

own decisions about how and where to expand.

Just last week, the House passed a bill to get rid of an IRS withholding tax on businesses that do work for the government. More than 400 Members of the House voted for this bill, including 170 Democrats. Here is how one prominent Democrat described this bill:

The repeal of this requirement will free up small businesses' cash flow, increasing their ability to add jobs and to bid on new projects.

Republicans support this legislation. Democrats support this legislation. The President included this legislation in his own jobs bill, and he supports the bill that passed the House last week. There is no reason the Senate shouldn't take it up right now. This is one small thing we can do right now to reduce the burden on employers across the country. We came together to help them earlier this month by passing free-trade bills. Let's build on that success and pass this bill the job creators are telling us will help protect and create jobs.

Like Senate Democrats, the President may think he benefits from the appearance of inaction in Congress. That is why he is running around the country reminding people how bad the economy is instead of urging Democrats who run the Senate to work with Republicans who run the House. But with all due respect to the President, the American people already know the economy is in bad shape. That is not news to anybody. They do not need the President to tell them that. They live it. What they need is for the President to get his party to agree to something that helps.

I know Democrats will argue that our proposals for job creation wouldn't be their first choice. My response is that the Democrats had 3 years to do something about jobs and the economy. The President's signature jobs bill cost nearly \$1 trillion, and 2½ years later there are 1½ million fewer jobs in this country than on the day that legislation was signed. So why don't we try a different approach? Let's try an approach that actually takes into account the concerns of struggling business owners who are ultimately going to lift us out of this jobs crisis. They have told us what they want. It is not a mystery what we need to do to help these folks create jobs. Temporary fixes and more stimulus bills isn't it.

So our message is this: The Democrats in Washington need to start taking "yes" for an answer. Republicans have put forward more than a dozen concrete proposals to spur job creation in this country that avoid the economic mistakes Democrats made over the past few years. We have done the hard work of legislating and looking for areas where the parties overlap on the issues. It is time for the President to signal to Democrats in Congress that it is OK to work with us.

Everyone knows the economy is in bad shape. What Republicans are say-

ing is that higher taxes and more government spending isn't the way to help it. Everyone knows the Federal Government in Washington is spending way too much money, money it doesn't have. What Republicans are saying is that the solution isn't to spend even more. Everyone knows that if the two parties are going to come together and act, we need to design legislation that appeals to both sides, and that is exactly what Republicans are doing.

It is time to put the political playbook aside and actually take action. Republicans in the House are doing their job. It is time for the President and Senate Democrats to do theirs.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

MINIBUS APPROPRIATIONS BILL

Mr. SESSIONS. Mr. President, I thank the Republican leader for his comments and would just say that the time we can borrow from the future to spend today in order to create some sort of sugar high that creates jobs is past. We have tried that. The debt has now reached a level where the debt itself is a threat to our economy. It is a cloud over our economy. It is slowing growth and job creation. I truly believe that. We need to move out of these difficult financial times we are in, but I think the debt itself now is a threat to us.

I wish to speak about the minibus appropriations bill that is before the body and its effect on the budget we have. As the ranking Republican on the Budget Committee, I do believe it is my responsibility to present, as I am able, a straightforward, honest figure about the spending bills that come before our Senate.

H.R. 2112 is the first of several minibus bills that apparently will be used in lieu of the normal appropriations process. This minibus is so named because it contains three appropriation bills put in one—not one as we normally see before the Senate: the Agriculture bill, Commerce-Justice-Science, and the Transportation and Housing bill, all cobbled together in one.

The Democratic majority contends this package will save taxpayers money, but this is just more Washington accounting. We have crunched the numbers and discovered that these bills will not cut spending but will actually increase spending by \$10 billion over last year. So I wish to take a moment to explain because this is very important. We had an agreement that we would begin the smallest of reductions this year in spending—not nearly enough, but we reached that agreement, and we should honor that at least. So this is the first appropriations bill the Senate has considered after the discretionary spending caps were established as part of the recent debt limit negotiations.

