

allowed slightly more margin for error. Yet the route took its toll: At least 600 aircraft and more than 1,000 lives were lost in the three years it was used. In 1945, airlift needs ended when the Burma Road, from Lashio, India, to Kunming, China, was reopened.

Young Lt. Stevens was probably disappointed to find himself in the cockpit of a transport plane. He had completed flying school at Douglas, Ariz., earning his wings by May 1944, and probably expected to be assigned to Lockheed P-38 fighters. The urgent requirement for transports dictated otherwise, however, and he was assigned to the 322nd Troop Carrier Squadron, now part of the 14th Air Force commanded by Gen. Claire Chennault.

The unit was based primarily at Kunming, the original home of Chennault's famous American Volunteer Group, the Flying Tigers. The 322nd was equipped with the C-47 "Skytrain," which came to be known as the "Gooney Bird." The C-47 had been derived from the revolutionary Douglas DC-3 transport and was used by the armed services until the 1970s.

In September 1944, Stevens later recalled, he transitioned into the C-46, which after initial (and too often fatal) troubles with its Curtiss Electric propellers, turned into an aerial workhorse that substantially increased the capacity of the 322nd to move supplies.

While the route over the Himalayas demanded piloting skill and endurance, Stevens also flew many missions within the interior of China, some going behind Japanese lines, bringing supplies in direct support of Chinese troops. Stevens often had to land at tiny camouflaged airports, some with primitive crushed-stone runways that were narrower than the wingspan of his plane. He flew throughout Indochina, over what is now Laos, Cambodia and Vietnam, and even made flights into Mongolia. The 322nd was also tasked with bringing vital supplies to the small American fighter bases that had sprung up far from road or rail traffic.

On one 1945 trip to Beijing (then Peking), Stevens encountered bad weather, and there was no local ground control to assist him. He improvised a non-precision approach using the local radio station and his plane's radio direction equipment. After the war, he returned and found that the approach he had devised was still being used.

The Distinguished Flying Cross, first awarded in 1927 to Charles Lindbergh, can be awarded to any member of the U.S. armed forces who distinguishes him or herself by "heroism or extraordinary achievement while participating in aerial flight." While Stevens was also awarded the Air Medal and the Yuan Hai medal by the Chinese Nationalist government, he surely must have been most proud of his DFC.

Mr. WICKER. Only 3 years before Senator Stevens earned his wings, Pilot Officer John Gillespie Magee, Jr., of the Royal Canadian Air Force composed a poem after being struck by the sheer wonder of flying a test flight at 30,000 feet. This poem was sent home to John Magee's parents just a few days before his death. It is entitled "High Flight."

I will close with those words in remembrance of an American hero, Senator Ted Stevens:

"Oh! I have slipped the surly bonds of earth  
"And danced the skies on laughter-silvered wings;

"Sunward I've climbed, and joined the tumbling mirth

"Of sun-split clouds—and done a hundred things

"You have not dreamed of—wheeled and soared and swung

"High in the sunlit silence. Hov'ring there

"I've chased the shouting wind along, and flung

"My eager craft through footless halls of air.

"Up, up the long delirious, burning blue,

"I've topped the windswept heights with easy grace

"Where never lark, or even eagle flew—

"And, while with silent lifting mind I've trod

"The high untresspassed sanctity of space,

"Put out my hand and touched the face of God."

On August 9, 2010, Ted Stevens slipped the bonds of Earth one final time. He died, literally and figuratively, with his boots on, among friends, enjoying the rugged and dangerous beauty of nature and of the State of loved. We will miss his leadership and his friendship and the Nation will long be indebted to him for his lifetime of service.

Mr. REID. Mr. President, Ted Stevens was as dedicated to his State as anyone to ever serve in this body. From his fight for Alaska's statehood to the four decades he represented that State in the U.S. Senate, he never forgot where he came from or who elected him.

Although he set the record as the longest-serving Republican Senator in American history, his legacy is not measured by his longevity but by the indelible impact he had on Alaska.

He made much of that impact during from his time on the Appropriations Committee, and I learned a lot from working with him there. He once gave me a necktie with a picture of "The Incredible Hulk" on it as a token of his appreciation for my work on an appropriations bill. It was his unique way of saying "thank you," and it meant a lot to me. I still have that tie.

Public service was more than a career for Senator Stevens; it was his life's calling. He served his country from halfway around the globe, fighting with the Flying Tigers in World War II, and served his State from clear across the continent when he came to the U.S. Senate. But no matter how far away from home, he always kept it close to his heart.

