

at risk for losing their homes, American families need a break. This budget would do that.

I have listened to a number of my friends on the Republican side of the aisle criticize this budget. They say it spends too much, taxes too much, we have to borrow too much. They are ignoring the obvious. This President is committed to cutting the deficit in half in his first 4-year term. When President Bush was elected, he inherited a surplus from President Clinton, a surplus in the budget. It had been a 2-year surplus and it was reducing the debt of programs such as Social Security. We were moving in the right direction. Our national debt that we accumulated over the history of the United States to that moment when President George W. Bush took office was about \$5 trillion. So the President, George W. Bush, came in with a \$5 trillion national debt that he had inherited from George Washington until his moment in history and he inherited a budget surplus.

What happened over the next 8 years? Sadly, under President Bush, we saw the national debt of America more than double in 8 years. The accumulated history of the United States had produced \$5 trillion in debt. The 8 years of the Bush administration more than doubled that debt. President Bush took the surplus of the Clinton years and brought us to the biggest annual deficits in American history.

Many of those who supported the President's approach, many of those on the other side of the aisle who voted for his budgets—many who stood in defense of President Bush when he said I don't want to count the cost of the war; we will set that aside; we will call it an emergency; we will not put it in the budget—are the same people who made that excuse for 7 years during the wars in Iraq and Afghanistan under President Bush. They saw the accumulated cost of those wars exceed \$700 billion and none of it was in the budget. None of it was accounted for. Many on the other side said that was acceptable.

They also supported the President's idea of tax cuts, tax cuts for some of the wealthiest people in America. Taking these things off budget, tax cuts for the wealthy—what happened? We ended up with the worst deficits we had seen in our history. That is what this President inherited. Now that he has promised to reduce the size of our deficit by half in his first 4 years, many on the other side are standing and saying we are destined now for bankruptcy. Where have they been for the last 8 years? Some of the harshest critics of the President's budget were giving a stamp of approval, year after year, to President Bush's budget.

What President Obama is doing is an honest budget, a responsible budget that moves us toward reducing the deficit in a time when the economy is in a sorry situation.

I think that is important. I think it is important we come together on a bi-

partisan basis to pass that. As to those who think this budget borrows too much, this President is on the right track of reducing the deficit. They have been on the wrong track for a long time. These are policies that they have offered before that did not work. They are yesterday's policies, yesterday's politics. It is time for something new. It is time for real change. Preparing the budget is about making choices and President Obama's budget is a document that makes the right choices. It is a document that is fair, giving tax breaks to working families, putting money into investments so their children can see a brighter future. It is a budget that is responsible. It puts the cost of the war online in the budget so we can track it as part of our real debt. It is a budget that also makes smart investments in America's future.

It is not just a matter of creating a job, a make-work job. This President's vision is to create the kind of jobs in energy and new energy for the 21st century; in education, so our kids can compete in this century, and to make sure our health care system is one that gives us quality care at the lowest cost. That embodies three sensible goals that we in America share.

This budget would bring true long-lasting change to America, and I certainly encourage my colleagues on both sides of the aisle to look long and hard at this budget, realize the good-faith effort President Obama is making with this budget, and join him in charting a course of spending for the next 4 years that will move us out of this recession, create jobs and businesses and give America a smart investment for our future.

I yield the floor.

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

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

#### RECESS

Mr. DURBIN. Madam President, I ask the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:24 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

#### NATIONAL SERVICE REAUTHORIZATION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I rise in support of the bipartisan legislation

before us today, the Serve America Act. I would like to thank Senators KENNEDY from Massachusetts and HATCH of Utah, as well as Wyoming's Senator ENZI and Senator MIKULSKI of Maryland for their hard work on this legislation.

Last week I held a conference call in my office with two very impressive young men who are a testament to what the Serve America Act is all about. Their names are Mark Rembert and Taylor Stuckert. I met them last year in Wilmington, an Ohio city in southwest Ohio that has been devastated by the closure of the Wilmington Airport where DHL employed about 8,000 people—DHL, Astar, and ABX, three national companies.

Mark and Taylor decided they simply could not sit on the sideline while their community struggled to absorb this tremendous economic blow. Instead they founded Energize Clinton County, a nonprofit focused on economic development and environmental awareness.

In the midst of an economic disaster in their community, these two young men, Mark and Taylor, decided to serve. They are examples of what inspired this bill and what service to our country is all about.

I know something personally about City Year, one of the programs within the Serve America Act. City Year is part of AmeriCorps. My daughter Elizabeth served in City Year Philadelphia about 4 or 5 years ago. She was paid \$700 a month, as were the six or seven roommates she had in an old house on Baltimore Pike near the VA in Philadelphia. They met every Sunday night to talk about how they were going to, after paying their rent—about \$300 a month each—how they were going to figure out how to eat. They pooled their resources and figured out how to do that.