The Budget Control Act, as you remember, was passed to raise the debt

ceiling. As an exchange for agreeing to raise the debt ceiling, as President Obama asked, Congress insisted that there be some curtailment of spending so we wouldn't hit the debt ceiling again so soon. So the Budget Control Act, as the bill was pretentiously named in August, requires that discretionary spending be brought down this year from \$1,050 billion to \$1,043 billion in fiscal year 2012, an alleged total spending reduction of a paltry \$7 billion throughout the entire year. Presumably, the other \$6 billion that was required to be saved under this agreement will be saved in other bills to come before the Congress. We haven't seen them yet.

Does the bill that is before us move us toward even this minor goal? That is the question. The majority party says it does. They contend that the bill, the minibus, spends \$128 billion—which is \$1 billion less than last year when it was \$129 billion—a reduction of less than 10 percent, and they are very proud of this. But, remember, as an aside, nondefense discretionary spending alone in the first 2 years of President Obama's Presidency went up 24 percent. So to take a \$1 billion reduction is basically to hold in place this surge in spending at a time when this Nation has never, ever faced such a severe debt threat to its future.

Going through the bill and thinking it through, the Budget Control Act also created a new category of spending. The Budget Control Act, if you remember, was cobbled together in the dead of night and brought up on the floor on the eve of a financial crisis and it was demanded that it be passed, and hardly anyone had a chance to read it. Unknown to most of us, it allowed spending above the \$1,043 billion limit for disaster assistance. The debt limit deal provided an allowance for disaster spending equal to the average of the 10 prior years of disaster spending, which can be assessed or spent simply by providing the proper words in the appropriations bills that come forward across the floor, as these three do. But the majority contends this money should magically not be counted when you decide how much is spent by the bill. Why? Well, it is a disaster, and disaster spending doesn't count. Don't you know?

As amended on the Senate floor 2 weeks ago, the bill now contains \$3.2 billion in new spending above the caps for disaster relief, a further increase of 20 percent to the disaster assistance. Two additional amendments were adopted last week adding to the amount that the committees had produced as disaster assistance.

While there are arguments that the \$3.2 billion should not be counted as an expenditure, the CBO, the Congressional Budget Office, our official scorekeeper, includes it as an expenditure. It is included as an expenditure in the CBO score, \$3.2 billion. No one has challenged them because it appears they are plainly correct to count the

\$3.2 billion as spending. Only in Washington can it be asserted that the government can spend \$3.2 billion and it not count. The bill's sponsors contend that the discretionary spending portion of the bill, as I indicated, has gone down from \$129 billion to \$128 billion, but CBO says it went up to \$131 billion. The disaster funding represents a 2-percent discretionary increase, at a time when spending is supposed to be going down.

Further, the bill's sponsors say you should not count the mandatory spending programs that are contained in the bill. They insist that mandatory spending is not under the control of the appropriators. Again, this is logic that only exists in Washington. In truth, it is not unusual for the Appropriations Committee to take actions that impact mandatory programs, and it can be done. But, of course, it was not in this bill.

For example, food stamps, the largest mandatory program by far in this bill—actually larger than any other program in the bill—amounts to 75 percent of total Agriculture appropriations spending. Seventy-five percent. Most people think agriculture programs are bailing out farmers. Those benefits to farmers have been reduced steadily over the years. Now 75 percent of the Agriculture bill is the mandatory programs, food stamps being the largest. And this program, under the legislation before us today, is set to increase by 14 percent next year, \$10 billion more than last year, a \$10 billion increase in the Food Stamp Program. But that doesn't count, it is contended.

