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Senate

The Senate met at 10 a.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, strong to save, we know that You desire to save and not to destroy. Save our Senators from the blindness which is not even aware of mistakes. Save them from the pride that ignores the security of many advisers. Save them from the self-will which can see no flaw within itself. Save them also from the callousness that will not care for those in pain.

Lord, save us all when we put the blame on someone or on something else, and from hearts so hardened that we cannot repent. Today, give our lawmakers a sense of destiny and a deep dependence on Your guidance and Your grace.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 15, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I move that the Senate proceed to Calendar No. 396, H.R. 2072.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to calendar No. 396, H.R. 2072, a bill to reauthorize the Export-Import Bank of the United States, and for other purposes.

Mr. REID. Mr. President, we are now on the motion to proceed to the Export-Import Bank reauthorization bill. I ask unanimous consent that the hour following my remarks and those of the Republican leader be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans the final half.

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

Mr. REID. Mr. President, at 11:15 today the motion to proceed to the Export-Import Bank will be adopted, and there will be up to 2 hours of debate on the bill, and there will be up to five amendments. At 12:30 the Senate will recess until 2:15 for our weekly caucus meetings. As early as 2:15 there will be

up to six rollcall votes in order to complete action on the Export-Import Bank. There could possibly be five votes as part of the order—I have been told they may not all be offered—and then we will have final passage on the bill.

MEASURE PLACED ON CALENDAR

Mr. REID. Mr. President, H.R. 5652 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 5652) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

Mr. REID. Mr. President, I would object to any further proceedings on this issue at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the item shall be placed on the calendar.

Mr. REID. Mr. President, I am happy to announce that Democrats and Republicans have reached an agreement to move forward with reauthorization of the Ex-Im Bank legislation.

This bank helps American companies sell their products overseas and hire workers here at home. It helped private companies add almost 300,000 jobs last year in more than 2,000 American communities. That is why the labor groups, manufacturers, U.S. Chamber of Commerce, and many other organizations have urged the Senate to move quickly to reauthorize this bank, whose lending limit is just about to expire.

The second ranking officer at the chamber of commerce wrote to all Senators yesterday.

Failure to enact this legislation would put at risk . . . American jobs at 3,600 companies that depend on Ex-Im to compete in global markets. . . . Because other countries are providing their own exporters with an estimated \$1 trillion in export finance—often on terms more generous than Ex-Im can provide—failure to reauthorize Ex-Im would amount to unilateral disarmament and cost

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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tens of thousands of American jobs. China, for instance, has three export credit agencies that last year provided \$300 billion in export finance to its exporters—ten times more than Ex-Im provided. This bill would help level the financial playing field in export markets and ensure transparency in Ex-Im's operations.

This is directly from the chamber of commerce.

This legislation helps American businesses export their products instead of exporting jobs. Reauthorizing this important legislation is the kind of consensus proposal that should not result in any kind of a partisan fight. I spoke to Senator MCCONNELL yesterday, and we made the decision that this is the best way to move forward. I am hopeful that the Senate will pass it overwhelmingly, signaling to American businesses that Congress will do what it takes to help them compete in the global market. But while Republicans say publicly that they support this important measure, they have instead insisted on votes on a number of amendments that would gut or even kill the bill.

The chamber of commerce will consider votes on this measure—and any amendments that would weaken the bank—to be keys to determine whether Senators are business-friendly. The extreme amendments offered by my Republican colleagues would certainly weaken the bank. One amendment just eliminates the bank. These kinds of amendments are unacceptable to the business community.

The National Association of Manufacturers issued a similar warning yesterday, which I read here on the floor. We agree, we can't afford to give an inch to our global competitors. Canada, France, and India already provide seven times the assistance to their exporters that America does. China and Brazil provide 10 times the support.

So Senate Republicans are faced with a choice: They can continue to support these extreme amendments that would effectively kill the Export-Import Bank and risk the wrath of the American business community or they can work with the Democrats to reauthorize this bank without adding amendments that would undermine its ability to help businesses grow. We have been told that the House is going to accept no amendments. It was very hard for them to get done what they did. I admire and appreciate what they did do. I am optimistic that my Republican colleagues will make the right choice and help us defeat these vexatious amendments.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, there is a lot of talk on the left these days about the Senate being a dysfunctional institution. And they are right. For the past few years, the Senate hasn't functioned as it should. The question is, Why? In my view, the answer is quite clear: a majority party

that believes it should be able to dictate from above the shape of every single piece of legislation we take up.

The common complaint from the other side, as I understand it, is that because Republicans insist on playing a role in the legislative process around here, we are somehow violating some unspoken rule that says Democrats should always get their way, that we are somehow disturbing the legislative harmony by suggesting we do the kinds of things our constituents want. We have been dealing with this strange view of the Senate in some form or fashion for 5 years but particularly over the past 3.

Here is how it works. Following the lead of our very liberal President, Democratic leaders in the Senate propose some piece of legislation without any Republican input at all. Then Republican amendments are blocked from even being considered. The point in most cases is to draw Republican opposition and ensure that the legislation fails. Democrats then cry obstruction as a way of distracting people from the fact that they basically have given up on governing and done nothing to ensure that our most pressing national problems actually get addressed. Rather than working with us on bipartisan solutions that reflect the concerns and input of our constituents and that therefore have a good chance of actually passing, Democrats blame the other side for obstruction—not only avoiding their own responsibilities as the majority party but handing the President a useful election-year theme on which to run.

What my colleagues and I have been saying for 3 years is that it doesn't have to be this way. Give us an opportunity to play a role in the process and we will work together on bipartisan solutions. Just look at the record. When Democrats blocked all debate and amendments on the Export-Import Bank legislation, it went nowhere. When they agreed to our reasonable requests for input on the bill, that changed. They could have accepted this offer, actually, much earlier, but they didn't because it didn't fit the story line. The same thing on the postal bill—when Democrats blocked all amendments and debate, the bill stalled. When they agreed to a reasonable list of amendments, it passed. The same could be said about trade adjustment assistance, patent reform, FAA reauthorization, the highway bill, unemployment insurance, the doc fix, the payroll tax holiday, and others. It is the same story every time: Poisoned pills are removed, Republican input is allowed, and then things happen.

Republicans have been crystal clear that the Export-Import Bank reauthorization needed some work. Remember, Democrats tried to add it as an amendment to the JOBS Act before the House reached the agreement that enabled it to pass on a bipartisan basis over in the House. But, again, they wanted to do it without giving Senate Repub-

licans a chance to debate or amend on the floor, so it didn't go anywhere. Now that we are being allowed to offer further improvements to the bill, there is a path forward. Republicans fought for the right to make this bill more responsive to the concerns of the American people, who, understandably, want proof that we take our fiscal problems seriously. This is how the Senate is supposed to work, and it has been all too rare over the past several years.

The Founders established the Senate as a place where issues would be resolved through consensus and considered bipartisan debate, so that once that consensus is actually reached, our laws would be stable and we could move on, confident that we had done the right thing.

The Social Security Act of 1935 was approved by all but six Members of the Senate. The Medicare and Medicaid acts of 1965 were approved by all but 21. All but eight Senators voted for the Americans With Disabilities Act of 1990. The idea in all these cases—and many others—was that on issues of broad national importance, on issues that affect all of us, one party shouldn't be allowed to force its will on the other half of the Nation. Yet, over the past few years, Democrats have felt quite differently.

So I am pleased today to see a departure from the Democratic standard operating procedure on this particular piece of legislation before us. Because they have agreed to allow a reasonable amendment process on this bill—something they objected to last month and then objected again even as recently as last week—this bill will be considered today after debate and votes on amendments aimed at improving it.

There is a lesson here: When both sides have a chance to debate and amend, legislation tends to move. But when the majority refuses any ideas that they didn't come up with, things slow down. Let's hope this new process will stick.

NATIONAL POLICE WEEK

Mr. President, this week we commemorate National Police Week 2012 and pay tribute to the men and women in the law enforcement community for their service and their sacrifice.

In 1962 President Kennedy signed a proclamation which designated May 15 as Peace Officers Memorial Day and the week in which it falls as Police Week.

During National Police Week, the Nation's Capital welcomes tens of thousands of law enforcement officers to honor those who have fallen in the line of duty. Among those visiting Washington are hundreds of police officers from my home State of Kentucky, and I want to personally welcome them and extend a special-thank you for their service and sacrifice that they make to keep Kentucky's communities and families safe. Your hard work and dedication is unmatched and does not go unnoticed.

Today we honor the approximately 900,000 peace officers across the country as well as the more than 19,000 officers who have lost their lives dating back to the first known line-of-duty death in 1791, including 163 officers who died in 2011 and 36 officers who have been killed thus far in 2012. In addition, this year we are paying tribute to 199 officers who died in previous years but whose acts of courage and sacrifice were not discovered until recently.

It is with great sadness that one of those officers we lost last year was from the Commonwealth—Officer James Philip “Stumpy” Stricklen of the Alexandria, KY Police Department.

Officer Stricklen was well respected amongst his peers and a leader within the community. He will be sorely missed.

This week the Nation honors Officer Stricklen, as well as all those police officers that have fallen. I would also like to take a moment to remember the families of the fallen. It is only through supportive families that these men and women were able to dedicate their lives to protecting others. May God continue to look after them and may God continue to protect all those, whose daily work is to protect us.

I hope paying tribute to those who serve and especially those who have paid the ultimate sacrifice reminds all of us of the heroes we have all around us, keeping us safe, each day. I encourage everyone to take a moment this week and going forward to extend a thank you to law enforcement officers who have sworn to protect us and keep our communities safe.

On behalf of myself and my Senate colleagues, thank you to all members of the law enforcement community for your service. You have our deepest admiration and respect.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Under the previous order, there will now be 1 hour of debate equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the second 30 minutes.

The Senator from Illinois.

Mr. DURBIN. Mr. President, before I say a word about the Export-Import Bank, I wish to speak as in morning business. I ask unanimous consent to speak as in morning business.

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

SENATE PROCEDURE

Mr. DURBIN. Mr. President, the comments made by the Republican Senate leader about the procedures in the Senate are comments I wish to speak to directly.

First, perhaps to his surprise, let me say I agree with him. The Senate is not what it should be. It is an important part of this government, it is an impor-

tant part of this Nation, and it should be an important forum for the deliberation of critical issues that face us. Historically that is the role it has played.

But what we have found over the last several years is that we have lapsed into a new Senate—and not a very good one, from my point of view. It is a Senate that is overrun with filibusters. Filibusters used to be so rare, one or two a year in the early days and then maybe a few more in the last 50 years, but now virtually every single week. The filibuster is basically shutting down the Senate, saying that we will not go forward to vote on a measure. It has been abused, overused and, frankly, has denigrated the reputation of this important institution.

What are the points of view? The point of view of the minority was well stated by the Republican leader. The minority wants an opportunity to offer amendments. I know the feeling. I have been in the minority in the Senate. It is your only opportunity to have a voice on the floor of the Senate and to express a point of view that may not be reflected by the President or the Senate majority. That is an understandable impulse. The majority in the Senate is usually trying to move an agenda—many times, in this case, the President's agenda—and, frankly, does not want to see this slowed down by an onslaught of amendments. There has to be a happy medium, and that is what we need to see.

The suggestion of the Senate Republican leader that the problem we have with filibusters has to do with the fact, as he said it, that the Republicans insist on playing a role in offering amendments is correct to a point. But I might remind the minority leader, what happened last week? We brought up the college student loan bill. The object was to make sure the interest rate on college student loans did not double July 1, from 3.4 percent to 6.8 percent—widely accepted, widely endorsed by President Obama and by Governor Romney. How about that? Both leading contenders for the Presidency said don't let this interest rate double. You would think that would be an easy thing to accomplish.

What we offered on the floor to the Republicans was an opportunity to bring up the measure and they could bring up their amendments to the measure. That, I think, is what the Senate Republican leader just asked for. How many Republican Senators voted with us to bring up the student loan measure, subject to amendment? None. Not one. So this suggestion that we are in filibuster because we do not offer an opportunity for amendment overlooks what happened last week. The college student loan bill offered ample opportunity to the Republicans to offer an amendment, but they still refused to allow us to proceed to that measure.

Here is what I suggest—perhaps a cooling-off period; perhaps that both sides do sit down and try to work out something that is reasonable.

Some can argue—and perhaps at times I have argued—that the Senate should be an open forum, open debate of many different issues. But in the interest of achieving things here in a reasonable period of time, I suggest what Senator REID, the Democratic leader, did on postal reform was a good-faith effort to come to some kind of compromise with the minority. If you will remember, Senator REID came to the floor and said we will accept relevant amendments to postal reform. We had quite a few of them, if you remember. I think it was a healthy time. It was a rare occasion, unfortunately, on the Senate floor, but it was a good-faith offer by the Democratic leader. It gave the Republicans opportunity to debate amendments. We debated them, we voted on them, and we passed postal reform.

