[Rollcall Vote No. 223 Ex.]

YEAS—53

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (MA)	Landrieu	Schumer
Brown (OH)	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Carper	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—45

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Murkowski
Boozman	Heller	Paul
Burr	Hoeven	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Collins	Johnson (WI)	Shelby
Corker	Kirk	Thune
Cornyn	Kyl	Toomey
Crapo	Lee	Vitter
DeMint	Lugar	Wicker

ANSWERED ''PRESENT''—1

Snowe

NOT VOTING—1

Kerry

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

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the cloture vote on the nomination of Mr. Richard Cordray to be Director of the Consumer Financial Protection Bureau. If I were able to attend today's session, I would have supported cloture on this nomination.

LEGISLATIVE SESSION

MIDDLE CLASS TAX CUT ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the Senate will resume legislative session and the motion to proceed to S. 1944, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 1944) to create jobs by providing payroll tax relief for middle-class families and businesses, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. LEE. I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEE. Mr. President, I stand today to urge my colleagues to support efforts to bring forward a balanced budget amendment, one that can be passed out of both Houses of Congress and submitted to the States for ratification.

Article V of the Constitution gives us the power to change the Constitution from time to time, to modify our laws, that 224-year-old document that has fostered the development of the greatest civilization the world has ever known.

We have done this 27 times. We have done it at times in order to protect and preserve the Nation our ancestors fought so valiantly to create and later again to defend. We have to modify our government, the manner in which we do business, in order to preserve that system, in order to make it strong, in order to ensure that it will continue to be strong for future generations.

We made it stronger when, for example, we added the Bill of Rights shortly after the ratification of the Constitution. We made it stronger again when, for example, we added the so-called Civil War amendments, amendments XIII, XIV, and XV, ending slavery and the badges and incidents thereof. We made it stronger when we made clear that women must always be given the right to vote. We have made it stronger a number of times. And the time to make it stronger has come yet again.

It is time to modify the Constitution to limit—to restrict—Congress's current power granted by article I, section 8, clause 2 of the Constitution to borrow money on credit of the United States. The reason we need to do this is because this power has been so severely abused over such a prolonged period of time that it is causing devastating consequences for our economy and for our ability to fund the operations of the government.

We have now accumulated over $15 trillion in debt as a country. That works out to about $50,000 for every man, woman, and child in America. It works out, arguably, to about $120,000 to $150,000 for every taxpayer in America. This is lot of money. It also represents between 90 and 100 percent of our gross domestic product annually, depending on whose statistics you follow. This is troubling, given that there is an abundant amount of research indicating that once a country's sovereign debt-to-GDP ratio crosses the significant 90-percent threshold—which we have now done—economic growth tends to slow, tends to slow to a point that an economy as large as ours can expect to lose as many as 1 million jobs a year. We can't afford to lose jobs, especially when we know one of the major causes is our national debt. It is time we change the way we do business. It is time to change the manner in which Congress acquires new debt.

This is no longer an issue that is either Republican or Democrat, that is either liberal or conservative. It is simply American. I remind my colleagues, whether you are concerned on the one hand about preserving America's leading edge, its ability to fund its national defense program or, on the other hand, if you are most concerned about funding our entitlement programs, you should want a balanced budget amendment because this is what we need to do, this is what we have to do in order to protect our ability to fund both of those things and everything else we do, you see, because by the end of this decade, according to the White House's own numbers, we will be paying close to $1 trillion every year to pay the interest on our national debt. Just the interest alone. We are currently spending a little over $200 billion a year on interest—still a lot of money but about $800 billion lower than what we are likely to be spending by the end of this decade.

Where will that additional $800 billion every single year come from? This isn't a discretionary sum. This is money we have to pay. It is the first thing we have to pay. Where will that $800 billion difference be made up? At that point, we can't expect simply to raise taxes to make up that difference. I am not aware of any tax increase plan that could bring in that much additional revenue every year, without stagnating our economy to the point that we might, within 1 year or 2 years, bring in less revenue rather than more—certainly not $800 billion more. Nor am I aware of any plan whereby we could simply borrow an additional $800 billion to pay that interest, because doing so, of course, would cause our interest rates to skyrocket, grow out of control, and our interest payments would be even more significant at that point, thus further impairing our ability to fund everything from defense to entitlements. So at that point, the only option on the table would be dramatic, severe, abrupt, even Draconian cuts to everything from defense to entitlements and everything in between. We don't want this. There is a better way. And the better way forward consists of a severe permanent structural spending reform that can be achieved only through a balanced budget amendment.

Let me explain what I mean by that. And, more importantly, let me explain what I don't mean by that.

We have to be aware of things that masquerade as balanced budget amendments, things that will actually do the job instead of purporting to do the job, distracting the public's attention away from the need to do this while in effect doing nothing. We need to be aware of what I sometimes call the Trojan horse balanced budget amendment proposal.

There are a few hallmarks of what a real, effective balanced budget amendment would accomplish. First and foremost, it has to apply to all spending in requiring Congress to provide a supermajority vote for any borrowing authority. There are some who have suggested we should have a balanced budget amendment that exempts certain categories of entitlement spending. But, of course, as we all know, it is entitlement spending that continues to consume a larger and larger share of our national budget each and every year. It is entitlement spending that is anticipated to have shortfalls for sums that will have to be expended for Americans alive today. It could range anywhere from $50- to $60- to $110 trillion in unfunded entitlement liabilities. So simply exempting entire categories of entitlements is one of these hallmarks of a Trojan horse balanced budget amendment. We can't do that. We need it to apply to all Federal outlays, all Federal spending.

Second, an effective balanced budget amendment must cap spending at the average historic level of Federal revenue. Over the last 40 years, our average take, our average income as a percentage of GDP, has been about 18 to 18.5 percent of our gross domestic product. We need to make sure we are not spending more than that; that Congress can't, without a supermajority vote, spend more than 18 percent of GDP in any given year. Otherwise, we run the risk that Congress will find a way through tricky accounting schemes to circumvent the restrictions to make sure it is not spending more than it takes in.

Third, the supermajority requirement must apply to the folks in both Houses of Congress every time Congress wants to spend more than it takes in. Any balanced budget amendment proposal that allows for a simple majority to bring about an exception to these spending limitations is one that Congress can and will use to circumvent the amendment entirely. Let me explain what I mean.

We have had in the past certain statutory legislative limitations on Congress's spending and borrowing power. Some of these have been known as the Graham-Rudman-Hollings legislation, and also the pay-go rules. But because Congress makes those laws and because they haven't been reduced to a constitutional amendment, just as Congress giveth, Congress taketh away, and Congress has seen fit to exempt itself of those rules. A balanced budget amendment, even while enshrined in our Constitution, becomes no more effective than those statutory or internal rules unless every time Congress wants to get around those limitations Congress is required to cast a supermajority vote to justify that excess.

Finally, an effective balanced budget amendment must require that Congress cast a supermajority vote anytime we raise the debt limit. This will give us an additional guarantee that tricky accounting mechanisms will not be used to circumvent some of these most important restrictions. Without these restrictions, Congress will continue to spend out of control, because Members of Congress tend to be rewarded when they spend and they tend to be criticized when they cut, and political pressures are such that I fear this spending will continue out of control in perpetuity until that moment in which we reach our natural mathematical borrowing limit—not our statutory debt limit, our natural mathematical borrowing limit. It is at that point when the most abrupt, the most painful, the most Draconian cuts will have to be made. We can do this in a way that makes sense. We can do this in a way that is sensitive to the needs of the most vulnerable Americans, those who have become the most dependent upon our entitlement State, most dependent for their day-to-day existence on these very programs. Those programs will have to be cut abruptly and in a most painful manner unless we take the necessary steps right now and start moving onto a smooth glidepath toward a balanced budget amendment.

We may not be able to balance our budget overnight, but we can do it over the course of a few years. That is exactly what this would allow us to do.

I have worked closely with a number of my Republican colleagues in supporting S.J. Res. 10, a balanced budget amendment proposal that has the support of all 47 Republicans. One of my close allies in this endeavor has been my friend and colleague, the junior Senator from Kentucky. I would like to ask him to share his perspective on why this is necessary.

So I ask Senator PAUL why does he think this is so important for us to have this amendment right now.

Mr. PAUL. I think Congress has failed. We have not passed a budget in 2 years, much less a balanced budget. We cannot even pass a budget under the normal procedures, and we are showing no signs of being able to balance our own budget.

They say the American public, when we ask them are they for a balanced budget, 70 to 75 percent of the people are for it—Republicans, Democrats, and Independents. Congress currently has about a 10-percent approval rating. My thought is maybe our approval rating is so low because we are not listening to what the people want. The people want us to balance our budget. They want us to do the responsible thing. But they also do not want to say: Oh, Social Security, we are going to put that off to the side. They want the Social Security fund to be sound too.

What are we doing right now? We are reducing the funding to Social Security. We are doing exactly the things we should not be doing. So it is important, as my colleague said, that the balanced budget amendment include all spending, and we need to balance our budget.

Mr. LEE. If the Congress is consisting of a Senate and House, and the Members of the Senate and House are elected representatives of the people who stand for reelection at regular intervals, and if the American voting public overwhelmingly supports a balanced budget amendment, why haven't we then passed it and given the States an opportunity to ratify such an amendment?

Mr. PAUL. The big driving force here is the entitlements. If we look at the revenue coming into the government, it is all being spent on entitlements and interest. Forty percent of every dollar is borrowed, but that means we have to borrow all the money for national defense, for our roads, all the rest of government. Forty percent of every dollar, $40,000 a second, is being borrowed. Why don't we come to an agreement?

I have been asking many people on the other side that, and they say we will not fix entitlements until we have a $1 trillion tax increase. If that is the starting point, we are never going to fix entitlements because many of us think raising taxes is a mistake, in the middle of a recession, and we think more money left in the private sector would be better spent for jobs.

We have the balanced budget debate as part of this debate on how to reduce spending on the entitlement programs because they consume 60 percent of the budget. But there is this unwillingness up here. I think people would like us to find solutions. When I go home to my State, it doesn't matter whether they are a Republican or Democrat or Independent; they want us to fix the entitlement programs. They don't want it to be dependent on increasing taxes on everyone also.

Mr. LEE. What is my colleague's sense as to how the various State legislatures are likely to respond to a constitutional amendment proposed by both Houses of Congress? Does he think they would likely ratify such an amendment by the necessary three-fourths margin?

Mr. PAUL. In the last year, I spoke before my State legislature to a joint session of the House and Senate, and there was overwhelming support for a balanced budget amendment. I think there is actually a movement out there to do it if we do not do it. There is so much feeling among the public that this enormous debt is hurting us.

When I go home and talk to people, I say: Look, the people the debt hurts the worst are those on fixed incomes, senior citizens, and those in the working class. Those are the people who are being hurt by this debt because it causes rising prices. As we print the new money, those people are hurt every time they go buy gas at the pump, every time they go to the grocery store. The rising prices are hurting senior citizens and the working class. The only way we are going to fix it is to have rules that must be obeyed.

Mr. LEE. So they are paying for Washington's fiscal irresponsibility in the form of job losses and in the form of increased prices for goods and services and in the form of inflation.

It is likewise my experience with my State legislature that they seem to be very supportive of it. In fact, I have a document here signed by the legislative leaders of my State: by Governor Gary Herbert, by Utah house of representatives speaker Rebecca

Lockhart, and by Utah State senate president Michael Waddoups. It concludes essentially as follows:

> We urge the United States Senate and House of Representatives to pass a balanced budget amendment and send it to the states for ratification. Additionally, we urge Congress to make Utah's current resolution part of the CONGRESSIONAL RECORD.

They also proceed to explain why they feel so strongly about this. They say:

> Not only for our own sake, but for future generations as well, the states must now combine in an unwavering resolve with convincing action to put the nation's financial house in order. Passage of your own state's resolution urging the support for a balanced budget amendment can help make this happen. Please join with Utah to call upon Congress to immediately pass a balanced budget amendment. We respectfully encourage you to urge your congressional delegation to act in your behalf.

They are calling not only on Congress but also their fellow State legislators throughout the country to urge this same action from Congress. In the same breath, they also adopt it, and they supported wholeheartedly the specific balanced budget amendment proposal that is found in S.J. Res. 10.

I thank them for doing that. I think they reflect the views of so many of our State legislatures which balance their budgets every single year. Most of them do. It is not news when they do it. It is not news because it is what is expected. It is expected because that is what they do.

I look forward to the day and age when it is no longer news when Congress balances its budget.

I would like to ask Senator PAUL another question. Why is it that so many are fond of saying, as our President has recently said, ''We don't need a balanced budget amendment; what we need is for Congress to just do its job''? Why isn't that enough to carry the day?

Mr. PAUL. The problem is, in the past we have had rules—as the Senator mentioned, Gramm-Rudman-Hollings, pay as you go. I think pay as you go, which was passed in the late 1990s, was broken 700 times. There doesn't seem to be the spine or will power here to say no. Everybody wants something from government, but they do not realize that by getting things from government we do not pay for has ramifications.