This spending increase results in a doubling of the food stamp budget over the past 3 years—doubling the budget in 3 years—and then quadrupling it four times over the last 10 years. We have got to look under the hood of this program and find out what is happening to it. But nothing is seriously being done. Like welfare reform, responsible changes to the way government operates this program will improve outcomes, help more needy people achieve the goal of financial independence, not dependence, and stop fraud, which most Americans know is pretty common in the Food Stamp Program.

When I offered an amendment to save a modest \$10 billion over the next 10 years, a reform that would not have reduced eligibility for any of the needy but only require that the recipients meet the minimum legal requirements of the program—actually be needy and qualify for the program by reducing fraud and abuse—the amendment was defeated right here on the floor of the Senate. It would have saved \$10 billion, according to the Congressional Budget Office, by making sure that people make actual, formal applications for their food stamps and sign a document saying they actually qualify for it. Is that too much to ask?

Senator STABENOW, the agriculture authorizing committee chair, rose to

explain that we are not to worry because, while we are increasing food stamp funding now, at some other time her committee will recommend and produce a bill perhaps that will reduce it by \$23 billion over 10 years. But if that promise were to be fulfilled, the effect on the fiscal year 2012 budget would be that food stamp spending would increase this year approximately \$8 billion—or a 10-percent increase—rather than \$10 billion, a 14-percent increase. The program has indeed doubled since 2008.

But now we are hearing in reports that this \$23 billion in savings is not even in the Food Stamp Program, or most of it is not. We are hearing that 19 percent of it is a further reduction of aid to farmers, and only \$4 billion of the reduction in savings would be from food stamps.

Here is the bottom line. When discretionary and mandatory spending are scored in this bill, the overall spending compared to last year went up by \$10 billion, or a 4-percent increase, not a cut. Relative to the amount Senators approved for these three bills last year, we are being asked to increase spending, not decrease spending. I believe that is a fair and honest analysis of the bill that is before us. If you were to exclude the mandatory spending, ignore that huge increase in the Food Stamp Program, the SNAP program, and even say disaster assistance should be ignored, the so-called reduction in spending would be only a paltry \$1 billion on these three bills combined.

It is time to get serious. Denial in this Congress must end. You can't borrow your way out of debt. We are spending money we do not have. Forty cents of every dollar we spend is borrowed, on which we pay interest every year. It is digging us deeper in a hole. It cannot be contended that this is serious work toward reducing our deficit. It just cannot be.

Our deficit in fiscal year 2011, which ended September 30, was just shy of \$1,300 billion. A spending cut of \$7 billion for this year is a mere pittance in comparison. In no way is it even close to a significant reduction of the projected deficit we are going to have in this fiscal year, which began October 1. We are now at Halloween. We still haven't passed the appropriations bill for the year we are in. Congress is not performing responsibly. It is not.

We haven't had a budget in over 900 days. The majority leader, Senator REID, said it would be foolish to have a budget. No wonder the American people are unhappy with us. How can this be? We are responsible people. We are proposing to spend next year \$1,043 billion, and act as though we are proud to have reduced the spending by \$7 billion when we will have over \$1,000 billion in debt, \$1 trillion plus, next year?

But it gets worse. The bill also contains a number of Washington accounting tricks to sweep new spending under the rug. It is full of the typical gimmicks used to shove more spending

into a bill that has already reached its spending limit. We have reached our limit. I remain amazed at the creativity used by spenders to defeat budget limits. Were they to use such creativity to control spending, would we not be so much better off?

I have already talked about the new authority granted by the Budget Control Act to designate an item as a disaster outside and above the budget—it doesn't count if you call it a disaster—and to spend the money without a formal vote by the Senate to declare it a disaster. Indeed, until the Budget Control Act passed, you had to have 60 votes to declare something a disaster to go above the budget. That has been eliminated. That was changed in this Budget Control Act that reduced control of the budget. It reduced the power of the budget to contain spending by eliminating this end run. At least you used to have 60 votes to spend above the budget by calling it a disaster. Now you do not.