I think we need to find some commonality here, where we can offer to the minority, whichever party is in the minority, the opportunity to offer relevant amendments to a bill. That means, of course, it is an amendment that relates to the subject matter of the bill. Two recent examples show how far afield you can reach. Senator BLUNT of Missouri offered an amendment to the transportation bill on the subject of birth control. Maybe there is some way you can link up transportation and birth control but I will not go there. I will just say that was a stretch to bring that issue to that bill, but he was given the chance. The junior Senator from Kentucky tried on bill after bill, totally unrelated to foreign policy, to offer an amendment on foreign aid to Egypt. That shows how far you can stretch the opportunity to offer a floor amendment.

As I said, there can be moments where we want to do that but as a matter of course around here I hope we will try to find some common ground. Wouldn't it be refreshing if the Senate floor was actually a floor where amendments were offered, debate ensued, and a matter moved to final passage instead of watching us lurch from one mind-numbing filibuster to another? I have said it on the floor before, but a lot of people with cable TV are complaining to the cable TV providers that there must be something wrong with C-SPAN, nothing is happening on C-SPAN. It is the Senate. And many times nothing happens because we are lurching through filibusters.

Today we are going to move to the Export-Import bill.

President Obama challenged us back in 2010 to create jobs by doubling exports of American-made products by 2015. It is a challenge to create and develop new technology, to tap into new markets and create new relationships, to more efficiently ship overseas our agricultural products and manufactured goods. In 2010, exports supported more than 9.2 million American jobs. Every \$1 billion in new exports sales supports 6,000 additional jobs. By doubling exports, we have the opportunity

to create millions of new jobs right here at home, jobs that could put the millions of Americans still unemployed or underemployed back to work.

Last year, Congress passed free trade agreements that will increase exports and provide access to markets in South Korea and Panama for US exporters. The South Korea Free Trade Agreement alone is estimated to support 70,000 additional jobs by opening up Korea's \$560 billion market to U.S. companies.

Earlier this year, I introduced a bill with Senators BOOZMAN and COONS in the Senate and Congressmen CHRIS SMITH and BOBBY RUSH in the House that would boost U.S. jobs by increasing American exports to Africa by 200 percent in real dollars over the next ten years. This broadly bipartisan legislation takes common sense steps. The bill would coordinate the various U.S. Government export efforts aimed at Africa, make sure our Foreign Service Officers have appropriate training on helping U.S. companies understand new markets, and ensure that our Department of Commerce keeps a focus on Africa. And the bill makes a change at the Export Import Bank—a bank which actually makes hundreds of millions of dollars in profits for the American taxpayer.

Our bill empowers the Export Import Bank to be more aggressive in countering concessional—or below market—loans being offered by China and others to help their businesses crack into African markets.

You see this is a global economy and the competition from other nations and industry is fierce. Our government should be helping our businesses—and our workers—crack through to new markets where American quality and standards are in high demand. This isn't corporate welfare, it is smart business. It doesn't cost the American taxpayer anything—in fact it generates jobs and funding. These are all steps that will get us closer to meeting President Obama's challenge.

We have another opportunity to help U.S. businesses export more by reauthorizing the Export-Import Bank that is set to expire at the end of this month. The Export-Import Bank makes loans to firms exporting American-made products. These loans allow businesses—including a large number of small businesses—across the U.S. sell their goods to businesses all over the world. The Bank makes money off of these loans, money that is returned to the U.S. Treasury year after year. The bank has a loan loss rate of less than 2 percent—a figure most banks would envy.

It is estimated that the Export-Import Bank will return \$359 million to the United States Treasury in fiscal year 2013 alone, and according to CBO the bank will return almost \$1 billion over the next 5 years. This money is used directly to reduce the deficit. The Export-Import Bank is responsible for supporting 288,000 jobs at more than

2,700 U.S. companies. Mr. President, 113 of these companies are located in my home State of Illinois, and 80 of those are small businesses.

One of these companies is NOW Health Group in Bloomingdale, IL. This company is a natural food and supplement manufacturer with more than 640 employees, 35 of which are supported by assistance from the Export-Import Bank. According to NOW's Chief Operating Officer Jim Emme, "The flexibility in the payment terms we can offer through our Export Import Bank policy has allowed us to grow our business in existing markets as well as open new ones." NOW has grown its exports from 2 percent of their overall business to more than 10 percent. They could not have done this without the Export Import bank. There are thousands of stories just like this all over the U.S.

The reauthorization increases the Bank's lending cap from \$100 billion to \$140 billion and authorizes the Bank through 2014. Legislation reauthorizing the Export-Import Bank has received overwhelming bipartisan support in the past. Similar legislation reauthorizing the Bank received bipartisan support in the Banking Committee and was reported out of Committee by a voice vote, and a similar Export-Import Bank reauthorization was introduced by a Republican back in 2006 and passed the Senate by unanimous consent.

I hope we can come to an agreement soon to quickly pass a bill to reauthorize the Export Import Bank, a bill the House has already passed with broad bipartisan support. This bill has support from labor organizations such as the AFL-CIO and the Machinists as well as the U.S. Chamber of Commerce and the National Association of Manufacturers.

Mr. President, this is a bill that gives American corporations, large and small, a fighting chance to build the products here in America and sell them overseas, creating jobs right here at home. We live in a world where China—most important China, but many other nations, have government support for their businesses' exporting. This is our government's support for our businesses to export. Boeing has its national headquarters in Chicago and most of their manufacturing operations in the State of Washington. Boeing is competing with Airbus. Airbus is a product, a plane that is created by a conglomerate of European nations which do their best to make sure that Airbus wins a contract. I think it is not unfair that Boeing have the same opportunity, nor Caterpillar in my State, nor many businesses much smaller.

So the Export-Import Bank reauthorization is a good idea. It will create jobs. The amendments being offered on the Republican side, by and large, limit the opportunities to help American businesses. I will be resisting those amendments. I hope we can move to passage of this measure in a timely fashion.

I yield for Senator LAUTENBERG.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

CONFIRMING JUDICIAL NOMINEES

Mr. LAUTENBERG. Mr. President, I rise to join with my colleagues on this side to urge our colleagues on the other side of the aisle to move quickly to confirm highly qualified judicial nominees. They passed review by the Judiciary Committee. They passed all kinds of scrutiny.

We are on the verge of serious economic improvements. As that takes place, we have a lot of parts to keep moving. We must do everything we can to fill the positions that can help, directly and indirectly, to resolve disputes or problems, to help Americans across the country to find work, stay in their homes, provide their children with health care and education. We have to cooperate on all fronts to accelerate the pace of the recovery we see ahead of us.

One of the places both sides benefit is to keep our justice system moving efficiently. People need to know they can get disputes resolved, hopefully quickly, but heard and decided. One of the things that looms large is the trial of those who are charged with felonious deeds, criminal acts. Let's get those who are convicted finally punished if it is called for. But let's make sure that part of our judiciary functioning is moving as rapidly as it can be.

Property rights are at risk. Businesses need certainty about rights and responsibilities. Unfortunately, delays in confirming qualified judicial nominees who have passed the scrutiny of the Judiciary Committee are threatening to grind the wheels of justice to a halt when there are vacancies around. Nearly 1 in 11 judgeships across the country is awaiting the position to be filled. If these positions were physicians, firemen, cops, and 1 out of 11, almost 10 percent of these jobs, were not filled, we would do something as rapidly as we could to get them resolved. At this point in President George Bush's Presidency, the Senate had confirmed 25 more judges than have been confirmed since President Obama took office. These are seriously needed nominees who have been forced to wait nearly four times as long as the Bush nominees to be confirmed after being favorably reported, as I mentioned, by the Judiciary Committee.

As a result, the vacancy rate is nearly twice what it was at this point in President Bush's first term. These vacancies are not some remote problems that only lawyers and academics care about. Judicial vacancies affect the ability of everyday Americans and businesses to see justice served, and countless of them have had their cases delayed.

I am encouraged that we have been able to confirm a number of nominees lately, including two last evening. It is my hope that for the good of the country we will pick up the pace in confirming nominees—particularly as I see

it from our State's point of view. In our State of New Jersey we have three distinguished nominees who have been approved by the Judiciary Committee and are awaiting votes by the full Senate so they can get to work fulfilling their obligation to dispense justice.

One of these people is magistrate judge Patty Shwartz, who has been nominated to serve on the Third Circuit Court of Appeals. She passed with flying colors with an examination of her background. She would be the only woman from New Jersey serving as an active Third Circuit judge and only the second woman ever to represent New Jersey on that court. Her presence would tell women something important about our understanding of where women are in our society. Since 2003 Patty Shwartz has served as a U.S. magistrate judge in the District of New Jersey, where she has handled 4,000 criminal and civil cases. She spent almost 14 years as an assistant U.S. attorney, supervising hundreds of criminal cases, including civil rights, violent crime, drug trafficking, and fraud cases.

I review her qualifications only to make the case that this is a person eminently qualified to sit on the bench. We need her presence there to move the volume of cases that are awaiting review, and she is bottled up here by reluctance on the other side. She passed the test. Let's let her go to work.

John Lacey, past president of the Association of the New Jersey Federal Bar, said that Judge Shwartz is "thoughtful, intelligent, and has an extraordinarily high level of common sense."

Thomas Curtin, chairman of the Lawyers Advisory Committee for the U.S. District Court of New Jersey, said:

Every lawyer in the world will tell you that she's extraordinarily qualified, a decent person, and an excellent judge.

The American Bar Association clearly agrees. They gave her the highest rating of unanimously "well qualified."

Judge Shwartz graduated from Rutgers University with the highest honors. She received her law degree from the University of Pennsylvania Law School, where she was editor of the Law Review and was named her class's Outstanding Woman Law Graduate.

The two nominees for New Jersey's district court are similarly well qualified.

Kevin McNulty currently leads an appellate practice group in New Jersey. He spent more than a decade in the U.S. Attorney's Office in New Jersey, rising to the Deputy Chief of the Criminal Division and Chief of the Appeals Division.

Mr. McNulty clerked for U.S. district judge Frederick B. Lacey after receiving his law degree from New York University, where he was a member of the Law Review, and his undergraduate degree came from Yale University. He was named Lawyer of the Year in 2008 by the New Jersey Law Journal, and the ABA rated him unanimously "well

qualified." I am confident that his work as a judge will earn him similar praise.

Judge Michael Shipp, yet another appointee, has equally impressive credentials. As a U.S. magistrate judge in the District of New Jersey since 2007, he has conducted proceedings in both civil and criminal cases, including ruling on motions, issuing recommendations to district court judges, and performing district court judge duties in cases with magistrate jurisdiction.

Judge Shipp previously worked in the New Jersey Attorney General's Office as assistant attorney general in charge of consumer protection and then as counsel to the attorney general, where he ran a department of 10,000 employees.

He has also worked as a litigator at a distinguished law firm, Skadden Arps, and as a law clerk to New Jersey Supreme Court Justice James Coleman, Jr.

Judge Shipp is a graduate of Rutgers University and Seton Hall University Law School, where he continues to teach as an adjunct law professor—a position he has held for more than a decade.

I review the qualifications of these judges to remove any doubt about whether they could do a good job. They can do a great job. Their backgrounds say they are ready to go to work, and here we are, frankly, seeing them held up, in my view, unnecessarily. Let's get this behind us. There are things on which we can cross the aisle without invading the province of the other Members, and I think we just ought to cooperate on judges. I think I can speak for the Democrats here that we will cooperate. We will consider the judges who are presented from their side, but we want to just get going with judges altogether.

I thank Chairman LEAHY and Ranking Member GRASSLEY for moving these nominees through the Judiciary Committee, but now it is time to bring them to the floor and confirm them. Judge Shwartz, Mr. McNulty, and Judge Shipp have brought honor to New Jersey and to our country, and they deserve to be confirmed. More importantly, the American people deserve to see these vacancies filled so the promise of justice for all can truly be fulfilled.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I wish to continue to emphasize the remarks Senator LAUTENBERG made. I have not been here that long, but what I have seen happen in the last 2 or 3 years where judges appointed by the President of the United States are slow-walked or just ignored or blocked in this body is just outrageous.

In 2007, during my first month in office, I was presented with a Republican judge, coming from a Republican President, approved by my predecessor, Senator DeWine, and my colleague, Sen-

ator Voinovich. I met with her, talked with her, and I sent my approval to the Judiciary Committee. She was confirmed in the second or third month I was here, because I believe the President of the United States should have the right to choose judges as long as they are qualified. That is why I ask that we move forward on these judicial nominations.

In June 2010 U.S. district judge James Carr took senior status, creating a vacancy in the Northern District Court in Toledo, OH. That means that Ohioans seeking criminal or civil justice have to wait, which creates a backlog of too many cases. That is what we have seen happen.