Admiral Mullens said last year that the biggest threat to our national security right now is our debt. Erskine Bowles, head of the Debt Commission, said the most predictable crisis in our history is going to be a debt crisis.

For those on the other side who will oppose a balanced budget, they will need to explain to the American people when chaotic situations come and we are having trouble paying for those things that come from government, when the value of the money is destroyed and when prices are rising dramatically, they will have to explain to the American people why they thought it was not necessary to balance the budget.

I have seen no willpower to attack entitlements. There are simple ways. We could gradually raise the age of the entitlement eligibility and means test the benefits. We could fix Social Security tomorrow. We could fix Medicare tomorrow. But the other side is unwilling to talk about entitlement reform unless—they believe they are owed some obligation of raising taxes by $1 trillion. That would be a disaster for the economy, and it is beyond me why the other side will not say let's fix Social Security.

What would it take to fix Social Security? What would it take to fix Medicare? I think we could fix all of these problems, but I do not think the dialog is there. I have been trying to ask questions to the other side for months now, and we are not getting anywhere.

Mr. LEE. I think most Members of Congress would acknowledge that their constituents want the Federal budget balanced. Why is it not enough for us just to tell Members of Congress: Please balance it. We don't want to have to restrict your authority. We don't want to have to take the keys away from the irresponsible driver. We just want you to be responsible. Why doesn't that work?

Mr. PAUL. I think because so much of government spending is considered to be mandatory, so it just keeps enlarging and expanding. Also, because people have great big hearts and they want to help everyone, but they do not realize the ramifications of accumulating such a massive debt. As we accumulate this debt there are ramifications. There are higher prices and the threat of an economic collapse.

Greece is going under. Italy is behind them. Portugal, Spain—they are struggling under this burden of debt. They say when a country's debt equals its economy, when it is about 100 percent of its gross domestic product, it is losing 1 million jobs a year.

Our debt is stealing American jobs, it is making us weaker as a country, making us vulnerable, making our national security vulnerable. But we have to do something. There is no evidence in this body we can even pass a budget, much less a balanced budget.

I think everything about this body shows a failure to be fiscally responsible and we need stronger rules.

Mr. LEE. Perhaps it is inherent in the institution itself, in the forces at play, that have made Congress uniquely vulnerable to this kind of massive deficit spending. Whatever the reason, we know Congress is not willing, is not able, or at least in recent years has not been inclined except in rare, unusual circumstances to balance its own budget.

That being the case, we cannot assume that Congress will all of a sudden start doing its job, as those who have used this argument have insisted. Part of Congress's job, as Congress has come to perceive it, is to engage in deficit spending. One of Congress's powers, as Members of Congress who read the Constitution will point out, is to borrow money on the credit of the United States. So it is not enough to simply tell Congress to do its job because it has regarded this kind of massive deficit as consistent with that mandate, consistent with that injunction.

Meanwhile, Congress is continuing to occupy a larger and larger share of the American economy. We have to remember that for the first 150 years or so of our Republic's existence, we were spending between 1 percent and 4 percent of gross domestic product at the Federal national level, with only two brief exceptions—once during the Civil War and once during and then the immediate aftermath of World War I. But that all started to change in the 1930s when we broke into double digits for the first time ever during peacetime. We have never really gone back.

Now the Federal Government is spending about 25 percent of GDP annually. Roughly a quarter out of every dollar that moves through the American economy every year is taken out of the real economy by Washington. It is absorbed within the Federal morass that is our government. That is a problem. That needs to change.

I fear, I suspect, I firmly believe that it will not change until we take this power away, until we at least impose severe restrictions on Congress's borrowing power because it has become part of Congress's nature to engage in this kind of out-of-control deficit spending.

I would like to ask Senator PAUL another question. How does he think it would impact the lives of Americans, of Kentuckians, on a day-to-day basis, if we were to pass a amendment such as this and have it ratified by the States?

Mr. PAUL. People maintain that they are for jobs, for getting the economy growing again. If we were to pass a balanced budget amendment and send it to the States this year, it would create more jobs and create a better psychology than we have had in this country in decades. I think we would see a rise in the stock market like we have never seen before if we said to Wall Street and said to investors worldwide: We are going to balance our budget; we are not going to spend more than we take in.

I think we would see an economic recovery begin as we have never seen in this country. I think we would see millions of jobs created. That is why we have to do this. That is what the American people want.

What amazes me about this debate is we are going to have this debate and have this vote and the vast majority of the other side said they will not vote for a balanced budget amendment.

I say take that home. Tell your people at home that you are opposed to balancing the budget, and let's run on that. Let's see who wins the elections in the future because our country's future depends on balancing our budget and controlling the debt. I hope we do not wake up when it is too late.

Mr. LEE. I could not agree more with that assessment. It is important for us to remind our colleagues of that because according to a recent CNN poll, the American people overwhelmingly support this by a margin of about 75 percent. Those who oppose it, those who are Members of this body, those who are Members of our sister body—the House of Representatives—who choose not to support it, will cast their ''no'' vote at their own political peril because the American people are standing and they are demanding more. They understand that, in the words of Benjamin Franklin: ''He'll cheat without scruple who can without fear.''

When Congress is free to spend more than it takes in every single year without political consequence, bad things happen. When Congress starts to manipulate more and more of the economy, that is something the American people understand is hurtful rather than helpful to them, to the people on the ground, to the person who is unemployed and looking for a job, to the person who is underemployed or underpaid for the work he does, to the single mother who is just worried about taking care of her children, to the grandparents who are worried about the future of their grandchildren, worried about the fact that for the first time in American history, Americans fear their posterity will enjoy a lower standard of living than what they have enjoyed.

All this is due to the fact that Congress has no real boundaries to its authority and recognizes no real limits on its ability to spend our hard-earned money. This has real consequences. We can forestall those negative consequences right now if we will act to restrict, on a permanent and structural basis, Congress's ability to engage in deficit spending.

Accept no imitations, beware of the Trojan horse balanced budget amendment, the one that can be circumvented easily by a simple majority vote. Beware of the balanced budget amendment that limits, as a percentage of GDP, Congress's ability to spend money. Look out for these principles. If we get this balanced budget amendment passed, submit it to the States for ratification. They will ratify it, and we will find our best days, as Americans, are yet ahead of us.

I urge my colleagues to cast a vote in favor of S.J. Res. 10.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Senior Senator from Iowa.

HEALTH CARE LITIGATION

Mr. GRASSLEY. Mr. President, in a few minutes, the Supreme Court will be addressing four issues in connection with the constitutionality of the Obama health care law. Previously, I spoke about the unconstitutionality of the individual mandate. Today, I wish to discuss the second issue of four: how much of the law must be struck down if the Court finds the individual mandate to be unconstitutional. This legal question is called severability.

When a court rules a law is unconstitutional, it can strike down only those parts it considers unconstitutional. It can strike down the parts that are intertwined with the unconstitutional provision or it can strike down the whole law. Its action will depend upon whether the remainder of the law can function as Congress intended when it passed it.

There are rules governing severability. Normally, when only parts of a law are held to be unconstitutional, only those parts of the law are struck down by the Court. But when a statute's unconstitutional provisions are severed, the whole law falls when Congress would not have passed the constitutional provisions without the unconstitutional ones being in it as well.

It is not enough that some of the remaining provisions are constitutional. The Supreme Court has asked whether the remaining provisions ''would function in a manner consistent with . . . the original legislative bargain.''

The lower courts have reached four different conclusions concerning the health care reform law; first, that the individual mandate can be severed from the rest of the bill; second, that the individual mandate can be severed but only if the law's related provisions that require mandatory issue and community ratings are also severed; third, the opposite position, that the mandate and the related provisions are not severable; and, finally, that the mandate is not severable and that the whole law must fall.

One of my Judiciary Committee colleagues has stated, for the Democrats, ''worst-case scenario, the mandate falls.'' But even the Obama administration does not take that view. The administration argues that if the mandate falls, the guaranteed issue and community rating provisions must also be struck down. The President's administration says health insurance markets will not function if all Americans are not forced to buy health insurance and insurance companies must, nonetheless, insure everyone who seeks coverage at prices that do not reflect their health risk.

If the mandate falls, keeping any of this law would violate the original legislative bargain. I would like to remind my colleagues of that original legislative bargain. The health care law passed because the majority party—in its own partisan way—was going to pass this bill by any means necessary. The individual mandate was very critical to the ability to pass this law and to particularly pass it only by partisan considerations.

We considered an amendment in the Finance Committee that would have granted exemptions from the individual mandate to everybody who asked for that exemption. My good friend, the chairman—and that is Senator BAUCUS, as we all know—correctly stated: ''The system won't work if this amendment passes.'' He further called it ''an amendment which guts and kills health reform.'' He commented that ''if we are serious about making sure that the Americans have health insurance, we all have to participate. . . .'' So the bill's sponsors knew the whole operation of the law depended upon this very important provision that the Court is now considering on the individual mandate and whether that issue was constitutional.

Let me repeat that. The people promoting this legislation that passed on a partisan vote knew the whole operation of the law depended upon the compulsion of the individual mandate. The legislative bargain also showed this law would not have passed if a single comma had been changed. Congress could not have enacted any part of this law without the individual mandate or any other provision. That situation comes about from the fact that the bill passed the Senate by one vote and individual Senators were able to extract specific provisions that benefited their State in return for agreeing to provide their deciding vote for the bill. I think we all know the outrage that came from the grassroots of America over some of those very special provisions. We also know the American people were disgusted by these deals. But without those arrangements and deals, none of the law would have passed.

Those deals were one of the reasons why the Democrats lost their 60-vote majority in the last election. So when the other body could pass a bill only by accepting the Senate bill, they blocked any amendments that would have changed so much as a comma. Had anything changed, the new 59-vote Senate majority would have prevented passage. The bill was offered on a take-it-or-leave-it basis, all or nothing. If the individual mandate is struck down, then the whole law must fall. Although it is not conclusive, it is certainly relevant that the law does not contain a severability clause. This is one more indication Congress thought the law was a unified whole.

It is simply not reasonable to argue that the law should survive without the mandate. The most important political accomplishment of the law is the additional coverage, not the lower costs we were promised. Without the mandate, coverage under the law evaporates.

Does anyone believe that without the coverage in the law, Congress could have passed the massive Medicaid expansion? Does anyone believe that without the coverage in the law, Congress could have passed the Draconian cuts in Medicare? Does anyone believe that without the coverage in the law, Congress could have passed hundreds of billions of dollars in new taxes? Of course not. It is simply not a legitimate argument that the rest of the bill could have ever stood on its own without the individual mandate enabling additional coverage.

I am pleased the Supreme Court has granted oral arguments devoted to the severability question all by itself. In the past, the Supreme Court has issued very activist severability rulings in which it rewrote a statute in a way Congress never would have passed it.

For instance, it completely rewrote the campaign finance laws in the 1976 Buckley v. Valeo decision in a way that produced an unworkable system that no Member of Congress would have ever voted for. In the Booker case, the Supreme Court rewrote the sentencing laws in a way that produced a very unworkable system that no Member of Congress would have voted for. This time, the Supreme Court should not use the severability doctrine to rewrite the health care law into something Congress never would have passed in the first place. It should strike down the entirety of the law in keeping with the law on this subject. Such a ruling would give us the chance to do what we did not do before: work in a truly bipartisan way to address these issues.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

LAS VEGAS HELICOPTER CRASH

Mr. REID. Mr. President, I am saddened to have learned this morning that five people were killed late yesterday in the terrible helicopter crash just a few miles outside Las Vegas. My sympathy is with the families of those who died, including pilot Landon Nield and four passengers. My thoughts are with them as the recovery efforts continue this morning and as they lay their lost loved ones to rest.

Reports indicate the aircraft was on a tour of Hoover Dam. It crashed into a remote and rocky terrain in the River Mountains between Lake Mead and Henderson, NV, a few miles from Las Vegas.

I have taken those helicopter tours. It is an exciting trip. People don't realize this, but we are just a few miles from the Grand Canyon there in Las Vegas. It takes just a short time to travel to that beautiful canyon to see where millions of people go every year to see the Grand Canyon. Hundreds of thousands of tourists come from Las Vegas to see it.

I am truly grateful for the efforts of the National Park Service rangers, the metropolitan police department, the search-and-rescue team, and the Henderson fire departments that responded rapidly to the scene of the accident.

The Federal Aviation Administration and the National Transportation Safety Board are investigating this accident as we speak. I will continue to monitor the investigation as well as the recovery efforts that are in progress.

Hundreds of thousands of tourists, I repeat, enjoy these helicopter tours each year. I am sorry innocent people lost their lives in such a rare tragedy. Nevada puts great stock in protecting the safety of its tourists, whether flying over the Grand Canyon or walking down the Las Vegas strip. I hope the inquiry into the cause of this crash will help us better protect helicopter pilots and passengers in the future.

Again, my heart goes out to the families as they mourn this awful tragedy.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa.

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.

Mr. GRASSLEY. If the Democrats aren't going to take their time, I would like to take 5 or 6 minutes on another subject, and I ask unanimous consent to do so.

