

# FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 1586, which the clerk will report.

The assistant legislative clerk read as follows:

House Message on H.R. 1586, motion to concur in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system and so forth and for other purposes, with an amendment.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4575 (to the House amendment to the Senate amendment to the bill), in the nature of a substitute.

Reid amendment No. 4576 (to amendment No. 4575), to change the enactment date.

Reid motion to refer the House message on the bill to the Committee on Appropriations, with instructions, Reid amendment No. 4577 (the instructions on motion to refer), to provide for a study.

Reid amendment No. 4578 (to the instructions (amendment No. 4577), of the motion to refer), of a perfecting nature.

Reid amendment No. 4579 (to amendment No. 4578), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate, with the time equally divided and controlled between the two leaders or their designees, with the Senator from Washington, Mrs. MURRAY, controlling the time of the majority.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak on the time allotted to Senator MURRAY, which I understand is 30 minutes of the hour before the vote; is that true?

The ACTING PRESIDENT pro tempore. That is correct. Without objection, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, summer is ending and the school year is going to begin in a few weeks in many States. But as students prepare for the school year, many wonder what the school and classroom will look like. Parents are reading news reports about budget cuts and wonder how that will affect the schools their kids attend—whether art, music, foreign language offerings will be cut and whether some teachers will be gone and how many students will be crowded into one classroom. These worries are justified.

The recession we are now working our way through has crippled many local and State budgets. In Illinois, the fiscal year 2011 budget has a \$13 billion deficit. As a result, the Governor has proposed serious cuts to public education. It has been projected that, in Illinois, come this new school year, we will have as many as 17,000 fewer teachers. Our State is not alone.

States across the country, looking to balance their budgets, are faced with these same hard choices. Through the

American Recovery and Reinvestment Act, the stimulus package President Obama brought forward when he was elected, we acted to save schools, and our investment worked. The State fiscal stabilization fund helped save or create more than 300,000 education jobs across the country. We bought a year, in the hopes that this recession would have turned around. Well, it is moving in the right direction, but we are still suffering from many aspects of it.

Unfortunately, the funding of that bill is expiring and State economies have not fully recovered and, according to recent projections, nearly 150,000 educators have received or will receive pink slips for the next school year.

More than 80 percent of school districts across America have had to lay off teachers. The measure we are considering today and will vote upon in a little more than 45 minutes would create a \$10 billion education jobs fund that will save more than 100,000 jobs in schools across America.

The education jobs fund would save a projected 4,836 education jobs in my home State. That means, roughly, that we are going to save one out of four of the teachers who were going to lose their jobs. I wish it were more, but it is going to help. Adding thousands of workers to the unemployment rolls would be bad for our economy in Illinois, bad for the families of these teachers who lose their jobs, and bad for students. The negative effect will be felt by students for a long time.

Chicago's public schools currently face a \$600 million deficit for the next fiscal year. To close it, they are going to have to cut 2,700 teachers and 300 school-based staffers. Class sizes will be increased to 35 students a room. Nonvarsity sports will be eliminated. Magnet and gifted programs will be reduced. Full-day kindergarten programs will be reduced. Afterschool programs will be reduced. The budget for charter schools will be cut by 11 percent.

Similar hard choices are faced by school districts across Illinois and across the Nation. Elgin School District is planning to cut more than 1,000 jobs, including 732 teachers. That district faces a \$44 million deficit. The Neuqua Valley High School in Naperville may lose its music program. I wish to add that this is a music program that has won two Grammys. It is such an outstanding program in Naperville. They run the risk of closing.

So the students will be hurt and families will suffer. Teachers will lose their jobs. How do you make up for that year of education that has been shortchanged? We do it by voting to help. That is what this does.

The spending in this measure is fully offset and paid for totally. So any argument that is being made about this adding to the deficit, it doesn't. It is a conscious decision to move resources from other parts of the budget, where they are not as high a priority, into the priority of keeping teachers in the classroom.

There is no reason to vote against this. I don't understand how my friends on the other side of the aisle who have argued that they are deficit hawks can ignore the obvious. We pay for this program. We pay to help these teachers. It doesn't add to the deficit. If it is your son or daughter or your grandson or granddaughter who is shortchanged one school year, does it make a difference? Of course, it does. Being shortchanged one school year and then another could put a child in a spiral decline that could affect their lives and their futures immeasurably.

Secretary Arne Duncan has urged Congress to act, saying we need to "keep our teachers teaching, our students learning, and keep our economy growing." I agree with Secretary Duncan.

I urge my colleagues to put politics aside; don't try to focus on who is going to claim a victory when it is all over—Democratic or Republican. The victories we want are for the kids in the classroom and for teachers to stay on the job. That is nonpartisan. It has nothing to do with political party and neither should this vote.

I encourage my colleagues to support this effort. I particularly thank Senator PATTY MURRAY from Washington who is leading our effort to pass this measure.

I yield the floor.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. There is 23 minutes 54 seconds.

Mrs. MURRAY. Thank you. Mr. President, recently we have had the opportunity to consider several bills in the Senate to help ease the burdens for our middle-class families and small business owners that they are facing in this recession.

In late June, we brought a bill to the floor that would provide key targeted tax breaks, including a sales tax deductibility for families in my home State, as well as tax breaks to end our dependence on foreign oil.

In July, we introduced a Wall Street reform bill that included the strongest protections for consumers ever enacted and a guarantee that taxpayers would never be on the hook for bailing out Wall Street again.

A few short weeks ago, we worked to extend unemployment benefits to help stimulate economic growth and those who are in desperate need.

Last week, we introduced a bill that would have provided a new small business lending fund to help the backbone

of our economy, our small businesses, grow and hire.

