

We have to have economic growth, and we cannot get it by continuing to borrow from our children—really borrowing currently—to spend money to try to jump-start through a sugar high the American economy that is dragging along.

We have this major problem with governmental regulations. I am hearing it everywhere I go—from farmers who are being told they cannot have dust on their farms. When Senator ROBERTS asked an EPA witness how are we going to keep dust down, they said, well, you can have a water truck and go by and water it. Now, how silly is that? They have work rules that keep children in families from helping out on the farm. They have rules dealing with a ditch, calling it a navigable stream. This is regulatory overreach of a monumental degree, and I am hearing it from business, I am hearing it from taxpayers, I am hearing it from farmers all over.

Every regulation needs to be examined. If it produces a positive result for America in terms of health and safety and the general welfare, OK, I am for it. But if it is the kind of regulation that does not produce a benefit but adds to the cost of doing business—costs that add up for the average American consumer—then it needs to be eliminated.

It would help create jobs and help make us more productive, as we work on producing American energy, which creates jobs in itself. That additional production of energy does have the tendency to pull down prices. There is no doubt about it. It may not happen day to day. But as energy reserves are increased, as energy productions and exploration occur and more is produced, it tends to bring down prices. So we need to focus on things that bring down prices of energy. We do not need to be mandating forms of energy that cost 2, 3, 4, 8, 10 times as much as the basic energy we have today.

We cannot afford it. It adds to the cost of doing business. The consumers pay it with their pocketbooks when they go to the store, and when businesses look for a place to build a plant, they look at the rest of the world. If our energy prices are lower and reliable, then they can afford to invest here, hire American workers.

But if our energy prices are too high—and I can cite examples of investments in my State of Alabama that were determined one way or the other based on energy prices. If the price of energy is too high, they go somewhere else. They cannot afford it. They have to seek the lowest price. That creates jobs and growth.

We need to have an Energy Secretary who understands his job is to protect the health and safety of America and produce as much energy as we can at the lowest possible price, not to be engaged in some social engineering. I have to tell you, it troubles me that the Secretary of Energy does not even own a car, he rides a bike. I mean, this

is who is running this country. It is the kind of idea that is not realistic for the average American citizen. People with big salaries and so forth, when the price of energy goes up, it does not bother them. But the average guy, the high prices hit his rent payment, hit his health care, his food, and he has to pay \$100 more a month, \$150 more a month for the same amount of gasoline.

We have small business paying more. Tell me that does not hurt this economy. Tell me that does not raise unemployment. It absolutely does. It is stupid. We do not need to be doing things that do not make sense. We cannot afford it. This Senate needs to be focused not on some unprecedented, unheard of, gimmicked-up complaint that we are now going to have 17 cloture votes on judges, many of whom have been on the Senate floor less than 1 month.

Half the nominees who have made it to the Senate today are now in committee. Senator LEAHY, our Democratic chairman, has not moved them out of committee yet. They will move. He moves them very fast, frankly. How can it be Senator MCCONNELL's fault that they have not been confirmed? It is a lifetime appointment. Judges are not entitled just to be given a lifetime appointment like that. People running for Congress, they work for months and years trying to achieve the job, putting a record out there. So it does not hurt for a judge to be sitting on the floor for a while.

Maybe someone will come forward and say: Let me tell you what that judge did to me or this is what he did wrong or something. Sometimes that happens. So we need a steady process, and we are moving forward well within the traditions of this Senate.

But what has happened is this Senate is obstructing legislation that is coming out of the House that would fix energy, that helps tax reform. There are small business growth proposals that are on the floor now, they are not even being brought up. They are being obstructed by Senator REID and the Democrats. That is a fact. I am not making this up. So this is a body that is not doing its job. The House produced a budget. They produced a historic budget. That was realistic. I would like to have seen them go a little further, frankly.

We may not have agreed with everything in it. But it was a historic budget. It changed the debt trajectory of America. It began to bring our debt on a downward path instead of this surging, upward path we are on. They did it last year and they are going to do it again this year.

What is the Senate going to do? Nothing. We are not going to have a budget for the United States of America. It is a sad day. I feel strongly about this. I have seen the debates over judges. I saw fabulous judges, like Justice Alito on the Supreme Court, be filibustered. I saw Chief Justice Roberts' nomination sit for a long period of

time when he was nominated for the circuit bench.

Alabama's fabulous Justice Bill Pryor, now on the Eleventh Circuit, was blocked for months and months and months. Janice Rogers Brown, Supreme Court of California, African-American, great justice; Priscilla Owens, "unanimously well qualified," Supreme Court Justice of Texas. She was fabulous. They held them all.