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

BROKEN ACCOUNTING SYSTEM

Mr. GRASSLEY. Mr. President, I come to the floor today to commend Secretary of Defense Leon Panetta for personally focusing top-level attention to what has been a festering problem, and I think it is fair for me to say a festering problem for decades. I am talking about the Defense Department's broken accounting system and lack of financial accountability.

Secretary Panetta has grabbed the bull by the horns and told the military services to get on the stick and move out smartly. He wants them to fix the problem now, not later. Secretary Panetta's bold initiative is laid out in a Department-wide memorandum dated October 11 this year. In this document, he calls for an all-hands-on-deck priority effort to accelerate plans to create a modern, fully integrated finance and accounting system. Such a system, if it ever comes to be, would be designed to generate reliable, accurate, and complete financial information. Such a system should be capable of producing credible financial statements that can earn clean opinions from independent auditors. If that happens, the Department will achieve what is called full audit readiness. But now I want to warn Secretary Panetta about what has happened to so many well-intentioned Secretaries of Defense. That could be a big ''if.''

Under the Chief Financial Officers Act of 1990, all government agencies were supposed to reach full audit readiness 15 years ago. As I understand it, the Defense Department is now the only delinquent agency. After the passage of so much time, how is it, then, that the Pentagon cannot provide an accurate accounting of all the money it spends? Doing it is a constitutional responsibility. Not doing it is unacceptable. Why are the military services dragging their feet as they are? What is the problem? Are all of the petty fiefdoms entrenched in Pentagon bureaucracy causing the problem? Is it because they do not want to surrender control of the money to a centralized financial authority?

This is a festering problem Secretary Panetta has tackled. As a former chairman of the House Budget Committee and Director of the Office of Management and Budget, he has the necessary knowledge and the necessary experience to get this job done.

The magic date for achieving full audit readiness at Defense was set in concrete 2 years ago. Unfortunately, this goal has a long and elusive history, and that long and elusive history is best characterized by relentless slippage. It is a rolling target date, and most experts believe the 2017 deadline is unattainable.

I am sure our tax-paying public doesn't understand why the Federal Government wouldn't have the best accounting system in the world, but they don't, particularly in the Defense Department.

Under Secretary Panetta's leadership, I hope all the slippage comes to a screeching halt and all the bureaucratic roadblocks are torn down. He has definitely turned up the heat and turned up the pressure. He has drawn a line in the sand. He wants to see results and see results now. He is calling for a revised plan for achieving audit readiness. It is due on his desk December 13. So Army, Navy, Air Force, Marines, Coast Guard, and everybody else—well, the Coast Guard is not involved but everybody else—get on the stick because that is next week. He has set a near-term goal. He wants the Department to produce partial financial statements by 2014.

As a first step, Secretary Panetta has called for the production of statements of budgetary resources by 2014. A statement of budgetary resources is just one component of a financial statement, but it represents a big important chunk of the whole. If credible statements of budgetary resources can be produced 3 years ahead of schedule, then maybe the full audit readiness by 2017 is, indeed, possible.

I also understand that Secretary Panetta's near-term goal is being incorporated in legislation working its way through Congress right now. That should help to move the ball further down the field.

Secretary Panetta's decision to set a preliminary goal of 2014 will be a good gauge—a good test—of what is and is not possible. Can the Defense Department achieve full audit readiness by 2017? We won't have to wait 6 years to find that out under the process Secretary Panetta is instituting. If problems surface early on, we in Congress can help the Department take corrective action to keep this effort on track and moving in the right direction.

A willingness and a commitment on the part of the Secretary of Defense to take on this problem goes way beyond the production of credible financial statements required by the Chief Financial Officers Act of the late 1970s. It goes right to the heart of a much larger constitutional issue; that is, whether the Department of Defense is going to be held accountable.

The Department must be able to provide a full and accurate accounting of all the money it spends. Under article I, section 9 of the Constitution, such an accounting must be published from time to time. The taxpayers expect and deserve nothing less than that. Today, DOD can't do that. The status quo is unacceptable.

While I began conducting oversight of the Defense Department financial management issues more than 20 years ago, I did not come to fully appreciate the true understanding of the root cause issue until 3 years ago.

After receiving a series of anonymous letters alleging misconduct and mismanagement within the inspector general's audit office, I initiated an in-depth oversight review of audit reporting. Early on in the review, there was a startling revelation: One all-important, central element was adversely affecting every facet of the inspector general's audit effort, and that was the Department's broken accounting system. This dysfunctional system is driving the audit freight train. The success or failure of an audit turns on the quality of the financial data available for audit by competent examiners. The record clearly shows the quality of financial data presented for audit by the Department should be rated poor—or maybe I ought to say even worse than poor. This is what I call the ''no audit trail'' scenario. It is frequently encountered by auditors trying to examine Department of Defense books of account. That is the exact problem Secretary Panetta is attempting to address.

All my audit oversight work tells me that fixing the accounting machinery is the first step to audit readiness. Once a modern, fully integrated system is up and running, it should be a simple matter of punching the right computer buttons and credible financial statements will roll off of the printer. Doing routine oversight audits should be a piece of cake. Today's labor-intensive and time-consuming audit trail reconstruction work which auditors now endure in the absence of reliable accounting records will be a thing of the past. Most importantly, effective internal controls will be in place to protect the taxpayers' money against fraud, theft, and waste.

What I am saying to my colleagues is this: Secretary Panetta is on the right track. He is trying to take us to a place where we need to go and go soon. I want to help him lead us there, so I am here today to encourage and support this courageous effort to clean up the books. I admire and respect his personal commitment to such a noble cause.

I am also here to reinforce the words of encouragement contained in a letter that my friend from Oklahoma, Dr. COBURN, and I penned to Secretary Panetta on November 17. We, being Senator COBURN and I, want to work with him to achieve this most worthy goal. And in the process of these remarks to the Senate, I hope other Members of the Senate, particularly those who are on the Armed Services Committee, will also give Secretary Panetta encouraging words of support and thanks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time until 2:30 p.m. be equally divided between the two leaders or their designees for debate on the Reid motion to proceed to Calendar No. 251, S. 1944; that at 2:30 p.m., the Senate vote on the motion to proceed to S. 1944; that upon disposition of the Reid motion to proceed, it be in order for the Republican leader or his designee to move to proceed to Calendar No. 244, S. 1931; that there be 2 minutes of debate equally divided between the two leaders or their designees prior to the vote; that both motions to proceed be subject to a 60-vote threshold; finally, that the cloture motion relative to the motion to proceed to S. 1944 be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

BALANCED BUDGET AMENDMENT

Mr. DURBIN. Mr. President, a little earlier today the junior Senator from Utah, Mr. LEE, came to the floor to discuss the balanced budget amendment. Under the budget agreement agreed to in Congress in August, both the House and Senate were required to vote on a constitutional amendment to balance the budget before the end of this calendar year. The House has already taken the vote. The measure failed. The Senate still has a responsibility to take it up, which we will do in the closing hours of the session this calendar year.

There are at least two proposals before us for a constitutional amendment, and my subcommittee, the Subcommittee on the Constitution, Civil Rights and Human Rights of the Committee on the Judiciary, held a hearing last week asking questions about these approaches to the Constitution.

The leading approach on the Republican side comes from both Senators HATCH and MCCONNELL. I am not certain which they will offer or whether the language might change at the last minute, but it would enshrine in our Constitution a disciplinary mechanism to reduce the budget deficit. This has been brought before the Senate and the House before many times. This particular proposed constitutional amendment would:

Require that in each fiscal year Federal outlays shall not exceed receipts unless two-thirds of each House votes to waive.

It caps outlays at 18 percent of gross domestic product each year unless two-thirds of each House votes to waive.

It requires a two-thirds vote in each House for any tax or revenue-raising measure.

It requires a three-fifths vote in each House for raising the debt limit.

It allows for waiver of the amendment in times of declared war or serious military conflict.

It prohibits courts from ordering any increase in revenue to enforce the amendment.

It directs Congress to enforce the amendment through appropriate legislation.

It takes effect 5 years after ratification.

This is far more extreme than the clean House balanced budget amendment, which failed to pass in that Chamber on November 18.

The testimony before our subcommittee from experts in the field said that this amendment, proposed by Senators HATCH and MCCONNELL, will require Draconian cuts in Social Security, Medicare, Medicaid, our military retirement system, and many programs important to working families.

It will make Republican fiscal policies the constitutional law of the land, giving protection to those in higher income categories from any tax increase forever, without an extraordinary vote in either House.

It would delegate the task of resolving budget disputes to our court system.

It would make recessions worse by requiring cuts in countercyclical safety-net programs such as food stamps and unemployment just at the time when those expenditures are most needed.

It would increase the likelihood of debt limit standoffs each year.

It would lead to increased burdens on our States.

During the course of the hearings, several people came forward to testify. I recommend to my colleagues that they carefully read these testimonies, which are available on the Senate Judiciary Committee website.

The first was Robert Greenstein, president of the Center on Budget and Policy Priorities. Mr. Greenstein, who is well recognized and respected on Capitol Hill, spoke about the countercyclical aspect and said that if you cut spending in the midst of a recession, you will not have the resources you need to provide unemployment benefits, food stamps, and the things that save families when they are out of work or making very little money.

I ask unanimous consent that Mr. Greenstein's statement be printed in the RECORD.

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

TESTIMONY OF ROBERT GREENSTEIN, BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS HEARING ENTITLED, ''A BALANCED BUDGET AMENDMENT: THE PERILS OF CONSTITUTIONALIZING THE BUDGET DEBATE,'' NOVEMBER 30, 2011

Thank you for the invitation to testify today. I am Robert Greenstein, president of the Center on Budget and Policy Priorities, a policy institute that focuses both on fiscal policy and on policies affecting low- and moderate-income Americans. We, like most others who analyze fiscal policy developments and trends, believe that the nation's fiscal policy is on an unsustainable course. As part of our work, we have been analyzing proposed changes in budget procedures for more than 20 years. We have conducted extensive analyses of proposals to write a balanced-budget requirement into the Constitution, among other proposals.

The purpose of changing our fiscal policy course is to strengthen our economy over the long term and to prevent the serious economic damage that would likely occur if the debt explodes in future decades as a share of the economy. But we need to choose our fiscal policy instruments carefully. We want to avoid ''destroying the village in order to save it.''

The goal of a constitutional balanced budget amendment is to address our long-term fiscal imbalance. Unfortunately, a constitutional balanced budget amendment would be a highly ill-advised way to try to do that and likely would cause serious economic damage. It would require a balanced budget every year regardless of the state of the economy, unless a supermajority of both houses override that requirement. This is an unwise stricture that large numbers of mainstream economists have long counseled against, because it would require the largest budget cuts or tax increases precisely when the economy is weakest. It holds substantial risk of tipping faltering economies into recessions and making recessions longer and deeper. The additional job losses would likely be very large.

When the economy weakens, revenue growth drops and revenues may even contract. And as unemployment rises, expenditures for programs like unemployment insurance—and to a lesser degree, food stamps and Medicaid—increase. These revenue declines and expenditure increases are temporary; they largely disappear as the economy recovers. But they are critical for helping to keep struggling economies from falling into a recession and for moderating the depth and length of recessions that do occur.

When the economy weakens, consumers and businesses spend less, which in turn causes further job loss. The drop in tax collections and increases in unemployment and other benefits that now occur automatically when the economy weakens cushions the blow, by keeping purchases of goods and services from falling more. That is why economists use the term ''automatic stabilizers'' to describe the automatic declines in revenues and automatic increases in UI and other benefits that occur when the economy turns down; these actions help stabilize the economy.

A constitutional balanced budget amendment, however, effectively suspends the automatic stabilizers. It requires that federal expenditures be cut or taxes increased to offset the effects of the automatic stabilizers and prevent a deficit from occurring—the opposite course from what sound economic policy calls for.

Over the years, leading economists have warned of the adverse effects of a constitutional balanced budget amendment. In Congressional testimony in 1992, Robert Reischauer—then director of the Congressional Budget Office and one of the nation's most respected experts on fiscal policy—explained: ''[I]f it worked [a constitutional balanced budget amendment] would undermine the stabilizing role of the federal government.'' Reischauer noted that the automatic stabilizing that occurs when the economy is weak ''temporarily lowers revenues and increases spending on unemployment insurance and welfare programs. This automatic stabilizing occurs quickly and is self-limiting—it goes away as the economy revives—but it temporarily increases the deficit. It is an important factor that dampens the amplitude of our economic cycles.'' Under the constitutional amendment, he explained, these stabilizers would no longer operate automatically.

Similarly, when a constitutional balanced budget amendment was under consideration in 1997, more than 1,000 economists including 11 Nobel laureates issued a joint statement that said, ''We condemn the proposed 'balanced-budget' amendment to the federal Constitution. It is unsound and unnecessary. The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called 'built-in stabilizers' limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions.'' This summer, five Nobel laureates in economics issued a new statement opposing a constitutional balanced budget amendment for this reason.