In 2007 Senator Voinovich, a Republican, and I assembled a commission of distinguished Ohio lawyers to find the best candidate for the job. It wasn't in 2007; it was later than that. In 2009 there was a President from a different party, so we updated the commission. This commission, appointed by Senator Voinovich and myself, consisted of legal professionals from the Southern District of the State to suggest nominations for the vacant judgeships for the Northern District of the State. We did the reverse, with lawyers from the north choosing for the Southern District, to make sure there was not a conflict of interest. This commission was very bipartisan. One of them had a Republican majority, one of them had a Democratic majority.

Following Judge Carr's retirement, the commission made a selection. I interviewed three nominees, sent those names to the President, and then the President nominated Jeffery Helmick. Jeffery Helmick is a Toledo native, a brilliant and distinguished lawyer who has earned the respect of his colleagues for doing his job well. Yet for nearly 2 years his nomination has languished. For nearly 2 years he has had to place his defense practice and life on hold, awaiting Senate confirmation. This is no way to treat a public servant.

According to the U.S. Constitution, it is our job to confirm qualified nominees to serve on our Nation's highest court. But as of April of 2012—Senator LAUTENBERG mentioned this, and Senator NELSON from Florida will in a moment—there are 81 judicial vacancies throughout the United States. In my State of Ohio, the court is saying there is a judicial emergency. The nonpartisan Administrative Office of the Courts, the nonpartisan agency charged with running our Federal courts, recently declared a judicial emergency for the Northern District of Ohio.

Mr. Helmick has the enthusiastic support of all of the Federal judges in Toledo, including those appointed by Republican Presidents, was recommended by a bipartisan process created by Senator Voinovich and me, and yet his nomination is still stuck even though there is a judicial emergency and even though he was approved in a bipartisan manner by the Judiciary

Committee. The result is that litigants in the Northern District are experiencing delays in having their cases resolved. In too many cases, justice conferred—as the saying goes—can be just denied.

Our Nation's courts have been a beacon of hope—sometimes, not always—for the vulnerable and the powerless, but this confirmation delay clogs our courts, obstructs justice, and damages our democracy. Maybe some people are playing political games by slow-walking these judges. In the end, they might think it is cute, funny, and they might think they gain politically from it, but it does obstruct justice, it does clog our courts, and it does damage our democracy. So it is not cute, it is not funny, and it is not worthy of any political gains in this Chamber.

Jeffrey Helmick will make an outstanding judge on the U.S. District Court for the Northern District of Ohio. We need to confirm him, and we need to confirm him this month before Congress breaks.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the time on the Democratic side be equally controlled by myself and Senator LEVIN.

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

Mr. NELSON of Florida. That would mean how many minutes?

The ACTING PRESIDENT pro tempore. There is 6½ minutes remaining for the majority.

Mr. NELSON of Florida. For the total?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. NELSON of Florida. Then I will speed up my remarks until I see Senator LEVIN come in.

Mr. President, I, too, wish to talk about the vacancies. There is no sense for all of this slow-walking. Fortunately in Florida we have a process that takes the politics out of the selection of judges. The two Senators appoint a judicial nominating commission of prominent people all over the State, and they do the interviews and they do the selections of at least three for each vacancy. Because they do this in a nonpartisan way—notice what I said. I didn't say "bipartisan," I said "nonpartisan way," which is the way the selection of the judiciary ought to be done. Because they do that in a nonpartisan way, all three of the nominees who come to the two Senators—any one of them can be a Federal judge because they are all so qualified.

Fortunately, with the agreement we have with the White House, the President can name whomever he wants. He agrees to accept the nominee and make his pick from among the three we send him if we approve all three after the two Senators have, in fact, gone through and interviewed them. So we

have a process. Why should there be a delay on judges like that? There absolutely shouldn't.

For example, take one of our Federal judges. Judge Jordan was elevated by the President to the Eleventh Circuit Court of Appeals unanimously out of the Judiciary Committee. At the end of the day, he won on this Senate floor 94 to 5, but he was held up for 4 months. Why? There is too much gamesmanship and partisanship in the process, and particularly coming out of a State such as Florida where it is nonpartisan in the selection of judges.

We have two vacancies in the Southern District and two vacancies in the Middle District of Florida right now. One of the judges is up on the docket. Two others have just come through and had their hearing in committee. The fourth is being vetted by the White House. Let's go on and get approved these judges where there is no controversy.

I see my colleague from Michigan is here. I will turn the remainder of my time to him.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, Members of the Senate have a duty and obligation to carefully consider the votes we take on nominations to the Federal courts. Our Constitution has established a judicial branch with vitally important responsibilities and with considerable independence from the other branches of government. The Founders were right to do so. They were also right to give this body a say on nominations to that independent branch. It is the one chance that the people, through their elected representatives, have to influence the makeup of the Federal courts.

I do not begrudge any Senator the right to carefully question judicial nominees, to carefully weigh their qualifications, and to exercise their best judgment as they exercise their responsibilities that the Founders assigned to the Senate.

The question we must all answer is this: When do careful consideration and the exercise of good judgment become damaging delay? For just as we can fail to serve our constituents by failing to properly scrutinize judicial nominees, we can fail to serve them by failing to act on these nominations after there has been sufficient time for the Judiciary Committee and the Senate to scrutinize them.

Today nearly 1 in 10 Federal judgeships is vacant. Roughly half of all Americans live in judicial districts or circuits in which the Federal courts have declared a judicial emergency, meaning according to the standards established by the Supreme Court, residents face the prospect of unacceptable delays in having cases heard because vacancies have led to a troubling backlog of cases.

It is a precept of Western judicial thought that justice delayed is justice

denied; that even a correct verdict can be without justice if it comes too late to matter to the parties involved, especially if that delay is not justified by the circumstances or the complexity of the case.

The dangers for our Nation in these judicial emergencies are great: First, that Americans may be robbed of justice by unjustified delay; second, that Americans may come to doubt that the courts are capable of dispensing justice because they cannot function effectively; and, third, that in seeking to clear the growing backlog of cases the courts may rush to judgment and may fail to apply the rigor that Americans expect and deserve.

Mr. President, I ask unanimous consent I be allowed to proceed for an additional minute.

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

Mr. LEVIN. The Judiciary Committee has favorably reported 17 judicial nominations that are now awaiting votes on the floor of the Senate. There is no question that the wait for many of the judicial nominees of President Obama has been unacceptable. Under the previous President, at this point in his term the average district court nominee waited 22 days from favorable report by the Judiciary Committee to Senate confirmation. The average circuit court nominee waited 28 days.

By contrast, the average district court nominee under President Obama has faced a wait of 97 days, and the average for circuit court nominees is 138 days. Yet the vast majority of these nominees are not controversial. They enjoy bipartisan support. We should move quickly to confirm these nominees who have been receiving bipartisan backing, particularly, and to review, debate, and act as expeditiously as we can on the small number of nominations about which there is some debate.

There is a great deal of discussion about which party is to blame about the ever-slower pace of judicial nominations. I have my own strong beliefs on that question. Our constituents are best served not by arguing over blame, but by our exercise of the responsibility the Constitution bestows upon us. I simply ask all of my colleagues to consider on each of these nominations the damage done by delay and inaction, and to carefully consider the threat to justice from the growing crisis of delay in our courts. We can and should act promptly on the 17 nominees on the calendar.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues: Senators KYL, COBURN, ISAKSON, and HELLER for up to 30 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THE BUDGET

Mr. JOHANNNS. Mr. President, I rise today with my colleagues to talk about something I think is an issue that without a solution will affect every single aspect of life in our country. I am speaking about our debt crisis, the impending fiscal cliff, and the lack of a budget to address those issues. As I said, I am very pleased to be joined by my colleagues to talk about this issue.

Unfortunately, for whatever reason, the Senate has lacked the will and the leadership to fulfill what I consider its most basic legislative function: writing and adopting a budget resolution. That has gone on for more than 3 years.

While I understand we are rapidly approaching the time where Presidential politics will consume the entire agenda, the U.S. national debt is also rapidly approaching a significant milestone: \$16 trillion worth of debt. We should look no further than Greece or Spain to see what this level of debt would do to an economy if it goes unchecked.

There are so many frightening statistics, but here is one: America's per capita national debt already significantly outpaces that of Greece or Spain. So as we watch them spiral further into crisis, we should be jolted into action by the very suggestion that our debt is equally as alarming. Yet we are unable to pass a basic budget resolution to get our spending in check. That constitutes a lack of leadership.

As I said, I have many colleagues here today who can talk about a better approach. I would like to start today with Senator JOHNNY ISAKSON.

Senator ISAKSON has spent his career working on budget issues.

I say to Senator ISAKSON, what is the impact of no budget resolution for 3 years? Is there a better way? Is there a better way to approach the budgeting process than what we are dealing with now?

Mr. ISAKSON. I thank the Senator from Nebraska for the question and for his service. As a former Governor of the State of Nebraska, he knows full well the responsibility we have in terms of budgets. But I will tell you what the impact of no budget for 3 years is, no discipline for 3 years. The result of no discipline for 3 years is we spend \$10.4 trillion without a budget.

I do not know how good you are with your memory, I do not know how good I am with mine, but if I do not have a budget or a guidepost to go by, and I am spending \$10.4 trillion, I am making big mistakes. I am making big mistakes not with my money but with the money of the people of the United States of America.

Last night I did a telephone townhall back to Georgia. At one time we had a little over 3,200 callers on the line. Question after question, with a very simple question: How can you guys operate without a budget? Why can't you get a budget? Why can't you bring a budget to the floor.

The fact is it is because our budget requirements cast out 10 years of plan-

ning for taxes, 10 years of planning for expenditures, 10 years of planning for the government. A lot of people just do not want us to know what their plans are for the next 10 years.

But every American family in this county has had to sit around their kitchen table, reprioritize their expenditures, and budget what income they have because of difficult economic times. The government should ask of itself only what it forces upon all of its people.

I have a suggestion to consider, a suggestion that 20 of our 50 States practice. Forty percent of our State governments now have a biennial budget. It is a proposal that has been before this body for years. I am proud to be the cosponsor with Senator JEANNE SHAHEEN from New Hampshire. It is a budget process and a discipline that ends this no budget and also memorializes the most important thing we need to do and the least thing we do in this body; that is, oversight.

The biennial budget proposes we would do our budgeting in odd-numbered years and our appropriating in odd-numbered years and do it for a 2-year period rather than a 1-year period. Then, in the even-numbered year—an election year—we would do oversight of spending. We do not ever do any oversight.

The best oversight person in the Senate sits to my right. His name is TOM COBURN. He is going to be the closing act in this colloquy. He is going to show some pictures that cast a lot more than 1,000 words about the duplication of expenditures in this government, primarily because we have no oversight and we have no discipline. We go back at appropriations year after year after year but never look at justifying what we spent in the year before.

So to the Senator from Nebraska, I say to the people of Georgia and the people of the United States, I want to expect of myself and our government at least what is mandated upon you. I want us to begin to be accountable for our spending and hold accountable those who spend that money. I want us to do our appropriations in a balanced way, in a disciplined way, and never again go 1,000 days without a budget, never again have \$10.4 trillion of spending without a budget, never again look the American people in the eye and say: I, as your government, am not willing to do what you must do.

It is absolutely time we stop the redundancy, start prioritizing, and start conducting oversight. When we do that, America will be better off, our fiscal policy will be better off, our debt and deficit will come down, and we will return to those days all of us yearn for, with better prosperity and absolute accountability.

I thank the Senator from Nebraska for giving me the opportunity to expound on the biennial budget.

Mr. JOHANNNS. Mr. President, I thank Senator ISAKSON.

Senator ISAKSON referenced my time as Governor of Nebraska. But I speak

on behalf of all Governors. The Governor has to deliver a budget. In Nebraska, we used a 2-year budget, and that is what makes me proud to cosponsor the Senator's idea. It is the right approach. It simply says we are going to do our very best to get a budget passed and do the oversight necessary to make sure that budget is working.

So I compliment the Senator on his idea. It is definitely a better way forward.

Let me, if I might, now turn to Senator KYL.

I say to Senator KYL, when I was Governor I always had the first shot at delivering a budget. I would deliver it. I would do the State of the State Address. It was not that much different from the way it is done in Washington, with the President's February budget proposal. The State of the Union Address coincides with that.

With my budget—and I think most Governors would say this—even when there was real arm wrestling with the legislative process, I always believed I would get about 90 to 95 percent of my budget proposals across the finish line. It was a serious proposal. There were no gimmicks. It was a balanced budget. It did not borrow money to balance the budget.

I say to the Senator, how do you regard the President's budget submission these last years, and why isn't it getting more support in a bipartisan sort of way?

Mr. KYL. Mr. President, I say to my colleague, first of all, I will repeat what Senator ISAKSON said. As a Governor, you had to balance the budget. You know how to do it. You understand the importance of it. I appreciate the Senator's work on this colloquy today in that regard.