When they first floated this idea that they were going to put disaster spending in the budget and it was going to be averaged out with what we normally spend, I thought that was a good idea. We know on average we have been spending this much for disasters. Let's put it in the budget and only spend above that if it meets that standard we have traditionally had. The idea was to arrange the amount of disaster spending and put it in the budget, but in the shell game that is Washington, that is not what the fine print did. The Budget Control Act establishes in effect now a slush fund to spend money above the budget limits, eliminating the 60-vote requirement for emergency designation. There is \$3.2 billion in spending under this new authority that is in this bill, the first of multiple minibuses we will see. At the rate we are going, the ceiling of \$11.3 billion for disaster established under the Budget Control Act will be exhausted and more emergency spending will be needed to further address legitimate disaster needs, but there will be no need for 60 votes to do so. That vote has been eliminated.

In addition, the bill uses another gimmick to rescind discretionary appropriations provided in prior years that, for one reason or another, can no longer be spent for their intended purposes. That is, the bill rescinds budget authority that CBO estimates will not result in any cash savings over the next 10 years. Rather than letting the appropriations lapse and saving this money and being thankful we got the project done at less than normal, less than the projected cost, this bill, as has been done before, pretends to be responsible and rescinds that money which is then used to pay for the spending that will in fact result in cash expenditures from the Treasury. This one gimmick in this bill would add \$131 million in off-the-books spending.

Finally, the bill finds savings in mandatory programs that game the government's cashflow and score as savings

for this bill, but does not actually reduce the cost to the taxpayers. These so-called CHIMPS—we have a name for it now, changes in mandatory program spending—total \$8.5 billion in this bill. Of that amount, an astonishing 88 percent, or \$7.5 billion, results in no net spending reduction over 10 years.

Some of these CHIMPS have been going on year after year. One example is the Crime Victims Fund. Every year Congress says that the crime victims will get the funds they are due under the law next year which, unfortunately for the Crime Victims Fund, has not yet arrived since the annual deferral began in fiscal year 2000. In other words, it is done every year and there seems to be no prospect that this will not continue. Meanwhile, the appropriators get the amount deferred over and over again, enabling ever higher amounts of discretionary spending. It would be like a family delaying a single \$500 home repair for 10 years, and then counting it as \$5,000 in savings, \$500 for every year the repair did not take place. In this case, over the past 3 years the gimmick used in this bill has enabled \$14 billion in higher spending.

The ACTING PRESIDENT pro tempore. The Senator is informed the Senate is in a period for morning business and the time allotted for Senators to speak was 10 minutes.

Mr. SESSIONS. I thank the Chair and ask for 1 additional minute to close.

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

Mr. SESSIONS. I am unable to support this bill. By its own standards it fails. It represents everything that is wrong with Washington today. It crams three bills, which should have been considered individually, into one, creating a process that curtails debate on spending at a time when we need more debate, not less. Further, it does virtually nothing to address the fiscal crisis threatening this country. It treats spending caps established earlier this summer as the most that can be saved, not as the starting point for savings, and then uses gimmicks to spend over and above that advertised limit. It is not a serious response to the explosive growth in Federal spending and falls short of the commitment we must make to handle taxpayer dollars honestly and responsibly. It is business as usual. The American people deserve better.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

DRUG SHORTAGES

Ms. KLOBUCHAR. Mr. President, I rise today to talk about a serious public health crisis facing our Nation and to highlight some of the important progress we have made to date. We are currently confronting unprecedented shortages of critical medications. These drug shortages have impacted

people across our country, forcing some patients to delay their lifesaving treatments, or use unproven, less effective, alternatives. In some cases, drug shortages have resulted in patients not getting the kind of treatment they had gotten or being slow in getting their treatment and being left behind. I have been working to address this problem for over a year since I first heard from hospitals, pharmacists, and patients in Minnesota that they were facing shortages of essential medications, particularly chemotherapy drugs. Their urgency led me to send a letter to FDA Commissioner Hamburg, urging the FDA to take action to address this public health crisis.