Earlier this year, the current CBO director, Douglas Elmendorf, sounded a similar warning when asked about a constitutional balanced budget amendment at a Senate Budget Committee hearing. Elmendorf observed:

''Amending the Constitution to require this sort of balance raises risks . . . [t]he fact that taxes fall when the economy weakens and spending and benefit programs increase when the economy weakens, in an automatic way, under existing law, is an important stabilizing force for the aggregate economy. The fact that state governments need to work . . . against these effects in their own budgets—need to take action to raise taxes or cut spending in recessions—undoes the automatic stabilizers, essentially, at the state level. Taking those away at the federal level risks making the economy less stable, risks exacerbating the swings in business cycles.''

Finally, a month ago, Macroeconomic Advisers (MA) analyzed the economic impacts of a constitutional balanced budget amendment. One of the nation's preeminent private economic forecasting firms, Macroeconomic Advisers provides analysis to major corporations and government entities, such as the President's Council of Economic Advisors under Presidents of both parties, including Presidents Reagan and George W. Bush.

MA concluded that if a constitutional balanced budget amendment had already been ratified and were now being enforced for fiscal year 2012, ''the effect on the economy would be catastrophic.'' If the 2012 budget were balanced through spending cuts, MA found, those cuts would total about $1.5 trillion in 2012 alone—and would throw about 15 million more people out of work, double the unemployment rate from 9 percent to approximately 18 percent, and cause the economy to shrink by about 17 percent instead of growing by an expected 2 percent.

Even if a BBA were implemented when the budget was already in balance, MA concluded, it would still put ''new and powerful uncertainties in play. The economy's 'automatic stabilizers' would be eviscerated [and] discretionary counter-cyclical fiscal policy would be unconstitutional . . . . Recessions would be deeper and longer.''

MA also warned that ''The pall of uncertainty cast over the economy if it appeared a BBA could be ratified and enforced in the middle of recession or when the deficit was still large would have a chilling effect on near-term economic growth.'' MA concluded that a BBA would have detrimental effects on economic growth in both good times and bad.

Proponents of a constitutional amendment often respond to these admonitions by noting that the proposed constitutional amendment would allow the balanced-budget requirement to be waived by a vote of three-fifths of the House and the Senate, so the BBA would be set to the side in recessions. But this response is too facile, and the three-fifths waiver provision does not solve the problem. It is difficult to secure three-fifths votes for anything; consider the paralysis that marks much of the work of the Senate. Moreover, it may take months after a downturn begins before sufficient data are available to convince three-fifths of the members of both houses of Congress that a recession is underway. Furthermore, it is all too likely that even after the evidence for a downturn is clear, a minority in the House or Senate would hold a wavier vote hostage to demands for concessions on other matters (such as new, permanent tax cuts). By the time that a recession were recognized to be underway and three-fifths votes were secured in both chambers, if such support could be obtained at all, extensive economic damage could have been done and hundreds of thousands or millions of additional jobs unnecessarily lost.

The bottom line is that the automatic stabilizers need to continue to be able to work automatically to protect American businesses and workers. The balanced budget amendment precludes that.

Nor is a recession the only concern. Consider the savings and loan crisis of the 1980s, or the financial meltdown of the fall of 2008. A constitutional balanced budget amendment would have hindered swift federal action to rescue the savings and loan industry or to rapidly put the Troubled Assets Relief Program in place. In both cases, history indicates that federal action helped save the economy from what otherwise likely would have been far more dire problems.

Moreover, the federal government provides deposit insurance for accounts of up to $250,000; this insurance—and the confidence it engenders among depositors—is critical to the sound functioning of our financial system so that we avoid panics involving a run on financial institutions, as occurred in the early 1930s. A constitutional prohibition of any deficit spending (unless and until a supermajority of both houses of Congress voted to authorize it) could seriously weaken the guarantee that federal deposit insurance provides. That is a risk we should not take.

These are illustrations of why fiscal policy should not be written into the Constitution.

A parallel problem is that the proposed constitutional amendment would make it even harder than it already is to raise the debt limit, by requiring a three-fifths vote of both the House and Senate to raise the limit. This is playing with fire. It would heighten the risk of a federal government default. A default would raise our interest costs and could damage the U.S. economy for years to come.

MISTAKEN ANALOGIES TO STATES AND FAMILIES

Proponents of a constitutional amendment sometimes argue that states and families must balance their budgets every year and the federal government should do so, too. But statements that the constitutional amendment would align federal budgeting practices with those of states and families are mistaken.

While states must balance their operating budgets, they can borrow to finance their capital budgets—to finance roads, schools, and other projects. Most states do so. States also can build reserves during good times and draw on them in bad times without counting the drawdown from reserves as new spending that unbalances a budget.

Families follow similar practices. They borrow—they take out mortgages to buy a home or student loans to send a child to college. They also draw down savings when times are tight, with the result that their expenditures in those periods exceed their current incomes.

But the proposed constitutional amendment would bar such practices at the federal level. The total federal budget—including capital investments—would have to be balanced every year, with no borrowing allowed for infrastructure or other investments that can boost future economic growth. And if the federal government ran a surplus one year, it could not draw it down the next year to help balance the budget.

I would also note that the fact that states must balance their operating budgets even in recessions makes it all the more important from the standpoint of economic policy that the federal government not be subject to the same stricture. American Enterprise Institute analyst Norman Ornstein addressed this matter in an article earlier this year, where he wrote: ''Few ideas are more seductive on the surface and more destructive in reality than a balanced budget amendment. Here is why: Nearly all our states have balanced budget requirements. That means when the economy slows, states are forced to raise taxes or slash spending at just the wrong time, providing a fiscal drag when what is needed is countercyclical policy to stimulate the economy. In fact, the fiscal drag from the states in 2009–2010 was barely countered by the federal stimulus plan. That meant the federal stimulus provided was nowhere near what was needed but far better than doing nothing. Now imagine that scenario with a federal drag instead.''

S.J. RES. 10 AND S.J. RES. 23 RAISE ADDITIONAL ISSUES

The foregoing concerns apply to all versions of the balanced budget amendment that have been introduced. Some versions of the balanced budget amendment, such as S.J. Res. 10 and S.J. Res. 23, which are identical, raise additional concerns, because they would write into the Constitution new barriers to raising any revenues—including closing wasteful tax loopholes—to help balance the budget and also would prohibit federal expenditures in any year from exceeding a figure such as 18 percent of the Gross Domestic Product in the previous calendar year. These constitutional requirements could be overridden only by supermajority votes in both the House and the Senate.

This requirement for a supermajority to raise taxes would be extremely unwise. It would protect what President Reagan's former chief economic advisor, Harvard economist Martin Feldstein, has called the biggest area of wasteful government spending in the federal budget—what economists call ''tax expenditures'' and Alan Greenspan has called ''tax entitlements.''

In 2010, tax expenditures amounted to $1.1 trillion, more than the cost of Medicare and Medicaid combined (which was $719 billion), Social Security ($701 billion), defense ($689 billion, including expenditures in Iraq and Afghanistan), or non-defense discretionary spending ($658 billion, including expenditures from the Recovery Act). Many of these tax expenditures are fully the equivalent of government spending. Let me use child care as an example.

If you are low- or moderate-income, you may get a federal subsidy to help cover your child care costs, and the subsidy is provided through a spending program. If you are higher on the income scale, you still get a government subsidy that reduces your child care costs, but it is delivered through the tax code, as a tax credit. (Moreover, if you are a low- or moderate-income parent with child care costs, you likely will miss out because the spending programs that provide child care subsidies are not open ended and can only serve as many people as their capped funding allows. By contrast, if you are a higher income household—and there is no limit on how high your income can be—your child care subsidy is guaranteed, because the tax subsidy that you get operates as an open-ended entitlement.) It is difficult to justify making the tax-code subsidy sacrosanct and the program subsidy a deficit-reduction target merely because one is delivered through a ''spending'' program and the other is delivered through the code.

And as the child care example illustrates, sharply distinguishing between subsidies delivered through the tax code and those delivered through programs on the spending side of the budget also has a ''reverse Robin Hood'' aspect. Low- and moderate-income households receive most of their government assistance through spending programs; affluent households receive most of their federal subsidies through tax expenditures. Effectively barring reductions in tax expenditures from contributing to deficit reduction is a prescription for placing the greatest burden of deficit reduction on those who can least afford to bear it.

The problems do not stop there. If it requires a supermajority to raise any revenue, another likely outcome is a proliferation of tax loopholes. New loopholes—including loopholes that Congress did not intend but that high-priced tax lawyers and accountants have found ways to create—could become untouchable once they appeared, because it would require a supermajority of the House and Senate to raise any revenue. It would become more difficult to close tax loopholes that opened up, since (under S.J. Res. 10 and S.J. Res. 23) special-interest lobbyists could block such action simply by securing the votes of one-third plus one member in one chamber.

Finally, as noted, S.J. Res. 10 and S.J. Res. 23 would bar federal spending from exceeding 18 percent of GDP in the prior calendar year, which translates into a limit of about 16.6 percent of the current fiscal year's GDP. To hit that level would require cuts of a truly draconian nature. Consider the austere budget that the House of Representatives passed on April 15, sometimes referred to as the Ryan budget. Under that budget, Medicare would be converted to a voucher system under which, the Congressional Budget Office has said, beneficiaries' out-of-pocket health-care costs would nearly triple by 2030 (relative to what those costs would be that year under the current Medicare program). CBO also has written that under the Ryan budget, federal Medicaid funding in 2030 would be 49 percent lower than it would be if the Affordable Care Act's Medicaid expansion were repealed but Medicaid otherwise was unchanged. And funding for non-security discretionary programs would be cut more than one-third below its real 2010 level. Yet CBO says that under this budget, total federal spending would be 20¾ percent of GDP in 2030, so it would breach the allowable limit under S.J. Res. 10 and S.J. Res. 23 by four percentage points of GDP. This illustrates the draconian nature of the proposed 16.6 percent-of-current-GDP requirement.

Another way to look at this stricture is to examine federal expenditures under Ronald Reagan. Under President Reagan, who secured deep budget cuts at the start of his term, federal expenditures averaged 22 percent of GDP. And that was at a time before any members of the baby boom generation had retired and when health care expenditures throughout the U.S. health care system (including the private sector) were one-third lower as a share of GDP than they are today. It also was before the September 11 terrorist attacks led policymakers to create a new category of homeland security spending, and before the wars in Iraq and Afghanistan led to increases in veterans' health-care costs that will endure for a number of decades.

ESTIMATING THE EFFECTS OF SPENDING CAP IN S.J. RES. 10 AND S.J. RES. 23

To provide a more precise and detailed analysis of the impact that the spending cap in S.J. Res. 10 and S.J. Res. 23 would have, we recently conducted an analysis of its effects, using the latest Congressional Budget Office ten-year budget projections. We considered the impact if the balanced budget requirement would take effect in fiscal year 2018, as would occur if Congress approved it now and the requisite number of states ratified it by September 30, 2013. Here are the results.

—Congress would have to cut all programs (except interest on the debt) by an average of 24.9 percent in 2018. It would have to cut programs by $1.1 trillion in 2018 alone, and by $6.1 trillion through 2021.

—If all programs were cut by the same percentage, Social Security would be cut $265 billion in 2018 alone and $1.7 trillion through 2021; Medicare would be cut $168 billion in 2018 and $1.1 trillion through 2021; and Medicaid and the Children's Health Insurance Program (CHIP) would be cut $115 billion in 2018 and $724 billion through 2021.

—Veterans disability payments, compensation, and other such benefits would be cut $19 billion in 2018 and $122 billion through 2021.

—Defense spending would be cut $141 billion in 2018 and $879 billion through 2021, on top of the reductions made to comply with the discretionary spending caps that the Budget Control Act establishes and the reductions made under the sequestration order that is expected to be issued in January 2013, pursuant to that act.

Congress would not, of course, have to cut all programs by the same percentage and likely would not do so. But if Congress chose to spare certain programs, others would have to be cut even more deeply. For example, if Social Security were spared, the average cut to all other programs would rise by more than one third, from 24.9 percent in 2018 to 34.2 percent. Similarly, if the defense budget were increased by placing it at 4 percent of GDP (exclusive of war costs) and maintaining it at that level, as presidential candidate Mitt Romney has proposed, then all other programs—including Social Security—would have to be cut an average of 38.2 percent in 2018 under S.J. Res. 10 and S.J. Res. 23.

Even if the so-called ''plain vanilla'' version of the BBA is pursued, rather than S.J. Res. 10 and S.J. Res. 23, the required level of budget cuts would be massive, assuming taxes are not raised to help balance the budget. Congress would have to cut everything an average of 17.3 percent in 2018, an average of 23.8 percent if Social Security were protected, and an average of 29.4 percent if the defense budget were set at 4 percent of GDP and Social Security were not protected.

CONCLUSION

Policymakers need to begin to change our fiscal trajectory. As various recent commissions have indicated, we need to stabilize the debt as a share of GDP in the coming decade and to keep it stable after that (allowing for some fluctuation over the business cycle). But establishing a balanced budget amendment in the Constitution would be exceedingly unwise. It would likely exact a heavy toll on the economy and on American businesses and workers in the years and decades ahead. It is not the course that the nation should follow.