I would note that my own State of Arizona just concluded its work on a budget. It was hard. The Governor had her proposals. The State legislature did its work. It was hard slogging because they had to make tough decisions, but they did. Just last week, they finished the budget in the legislative session.

Families have to do it, States have to do it, but here in the Congress now, under the Democratic control of the Senate, for 3 straight years there has not been a budget.

As the Senator knows, however, the President submits a budget each year. Last year, his budget was, frankly, met with derision from pundits, from experts, and from economists who said it was not a serious proposal. I looked up the number. Last year his budget was rejected 97 to 0 in the Senate.

So what about this year? Well, the same thing. It was not a serious effort. It was a political document. Everybody could see it. So they put it to a vote in the House of Representatives. It was defeated 414 to 0. Not a single Democrat voted for the President's budget. They understood it was not serious.

Well, we will have an opportunity to vote on the President's budget again

this afternoon, and I expect the same fate. Why? Well, three quick points.

First of all, it accelerates our path to national bankruptcy. It fails to address entitlement spending. It has a slew of job-killing tax hikes. And it does nothing to effectuate even the President's own deficit reduction committee plan for reducing the deficit.

Just a couple of numbers: It contains a whopping \$1.8 trillion tax hike on individuals, small businesses, investment, and family-owned farms. Think about the job-killing nature, the wet blanket that puts over our economy—a \$1.8 trillion tax hike. This comes on top of the tax hikes that are already embedded in ObamaCare, which will extract an additional \$4 trillion from the private sector by 2035 according to the Joint Economic Committee. Even with this tax hike, the President's budget would increase deficits by nearly \$6.4 trillion over the next decade.

Now, you stop and think: Wait. Aren't the tax hikes supposed to be there in order to balance the budget? Well, you would think so. But under the President's budget, notwithstanding all of the new revenue from taxes, it increases the deficit by nearly \$6.4 trillion, and it would spend a staggering \$45.4 trillion during the period of the budget, which is \$1.2 trillion higher than the Congressional Budget Office baseline from last March.

I know these statistics are mind boggling, and I hate to cite them. But you do need to back up what you are saying with the actual data. That is the point. The President's budget is a job killer, it increases taxes, and it still never balances.

I would point out that under his budget, while spending would reach 23.5 percent of the economy this year, and never get below 22 percent of GDP over the next decade, the historical average is much lower: 20.8 percent of GDP.

So bottom line, the President's budget would lock in the fourth straight year of deficits above \$1 trillion, and even though the President—and here is what the President said—he promised to “cut the deficit in half by the end of my first term. . . .”

Well, the President's budget would never balance notwithstanding the huge tax increases. That is what is wrong with the President's budget. It is why it is not going to pass today. It is why it did not pass last year.

Mr. JOHANNIS. Very clearly this body is saying, the Senate and the House of Representatives, when they vote on the President's budget, they are saying very clearly: The President's budget spends too much, it taxes too much, and it borrows too much. It does not solve any problems.

I think actually that is the very clear unanimous message at this point from these bodies. This is not a serious budget proposal.

Mr. KYL. If I could add one other item to what my colleague said, we all know the big problem is spending on entitlements, the so-called mandatory

spending. Well, the only thing mandatory about it is that it has to be spent unless we say something different. But we do not have the courage around here to reform our entitlement programs to the point that they are going to be available for at least our kids by the time they retire, and in some cases they may not even be available for some of us.

The other thing I would want to say about the President's budget is it continues this glidepath to insolvency for Medicare, which the recent Trustees Report says has an unfunded liability of \$26.4 trillion. So in addition to spending too much, taxing too much, and borrowing too much, it does not do anything about the biggest problem we have, which is the broken entitlement programs that are not going to work for the people who are currently anticipating they will be there for them when they retire.

Mr. JOHANNIS. Senator KYL makes an excellent point. If I could call on my colleague, Senator COBURN, who, as much as any Member of the Senate, has been the watchdog when it comes to spending and programs that duplicate each other, he has been the person who oftentimes has stood on the Senate floor alone and pointed out to everybody how much waste there is in the Federal Government.

Senator COBURN has been a great leader. He was on the fiscal commission, a member of the original Gang of 6. I would like to hear his views on the budgetary mess we find ourselves in now.

Mr. COBURN. Well, let me, first of all, I thank my colleague. I have a couple of charts that are oversized. The reason they are oversized is because we cannot get it all on one chart. I would ask unanimous consent to display those charts.

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

Mr. COBURN. What most people do not realize is the Federal Government is now twice the size it was in 2001. Think about that. We are spending twice as much money as we did in 2001. As a matter of fact, if we go back 15 years, our deficit this year is bigger than what our entire budget was. That is how out of control the Federal Government is.

There is a political reason we are not having a budget. Everybody understands that. Nobody is going to say that. The political reason no budget was proposed and run through the Senate to create a conference committee with the House is because we do not want to make the hard choices in an election year.

Budgets for families are about making hard choices, and yet here we are supposed to represent leadership in our country. We refuse to make hard choices about the direction.

I had the great opportunity to speak with some members in the War College class not long ago. We got into talking

about budgets. They said: Do you realize how difficult it is for us to try to spend money when you send us a continuing resolution, and we do not know about it until 10 days before it is going to take effect, how difficult it is for us to try to manage in a prudent way the money that the Federal Government spends when we have no budgetary guidelines? There is waste out the kazoo when you ask us to do that.

So regardless of the fact that there is a law that says we will pass a budget, which has been totally ignored by the majority leader, the consequences of that are tremendous. What most people talk about is how do we get out of the problem. What I would put forward in terms of our budget, there is not a problem in front of our country we cannot solve.

What we lack is leadership to pull us together as Americans to say: Here is the problem. Here are the solutions. Let's find a compromise in the middle for the solution, and let's solve our problem. We have refused to do that. But, most importantly, we refuse to look at ourselves.

I have a couple of examples. The GAO put out its second annual report—the first one was last year, the second annual report this year—in terms of duplicative programs. We have had amendments on this floor fail routinely that said we ought to know what we are doing before we pass another bill. We ought to know what is already out there. That has been rejected by my colleagues.

But I am going to show charts that show how ridiculous we are in terms of how we are well meaning but absolutely stupid in terms of how we address problems that we perceive is the Federal Government's role.

The GAO put out a list of duplications. I am just going to read a few of them. I have given speeches on the floor on others, but there are 209 different programs—209 different programs in the Federal Government for science, technology, engineering, and math initiatives for our educational system. We spend \$3 billion a year on that.

The overlap is unbelievable. Here is the chart that shows all of the different programs with all of the different agencies involved, all of them overlapping, most of the money wasted in terms of how we spend it because there is no concentration, there is no coordination, and what we have is a ridiculous array—not that it is wrong to want to have more science, more technology, more engineering, and more math students. But we are spending all the money on the bureaucracy when we could have five programs: one for upper level, one for lower level, one for minorities, one for disadvantaged, and one for others. Here is the complex. It is mind boggling how many programs we have, and there is not a metric to measure whether any one of these is effective. That is \$3 billion a year.

We could have one-tenth as many programs and spend one-half as much

money and have more students come out with science, technology, engineering, and math backgrounds. But we have decided to do it piecemeal and never do the oversight and never consolidate. If we wanted to get out of a \$1 trillion deficit, we do it \$1 billion at a time, not do it with \$1 trillion at a time.

The other program, which is even more difficult to ascertain, is in the Department of Justice grants. Let me go through those just for a second. There are 253 duplicative programs in the Department of Justice. We spend a total of \$3.9 billion a year, and here is what the GAO tells us. People who apply for one grant in DOJ—for one thing—turn around and apply for it somewhere else for exactly the same thing. The Department of Justice does not know they just gave them two grants for exactly the same thing because there are so many different grant programs and nobody is watching the store.

So the point is nobody would run their household this way. No business would operate this way. States that are successful do not operate this way. The reason we do this is because we do not have a budget and we do not have any oversight and we are not minding the store. The way to change what is coming for our country is to start doing everything that is necessary to address the problem.

And the problem is this: We are spending money we do not have on things we do not need, and nobody in Congress wants to do the hard work of ferreting out what works and what does not and making the hard choices because every one of these programs has a constituency.

So the parochialism and the constituency and short-term thinking we are now bound up in keeps us from saving ourselves. Last quote, and I will finish with this: John Adams said, "There has yet to be a democracy that did not murder itself." We are on that way if we do not change direction. It is not a Democrat-Republican problem. It is all our problem. It will not matter what our political persuasion is when we face the very difficult coming times if we do not respond with a cogent budget for this country.

Mr. JOHANNIS. I thank the Senator. We look at those charts and reach the conclusion, inescapably, if we do not start doing oversight and start figuring this out, we are not going to solve this problem. My colleague's reputation as a watchdog of the Federal Government is well earned.

Let me now turn to my colleague, Senator HELLER. Senator HELLER brings great experience. He might be the newest Member of the Senate—I think he is—but he has great experience on the House side. He has seen how the budget process works there. He now has some experience on the Senate side. The Senator sees the lack of a budget process.

I would like him to offer some thoughts on what is broken and what we might do to fix this.

Mr. HELLER. I thank the Senator from Nebraska for yielding time and also those from Oklahoma and Arizona for this colloquy that we are having today and the ability to talk about issues that, frankly, the other side will not talk about—in fact, their conspicuous absence today on the other side is clear of the depth of their budget.

As we have heard, we have not had a budget for the last 3 years. So I rise today in support of a serious debate concerning the direction of our Nation. Three years have passed since Congress adopted a binding budget resolution. In this light, I respectfully submit that the American people do not believe that today's debate is serious. They know the Senate is not going to adopt a budget; once again it will ignore one of the most basic and important jobs of Congress.

What the Senate is doing this week could be considered political comedy if the stakes were not so high. In fact, the fact is this is not a serious discussion.

In May of last year, the majority leader stated: There is no need to have a Democratic budget, in my opinion. It would be foolish for us to do a budget at this stage. As early as February of this year, it was stated by the majority leader that there is no need to bring a budget to the Senate floor this year.

If that is the case, this week's debate is nothing more than a political sideshow, and the American people are tired of it. Ever wonder why the approval rating of Congress is so low? They hate Washington because it spends its time on stunts like this instead of working together for the good of the country; pushing votes for campaign press releases instead of solving problems.

The bottom line is if Congress does not do its job, then its Members should not get paid. That is exactly what I have proposed with the No Budget, No Pay Act. The American people know in an election year too many of their representatives in Washington are afraid of the tough choices that would help get our Nation on a path of fiscal sanity.

Most of the people watching the so-called budget debate will witness exactly what they have come to expect from Washington: the Republicans blaming Democrats, Democrats blaming Republicans. At the end of the day, all we will have accomplished is filling another page in the CONGRESSIONAL RECORD.

Unfortunately, Americans will face the same fiscal disasters they did before this debate. Unless we change course, Federal spending per household is projected to rise to \$34,602 by the year 2022, a 15-percent increase in one decade.

The government's own actuaries tell us Medicare is going bankrupt in 10

years, Social Security one decade later. Both sides should be willing to come together to strengthen and preserve these programs for future generations instead of simply ignoring the problems because it is inconvenient in an election year.

Our national debt will reach \$16 trillion before the end of the year. The Federal Government's unfunded obligations will total some \$100 trillion. Yet there will be no budget this year, just like there has been no budget for the past 3 years. We cannot look beyond the beltway and say this failure of leadership has not had tremendous impact on the people we represent.

National unemployment has registered above 8 percent for the last 38 months. Nevada has led the Nation in unemployment for more than 2 years. Almost everyone I speak to in Nevada—businesses, job creators, elected officials, and families—speaks of the uncertainty that has characterized their lives in this economy.

We are not moving forward as a Nation, and it is no surprise to these nonsensical folks. They know from everyday life in their businesses and in their households that you cannot move forward without a plan. When Americans look to Washington, they see no meaningful proposal, no viable plan, and no progress.

There are those who claim the Budget Control Act is a budget, and I strongly disagree. This bill does not establish priorities or a path forward for our Nation as a real budget should. It does not provide certainty, nor does it address many of the pressing fiscal problems we have today. If the Budget Control Act were truly a budget, there would be no need for this discussion today. It is past time for Congress to hold itself accountable.

That is why I have advocated my No Budget, No Pay Act for nearly a year. My legislation calls on the House and Senate to pass a concurrent budget resolution and the regular appropriations bills before the beginning of each fiscal year. Failure to do so would result in the loss of pay until we take our jobs seriously and make these bills our legislative priority.

The Congressional Budget Act of 1974 already requires Congress to pass a budget by April 15. My bill creates an enforcement mechanism to further encourage Members of Congress to do their constitutional duty.

I have spoken on this floor previously about No Budget, No Pay, but I believe now is the time to consider whether we are willing to make this promise to our constituents. I believe it is more important now than ever because the American people are increasingly losing confidence in Congress and its ability to deliver solutions.

