

school student to be killed just this year. Twenty-eight students, Mr. President. I repeat, 28 young lives are now snuffed out.

Last Tuesday was an equally tragic day in the city. On Tuesday, young Franco Avilla, a tenth grader at Roosevelt High School on Chicago's west side, was shot to death. Instead of being the exception, shooting deaths of our school children have now become the rule. Last school year, 26 Chicago public school students were shot during the full 9-month school year. Well, this year, Chicago public schools have already surpassed this sad milestone, and it is only March.

When Franco left his house last Tuesday afternoon, his last words to his father were: "Dad, I'll be back." He never came home. Gun violence took his life.

We must take action now to get these weapons off our streets and end the senseless slaughter of our young people.

Guns played an equally devastating role in the life of Juan Pitts. Mr. PITTS' son, Kendrick, was a 17-year-old student at Bowen High School when he was shot down last month alongside two other Chicago public school students—15-year-old Raheem Washington and 13-year-old Johnny Edwards.

The deaths of these young men are atrocious. Yet the pain and tragedy of the Pitts family has only doubled since then. Two weeks ago, Kendrick's brother, Carnell, who graduated from Bowen High School last year, was shot to death at a gathering on Chicago's south side.

Gangs and gun violence go hand-in-hand. Our youth should be carrying school books instead of firearms. Yet in so many instances, our failure to invest in the education of our youth on the front end is at the root of the violence and imprisonment, as a result, on the back end. Our failure to enact serious, sensible gun control measures make it much more likely these tragedies are going to occur again and again.

We tend to think of gun violence as a problem of large urban areas—a symptom of America's big cities. Well, the truth is, no community is immune to such senseless behavior. I am from a small town. I was born and raised in Centralia, IL, which is about 100 miles south of our State capital of Springfield. I know how close-knit these small-town families and small towns are. I know how safe these towns seem to be.

Sadly, two recent events proved otherwise.

A recent shooting in Maryville, IL, which is about an hour-and-a-half drive from my hometown of Centralia, reminds us that the dangers associated with guns affect us all, no matter where we live, work, pray or go to school.

Two weeks ago, on a quiet Sunday morning, a 27-year-old gunman walked straight down the aisle of Maryville's First Baptist Church and shot and

killed Pastor Winters during the normal weekly service. Just days later, in Samson, AL, we saw the all-too-familiar word flash across our TV screens again—"massacre." A 28-year-old gunman killed a total of 10 individuals and injured many more before he finally took his own life during an hour-long rampage.

The 10 individuals who died, whose lives ended on that tragic Tuesday afternoon, were going about their daily routine without the slightest thought that their lives would end that very day. The many more who were wounded by those gunshots surely never thought they, too, would be victims—survivors, nonetheless—of gun violence.

The stark truth is, everybody is a victim of gun violence. Every Senator in this body has constituents who have been touched by this issue, and it is our responsibility as lawmakers and leaders of this great Nation to ensure assault and semiautomatic weapons do not take the lives of so many innocent victims. We must take action to stop the senseless killing on our Nation's streets, in our communities, at our schools, and in our places of worship. We must take action to increase our gun control measures and decrease our gun violence. Ultimately, by doing so, we will be taking action to ensure our children, our families, and our communities live in a safer place in America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. I ask unanimous consent the time of the quorum call be equally divided.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to speak up to 10 minutes as in morning business.

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

THE BUDGET

Mr. BENNETT. Mr. President, President Obama's budget is sending mixed messages to the American people. I know he faces a very difficult time, as do we all. I know he is trying to get the best counsel he can, and I applaud him for that. I do not have a degree in mac-

roeconomics and I know some of the finest macroeconomists in the country are on President Obama's team. I do not know anybody, however, on President Obama's team who has ever run a small business. So, if I may be so presumptuous, I would like to share some of the realities of running a small business with the President's team and see if we can't understand why many of the things that are in the President's budget, in fact, will have directly the opposite effect than he wants.

It is the goal of the administration to increase job creation and spur economic growth. That is a legitimate goal. However, we must understand this about how you increase job creation: You must be sure small businesses are properly taken care of because small businesses provide more than half the jobs Americans hold and small businesses create the new jobs. When large businesses start downsizing, buying people out and laying people off, where do they go? In many instances, those who do not go on unemployment end up in small businesses.