Mr. DURBIN. Mr. President, another testimony that I thought was extremely compelling came from Alan Morrison. Alan Morrison is an accomplished attorney and has argued many cases before the U.S. Supreme Court. He is the Lerner Family Associate Dean for Public Interest & Public Service Law at George Washington University Law School.

Professor Morrison really asked us to think through what we are doing. In fact, he asked us the most important question: If you put an amendment to the Constitution that requires a balanced budget, who will enforce it? Who will make it work? Who will decide if you have lived up to its terms? He concluded, based on his background in constitutional law and arguing before the Supreme Court, not the President. The President is not in that position to do it. The President, of course, with his budget, has his own favorites when it comes to spending and revenue.

Professor Morrison said this case ultimately has to find its way to our court system. But he made it clear that any constitutional balanced budget amendment must expressly give to the Federal courts the standing to decide the question. He raised a question that without that expressed language, he really was doubtful that the courts would take it up. They might view it as just a political question to be resolved by Congress itself.

Now, Senator LEE, who spoke on the floor earlier, has a version of the balanced budget amendment that expressly gives standing to Members of Congress, if I am not mistaken. But the point made by Professor Morrison is that any balanced budget amendment has to expressly give to our Federal court system the power of judicial review. In other words, who is going to call the fouls, the balls, the strikes, and the outs? It is going to have to be the court system when it comes to whether the balanced budget amendment is being complied with.

That is the first question but certainly not the last question.

Professor Morrison then went on to say: Now, put this in the real world. In the real world, where Congress has passed a budget, appropriations bills, and now someone is arguing that what Congress did does not comply with the new provision of the Constitution requiring a balanced budget—arguing that, in fact, Congress is overspending the amount it is allowed to spend, for example—then, of course, that case has to find its way from the Capitol Building to the President, who signed the bill, and then over to the court system.

Keep in mind, while we are in doubt about the outcome on appropriations bills and the budget, there is a serious question about how we will continue to fund our government, whether we can continue to make important payments to military retirees, Social Security recipients, Medicare recipients. All of it is in doubt while there is a question raised as to whether the budget passed by the Congress is unconstitutional.

This is the thicket we are being led into by those who very glibly say: All we need to do is mandate in the Constitution a balanced budget, and it will just flow naturally from that mandate.

Well, listen to what Professor Morrison said:

> The federal courts will (rightly) be extremely reluctant to wade into these budget battles and thus will want to be sure that there is likely to be a violation before agreeing to decide the merits. But budgets are inherently uncertain in their impact, depending on such factors as whether revenue targets are met, whether the demand for entitlements is higher or lower than anticipated, whether discretionary spending is fully realized, and whether an existing war winds down or a new one starts, each with great uncertainties accompanying them. Thus, it will be far from clear on October 1st of a given fiscal year whether a duly enacted budget will or will not be in balance, assuming that the question is reasonably close, as it is likely to be in at least some years. Unless Congress makes it clear, either in the [constitutional] amendment or perhaps by subsequent legislation, that the courts should resolve all doubts in favor of finding claims ripe, the courts are likely to be very reluctant to reach the merits even for those persons who are expressly given standing in the amendment.

Then, of course, is the question of a remedy. What if Congress passes a budget and appropriations bills, the President signs them, and they are challenged in court, and the court says: Yes, in fact, Congress has overspent beyond the requirements of the Constitution. What is next? What remedy would the courts order? What can the court do?

> Can they order the recipients (of salaries, social security benefits, Medicare payments, payments under Government contracts etc) to ''pay back'' [a certain percentage]? Or can it order Congress to rectify the balance in the next year's budget, which would almost certainly trigger a new lawsuit? To be sure, the courts will not dismiss as moot claims that are capable of repetition, yet evade review because the duration of the violation is so limited that the courts cannot decide its legality before it has ceased.

Professor Morrison asks us to get beyond the bumper stickers and to think twice before we amend our Constitution.

In the 220 years since the enactment of the Bill of Rights, we have amended this Constitution precious few times. We have done it for compelling national reasons. We have done it to extend the right to vote to women. We have done it to make it clear that African Americans treated as slaves will be treated as citizens in the United States. We have done it to deal with questions of Presidential disability and succession. These are things which were compelling, major, national issues which could be resolved in a clear, definitive way by our Congress, working with the States for ratification.

Now comes the flavor of the day. In the midst of the deficit crisis debate, there are those who are arguing that we should not accept our responsibility in the Senate and the House to balance the budget. No, we should just put in the Constitution that we are required to do it. And then they go further. If we are going to address it, they say, we are going to draw certain lines that future Congresses, forever, as long as this constitutional amendment applies, will be bound by—to make it more difficult to raise taxes on anyone in the United States; to make it imperative, if not mandatory, that cuts be made in programs such as Social Security and Medicare. These are questions that should be decided by Congress and the President on a timely basis.

I have been involved in the past 2 years with a lot of debate about our national budget deficit, both on the Bowles-Simpson Commission and with the voluntary effort by six Democratic and Republican Senators. It is not easy. It is very hard. But it can be done if the political will is there.

I think we need to summon the courage, the political courage and the will to do it. But we should reject—summarily reject these efforts to amend our Constitution. They are not well thought out. The Constitution is too important a document, a historical guidepost for our Nation, and an inspiration for nations around the world to put in a fatally flawed constitutional balanced budget amendment in the heat of the moment.

This is a significant vote. Those of us—and that includes every single Member of the Senate—who have sworn to uphold and defend the Constitution need to take that document very, very seriously. Those who want to amend it in quick fashion, changing their amendment language by the day, should be dismissed. If they do not show the reverence for this document that it deserves, if they do not take the time to make certain their proposals are consistent with the sanctity and importance of this document, they should not be taken seriously.

I do not believe any of my colleagues can go home having voted for that amendment and expect wild applause from audiences across America. They will understand that this was just a political reaction to a very important issue. Let's not amend the Constitution with a balanced budget amendment.

(Mrs. HAGAN assumed the chair.)

Mr. DURBIN. Madam President, I would like to make one additional brief statement. I see the Senator from Ohio in the Chamber.

The holiday season is upon us, and a lot of us are thinking about our families, and we are thinking about being with them as quickly as we can. It is a time of year that has a special significance for so many of us. But what was made clear by President Obama yesterday—and my colleagues should take note—we are not going home for

Christmas, Hanukkah, or any holiday season until we have done our job for the people of this country.

Millions of people in Illinois and across America are counting on Congress to extend the payroll tax cut. What does it mean in my State? With an average income of $50,000 a year, it is worth more than $1,000 a year to those families. It is worth about $125 to $150 a month to have a payroll tax cut—money that working families, struggling from paycheck to paycheck, desperately need to fill the gas tank, to pay the utility bills, to provide clothing for their kids, to make sure they can stay in their home. These are the basics.

No Member of Congress is going to be allowed to go home and ignore the imposition of such a new payroll tax on America. President Obama met with the Democratic leaders of the Senate yesterday, and he said point-blank—he has told the First Lady, Michelle, and his girls that, if necessary, they can have their Christmas vacation in Hawaii, which they go to each year, by themselves, and he will wait here until this job is done. I hope that does not happen for the sake of his family or for the sake of any family of any Member of Congress, but in order to avoid that, we have to do the right and responsible thing.

This afternoon, there will be a vote on the payroll tax cut offered by Senator CASEY of Pennsylvania. It is a payroll tax cut that would help millions of America's working families have more to spend and help the economy to recover. And he pays for it. He does not add to the deficit. He pays for it by imposing a surtax—listen closely—on the second million dollars earned by a person in a year, not the first million. You do not pay a penny on the first million you earn. On the second million, you will pay a surtax, and I think it is 2 percent, maybe less.

The Republicans have said: Absolutely unacceptable. We will not allow you to impose this onerous tax on these people.

People who are already making $20,000 a week, we cannot ask them to pay 2 percent more on the next dollar they make? I do not think it is unreasonable. And if it leads to a payroll tax cut that helps families across this country, if the economy continues to recover even at a faster pace, if we see more business activity and business life and more people working, do you know what is going to happen? Those same wealthy people will prosper again, as they always do. It is in their best interests for this economy to get well. For our Republican friends to fold their arms and say: We are just not going to let you touch the wealthiest people in America, is an irresponsible position.

Senator CASEY has led this effort. It is the second effort we have made. We had one last week. The Republicans offered their alternative last week. It had 20 votes on the floor of the Senate—20 out of 47 Republican Senators. Twenty voted for it. They want to bring it up again today. They will probably get more than 20 votes this time, but it is pretty clear that the Republican Senators are halfhearted in their support of this Republican alternative.

One Republican Senator from Maine had the courage to step across the aisle last week and join us. We salute Senator COLLINS for doing that. We hope others will do it today.

We can bring this challenge to a close the right way by extending the payroll tax cut, paying for it with a tax on the wealthiest people in America. We can do our job and go home and be with our families. If Republicans will not come to the table to work with us on a reasonable compromise, I am afraid the American people will know very clearly who is to blame for continuing a tax on working families across America.

The facts are that we want working Americans to have a good year, get through a difficult time, and the economy to recover.

We should be doing this on a bipartisan basis. The President said: Roll out your Christmas trees and blankets here in the Senate because you are going to stay here, even through the holidays if necessary. We are not going to go home to celebrate until we can celebrate with American families who are counting on us across America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, I go home every weekend, back to northeast Ohio where I live in a town called Avon in Lorain County. I want to go home at Christmas. I want to be with my 3-year-old grandson and my three daughters and son. But I also think our obligation, as Senator DURBIN said, the assistant majority leader, is to stay here and get our work done. And ''get our work done'' means extend the payroll tax cut and extend unemployment benefits.

If we do not do that, frankly, we are ruining the holiday season for tens of thousands and dozens of tens of thousands, if you will, of Ohioans and Illinoisans and North Carolinians. If we do not do that, we do not deserve to be able to go home and be with our families. I am not trying to be a martyr, but I think it is shameful a group of people, in order to protect the highest income taxpayers in this country—those making over $1 million a year—continue to block an extension, a continuation, if you will, of this tax cut for working families.

In my State the average tax cut that we will vote for today, and continue until it happens is about $100, $110, $120 per family per month. It is absolutely unconscionable not to do that.

Senator DURBIN also talked about the constitutional amendment to balance the budget. I want to recount something I heard earlier today on the Senate floor. Two of my conservative colleagues—one from Kentucky, one from Utah—spoke about the importance of a balanced budget amendment. I supported a balance budget amendment in the past when I was in the House of Representatives. In here I have actually voted—it was part of an effort to get us to a balanced budget in reality in the 1990s. When President Bush took office we had the largest budget surplus. We balanced the budget and then some. We had the largest budget surplus in American history.

I was part of that. I was proud of that. We accomplished what we set out to do. We accomplished what we said we would, and we accomplished something very important for our country. It was then in the first years of the last decade—in 2001, 2002, and 2003—that we went to war, two wars, Afghanistan and Iraq, and we did not pay for them.

President Bush, in those days, pushed through two tax cuts—one in 2001, one in 2003—that went overwhelmingly to the wealthiest Americans, without paying for it, without offsets, cuts, or other taxes. Then President Bush also pushed through—at a very close, middle-of-the-night vote in the House of Representatives, by, I believe, one vote or two votes—a Medicare privatization bill that basically was a bailout for the drug companies and the insurance companies and did not pay for that. That is why we got to this situation, unfortunately, where we have had this terrible budget problem.

What I wanted to address is what the solution of a couple of my colleagues seems to be. To their minds, there seems to be sort of a moral equivalent of, on the one hand, asking millionaires, people making a million dollars and up, to pay their fair share and making Medicare beneficiaries and Social Security beneficiaries take big cuts.

So I heard my two colleagues basically say this: that if the Democrats were serious about moving toward a balanced budget—and, again, 15 years ago we did it. We absolutely did it with President Clinton, got to a balanced budget, got to a surplus.

They said if the Democrats are serious about that, they will raise the retirement age for Social Security, and they will raise the eligibility age of Medicare. Let me tell you why that is a bad thing. I was in Youngstown not too long ago at a townhall meeting. A 63-year-old woman stood up and said—62, 63 years old.

She said: I just need to stay healthy and stay alive until I am 65 so I have health insurance. I need to be able to stay alive for another couple of years so I can get on Medicare and have health insurance.

Imagine living your life that way, when you are thinking: I just have to stay alive until I am 65. Then I will have good government Medicare health insurance. So some people here say: Well, tough luck. We are going to have to raise the eligibility age of Medicare to 66, 67, 68, whatever my very conservative colleagues are proposing—from

Utah and Kentucky—raise the eligibility age for Medicare as if that is going to make them better.

When you think about it—I want 62-year-olds—one reason we passed the health care reform, I want 62-year-olds to have health insurance. One, it is good for them. Second, it is way better for the country, including taxpayers, that they get health care before they get sicker and sicker and end up in the emergency room or end up with cobbled-together health care that is much more expensive, let alone what it does to this lady and her family.

Second, they proposed to raise the eligibility age for Social Security. Now, it is easy for people around here to dress like this who, for all intents and purposes, talk for a living—work hard at what we do but talk for a living and work in offices and, you know, do not do heavy lifting and are not exposed to the elements and all of that. It is easy for us to say: Let's raise the Social Security age to 70 because, God willing, we will still be here if the voters vote us in and we can keep doing this. Most of us are pretty healthy and do not work around asbestos and are not doing heavy lifting, are not working in the snow, in the rain, in the heat.