Senator Stevens loved flying, loved the outdoors, and loved his State. He died doing what he loved, and his footprint will forever be visible across the Last Frontier.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### CREATING AMERICAN JOBS AND ENDING OFFSHORING ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3816, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to consider Calendar No. 578, S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes of debate, equally divided, between the two leaders or their designees prior to a vote on the motion to invoke cloture.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, in a few minutes, the Senate will be voting on the motion to invoke cloture on the motion to proceed to a bill that has been mislabeled the "Creating American Jobs and Ending Offshoring Act."

The part of the bill that is attracting the most attention is the repeal of deferral for the income of foreign subsidiaries for importing into the United States. Deferral is the policy that allows U.S. corporations to defer paying U.S. tax on the earnings of its foreign subsidiaries until those earnings are sent back to the United States when, at that point, they are going to be taxed just like every other corporate income.

In general, deferral is not allowed if the income is earned offshore and the reason for it being offshore is solely to avoid tax. What is bad about the bill is it would deny deferral for income that a foreign subsidiary legitimately earns from the sale of goods into the U.S. market.

The problem is that there has been no finding that such income is earned outside the United States by a motivation to simply avoid U.S. taxes. So this bill is completely contrary to a whole half century of bipartisan thinking as to when it is appropriate to deny deferral and when it is not. That bipartisanship goes back to President John F. Kennedy's administration, when there was a bipartisan agreement within the Congress and between the President and the Congress that this is the tax policy we should have to make American manufacturing competitive with foreign competition.

To the contrary, there are obviously many reasons for a foreign subsidiary of a U.S. corporation selling goods into the United States. There could be a need to be near to a certain overseas market or the good in question may not be found in appreciable quantities within the United States. Yesterday, I referred to chromium not being available in the United States, as one example.

There could be many reasons having nothing to do with tax policy. But the sponsors of this bill don't seem to understand that fact, that American

manufacturing ought to be competitive with overseas competition or, obviously, we are going to lose business and lose jobs in the process or perhaps the bill's sponsors would admit that curbing tax avoidance is not the point. Perhaps they would instead claim it is all about an effort to create American jobs.

That would be a very good goal, but it is unlikely to create jobs. I fear it would have the opposite effect. The bill may lead to fewer headquarters jobs in the United States, if a corporation, for uncompetitive reasons, decided to move totally offshore and take those headquarters jobs with them. The bill could lead to a loss of American jobs assembling finished products from parts assembled outside the United States.

In the words of the late Senator Moynihan, who was, for a long time, chairman of the Senate Finance Committee, in speaking in opposition to this very same proposal 14 years ago:

Investment abroad that is not tax driven is good for the United States.

In other words, what he is saying there is, if there is investment abroad but it is not solely to avoid U.S. taxation but has economic substance behind it, that is good for the United States.

He did not say this. Contrariwise, if there is money offshore simply to avoid U.S. taxation, then obviously that is wrong. As an example, Senator BAUCUS and I have been involved in the Stanley Corporation doing that 6, 7 years ago, and we plugged those loopholes.

I agree with Senator BAUCUS when he was recently quoted as to this bill saying:

I think it puts the United States at a competitive disadvantage. That's why I'm concerned.

If there is any doubt about whether I agree with that statement of Senator BAUCUS, the Democratic leader of our committee, I agree with Senator BAUCUS.

In addition, there are procedural defects concerning this bill. I wish to start this part of my remarks by relying on a statement Senator REID said to me privately—he might deny he made this statement, but soon after the 2006 election, when the Senate became a Democratic majority rather than a Republican majority, he said something like this to me: You and Senator BAUCUS work so well together. I want you to know I am going to let the committees continue to function as they always have, particularly in your case because you have such a close working relationship.

With that as background, things have changed very recently so that every bill seems to be written in Senator REID's office, not in committee.

This bill before us has not been vetted by the Finance Committee. Does anyone believe that if my friend the chairman were to put this bill before the Finance Committee, it would be approved in the form it is right now? If

the idea in this bill had the kinds of merits claimed by their proponents, then they should welcome the Finance Committee reviewing it. Let members ask questions as they review the language. Test the strength of ideas through the committee process.

The Democratic leadership has short-circuited the opportunity to methodically test the bill as good tax policy. Unfortunately, this process defect has been more the rule than the exception. Since the stimulus bill in January of 2009, the Finance Committee has only marked up one tax policy bill, and that was the health care reform bill.

