

on the pledge we made to swiftly review the nominee, and we did that, again without a hearing and without a markup.

As I discussed on Friday, Senator FEINGOLD—I didn't mention his name at the time, but it is out in the press since then—would like to meet with each of the nominees. That will be completed today. These meetings are important to the Senator. He has the right to do that. I certainly compliment him for caring so much. Four of the five FEC nominations now pending are relatively new to the Senate, and it is certainly within Senator FEINGOLD's right to speak with them prior to their confirmation. This is not unusual. So I look forward to completing that, unless something comes up that I don't understand, and we should be able to do that today. It is very important.

There has been some concern raised by my colleagues on the other side of the aisle that the Democrats have set out to delay this FEC being reconstituted so that the Democratic National Committee's lawsuit against Senator McCAIN may be heard in the court. The DNC sued McCAIN, alleging that he violated campaign finance laws in the treatment of his primary campaign funding. The court dismissed that suit without prejudice, saying the DNC needed to give the FEC 120 days to act on its complaint before coming to court. The 120 days expires today, June 24.

There is simply no truth to the argument that we are playing this game with the FEC. Democrats have been trying to get the FEC running since it went dark in December. Repeatedly, the Republicans have objected to consent request after consent request. This lawsuit of the DNC's has been out there many months. The decision for setting the deadline for FEC action was made prior to our Memorial Day recess, and the offer to confirm the pending nominations was made before that time.

What this means is that Democrats offered to confirm the four pending FEC nominees—which would have stopped the DNC suit—before Memorial Day. If we were trying to help the DNC's suit, would we have made that offer? I don't think so. Would we offer to waive the hearing and the markup for both Republican nominees so it would be moved quickly? The answer would be no. Of course we wouldn't have done that, Mr. President. As I have told my colleagues, Democrats want a functional agency as soon as possible. That could have happened in May. It could happen today. We want to do everything we can to reconstitute the FEC. It is extremely important to do that.

I have mentioned the matters we need to complete, and, of course, the one thing I didn't mention was the FAA extension. I asked unanimous consent to do that, and that was objected to yesterday by my friend Sen-

ator KYL on behalf of Senator DEMINT. I hope we can get that done. The House is going to pass that today as a temporary extension.

We also are going to bring before the body, within the next 24 hours, the PEPFAR legislation. What is that? It is the AIDS legislation that the President is in favor of and which we have been trying to move. It has been held up on the other side by a Senator or two, and we hope we can complete that. Again, I will ask unanimous consent that be passed today. It is my understanding, having spoken with Senator ENZI, that he and Senator BIDEN have worked something out on that, and hopefully the Senator on the other side who is objecting to this will no longer object to it.

#### RECOGNITION OF THE MINORITY LEADER

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

#### FEC NOMINATIONS

Mr. McCONNELL. Mr. President, with regard to the Federal Election Commission, let me first say that my good friend the majority leader is correct that I was not inclined to reconstitute the FEC with a three-to-two Democratic majority, and that would have been, of course, the case had we gone forward on some but not all of the FEC nominations back before Memorial Day. So it is a fact that, in addition to objecting to Republican nominees of the FEC, which has become something of a tradition around here, there was an additional attempt to gain a majority on the FEC by acting prematurely, before we could confirm a full complement.

Now we have the opportunity to confirm a full complement, and there have been various efforts, it appears, to delay in order to give the DNC an opportunity to file a lawsuit today. Maybe I will be proven wrong today. Maybe they won't file that lawsuit, and then I will feel comforted that the effort to delay confirming all six—or the four additional FEC members whom we are confirming—was not somehow related to litigation being proposed by the DNC. So I hope they will not file that lawsuit, and I guess that will be the best evidence of whether there was an effort underway here to delay it.

I am encouraged by the fact that the majority leader indicates we can confirm these nominees today, and I have given him advance notice that I would like to propound a unanimous consent agreement that we do just that.

Mr. President, I ask unanimous consent that the Senate proceed, at some point today mutually agreeable to the majority leader and the Republican leader, to executive session for the consideration of the following Federal Election Commission nominations: Calendar No. 306, Steven T. Walther;

Calendar No. 624, Cynthia L. Bauerly; Calendar No. 625, Caroline C. Hunter; and Calendar No. 626, Donald F. McGahn; and the nomination of Matthew S. Petersen, which is to be discharged from the Rules Committee.

I would further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and finally, the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I hope in a matter of hours that we can agree to the consent request proposed by my friend, the distinguished Republican leader. I don't know what time the last meeting is that Senator FEINGOLD has with the last individual, but as soon as I get word on that, I will immediately come to the floor and accept the offer of the distinguished Republican leader. So I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. McCONNELL. Mr. President, I appreciate the comments of my good friend the majority leader, and I hope we will be able to confirm these nominees today. Also, hopefully the lawsuit by the DNC will not be filed today, further raising the suspicion that the delays of the majority were related to facilitating that legal action.

Mr. President, let me say with regard to this week that this is a week when the Senate, hopefully, can make significant progress. There are three very significant pieces of legislation we hope to deal with this week, as the majority leader indicated.

After a failed attempt to address the housing crisis without Republican input, Democrats finally agreed last week to allow our input. As a result, we now have a bipartisan housing bill that addresses many of our concerns. I think it could be made even better with some further amendments, which I am hopeful we will have an opportunity to offer, even if cloture is invoked, because as much as I would like to see this bill move forward, there are some housing-related amendments that have been shut out of the process so far, and I am hoping the majority leader and I can discuss how we might be able to dispose of those expeditiously before we clear that bill here in the Senate this week.