Well, when I think about raising the retirement age to 70, here is who I think about. I think about construction workers. I think about women who cut hair. I think about a waitress who works at a diner. I think about someone who works at a factory in Brunswick, OH. I think about people who walk the floors in retail. We are going to tell them that—we who dress like this, we who have jobs like this are going to tell those constituents—and there are millions in my State and tens and tens and tens of millions around the country, working-class citizens of this country who simply cannot work until they are 70.

If you are cutting hair, if you are changing sheets in a hotel, cleaning out bathrooms in a hotel, if you are working as a carpenter or a laborer or sheet metal worker, if you are working as an auto worker, a steel worker or nonunion in a tool-and-die or machine shop, you probably cannot work until you are 70. Your body probably will not be able to function in the workplace, with the physical and mental demands now to work in the workplace until 70. Yet people here think it is OK to do that.

The people here, I would add, can retire if they have 20 or 25 years in the House and Senate. They can retire at 60 or 62 or whatever and get a full pension. That is why I have introduced legislation—not opposed to their balanced budget amendment. I think it has all kinds of mechanisms in it that lock in low tax rates for the richest people in this country. I will not get into that. Senator DURBIN talked about that.

But I have introduced the legislation that simply says if we raise the retirement age to 70, then Members of Congress cannot retire with a pension until 70. Why should Members of Congress be able to get a pension at 62 or 58 if they served enough years, but a Social Security beneficiary should not until a decade or so later?

So it is important, as we talk about balancing the budget, as we talk about our fiscal situation, not to make a moral equivalence between the richest people, the richest 1 percent in this country paying their fair share in taxes, making that a moral equivalence to Social Security and Medicare beneficiaries having to endure significant cuts.

Some people around here call Medicare and Social Security entitlements. They can be dismissive: We have to fix entitlements. Well, talk to a 72-year-old in Dayton or a 68-year-old in Zanesville or an 81-year-old woman in Xenia or Springfield, OH, and they will tell you oftentimes this is not really an entitlement, this is an investment. They paid into Social Security. They paid into Medicare. They want to make sure the government fulfills the covenant that we made over the last 75 years in the case of Social Security, 45 years in the case of Medicare, the covenant that we made between our government and the citizens of this country. That is the importance of that. We need to think twice.

That is why my legislation was introduced, in part, that Congressmen and Congresswomen cannot receive a pension before the same retirement age as Social Security beneficiaries. We need to think twice before we are going to tell a carpenter or a barber or a retail worker or a steel worker that we are going to raise the retirement age and make them work until 70 so they can receive Social Security benefits.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COBURN. I ask unanimous consent that I be allowed to speak as in morning business.

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

MAKING TOUGH CHOICES

Mr. COBURN. I am coming to the floor now because we will not have an opportunity to debate on the payroll tax cuts because the vote is going to be at 2:30 and that time is taken.

I think it is important for the American public to look at what is happening in Washington right now. There is not a disagreement in Washington about whether we want people to continue to receive this tax cut. The disagreement is, should it come out of Social Security? Should we continue to undermine Social Security or should we do it a different way? That is No. 1.

No. 2 is, if we are going to borrow $117 billion against our children knowing that we have significant waste, fraud, abuse, and duplication in the Federal Government of in excess of $350 billion a year, should we not eliminate some of that, pay for this rather than borrow the money?

So we have the posturing between the two parties based on the election that is coming to create a predicate that some people only care for the rich and some people only care for those who are less fortunate, which is all smoke and mirrors. There is unanimity that we want this to continue. So what the American people are not hearing is the real debate.

The real debate is, should we eliminate some of the waste, some of the stupidity, some of the duplication in the Federal Government and actually do that to be able to pay for this so that as we do this thing that we all want to do—in other words, keep this $1,000 to $2,000 per family in the economy now—that we do not do that by crippling the children of the very people who are in the economy.

You know it is a zero-sum game. Somebody is going to pay the bill sometime. If it is us who refuse to do the hard work of ferreting out waste, duplication, fraud, then our service will have been in vain because what we are really doing is transferring to our children the responsibility for us today. Actually, it is going to come doublefold because the way this bill is lined out is we are going to borrow the money in the market to pay for this continued decrease in Social Security taxes.

We have already stolen $2.6 trillion from Social Security, Congresses have the last 20 years. When we borrow that money and put it back in, there is no reduction in what is owed, so our kids are actually going to get to pay for it twice. They are going to pay for it now with the new debt that we are taking, and the fact that new payment was not recognized as a reduction, they are going to get to pay it again.

So it is going to cost our children a quarter of a trillion dollars. There is a lack of honesty in talking plainly with the American people. They know we are in trouble. The question is, Will we be honest with them, treat them as adults in terms of how we go about solving the problem? We hear the mess. The press takes advantage of that. There is not a lot of difference between the Senator from Ohio who just spoke, in terms of what we want to do in terms of protecting seniors. But the politics surrounding it and the game playing poorly serves our country.

So for all the press that is watching, we are going to get this done. I know it is the game Blood Sport that is happening right now, with the press saying: Will they or will they not? It is going to happen. We are going to fix unemployment so that we have a continuation of that. The real question is, Will we fix the real things that the country needs fixed or are we just going to kick the can down the road?

What we are doing is kicking the can down the road because we won't make the tough choices to pay for it. We won't pay for the unemployment benefits. The first 26 weeks is what is earned; that is what people contributed to. We are up to 99 weeks, and that comes directly from the American taxpayer—it actually comes from the future American taxpayer.

Some real questions ought to be asked. What is the game being played in Washington by both sides—trying to get advantage in the next election? As our country drowns in debt, we continue to further mortgage our children's future, and we continue to treat the American people like children rather than the adults they are. Everybody knows we are all going to have to sacrifice. Does that mean we are going to abandon the social safety net? No, it doesn't. Does that mean a 62-year-old who is trying to get on Social Security is not going to get there? No; they are. Those are the tactics of fear that something will not be there. As a fiscal conservative or a constitutional conservative, I want us to fulfill our obligation to the promises we have made and to our oath, which is to uphold the Constitution. Thomas Jefferson said you should never borrow money which you have not laid a tax to pay for. He is a Founder—one of the Founders of our country. We would do well to go back and revisit the wise and prudent advice of our Founders. You don't see that or hear that much anymore in the U.S. Congress.

These are big problems our country is facing. I am 63—soon to be 64—years old. We have never faced anything close to what we are facing today. How we react and how we respond is going to make all the difference in the world—not only for our short-term future but also for our long-term future.

I hope the American people who are listening right now understand that we are going to do what is necessary to help get the economic process of our country running again in a better and viable way. I hope you will dismiss the partisan rhetoric and the class warfare rhetoric that is all too commonplace today. If we will focus on what the problem is rather than the next election, we will have a great deal more success in coming together and forging solutions the American people can be proud of and we will actually move our country ahead.

With that, 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. BEGICH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CORDRAY NOMINATION

Mr. BEGICH. Madam President, first, I want to comment on the Cordray appointment that was attempted a little bit ago, and then I want to bring up some more good news on the economic front.

First, I was somewhat disappointed in the vote of 54 to 45, garnering only 1 Republican from the other side—only 1—and on such an important agency that ensures the protection of consumers in a variety of areas. It seems illogical to me that we would not find compromise in a vote to appoint someone to run an agency that this body, in a 60-vote margin, approved to help protect consumers, particularly considering what has happened over the last several years and the glaring problems and challenges consumers have had to endure with the financial institutions of this country as well as from other entrepreneurs, such as pawnshops and payroll check cashers. All of these institutions would have firm regulations and provide the consumer an opportunity to respond, or those who get abused by those programs.

I am a little disappointed. I wasn't intending to come and speak on that issue, but I wanted to have my voice on the floor that I was disappointed that an appointment could not happen, which I believe is raw politics. It has nothing to do with the individual's ability to make this agency run properly. They didn't want to appoint him because they didn't like the agency—the 45 or so who didn't vote for it. And I think it all boils down to one very simple thing: Consumers are now, once again, left without someone running an agency that will help protect them against these people who prey on individuals in the financial arena.

THE ECONOMY

Again, Madam President, I am somewhat disappointed, but let me get to the real reason I came to the floor. I came down yesterday and had a lot to say about the economy and where we are and the headlines that were reported yesterday. And in less than 48 hours—27 hours—there are more good news headlines.

These are some of the headlines I talked about yesterday: ''Jobless Rate Dips to Lowest Level in More Than 2 Years.'' New York Times. CNN: ''Dow Closes With the Largest Gain Since March 2009.'' ''Private Sector Jobs Soar. Payroll Forecasts Rise.'' That is Reuters. The Wall Street Journal: ''Online Sales Reached Record $1.25 Billion on Cyber Monday.''

On top of that, we had record sales for Thanksgiving weekend—Black Friday they call it, and Small Business Saturday. Again, an incredible impact for our economy.

What this tells me—even though we get a lot of criticism from the other side and others who complain maybe we are not doing our job and are frustrated that Washington isn't working as well as it could—and I agree there are a lot of areas where we are not able to move forward, such as the appointment I mentioned a few minutes ago—is there are good examples of policies we have worked through over the last 3 years during this great recession. We have fought kind of a lonely war to get these policies in place.

Once again, more good news, and let me read off a couple. This week's Time magazine has a whole article entitled ''How America Started Selling Cars Again.'' Why is this important? Because this is a manufacturing base for our country. It employs people not only in jobs in the automobile industry but it trickles all the way through the economy of the country. It doesn't matter if they are at a port, for example.

I remember meeting recently with the folks from the Detroit Port Authority talking about ships and the movement of product from the automobile industry across this country, but also manufacturing and other activities throughout the country that support the automobile industry. It is moving forward. It is growing.

We took a dramatic step and got a lot of criticism for it. As a matter of fact, no one wants to even mention the words, because everyone is so nervous about it. Some call it an auto bailout. And, yes, we did do that. That result is a healthy, strong, profitable industry that is bringing jobs to America and creating jobs in America. As a matter of fact, there was an article in the Wall Street Journal not long ago talking about how we are importing jobs from Japan and China back to the United States, to the automobile industry, because it is successful.

And, oh, by the way, they are paying back all those loans they got from the Federal Government with interest. So the taxpayers are getting their money back in full. The net result is, because we helped at the right time, we have ensured we are still a player in the automobile industry not only in this country but in the world market. So for those who want to continue to complain and to demonize that action, the net result is we are bringing jobs back to the United States in this industry.

The Cash for Clunkers Program was another piece of legislation that barely passed. Again, many of us on this side of the aisle took that lonely road because we thought it was the right thing to help move this economy forward. Again, the net result is this industry is profiting more in the last several years. They are producing more jobs not only in their industry directly but indirectly. And the naysayers on the other side rarely bring this up anymore, because in less than 3 years—really, less than 2 years—this industry has turned itself around because of American ingenuity and with the help and support from the U.S. Government, and that help and support is being paid back with interest in the good old American way.

So from my perspective, once again, this is a great story, and I commend Time magazine for talking about the future.

Let me also talk about another one. This is from CNBC. I pulled this off because I like looking at all the business magazines and Web sites every morning. I glance through quickly to see what is happening, what the markets are doing, what the industry is doing, who is investing, what are the new businesses, and what is happening out there. Here is this one: ''U.S. Mortgage Applications Jumped Last Week.''

This is the industry that fell apart in the beginning of the great recession—the housing industry. A lot of people say that was the main reason the economy collapsed. It was a significant portion of it, no question about it. But let me read this.

The Mortgage Bankers Association said its seasonally adjusted index of mortgage application activity, which includes both refinancing and home purchase demand, spiked 12.8 percent in the week December 2. The MBA's seasonally adjusted index of refinancing applications also jumped, gaining 15.3 percent, while the gauge of loan requests for home purchases rose 8.3 percent.

By loan requests, these are people who are now saying, I want to think about buying a home. I want to purchase today. I want to start examining what is out there.

Here is what the Mortgage Bankers Association's vice president of research and economics said. These are his words:

Applications increased significantly as mortgage rates dropped to their lowest levels in about 2 months.

Actually, overall, it is the lowest level in decades. But we now measure things by an eighth of a point. So when you are at 4.125 or 4.25, we are now measuring which is lower overall, but it is lower for the last several decades. Incredible.

Let me read another one. This is from Politico, but it is reporting on the Bloomberg Global Poll—which they started doing in 2009 to sort of see where foreign investors will put their money. Where will they invest? Where will they take the dollars they have accumulated or will gather through investors and shareholders and so forth? Where are they going to put their money?

More than . . . 41 percent, said they expect the U.S. will have one of the strongest performing economies in the world in the coming year—the highest percentage the country has seen since the Bloomberg Global Poll began in October 2009.

Here is another one. Today, again MSNBC. ''Jobless claims drop to 9-month low.''