If I may offer my own credentials, I have run businesses that were as small as two people—myself and my secretary. I was recruited to be the CEO—a very high-powered title—of a business that had only four employees. I made number five. We grew that business to the point that there were thousands of employees and the business was ultimately listed on the New York Stock Exchange. So I offer that to the macroeconomists on President Obama's team, to say that if you want to increase jobs and if you want to increase economic growth and thereby increase tax revenue to the Federal Government, you should pay attention to small business.

One of the worst things that can happen to you when you are trying to grow a small business is to make money. That sounds counterintuitive, but it is true. Why? Because you need that money to finance your growth, but the Government shows up and says we want ours in taxes. So you want the tax rate to be as low as possible. The business that I described, that went from four employees to the New York Stock Exchange, was built during what the New York Times and other critics called the decade of greed because the top tax rate was 28 percent, and they thought that was terrible. It was only 28 percent, the top marginal tax rate? That is awful. That only goes for the greedy Americans.

That meant that for every dollar we earned in that business, we got to keep 72 cents of it, which we could use to finance the growth of the business. That business was grown with internally generated funds. Yes, we had a bank line and yes we drew on the bank line, but it was the internally generated funds that made it possible for us to create those thousands of jobs.

Because there were a small number of us in that business, we took the

business income onto our personal tax returns. That is allowed under the Tax Code, under what is known as Chapter S, under the Tax Code. We were an S corporation. So while my tax return showed the amount I was paid while I was the CEO of that company, it also showed my share of the profits of the company. None of that came to me. All of that was reinvested in the company. But for tax purposes, it showed up on my tax return. So I, very quickly, for tax purposes, was an American earning more than \$250,000 a year. I was not, but my tax returns showed that I was.

Now, the top tax rate was 28 percent. This was while Ronald Reagan was President. If we were to start that business today and the President's budget were to pass and the President's Tax Code were to be enforced, we would now be paying not 28 percent but 42 percent because you would go to 39.5 percent and then you would have the other add-ons connected with Medicare and the other things that have been changed. I do not believe the business would have survived. I think that tax burden would have been so heavy that we would not be able to make it.

Let me give you the numbers from my own State, to show how important this is. In the State of Utah, we have 68,758 small businesses that employ less than 500 people; we have 65,693 small businesses that employ less than 50 people, and we have 61,057 small businesses that employ less than 20 people.

So the number of people employed by small businesses in Utah—this rules out the farmers, this is not agriculture—is 760,096 in businesses with less than 500 people each. That is 61 percent of Utah's entire employment population.

Now, if you increase the taxes on all of those people on the assumption that they are rich, you increase the taxes on every one of those businesses because they are rich. Look, the owners of the businesses are filing tax returns to show over \$250,000 so they must all be Wall Street brokers and traders. Right.

Now, they are people who are struggling to make the business grow, struggling to provide the jobs. Make no mistake, the tax increases proposed by President Obama's budget will hurt Utah's small businesses, hundreds of thousands of our employees, our State's economy, and that means, at large, our national economy. So it is a mixed message. The goal is job creation, but the budget will hurt the greatest engine of job creation which is small businesses.

Second, the administration's goal is to increase service in America and invest in the nonprofit sector. That sounds wonderful. Then they turn around and say: If you invest in the nonprofit sector, you, American citizens, we are going to take away a portion of your tax deduction for the gift you give to charity. This is a double hit.

If I am running my small business I have just described, the tax man shows

up and gives me less than I can give to charity, and then if I do give some to charity, the tax man shows up and takes more of that away from me by eliminating part of my tax deduction for charity. That is a mixed message. We want you to do this, but we are creating an economic incentive that makes it difficult for you and will penalize you.

Now, finally, the administration has the goal to protect the majority of Americans from tax increases. The President has said over and over that he will not increase taxes for 95 percent of Americans. That sounds wonderful until you turn around and recognize that he is proposing a new energy tax at the gas pump and on your utility bill that will hit 100 percent of Americans.

So on one side: Well, we are not going to hit you on the income tax side. But we are going to take it away from you on the gas pump and utility side. This is because he wants to create a cap-and-trade program. Other countries have cap-and-trade programs. I was in the United Kingdom. I talked to the people about theirs. As they were outlining how it works, I said to them: Do your ratepayers understand they are paying this? This is not money that is created in Heaven.

