

DEFAULT PREVENTION ACT

JANUARY 9, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 187]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 187) to ensure the payment of interest and principal of the debt of the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Default Prevention Act”.

SEC. 2. PAYMENT OF OBLIGATIONS.

(a) IN GENERAL.—At any time that the debt of the United States Government subject to limitation under section 3101 of title 31, United States Code, has reached the limitation imposed under such section, the Secretary of the Treasury (hereafter in this section referred to as “the Secretary”) shall—

- (1) pay Tier I obligations as such obligations become due,
- (2) issue such obligations under chapter 31 of title 31, United States Code, as—
 - (A) are necessary to make the payments described in paragraph (1), or
 - (B) are to be held exclusively by a trust fund referred to in subsection (b)(1)(A),
- (3) pay Tier III obligations only to the extent that the Secretary can still pay all Tier II obligations as such obligations become due,
- (4) pay Tier IV obligations only to the extent that the Secretary can still pay all Tier II and Tier III obligations as such obligations become due,
- (5) pay Tier V obligations only to the extent that the Secretary can still pay all Tier II, Tier III, and Tier IV obligations as such obligations become due, and
- (6) submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a weekly written report containing the information described in subsection (d).

(b) DEFINITIONS.—For purposes of this section—

- (1) TIER I OBLIGATIONS.—The term “Tier I obligations” means payments necessary to provide any of the following:

(A) Payment with legal tender pursuant to the authority provided under section 3123 of title 31, United States Code, of principal and interest on debt held by—

- (i) the public,
- (ii) the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, or
- (iii) the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund.

(B) Payments under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

- (2) TIER II OBLIGATIONS.—The term “Tier II obligations” means payments necessary to provide any of the following:

(A) Any obligation of the Department of Defense.

(B) Benefits under laws administered by the Secretary of Veterans Affairs.

- (3) TIER III OBLIGATIONS.—The term “Tier III obligations” means any obligation of the United States which is not a Tier I, Tier II, Tier IV, or Tier V obligation.

(4) TIER IV OBLIGATIONS.—The term “Tier IV obligations” means any payment which constitutes any of the following:

(A) Compensation for any Federal employee for official time under section 7131 of such title 5, United States Code.

(B) Any payment for travel expenses for any officer or employee of the Executive branch of Government, including the President and Vice President, unless such payment is a Tier I or Tier II obligation.

(C) Compensation of any officer or employee of the Executive branch of Government (other than an individual in the competitive service, as defined in section 2102 of title 5, United States Code), including the President and Vice President, unless such compensation is a Tier I or Tier II obligation.

(5) TIER V OBLIGATIONS.—The term “Tier V obligations” means compensation of any Member of Congress (as that term is defined in section 2106 of title 5, United States Code).

(c) COORDINATION WITH PUBLIC DEBT LIMIT.—Obligations issued under subsection (a)(2) shall not be taken into account as subject to the limitation imposed under section 3101(b) of title 31, United States Code. The preceding sentence shall not apply with respect to any obligation after the first date (after the issuance of such obligation) on which any modification or suspension of such limitation takes effect.

(d) WEEKLY REPORTS.—The written report referred to in subsection (a)(6) shall include, with respect to the period covered by such report—

(1) the amount of Tier I obligations paid under subsection (a)(1) during such period,

(2) the amount of obligations issued under subsection (a)(2) during such period, and

(3) the amount of Tier II obligations, Tier III obligations, Tier IV obligations, and Tier V obligations which were paid during such period (stated separately for each tier) and the aggregate amount of such obligations which were due and unpaid as of the close of such period (stated separately for each tier).