. . . jobless claims dropped 23,000 to adjusted 381,000—

That is actually below the magical threshold of 400,000, which people watch. The question is, Will it be consistently under 400,000? We have received more of these under 400,000 recently than in the last 3 years. That is a good signal that the economy is moving.

I know some will say it is not enough. Well, when I came here, half a million people were losing their jobs every single month. So we have now had 21 consecutive months of job growth in the private sector. That is a great statement for us as an economy, this 21 consecutive months of job growth. It is an indication our economy is moving.

Do we want it to move faster? Of course we do. That is what America is about. We want to see things happen right now—today. But this has been called a great recession. Yet we are pulling ourselves out of it. It takes time and it takes good policy. And, yes, it takes some opportunity and taking a little risk, and we did some of that here. We made some decisions that were tough and were not necessarily very popular at times.

I remember many of the calls I received on some of these issues. But what is the end result? That is what we have to measure by. Leadership is not about waiting for a poll to tell us what is right or wrong or waiting for someone to say, here is the right move because your constituency will vote for you if you do this thing this way. It is about leadership. Sometimes the leadership role is tough. It means getting a few trucks running over you a little bit, leaving some tire tracks on your back, but the end result is what we look for.

Today, where we are, we have job growth—not as significant as we want but job growth. Where were we? Half a million jobs a month disappearing.

Let me cite another one. This is a big issue people are concerned about. As a former mayor, managing a city, you are always looking at the revenues because the revenues tell you how your local economy or, if it is State revenue, how your State is doing. If you remember, at the end of 2008, 2009, and beginning of 2010, there was incredible concern about local governments collapsing under the debt and deficit spending and unable to manage.

As a matter of fact, the markets were concerned about municipal and State debt and what that might mean. Oddly enough—and I wish I had brought that article—it hasn't panned out as people thought. Local governments, State governments are doing better than people anticipated. It is still a tough road, no question about it. We still have firefighters, police officers, and teachers who have been laid off. We tried to pass a bill here to help that out, but that didn't happen because too many on the other side opposed it.

But for State and local governments, here is the latest State revenue report by the Nelson A. Rockefeller Institute of Government, University at Albany, NY: ''Overall Tax Revenues Show Strong Growth in Second Quarter.'' The article speaks to State tax revenues growing by 10.8 percent in the second quarter of 2011.

As a matter of fact, the year ending June 2011—which is the end of a lot of fiscal years for State and local governments—the period corresponding to 46 States—almost all of the States' fiscal years—total State collections increased by $58 billion in that year, or 8.4 percent, from the previous year, the strongest annual gain since 2005.

What does that mean? That means local economies, State governments, are starting to recover. It is still a rough road but starting to recover. Good signs. That means there is more economic activity within their communities. It means businesses are replanting and redesigning their opportunities in those communities. People are buying homes, as I mentioned, which means they are paying property taxes, which means those local governments can hire police and fire and paramedics and teachers.

Again, I could probably come here every day and give this kind of good news. Because what we all hear—today, the market is down. I forget what it is—70, 80 points, maybe 100 today—but the headlines will be: market crashes or market dips significantly.

Here is the reality. Since March of 2009, the market is up, even with today's activity, 81 percent. That means my son's 529 account is better today than it was 3 years ago. That is good because that means my wife and I can afford to make sure he can go to college someday. But it also means retirement accounts have more resources in them today than they did 2½ or 3 years ago. It means public pension programs and investment retirement programs that invest in these kinds of markets also are doing better. But, again, the headline will be that the sky is falling because that is what people like to do. They like to prey on fear rather than opportunity.

I think a lot of us on this side believed in the opportunity, in the future of this great country 3 years ago when we sat here and made some tough decisions over the first 18 months in my term. Tough decisions. But we believed in what was possible. We believed that this economy would turn around with a little help from the people who live here, work here, and see the future.

We also knew we had to do a little bit. We had to do something extraordinary to create the opportunities for the future of this great country. As I mentioned, private sector jobs increased, the automobile industry better than ever before, home sales doing better than they were 2½ years ago, the market is up by 80 percent—all good news. But we don't hear a lot of those as the front-page, above-the-fold, big, bold headlines because they are not sexy. They are not controversial. But that is what is happening. If a lot of us around here had more belief in the potential, it would be incredible what could happen.

Let me end on this note; that is, we are in the middle of the debate on continuing tax relief for the folks who are working every day, the people I just talked about who are buying homes, buying cars, paying taxes. We are saying to them: We want to make sure you continue to receive the dollars in your pocket.

In my State, that is $300 million—just in my State, $300 million with the payroll tax deduction that they get to keep for 400,000 Alaskans instead of the IRS taking it. I don't know about you, but I think that is a good thing.

I know some will say: We have no proof this works. Well, I just gave proof. I will give proof every day if necessary. Yes, we can't say this certain industry came back because of this one little item. But I will tell you, if we put $300 million in my State into the hands of 400,000, Alaskans, a little over $1,000 per person, the net result is they are going to spend that money in the economy. They are going to buy that car, that washing machine, or go on that vacation. They are going to spend that money in this economy. Yes, there is no fancy report that said this business succeeded because we gave them this special tax break—which we shouldn't do. We gave to the people of this country an incredible opportunity to take their money and put it to work.

Mr. President, 160 million families will benefit—160 million families will benefit by this action today. People making $50,000 or less will put back about $1,000 into their pockets again—not in the IRS's pocket but into the consumers' pockets that they will spend.

Again, I will hear from the other side how bad it is, that there is no proof, that this may not work. It is working. They can deny it all they want, but I will continue to lay all the facts down. It is not me producing this out of some government document. It is mostly some very conservative publications reporting on the good news.

I hope the folks on the other side—and I know we picked up a Republican from when we had this before. This is a modified, compromised version that didn't pass last week to say: OK, we are trying to compromise. But we are keeping it simple and trying to do it in a way that ensures that middle-class Americans, and Alaskans whom I represent, put more money in their pockets, people who are working every day, making a difference in the economy—not people who are just on the top end of the cycle. I know that is the great debate, and we differ and I differ with several people on the other side.

I do believe people who make $1 million or more should pay a little bit more. I don't have any heartburn over that. It is 235,000 people we are talking about versus 160 million. That is who I want to put my investment in because I know those people, who are individuals, families, and a significant portion of small businesspeople who will continue to build this economy.

As a matter of fact, the best growth period and growth pattern right now is small business. They are the ones that are the backbone of this economy. Those are the ones that we need to help. That is what this bill does. I hope we find the magical success.

I wish we would have 50 majority votes like the rest of this world operates under. For some reason, this place has to have special rules and make it complicated and hard for anything to get done. But maybe there will be some people who join and want to support the American people and support giving them tax relief and making sure their lives are better, especially at this time of year with Christmas around the corner. I would love to give them a good Christmas gift. I think all of us would. Let's do it. Let's do it today. Let's do it for the American people. Let's do it for my constituency in Alaska, for your constituency, Mr. President, and all the rest in this room.

Mr. President, if there is one thing I look for, if it makes a difference for Alaska, if it is about Alaska, I am there. This is not only about Alaska, it is about this country. It is about the middle class. Not only am I there, I am double there, and I hope we find opportunity in this Chamber to do the right thing.

Mr. President, I ask unanimous consent that any time spent during a quorum call between now and 2:30 p.m. be equally divided.

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

The Senator from Nevada.

Mr. HELLER. Mr. President, today the Senate will consider my legislation again to extend the temporary payroll tax cut.

This week, the Senate has been given another opportunity to do the right thing and provide much needed relief to the American worker.

It shouldn't be news to anyone that Americans are desperate for solutions. Millions of Americans are unemployed, underemployed, or have simply given up looking for a job.

In between looking for a job or higher paying employment, Americans are busy trying to figure out how to handle high health care costs, looming bankruptcy, and the threat of foreclosure.

As a Senator from Nevada, I understand how difficult it is, perhaps more than any of my other colleagues. My State has the unfortunate distinction of leading the Nation in unemployment, in bankruptcies, and in foreclosures. I hear from my constituents every day on these issues. Nevadans—Democrats, Independents, and Republicans—are looking to Congress for answers, and they are frustrated that they are not getting them.

Even with the economic difficulty Americans across the country are experiencing, Congress appears to be prepared to stage a partisan standoff rather than extending a payroll tax cut for hard-working Americans. I cannot allow this to happen. Americans deserve solutions.

The plan I have introduced to extend the payroll tax cut is a workable solution that will provide relief for Americans responsibly. In fact, the solution I am proposing today borrows a cost-cutting idea from the bipartisan Simpson-Bowles Commission that can actually pass Congress and be signed into law.

My proposal allows American taxpayers to hold on to more of their hard-earned wages while not punishing the Nation's job creators as the majority proposes. Under my plan, American taxpayers will not see a tax increase. In fact, my plan prevents a tax increase on those already receiving a payroll tax credit. Today, Congress can do the right thing by allowing employers to continue to invest in their businesses so they can plan for the future and, of course, hire more workers.

I understand that Democrats would prefer to pay for the payroll extension by raising taxes on employers. But treating tax dollars responsibly is absolutely necessary if we are going to see long-term economic growth in this country. In this case, we can extend the payroll tax cut and still pay for it.

I also understand that not all Republicans support my plan. To be honest, I disagree with some of my colleagues who claim a payroll tax holiday is not necessary. I believe that we should allow more Americans to hold on to their hard-earned wages. For those who are already struggling to live within their means, this payroll tax cut will continue some much needed relief.

Today, I am asking my Republican and Democratic colleagues to come together and join me to help continue the payroll tax holiday without raising taxes on businesses in America. This will help preserve long-term job growth in the future.

My proposal is a workable solution containing provisions endorsed by both the majority and my colleagues in the House of Representatives. This is the only version of the payroll tax cut that has the potential to pass Congress and to be signed into law.

My proposal pays for the payroll tax cut by reducing government spending where it is no longer needed and requires the richest Americans to pay higher premiums for Medicare. This will allow us to strengthen and preserve Medicare for those Americans who rely on the program the most.

This is the same approach endorsed by Democrats who say the richest Americans should do more. Americans want solutions. They do not want more partisan bickering.

This week Congress has another opportunity to do the right thing to help hard-working Americans extend the payroll tax cut holiday.

I make calls back to my home State every week. In those calls, I ask Nevadans if they think their children will have access to a better, brighter future than their own. For the first time in history, a majority of Americans and a majority of Nevadans believe their children will have less opportunity. By continuing down this path of partisanship, Congress is robbing the American people of the dream for their children. This needs to stop.

We in this body need to seriously consider the high stakes of the political games that continue to unfold on this Senate floor. American workers need solutions and they need relief right now. Congress should come together today, put partisanship aside, and pass meaningful legislation that will benefit all Americans.

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

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

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

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

Mr. CASEY. Mr. President, I rise this afternoon to speak about an issue we will be voting on today and we have been discussing and debating now for a number of days. We are into our second week of debate about a cut in the payroll tax. Just by way of review—and so many Americans have been following this debate—here is where it basically stands between what we did last year and what we are trying to do this year.

Last year, as part of a larger tax bill, we reduced the payroll tax for employees across the country from 6.2 percent to 4.2. So that 2-percent reduction meant millions of American families were able to have about $1,000 in their pocket of take-home pay they wouldn't have had otherwise absent that action in the tax bill. What we are trying to do this year—and I should start with what I tried to do last week, and we got 51 votes for this—is to say we should not only continue or extend that cut in the payroll tax but we should expand it. So instead of saying it should go from 6.2 to 4.2, we take it down to 3.1. In essence, what we tried to do last week was cut in half the payroll taxes that relate to employees. We wanted to add to that cutting in half the payroll tax for small businesses, and they would benefit disproportionately. Thirdly, we wanted to add to that a tax credit so that if an employer hired or increased wages for employees, if an employer expands their payroll in one of several ways, they can get a tax credit equal to an elimination of the payroll tax. So instead of the usual 6.2, you would be down to zero. So the combination of those three would mean we would be helping employees by cutting their payroll tax in half, helping employers by cutting their payroll contribution in half, and then have this third element as well for employers who actually hired people or added to their wage base.

Unfortunately, in the Senate, because we needed 60 votes and got 51, we knew at that point we couldn't get enough support from the other side of the aisle. So what I did, in working with our leadership and working with folks in the Senate, was to refashion the legislation so that we made it smaller. We reduced the cost of the overall proposal by some $80 billion. We also concentrate on just the element we worked on together last year, which was the employee side.

Here is where we are in this debate about cutting the employee payroll taxes. It is down to this question: Should we cut it to 4.2, as we did last year, or should we cut it further and reduce it in half? I believe we should, and I think most Americans believe that.

Here is what it means to folks out there. Instead of saying we will continue what we did last year—which would be about $1,000 per worker, in essence, per family, on average—if we cut it in half, we can get that number up to $1,500. So it is not just putting money in people's pockets and continuing to do that for another year, but it is more money. It would go from roughly $1,000 to approximately $1,500.

That is where we are. Unfortunately, we are not yet sure we can get the support we need to do that.