The only ones they confirmed were the two judges President Bush had graciously reappointed, whom President Clinton had nominated but were not confirmed at the end of his term. I will close by saying we do need to work on this issue of what the Senate needs to be focusing on. I believe it needs to be focusing on a budget, energy, taxes, regulations, things that will make a difference for America, make our country stronger and healthier and more productive and more competitive without adding to the debt.

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

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

The legislative clerk proceeded to call the roll.

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

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

#### JUDICIAL NOMINATIONS

Mrs. BOXER. Madam President, I was listening with interest to my good friend from Alabama, a man I work with very closely on a number of issues. But on this one, we see the world a little differently. He has made his point that Democrats held up a lot of judges and so on. I understand that. But there is no comparison. Facts are stubborn things. We need to look at the facts when it comes to voting on judges.

I just wanted to share, before I talk about the highway bill, this one chart: "Judicial Nominee Wait Times." These are the facts. This is not made up. These are the facts. With President Clinton, we see the wait time. With Bush, we see the wait time. Obama, we see the wait time—way over 100 days. So we are going from 10 to 20, to over 100 days.

This tells the story. If people want to know why our majority leader has decided to bring up all these judges today, it is because of this. We have emergencies in some of our courts where they do not have the judges. These judges are so well qualified. We have one amazing judge awaiting to be confirmed from our Central District. I think he is about third on the list. He received a great vote out of the committee. These nominees have put their lives on hold.

This may sound odd, but my favorite part of the Constitution is the preamble. I read it a lot. When I go into

the schools, I talk about it to the children. We discuss what it means. When it says, "We the People of the United States, in Order to form a more perfect Union, establish Justice . . ." that is the first reason. We want to form a more perfect Union, and the first way to do it is to establish justice.

How can we have justice if it is so delayed? How can we have justice when it is politicized? I think this says it all. So as we go from a bipartisan bill into this, unfortunately, the partisan waters, I think it is important to the people of the country to understand, we do not want to pick a fight at all. We want to get things done around here. Democrats want to get things done. We have proven it by reaching out to our Republican friends on the highway bill and many other things—payroll tax. On the judicial nominees, we want to do the same.

I wished to just make that simple point before I get back to the reason I am on the floor; that is, to complete work on the Transportation bill.

#### TRANSPORTATION

The Chair is a member of the Environment and Public Works Committee. She has been instrumental in getting this bill to the floor. People asked me yesterday—some of the press people—what it has been like to get this bill to the state it is in now, passing the Senate. I say: People like to say, watching a bill become law is watching someone making sausage. I said: It is a lot messier than that. It truly is. This bill was almost derailed because someone wanted to talk about contraception. Then we had issues that had nothing to do with the bill, dealing with offshore oil drilling and issues dealing with pipelines and issues dealing with extraneous matters.

But we got through it all. We got through it all for one main reason; that is, the desire of the vast majority of Senators, certainly not all—there are some on the fringes who do not want to do this bill—but the vast majority of Senators want to get this bill done. Why is that?

It is because this is a bipartisan program that has been in place since Dwight Eisenhower was President, a Republican President, who clearly stated—because he was an expert on logistics as a general—that we have to move people and we have to move goods efficiently in a first-rate economy.

So I think everyone—not even most people—sees that. Yes, we have a few colleagues in the far corner of the right who want to do away with the highway program. But thank goodness they did not succeed on their vote. They got too many votes for my liking, but that is where it is. But we were able to say strongly, no.

This is a program the Federal Government should play a role in because this is one Nation under God. If one has great roads in their State and the next-door neighbor has not paved any roads, they are kind of stuck. That is why we have a national highway program.

One more reason we got where we are, which is very close to being done with this bill, successfully done, is that we had more than 1,000 groups behind us—way more than 1,000—and they represented Americana. They represented everyone one from the construction workers who are struggling and suffering with a very high unemployment rate to the businesses that employ them, that want to be able to provide the work and want to be able to do what they do best, which is building things. So for all those reasons, we have gotten to where we are. There is one more reason.

I wanted to take my last few minutes to talk about those Members who worked together on this bill, the various chairmen. This is an unusual bill. It is a jobs bill, a huge jobs bill, and 2.8 million jobs hang in the balance. We have had to deal with four different committees together. We have Senator INHOFE, my ranking member, who was extraordinary. He is a hero when it comes to this bill—talking to people on the floor yesterday, from the heart, with the facts, urging them to help us pass this bill. My hat is off to my ranking member Senator INHOFE.

Interestingly, we are on opposite sides on the environmental issues. We really are. We have some very tough arguments and very tough debates. I just see a clean and healthy environment as something we need to do to protect our people. He sees it as a bureaucratic regime to stop business. Through it all, we have never lost respect for one another. We have come together on this issue. There is very little distance, if any, between us. I thank Senator INHOFE.