My sense is the Democratic leadership simply does not want this bill to undergo scrutiny of a regular-order process—in other words, the way the Senate normally does business. This bill is presented as a “take it or leave it” proposition. Republicans are not supporting cloture because they are not being offered the opportunity to amend this bill with amendments that go to the supposed purposes of the bill. No amendments are allowed on any tax incentives for job creation. No amendments are allowed on measures to prevent offshoring of jobs. In other words, the Senate being a deliberative body of a bicameral Congress—and, obviously, the House is not a deliberative body—the purpose of this body is being neutered by the procedure this bill is going through. For instance, I have amendments dealing directly with the offshoring of jobs. They are bipartisan amendments. But if I vote for cloture, I have no assurance from the Democratic leadership that these amendments will be in order. I will describe these amendments.

The first amendment mirrors a bill the junior Senator from Vermont and I have coauthored. It is the *Employ America Act*. It would prevent any companies engaged in the mass layoff of American labor from importing cheaper labor from abroad through temporary guest worker programs if they lay somebody off.

The second amendment I filed today mirrors a bill the senior Senator from Illinois, a Democrat, and I have worked on for several years. It is the *H-1B and L-1 Visa Reform Act of 2009*. It would improve two key visa provisions while rooting out abuse while making sure Americans have the first chance of obtaining high-skilled jobs in this country.

Many Americans are unemployed. Yet we still allow companies to import thousands of foreign workers. These businesses should be asked to look first at Americans to fill those jobs, and they should be held accountable for displacing Americans to hire cheaper foreign labor.

These two amendments go directly to the concerns about job creation and the prevention of offshoring of U.S. jobs. Both amendments are bipartisan. Yet if cloture is invoked, these amendments would fall on the Senate cutting room floor.

Furthermore, I have no confidence, even if the Democratic leadership were to follow regular order for floor purposes, that we could expect anything like a conference committee to work out the issues between the House and the Senate.

In sum, the bill's substance would more likely lead to an increase in offshoring of American jobs and would make American companies less globally competitive. The bill's procedure is very irregular and not in the thoughtful traditions that so dignify the Senate.

For purposes of the contents of the amendments, as well as this procedure, I ask that we vote against this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today asking that we vote to proceed to this measure so that we can have a full discussion and debate and work on the issues that are so important to middle-class families related to incentives for jobs being shipped overseas versus incentives to have jobs in America.

I agree with my distinguished colleague from Iowa—we have worked together on many issues—that there is a larger set of issues. It is very important that in the next Congress we focus on comprehensive tax reform. Permanently extending the research and development tax credit, as the President has proposed, which I strongly support, is very important to us for long-term innovation and the ability to invest in America. I believe it is important to have fair trade agreements, agreements that are enforced. When we look at a country such as South Korea, where our manufacturers have been blocked from selling into South Korea, where automakers have been at a disadvantage, we need to make sure those issues are fixed before that trade agreement or any trade agreement moves forward. There are many issues on which we need to focus under the whole commitment that we want to export products, not jobs.

I will talk about specifically what is in this bill, this piece of it, because this goes to the question of whether, in Michigan or in any State, if there is a decision made to close operations and take it to another country, lay off people in Michigan and move those jobs overseas, whether the workers, their families, Americans should subsidize that through a tax system that provides that you can take a deduction, a loss, or a credit for amounts paid in connection with reducing or ending an operation in America if you are starting the same kind of operation overseas—in other words, shipping your jobs overseas. Right now, you shut down, you get business tax deductions for what it costs you to shut down the operation and start it up somewhere else. To add insult to injury, we have

workers training folks to take their place. We heard over and over what a challenging, humiliating, angering situation that is for too many of our workers.

The question is, on this policy, knowing there is much more that needs to be done, which I support—and I do support looking at the entire tax system and how we are competing in a global economy and making sure our businesses in America have every advantage, every opportunity to compete successfully. But the question is, the single question on this vote that is coming up very shortly is whether we are going to allow companies that shut down operations and start similar operations abroad to write off their American taxes, whether the same people who are losing their jobs are going to have to help pay for the jobs going overseas. That is No. 1. We say no. We say that as a basic premise, that is wrong.

No. 2, the question is whether we should end Federal tax subsidies that reward firms that move their production overseas under something called deferral. This bill says no.

No. 3, the question is whether we are going to provide incentives—among many incentives we have and need to have—whether we will say: If in the next 3 years you as a company choose to bring back jobs from overseas and hire Americans, we want to provide an incentive by giving a 24-month, a 2-year payroll tax holiday for those workers—if you are bringing jobs back from overseas.