No Budget, No Pay is not a silver-bullet solution to our Nation's fiscal challenges, but it would indicate that we are hearing the concerns of the American people and are willing to participate in the dialog necessary to get our country moving again.

I am pleased that 10 of my Senate colleagues have cosponsored this important effort, and others have expressed support for No Budget, No Pay on the Senate floor. I am especially grateful to Senators LIEBERMAN and COLLINS for holding a hearing to discuss No Budget, No Pay as a meaningful proposal that would help hold Congress accountable to the American people. This bipartisan bicameral proposal is worthy of the Senate's time if we are serious about regaining the trust of the American people whom we are supposed to be representing.

My colleagues, our Nation can literally no longer afford to survive on sound bites and press releases about the importance of budgeting. We need to engage in the serious business of budgeting for our Nation's future. That work should start today. Sadly, I simply don't believe we will make the tough choices necessary until Members of Congress have more skin in the game. I will continue calling for the adoption of the No Budget, No Pay Act.

The PRESIDING OFFICER (Mr. MANCHIN). The Republican time has expired.

The PRESIDING OFFICER. Under the previous order, the Senate agrees to the motion to proceed to H.R. 2072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2072) to reauthorize the Export-Import Bank of the United States, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate equally divided between the two leaders or their designees.

The Senator from Utah is recognized.

AMENDMENT NO. 2100

Mr. LEE. Mr. President, I ask unanimous consent that we move to amendment No. 2100 to H.R. 2072.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. LEE] proposes an amendment numbered 2100.

Mr. LEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To phase out the authority of the Export-Import Bank of the United States and to require the President to initiate negotiations with other major exporting countries to end subsidized export financing programs)

At the appropriate place, insert the following:

SEC. ____ . TERMINATION OF EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Notwithstanding any other provision of this Act or any other provision of law, the authority of the Export-Import Bank of the United States under section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) terminates on May 31, 2013.

(b) TERMINATION OF AUTHORITY.—Notwithstanding any other provision of this Act or any other provision of law, on and after June 1, 2013—

(1) the Export-Import Bank of the United States may not enter into any new agreement for the provision of a loan, a loan guarantee, or insurance, the extension of credit, or any other form of financing;

(2) the Bank shall continue to operate only to the extent necessary to fulfill the obligations of the Bank pursuant to agreements described in paragraph (1) entered into before June 1, 2013; and

(3) the President of the Bank shall take such measures as are necessary to wind up the affairs of the Bank, including by reducing the operations of the Bank and the number of employees of the Bank as the number of remaining agreements described in paragraph (1) decreases.

(c) REPEAL OF EXPORT-IMPORT BANK ACT OF 1945.—Notwithstanding any other provision of this Act or any other provision of law, effective on the date on which the Export-Import Bank of the United States has fulfilled all outstanding obligations of the Bank pursuant to agreements described in subsection (b)(1) entered into before June 1, 2013, the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is repealed.

SEC. ____ . NEGOTIATIONS TO END EXPORT CREDIT FINANCING.

(a) IN GENERAL.—The President shall initiate and pursue negotiations with other major exporting countries, including members of the Organisation for Economic Co-operation and Development and countries that are not members of that Organisation, to end subsidized export financing programs and other forms of export subsidies.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the progress of the negotiations described in subsection (a) until the President certifies in writing to those committees that all countries that support subsidized export financing programs have agreed to end the support.

Mr. LEE. Mr. President, it is time that we wind down the Export-Import Bank. My amendment, No. 2100, would do precisely that. The American people cannot be the world's financial backstop. The government should not be picking winners and losers. Businesses in Utah and across the country are not receiving government help and are shutting their doors after decades of serving their communities. We should not, through this government, be adding insult to injury by using the tax money they contributed to prop up companies overseas.

We need to end the corporate welfare that distorts the market and feeds crony capitalism. The corporations that largely benefit from the Ex-Im Bank should have no trouble marshaling their resources to compete in today's economy. If they are struggling, then they are most likely not deserving of taxpayer help; and if they are turning billions in profit, then they clearly do not need taxpayer-subsidized loans.

Further, government subsidies breed undue favoritism from government bureaucrats who control where the money goes. Unless we want more

Solyndras, we should end the practice immediately.

Some have suggested that the Ex-Im Bank is good for businesses. What is best for American businesses is getting the Federal Government out of their way, letting them operate without burdensome government regulations and without a complex tax system.

Having the government pick winners and losers does not make industries stronger, it makes them more dependent on subsidies. When government is picking who wins, the loser is always the taxpayer.

We have an opportunity today to reverse the status quo and defend the American taxpayer. My amendment winds down the Ex-Im Bank. I urge my colleagues to support amendment No. 2100.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. CANTWELL. Mr. President, I rise today to urge my colleagues in the Senate to pass the Export-Import Bank legislation now before us. This debate this morning is about jobs, it is about manufacturing jobs, and it is about U.S. manufacturing jobs. That is because this bank is one of the most powerful tools we have for manufacturing jobs in America.

This is a debate about whether the Members in this Chamber believe access to financing is a key tool for U.S. companies to compete on an international basis when they are trying to get U.S. manufactured products sold overseas. In fiscal year 2011 alone, the bank supported nearly 290,000 export-created jobs in America. Those are the jobs that are going to be threatened if the Senate does not act.

This authority expires on May 31. That is right, 16 days from now. And between now and then, the House is in session for only 5 days, so we can't afford to take this to the brink one more time with amendments passed by the Senate that are gutting amendments. These five amendments that will be considered would basically lapse the bank's authority and this would put into the debate more uncertainty about our economy.

We need to act now to renew the bank's charter, and businesses can't wait. They need the planning and certainty to hire more people. Failing to act will stifle U.S. economic opportunity. That is why nearly two dozen Governors, Democrats and Republicans alike, have urged the bank's extension, and so has the Chamber of Commerce, the National Association of Manufacturers, and the Small Business Association.

Mr. President, I ask unanimous consent to have printed in the RECORD a

chart reflecting the jobs supported in each State by Ex-Im financing so that Members, if they wish to, can come and look at both the revenue that was generated and the jobs that were supported.

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

JOB SUPPORTED THROUGH EX-IM FINANCING BY STATE, FY2011

| State | Export Value ¹ | Jobs Supported ² |
|-------------------------------------|---------------------------|-----------------------------|
| Alabama | \$72,192,614 | 523 |
| Alaska | \$3,793,545 | 28 |
| Arizona | \$170,943,313 | 1,239 |
| Arkansas | \$108,584,180 | 787 |
| California | \$3,468,983,437 | 25,150 |
| Colorado | \$150,993,779 | 1,095 |
| Connecticut | \$345,097,326 | 2,502 |
| Delaware | \$33,517,187 | 243 |
| District of Columbia | \$222,874,472 | 1,616 |
| Florida | \$1,054,197,361 | 7,643 |
| Georgia | \$487,633,648 | 3,535 |
| Hawaii | \$201,600 | 1 |
| Idaho | \$12,843,584 | 93 |
| Illinois | \$2,322,581,920 | 16,839 |
| Indiana | \$248,668,941 | 1,803 |
| Iowa | \$42,914,160 | 311 |
| Kansas | \$79,197,432 | 5,649 |
| Kentucky | \$38,186,699 | 277 |
| Louisiana | \$209,979,110 | 1,522 |
| Maine | \$20,673,669 | 150 |
| Maryland | \$220,489,400 | 1,599 |
| Massachusetts | \$565,960,139 | 4,103 |
| Michigan | \$320,510,673 | 2,324 |
| Minnesota | \$299,186,062 | 2,169 |
| Mississippi | \$25,040,065 | 182 |
| Missouri | \$414,499,691 | 3,005 |
| Montana | \$2,304,000 | 17 |
| Nebraska | \$57,942,908 | 420 |
| Nevada | \$31,910,400 | 231 |
| New Hampshire | \$39,842,746 | 289 |
| New Jersey | \$360,580,503 | 2,614 |
| New Mexico | \$5,055,359 | 37 |
| New York | \$804,093,389 | 5,830 |
| North Carolina | \$456,429,400 | 3,309 |
| North Dakota | \$18,708,353 | 136 |
| Ohio | \$398,413,384 | 2,888 |
| Oklahoma | \$235,300,682 | 1,706 |
| Oregon | \$213,921,302 | 1,551 |
| Pennsylvania | \$1,353,113,343 | 9,810 |
| Puerto Rico | \$10,555,200 | 77 |
| Rhode Island | \$11,877,600 | 86 |
| South Carolina | \$158,092,961 | 1,146 |
| South Dakota | \$13,468,905 | 98 |
| Tennessee | \$126,161,932 | 915 |
| Texas | \$4,865,359,960 | 35,274 |
| Utah | \$50,424,234 | 366 |
| Vermont | \$14,406,062 | 104 |
| Virginia | \$349,933,601 | 2,537 |
| Washington | \$11,469,897,102 | 83,157 |
| West Virginia | \$5,712,000 | 41 |
| Wisconsin | \$645,545,956 | 4,680 |
| Wyoming | \$1,512,000 | 11 |
| Subtotal by State | \$33,340,307,290 | 241,717 |
| Not Allocated by State ³ | \$6,307,692,710 | 45,731 |
| TOTAL | \$39,648,000,000 | 287,448 |

¹ Export value has been adjusted for inflation.

² Figure based on analysis completed for FY2011 Annual Report, which used formula of 7,250 jobs supported by \$1 billion in export value.

³ Programs such as short-term multi-buyer insurance in which exporter not identified at time of authorization.

Ms. CANTWELL. Mr. President, the default rate on the bank is consistently less than 2 percent lower than most commercial lending. I am sure we will hear a lot about that during the debate today. But since 2005, the Export-Import Bank has returned \$3.7 billion to the U.S. Treasury, above and beyond the cost of operation. So, yes, my colleagues, this is actually something that is making money for the Federal Government. Not only is it helping U.S. manufacturers sell their products overseas—financing in a way I think is equivalent to what the Small Business Administration does; helping to provide a certain level of financing that makes deals come through—I think it is why we find banks are supportive.

The money comes back into U.S. taxpayers' pockets and it supports our

winning in a global situation by getting our products sold. It has been incredibly helpful to our economy, with zero cost to the taxpayers, and, in fact, the nonpartisan Congressional Budget Office concluded a 4-year reauthorization of the bank would reduce the deficit by up to \$900 million over 5 years. So the bank works for businesses and it works for U.S. taxpayers.

There is a compromise that is before us. I know it may not be the compromise that I or the Senator from South Carolina—who I see is on the floor—would have written into the legislation, but nonetheless it is a compromise and it is time to act. The reason I say that is because so many States also are counting on the Export-Import Bank, just as Washington State is.

Pennsylvania, for example, has over \$1.4 billion in exports and 9,800 jobs related to the Export-Import Bank; Massachusetts, with \$566 million. This is from the annual report of the Ex-Im Bank in 2011. So they had \$566 million of economic revenue generated in Massachusetts and over 4,000 jobs. Why? Because we helped Massachusetts exporters get access to capital so they could sell their products overseas and win in the international marketplace. Texas, another example, with \$4.9 billion in exports, and 35,274 jobs.

These are jobs America needs. This is a global economy in which America needs to be able to compete, and getting access to capital so that products can be sold is a critically important issue.

Florida, another great example of the support of the Ex-Im Bank, had \$1.1 billion in exports and over 7,643 jobs. So that State has been another big winner; the State of North Carolina, \$456 million in exports and 3,309 jobs; and Ohio, another example of manufacturers and businesses, with \$398 million in exports and 2,888 jobs.

While there are many people who would like to say this program should be discontinued—and I am sure some of my colleagues are not in favor of it because there are many programs they wish to get rid of—I would say this is a program that is good for the U.S. taxpayers. The Ex-Im Bank has generated \$3.7 billion for U.S. taxpayers since 2005.

Again, what is this debate about? The underlying amendments my colleagues are offering are trying to gut the Ex-Im Bank. They simply don't like it, and they want to get rid of it or say it is not a viable tool. I guess because one in four jobs in Washington State is based on trade, I know how critically important it is. Whether we are talking about agricultural products or selling airplanes or selling music stands, as one company we saw, or selling grain silos, companies need to be able to compete in the international marketplace and they need to be able to get sales for their products. This has been a very viable and important tool for them.

Some of my colleagues have previously raised concerns about the bank's transparency and oversight, and these concerns have been heard and addressed in this legislation. I wish to talk about the five ways this new compromise bill addresses those concerns.

There is more oversight. Under the amended bill, we would have a quarterly report on its default rate, and the first of these reports would be due September of this year. The bank has historically maintained a low default rate of less than 2 percent, but under this provision, if the default rate reaches 2 percent or higher, the bank will have to develop a plan to fix the problem and report to Congress within 1 month. If the default rate stays above 2 percent for more than 6 months, they will be subject to a review of an independent auditor.