It would have jump-started community bank lending and small businesses, while saving taxpayers \$1 billion.

All those bills had broad across-the-board support. In fact, outside the Senate, they had a lot of support. The conservative-leaning National Federation of Independent Business voiced their support for the small business lending funds.

Hometown community bankers in my State stood to support Wall Street reform. Economists of all political stripes got behind the long-proven benefits of extending unemployment, and so many others around the country found common cause with the benefits of those critical bills.

These bills would help create jobs, put money back in the pockets of taxpayers and small business owners and ease the difficult choices struggling Americans face every day.

But at every turn in the Senate, we have been opposed by those on the other side of the aisle who seem to have long ago made their own choice about anything and everything that comes to the floor. It was a choice that favored politics over people, Wall Street over Main Street, and the status quo over the struggles our families are facing.

It was a choice to say no, no matter what, no matter when, no matter who was hurt.

I go home to Washington State every weekend and I talk to the people I represent. I try to explain what we are working on.

To be honest, it is hard to understand why, when big banks and Wall Street were on the brink of failure and threatening to blow up our entire economy, Republicans immediately came together to help us step back from the brink then. But now that Wall Street is fine and regular families and communities are struggling, those same Republicans are nowhere to be found. I don't have an answer for our families. Quite honestly, I don't understand it myself.

Today, as we prepare for a final week of votes before we go home to face our constituents, those on the other side of the aisle have one last opportunity to show this is not just a political calculation and that we in this Senate can put people first.

The amendment I have offered, and which we will soon vote on, saves jobs and makes sure our kids are not paying the price for this recession. It avoids painful cuts to critical services. And, very importantly, it is fully paid for. For every dollar this amendment invests in saving teacher jobs, reducing class sizes, and avoiding cuts to State programs, we have found targeted spending cuts.

This amendment includes help for our States in every corner of this country and will help make sure that our most precious resource—our education system—is protected.

Every day brings more reports about the continuing wave of layoffs affecting our school districts across the country. According to recent estimates, over 130,000 teacher jobs will be lost this fall alone. In my home State, there are nearly 3,000 at risk. That means 3,000 teachers in Washington State who are right now in limbo, who are spending this summer not knowing if they are going to be able to return to a classroom or face a pink slip in the fall.

We have to remember that every time we lose a teacher, it is not only the teacher and economy that suffers, it is the kids in every one of our States.

I received a letter recently from a special education teacher named Connie Compton in Kent, WA, who told the story of recently having to say goodbye to a young, talented, energetic music teacher because of budget cutbacks. She told me how this was just one of six teachers in her school alone who have had to be let go.

In her letter she talked about how it is the kids who only get one shot at a music class or an afterschool program or arts or sports or even subjects such as social studies or history who lose out.

She also talked about whether it is through larger class sizes they are seeing, scaled down services, fewer subjects being offered, or even shortened school weeks in some of our communities, too often it is our most vulnerable who are paying the price for this recession.

My amendment is a fiscally responsible way to make sure our States' schoolchildren and the hard-working teachers who get up every day to improve their lives are not the victims of struggling State budgets.

My amendment provides \$10 billion to school districts throughout the country to save the over 130,000 teacher jobs that are at risk, and it does so without adding to the deficit, and with a prohibition on the use of this funding for general expenses.

It is a very targeted and responsible way to help make sure that as our kids head back to school, our teachers are not entering the ranks of the unemployed. It is also a way to make sure we are not paying a lot more in the long run for adults who have been failed by school systems with too few teachers and too many cuts to services.

It is August. Our kids are about to go back to school. We cannot afford for them to go back to huge class sizes where they cannot learn, with fewer subjects being taught, and we certainly cannot afford to wait to address this very immediate problem.

Another immediate problem facing States such as mine is the huge State budget hole left by Federal Medicaid payments promised to States but never delivered. Without this critical Federal funding, these States are now faced with the difficult decision of whether they slash thousands of jobs, raise people's taxes, or stall economic recovery.

The amendment we are about to vote on includes a fully offset \$16.1 billion investment to help our States avoid job losses and cuts to Medicaid and tax increases. In my own State, it will help avoid a costly emergency session of our State legislature or across-the-board cuts to jobs and State services and health care for so many who have lost it when they lost their jobs. In fact, according to the Community Health Care Network in my State, without this extension, health care services for tens of thousands of people in my State will be under threat.

Failure to adopt this amendment could also mean layoffs to corrections officers, health care workers, cuts to end-of-life care for low-income people, cuts to State-supported financial aid programs that will deny up to 5,800 full-time students in my State alone an opportunity to go to college and universities next year. It will increase the risk of a double-dip recession and result in reduced consumer spending at a time we can least afford it.

Ultimately, failure to adopt this amendment will lead to more spending, not less, because of an increased demand for unemployment benefits and subsidized health care and food stamps.

The bottom line is that without this amendment, much of the progress States have been making to get back on the right economic track will be endangered. This is no time to risk our recovery by playing politics with help for our hard-working families.

This amendment that we will vote on shortly is the last best chance for teachers and the economic stability of so many of our States. Over the last several weeks, we have tried to work with the other side on every concern they have brought to the table, on every bill we have brought to the floor. We have compromised and we compromised again and then again. Today's amendment is another compromise. It may not include all we would have wanted on this side to save jobs and services in States across our country, but it does include enough to avoid jeopardizing our recovery. We have done all that we can.

Ultimately, this is about where our priorities lie. Are our priorities with hard-working families who every day have to grapple with tough choices about how to afford the things they need? Are they with our home States that are faced with laying off workers or raising taxes? Are they with our teachers who have been left with no choice but to find a new job without this help? Are priorities based on political choices—choices guided by polling or party doctrine, choices made long ago to say no, no matter what?

