

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Committee on Small Business with instructions to report back forthwith with an amendment numbered 349.

The amendment is as follows:

At the appropriate place, insert the following:

This Act shall become effective 3 days after enactment.

Mr. REID. On that motion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 350

Mr. REID. Mr. President, I have an amendment to my instructions which is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 350 to the instructions of the motion to refer.

The amendment is as follows:

In the amendment, strike "3" and insert "2".

Mr. REID. On that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 351 TO AMENDMENT NO. 350

Mr. REID. I have a second-degree amendment to my instructions which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 351 to amendment No. 350.

The amendment is as follows:

In the amendment, strike "2" and insert "1".

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, there will be no further rollcall votes tonight, and 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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AIRPORT AND AIRWAY EXTENSION ACT OF 2011, PART II

Mr. DURBIN. Mr. President, I ask unanimous consent, as if in morning business, the Senate proceed to the consideration of H.R. 1893, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1893) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 1893) was ordered to a third reading, was read the third time, and passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PATRIOT SUNSETS EXTENSION ACT

Mr. MERKLEY. Mr. President, I rise to address the 4-year extension of the PATRIOT Act and to oppose that extension if the bill is not modified.

I want to take us back to the principles on which our Nation was founded and, indeed, before our Declaration of Independence and before our Constitution when there was a deep tradition of the right of privacy. Let's take William Pitt's declaration in 1763. He said:

The poorest may, in his cottage, bid his defiance to all the forces of the Crown . . . the storm may enter; the rain may enter. . . . But the King of England may not enter.

It is the philosophy embedded in William Pitt's declaration of the sanctity of a man's home that underwrote the principle of the fourth amendment. That reads as follows:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The fourth amendment is powerful protection of personal privacy from the overreach of government. How does

that compare in contrast to the PATRIOT Act that is before us?

Let me tell you the standard that is in the PATRIOT Act for the government to seize your papers, to search your papers, and that standard is simply "relevant" to an "investigation." Relevant to an investigation? That is the legal standard set out in the PATRIOT Act. That is a standard that was written to be as broad and low as possible. What does it mean to be "relevant" to an investigation? It certainly isn't something as strong as probable cause, which is in the fourth amendment. It certainly isn't describing the place to be searched, the persons and things to be seized. Indeed, the word "relevant" doesn't have a foundation of legal tradition that provides any boundaries at all.

Let's take the term "investigation." "Investigation" is in the eye of the beholder. I want to look into something, so that is an investigation. What happens to these words in the PATRIOT Act, in the section of the PATRIOT Act that addresses the sweeping powers to investigate Americans down to the books they check out, their medical records, and their private communications? Quite simply, there is a process in theory in which a court, known as the FISA Court, makes a determination, but they make the determination upon this standard—that this standard is "relevant to an investigation."

Now, the interpretation of that clause is done in secret. I would defy you to show me a circumstance where a secret interpretation of a very minimal standard is tightened in that secret process. But we don't know because we are not being told.

This is why I support Senator WYDEN's amendment. Senator WYDEN has said we should not have secret law—secret interpretation of clauses that may result in the opposite of what we believe is being done. That is a very important amendment. But that amendment will not be debated on the floor of the Senate. It won't be debated because a very clever mechanism has just been put into play to prevent amendments from being offered and debated on the floor of the Senate on the 4-year extension of the PATRIOT Act. Quite frankly, I am very disturbed by that mechanism—a parliamentary move in which a House message is brought over and the regular bill is tabled, and that message will then have the regular PATRIOT Act put into it as a privileged motion, and it will be returned to the House. The effect therein is, because the tree has been filled, which is parliamentary-speak for "no amendments will be allowed," we won't get to debate Senator WYDEN's amendment.

There are a number of Senators who have proposed to change this standard—the standard "relevant to an investigation"—to make it a legally significant standard and make sure it is not being secretly interpreted to mean almost nothing. But we won't have a

debate in this Senate over changing that low and insignificant standard into a meaningful legal standard with teeth in it, that has court cases behind what it means and interpretations that will protect us.