Over the next few months, I continued to receive calls and visits from constituents, asking help to find medications in short supply. I worked with manufacturers, stakeholders, and the FDA to try to find an appropriate solution to ensure that patients continue to receive the care they deserve and they need.

I would add, while in several cases the crisis was averted, this took hours and hours of individual pharmacists' time, individual doctors' time. At a time when we are trying to be as efficient as possible in our health care system, the last thing we need is to have a doctor or nurse or pharmacist spend half a day to look for medication because there is a shortage.

In February I introduced the Preserving Access to Life-Saving Medications Act with Senator CASEY. This legislation, which has bipartisan support and a total of 17 cosponsors, would give the Food and Drug Administration the ability to require early notification from pharmaceutical companies when a factor arises that may result in a shortage. Today the President issued an Executive order that adopts this framework for an early notification system. The Executive order will do this: It will push drug companies to notify the FDA of any impending shortage of certain prescription drugs; it will expand the FDA's current efforts to expedite review of new manufacturing sites, drug suppliers, and manufacturing changes; and it will direct the FDA to work with the Department of Justice to examine whether drug companies have responded to potential drug shortages by illegally hoarding medications or raising prices to gouge consumers.

This action will help further reduce and prevent drug shortages, protect consumers, and prevent price gouging. This step enhances actions that have already been taken by the FDA and it puts in place additional tools to address drug shortages.

This is something we probably didn't hear about a few years ago, but this year we have learned that drug shortages are having a direct toll on families across America. A couple of months ago I met a young boy named Axel Zirbes. Axel Zirbes is a cute 4-year-old boy from the Twin Cities, with

bright eyes and a big smile. He also happens to have no hair on his head. That is because Axel is being treated for leukemia. When he was scheduled to start chemotherapy earlier this year, Axel's parents learned that an essential drug, cytarabine, was in short supply and might not be available for their son. Understandably they were thrown into a panic and desperately looked into any available alternatives. They even prepared to take Axel to Canada, where cytarabine is still readily available.

Imagine this. You are parents of a 4-year-old, you find out he has life-threatening leukemia, and you cannot get medication which is actually quite commonplace in the treatment of this disease, and you are starting to fly to Canada because our own country somehow has not kept up with the supply of this drug.

Fortunately he never had to go to Canada. At the last minute the hospital was able to secure the medication from a pharmacy that still had a supply. But Axel and his parents, sadly, are not alone. There were 178 drug shortages reported in 2010. Keep in mind, these are not individual stories such as Axel's. These are actually drugs, 178 different drugs across the country, basically affecting millions of patients, that had drug shortages in 2010. That is a dramatic increase from 5 years ago. There were 55 shortages 5 years ago. Think of that increase. For some of these drugs, no substitute drugs are available or, if they are, they are less effective and they may involve greater risks of adverse side effects.

The chance of medical errors also rises as providers are forced to use drugs they are not familiar with. A survey conducted by the American Hospital Association showed that nearly 100 percent of their hospitals experienced a shortage in the past year. Another survey, conducted by Premier Health System, showed that 89 percent of its hospitals and pharmacists experienced shortages that have caused a medication safety issue or an error in patient care.

We want to be doing the opposite. We want to be reducing errors. We want to be giving patients the help they need. It is clear there are a large number of overlapping factors resulting in unprecedented shortages. Experts cite a number of factors that are responsible for the shortages. These include market consolidation, poor business incentives, manufacturing problems, production delays, unexpected increases in demand for a drug, inability to procure raw materials, and even the influence of the gray markets, where people are basically hoarding these drugs when they find out there could be a shortage and then upping the prices, as if things were not bad enough.

Financial decisions in the pharmaceutical industry are also a major factor. Many of these medications are in short supply because companies have