(e) NO INFERENCE WITH RESPECT TO EXISTING AUTHORITY TO PRIORITIZE PAYMENTS.—During any period with respect to which this section does not apply, nothing in this section shall be interpreted to restrict the authority of the Secretary to prioritize the payment of certain obligations over other obligations.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 187, the “Default Prevention Act,” as ordered reported by the Committee on Ways and Means on March 9, 2023, directs the Secretary of the Treasury (Treasury) to issue new debt when the statutory limit is reached to the extent necessary to pay the principal and interest on publicly held debt and to issue to and redeem assets from the Social Security Trust Funds for the purposes of paying Social Security benefits. The bill would also extend this debt authority to the extent necessary to issue to and redeem assets from the Medicare Trust Funds, and provide payments under the Medicare program.

In addition, aside from the aforementioned obligations, the amendment prohibits the Treasury from meeting any remaining obligations, unless the Treasury can still meet the obligations of the Department of Defense, and any obligations necessary to provide benefits under the Department of Veterans Affairs. The bill would generally prohibit the Treasury from meeting obligations related to compensation for official time, payment for government travel, and payments to the President, Vice President, and other members of the excepted service unless all other obligations except for payments to Members of Congress can still be met. Finally, the bill would specifically prohibit the Treasury from providing compensation to any Member of Congress unless all other obligations can still be met.

The bill would also direct the Treasury to provide weekly reports to the House Committee on Ways and Means and the Senate Committee on Finance regarding the amount of new debt issued under the authority provided, and on the obligations met and unmet over the prior week.

Lastly, the bill would clarify that the specific directive authority provided by the bill should not be interpreted as otherwise modifying any existing authority of the Treasury to prioritize the payment of certain obligations over others.

B. BACKGROUND AND NEED FOR LEGISLATION

The consequences of the U.S. Government failing to make timely and complete payment on Treasury debt, that is, a default, could be severe. A default would not only be a great discredit to our nation's standing in the world, it would also raise borrowing costs, which, in turn, would threaten our ability to finance essential government functions going forward. In addition, a default could push the country into a recession. The legislation removes the risk of default by providing a mechanism to ensure that principal and interest on U.S. debt obligations are paid. Furthermore, it protects seniors by ensuring the debt limit does not prevent Social Security and Medicare benefits from being met; stands with Americans in uniform by prioritizing our nation's security, servicemembers, and veterans; and holds the President and lawmakers accountable by ensuring that they don't receive compensation until other obligations are met.

C. LEGISLATIVE HISTORY

BACKGROUND

H.R. 187 was introduced on January 9, 2023, and was referred to the Committee on Ways and Means.

COMMITTEE HEARINGS

On February 6, 2023, the Committee held a field hearing on the state of the American economy in Appalachia (Petersburg, West Virginia), where management of debt was discussed.

On March 7, 2023, the Committee held a field hearing on the state of the American economy in the Heartland (Yukon, Oklahoma), where management of debt was discussed.

COMMITTEE ACTION

The Committee on Ways and Means marked up H.R. 187, the "Default Prevention Act," on March 9, 2023, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 187:

(1) Committee on Ways and Means field hearing which took place on February 6, 2023, entitled: "The State of the American Economy: Appalachia".

(2) Committee on Ways and Means field hearing which took place on March 7, 2023, entitled: "The State of the American Economy: The Heartland".

II. EXPLANATION OF THE BILL

A. THE DEFAULT PREVENTION ACT

PRESENT LAW

Article 1, Section 8 of the Constitution grants Congress sole authority over the fiscal powers to tax, spend, and borrow:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . .

To borrow Money on the credit of the United States

Congress initially exercised this authority directly, but gradually delegated more and more of this authority to the Executive Branch, primarily to the Treasury. With few exceptions, the federal government has run at some annual deficit level since the 1930s, requiring the government, through the Treasury, to issue and manage debt to cover the difference.

While Congress has placed limitations on the federal government's authority to issue debt, the modern debt limit, which places an aggregate limit on the Treasury's general delegated authority to issue debt, was first established in 1939. Once the debt limit is reached, the Treasury may no longer issue additional debt if doing so would increase the total amount of outstanding debt subject to the limit. After reaching the debt limit, the Treasury can continue to finance the government for a limited time under existing authority through a combination of incoming revenues and the use of "extraordinary measures." These measures provide temporary liquidity to the Treasury for operations but generally must be repaid with interest once the debt limit is increased.