There is no question that every Member of this Chamber has an enormous sense of responsibility in the security of our Nation. In that sense, there is significant feeling on every person's part that we need to enable our intelligence services, our military, to do the necessary work to protect our Nation. But that does not mean we should avoid having a debate about whether the PATRIOT Act, as written today, without an amendment, rolls over the top of the fourth amendment of the Constitution of the United States of America.

We can have both personal privacy and a high standard, as set out in the fourth amendment, for the seizure of papers and security. Those two things are not at war with each other. We have had two centuries in this Nation of embracing the twins of personal privacy and security. We have made that work. We can continue to make it work.

I rise in protest about the process unfolding in the Senate in which amendments will not be presented and will not be debated. I rise to say the fourth amendment matters; that it sets a significant standard against unreasonable seizures and searches, and that the PATRIOT Act, as written, does not provide a clear implementation of the fourth amendment, a clear protection of the fourth amendment.

I will close by noting it has been nearly 250 years since William Pitt declared:

The poorest may, in his cottage, bid his defiance to all the forces of the Crown . . . the storm may enter; the rain may enter . . . but the King of England may not enter.

Let us have a debate in this Chamber about modifications that protect our security but that hold faith with the principle William Pitt enunciated and with the principles we have adopted in the fourth amendment to the Constitution; that the right of the people against unreasonable searches and seizures shall not be violated.

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

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

THE BUDGET

Mr. DURBIN. Mr. President, last week, the chairman of the House Budget Committee, PAUL RYAN of Wisconsin, came to Chicago to speak to the Economic Club and to articulate his vision—the Republican vision—on how to reduce our Nation's debt. It was

an interesting speech because Congressman RYAN's budget—the Republican budget, which passed the House of Representatives—has become an object of debate and controversy.

I know Congressman RYAN. We served together on the President's deficit commission. I know he is a very thoughtful and learned and sincere individual, but I certainly have to say his approach to dealing with our budget deficit is one I believe falls short of the mark. It would seem to me, if we are serious about our deficit—and we should be—we should acknowledge the fact that for every \$1 we spend in Washington, we borrow 40 cents. That is unsustainable, and we have to address it.

We should also look at the grim, recent reality of our budget. When President William Jefferson Clinton left office a little over 10 years ago and handed the keys to the White House over to President George W. Bush, the accumulated net debt of America was \$5 trillion—\$5 trillion. Eight years later, in the next transfer of power, when President George W. Bush transferred power to President Obama, America's accumulated net debt had reached a new level of \$11 trillion, more than doubled in an 8-year period of time.

Ask yourself: How could that occur? Well, the answers are fairly obvious. When you wage two wars and don't pay for them, when you cut taxes in the midst of a war—the first time that has ever happened in our history—and when you pass programs that are not paid for, it adds to our debt. That is what happened.

President Obama inherited a dramatic increase in the national debt and a very weak economy, losing hundreds of thousands of jobs a month. Now we find we are even deeper in debt—closer to \$14 trillion because of this recession, despite the best efforts of Congress and the President to turn it around. We know that has to change.

The major creditor of the United States is China, and it is also our major competitor. Those two realities force us to look honestly at this deficit. I take exception to the approach the Republicans use in their deficit reduction plan, because when I took a look at Congressman RYAN's budget—the Republican budget—I find, at the end of the day, it nominally cuts spending by \$4 trillion over a 10-year period of time. Yet it only cuts \$8 billion a year out of the Defense budget. The Defense budget of the United States is over \$500 billion every year, and they could only find \$8 billion a year to cut? Not a very serious undertaking.

They raise no new revenues to help pay down the debt, while they dramatically cut taxes for the wealthiest people and companies in America. In the name of deficit reduction, the Republican budget would cut the top tax rate of the wealthiest individuals and corporations to 25 percent. The Tax Policy Center estimates this would reduce tax

revenues by \$2.9 trillion over the next 10 years, and virtually all the tax savings from that change would go to households making an annual income of over \$200,000 a year.

