts by United Nations Assistant Secretary General Oscar Fernandez-Taranco to foster political dialogue between political factions in Bangladesh; and

(6) urges the Government of Bangladesh to ensure judicial independence, end harassment of human rights activists, and restore the independence of the Grameen Bank.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WYDEN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural

Resources on Thursday, December 12, 2013, at 9 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the nominations of Dr. Franklin M. Orr to be Under Secretary for Science, Department of Energy, Mr. Jonathan Elkind, to be an Assistant Secretary of Energy, International Affairs, Ms. Rhea S. Suh, to be Assistant Secretary of Fish and Wildlife and Parks, Department of the Interior, and Mr. Tommy P. Beaudreau, to be an Assistant Secretary of the Interior, Policy, Management and Budget.

For further information, please contact Sam Fowler at (202) 224–7571 or Abigail Campbell at (202) 224–4905.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WYDEN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting and hearing have been scheduled before the Senate Committee on Energy and Natural Resources on Tuesday, December 17, 2013, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the business meeting is to consider the nominations of Dr. Steven P. Croley, to be the General Counsel, Department of Energy, Mr. Christopher A. Smith, to be an Assistant Secretary of Energy, Fossil Energy, and Ms. Esther P. Kia'aina to be an Assistant Secretary of the Interior, Insular Areas.

The purpose of the hearing is to consider the nominations of Ms. Janice M. Schneider, Assistant Secretary of the Interior, Land and Minerals Management, Department of the Interior, Mr. Neil G. Kornze, Director of the Bureau of Land Management, Department of the Interior, Dr. Marc A. Kastner, Director of the Office of Science, Department of Energy, and Dr. Ellen D. Williams, Director of the Advanced Research Projects Agency-Energy, Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to Abigail Campbell@energy.Senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Abigail Campbell at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MENENDEZ. 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 December 11, 2013, at 3:30 p.m., to conduct a hearing entitled ''Rebuilding American Manufacturing.''

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

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 11, 2013, at 2 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Continued Oversight of U.S. Government Surveillance Authorities.''

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

SUBCOMMITTEE ON FINANCIAL AND CONTRACTING OVERSIGHT

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Financial and Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 11, 2013, at 2 p.m. to conduct a hearing entitled, ''A More Efficient and Effective Government: Streamlining Overseas Trade and Development Agencies.''

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

SPECIAL COMMITTEE ON AGING

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on December 11, 2013, in room 562 of the Dirksen Senate Office Building beginning at 3:45 p.m., to conduct a hearing entitled ''Protecting Seniors From Medication Labeling Mistakes.''

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

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, December 12, 2013:

THE JUDICIARY

CORNELIA T. L. PILLARD, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

N O T I C E

Incomplete record of Senate proceedings. Today's Senate proceedings will be continued in the next issue of the Record.