These are very viable and important additions to the legislation. Not only would the auditor be there to help fix what was going on, he would have the oversight for anything that was involved with the bank they needed to report on. So there is less risk.

The second change to the underlying bill is the Government Accountability Office must study and report back to the bank safeguards that prevent it from taking loans that are too risky. Again, since the bank has had a historically low default rate, we are happy to add this language, but it is another layer of protection on something that is performing and performing well. But as I say, we are happy to add that to the legislation.

More public input. The bank will have to open a public comment period for transactions greater than \$100 million and it will have to notify Congress about these transactions so there is more transparency on what some consider the bigger financial loans in which the bank is involved.

Fourth, we have added more accountability. There is an annual report where the bank has to justify the need of every transaction—every transaction. That way the public will know if the bank has acted because a private lender would not have or if it acted in response to foreign export credit agencies.

And then fifth, the Treasury must engage nations in discussions about the need for export financing worldwide. I know some of my colleagues on the other side of the aisle would hope the President would end all export financing and leave that discussion at the World Trade Organization. But I would ask my colleagues, what is the difference between this and the Small Business Administration that provides an opportunity, a bridging of capital between small businesses and the opportunities to join with private financing to make deals happen.

As I said earlier, I live in a State where we know how beneficial export markets are to our products—whether we are speaking of cherries or apples or

airplanes or a variety of new technologies—and these products are winning the day in the international marketplace. They are also creating jobs. So for my colleagues on the other side of the aisle who wish to end this program or say it ought to be ended on an international basis, we are happy to hear what the world community wants to debate and discuss on this basis, but I would ask why, in the moment of crisis in our financial institutions, when one of the supposedly most risk-averse institutions can't figure out why it lost \$2 billion, would we want small businesses across America to pay the price for the fact they can't get financing of their products sold in an international marketplace? We have to wake up and understand this is about helping small businesses and helping them win the day for products that are created in the United States—created in the United States and sold abroad.

This compromise legislation that is offered today is the best path forward. These amendments are an attempt to gut the underlying bill and to stop the authorization of the bank and have it curtailed. As I said, we only have about 5 legislative days, given the House's schedule, to get this done. Some of my colleagues want to tell all those businesses I mentioned in all those States—Ohio, Pennsylvania, Florida, and others—that we don't know anymore whether this program exists and so let's actually stop the funding and lose jobs.

I know there are people in my State—such as Lawrence Stone from SCAFCO or Bill Perdue from Sonico—who gave me the message the American people want us to focus on creating jobs and supporting businesses. They want a program like this to continue and they want the jobs it creates for their communities.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will gladly yield and let Senator CORKER go ahead of me—I understand the Senator has an amendment to offer—with the understanding I be allowed to speak for 5 minutes after he is done.

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

The Senator from Tennessee.

AMENDMENT NO. 2102

Mr. CORKER. I thank the Senator from South Carolina and certainly the Senator from Washington State. I want to say I put my credentials for supporting exports up against anybody here, and I think the purpose of our being in this body is to try to create good policies.

I have an amendment I wish to call up. It is amendment No. 2102, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 2102.

Mr. CORKER. I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

(Purpose: To require the Export-Import Bank of the United States to provide financing only for transactions subsidized by export credit agencies of other countries or for which private sector financing is unavailable or prohibitively expensive and to require the Bank to maintain a ratio of capital to the outstanding principal balance of loans and loan guarantees of not less than 10 percent)

Strike section 25 and insert the following:

SEC. 25. LIMITATION ON FINANCING BY THE EXPORT-IMPORT BANK OF THE UNITED STATES TO TRANSACTIONS SUBSIDIZED BY OTHER COUNTRIES OR FOR WHICH PRIVATE SECTOR FINANCING IS UNAVAILABLE OR PROHIBITIVELY EXPENSIVE.

(a) IN GENERAL.—Notwithstanding any provision of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) or any other provision of law, the Export-Import Bank of the United States may not provide any financing (including any guarantee, insurance, or extension of credit, or participation in any extension of credit) for the exportation of any article unless the Bank certifies to Congress in writing that—

(1) an export credit agency of a foreign country is providing financing for the exportation of a substantially similar article from that country; or

(2) private sector financing for the exportation of the article is not available or is prohibitively expensive.

(b) ADDITIONAL INFORMATION REQUIRED.—If the Export-Import Bank of the United States certifies under subsection (a)(2) that private sector financing for the exportation of an article is not available or is prohibitively expensive, the Bank shall also include in the certification the following:

(1) An explanation of why private sector financing is not available or is prohibitively expensive.

(2) An explanation of how financing by the Bank for the exportation of the article does not put the United States at a substantial risk of loss.

(3) If private sector financing is available but prohibitively expensive, an assessment of the difference between the cost of private sector financing and the cost of financing provided by the Bank.

(c) REPORT ON REGULATORY BARRIERS.—For any transaction relating to the exportation of an article financed by the Export-Import Bank of the United States after certifying under subsection (a)(2) that private sector financing is unavailable, the Secretary of the Treasury shall submit to Congress a report that—

(1) assesses the extent to which private sector financing is unavailable as a result of excessive regulation of domestic financial institutions by the Federal Government or the obligations of the United States under international agreements relating to risk management by financial institutions; and

(2) makes recommendations for eliminating the barriers to private sector financing identified under paragraph (1).

SEC. 26. CAPITAL RATIO REQUIREMENT FOR THE EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Export-Import Bank of the United States shall maintain a capital ratio of not less than 10 percent.

(b) CAPITAL RATIO DEFINED.—In this section, the term "capital ratio" means the

ratio of the capital of the Export-Import Bank of the United States to the total outstanding principal balance of all loans made or guaranteed by the Bank.

SEC. 27. EFFECTIVE DATE.

Except as provided in section 9(b), this Act and the amendments made by this Act shall take effect on the earlier of June 1, 2012, or the date of the enactment of this Act.

Mr. CORKER. Mr. President, I will be very brief. Again, this amendment is very simple and it does two things I would think the Senator from Washington especially would support, after all we have gone through, and especially after her alluding to some of the most recent developments in the financial system. I hope this amendment will receive broad support in this body.

The Ex-Im Bank is set up to finance transactions that cannot be financed in the private sector. That is the purpose for its existence. So, No. 1, what this amendment will do is to cause the Ex-Im Bank to certify there is no private sector financing—or at least no private sector financing at a reasonable cost—before any loan goes through the Ex-Im Bank.

The second piece I think is very important. The way the Ex-Im Bank is set up right now, there are no capital requirements. The Senator from Washington was just talking about something that happened at JPMorgan. Fortunately, we have put in place since the financial crisis very strong capital requirements at our financial institutions, and what that has done is to make them healthy and to cause them to be able to withstand things that may happen as relates to default rates or other failures.

The Ex-Im Bank, believe it or not, is set up to finance things that no other bank will finance, and yet it has no capital requirements other than having to maintain \$1 billion. So they are able to loan, per this new legislation, \$140 billion but they only have to have \$1 billion in capital reserves, which means you are creating with this mechanism 140-to-1 leverage ratios.

What we have gone through with our entire financial system is a process to make sure we have adequate capital. What our amendment does is to require that the Ex-Im Bank adhere to the normal sound financial practices we want our financial institutions across our country to adhere to by establishing a 10-percent capital base.

Again, I think this is a very good government amendment. We don't want to see the same happen with Ex-Im Bank that we have seen happen with Fannie, with Freddie, with so many of our institutions in this country that did not have proper capital reserves.

I urge strong support for this amendment which will make the Ex-Im Bank something that ensures—or hopefully helps ensure—that our U.S. taxpayers are never in a situation where we have to come to the aid of this institution because it hasn't reserved properly, it doesn't have the proper capital standards in place, that I think people in

this body on both sides of the aisle have overwhelmingly supported for the private sector.

I would hate to see us be in a situation where we want to create something in government that risks taxpayers' money, when we have just gone through a process of understanding that it is very important for the financial institutions of our country to have appropriate capital standards. Here we are getting ready to pass legislation on this floor which, I am sorry, has almost no capital standards in place because you only have to have \$1 billion—that is all—at the Ex-Im Bank, \$1 billion against a \$140 billion loan base. I think anybody here thinking about this understands those standards are not nearly appropriate, and I hope this amendment will receive overwhelming support.

It is my sense that if we pass this, the House would easily pass this. Contrary to what the Senator from Washington was saying, I think this would make the legislation better and, my sense is, receive overwhelming support in the House if added to it.

I yield the floor, and I thank the Senator from South Carolina for his tremendous courtesy.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I rise in support of the compromise that was outlined by Senator CANTWELL.

Basically, 6 years ago the Congress of the United States by voice vote reauthorized the Export-Import Bank. If you are in business, like Boeing and GE, and thousands of other companies out there that are making products in the United States and selling them overseas, the idea that the Congress would, by voice vote, reauthorize the bank had to make you believe that this model of doing business would be made available to you. Here we are, later down the road, a lot of concern about the bank, and some people actually want to do away with it.

I understand free markets pretty well, and I would love to live in a world where no country interfered in the marketplace at all and the best products would win based on a level playing field. But why do we have the Export-Import Bank? It is about 70 years old. There is a long record here. Products made in America and sold overseas—sometimes because of the volatile nature of the region in question traditional banks won't lend money. What happened is about 70 years ago we created a bank to help us export products, and that bank, the Export-Import Bank, as Senator CANTWELL said, makes money, doesn't lose money, and it has been a sound way to get American-made products into the international marketplace.

Here is the reality: Canada, France, Germany, Italy, Japan, Britain, Brazil, China, and India all have export banks of their own. The G-7 countries we competed against between 2006 and 2010 doubled the amount of ex-im financing

available in their countries. This is what American businesses are competing against.

Our good friend up North, Canada, is one-tenth our size. The Canadian Ex-Im Bank did \$100 billion worth of financing for Canadian-made products last year, compared to \$32 billion in support of American manufacturers.

The only area of our economy that has been strong lately is exports. So imagine this: America does away with the Export-Import Bank. All of the countries I just described have their banks available to their manufacturers. Boeing makes planes in Washington and in South Carolina. Eight out of ten planes being manufactured in Charleston, SC, by Boeing, the 787s, are sold based on export-import financing, 8 out of 10. That is why they needed a second line of production. They are competing against Airbus. France has three Export-Import Banks. China's Export-Import Bank is larger than those of the United States, Germany, Canada, and Britain combined.

It is one thing to do reform; it is another to unilaterally surrender. It is one thing to lead the world; it is another to put the people who make products in America at risk unnecessarily. The legislation in the House did compel the President, the Department of Commerce, and Treasury to try to get these Export-Import Banks wound down over time. If we could do that, great, because I think the American workers and the American companies can compete anywhere in the world on a level playing field. At the end of the day, this is about whether we are going to unilaterally surrender. We are weeks away.

Senator CORKER has a good amendment, a decent amendment, but it doesn't quite get us to where we need to be at this late hour. One part of this amendment is that you can't make a loan under the Export-Import Bank until the company proves that the other countries in question are not offering loans in that area. That is pretty hard to do when countries such as China are not very transparent.

This amendment is billed as good government, and I know his motivations are sound. He is not ideologically against the bank. But at this late hour, it will bring the legislation down. And, quite frankly, the second prong of what he is proposing I think is a real burden to put on American businesses at a time when it is hard enough already to create jobs in America.

To those who want to end the bank without other countries doing so, I think you would be doing a great disservice to people in this country who are selling products overseas. In my State alone, you would be destroying the ability of Boeing Company to grow in South Carolina. GE makes gas turbines in Greenville, SC. One-third of those turbines made in Greenville are sold through ex-im financing. If you can get the other parts of the world to do this, count me in. Until we do it to-

gether, I am going to allow this bank to stay in business because it makes money, it doesn't lose money. There is a difference between leading the world and putting your companies at risk in a world based on reality, and the reality is that export-import financing by our competitive nations is growing, it is not being reduced.

This bill that passed the House was 330 votes. We live in a time in Congress where you can hardly declare Sunday as a holiday, but 330 Members of the House voted to extend this bank for 3 years with reforms. Count me in the reform camp.

Some people say this bank has kind of gotten out of its lane and is making loans that are not traditionally export-import loans. I agree with that. Some say the bank is not transparent enough. I agree with that. The bottom line is it has been reformed; not as much as some would wish, but it definitely has been reformed.

Sixty-two percent of the Republican Conference in the House voted to reauthorize this, so I want to acknowledge Representative CANTOR, Representative HOYER, TIM SCOTT, and my delegation, who have tried to bring about reform. At the end of the day, the Senate now is receiving a product that went through the House, a lot of giving and taking. They produced a compromise, as Senator CANTWELL said, that would be different than I would have written, but it truly is reform. It allows a 3-year extension of the bank at \$140 billion with reforms that are, quite frankly, I think common sense, and 62 percent of the House Republicans supported this. The tea party was split.