That is simply what this is. It is not everything, but it is a very important piece of the puzzle. That is what this is all about.

For me, this is a fight about whether we are going to make products in America. If we make a commitment, as we have begun to do through the Recovery Act, through the advanced manufacturing tax credit, through the focus on manufacturing that has begun to get business moving again, we are going to have the ability to make it in America. And when we make it in America, we are going to make a lot of it in Michigan. The reason I am very committed to strengthening our manufacturing base is because I know that is going to strengthen Michigan because we have the engineers, we have the skilled workforce, we have the know-how, we have the innovation and the ingenuity. If we make it in America, we are going to be making a lot of that in Michigan.

We are committed more broadly to doing that. We cannot have a middle class if we do not make products. If we do not make products and grow products and add value to it as a country, we will not have a middle class. The reason we are losing our middle class is because there has been in the last decade much more interest in how cheaply we can buy something rather than where it is made. Every other country has understood that it matters where it

is made. China thinks it matters where it is made. India thinks it matters where it is made. Germany, Brazil, Japan—go around the globe. They look at us. They look at what created the middle class of this country. They want that, so they are focusing on manufacturing. They are putting in place their own barriers—and China, of course, wins the prize on this—to keep our companies out, to say, you have to make it in China, to say it has to be a Chinese patent, you have to turn over your technology, and so on.

This bill is part of our effort to say that we are committed to fight for America, American businesses, American workers. This is not about punishing folks; this is about fighting for America. It is about fighting for a way of life. It is about fighting for the middle class of this country. We want to make it in America, and this bill sends a very simple message: Stop shipping our jobs overseas. Stop having loopholes in the law, incentives in the law that ship our jobs overseas.

We have lost over 4.7 million manufacturing jobs in the last decade. We can debate the 8 years of the former Presidency and the incentives that caused job loss and too many of those in my State of Michigan. We know that if we focus on making products in America, we will bring those jobs back; that if we close loopholes, if we create incentives, we will bring jobs back.

One example, and then I will close—I see my colleague from Ohio is here—when we focus on the right incentives, we do bring jobs back. In the last Energy bill, section 136—which I was pleased to author on tooling older plants to help businesses get retooling loans—caused Ford Motor Company to bring jobs back from Mexico to Wayne, MI. The jobs came back because of the right incentives. This bill is about the right kinds of incentives and closing the wrong kinds of incentives.

I ask our colleagues to give us the opportunity to get to this bill, to work together to stop the bleeding, stop the shipping of jobs overseas, and give us the opportunity to make it in America again.

Mr. BROWN of Ohio. Mr. President, will the Senator from Michigan yield?

Ms. STABENOW. Yes, I will be happy to.

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Michigan for her work on this legislation—she was here late in the evening yesterday—and the effort she has put forward.

It was 10 years ago this month that the Senate passed permanent normal trade relations with China. Initially, that was called most-favored-nation status, as Senator STABENOW remembers. They dressed it up, cleaned it up, put lipstick on the pig, and decided they should call it something else. We know what it has done to our country. We had a trade deficit with China in the fairly low double digits back 10 years ago. Today, our bilateral trade deficit with China is \$260 billion. I believe last year it was \$240 billion.

The first President Bush said that \$1 billion in trade deficit translates into 13,000 jobs. So if we have a trade surplus of \$1 billion, it means we are selling a lot more than buying and have gained 13,000 jobs. If we have a trade deficit of \$1 billion, we have a 13,000 job loss. Well, we have a trade deficit with China alone of \$260 billion, so we know what that means.

Look at what this PNTR with China has done. Look at what our tax laws and trade laws have done, and this legislation will begin to fix the tax laws. Look at what tax laws and trade laws have done to the middle class, to our manufacturing base in Toledo, OH, and Monroe, MI, and points north and south of there. It has all been based on this sort of cynical business plan. Not since colonial times have we seen the world where a company—an industry—will close their manufacturing in our country, they will move their production line and build factories in another country and then sell back their products to the United States. Never before have large numbers of businesses and industries done that, to my knowledge. Now we are seeing what damage it has caused to the middle class. We see the manufacturing job loss. We went from 1 million manufacturing jobs 10 years ago to, during the Bush years, that number shrinking to 600,000 manufacturing jobs in this country.

We are seeing progress. This legislation is progress. Clearly, I am hopeful our Republican colleagues won't object, as they typically have. They know people who have lost jobs, I assume, and they understand that. But we have also seen the President begin to enforce trade laws.