The answer I got was: Well, they are beginning to. We all saw the reaction of Americans when gas was \$4 a gallon at the pump, and we all felt the heat as our constituents came to and said: You have got to do something about this; this is far too much for us to pay for gasoline.

Then when the prices came down, that political outrage began to disappear. However, if you do cap and trade in the way the President wants, those prices will start to creep up again. It will be at the gas pump, it will be at the utility. So it is another mixed message.

We have three mixed messages. We want to create jobs, but we are going to tax the greatest engine of creating jobs. We want people to get involved in national service, but we are going to tax them and penalize them if they do. We want Americans, ordinary Americans, to go without tax increases, but we are going to increase their taxes on energy and hit them with a fund that will amount to approximately \$650 billion, by virtue of the carbon tax that will come through the cap-and-trade program.

What is the consequence of all of this? My colleagues have talked about the fact that the record spending is going to double the national debt in 5 years, triple it in 10 years. How is the administration going to pay for that? In the ways I have described. They are going to do it through increased taxes.

There is one last thought I want to leave everyone. We can determine here in the Congress how much we spend. We cannot determine here in the Congress how much we take in. We can pass a tax law that will project a cer-

tain amount that will come in, but that projection will not come to pass if the economy is not strong. Money does not come from the budget. Money comes from the economy. If the economy is weakened, if the generations of economic growth are weakened in the ways I have described, we will not have the money with which to pay the debt.

So we come back to that which the distinguished Republican leader has said at the beginning of this debate: If you take the President's budget all in all, it spends too much, it taxes too much. And when the taxes do not cover what is being spent, it borrows too much.

I may not be a macroeconomist, but I have a long history of running a business and knowing how devastating the tax man's arrival can be to that business. I have a history of creating jobs, jobs that pay taxes as the employees are compensated. I know this aspect of our economy is one that the Obama administration would be well advised to pay attention to.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that at 5 p.m. today, the Senate proceed to vote on confirmation of the nomination of Elena Kagan, and that all debate time on the nomination be yielded back, except that the chairman and ranking member or their designees have 2 minutes each immediately prior to the vote; further, that all provisions of the previous order governing the nomination continue to be effective.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I have heard a lot of debate here today. I remind Senators of one thing: The Kagan nomination is not controversial. Every Solicitor General who served from 1985 has endorsed her nomination. That is every Democratic one, every Republican one, across the political spectrum.

Let me read some of the names who have endorsed this woman Charles Fried, Ken Starr, Drew Days, Walter Dellinger, Seth Waxman, Ted Olson, Paul Clement, Greg Garre. Here is what they wrote in their letter of support:

We who have had the honor of serving as Solicitor General over the past quarter century in the administrations of Presidents Ronald Reagan, George H.W. Bush, William Clinton and George W. Bush, write to endorse the nomination of Dean Elena Kagan to be the next Solicitor General of the United States. We are confident that Dean

Kagan will bring distinction to the office, continue its highest traditions, and be a forceful advocate for the United States before the Supreme Court.

One of the conservative professors whom Dean Kagan helped bring to Harvard Law School was Professor Jack Goldsmith. You may remember, he took charge of the Office of Legal Counsel after the disastrous tenures of Jay Bybee and John Yoo.

Professor Goldsmith, a conservative, praised Dean Kagan as someone who takes to the Solicitor General's Office a better understanding of the Congress and the executive branch that she will represent before the Court than perhaps any prior Solicitor General.

I ask unanimous consent that a list of these and the dozens of other supporters be printed in the RECORD.

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

LETTERS OF SUPPORT FOR THE NOMINATION OF ELENA KAGAN TO BE SOLICITOR GENERAL OF THE UNITED STATES

CURRENT AND FORMER PUBLIC OFFICIALS

David A. Strauss; Gerald Ratner Distinguished Service Professor of Law, The University of Chicago; former Attorney-Adviser in the Office of Legal Counsel of the U.S. Department of Justice and former Assistant to the Solicitor General of the United States.

Charles Fried; Beneficial Professor of Law, Harvard Law School; former Solicitor General.

Clifford M. Sloan; Skadden, Arps, Slate, Meagher & Flom, LLP; former Assistant to the Solicitor General of the United States.

Jack Goldsmith; Professor, Harvard Law School; former Assistant Attorney General, Office of Legal Counsel.