What does a multitrillion dollar tax cut have to do with deficit reduction? Congressman RYAN, in his speech in Chicago, criticized the Democrats for engaging in class warfare, as if it is somehow inappropriate to point out that the Republican budget proposes a massive shift in wealth from the poor and middle class to those who are better off. Warren Buffett, CEO of Berkshire Hathaway—seer of Omaha—answered that criticism best a few years ago when he said:

There is class warfare, all right. But it is my class, the rich class, that is making war and winning.

That is what happens with the Republican budget.

Then there is the issue of health care—an issue near and dear to every single American. A serious budget plan would address the largest cause of the projected long-term debt for the Federal Government—health care—by allowing dozens of cost-containment provisions in the affordable care act to take effect and then by finding even more to reduce the cost to the system. But the House Republican budget plan does the opposite. It repeals all the cost-containment mechanisms, which the Congressional Budget Office says in so doing will raise the debt of America.

Then the Republican budget goes a step further. It ends Medicare and Medicaid, as we know them—programs that have served America. Their budget would transform programs that seniors and the poor count on today to provide adequate health insurance and to programs that help to cover just some of the costs, leaving the rest of the bills to the families, individuals, and State governments. All that the Republican budget plan does under the banner of health care reform is to shift the cost of health care from American families who are paying taxes to other American families who are paying taxes in the private market. It would do nothing to reduce health care costs as a whole.

It is fair to ask me at this point: Well, if you are going to criticize the Republican budget, what do you suggest? I will tell you what I suggest. I have sat around for 4-plus months now, with five of my Senate colleagues in both political parties, working on these ideas. What I think is the path to a reasonable deficit reduction is one that literally involves shared sacrifice, where every American has to be prepared to step up and accept the reality that things will change.

There is one demographic reality that overshadows this conversation. Since January 1 of this year, every day 9,000 Americans reach the age of 65. That trend will continue for 19 more years. That is the baby boom generation. If you will do the math, you will see a dramatic increase in people under

Social Security and Medicare, as those children born immediately after World War II reach retirement age. That is a reality.

What do we do about it? First, we make sure Social Security can be counted on. Social Security does not add one penny to our Nation's debt. It is a separate fund. It will make every promised payment for another 25 years, with a cost-of-living adjustment, but then runs into trouble. You will see a reduction—if we don't do something in the 26th year—by over 20 percent for each benefit payment. Unacceptable. So we should think in honest terms about what we do today—small changes we can make today in Social Security—which, when played out over 25 years, like the miracle of compound interest, will buy us an even longer life in Social Security.

I think there are reasonable ways to do that. For example, when we passed Social Security reform in 1983, we said 90 percent of wages in America should be subject to Social Security taxation. Over the years, by not raising the ceiling on wages that could be taxed for Social Security, we have fallen behind in the 90-percent standard. I think we are close to 84 percent now. If we were to go back to the 90-percent standard, which I think is reasonable, and raise the eligible income in America for Social Security deductions up to 90 percent, it will move us toward solvency—more solvency—for Social Security. It is money that will not be used to reduce the deficit but will be used to invest in Social Security. I think that makes sense.

There are other changes we can do that are reasonable. We also have to look at Medicare and Medicaid and acknowledge the obvious. The cost of health care is going up too fast. We can't keep up with it, neither can State governments, local governments, businesses, unions or families. So the cost containment in health care reform is just the beginning, but we need to continue the conversation, and we need spending cuts.

Let's be very honest about it. We have taken a pretty significant cut in domestic discretionary spending just this year—even more than the Bowles-Simpson commission envisioned. There is some risk associated with spending cuts in the midst of a recession. But now we need to ask the defense or military side of discretionary spending to also make some sacrifice.