During the day—each day of the week, often 6-day weeks, often more—Elizabeth and other of her colleagues would go into a middle school in Philadelphia and work with local students in some of the poor areas of Philadelphia.

This program mattered to those students she helped. It mattered to my daughter who I said was paid \$700 a month for this service in City Year. It made her more reliable, and it made her more strong. It made her more understanding of the community around her, and it taught what so many of these programs over the years, so many of these volunteer service organizations have taught us. Whether it is the Peace Corps or Vista or City Year or Teach America, not just the people who are served by these young people but the people who do the serving, it stays with them the rest of their lives. It matters so much to them as they understand our society even better.

The passage of this legislation will mean even more Americans will be able to answer President Obama's call to service. The Serve America Act will provide opportunities for Americans of all ages and from all backgrounds to

serve. It invests in action and it promotes existing voluntarism by supporting and expanding existing community service and development programs to tackle the problems at the root of the economic crisis. It strengthens programs such as AmeriCorps which, contrary to the wholly unwarranted and counterproductive partisan attacks some of my colleagues have launched against them, have paid for themselves many times over.

Whether your measure is the impact of these programs on their participants, enabling individuals to find a productive path and avoid a less productive path or whether your measure is the tangible work accomplished in communities throughout this Nation; whether your measure is the culture of voluntarism cultivated, choose your measure. AmeriCorps and like programs are a cost-effective means of strengthening our Nation and promoting the old-fashioned values of hard work, empathy, and civic responsibility.

Across the country, the bill would create 175,000 new service opportunities. I am sure successful Ohio programs such as City Year Columbus, Ohio College Advising Corps in Cleveland, the Wood County Corps in Bowling Green would value additional volunteers, and there is no doubt that Ohio would benefit from their work.

Service opportunities will be expanded to incorporate and encourage Americans of every age group: programs such as the Summer of Service Program for middle and high school students, the Youth Engagement Zone Program for young people from low-income areas, and Encore Fellowships for retired Americans. This is not only for young people to volunteer and to serve.

The Serve America Act also invests in nonprofit service organizations that work. These organizations are on the front lines of this Nation's economic crisis. They will play an integral role in our recovery. These organizations empower Americans and spur economic growth at the community level.

Those very organizations embody the values that enable our Nation to remain unified when widespread hardship hits and become stronger in the process of turning that hardship around.

The Serve America Act is part of the change this country called for. It not only creates a catalyst for recovery through a renewed service movement, it recognizes the resources and the programs it will take to get us there.

I was proud to cosponsor the Serve America Act. I urge my colleagues to support it.

I yield the floor, and 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. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### EMPLOYEE FREE CHOICE ACT

Mr. SPECTER. Mr. President, I have sought recognition to state my position on the bill known as the Employee Free Choice Act, also known as card check. My vote on this bill is very difficult for many reasons.

First, on the merits, it is a close call and has been the most heavily lobbied issue I can recall. Second, it is a very emotional issue with labor looking to this legislation to reverse the steep decline in union membership and business expressing great concern about added costs which would drive more companies out of business or overseas.

Perhaps, most of all, it is very hard to disappoint many friends who have supported me over the years, on either side, who are urging me to vote their way. In voting for cloture—that is to cut off debate—in June of 2007, I emphasized in my floor statement and in a Law Review article that I was not supporting the bill on the merits but only to take up the issue of labor law reform.

Hearings had shown that the NLRB was dysfunctional and badly politicized. When Republicans controlled the board, the decisions were for business. With Democrats in control, the decisions were for labor. Some cases took as long as 11 years to decide. The remedies were ineffective.

Regrettably, there has been widespread intimidation on both sides. Testimony shows union officials visit workers' homes with strong-arm tactics and refuse to leave until cards are signed. Similarly, employees have complained about being captives in employers' meetings with threats of being fired and other strong-arm tactics.

On the merits, the issue which has emerged at the top of the list for me is the elimination of the secret ballot, which is the cornerstone of how contests are decided in a democratic society. The bill's requirement for compulsory arbitration if an agreement is not reached within 120 days may subject the employer to a deal he or she cannot live with. Such arbitration runs contrary to the basic tenet of the Wagner Act for collective bargaining, which makes the employer liable only for a deal to which he or she agrees. The arbitration provision could be substantially improved by the last best offer procedure, which would limit the arbitrator's discretion and prompt the parties to move to more reasonable positions.