At the end of the day we have a decision to make as a Senate: Are we going to allow this bank to fail, or are we going to allow the bank to stay in business under a new way of doing business? I think it would be a travesty and a detrimental event to the economy of this country if this bank were to go out of business and the banks of everybody we compete with are doubling in size. If you want to grow the footprint in America of selling products made in America overseas, this bank has a niche. Where you cannot find traditional financing, this bank allows American products to be sold, and I think it is a very sound business practice. The bank is making money.

The bank has been around for 70 years and there are no subprime mortgages here. This is about selling American products to a willing buyer overseas where you can't find traditional financing. Our friends in China—sometimes they are not our friends; they manipulate their currency, they steal intellectual property—their bank is going like gangbusters. The last thing I am going to do with my vote is take American companies that are struggling to make it, creating jobs in America through selling products overseas, and put them at a disadvantage against the Chinese or any other country that is doing business. We will wind

down these things together or we will stay in business to allow those in America to make products and sell them overseas.

From a South Carolina perspective, this is a very big deal. It was a big deal to get Boeing to come to South Carolina. This is a request by Boeing, and many other small businesses such as Mount Vernon Mills, to keep the program around.

I will end where I started. Six years ago, those people in the manufacturing community had the bank reauthorized by voice vote. They set up a business model assuming the bank was going to be around, because nobody even objected to it enough to get a rollcall. Six years later, we can't make wild, radical changes. We have made reforms. But the worst thing we can do is to have told the community 6 years ago by voice vote this bank will be in place and 6 years later do away with it when no one else is doing away with their banks. That makes no sense to me. That is not good government. That, to me, is unilateral surrender. I didn't want to unilaterally disarm when we were competing against the Soviets in the Cold War, and I sure as heck don't want to unilaterally disarm in a world economy very much interconnected.

These amendments, most of them, are designed to wind down the bank. They are ideologically driven. Senator CORKER is trying to make it better, but there is a component of his amendment that I think would make it very difficult for our companies to get a loan. At the end of the day, we need to vote these amendments down and pass the House product.

To the Members of the House, Republicans and Democrats, you worked this out among yourselves in a way that I think the Senate should embrace and endorse.

And to Senator REID and Senator MCCONNELL, we are allowing votes on an important piece of legislation. The Senate is operating in the best traditions of the Senate; people have their say, people get to vote.

Here is my say: Bring your amendments to the floor. I respect your ideological position. I respect the idea of the free markets and where we want to go. But I am asking my colleagues not to put American businesses at risk at a time when our economy is on its knees. Do not destroy this bank at a time when competitor nations are doubling the size of theirs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I appreciate my colleague from South Carolina coming down to talk about his important tool for U.S. manufacturers and why it is important in his State and why we need to get on to the business of passing this House legislation that was a compromise that involved many people and, as my colleague from South Carolina stated, a very robust vote out of the House of Representatives.

I also wish to say a few words about my colleague's amendment, Senator CORKER. I will trust what my colleague from South Carolina says, that the amendment may be seen as a reform of the system, well intended, but I can tell you, it will have very adverse effects.

The Corker amendment basically is calling for a 10-percent capital ratio requirement. It is not based on any fact or reason. The bank has had a default rate of less than 2 percent—1.5 percent. So raising the reserve ratio would have a very adverse effect on the bank itself, and it would quadruple the reserves and basically cause problems with the bank and how it is leveraged.

If this is an issue about reform, there are many reforms in the underlying bill. To the provision that would say you would have to verify, if you are an individual business, that you can't get financing, I have read the Senator's amendment. I am not sure how you would prove that. It is not clear from the legislation. Does that mean you would have to survey every time the ex-im program was implemented for a business?

Let's say SCAFCO in Spokane, WA, which is a grain silo producer that is selling silos in many different parts of the world—every time they wanted to get financing for one of those silos, what would they do? Would they petition five banks in a region? Would they petition 100 banks in a region? I want people to understand what that competition is like.

Let's pretend that SCAFCO, as I said, which makes large grain elevators and is selling products all over the world and is one of the world leaders, and we have an Ex-Im Bank requirement that says they have to prove there is no financing available, and they are selling a lot of product in South America, in Africa, in Asia. Now somebody else says, You know what. I can get financing for the product out of Russia or I can get financing for the product out of China and I don't have that same requirement, so I am not going to buy from you, I am going to buy from them.

That is what you are doing. You are basically hamstringing American competitors in an international marketplace by not allowing them the financing tools. Of course the bank has to show they can't get financing, but this new provision puts an undue burden on these individuals—because of the language and how vague it is, how are they ever going to prove that there isn't someone there?

Instead of hamstringing American businesses, why not allow those American businesses to continue under this legislation that, as my colleague from South Carolina said, has been around for decades and been very effective? And we are including more transparency.

I urge my colleagues to defeat the Corker amendment because of its requirements on capital ratio that they

do not need and, second, on an ability to prohibit the financing based on a clause that I don't even know how it can be met. My colleagues from States that are using this program will understand that it will be very hard for our businesses to continue to compete with such a requirement.

I know my colleague Senator LEE was here earlier. The Lee amendment basically would out-and-out defund the Export-Import financing program. I get that some of my colleagues on the other side of the aisle believe we should not have this program. I think it has been a very important tool for U.S. companies to win in their sales of U.S. products overseas and, as I said, creates thousands of jobs. I do not think the amendment of Senator LEE, which would basically abolish the bank as of September 30, 2013, is a good way to go.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Louisiana.

AMENDMENT NO. 2103

Mr. VITTER. Mr. President, I now call up Vitter amendment No. 2103, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 2103.

Mr. VITTER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the requirement that the Export-Import Bank of the United States not make or guarantee loans that are subordinate to other loans, to restrict financing of certain fossil fuel projects in foreign countries, and to prohibit financing of renewable energy products manufactured in foreign countries)

Strike section 8 and insert the following:

SEC. 8. NONSUBORDINATION REQUIREMENT.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635), as amended by section 7 of this Act, is further amended by adding at the end the following:

“(j) NONSUBORDINATION REQUIREMENT.—Notwithstanding any other provision of law, the Bank shall not make or guarantee a loan that is subordinate to any other loan.”

SEC. 8A. PROHIBITION ON FINANCING OF FOSSIL FUEL PROJECTS IN FOREIGN COUNTRIES THAT ARE SUBSTANTIALLY SIMILAR TO CERTAIN FOSSIL FUEL PROJECTS IN THE UNITED STATES.

(a) IDENTIFICATION OF CERTAIN DOMESTIC FOSSIL FUEL PROJECTS.—Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall identify projects involving the production, refining, or transportation of fossil fuels in the United States that could benefit from the provision of a loan, loan guarantee, or other form of financing by a Federal agency.

(b) PROHIBITION ON FINANCING OF CERTAIN FOSSIL FUEL PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, on and after the date that is 90 days after the date of the enactment of this Act, the Bank shall not provide any guarantee, insurance, or extension of credit (or participate in the extension of

credit) with respect to any project in a foreign country that the Bank determines is substantially similar to a project identified under subsection (a).

(2) CERTIFICATION REQUIRED.—If, on and after the date that is 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States provides financing with respect to a project involving the production, refining, or transportation of fossil fuels in a foreign country, the Bank shall certify to Congress that to the knowledge of the Bank there are no projects in the United States that are substantially similar to the project in the foreign country that could benefit from the provision of a loan, loan guarantee, or other form of financing by a Federal agency.

(c) DEFINITION OF FOSSIL FUEL.—In this section, the term “fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from natural gas, petroleum, or coal.

SEC. 8B. PROHIBITION ON, AND REPEAL OF MINIMUM INVESTMENT GOALS FOR, FINANCING OF RENEWABLE ENERGY PROJECTS.

(a) PROHIBITION ON FINANCING OF CERTAIN RENEWABLE ENERGY PROJECTS.—Notwithstanding any other provision of law, the Export-Import Bank of the United States shall not provide any guarantee, insurance, or extension of credit (or participate in the extension of credit) with respect to any project that involves the manufacture of renewable energy products in a foreign country.

(b) REPEAL OF MINIMUM INVESTMENT GOAL FOR FINANCING OF RENEWABLE ENERGY PROJECTS.—Section 534(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (12 U.S.C. 635g note) is repealed.

Mr. VITTER. Mr. President, this amendment is borne of real frustration that a lot of folks have faced over the last few years, particularly in my State of Louisiana. As you know, we have had a rough time, particularly following the BP disaster.

First there was that real environmental disaster, which was a shock to our system and our ecology. But second, and of perhaps even more lasting impact, there was the economic hit that was magnified enormously when the Obama administration, in my opinion, overreacted and instituted a full-blown moratorium on production drilling—drilling in the Gulf of Mexico. That formal moratorium was ended in late 2010, but a de facto moratorium continued for many months. Even now there is a permanent logjam that has permitting at a much lower pace than before the BP disaster.

This is a broader problem because, at least off the coast of Louisiana, we are producing some energy. In many other places of the country where we have an abundance of energy, we are not allowed to get it because this Federal Government, particularly under this Obama administration, puts well over 90 percent of our domestic resources off limits.

In the midst of everything that was going on in the gulf, in the midst of that moratorium shutting down jobs in the Gulf of Mexico, President Obama traveled to Brazil and he said that the United States wanted to be a tremendous partner and cheerleader of the development of Brazil's offshore industry.

I have to tell you, that was like rubbing salt in the wounds of tens of thousands of oilfield workers and others who were suffering because of the Obama administration policy here in this country really discouraging energy development. The way President Obama proposed to be a strong supporter and partner and cheerleader of Brazilian offshore development was through an Export-Import Bank loan.

There are many of these sorts of loans. In August 2009—talking about Brazil, the case I mentioned—the Wall Street Journal reported in an editorial that “the U.S. is going to lend billions of dollars to Brazil's State owned oil company, Petrobras, to finance exploration of the huge offshore discovery in Brazil's Tupi oil field in the Santos Basin near Rio de Janeiro.” Again, the Export-Import Bank approved a \$2 billion loan to aid Brazilian oil production. That is what President Obama was cheering and encouraging and making happen. It has happened other places as well. Again, the Ex-Im Bank specifically approved a \$2.84 billion loan and loan guarantee to a subsidiary of Colombia's national oil company. This money was intended to expand and upgrade an oil refinery in Cartagena, Colombia. In 2011 the Ex-Im Bank again authorized \$1 billion for Pemex, Mexico's national oil and gas company.

Here we have this Federal Government, through the Ex-Im Bank, financing energy production overseas at the same time as this Federal Government tries to shut down and make difficult a lot of that activity here at home. That is the frustration that produced this amendment, No. 2103. This amendment is simple. It simply says that Ex-Im Bank is not going to provide those loans or loan guarantees related to fossil fuel development in foreign countries if there are similar projects in this country that are not getting comparable help. It is not suggesting that the Ex-Im Bank is going to participate directly in projects in this country. It simply says first things first—American jobs, American energy, American production. So we are not going to finance the world to produce energy when we create obstacles right here at home to do the same.

The last several years have proved the need for this sort of commonsense provision, in my opinion. President Obama traveling to Brazil, ballyhooing the development of their industry while his moratorium and other policies substantially shut down our own here in the United States, proves the need for this commonsense amendment.

I urge all my colleagues, Republicans and Democrats, to support this Vitter amendment No. 2103. Again, it is very simple, very logical, and pure common sense. Before the Ex-Im Bank uses U.S. taxpayer money to fund, to finance the guarantee of oil and gas and other energy development overseas in foreign countries, we are going to look here at

home to see if similar projects exist and are they getting any similar help or inducement from the Federal Government.

I urge support of this amendment as a way to move forward in a commonsense way on this reauthorization.

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.

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

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

Ms. CANTWELL. Mr. President, I rise to address the Vitter amendment, No. 2103. In speaking in opposition to that amendment, as I said, like all these amendments that are up for us to vote on today, I believe they are detrimental not only to the Export-Import financing program but to the compromise that has been worked out by Republicans and Democrats in the House of Representatives in the legislation that is being supported by the chamber of commerce, U.S. manufacturers, a bipartisan list of Governors, and many businesses across America.

The reason the Vitter amendment is a horrible idea, actually, is that the amendment would basically cut off or curtail American companies in their ability to compete on energy projects on a worldwide basis; that is, it would eliminate the bank's current 10 percent goal for renewable energy projects. This is a longstanding requirement that has been incorporated into the Senate Foreign Operations bill. Why someone would oppose it here I am not sure.

As somebody who knows a lot about energy and works on energy all the time, I can tell you that one of the goals we have as a country should be for the United States to win in the energy debate. Look at what a tremendous market opportunity new energy solutions are for our economy, for the worldwide economy. It is somewhere from \$4 trillion to \$6 trillion. A lot of people like to talk about the Internet and the great things on the Internet. By comparison, it was somewhere between \$2 and \$4 trillion. This is an economic opportunity way beyond that.