This amendment, which is critically important, is focused on what we can still do for our constituents and our States, not what we cannot or will not. It is about solving the big problems that are still threatening our recovery. And it is about showing the American

people that when commonsense legislation does come before us, we can make commonsense choices.

I urge all of our colleagues to put our families, to put our communities, and our States above partisan politics and work with us to adopt this critical amendment.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, the distinguished Senator from New Hampshire and I are going to engage in a discussion about the vote we are going to have at 10:40 a.m. But the Republican leader is on his way to the floor in a few minutes. When he comes, we are going to step aside and let him make his remarks, and then we will resume.

The vote we are having at 10:40 a.m. has the following problems with it: No. 1, it is \$10 billion for the State to pay for teachers. That sounds pretty good except that it ties the hands of the Governors and the legislatures so they cannot change education funding levels if their State budgets are in trouble.

No. 2, there is \$16 billion for States to pay for Medicaid. That sounds pretty good, too, except that it ties the hands of the States and the Governors so they cannot adjust their State Medicaid Program and continue to face a funding cliff.

I heard the distinguished Senator from Washington State talk about college students. The reason California students are facing a 32-percent increase in tuition is largely caused by California's expenses for Medicaid, the State program that is funded also by the Federal Government that has so many Federal rules that it keeps going up in cost. And the money that would be going to the University of California or the University of Tennessee or the University of New Hampshire instead goes for Medicaid. Then there is not money for the university, and then what happens? The tuition goes up.

Finally, part of the way this bill is paid for is by almost \$10 billion of permanent tax increases on multinational corporations that would have the effect of driving jobs overseas—just one more action by the Democratic majority and this administration in the middle of a recession or a time of near 10-percent unemployment that makes it harder to create new jobs in the United States.

Mr. President, I ask unanimous consent that the Senator from New Hampshire and I may engage in a colloquy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask my friend from New Hampshire, the senior member of the Budget Committee and a former Governor of his State, what about the idea of sending money to States and then requiring them, in effect, to spend more money at a time when most States are cutting State budgets so they can balance their budgets?

Mr. GREGG. Mr. President, I thank the Senator from Tennessee, who is not only a former Governor but also a former Secretary of Education. The Senator has framed the question adequately and very accurately, and that is this: Why should the Federal Government be saying to the States: We are going to give you some money, but we are going to attach to this money a whole lot of strings? And the basic strings are these: Unless you spend a heck of a lot more money, you are not going to get this money.

It does appear that it is focused on a special interest group, does it not, the teachers unions? It appears this is more or less a commitment to take care of this constituency out there at the expense, ironically, of a lot of people who are employed in those States.

We use the term "multinational corporation" around here as if that is some sort of evil empire. I have a few multinational corporations in New Hampshire—I suspect the Senator does in Tennessee—and they employ people. If you raise their taxes by \$10 billion, they are going to employ a lot less or they are going to send them overseas. We used to hear around here constantly about outsourcing—outsourcing jobs. This bill is a job outsourcer.

Mr. ALEXANDER. The Senator is exactly right. The National Association of Manufacturers says there are 22 million Americans who are hired by companies that do business not only in the United States but overseas.

I say to the Senator from New Hampshire, I think we want companies that are principally in the United States that do business overseas because what is the alternative? The alternative is they are in Singapore or they are in Great Britain or they are in other countries around the world and they are not in our country. They are not paying taxes here, and they are not hiring people here.

I see the distinguished Senator from Kentucky has arrived. The Senator from New Hampshire and I are in the midst of a fascinating discussion, but we think we will step down while he makes his remarks.

Mr. MCCONNELL. Mr. President, I say to the Senators, go ahead and finish the fascinating discussion.

Mr. GREGG. Mr. President, I want to get back to the essence of what the Senator from Tennessee is saying. It goes to this point.

People look at this and say: Oh, my goodness, there is a whole bunch of money coming to this State. What is it coming for and who it is paying? This money does not grow on trees and gets picked up in the morning by trucks that drive by and drop it off. This money is taken from somebody else to be used for this purpose. When you go to the essence of what this bill is about, it is to pay off education unions. That is what this is about. Let's not be coy about what is happening around here. The education unions were the single biggest interest group represented

at the Democratic National Convention. I think 26 percent of the delegates at the Democratic National Convention were teachers, members of teachers unions. They probably were not teachers; they probably were administrators.

What is happening here? A lot of States are trying to reorganize their budgets because they are in hard times. Most States are not able to print money—none are—the way the Federal Government does. So they actually have to be fiscally disciplined.

What they are saying to all the different categories within their States is: We are going to adjust here. They are actually going through a very aggressive—I know it is happening in New Hampshire, I know it is happening in Tennessee, and I suspect it is happening in most States—they are going through a very aggressive process of ordering priorities and making tough decisions so they can get their house in order relative to such things as the cost of education. But that has upset the teachers unions.

Now we get a bill on the floor of the Senate to basically put the States in a position where they will have to maintain the teachers union status relative to employees and actually add to it at the expense of the employers in those States and the people who go to work in those States, at the expense of the companies that are deemed "multinationals."

In New Hampshire, we have a lot of companies that are multinational. We are quite proud of that. We are proud of the fact we are an export-oriented State, that a lot of our major employers—in fact, I suspect our top five major employers are all deemed multinationals. They are not going to be able to hire as many people in New Hampshire because of the fact that they are going to get hit with this huge tax bill, the purpose of which is not actually to improve the situation—the States are working on that—the purpose of which is to take care of a constituency group that happens to have a significant amount of influence. It is called a special interest, unless it happens to be a liberal group and then they are called concerned citizens or something. But in this case it is a special interest group, and this bill is nothing more than a payoff to a special interest group at the expense of another group who happens to employ people and have workers in New Hampshire.