Joint Letter from Former Department of Justice Officials; Janet Reno, former Attorney General;

Jamie S. Gorelick, former Deputy Attorney General; Patricia Wald, former Assistant Attorney General for Legislative Affairs; Eleanor D. Acheson, former Assistant Attorney General for the Office of Policy Development; Loretta C. Argrett, former Assistant Attorney General for the Tax Division; Jo Ann Harris, former Assistant Attorney General for the Criminal Division; Lois Schiffer, former Assistant Attorney General for the Environment and Natural Resources Division.

Joint Letter from Former Solicitors General; Walter Dellinger, Theodore B. Olson, on behalf of: Charles Fried, Kenneth W. Starr, Drew S. Days III, Seth P. Waxman, Paul Clement, Gregory G. Garre.

Judith A. Miller; former General Counsel, Department of Defense.

Miguel A. Estrada; Gibson, Dunn & Crutcher, LLP; former Assistant to the Solicitor General.

Paul T. Cappuccio; Executive Vice President and General Counsel of Time Warner; former Associate Deputy Attorney General.

Peter Kiesler; former Assistant Attorney General for the Civil Division.

Roberta Cooper Ramo; former President, American Bar Association.

LAW ENFORCEMENT AND CRIMINAL JUSTICE ORGANIZATIONS

Women in Federal Law Enforcement.

CIVIL RIGHTS ORGANIZATIONS

John Payton; President and Director-Counsel, NAACP Legal Defense Fund, Inc.

National Association of Women Lawyers.

National Women's Law Center.

OTHER SUPPORTERS

Brackett B. Denniston, III; Senior Vice President and General Counsel, General Electric.

Bradford A. Berenson; Sidley Austin, LLP; Jeffrey B. Kindler; Chairman of the Board, Chief Executive Officer, Pfizer, Inc.

John F. Manning; Bruce Bromley Professor of Law, Harvard Law School.

Joint Letter from former Harvard Law Students; Katie Biber Chen, Class of 2004; Anjan Choudhury, Class of 2004; Justin Drivér, Class of 2004; Isaac J. Lidsky, Class of 2004; Meaghan McLaine, Class of 2004; Carrie A. Jablonski, Class of 2004; Jeffrey A. Pojanowski, Class of 2004; Beth A. Williams, Class of 2004; John S. Williams, Class of 2004; David W. Foster, Class of 2005; Courtney Gregoire, Class of 2005; Rebecca Ingber, Class of 2005; Lauren Sudeall Lucas, Class of 2005; Kathryn Grzenczyk Mantoan, Class of 2005; Anton Metlitsky, Class of 2005; Chris Murray, Class of 2005; Rebecca L. O'Brien, Class of 2005; Beth A. Stewart, Class of 2005; Ryan L. VanGreck, Class of 2005; David S. Burd, Class of 2006; Eun Young Choi, Class of 2006; Matt Cooper, Class of 2006; Brian Fletcher, Class of 2006; David S. Flugman, Class of 2006; Adam D. Harber, Class of 2006; Jeffrey E. Jamison, Class of 2006; Nathan P. Kitchens, Class of 2006; Tracy Dodds Larson, Class of 2006; Benjamin S. Litman, Class of 2006; Dana Mulhauser, Class of 2006; Meredith Osborn, Class of 2006; Matthew Price, Class of 2006; John M. Rappaport, Class of 2006; Kimberly J. Ravener, Class of 2006; Rachel Rebouche, Class of 2006; Zoe Segal-Reichlin, Class of 2006; Jeremiah L. Williams, Class of 2006; Tally Zingher, Class of 2006; L. Ashley Aull, Class of 2007; Daniel F. Benavides, Class of 2007; Robert P. Boxie, III, Class of 2007; Damaris M. Diaz, Class of 2007; Gabriel Kuris, Class of 2007; Adam R. Lawton, Class of 2007; John A. Mathews II, Class of 2007; Michele A. Murphy, Class of 2007; Michael A. Negron, Class of 2007; Alexi Nunn, Class of 2007; Josh Paul Riley, Class of 2007; Jasmin Sethi, Class of 2007; Jane Shvets, Class of 2007; Jason M. Spitalnick, Class of 2007; James Weingarten, Class of 2007; Amy C. Barker, Class of 2008; Kathryn Baugher, Class of 2008; Margaux Hall, Class of 2008; Rochelle Lee, Class of 2008; Daniel P. Pierce, Class of 2008; Elizabeth Russo, Class of 2008; Megan Ryan, Class of 2008; Andrew M. Woods, Class of 2008.