Mr. LEAHY. Mr. President, I strongly support the Creating American Jobs and Ending Offshoring Act. These clearly justified reforms will close wasteful tax loopholes for firms that move jobs overseas and provide real incentives for firms to bring jobs back to the United States. I am proud to join Senators DICK DURBIN, HARRY REID, BYRON DORGAN, BARBARA BOXER, CHUCK SCHUMER, SHERROD BROWN, and SHELDON WHITEHOUSE in cosponsoring this bill.

For the past two decades our country has witnessed a disturbing trend towards outsourcing American jobs abroad. What began as a way for domestic manufacturers to cut labor costs has blown into a full-fledged sprint by some U.S. manufacturing and service companies to move as much production offshore as possible.

The devastating effects of global offshoring have hit large, manufacturing States like Ohio, Michigan, Indiana, and California with particular hurt, but smaller States like Vermont are not immune to the global realities of corporate outsourcing and consolidation. Unfortunately, there is quite a list of companies in recent years that have either left our State or gone out of business entirely because they moved jobs overseas or were squeezed

out of the market by competitors using cheap, foreign labor.

That is why the Senate must move forward with considering the Creating American Jobs and Ending Offshoring Act.

First, the bill will eliminate the perverse tax subsidies that U.S. taxpayers provide to firms that move facilities offshore. Specifically, it prohibits a firm from taking any deduction, loss, or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the United States and starting or expanding a similar trade or business overseas.

Second, the bill will close the tax loophole that rewards U.S. firms that move their production overseas and then turn around and import those now foreign-made products back to the United States for sale. Not only will this help keep good manufacturing jobs here at home, it will save American taxpayers more than \$15 billion in revenue over the next decade.

Finally, to encourage businesses to create jobs in the United States, the bill will provide businesses with payroll tax relief for each new job that they bring back onshore.

During these trying economic times, too many Vermonters are struggling to find goods jobs and pay their bills. The economic collapse came swiftly, and we have all seen that there are no quick fixes to turn around our economic troubles. We staved off greater economic disaster with an essential economic rescue plan, and we have tried to jump-start the economy with a bold economic recovery plan. But employment opportunities here at home are hampered when employers push more and more jobs overseas.

Last year, Congress helped lay the groundwork for a renewed and vibrant economy by enacting tax relief for working families and businesses and making needed investments in broadband deployment, job training, electrical smart grids, water and transportation infrastructure, better schools, housing, first responders, and new energy sources. We need to ensure that these important investments by U.S. taxpayers benefit businesses and workers here at home.

Mr. LEVIN. Mr. President, the American people understand a simple truth: Our Tax Code should not encourage U.S. companies to send their jobs overseas. That is why we have proposed the Creating American Jobs and Ending Offshoring Act. This legislation would take important steps to prevent American workers from losing their jobs because American companies get tax breaks when they move jobs overseas.

I thank Senators REID, DURBIN, SCHUMER, and DORGAN for introducing this legislation. It would eliminate tax deductions that corporations claim for expenses related to sending U.S. jobs overseas. It would end the tax breaks companies receive on income earned by foreign subsidiaries established to do

work they once did with American workers. And in a bid to turn around the twisted incentives in our Tax Code, incentives that now encourage companies to send jobs overseas, it would provide incentives for companies to bring those jobs back home.

I understand some of my colleagues oppose this legislation because they fear it might violate our treaty obligations. It is difficult to have sympathy for this position, given the thousands of U.S. jobs lost because our trading partners fail to live up to their treaty obligations. I am in favor of trade, but I strongly oppose unilateral disarmament when it comes to trade. It is our obligation to defend the interests of U.S. workers. Ending the tax incentives that cost thousands of those workers their jobs is one way we can fulfill that obligation.

U.S. companies that do the right thing by their U.S. workers should not be at a disadvantage over those companies that ship jobs overseas. U.S. tax law should not encourage companies to fire hard-working Americans. We should pass this legislation and end the distorted incentives that are costing Americans their jobs.

Mr. GRASSLEY. Mr. President, very soon, the Senate will be asked to vote on the motion to invoke cloture on the majority leader's motion to proceed to a bill that is mislabeled the "Creating American Jobs and Ending Offshoring Act."

The process for this bill illustrates how the Democratic leadership has dumbed down any efforts to seriously legislate any tax policy issues. To show how far, as a body, we have run off the rails in legislating, let's compare the legislative track record of this bill with the last major piece of tax legislation designed to deal with domestic job creation.