Mr. ALEXANDER. The Senator has been talking about education. There is another important part of the bill—\$16 billion to Medicaid. This is the Federal program to which, now with the new health care law, more than 70 million people will belong in 2014. But here is what the bill also does. According to a Wall Street Journal article on May 20, because of this bill—and as a result of this bill, if it should pass—States will be limited in their ability to make changes in the Medicaid Program to save money.

So what does that mean?

Mr. GREGG. If the Senator will yield for a question, is the Senator saying the Federal Government is going to say: If you want this money, you can't improve the program?

Mr. ALEXANDER. It is not just me saying it. The Lieutenant Governor of New York, Richard Ravitch, wrote an article in the Wall Street Journal on June 7 where he said he greatly appreciated the stimulus money—and this is the same problem—but because of these requirements that prohibit Governors and legislatures from making changes in the law to save money, he says the net result is the Federal stimulus—and this bill is just the son of stimulus or the daughter of stimulus—has led States to increase overall spending in these core areas, to increase spending.

So the point of what we are doing is to cause States to increase spending, said the Lieutenant Governor of New York, which in effect has only raised the height of the cliff from which State spending will fall if stimulus funds evaporate.

Mr. MCCONNELL. Would the Senator from Tennessee yield for a question?

Mr. ALEXANDER. Of course.

Mr. MCCONNELL. I was not here for the beginning of the discussion between the Senator from New Hampshire and the Senator from Tennessee, but I recently had an opportunity to speak to the National State Legislators convention, which happened to have been in my hometown of Louisville. Speaker PELOSI was there as well. My staff, in doing research and putting together my remarks, discovered that currently the single biggest source of revenue for State governments is to borrow money that is coming down from Washington. They are getting more from us than their sales taxes, their income taxes, and their property taxes. The States are simply becoming completely dependent upon us.

As I have heard both of my colleagues point out, we are sending this borrowed money down essentially so they do not have to make the tough decisions they would otherwise have to make. So I would ask my friends: When does it end? When does this dependency come to an end? I thought last year it was supposed to be timely, temporary, and targeted.

Mr. GREGG. The Senator's point is very important because 41 cents of every dollar we are sending back to the States—and as the Senator says, the majority of State money is now Federal money that we are sending down, as the Senator outlined—is borrowed from China or from the Middle East. Our people are going to have to pay all this back. We don't have that money to be sending to the States.

In this bill, at least there is an attempt to pay for it. But the way they pay for it is by penalizing job creators and forcing people to outsource jobs which, again, comes back to harm us for no purpose that seems to be prac-

tical other than to have the Federal Government step in and try to control the manner in which these various programs are run in the States and to reward constituencies who happen to be very supportive of the other party.

Mr. ALEXANDER. If I may say in response to the question and comment from the Senator from Kentucky, this country was created by States, and now has created a central government of limited powers. The central government makes the States the wards of the central government.

In the State of Tennessee this year—I believe for the first time—more than half the dollars in the State budget come from the Federal Government. In addition to the dollars coming from Washington, the rules are coming from Washington. So the Governor of Kentucky or New Hampshire or Tennessee is trying to say: Medicaid spending is out of control. It is ruining our public colleges and universities because we have no money left for them, so we want to change the eligibility.

That has been the case during the last 10 years. We have had Medicaid spending going up in the States by 70 or 80 percent over a 7- or 8-year period of time, and funding for public universities at a low level with tuitions, therefore, going way up. So the Governor is saying: Whoa, let's do something about Medicaid. Then we passed a bill and said to the Governors: Don't you change Medicaid. You are not allowed, if you take this money, to save any money in Medicaid.

So spending for Medicaid goes up because we require it to go up, and that means tuitions in Kentucky, New Hampshire, Tennessee, California, and all across this country are going to be higher because of legislation like we are considering today.

Mr. MCCONNELL. Mr. President, I thank my friends from Tennessee and New Hampshire. I was going to make some opening comments, but I would also add that my opening comments are somewhat related to the colloquy my colleagues were just having about the bill we will be voting on shortly.

We also heard an expression from the voters of Missouri yesterday who voted on a referendum on the issue of whether it is a good idea for the Federal Government to require individuals to retain health insurance, and 70 percent in Missouri, just yesterday, expressed their opposition to the notion. I know that is in court being litigated right now, as to whether it is appropriate for the Federal Government or constitutional for the Federal Government to require everyone to have a government-prescribed health care policy, but we had an expression of the people from Missouri yesterday as well on that aspect of what the Federal Government has been doing in the last year and a half. I thank my colleagues for their enlightened comments.

As I was just indicating, this morning's paper carried an important message for us in Washington—a message

that many of us have been trying to get across for more than a year. If there was any doubt that Americans are tired of being told their views are irrelevant by the people they elected to represent them in Washington, last night's vote in Missouri should dispel it.

All throughout the health care debate, Democratic leaders in Washington told themselves they could do what they wanted and then persuade Americans after the fact that it was OK. Last night, the voters in Missouri overwhelmingly rejected that notion. The people of Missouri have sent a message to Washington: Enough is enough.

They rejected the apparent belief by the current administration and Democratic leaders in Congress that they know best—that distant bureaucrats and lawmakers inside the beltway have a better grasp of what ails people in places such as St. Louis than they do, and that lawmakers here have a right to impose their prescriptions on the people out there whether those people like it or not.