Joint Letter from Former Lawyers in the Solicitor General's Office; Andrew L. Frey, Assistant to the Solicitor General, Deputy Solicitor General; Kenneth S. Geller, Assistant to the Solicitor General, Deputy Solicitor General; Philip Allen Lacovara, Assistant to the Solicitor General, Deputy Solicitor General; Andrew J. Pincus, Assistant to the Solicitor General; Charles A. Rothfeld, Assistant to the Solicitor General; Stephen M. Shapiro, Assistant to the Solicitor General, Deputy Solicitor General.

Joint Letter from Iraq War Veterans and Harvard Law Students; Geoff Orazem, Hagan Scotten, and Erik Swabb.

Joint Letter from Law School Deans; Larry D. Kramer, Dean and Richard E. Lang Professor of Law, Stanford Law School; T. Alexander Aleinikoff, Dean, Georgetown University Law Center; Evan H. Caminker, Dean, The University of Michigan Law School; Michael A. Fitts, Dean, University of Pennsylvania Law School; Harold H. Koh, Dean and Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School; David F. Levi, Dean, Duke University School of Law; Saul Levmore, Dean and William B. Graham Professor of Law, The University of Chicago Law School; Paul G. Mahoney, Dean, University of Virginia School of Law; Richard L. Revesz, Dean and

Lawrence King Professor of Law, New York University School of Law; David M. Schizer, Dean, Columbia University School of Law; David van Zandt, Dean, Northwestern University School of Law.

Joseph H. Flom; Skadden, Arps, Slate, Meagher & Flom, LLP.

Judith Lichtman; Senior Advisor, National Partnership for Women & Families.

Laurence H. Tribe; Carl M. Loeb University Professor, Harvard University.

Martin Lipton; Wachtell, Lipton, Rosen & Katz.

Robert D. Joffe; Cravath, Swaine & Moore, LLP.

Robert Katz; The Goldman Sachs Group, Inc.

William F. Lee; Co-Managing Partner, Wilmer-Hale; former Member, Board of Overseers of Harvard College and the Visiting Committee to Harvard Law School.

Mr. LEAHY. It is time for our daughters and granddaughters to see a woman serving as the chief legal advocate on behalf of the United States. I urge all Senators, just as the Republican and Democratic former Solicitors have supported her, to support President Obama's nomination.

Vote to confirm Elena Kagan to be Solicitor General of the United States.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, there will now be 4 minutes of debate, equally divided, prior to a vote on the Kagan nomination.

Mr. LEAHY. Parliamentary inquiry: I thought the vote was going to be at 5 o'clock.

The PRESIDING OFFICER. After the 4 minutes of debate.

Mr. LEAHY. Mr. President, I ask unanimous consent that all time for both sides be yielded back.

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

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Elena Kagan, of Massachusetts, to be Solicitor General of the United States?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. GRAHAM), and the

Senator from Mississippi (Mr. COCHRAN).

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

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—61

Akaka	Gillibrand	Mikulski
Baucus	Gregg	Nelson (FL)
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Bingaman	Inouye	Reid
Brown	Johnson	Rockefeller
Burris	Kaufman	Sanders
Byrd	Kerry	Schumer
Cantwell	Kohl	Shaheen
Cardin	Kyl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Coburn	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	McCaskill	Wyden
Feingold	Menendez	
Feinstein	Merkley	

NAYS—31

Alexander	DeMint	Risch
Barrasso	Enzi	Roberts
Bennett	Grassley	Sessions
Bond	Hutchison	Shelby
Brownback	Inhofe	Specter
Bunning	Isakson	Thune
Burr	Johanns	Vitter
Chambliss	Martinez	Voinovich
Corker	McCain	Wicker
Cornyn	McConnell	
Crapo	Murkowski	

NOT VOTING—7

Boxer	Graham	Murray
Cochran	Kennedy	
Ensign	Klobuchar	

The nomination was confirmed.

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

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

Mr. MCCAIN. The President nominated Elena Kagan, currently dean of Harvard Law School, for Solicitor-General of the United States. While I do not share many of Dean Kagan's views, I especially disagree with Dean Kagan on the constitutionality of the Solomon amendment.