I am referring to the bill that responded to a World Trade Organization ruling against a domestic manufacturing benefit known, at that time, as the foreign sales corporation or FSC program. Dangerous tariffs were pending with respect to many American products. How was that legislation handled?

First of all, the Finance Committee members and staff engaged in a lot of due diligence in crafting the replacement regime, the domestic manufacturing deduction. On a bipartisan basis, Finance Committee staff, principally the tax and trade staffs, met with the interested parties, including officials from the litigating group, the European Union.

Finance Committee staff, Republican and Democrat, negotiated a bill that took the revenue generated from repealing the FSC benefit, added revenue from shutting down tax shelters like the so-called SILO/LILO schemes, and channeled that revenue back into a new broader based domestic manufacturing incentive. That incentive is a 9 percent deduction for domestic manufacturing activity. It is a substantial

tax incentive. The Joint Committee on Taxation estimates it is worth \$10 billion annually in terms of reduced taxes to domestic manufacturers, large and small. The chairman's mark was a joint mark between my friend, then-ranking Democratic member, MAX BAUCUS, and me.

Ranking Member BAUCUS and I came up with a bill title. It was the Jump Start Our Business Strength or JOBS bill. The bill went through the usual transparent Finance Committee markup process. Over several days, Finance Committee members reviewed the language, asked questions, and prepared and filed amendments. When I gavelled the committee to order, several amendments were debated. Some were defeated. Some were modified and accepted. Others were discussed and withdrawn. Every Finance Committee member played a role in shaping the bill the committee approved. And it should be noted the only dissents were two members on the then majority side.

When the bipartisan JOBS bill was scheduled for floor debate, then majority leader Bill Frist brought up the Finance Committee bill. Both my friend, Senator BAUCUS, and I were consulted on the floor bill's contents. At that time the Democratic leadership filibustered efforts to effectively process the bill. Keep in mind there was no dissent in the Finance Committee on the substance of the bill on the Democratic side. As I said before, two members of my leadership, on very principled grounds, voted against this popular bill. Despite opposing the bill in committee, those two members supported the majority leader's efforts to bring the time-sensitive legislation to the floor and process it in a timely fashion.

It took three cloture votes to process the JOBS bill. That is right. Three cloture votes. The basis for the multiple filibusters of the JOBS bill was not opposition to material in the bill. The Democratic leadership filibustered over items not in the bill that they wanted to offer as amendments. The Republican leadership did something we seldom, if ever, see from the Democratic leadership. Majority Leader Frist yielded by allowing votes on those issues, which were not in the bill, but controversial with many in the Republican Conference. Many votes were held on the JOBS bill. Some were designed by those close to the Democratic campaign operation solely to score political points. The Republican Conference, as the majority party at the time, recognized multiple votes were the price to pay to push part of the majority's agenda.

Even if that agenda consisted of doing the people's business by processing a bill with more support on the other side.

The conference committee that considered the JOBS bill was fully open. There was a chairman's mark and several days of amendments between the House and Senate. In the end, a conference report was produced that

garnered a majority of Senate conferee signatures from each side. The conference report passed with overwhelming bipartisan support.

Compare that JOBS bill process with the one for this bill which, as I said at the start of my remarks, is a jobs bill in name only. In the Senate, I have found over the years, that legislative substance and legislative process are symbiotic.

That is, the quality of the process often affects the quality of the substance and vice versa.

Here we are debating a bill whose proponents claim will make a material difference with job creation incentives. We are also told that this bill will materially curtail the offshoring of U.S. jobs. If it were only that simple, I am sure the bill would pass with the overwhelming bipartisan margin the JOBS bill did some 6 years ago.

I have previously discussed the defects in the bill before the Senate. I will not do it again here. But I will say this: Does anybody on the other side really believe if my friend, the chairman, were to put this bill before the Finance Committee that it would be approved in the form that is before the body today? I can tell you this Senator has several amendments that he thinks would improve this bill dramatically.

I would expect those amendments might pass with bipartisan support. This bill, like so many others, was crafted in the majority leader's office and is largely the singular work of two senior members of his leadership. That is not to say anything negative about those members or their interest or work in the area of tax legislation. My point is that, if the ideas in this bill had the kind of merit claimed by their proponents, why avoid the Finance Committee? Why not let the public see it in committee. Let members ask questions as they review the language. Test the strength of the ideas through the amendment process. If the proponents answer by blaming Republican Leader MCCONNELL, I would point out that Senator MCCONNELL isn't on the Finance Committee. If the proponents answer by blaming partisanship, I would ask them to take a look at the Finance Committee ratio.