More specifically, the voters of Missouri sent a clear message that the Federal Government has no business forcing people to buy health insurance against their will. I applaud them for it. Throughout the health care debate, Republicans heard the concerns of our constituents and insisted on the kind of commonsense solutions they were asking for—solutions that would actually do something to lower the cost of care. Democrats preferred to do their own thing.

They said: Let's raise taxes and cut Medicare to expand government and then try to convince people it is in their best interest.

Well, the voters of Missouri showed us last night that Americans will not allow this blatant power grab to stand without a fight. They don't think bureaucrats in Washington have a right to force them to buy government-designed health insurance, and they don't think States should be forced to put millions of new people into Medicaid—as our colleagues from New Hampshire and Tennessee were just discussing—any more than they think we should bail out the States again this week with billions more in spending at a time when neither we nor the States can afford it.

Washington needs to take care of its own fiscal mess, not deepen it by bailing out the States. We need to start listening to the concerns of the American people rather than trying to force them to go along with far-reaching laws they do not want, either through unpopular legislation or misleading PR campaigns like the one we saw earlier this week in which the administration sought to convince seniors their health care plan wouldn't do what we all know it will do.

Americans weren't kidding when they said they opposed the health care bill, and they are not going away. This

is just the beginning. Some of us have been saying it for more than a year. The American people will be heard. Whether it is the failed stimulus, the health care bill, or the financial regulatory bill, Americans are more intent than ever on reversing the trend of centralizing more and more power in Washington. They are alarmed at the fact the Federal Government is now, for the first time in our history, the single largest source of revenue for the States. For the first time in our history, the Federal Government is the single largest source of revenue for the States. They know that with more power in Washington comes less accountability, and they are fighting back.

The lesson is clear: Americans expect the people they elect to put their interests and the interests of the country first. It is time to follow through on the kinds of changes Americans actually want to see. It is about solving the crisis in front of us instead of using them to force a vision of America that Americans don't share.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Is the Senator from Washington ready? May I go forward on a point of order?

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

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

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

The ACTING PRESIDENT pro tempore. The Senate is not in a quorum call.

Mr. GREGG. I thought I put us into a quorum call.

Mr. President, at this time I intend to make a point of order. Actually, there are two points of order pending against this bill dealing with the budget. The budget is violated. It is not my budget—I didn't vote for the budget. The Democratic budget is violated two times by this bill.

I am not going to make both because it would be redundant to have a vote on both. It wouldn't be redundant, actually. There are two different points of order, and they are both fairly significant. So I will just make one because I do think we should be on record.

If this Congress is going to pass a budget, which it did in the last session—it has not done one in this session; it should—we should maintain the discipline of that budget. That is why we did the budget. And it is not my budget; it is your budget. So I am just suggesting that you follow your budget, if you are Members of the Democratic Party.

So with that point, I would make a point of order that section 404(a) of the 2010 budget resolution makes it out of order to consider legislation that in-

creases the deficit by more than \$10 billion in the Senate for any fiscal year covered by the most recently agreed to congressional budget resolution, S. Con. Res. 13.

The pending amendment would increase the short-term deficit in excess of \$10 billion in the following year: 2011. Therefore, I raise a point of order under section 404(a) of S. Con. Res. 13 against the pending amendment.

I would note that this exceeds the budget resolution by, I believe, about \$10 billion. That is how much it is out of kilter relative to what we said we would spend.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive the applicable budget order, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time remains on both sides?

The ACTING PRESIDENT pro tempore. There remains 12 minutes 39 seconds on the majority side and 12 minutes 53 seconds on the minority side.

Mrs. MURRAY. Mr. President, we have several Senators coming to the floor, if the Senator from New Hampshire wishes to continue speaking at this time.

Mr. President, I will make a few comments then. We do have several Senators on their way at this time.

I listened with interest to our colleagues on the other side of the aisle come to oppose the amendment that is being offered, and it is surprising to me because, as everyone knows, we are in a very tough economic recovery right now. All of our States, all of our communities, all of our families are struggling to get back on their feet. We have been working for some time now to help get our economy back on track.

As I outlined earlier, we have come forward to the Senate floor a number of times with small business bills and other bills to try to move the economy forward, and we have been blocked every time.

On this amendment, where we have been trying to make sure that 130,000 teachers are not lost—and it is not about the teachers unions; it is about kids in the classroom. This is about the future of the United States of America. Are we going to punish these students and give them less of an education because of the economic time they happen to be in in the first grade or the fifth grade or the eighth grade? That doesn't make sense to me as a mom or as a former teacher or as a Senator. This is about making sure our kids are not hurt in this tough economic recession. It is at a time when the States are struggling with their budgets, and it is at a time when we have told them we are trying to help them fill the gap, a gap they have in Medicaid spending.

We went to our colleagues. They blocked the bills when we brought them because they said they were too big. We made them smaller. They said they were not paid for. We went back and worked hard and brought pay-fors now. Yet with all of this compromise, our Republican colleagues have come to the floor today to say that now they have a new idea why they are opposing it—that we have not allowed States to have flexibility within their funding.

I remind all of us that Medicaid funding for a lengthy amount of time has had strings attached. I would suggest to all of our colleagues that if we just had open-ended funding out to our States, we would not be hearing: Oh, you are sending money to States with strings attached; we would be hearing the opposite: Oh, you are sending our States money without any strings attached.

So I say enough is enough with the politics. Enough is enough with finding excuses. This is about people in our States who are struggling today to get back on their feet. This is a basic measure that we can pass, fully paid for, at a time when our States—not just our States but our children, our families, and our communities need it the most.