In 2005, Dean Kagan and 53 other law school faculty members filed an amicus brief to declare the Solomon amendment unconstitutional. The Solomon amendment, named for former Congressman Jerry Solomon, allows military recruiters to meet with students on college campuses and allows the Reserve Officers' Training Corps, ROTC, to train on college campuses. The Supreme Court found Dean Kagan's arguments to be unpersuasive and declared the Solomon Amendment to be unconstitutional. I believe the Supreme Court was absolutely correct in its decision.

It is my hope that as Solicitor General, Dean Kagan will not allow her personal viewpoint on this important issue to prohibit the implementation of the Solomon amendment and that our military recruiters continue to recruit the best and brightest at our Nation's colleges to serve in our military.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader is recognized.

UNANIMOUS CONSENT REQUEST—
H.R. 1586

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1586, an act to impose an additional tax on bonuses received from certain TARP recipients, just received from the House and at the desk; that the Baucus-Grassley amendment, which is the text of S. 651, which was introduced today by Senators BAUCUS, GRASSLEY, and others, be considered and agreed to, the motions to reconsider be laid upon the table, the bill, as amended, be read three times, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, I don't believe Congress should rush to pass yet another piece of hastily crafted legislation in this very toxic atmosphere, at least without understanding the facts and the potential unintended consequences. Frankly, I think that is how we got into the current mess.

As the chairman of the Finance Committee said last week:

Frankly it was such a rush—we're talking about the stimulus bill now—to get it passed, I didn't have time and other conferees didn't have time to address the provisions that were modified significantly.

I don't know what is in this legislation. Nobody else knows what is in this legislation. There have been no hearings. It seems to me the Banking Committee should have a hearing. The Finance Committee should have a hearing. Obviously, any tax legislation should be vetted through the Finance Committee. I am a member of that committee. We haven't had any meetings to talk about this. Other Senators need time to consider the bill and offer amendments through the regular order through the committee process. More importantly, because of the public interest, the public ought to have the right to review this legislation to make sure it doesn't have any additional loopholes or unintended consequences.

The Baucus bill, as I understand it, is retroactive, not something we ordinarily do with tax policy. It seems to me we ought to have these hearings before we let this legislation come to the body. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, before my friend leaves, I appreciate the statement of my friend from Arizona. At least he is willing to look at it and study it, and I appreciate that very much. The Republican leader in the House, of course, was opposed to it, so we are glad the Republican assistant leader, the Republican whip, as a member of the Finance Committee, will

look at it. The bill has been filed on our side and, hopefully, we can work toward getting something done. I appreciate the statement of the Senator from Arizona.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Delaware.

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

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

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

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

FAIRNESS OF FINANCIAL MARKETS

Mr. KAUFMAN. Mr. President, I wish to spend a few minutes talking about action that needs to be taken to restore the credibility of the fairness of the American financial markets.

On Monday, Senators ISAKSON, TESTER, and I introduced S. 605, which directs the Securities and Exchange Commission to write regulations that will deal effectively with abusive short selling.

One of the abusive techniques addressed in the bill is so-called "naked short selling." Naked short selling is when traders sell shares they don't own and have no ability to deliver at the time of sale—which dilutes the value of a company's shares and can drive prices down artificially.

Before the ink on our bill was even dry, we received a profoundly disappointing report from the SEC's inspector general entitled "Practices Related to Naked Short Selling Complaints and Referrals," a report detailing the results of an audit on the SEC Division of Enforcement's policies, procedures and practices for processing complaints about naked short selling.

An astounding 5,000 complaints about abusive short selling were sent to the SEC's Enforcement Division between January 1, 2007 and June 1, 2008. There could be no mistaking the scale of the potential problem that that number of complaints reflected. Incredibly, a mere 123 complaints were referred for further investigation. Worse, and I quote: "none of the forwarded complaints resulted in enforcement actions . . ." five thousand complaints, zero enforcement actions.

Not surprisingly, the SEC inspector general has concluded that the processes for dealing with such complaints need a fundamental overhaul.

Accordingly, the IG made 11 suggestions for improvements. And how did the Enforcement Division respond? It agreed to one of the IG's recommendations, and declined to move on the rest.

I have been around Washington and the Senate for 36 years, but rarely have