In fiscal year (FY) 2023 the federal government is projected to run a \$1.4 trillion deficit, and over the next decade, the federal government is projected to spend \$1.33 for every \$1 in revenue. Ordinarily, these budget shortfalls would be financed through the issuance of debt, but the current debt limit, which applies to approximately 99 percent of all federally issued debt, is set at \$31.4 trillion and was reached on January 19, 2023. In a January 13 letter to Congress, Secretary Yellen said that the Treasury could use extraordinary measures to finance the government through at least early June 2023.

In December 2021, the Democrats raised the debt limit by a record \$2.5 trillion, but it only took about a year for Democrat spending to max out the federal government's credit again.

REASONS FOR CHANGE

The policy provisions in H.R. 187 are intended to protect the full faith and credit of the United States by permanently removing the risk that the United States could default on its debt obligations; protect seniors by ensuring that the debt limit does not prevent Social Security and Medicare benefits from being met; stand with Americans in uniform by prioritizing our nation's security, servicemembers, and veterans; and hold the President and lawmakers accountable by ensuring that they don't receive compensation until other obligations are met.

EXPLANATION OF PROVISIONS

Section 1 provides the short title of the bill as the "Default Prevention Act".

Section 2 provides that in the event the debt of the United States Government reaches the statutory limit, the Treasury shall issue debt to the extent necessary to pay principal and interest on certain obligations as defined. Obligations for which debt shall be issued are limited to those obligations held by the public or those

necessary to issue to and redeem assets from the Social Security Trust Funds, to issue to and redeem assets from the Medicare Trust Funds, and to provide payments under the Medicare program. Obligations issued pursuant to this authority are exempt from the statutory debt limit.

Section 2 also prohibits the Treasury from meeting any remaining obligations, unless the Treasury can still meet the obligations of the Department of Defense, and any obligations necessary to provide benefits under the Department of Veterans Affairs; generally prohibits the Treasury from meeting obligations related to compensation for official time, payment for government travel, and payments to the President, Vice President, and other members of the excepted service unless all other obligations except for payments to Members of Congress can still be met; and, specifically prohibits the Treasury from providing compensation to any Member of Congress unless all other obligations can still be met.

Additionally, Section 2 directs the Treasury to provide weekly reports to the House Committee on Ways and Means and Senate Committee on Finance regarding the amount of new debt issued under the authority provided, and on the obligations met and unmet over the prior week, and clarifies that the specific directive authority provided by the bill should not be interpreted as otherwise modifying any existing authority of the Treasury to prioritize the payment of certain obligations over others.

EFFECTIVE DATE

The bill would become effective upon enactment.

III. VOTE OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 187, the “Default Prevention Act” on March 9, 2023.

H.R. 187 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 21 yeas to 17 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood .....	.....	.....	.....	Mr. Pascrell .....	.....	X	.....
Dr. Wenstrup .....	.....	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Arrington	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Dr. Ferguson	X	.....	.....	Mr. Higgins .....	.....	X	.....
Mr. Estes .....	.....	.....	.....	Ms. Sewell .....	.....	.....	.....
Mr. Smucker	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Hern	X	.....	.....	Ms. Chu .....	.....	X	.....
Ms. Miller	X	.....	.....	Ms. Moore .....	.....	X	.....
Dr. Murphy	X	.....	.....	Mr. Kildee .....	.....	X	.....
Mr. Kustoff	X	.....	.....	Mr. Beyer .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Steube .....	.....	.....	.....	Mr. Schneider .....	.....	X	.....
Ms. Tenney	X	.....	.....	Mr. Panetta .....	.....	X	.....
Mrs. Fischbach	X	.....	.....		
Mr. Moore	X	.....	.....		
Mrs. Steel	X	.....	.....		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Van Duyne	X	.....	.....		
Mr. Feenstra	X	.....	.....		
Ms. Malliotakis	X	.....	.....		
Mr. Carey	X	.....	.....		