It has been the most favorable to the majority since the early part of the 1990s. By intentionally skipping the committee of jurisdiction, the Democratic leadership has deliberately short-circuited the opportunity to methodically test the bill as tax policy. Unfortunately, this process defect has been more the rule than the exception. Since the stimulus bill in January of 2009, the Finance Committee has only marked up one tax policy bill, the health care reform bill. As a former chairman, I know the current chairman would not want to proceed this way. Nope. My sense is the Democratic leadership simply doesn't want this bill to undergo the extra scrutiny of a regular order process.

Unlike the 2004 JOBS bill, this bill is being presented as a take-it-or-leave-it

proposition. Republicans are not supporting cloture because they are not being offered the opportunity to amend this bill with amendments that go to the supposed purposes of the bill. No amendments allowed on other tax incentives for job creation. No amendments allowed on measures to prevent offshoring of jobs. I have amendments dealing directly with the offshoring of jobs question. They are bipartisan amendments. If I vote for cloture, I have no assurances from the Democratic leadership that these amendments will be in order. Any look back on the way in which tax bills have been processed this year tells me I have good reasons for doubting that a full debate would occur. I would like to briefly describe the two amendments I filed earlier.

The first amendment mirrors a bill that the junior Senator from Vermont and I have coauthored. Known as the Employ America Act, this amendment would prevent any company engaged in a mass layoff of American workers from importing cheaper labor from abroad through temporary guest worker programs. Companies that are truly facing labor shortages would not be impacted by this legislation and could continue to obtain employer-sponsored visas. Only companies that are laying off a large number of Americans would be barred from importing foreign workers through guest worker programs.

Since the recession started in December of 2007, nearly 8 million Americans have lost their jobs and the unemployment rate has nearly doubled. In total, 15 million Americans are officially unemployed, another 8.8 million Americans are working part-time only because they cannot find a full-time job, and more than 1 million workers have given up looking for work altogether.

At the same time, some of the very companies that have hired tens of thousands of guest workers from overseas have announced large scale layoffs of American workers. The high-tech industry, a major employer of H-1B guest workers, has announced over 330,000 job cuts since 2008. The construction industry, a major employer of H-2B guest workers, has laid off 1.9 million workers since December of 2007.

The second amendment I filed yesterday mirrors a bill that the senior Senator from Illinois and I have worked on for several years. Known as the H-1B and L-1 Visa Reform Act of 2009, this amendment would improve two key visa programs by rooting out fraud and abuse while making sure Americans have the first chance of obtaining high-skilled jobs in this country.

The amendment does several things, including: one, requiring employers to try and recruit U.S. workers before hiring H-1B visa holders; two, requiring employers to pay a better wage to visa holders who take these jobs; three, expanding the powers of the federal government to go after abusers; four, creating new rules regarding the outsourcing and outplacement of H-1B and L-1

workers by their employers to secondary employers in the United States; and five, establishing a new database that employers can use to advertise positions for which they intend to hire an H-1B worker.

Too many American workers are unemployed today. Yet we still allow companies to import hundreds, even thousands, of foreign workers with very little strings attached. These businesses should be first asked to look at Americans to fill vacant positions, and they should be held accountable for displacing Americans to hire cheaper foreign labor.

These two amendments go directly to the concerns about job creation and prevention of offshoring of U.S. jobs. Both amendments are bipartisan. Yet if cloture is invoked, these amendments would fall on the Senate cutting room floor.

Unlike the 2004 JOBS bill, I have no confidence that, even if the Democratic leadership were to follow regular order for floor purposes, that we could expect anything like a conference committee to work out the issues between the House and the Senate.

We find ourselves in a very disappointing situation today. Two serious issues are supposed to be addressed in the legislation before the Senate: The first is tax incentives for job creation; the second is measures to prevent offshoring of jobs. No doubt the people who send us here expect us to take these weighty matters seriously. With all the economic pain Americans are enduring, we shouldn't be playing political games. But here we are. We have a bill whose proponents claim is a serious effort.

The Democratic leadership skipped the Finance Committee, and we are presented with a take-it-or-leave-it bill that is really nothing more than a political label. We can do better.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time for debate has expired.

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant 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 proceed to Calendar No. 578, S. 3816, the Creating American Jobs and Ending Offshoring Act of 2010.