Senator BAUCUS is chairman of the Transportation and Infrastructure Subcommittee of EPW, and, of course, the very strong chairman of the Finance Committee. I can't thank him enough. He had the tough job of filling the gap we had in terms of money for the highway trust fund. This was not easy. He had to find ways to do it that everybody supported—not everybody but most people—and he was able to get the job done.

With many colleagues on both sides of the aisle, I particularly give a shout out to Senator THUNE, whom I believed was extremely helpful in all of this.

I also wish to thank Senator VITTER, who was the ranking member of the Transportation and Infrastructure Subcommittee of EPW, for his assistance.

On the other key committees, Senator TIM JOHNSON, chairman of the Banking Committee, and Senator RICHARD SHELBY, ranking member of the Banking Committee, could not have been nicer. I called their staffs very often to make sure they would move forward, and they did.

By the way, the EPW Committee was able to vote out a bill unanimously. Everybody supported it, and so did the Banking Committee. I am grateful to them.

I thank Senator ROCKEFELLER and Senator HUTCHISON, chair and ranking

member of Commerce, from the bottom of my heart. They had some difficult bumps in the road. When the bill came out of committee, there was controversy. Working with Senator CANTWELL, we figured out how to get a vote on something she cared a lot about. We were able to smooth out that bump in the road. Frankly, they came together like true champions and were able to get over the partisan differences and come up with a bipartisan bill. So we married together four committees' work—that was amazing—into this Transportation bill. It was bipartisan from day one to this day.

That reminds me of how long we have been on this bill on the Senate floor. It has been 5 weeks, and today I believe we are going to see victory.

In terms of Senators, I have to thank our leader Senator REID from the bottom of my heart. When you are the majority leader—and there have been books written about this—you have to keep the train moving. You have to keep moving with legislation, moving forward. Everything has a deadline and a date. Every committee chair wants their bill on the Senate floor. I know what it is because I have the good fortune of being on the leadership team. He could have easily said: Senator BOXER, Senator INHOFE, I have given you 3 weeks, and we are still not off this. But he stuck with it. I am so appreciative, and so are all the working people and the businesses that rely on this bill.

Our whip, Senator DURBIN, worked so hard, along with his staff. We love his staff. Day in and day out they would let us know what the votes would be like on the amendments. I appreciate it.

Senator SCHUMER and Senator MURRAY in the leadership were pushing this forward.

I also thank Senator MCCONNELL for working with us to get this done.

I also must thank staff by name. I hope I don't leave anybody out. I want them to know somebody asked me what it was like, and I said there is a song called—don't worry, I am not going to sing it—"The Long and Winding Road." It was "the long and winding road" to navigate this bill. It was very difficult.

I have a chief of staff, chief counsel of the committee, who is beyond extraordinary, and that is Bettina Poirier. I think she deserves an enormous amount of credit. She was able to work with all the staff to bring them along so that their concerns were heard from day one to this day. I thank her. Her counterpart on Senator INHOFE's staff Ruth VanMark is an extraordinary person who has been with the Senator for way more than 20 years. She is a tower of strength and has great respect from the colleagues on her side of the aisle, working with them to make sure they knew what was going on.

This bill is a reform bill. It takes 90 titles down to 30. It is a strong bill and a fair bill, and it is paid for.

David Napoliello, there is so much I can say about him and what that man has brought to our committee. This bill is a testimony to his skill. And James O'Keeffe, who works for Senator INHOFE, is David's counterpart. They have all become very good friends. Bettina, Ruth, David, and James have become almost like family working on this bill.

I am holding a list of the incredible people who work for me and worked with Bettina. I will go through the names: Andrew Dohrmann, Murphie Barrett, Tyler Rushforth, Kyle Miller, Grant Cope, Mike Burke, and Tom Lynch.

I know Mike works with Senator CARDIN and the committee, and Tom Lynch works with our committee through Senator BAUCUS. Also, there is Mark Hybner, Charles Brittingham, Alex Renjel, and Dimitri Karakitsos, who were all just amazing.

Lastly, I thank the leadership staff. This became a bill that was so big and involved so many committees. We could not do it without a leadership team working, of course, with the leadership and with the Senators I mentioned, Senator REID and Senator DURBIN. I mentioned before who did the whip count. So I thank the leadership staff, particularly Bill Dauster, Reema Dodin, and Bob Herbert. I thank the staff directors of the key committees who worked on this, including Ellen Doneski, Dwight Fettig, and Russ Sullivan.