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 187, as reported. The estimate prepared by the Congressional Budget Office (CBO) is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

H.R. 187, Default Prevention Act		
As ordered reported by the House Committee on Ways and Means on March 9, 2023		
By Fiscal Year, Millions of Dollars	2023	2023-2028
Direct Spending (Outlays)	0	0
Revenues	0	0
Increase or Decrease (-) in the Deficit	0	0
Spending Subject to Appropriation (Outlays)	a	a
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects Contains intergovernmental mandate? No Contains private-sector mandate? No
a. CBO has no basis to estimate the magnitude of the increase in spending subject to appropriation.		

H.R. 187 would require the Treasury to prioritize payment of obligations using a five-tiered payment structure if total debt subject to limit is at the statutory maximum. Under the bill the Treasury could issue debt that would not be subject to the statutory limit in amounts that would be sufficient to meet obligations for the first tier: the principal and interest on the public debt and the obligations of Social Security and Medicare. Payment of obligations would be prioritized as follows:

- Tier I would include payments for public debt, Social Security, and Medicare;
- Tier II would include payments for obligations of the Departments of Defense and Veterans Affairs;
- Tier III would include payments for obligations of any program not in a designated tier;
- Tier IV would include payments for certain federal employee union activities, executive branch travel, and compensation of the President, Vice President and some political appointees; and
- Tier V would include compensation to Members of Congress.

Until a new debt limit is enacted, the bill would require the Treasury to report each week to the House Committee on Ways and Means and the Senate Committee on Finance concerning exempted transactions and categorical spending.

CBO estimates that enacting H.R. 187, by itself, would not affect direct spending or revenues because it would not change any of the government's tax or spending policies. CBO estimates that implementing the bill's tiered-payment system and weekly reporting requirement would increase the Treasury's administrative costs; any related spending would be subject to the availability of appropriated funds. CBO does not have a basis to assess the feasibility, the required time to implement, or the total cost to the Treasury to develop such a payment system. We estimate those costs would significantly exceed \$500,000 because the Treasury's payment systems are not currently set up to handle different priorities. Based on the requirements in the bill and the cost of similar reports, CBO estimates that the weekly reporting requirement would cost less than \$500,000 each time debt subject to the limit reaches the statutory limit.

The CBO staff contact for this estimate is Avi Lerner. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

**D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND
LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

**VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS
REPORTED**

**A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS
REPORTED**

With respect to the requirement of clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, this section was not made available to the Committee.

VIII. DISSENTING VIEWS

This legislation does nothing to prevent default, despite its misleading title. At best, it provides a roadmap for what to do if Republican extremists in Congress force the first-ever default on the full faith and credit of the United States. It's a frightening roadmap, one that directs the Treasury to pay foreign bondholders while defaulting on pay and benefits to veterans and members of the Armed Forces, Medicaid payments to nursing homes, our nation's family farms, and refunds owed to American taxpayers.

More likely, this bill is a political game intended to make negotiating unpopular cuts to Medicare and Social Security seem like the only way to prevent default. The Republican Study Committee, which represents the majority of House Republicans, has put forth a plan to cut Social Security by \$729 billion over the next decade while raising the eligibility age for Medicare and denying seniors health coverage.

The consequences of Republican gamesmanship and failure to govern could be catastrophic for our strong economic recovery. We know from prior crises provoked by Republican extremists that even *talking* about defaulting costs us jobs, costs taxpayers money, and lowers the balances in retirement funds for millions of workers. In 2011, Republican default threats led to a first-ever downgrade in the U.S. credit rating, a private sector hiring freeze, and a stock market plunge. A new round of threats in 2013 reduced GDP by 0.25 percentage point and cost taxpayers an estimated \$70 million in additional borrowing costs. In 2015, Republicans brought a bill very similar to this one to the House floor, and for the first time ever, Treasury was forced to cancel an auction because investors were unwilling to buy short-term Treasury bonds at any price.