Here is what it means to Americans. It means more money in their pockets, more take-home pay, but it also means that if we don't, at a minimum, extend the payroll tax cut from last year—here is what it means on two issues: GDP—gross domestic product—and jobs. According to Mark Zandi of Moody's—someone we have quoted often on both sides of the aisle and relied on his expertise—not extending the payroll tax at least to the 4.2 level would reduce 2012 growth of real GDP in a State such as Pennsylvania, by way of example, by 0.52 percentage points. That means we are talking about gross domestic product or gross State product, in a sense, in a State such as Pennsylvania, cutting it in half instead of allowing it to grow. So this has a real adverse consequence for Pennsylvania and for the country if we don't do what we did last year.

Of course, if we did more than we did last year, as I think we should and I think most people do, we could not only not fall behind, but we could move forward dramatically.

Here is another way to look at it: Jobs. According to Mark Zandi, not extending the payroll tax cut will cost Pennsylvania 19,700 payroll jobs in the calendar year 2012. For context, in the State of Pennsylvania last year, the payroll tax job creation number—or payroll jobs added last year—was 54,500. So we created last year in a State such as Pennsylvania almost 55,000 jobs. But if we don't extend the payroll tax cut this year, we are talking about losing as many as almost 20,000 jobs. This is a substantial factor in the discussion about our economy. It would have a substantially adverse impact if we don't keep the payroll tax cut in place.

As I said before, we should do more than we did last year. We should cut it in half. It would give people across the country peace of mind in two time periods: The next couple weeks when they are going out and shopping and enjoying the holidays. We want people to spend as much as they feel they can, and if they know they are going to get $1,000 to $1,500, they can spend more in this upcoming holiday season. But it is especially important for 2012. Why should taxpayers have to live with a tax increase because Washington just didn't get along and the same old political games were played in Washington instead of saying let's come together in a bipartisan way and extend and expand the payroll tax cut from last year.

We have lots to do in the next couple days and weeks. But maybe the most important thing we can do in the next few days is to make sure we cut the payroll tax again. Because this is about whether we are going to give people peace of mind as we head into a new year and whether we are going to put more money in their pockets in order to jump-start the economy, to give the economy the jolt we got at the end of last year. Last year, we came together and passed a tax bill and we had average job growth from February, March, and April 2011—those 3 months—average private sector job growth of just about 240,000 jobs. We need another 3-month period similar to that. In fact, we need another 6 or 7 or 8 months similar to that. But the only way to get there is to put in place this payroll tax cut.

I hope when we vote later today, we will get at least 60 votes for this effort to make sure we are giving Americans peace of mind and more money in their pockets.

With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent to speak despite the expiration of the majority's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BLUMENTHAL. Thank you, Mr. President.

Mr. President, I begin by thanking my colleagues, many of whom served in the last Congress. I thank them for extending the payroll tax cut at that time, providing a payroll tax cut from 6.2 percent to 4.2 percent. I thank them on behalf of myself. I was not a Member of this body at that time. I thank them on behalf of the American people. They are due that thanks and appreciation for that vision and courage in extending that measure in cutting the payroll tax so as to lessen the recession. We have only to listen to the virtually unanimous opinion of economists to the effect that we saved the Nation, this body saved the Nation from a deeper recession.

Now I ask my colleagues to undertake a similar mission, to accomplish the same goal, to once again save the Nation from a deeper recession. The recovery of this Nation's economy has been fragile and slow. Many economists—notably, Mark Zandi, who has been quoted by my distinguished colleague from Pennsylvania—say that a failure to extend it will mean a new recession. We are talking about average Americans, ordinary people who are hurting and struggling. They are hurting economically and struggling to find jobs. They are struggling to stay in their homes and keep their families together at a time of year when joy and satisfaction ought to be the quality of their lives. They deserve this measure of peace of mind, as my colleague from Pennsylvania, BOB CASEY, has referred to it. But all of us—the entire Nation—deserve the economic security, which is a matter of national security.

Rescuing this country from continuing debt and deficit means returning to full employment. Twenty-five percent of our deficit can be eliminated by going back to lower rates of unemployment.

Economic recovery is a means to countering and curtailing what the former Chairman of the Joint Chiefs of Staff called a national crisis and a security threat.

Economic recovery depends on consumer demand. As I go around the State of Connecticut, businesspeople tell me what they need most is consumer demand. Their confidence and certainty about the future of the economy, their willingness to invest, depends on consumer demand. That kind of factor, that need is what ought to motivate all of my colleagues—every Member of this body—to vote for this measure, not only extending that payroll tax cut but also reducing it by 3.1 percent.

We are talking about anywhere from $1,400 to $1,500 or more in the pockets of people around the country, people around the State of Connecticut. The average middle-class family in Connecticut earns $83,797 per year and would save $1,676 in taxes under the current payroll tax cut. Let me give you those numbers again. The average middle-class family in Connecticut earns $83,797 per year—back in their pockets $1,676 in taxes under the current payroll tax cut as proposed in this measure.

We are talking here about a compromise. Our side of the aisle has modified this bill to make it about one-third smaller in size and cost. This legislation will no longer give employers a tax break. We have pulled back on the magnitude of this measure. But it will still affect 160 million workers who will receive nearly $1,500 in additional take-home pay.

This bill will be paid for by measures that were coming from the deficit reduction proposals contained in a number of the supercommittee's ideas. It is paid for by fees charged by Fannie Mae and Freddie and by a proposal suggested by my colleague, the Republican leader. The cost-saving reform suggested by him would make millionaires ineligible for unemployment compensation and food stamps.

This legislation also levies a surcharge, a temporary 10-year surcharge, on the highest earners in American society, who can well afford it when their own interests would be extraordinarily well served by the consumer demand and economic recovery that would be generated.

I know many of my colleagues, including the Presiding Officer, are concerned about the effect on Social Security, and so am I. The Social Security trust fund is a trust, a sacred trust that we are honor bound to protect. And I would not vote for this measure if I thought it created a threat, a real threat, to the viability of that fund. But I believe the assurance we have received from the chief actuary of that fund—and it is contained in a letter to Secretary Geithner and to Jacob Lew, it was printed in the CONGRESSIONAL RECORD yesterday by Senator CASEY, and it assures that the effect would be negligible. In fact, it says the trust funds would be ''unaffected.'' It uses that word, and I will quote directly from the letter.

> We estimate that the projected level of the OASI and DI Trust Funds would be unaffected by enactment of this provision.

That letter comes from the chief actuary of the trust fund, and I am prepared to rely on that assurance and to say that I believe this kind of measure is the responsible thing to do at this point in our economic history to make sure our recovery is continuing.

The effects of failing to do so: The economists differ whether the rate of growth will suffer by .5 percent, which is Mark Zandi; or .66 percent, Goldman Sachs; or 1 percent, RBC Capital Markets; or 1.5 percent, Michael Pond. Whatever the specific percentage, we know it will be grave and serious in the damage to our economy if we fail to extend and enlarge the tax cut.

So I urge my colleagues to heed the voices they are hearing back home, as I am hearing from ordinary citizens, middle-class families.

We are talking about a middle-class family measure that will benefit people like Marilyn in Bloomfield, who writes to me:

> I believe these cuts need to remain in effect in order to avoid deepening the recession we are in. I urge you to support the President's jobs plan and pass as much of it as you can in upcoming legislative sessions, for the benefit of struggling families.

She writes and she says ''to urge you to vote in favor of extending the payroll tax cut for workers beyond Dec 31. . . .''

Listen to people like Ginny. They are in every one of our States. Ginny, who is from Southport, CT, writes:

> I know you will do the right thing when the payroll tax cut and increasing the taxes of only the 2nd million and above of wealthy Americans comes up for a vote. I have faith in you.
>
> With the economy still struggling to recover and millions of Americans struggling to put food on the table this holiday season, we cannot afford to raise taxes on working Americans.

Those voices from middle-class families are reaching this body every day. We have heard them before. This body heeded them last year in enacting this tax cut. I thank every Member who voted for it. It was a bipartisan vote. I hope this one will be as well. I will be proud to join Members from both sides of the aisle, and I hope this measure will have support—overwhelming support—from both sides of the aisle in showing the American people we can come together, bridge our differences, and compromise.

This measure reflects a compromise on both sides. I hope it will be passed later in the day.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to proceed to S. 1944, which is subject to a 60-affirmative-vote threshold.

Mr. WHITEHOUSE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—50

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Klobuchar	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	McCaskill	Warner
Conrad	Menendez	Webb
Coons	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feinstein	Murray	

NAYS—48

Alexander	Graham	McConnell
Ayotte	Grassley	Moran
Barrasso	Hatch	Murkowski
Blunt	Heller	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sanders
Coburn	Johnson (WI)	Sessions
Cochran	Kirk	Shelby
Corker	Kyl	Snowe
Cornyn	Lee	Thune
Crapo	Lugar	Toomey
DeMint	Manchin	Vitter
Enzi	McCain	Wicker

NOT VOTING—2

Kerry	Kohl

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

The Republican leader.

TEMPORARY TAX HOLIDAY AND GOVERNMENT REDUCTION ACT—MOTION TO PROCEED

Mr. McCONNELL. Madam President, I move to proceed to S. 1931.

The PRESIDING OFFICER. Under the previous order, the motion is now pending.

The majority leader.

Mr. REID. Madam President, this will be the last vote of this week. We will have a couple of votes on Monday night. I will announce later as much of the schedule as I am able to do. Right now, I can't do that, but I will before the day is out.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided.

The Senator from Pennsylvania.

Mr. CASEY. Madam President, what is about to happen is we are going to be taking a vote on a measure that got 20 votes last week—this same vote. I don't know what the vote will be today, obviously, but this is an exercise in futility to vote on this again.

What we should do is cut the payroll tax in half for American workers. That is what we have been trying to do. I hope we can continue to work together, but we should move beyond this measure that got 20 votes last week and cut the payroll tax in half for 160 million American workers. We should do that and give people the peace of mind and dollars in their pockets they would not have otherwise.

I urge a ''no'' vote on this motion, and I hope we can continue to work together to support the American worker.

The PRESIDING OFFICER. Who yields time?

Time is yielded back.

Under the previous order, the question is on agreeing to the motion to proceed to S. 1931, which is subject to a 60-affirmative-vote threshold.

Mr. CORKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 22, nays 76, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—22

Ayotte	Heller	Portman
Barrasso	Hoeven	Risch
Brown (MA)	Hutchison	Rubio
Cochran	Lugar	Snowe
Collins	McCain	Vitter
Crapo	McConnell	Wicker
Enzi	Murkowski	
Grassley	Paul	

NAYS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Hatch	Reed
Blumenthal	Inhofe	Reid
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Boxer	Johanns	Sanders
Brown (OH)	Johnson (SD)	Schumer
Burr	Johnson (WI)	Sessions
Cantwell	Kirk	Shaheen
Cardin	Klobuchar	Shelby
Carper	Kyl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coats	Leahy	Toomey
Coburn	Lee	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Warner
Corker	Manchin	Webb
Cornyn	McCaskill	Whitehouse
DeMint	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—2

Kerry	Kohl

The PRESIDING OFFICER. On this vote, the yeas are 22 and the nays are 76. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931. If I were able to attend today's session, I would have supported the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and opposed the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931.•

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we proceed now to a period for morning business, with Senators allowed to speak for up to 10 minutes each until 6 o'clock this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

(The remarks of Mr. SANDERS pertaining to the introduction of S.J. Res. 33 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Florida.

MEDICARE

Mr. NELSON of Florida. I wish to thank the Senator from Tennessee for his graciousness to make a very few brief remarks.

I wish to call to the attention of the Senate that there are some good things that are happening in Medicare. In the health care bill—which was a very complicated piece of legislation—there are a lot of good things. There were some things that are implemented over time, that if mistakes had been made, we can correct those mistakes as they are starting to be implemented.

I wish to point out some of the salutary things that are happening under the new health care reform bill with regard to Medicaid. It was just this week that the agency that runs Medicare, the Centers for Medicare and Medicaid Services, CMS, announced that more seniors and people with disabilities on Medicare are seeing significantly lower costs for important health care because of this new law.

For example, what we are seeing for the first time is that millions of Americans on Medicare are now getting free physical exams as part of their preventive medicine. Because of the doughnut hole, which is that complicated black hole senior citizens would fall into when they were getting assistance for their prescription drugs, well, lo and behold, that doughnut hole is being filled by the Federal Government assisting them in paying for those drugs. Therefore, they are getting a lot more of their drugs without having to pay for them.

For example, Nationwide has over 2.5 million people on Medicare who have saved more than $1.5 billion on their prescriptions. If we boil that down to my State of Florida, we have 172,000 Medicare recipients who save $96 million, which is an average for the senior citizen in Florida of $563 per person per year.

In the case of physical exams, we have over 24 million people in the country who now have taken advantage of having one of these free physical exams in order to help with the preventive health care aspects that the bill was aimed at. In my State, where there are a lot of senior citizens, close to 2 million senior citizens have taken advantage of those physical exams.

Remember how we were discussing the doom and gloom of Medicare Advantage? What has happened to Medicare Advantage? We had to change it because Medicare Advantage before, under the previous law, had a 14-percent bump over and above Medicare fee-for-service. The Federal Government was going to go broke if we did