I think one obvious way is to start bringing our troops home from overseas—bring them home from Iraq. It is estimated it costs us \$1 million per year for every soldier in the field—for all the support that goes into training and sustaining and protecting our men and women in uniform, which we must do. It is an expensive commitment. As we reduce our troop commitments overseas, the amount of money being spent through the Pentagon will be reduced as well.

We need to take a close look at all the private contractors working for the

Pentagon. We had a hearing of this deficit commission and asked the expert: Can you tell us how many employees there are at the Department of Defense—civilian, military—how many private contractors are working for the Department of Defense? The expert said: I have no idea. I can't even get close to giving you an estimate, but it is a dramatically larger number. We can reduce that spending, and we should.

The point I am making is that after we have taken care of the entitlement programs and the spending issues, that isn't enough. We need to talk about revenue—revenue that can be brought into deficit reduction. Every year our Tax Code gives deductions and credits, exclusions and special treatment that account for \$1.1 trillion that would otherwise flow to the Treasury. Instead, it is money that isn't paid into taxes and into our government. We can reduce that tax expenditure and do it in a fair fashion by reforming the Tax Code in a meaningful way—as the Bowles-Simpson commission suggested, bring down tax rates as part of this conversation.

That, to me, is a reasonable approach. It parallels what was done in the Bowles-Simpson Commission, putting everything on the table and reducing our deficit over the next 10 years by at least \$4 trillion. I think we can do it, and we should do it on a bipartisan basis.

The Republican budget plan, unfortunately, takes the wrong approach. The House Republicans have proposed, among other things, a fundamental change in how we pay for health care. It turns Medicaid into a block grant program, and it eliminates the affordable health care act. One of the sources of pride we all shared was the notion that 30 million Americans currently uninsured would have insurance protection under the affordable health care act. What the Republicans do in repealing it is to add to the number of uninsured in America, thus making it clear they have no place to turn in their extreme situations but to Medicaid. So on top of eliminating the affordable health care act, adding to the number of uninsured Americans, the Republican plan then limits the amount of money to spend on Medicaid. The net result is more and more people uninsured seeking Medicaid help with no funds to pay for their medical treatment. That is not a good vision for the future of America.

We had a presentation today at our Democratic caucus lunch. The presentation was made by Senator KENT CONRAD, the chairman of our Budget Committee. He and Senator STABENOW of Michigan talked about what the Medicare changes would mean in America, and what it basically means is the average senior citizen, under the Republican budget plan, will see their Medicare benefits cut and will find their out-of-pocket expenses to maintain current Medicare protection double—over \$12,000 a year.

There are many seniors in Oregon and Illinois and across the Nation on fixed incomes. That is not a reasonable alternative—\$1,000 a month on Medicare insurance premiums? That is the Republican budget plan. It is not a reasonable way to deal with our future challenges in health care.

We will have a chance to vote this week on the Republican budget plan, and it will be interesting to see how many on the other side of the aisle want to support the approaches I have just described. Already, some of them have announced they will not. They think it goes too far. I do too.

I hope we can reject the House Republican plan on a bipartisan basis, but then let's come together in a bipartisan fashion and try to find a reasonable way to deal with this deficit. I hope we will use the Bowles-Simpson Commission as a starting point because I think it is a good one. Let's maintain some fealty toward our values, our values as a country that take care of the vulnerable whom we will always have among us, and make a pledge that our Tax Code will be progressive so working families have a fighting chance, and try to at least share the burden of sacrifice in a reasonable and just manner.

Those who are better off should pay more. Those who are less well off should pay less. I don't think that is an extreme position. I think it is a sensible, humane position.

Our debate begins this week on the budget. We have a great challenge ahead of us. I hope some of the work we did on the deficit commission will help us reach a positive conclusion.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

Mr. WYDEN. Mr. President, I ask the Senate to join me in honoring the 20th anniversary of the Gang Resistance Education and Training—GREAT—Program and to commend law enforcement agencies across the nation for their dedication to educating America's youth in gang resistance.

Founded in 1991 with the support of Congress, the GREAT Program is a school-based curriculum led by law enforcement officers to instruct students