Although this legislation purports to allow payments to seniors to continue while we default on other obligations, Republicans offered no plan for how to make that logically possible. For over a decade, Treasury Secretaries and experts from both parties have said that "prioritizing" debt is logically impossible. The Treasury makes an average of 5 million payments every business day—a projected 1.28 billion payments this year. To pay those bills on time, as we always have, they rely on systems that pay all obligations automatically, in the order they are due. When Democrats raised questions about whether Treasury had been consulted, the Chair suggested that Members could ask the Treasury Secretary, who was scheduled to appear before us the day after we voted on the bill. At our hearing the next day, no Republican Member chose to ask the Treasury Secretary. Democrats did ask, and the answer was the same. It's not possible.

RICHARD E. NEAL,
Ranking Member.

Ranking Member Richard E. Neal Opening Statement, Committee on Ways and Means Markup of H.R. 187, Thursday, March 9, 2023

Thank you, Mr. Chairman. We are here today to go through a rite of passage for new Republican majorities. They run on combatting inflation, and making the economy work for the American people. Only to take control and start calling for cuts to Social Security, Medicare, and Medicaid in the name of fiscal responsibility. All while risking the full faith and credit of the United States and plotting unfunded tax cuts for the wealthy and well-connected.

Today, they are bringing forth legislation that acknowledges they will put extremism before responsibility, potentially preventing the United States from paying its bills.

Debt prioritization is impossible, but that hasn't stopped Republicans before. So, congratulations are in order, Mr. Chairman. You've officially joined the ranks of Republican Chairmen that came before you.

Republican and Democratic Treasury Secretaries, along with bipartisan experts, have been telling us this wouldn't work for over a decade. The Treasury makes an average of 5 million payments every day. You can't flag some in the computer to pay on time, leaving others past due.

Prioritization legislation is a way of making default sound acceptable, not a way of preventing it. They want default to sound manageable by promising to pay some of our bills. Republican extremism is the single largest threat to the American people. And if governing was the goal, they would raise the debt ceiling just as they did THREE times under the former president. Even the most skilled Republican legislator of our time, Leader McConnell knows this legislation is a sham and wouldn't stand a chance in the Senate. This legislation doesn't protect anyone. It's a haphazard attempt to cover up their inability to govern, and the American people will see it for what it is.

The "Pay China First" bill would make my Republican colleagues responsible for:

- Delays in Social Security checks;
- Putting our military at risk;
- Veterans not getting their benefits;
- Banks and small businesses collapsing;
- Jobs disappearing, and more.

We can't predict just how bad this would be because it's never happened before, but what we do know: Republicans don't have a plan. Even TALKING about default has real consequences. This is now the fourth time in the last decade that Republicans have set us off on this course.

Back in the summer of 2011, the Republican impasse caused:

- The Treasury was forced to spend \$1.3 billion more in interest payments, according to a Government Accountability Office estimate.
- And of course, who could forget that the U.S. credit rating was downgraded for the first time in our history.

Republicans followed up in 2013 and:

- An estimated 120,000 jobs were lost.

- Rates for commercial paper rose as a direct result of the standoff, disrupting private markets.

Then to the most recent dispute, in 2015:

- For the first time ever, Treasury was forced to postpone the release of a new bond due to lack of demand; a major blow to our credibility;
- And bill supply declined by \$210 billion after Treasury was forced to reduce bill issuance.

These are costs to taxpayers, and when the Republican extremism before us now is injected into our financial markets, taxpayers will bear the brunt in higher costs.

The fact we are even having this conversation is a dereliction of duty. When the American people entrusted Republicans to govern, we saw the calamitous effects in 2011, 2013, and 2015, I urge them to learn from those mistakes and put the country ahead of political games. With that, I yield back the balance of my time.