We must also complete two important and long overdue national security measures—the supplemental troop funding bill that the President first requested more than 500 days ago and an updated terrorist surveillance bill that the Senate first approved last August but which expired more than 4 months ago, after House Democratic inaction. It is worth noting that on both national security measures, Democrats will be approving something Republicans have supported all along.

Regarding the supplemental, Republicans have argued for the past year

and a half that Congress has a solemn duty to fund our troops while they are on the field of battle. Regarding FISA, Republicans have argued for more than a year that the intelligence community should have the tools it needs to listen in on conversations between terrorists overseas and that companies that may have allowed them to do so should not be punished for helping.

I remain hopeful the Senate will be able to get these important issues accomplished this week, and maybe a bipartisan Medicare agreement as well, and other matters that can be dealt with. It is interesting how quickly the Senate can move when there is a broad bipartisan consensus behind measures. It may have taken a while for our friends on the other side to come around to our view and the view of most Americans on these issues, but for the sake of our troops, our families, and our security, we are glad they finally did. I hope the majority leader and I, working together, can figure a way through this massive amount of legislation in a very few days that allows us to reach a successful conclusion on many legislative fronts that will give both sides an opportunity to leave here at the end of the week believing this was a week of significant accomplishment for the Senate and for the American people.

#### AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 3221, which the clerk will report.

The assistant legislative clerk read as follows:

A message from the House of Representatives to accompany H.R. 3221, an act to provide needed housing reform and for other purposes.

##### Pending:

Reid (for Dodd/Shelby) amendment No. 4983 (to the House amendment striking section 1 through title V and inserting certain language to the Senate amendment to the bill), of a perfecting nature.

Bond amendment No. 4987 (to amendment No. 4983), to enhance mortgage loan disclosure requirements with additional safeguards for adjustable rate mortgages with an initial fixed rate and loans that contain prepayment penalty.

Dole amendment No. 4984 (to amendment No. 4983), to improve the regulation of appraisal standards.

Sununu amendment No. 4999 (to amendment No. 4983), to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

Kohl amendment No. 4988 (to amendment No. 4983), to protect the property and security of homeowners who are subject to foreclosure proceedings.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate equally divided between the two leaders or their

designees prior to the vote on the motion to invoke cloture.

Who yields time?

Mr. SHELBY. I yield the Senator from Idaho 10 minutes.

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

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5009 to delay for 1 year the merchant card reporting requirement.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5010, my amendment to strike the merchant card reporting requirement.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5002.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5003, my amendment to eliminate the FHA reverse mortgage cap.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, like many of my colleagues, I am frustrated that we have not been allowed to call up germane amendments for the past few days. This is a substantial piece of legislation and Senators should have had the opportunity to have up and down votes. I have filed four amendments and I would like to talk briefly about two of them that deal with the merchant card reporting requirement.

In an effort to find revenue offsets, I am concerned that Congress is rushing to adopt a flawed merchant card reporting proposal that establishes a new tax compliance burden on small business and does not provide enough time to develop and implement this new system. Little is really known about the true costs of this proposal and the Finance Committee hasn't had an opportunity to have the IRS demonstrate in a hearing that the information collected could be used in a meaningful way to drive tax compliance.

The merchant card reporting proposal would require that the institution that makes the payment to the merchant—payment facilitator—for a payment card—both credit cards and debit cards—report annually to the Internal Revenue Service—IRS—the name, address, and aggregate amounts of payments for the calendar year of each participating merchant. Additionally, the payment facilitator or the

electronic payment organization must validate the taxpayer identification number—TIN—of the participating merchant. If the number does not match, then the payment facilitator or the electronic payment organization must withhold 28-percent from the merchant.

This unprecedented level of reporting to the Federal Government will likely impose substantial implementation costs that will be passed on to many compliant small business taxpayers. Small business owners will also have to ensure that their records conform with the additional information reported by the merchant card processor. This is an additional compliance step, which will add to the already high cost of tax compliance for small business owners, who currently spend on average over \$74 per hour to meet tax paperwork and compliance burdens that already exist.

The structure of the merchant card system does not make complying with the proposal feasible in a couple of years. Merchants are not currently identified in systems by social security numbers or taxpayer identification numbers. Instead, merchants are generally assigned a merchant identification number. If implemented, this proposal would require institutions to spend several years trying to match merchants to social security numbers or taxpayer identification numbers.

I appreciate the fact that the underlying legislation extends the effective date for reporting to December 31, 2011, and the effective date for backup withholding to December 31, 2012. However, I do not believe this provides enough time to make the changes to existing systems and processes, build and test new reporting systems, perform taxpayer identification number matching, and hire and train the personnel needed to implement and comply with the new reporting requirements.

In addition, a higher dollar reporting threshold is necessary to eliminate reporting on casual sellers rather than persons engaged in business, and it should be granted to all payment settlement entities.

My preference would be that we strike this section until we identify the costs to business, the total costs of implementing the new reporting regime with the IRS, and the ability of the IRS to use the information in a meaningful way to close the tax gap. If that amendment is defeated, then the Senate should provide an additional year to implement this system. But as I indicated, we will not have an opportunity to vote on these amendments or other amendments that other Senators want to bring because we have been stopped from calling up germane amendments as we move forward on this legislation.

As I indicated, I also tried to bring up several other amendments—an amendment to reduce the \$300 billion loan authority to \$68 billion, which is the number that CBO expects the FHA refinancing program to actually utilize, and the number that was used to