I urge our colleagues to work with us, to do what a legislative body does. When you compromise and you compromise and you compromise and you have reached an agreement that makes a difference for people, let's move it forward and start to help our families get back on their feet. That is what this amendment is about, and I hope we get to the 60 votes and then can move, before we all go home for an August recess, to make sure people are breathing a little bit easier—the kids who are going to go off to school and the parents who are worried they are not getting the right kind of education; in our States, the many communities of people who are worried, who are in poverty, who are going to lose their health care; state employees who work in our jails or provide very important functions for our States that we count on. They are invisible. We don't see them all the time. But they make sure our lives are safe, that we can go to work and be cared for. That is what this amendment provides our States with the ability to do.

We all want our economy back on track. We all wish we were not here having to do this. But we are naive if we think our States are at a point where this Federal Government, our United States, can start ignoring them. That is what this amendment is about, and I urge our colleagues to vote yes.

I see my colleague from New York has arrived, and I yield him the remainder of the time.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I very much thank my colleague from Washington, who has been such a leader on

this issue and on so many issues involving our economy, jobs, and the middle class. I thank her for her leadership on this issue as on so many others.

Today, I rise in ardent support of the legislation before us. Let me be clear. This critical funding bill is about one thing and one thing only; that is, saving American jobs. Congress should be focused like a laser on fighting unemployment and getting the economy humming on all cylinders again. This bill is part of that ongoing effort.

Our economy is starting to show signs of life again, but we have a long, long way to go. We are on the road to recovery, but it is a rocky and uncertain one. Too many American families are still suffering from the immeasurable hardship and heartache wrought by the worst recession since the 1930s. We all know the unemployment rate is unacceptably high. What we cannot forget is that high unemployment is not a blue State problem or a red State problem; it is a national problem, and it demands immediate bipartisan attention. If there is only one issue on which we can find common ground this year, it should be jobs. Yet the minority party has blocked this bill at every turn.

There is no doubt about it, if we fail to pass this bill, hundreds of thousands of teachers and firefighters will lose their jobs. Nationwide, 140,000 teachers will be kicked out of the classroom if this bill does not become law. In my home State of New York, there are 7,100 teacher jobs on the line. From Watertown to Buffalo, from Oneida to Queens, every school district will have to make painful cuts. Will those cuts hurt only the teachers? Of course not. Our kids—their education is our future. They will have vital programs cut, their education will decrease, and we all know that a child who loses something in the third grade or the sixth grade or the ninth grade doesn't gain it back. How can you look a kid in the eye and explain that their beloved teacher, Mrs. Ross or Mr. O'Malley, is no longer able to teach this year? We must pass this bill for the good of our Nation's schoolchildren.

From coast to coast State budgets are bleeding. Many States have made tough, responsible choices—cutting important programs and making necessary revenue adjustments. We cannot afford to kick them while they are down by denying them the FMAP and teacher funding.

We are fighting hard to create private sector jobs, and we should. But to then allow so many public sector layoffs robs Peter to pay Paul. We will not be able to reduce unemployment unless both the public and private sectors are healthy.

The bill directly injects money into our economy, and the best thing about it is it saves jobs without adding a dime to the deficit. I say to my colleagues on the other side, again, it saves jobs without adding a dime to the

deficit. We cut in other places to help save the jobs of firefighters and teachers. This bill is fully offset. It closes tax loopholes multinational companies use to dodge taxes abroad. We should do that on its own, but the fact that now we have that as the offset, to do something so necessary and so good, is important.

I ask my colleagues to think of this not in terms of macronumbers but in terms of individuals—individuals who have worked hard their whole lives and are now about to be laid off; kids in classrooms who, again, will not be able to have their teacher teach them. Maybe it is that special science class. Some schools are cutting football. Some people think that is frivolous. I think that is an important part of school life.

The greatness of this country depends on us overcoming our problems. Unemployment is a huge problem. The lack of having the best education in the world is a problem. Keeping our streets safe from fire and crime is a problem. We are running away from it here to hide behind ideological barriers.

Let me repeat, this bill saves hundreds of thousands of jobs, provides vital help to the States, and reduces the deficit. For the good of the country, I implore my colleagues on the other side of the aisle to support this sensible and important bill. It is the right thing to do. Maybe just this once, in a bipartisan way, we will rise to the occasion.

Mr. FEINGOLD. Mr. President, I am voting to end a filibuster that is blocking critical funding for Wisconsin. Passage of this bill, as amended, would help prevent major cuts to education and health care funding as my State, and other States, continue to struggle to make up budget shortfalls due to the biggest recession since the Great Depression. While I do not agree with all of the offsets in the bill, I am pleased that it is fully offset. In fact, according to the Congressional Budget Office, the bill will reduce the budget deficit by \$1.4 billion over the next decade. Supporting this fiscally responsible funding is the right thing to do for our children and for the many Wisconsinites who depend on BadgerCare.

Mr. CARDIN. Mr. President, I rise today in support of a package that would provide critical relief to school districts across the Nation. The proposed amendment would provide \$10 billion in additional support to local school districts to prevent imminent layoffs.

It is estimated that this fund will help keep nearly 140,000 educators employed during the upcoming school year.

The American Reinvestment and Recovery Act has been credited with saving 300,000 education jobs and has mitigated that impact of the recession.

As that funding comes to an end, however, massive job cuts once again threaten to stall economic recovery and damage our educational system.

Thus far, almost 80 percent of school districts across the Nation have had to lay off educators. My home State of Maryland, which is No. 1 in education according to Education Week for the second year in a row, is not immune. One Maryland county has seen 800 jobs cut, 355 of those classroom positions.