In seeking more union membership and negotiating leverage, labor has a valid point that they have suffered greatly from outsourcing of jobs to foreign countries and losses in pension and health benefits. President Obama has pressed labor's argument that the middle class needs to be strengthened through more power to unions in their negotiations with business.

The better way to expand labor's clout in collective bargaining is through amendments to the NLRA rather than eliminating the secret bal-

lot and mandatory arbitration. Some of the possible provisions for such remedial legislation are set forth in the appendix to this statement.

In June 2007, the Employee Free Choice Act was virtually monolithic: 50 Senators, Democrats, voted for cloture; and 48 Republicans against. I was the only Republican to vote for cloture. The prospects for the next cloture vote are virtually the same.

No Democratic Senator has spoken out against cloture. Republican Senators are outspoken in favor of a filibuster. With the prospects of a Democratic win in Minnesota yet uncertain, it appears the 59 Democrats will vote to proceed, with 40 Republicans in opposition. If so, the decisive vote would be mine.

In a highly polarized Senate, many decisive votes are left to a small group who are willing to listen, reject ideological dogmatism, disagree with the party line, and make an independent judgment. It is an anguishing position, but we play the cards we are dealt.

The emphasis on bipartisanship is misplaced. There is no special virtue in having some Republicans and some Democrats take similar positions. The desired value, really, is independent thought and an objective judgment. It obviously cannot be that all Democrats come to one conclusion and all Republicans come to the opposite conclusion by expressing their individual objective judgments.

Senators' sentiments expressed in the cloakroom frequently differ dramatically from their votes in the well of the Senate. The Nation would be better served, in my opinion, with public policy determined by independent, objective legislative judgments.

The problems of the recession would make this a particularly bad time to enact the Employee Free Choice Act. Employers understandably complain that adding such a burden would result in further job losses. If efforts to give labor sufficient bargaining power through amendments to the NLRA are unsuccessful, then I would be willing to reconsider the Employee Choice legislation when the economy returns to normalcy.

I am announcing my decision now because I have consulted with a very large number of interested parties on both sides and I have made up my mind. Knowing that I will not support cloture on this bill, Senators may choose to move on and amend the NLRA as I have suggested or otherwise. This announcement should end the rumor mill that I have made some deal for my political advantage. I have not traded my vote in the past and would not do so now.

I ask unanimous consent that the text be printed in the RECORD, as well as an appendix with suggested revisions to the National Labor Relations Act.

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

## STATEMENT BY ARLEN SPECTER

My vote on the Employees Choice Bill, also known as Card Check, is very difficult for many reasons. First, on the merits, it is a close call and has been the most heavily lobbied issue I can recall. Second, it is a very emotional issue with Labor looking to this legislation to reverse the steep decline in union membership and business expressing great concern about added costs which would drive more companies out of business or overseas. Perhaps, most of all, it is very hard to disappoint many friends who have supported me over the years, on either side, who are urging me to vote their way.

In voting for cloture (to cut off debate) in June 2007, I emphasized in my floor statement and in a law review article that I was not supporting the bill on the merits, but only to take up the issue of labor law reform. Hearings had shown that the NLRB was dysfunctional and badly politicized. When Republicans controlled the Board, the decisions were for business. With Democrats in control, the decisions were for labor. Some cases took as long as eleven years to decide. The remedies were ineffective.

Regrettably, there has been widespread intimidation on both sides. Testimony shows union officials visit workers' homes, use strong-arm tactics, and refuse to leave until cards are signed. Similarly, employees have complained about being captives in employers' meetings with threats of being fired and other strong-arm tactics.

On the merits, the issue which has emerged at the top of the list is the elimination of the secret ballot which is the cornerstone of how contests are decided in a democratic society. The bill's requirement for compulsory arbitration if an agreement is not reached within 120 days may subject the employer to a deal he/she cannot live with. Such arbitration runs contrary to the basic tenet of the Wagner Act for collective bargaining which makes the employer liable only for a deal he/she agrees to. The arbitration provision could be substantially improved by the last best offer procedure which would limit the arbitrator's discretion and prompt the parties to more reasonable positions.

In seeking more union membership and negotiating leverage, Labor has a valid point that they have suffered greatly from outsourcing of jobs to foreign countries and losses in pension and health benefits. President Obama has pressed Labor's argument that the middle class needs to be strengthened through more power to unions in their negotiations with business. The better way to expand labor's clout in collective bargaining is through amendments to the NLRA rather than on eliminating the secret ballot and mandatory arbitration. Some of the possible provisions for such remedial legislation are set forth in an appendix.