Madam President, that was a long list of people, but I felt compelled to come down and do that. The staff—and the occupant of the chair knows this, as she has achieved some amazing things. I am so proud of the occupant of the chair. She knows that having the staff behind us to make sure that every “i” is dotted and every “t” is crossed and every followup is done and every problem a Senator's staff might have is addressed is very important. Nobody really knows about this, so once in a while we need to do this. I wanted to do it before we get into the bill.

I ask the Chair, what time do we go back to the bill?

The ACTING PRESIDENT pro tempore. In 2½ minutes.

Mrs. BOXER. I will then speak more about the bill because we have some amendments.

Can the Chair advise me what the order of votes are on this Transportation bill?

The ACTING PRESIDENT pro tempore. The first amendment in order is No. 1810. Next is Carper No. 1870, Hutchison No. 1568, McCain No. 1669, Alexander No. 1779, Boxer No. 1816, Paul No. 1556, and Shaheen No. 1678.

Mrs. BOXER. I thank the Chair. I wanted Members to know about the order. It is likely that several of these will not require votes. I think we will expect at least between, I would say, three and five votes. I think that is a fair indication of where we are going. I

will be back to discuss those amendments at the proper time.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813. Under the previous order, the time until 11:30 a.m. will be equally divided and controlled between the two leaders or their designees. The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and safety construction programs, and for other purposes.

Pending:

McCain modified amendment No. 1669, to enhance the natural quiet and safety of airspace of the Grand Canyon National Park.

Corker amendment No. 1810, to ensure that the aggregate amount made available for transportation projects for a fiscal year does not exceed the estimated amount available for those projects in the Highway Trust Fund for the fiscal year.

Coats (for Alexander) amendment No. 1779, to make technical corrections to certain provisions relating to overflights of National Parks.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

#### JUDICIAL NOMINATIONS

Mr. MERKLEY. Madam President, I am rising to speak about the Senate's constitutional duty of advice and consent on judicial nominations. This power is enormously important. In no way did the writers of our Constitution envision that this body would use their power of advice and consent as a method of undermining the ability of the other two branches to perform their responsibilities.

Indeed, throughout the history of the United States, Senators from both sides of the aisle have taken this responsibility of advice and consent very seriously. This duty requires us to put aside ideology and partisanship because otherwise our constituents, through our inaction, would be unable to obtain the speedy and public trial that is supposed to be their birthright as Americans.

Americans are not thinking of their district courts in terms of red courts and blue courts. They are not thinking of their circuit courts in terms of red courts and blue courts. No, they are thinking about Lady Justice, about justice being delivered in an even-handed and swift manner. When they

see the obstruction of the judiciary that is emanating from the Senate, they are frustrated. They are frustrated. They recognize that when the judiciary is damaged and justices go unappointed, indeed that means delays for cases and that means their right to a speedy trial is taken away. They are thinking about the chaos that results when a case remains in limbo for too long.

So why in the past few years have we allowed partisanship to overtake our duty to maintain a functional judiciary? Simply put: Some Senators in this body, motivated by misguided notions of partisan warfare, have decided to abuse the supermajority power of this Chamber in order to undermine the judiciary.

This bears little resemblance to the Senate of 1976 when I first came here as an intern, when the power of the supermajority was recognized as an exceptional act of conscience to be used only for the most enormous issues, when a Senator would be willing to stand on the floor of the Senate and make his or her case before the American people as to why the simple majority envisioned in the Constitution for this body to act should be obstructed. Now we see Senators exercising their power to obstruct a simple majority and not coming to the floor to defend their position. They are afraid of public reaction to their obstruction of this body because they know the public expects us to be responsible in reviewing and voting on nominees for the executive branch and for the judiciary.

The Senate of 1976 would never have entertained the idea that well-qualified nominees would be routinely subjected to filibusters. Indeed, even throughout most of the last decade, this has not been the case. So imagine my surprise when I came here as a new Senator in 2009, revisiting the Chamber I came to as a youth in 1976, and I discovered the two Senates bore little resemblance to each other; that the reasonably responsive, bipartisan, collaborative body of 1976 had been replaced with a Senate now paralyzed due to the abuse of the filibuster and the supermajority.

Instead of debate and deliberation, followed by up-or-down votes, Senators have even been blocking motions to proceed. In other words, they have been blocking the ability to debate whether to get to a bill in order to debate an issue—two levels removed from actual discussion and decisionmaking.

In contrast to the image Americans have of the filibuster made famous by Jimmy Stewart, who comes to Washington and stands in the well of the Senate and carries on his fight and his argument in front of the American people until he collapses from exhaustion, now the Senator who filibusters can hide from the American people. They object to the simple majority rule, go off and have a fancy wine dinner, while American justice remains unfulfilled. That is not right.