These job losses have an economic ripple effect. The Economic Policy Institute projects that every 100,000 education jobs lost causes an additional loss of 30,000 private sector jobs in local communities.

This can take a devastating toll on families and on whole communities.

As our children prepare to go back to school, let's think for a moment about what these job cuts will mean for them.

For some, the bus route has changed since there are fewer drivers so it takes a bit longer to get to school.

When students get to class, it will be a little more crowded as the class size grows to accommodate more students and fewer teachers.

The lunch lines might be longer because there are fewer cafeteria workers to serve the students.

Art, music, and even social studies programs have been cut and teachers dismissed.

Get sick at your own risk because a school nurse will no longer be available to assist with treatment.

So, the remaining teachers, in addition to performing their traditional roles, now also become nurses, counselors, and custodians to even more students.

Larger class sizes, cutting programs, and cutting support personnel such as school nurses, counselors, bus drivers, and custodians, are just a few of the ways school districts are dealing with budgeting shortfalls.

Other options include unpaid furlough days and shortened school weeks.

All of these are detrimental to the educational experience and fly in the face of what we are trying to achieve with educational reform.

There are many theories about education reform. But to put it quite simply, there can be no educational reform if there are no teachers!

The \$10 billion that this package puts into the States will provide immediate relief to school districts across the Nation.

In Maryland, it could mean an estimated allocation of \$178 million for Maryland, translating to 2,200 jobs.

Yet it does not add 1 cent to the deficit. The education jobs funding is fully offset, including \$8.4 billion in rescissions. This is not without sacrifice. I am particularly disappointed by the rescission of \$10.7 million in Department of Education innovation and improvement funds for public television's "Ready to Teach" program.

However, I am respectful of the difficult choices that must be made in these times of economic crisis. We need to make choices about spending. And I choose to support putting teachers to



work and giving students the best chance to learn.

I urge my colleagues to think of the mixed messages we would send to our children by not making this investment and passing this amendment.

We say to our children that they should work hard to get the best out of education but then we are not willing to work to put the best into it?

We say that our children are our future but we are not willing to invest in them?

We expect teachers to equip our children with the knowledge they need to succeed but are not willing to equip our teachers with the resources they need to succeed?

It is time to stand up for our students and teachers.

I urge my colleagues to join me in standing up for education by voting yes on the proposed amendment.

I yield the floor.

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

Mrs. MURRAY. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There remains 2½ minutes on the majority side and 12 minutes 53 seconds on the minority side.

Mrs. MURRAY. I reserve 1 minute of our time and ask that the quorum call be equally divided between both sides and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent to have printed in the RECORD two letters dated August 4, 2010, from Joseph Conaly.

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

UNITED STATES DEPARTMENT OF  
EDUCATION, OFFICE OF ELEMENTARY  
AND SECONDARY EDUCATION,  
Washington, DC, Aug. 4, 2010.

Hon. JAMES WEBB,  
United States Senate,  
Washington, DC.

DEAR SENATOR WEBB: Your office has expressed concerns about whether Virginia would meet the maintenance-of-effort requirement in the Education Jobs Fund legislation that is currently being considered by the U.S. Senate. This letter is in response to those concerns.

In its applications for phase one and phase two funding under the State Fiscal Stabilization Fund (SFSF) program, Virginia provided data on the levels of State support for elementary and secondary education and public institutions of higher education for fiscal years 2006, 2009, 2010, and 2011. Under the Education Jobs Fund legislation, a State may demonstrate that it is maintaining effort if, among other things, its State tax col-

lections for calendar year 2009 were less than State tax collections for calendar year 2006, and State support for elementary and secondary education and for public institutions of higher education for State fiscal year 2011 is not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006.

Based on our review of the data that Virginia submitted in its SFSF applications and the data on State tax collections from the U.S. Census Bureau, we have every confidence that Virginia will meet the maintenance-of-effort requirements in and be eligible for funding under the Education Jobs Fund legislation.

Sincerely,

JOSEPH C. CONALY,  
Director,  
State Fiscal Stabilization Program.

UNITED STATES DEPARTMENT OF  
EDUCATION, OFFICE OF ELEMENTARY  
AND SECONDARY EDUCATION,  
Washington, DC, Aug. 4, 2010.

Hon. MARK WARNER,  
United States Senate,  
Washington, DC.

DEAR SENATOR WARNER: Your office has expressed concerns about whether Virginia would meet the maintenance-of-effort requirement in the Education Jobs Fund legislation that is currently being considered by the U.S. Senate. This letter is in response to those concerns.

In its applications for phase one and phase two funding under the State Fiscal Stabilization Fund (SFSF) program, Virginia provided data on the levels of State support for elementary and secondary education and public institutions of higher education for fiscal years 2006, 2009, 2010, and 2011. Under the Education Jobs Fund legislation, a State may demonstrate that it is maintaining effort if, among other things, its State tax collections for calendar year 2009 were less than State tax collections for calendar year 2006, and State support for elementary and secondary education and for public institutions of higher education for State fiscal year 2011 is not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006.

Based on our review of the data that Virginia submitted in its SFSF applications and the data on State tax collections from the U.S. Census Bureau, we have every confidence that Virginia will meet the maintenance-of-effort requirements in and be eligible for funding under the Education Jobs Fund legislation.

Sincerely,

JOSEPH C. CONALY,  
Director,  
State Fiscal Stabilization Program.

Mr. REID. Mr. President, I have spoken with both Senators JIM WEBB and MARK WARNER about the need for further clarification on what is used to define eligibility under the maintenance-of-effort requirements in the Education Jobs Fund legislation.