The June 2007 vote on Employees' Choice was virtually monolithic: 50 Democrats for cloture to 48 Republicans against. I was the only Republican to vote for cloture. The prospects for the next cloture vote are virtually the same. No Democratic Senator has spoken out against cloture. Republican Senators are outspoken in favor of a filibuster. With the prospects of a Democratic win in Minnesota, yet uncertain, it appears that 59 Democrats will vote to proceed with 40 Republicans in opposition. If so, the decisive vote would be mine. In a highly polarized Senate, many decisive votes are left to a small group who are willing to listen, reject ideological dogmatism, disagree with the party line and make an independent judgment. It is an anguishing position, but we play the cards we are dealt.

The emphasis on bipartisanship is misplaced. There is no special virtue in having

some Republicans and some Democrats take similar positions. The desired value is independent thought and an objective judgment. It obviously can't be that all Democrats come to one conclusion and all Republicans come to the opposite conclusion by expressing their individual objective judgments. Senators' sentiments expressed in the cloakroom frequently differ dramatically from their votes in the well of the Senate. The nation would be better served with public policy determined by independent, objective legislators' judgments.

The problems of the recession make this a particularly bad time to enact Employees Choice legislation. Employers understandably complain that adding such a burden would result in further job losses. If efforts are unsuccessful to give Labor sufficient bargaining power through amendments to the NLRA, then I would be willing to reconsider Employees' Choice legislation when the economy returns to normalcy.

I am announcing my decision now because I have consulted with a very large number of interested parties on both sides and I have made up my mind. Knowing that I will not support cloture on this bill, Senators may choose to move on and amend the NLRA as I have suggested or otherwise. This announcement should end the rumor mill that I have made some deal for my political advantage. I have not traded my vote in the past and would not do so now.

## APPENDIX

## SOME SUGGESTED REVISIONS TO THE NATIONAL LABOR RELATIONS ACT

## (1) Establishing a timetable:

(a) Require that an election must be held within 10 days of a filing of a joint petition from the employer and the union.

(b) In the absence of a joint petition, require the NLRB to resolve issues on the bargaining unit and eligibility to vote within 14 days from the filing of the petition and the election 7 days thereafter. The Board may extend the time for the election to 14 additional days if the Board sets forth specifics on factual or legal issues of exceptional complexity justifying the extension.

(c) Challenges to the voting would have to be filed within 5 days with the Board having 15 days to resolve any disputes with an additional 10 days if they find issues of exceptional complexity.

## (2) Adding unfair labor practices:

(a) an employer or union official visits to an employee at his/her home without prior consent for any purpose related to a representation campaign.

(b) an employer holds employees in a "captive audience" speech unless the union has equal time under identical circumstances.

(c) an employer or union engages in campaign related activities aimed at employees within 24 hours prior to an election.

(3) Authorizing the NLRB to impose treble back pay without reduction for mitigation when an employee is unlawfully fired.

(4) Authorizing civil penalties up to \$20,000 per violation on an NLRB finding of willful and repeated violations of employees' statutory rights by an employer or union during an election campaign.

(5) Require the parties to begin negotiations within 21 days after a union is certified. If there is no agreement after 120 days from the first meeting, either party may call for mediation by the Federal Mediation and Conciliation Service.

(6) On a finding that a party is not negotiating in good faith, an order may be issued establishing a schedule for negotiation and imposing costs and attorney fees.

(7) Broaden the provisions for injunctive relief with reasonable attorneys' fees on a

finding that either party is not acting in good faith.

(8) Require a dissent by a member of the Board to be completed 45 days after the majority opinion is filed.

(9) Establish a certiorari-type process where the Board would exercise discretion on reviewing challenges from decisions by an administrative law judge or regional director.

(10) If the Board does not grant review or fails to issue a decision within 180 days after receiving the record, the decision of the administrative judge or regional director would be final.

(11) Authorizing the award of reasonable attorneys' fees on a finding of harassment, causing unnecessary delay or bad faith.

(12) Modify the NLRA to give the court broader discretion to impose a Gissel order on a finding that the environment has deteriorated to the extent that a fair election is not possible.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KYL. 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.

Ms. MIKULSKI. I ask unanimous consent that the order for the quorum call be rescinded.

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

## NATIONAL SERVICE REAUTHORIZATION ACT

Ms. MIKULSKI. Mr. President, I ask unanimous consent that all postcloture time be yielded back, the motion to proceed be agreed to, and that after the bill is reported, I, Senator MIKULSKI, be recognized to call up the substitute amendment.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1388) to reauthorize and reform the national service laws.

## AMENDMENT NO. 687

(In the nature of a substitute)

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 687.

Ms. MIKULSKI. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments."

Ms. MIKULSKI. 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. CRAPO. I ask unanimous consent that the order for the quorum call be dispensed with.