Richard J. Durbin, Charles E. Schumer, Tom Harkin, Sheldon Whitehouse, Debbie Stabenow, Barbara A. Mikulski, Roland W. Burris, Bernard Sanders, Tom Udall, Mark Begich, Daniel K. Akaka, Jeff Merkley, Benjamin L. Cardin, Edward E. Kaufman, Christopher J. Dodd, Arlen Specter, Sherrod Brown, Amy Klobuchar, Byron Dorgan, Barbara Boxer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN), is necessarily absent.

Mr. KYL. The following Senator is necessarily absent, the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—53

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

NAYS—45

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Baucus	Ensign	McConnell
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brown (MA)	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hatch	Shelby
Burr	Hutchison	Snowe
Chambliss	Inhofe	Tester
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	LeMieux	Warner
Cornyn	Lieberman	Wicker

NOT VOTING—2

Lincoln Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2010—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the cloture motion, which the clerk will report.

The bill 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 proceed to Calendar No. 107, H.R. 3081, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010.

John D. Rockefeller, IV, Byron L. Dorgan, Carl Levin, Dianne Feinstein, Jack Reed, Mark R. Warner, Patrick J. Leahy, Michael F. Bennet, Barbara Boxer, Benjamin L. Cardin, Charles E. Schumer, Patty Murray, Debbie Stabenow, Robert P. Casey, Jr., Christopher J. Dodd, Daniel K. Akaka, Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3081, the Department of State, Foreign Operations, and Related Programs Appropriations Act of 2010 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 84, nays 14, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—84

Akaka	Feingold	McConnell
Alexander	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Goodwin	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Roberts
Brown (OH)	Hutchison	Rockefeller
Brownback	Inouye	Sanders
Bunning	Johanns	Schumer
Burr	Johnson	Shaheen
Burr	Kaufman	Snowe
Cantwell	Kerry	Specter
Cardin	Klobuchar	Stabenow
Carper	Kohl	Tester
Casey	Kyl	Udall (CO)
Cochran	Landrieu	Udall (NM)
Collins	Lautenberg	Vitter
Conrad	Leahy	Voinovich
Corker	LeMieux	Warner
Dodd	Levin	Webb
Dorgan	Lieberman	Whitehouse
Durbin	Lugar	Wicker
Ensign	McCaskill	Wyden

NAYS—14

Barrasso	DeMint	Risch
Chambliss	Enzi	Sessions
Coburn	Inhofe	Shelby
Cornyn	Isakson	Thune
Crapo	McCain	

NOT VOTING—2

Lincoln Murkowski

The PRESIDING OFFICER. On this vote the yeas are 84 and the nays are 14. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. ALEXANDER. Mr. President, on rollcall vote No. 243 I voted "nay." It

was my intention to vote "yea." I ask unanimous consent that I be permitted to change my vote which will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

MONTFORD POINT MARINES

Mr. BURRIS. Mr. President, I take the floor today to pay tribute to a group of Americans that blazed a trail, people who helped to shape the history we share, and whose contributions deserve recognition at the highest levels.

There has been no war fought by or within the United States in which African Americans did not participate.

The war for our independence featured all-Black units in Rhode Island and Massachusetts. During the War of 1812, about one-quarter of the Navy involved in the Battle of Lake Erie was Black. Nearly 190,000 African Americans fought for their own freedom in the Civil War. In World War I, over 350,000 Black men served on the Western Front.

But prior to 1941, Black servicemen were denied the honor and glory that comes with uniformed service, and their contributions went largely unnoticed. The units were segregated. Black infantry divisions hardly saw the battlefield. They served our Nation with honor, but our Nation did not honor their service.

But on June 25, 1941, President Franklin Roosevelt changed all that. Executive Order 8802 prohibited racial discrimination in the Nation's military. It was the first Federal action to promote equal opportunity in the United States.

Immediately, people of color answered the call and joined all branches of the service. Soon, the very first Black U.S. marines began training at Camp Montford Point in North Carolina. These men would become the first Black drill instructors, the first Black combat troops, and the first Black officers the Marine Corps had ever seen.

More than 19,000 Black marines served in the Second World War. Some, like SGM Edgar Huff and SGM Louis Roundtree, served in Korea and Vietnam as well. They earned decorations such as the Bronze Star, the Silver Star, and the Purple Heart.

All of the Montford Point marines sacrificed for their country, and for that they deserve our deepest gratitude. But they also did far more than sacrifice on the battlefield. They broke down barriers. Their names may not be as familiar as Washington, Jefferson or Lincoln. But their contribution to the American story deserves more than our respect. Through their actions, they changed the face of the U.S. military.