I have assured them that we will work together, and ensure that the Commonwealth of Virginia meets the maintenance-of-effort requirements. I have entered into the RECORD two letters from the Department of Education clarifying that Virginia would meet the maintenance-of-efforts requirements.

I look forward to continue to work with them to ensure the language is clear.

CLOTURE MOTION

Mr. President, has all time expired?

The ACTING PRESIDENT pro tempore. All time has expired. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 1586, the Aviation Safety and Investment Act of 2010, with amendment No. 4575.

Harry Reid, Patty Murray, Max Baucus, Richard J. Durbin, Robert Menendez, Daniel K. Inouye, Christopher J. Dodd, Carl Levin, Dianne Feinstein, Al Franken, Jack Reed, Sheldon Whitehouse, Frank R. Lautenberg, Roland W. Burris, Tom Harkin, Ron Wyden, Charles E. Schumer.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that the debate on the motion to concur with amendment No. 4575 in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

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

The yeas and nays resulted—yeas 61, nays 38, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—61

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

NAYS—38

Alexander	Coburn	Grassley
Barraso	Cochran	Gregg
Bennett	Corker	Hatch
Bond	Cornyn	Hutchinson
Brown (MA)	Crapo	Inhofe
Brownback	DeMint	Isakson
Bunning	Ensign	Johanns
Burr	Enzi	Kyl
Chambliss	Graham	LeMieux

Lugar	Risch	Thune
McCain	Roberts	Voinovich
McConnell	Sessions	Wicker
Murkowski	Shelby	

## NOT VOTING—1

Vitter

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 38. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that there now be 2 minutes of debate prior to a vote on the Murray motion to waive the applicable budget points of order, with the time equally divided and controlled between Senator GREGG and myself.

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

Mr. REID. I further ask unanimous consent that if the vote on the motion to waive is successful, then the Senate proceed to Executive Session to resume consideration of the Kagan nomination and that the time until 12 noon be equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that beginning at 12 noon, there be 1 hour blocks of alternating time until 8 p.m. tonight, with the majority controlling the first hour block; with all time consumed on the Kagan nomination counting postcloture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair announces that the invocation of cloture renders the motion to refer out of order.

The majority leader.

Mr. REID. Mr. President, can we have order in the Senate? Senator GREGG wishes to be heard.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I made a point of order dealing with the budget and the fact that this bill violates the budget, so I find myself once again rising with enthusiasm to defend the Democratic budget because that is what this bill violates. It is the Democratic budget that is violated in this bill. It increases the deficit in 2011 by \$22 billion. That is not small change anywhere in this country. So \$22 billion is what the budget deficit increase is next year as a result of this bill. That is why it violates the Democratic budget.

I congratulate my colleagues on the other side of the aisle for putting in place this point of order. I presume they would want to defend their own budget and defend this point of order because they do not want to run up the deficit by \$22 billion in 2011.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, my good friend, the senior Senator from the State of New Hampshire, whom I admire so much, had to be smiling when he said that. I think he was part of the time. This is paid for. He objects to

how it is paid for. That is a new one here. So I ask that we overwhelmingly support the motion to waive by Senator MURRAY.

Mr. GREGG. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. REID. Mr. President, the time is up. Time for a vote.

Mr. GREGG. Mr. President, a parliamentary inquiry is in order, isn't it?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. GREGG. Did not the point of order lie? Is not the bill in violation of the Budget Act?

The PRESIDING OFFICER. The point of order would lie.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

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

The yeas and nays resulted—yeas 61, nays 38, as follows:

[Rollcall Vote No. 225 Leg.]

## YEAS—61

Akaka	Gillibrand	Nelson (NE)
Baucus	Goodwin	Nelson (FL)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

## NAYS—38

Alexander	Crapo	LeMieux
Barraso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Voinovich
Corker	Johanns	Wicker
Cornyn	Kyl	

## NOT VOTING—1

Vitter

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 38. Three fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I supported cloture this morning on the

bill to extend and phase out increases in the Medicaid funding for States, including Connecticut, and to provide additional money to help local school districts in Connecticut keep teachers in the classroom during the upcoming school year. This funding, which was fully offset, is necessary as we continue to recover from the recession that began in 2007.

However, I do have concerns with some of the rescissions from the Department of Defense budget that were used to pay for this funding, and I plan to work with Senator REID and others to ensure that, as this bill moves forward, none of the offsets affects the ability of our men and women fighting in Iraq and Afghanistan from carrying out their mission.

## EXECUTIVE SESSION

## NOMINATION OF ELENA KAGAN TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Elena Kagan, of Massachusetts, to be Associate Justice of the Supreme Court.

The PRESIDING OFFICER (Mr. DURBIN). The Chair announces that the time between now and 12 noon will be equally divided between the chairman of the Senate Judiciary Committee and the ranking Republican.

The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, over the last few weeks, many Americans have watched Supreme Court confirmation hearings that took place before the Senate Judiciary Committee. At times, the atmosphere was tense, but my colleagues on both sides of the aisle performed their solemn duty under the Constitution. They subjected the President's nominee to rigorous questioning and took a hard look at her qualifications.

At every turn, the nominee offered thoughtful testimony and proved herself to be a woman of powerful intellect and sound judgment.

Earlier this week I met with Solicitor General Elena Kagan in my office. I congratulated her on her nomination to the highest Court in the land. Then I asked her some tough questions of my own.

The power to advise and consent is not one this Senate should ever take lightly. As a trained lawyer and former attorney general of Illinois, I have a deep understanding of the Court's enormous impact on the lives of ordinary Americans. These nine individuals have the power to set binding precedent. They are trusted to navigate difficult legal ground, and in every case, they hand down rulings that carry the full weight of law.