When you look at what China is doing, they need to invest \$3.7 trillion by 2030 in order to build 1,300 gigawatts of new electricity-generating capacity. The Chinese Government alone needs to spend \$3.7 trillion on energy. My colleague from Louisiana wants to say: Let's hamstring U.S. companies—those that might have a solution to some of China's energy needs—from getting the appropriate financing so they can be successful in this program. To me, it is wrongheaded in the fact that we want to be selling to China, as I said, just because in the Northwest we already know what China is as a market. We sell them software, we sell them airplanes, we sell them coffee—we sell

them lots of things. We understand they are a market. To curtail the solutions U.S. companies are working on, whether it is battery technology or smart grid technology or solutions for a whole range of products—you could even say nuclear power solutions or other clean energy source solutions—all of these things would be curtailed under the Vitter amendment.

We do not want to go backward. Not only does the United States want to be a leader in energy solutions in the United States, the United States should have the goal of being an energy winner in the international marketplace, growing jobs through selling solutions that we think can be quite successful in and around the developing world and in China.

I ask my colleagues to defeat this amendment and to make sure we get this bank. As I said regarding the Export-Import financing program, we have about 5 legislative days to give the predictability and certainty American businesses would like to see in making sure U.S. manufacturers win in a global marketplace.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON of South Dakota. I rise today in support of H.R. 2072, the Export-Import Bank Reauthorization Act of 2012. After too much delay, it is time for the Senate to pass this bill.

The Export-Import Bank supports nearly 290,000 jobs a year, assists thousands of American businesses, and helps reduce the Federal budget deficit. It shouldn't be surprising, then, to hear that the bank has the approval of labor unions, the chamber of commerce, the Business Roundtable, and the National Association of Manufacturers.

Indeed, the bank is supported by a wide majority in both Houses of Congress. The bill before us today passed with an overwhelming vote of 330 to 93 in the House of Representatives last week as Republicans and Democrats came together in support of truly bipartisan legislation. When we passed a similar bill out of the Senate Banking Committee last year, it had unanimous bipartisan support.

Despite the urgent need for passage of the bill, there are several Republican amendments. I urge all of my colleagues to vote against those amendments and pass this bill without delay. We are at the finish line today with a bill that has already been approved in the House and has bipartisan support in the Senate. Unless we pass this bill, the Ex-Im Bank's authorization will lapse on May 31 and nearly 300,000 American jobs will be at risk. Unless we pass this bill, American exporters will be put at a disadvantage with their foreign competitors, who, in many cases, receive far greater assistance from their own nations' export credit agencies.

Let's come together and pass this bipartisan bill and score a victory for the hundreds of thousands of American

workers whose jobs are supported by the Ex-Im Bank.

I urge my colleagues to oppose the amendments and support reauthorization of the Export-Import Bank today so we can send this bill to the President and have it signed into law without delay.

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.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

AMENDMENT NO. 2104

Mr. TOOMEY. Mr. President, I call up my amendment No. 2104, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania, Mr. TOOMEY, for himself, Mr. DEMINT and Mr. LEE, proposes an amendment numbered 2104.

Mr. TOOMEY. Mr. President, I ask that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit an increase in the lending authority of the Export-Import Bank of the United States to more than \$100,000,000,000 until the Secretary of the Treasury certifies that the Secretary has initiated international negotiations to eliminate export financing programs and to prohibit an increase in that lending authority to more than \$120,000,000,000 until a multilateral agreement to eliminate export financing programs has been completed)

Strike section 3 and insert the following:
SEC. 3. LIMITATIONS ON OUTSTANDING LOANS, GUARANTEES, AND INSURANCE.

Section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended—
(1) in subparagraph (D), by striking “and”;
(2) in subparagraph (E), by striking the comma at the end and inserting “; and”; and
(3) by adding at the end the following:

“(F) during fiscal year 2012 and each succeeding fiscal year, \$100,000,000,000, except that—

“(i) the applicable amount for each of fiscal years 2013 and 2014 shall be \$120,000,000,000 if—

“(I) the Bank has submitted a report as required by section 4(a) of the Export-Import Bank Reauthorization Act of 2012;

“(II) the rate calculated under section 8(g)(1) of this Act is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year; and

“(III) the Secretary of the Treasury has certified in writing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that the Secretary has initiated the negotiations required by section 11(a) of the Export-Import Bank Reauthorization Act of 2012; and

“(ii) notwithstanding clause (i), the applicable amount for fiscal year 2014 shall be \$140,000,000,000 if—

“(I) the rate calculated under section 8(g)(1) of this Act is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year;

“(II) the Bank has submitted a report as required by subsection (b) of section 5 of the Export-Import Bank Reauthorization Act of 2012, except that the preceding provisions of this subclause shall not apply if the Comptroller General has not submitted the report required by subsection (a) of such section 5 on or before July 1, 2013; and

“(III) the Secretary of the Treasury has submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives the text of a multilateral agreement to eliminate subsidized export financing programs (including aircraft export credit financing) agreed to by—

“(aa) each country that is a member of the Organisation for Economic Co-operation and Development; and

“(bb) each country that is not a member of that Organisation that, during fiscal year 2012 or any fiscal year thereafter, provided export financing in excess of \$50,000,000,000.”.

Mr. TOOMEY. Mr. President, this is an amendment that deals with the reauthorization of the Ex-Im Bank. I urge my colleagues to support this amendment. I think it is a very important measure to begin the process of phasing out a very unfortunate practice that we participate in, as do many of our trading partners, which is the active taxpayer subsidization of exports.

I want to be very clear. There is a very real risk that is carried by American taxpayers, and that risk is systematically underpriced. The fact is the Ex-Im Bank extends loans and provides guarantees to countries and companies buying American exports. It provides those loans and those loan guarantees under terms that are not available in the private sector.

There is a reason those terms are not available in the private sector. It is because the private sector necessarily requires full compensation for whatever risks they take, and there is a risk in any loan. The Ex-Im Bank underprices these loans systematically, and that is why it is important, that is why it exists, and that is why it does business that the private sector cannot win away from the Ex-Im Bank. The Ex-Im Bank necessarily and systematically underprices the risks that taxpayers are on the hook for. This is what many of us object to, the risk that the taxpayers are forced to bear.

In addition to enforcing taxpayers to incur this risk, it is quite unfair to American companies that have to compete with the foreign companies that get the subsidized financing. This isn't just theoretical. This happens all the time. Some years ago I was involved in a dispute because the Ex-Im Bank was going to finance the acquisition of equipment by a foreign—I think it was a Chinese steelmaker—which would enable them to make steel at lower prices than American steelmakers could make because the American companies wouldn't be able to obtain this equipment with the subsidy that the Chinese

companies could obtain through the Ex-Im Bank.

More recently is the case of Delta Airlines, which has observed that the price they have to pay for jets is higher than the price paid by other countries that are operating competing routes but buying their aircraft through the subsidies of the Ex-Im Bank.

In 2008 President Obama, referring to Ex-Im Bank, said this is “little more than a fund for corporate welfare.” I think that is a little bit harsh. I understand how this has come to be, I understand why it has been extended, and I understand why people believe we have to subsidize our exports. It is because other countries around the world subsidize theirs. In other words, if our German and French and Chinese and Russian taxpayers are made to take a risk in subsidizing the sales of their manufacturers, then our taxpayers ought to take a similar risk.

I think there is a logical solution. Let’s require the administration to sit down with our trading competitors and negotiate a mutual phaseout of all of these export subsidies. Frankly, it is in everybody’s interest. We could have a level playing field on which no taxpayers are subject to this risk, no taxpayers are asked to subsidize the sales of private companies, and I think that is what we ought to do. This is what my amendment would accomplish.

My amendment says we will go ahead with the reauthorization of the Ex-Im Bank, but the first increase in the lending limit we are currently at—the bump-up of \$20 billion that is contemplated in this bill that has passed the House—would be contingent upon the administration informing Congress that they have begun the process of negotiating a phaseout of all export subsidies.

I recognize this phaseout would not occur immediately but would be a gradual process that would happen over time. So under my amendment the second increase would only occur when the administration came back and informed Congress that they had, in fact, reached an agreement with our leading trading partners on a framework that would phase out subsidization of exports.

I think this is a very sensible way to deal with the only compelling argument I have heard in favor of forcing taxpayers to continue to take this risk; that is, well, everyone does it, so we must. Since that is the only reason, then let’s start the process of persuading everyone else not to do it. We have tremendous leverage in both bilateral and multinational trade negotiations of all sorts. There are ways that the administration—if it makes this issue a priority—can persuade our trading partners that this is the right direction to go.

Each of our trading partners has their own constituency of taxpayers who would probably rather not be forced to subsidize this process just as we do. I think this amendment does it

in a careful fashion that allows businesses to continue for now provided we start in a different direction, a direction that will avoid continuing to put taxpayers at risk.

I urge my colleagues to support my amendment numbered 2104.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I would like to speak in support of Senator TOOMEY’s amendment and to point out some of the things about the Ex-Im Bank that are important for the taxpayers to know.

As a businessman I know if I can get a guaranteed loan, I would take it in a second. I don’t blame companies that are interested in lower rate financing. But as Congressmen and Senators and as the President of the United States, our job is to protect taxpayers. We are forgetting in this debate that when we guarantee a loan, we are signing the taxpayers’ names to a loan guarantee. In the real world if an individual or a business guarantees a loan, that is a very real liability to them, and we are not just talking about the Ex-Im Bank.

The taxpayers of this country are now liable for about \$1 trillion for student loans, trillions of dollars for mortgages and other loan guarantees and insurance.

We cannot continue to pass these bills without realizing someday these bills are going to come due and the folks across the country are going to have to pay them.

We were promised, when Fannie Mae and Freddie Mac were making all these loans, that it was good for the taxpayer, that we were making money, we could not lose. But the taxpayers have lost billions of dollars. And now as we continue to guarantee loans around the world, some of the countries these loans are going to are on the watch list by Moody’s and other ratings services because of the financial situation in Europe and all across the world, which is more and more strained. We cannot assume this money is coming back to the taxpayer.

We probably heard already from some of the speakers that the Export-Import Bank was started many decades ago during Franklin Roosevelt’s administration, and there was a limit on how much could be lent. It was \$3.5 billion. But we know how government works and how government grows. The bill we are considering this week is not in the millions; it is in the billions; and it is not \$3 billion or \$4 billion, it is \$140 billion of loan guarantees to American companies that are selling overseas.

Unfortunately, that does not help American companies that want to sell here in America, which means much of the domestic market for our products is financed at a higher rate. It is only the rest of the world. And we are the biggest consuming market in the world. This is not an idea we should continue in America. We are in a bidding war with China and Europe to see

who can subsidize the most loans at a time when all of us are broke.

We need to bring this to a close. Senator TOOMEY’s amendment is a logical way to proceed. The World Trade Organization is set up to make sure there is a level playing field and that we are not subsidizing imports and exports. But this is a very real subsidy and a very real risk to the American people.

Let’s begin the process of taking away this excuse of why we need to subsidize them. The excuse is always: We have to do it because they are doing it. But as a world trading organization, we need to take down these subsidies and phase them out. We can do that and decrease the amount of money the American taxpayer is liable for. It is common sense. Hopefully, my colleagues will support it today.

Mr. LEVIN. Mr. President, I am pleased the Senate is voting on H.R. 2072, the Export-Import Bank Reauthorization Act of 2012. This bill will reauthorize the Export-Import Bank, which has been operating under temporary extensions. We are overdue to reauthorize and expand this important agency.

The Export-Import Bank is an important tool U.S. companies can use to promote the export of American-made manufactured goods, particularly exports of small- and medium-sized manufacturers which make up the largest portion of the Export-Import Bank’s transactions. The Export-Import Bank provides financing to foreign purchasers of U.S. goods when private financing is not available. That financing allows U.S. businesses to sell more U.S. goods abroad, which means we create more jobs here at home. And the reality is that many of our trading partners that compete against us in the global marketplace use aggressive export financing to advantage their companies. We need to offer the same type of support to American manufacturers so that they can compete in overseas markets on a level playing field.

Over the last 5 years the Export-Import Bank helped 148 Michigan companies export \$2.7 billion worth of goods overseas, supporting and creating jobs in Michigan. Over 100 of these Michigan, companies were small businesses selling a broad range of products manufactured in Michigan, including fabricated metal products, machinery, auto parts, chemicals, wood products, paper, and food. The three top export destinations for these Michigan exports were Mexico, Turkey, and Canada.

The Export-Import Bank is self-financing and in fact contributes money to the U.S. Treasury every year. This is a win-win situation to reauthorize the Export-Import Bank and increase its authorization level at no cost to the government so that we can export more American-made goods and create and support U.S. jobs here at home.

Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent to speak for the next 10 minutes.

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

Ms. CANTWELL. I have enjoyed listening to my colleagues on the other side of the aisle talk about Senator TOOMEY's amendment and all about subsidies. Well, it is hard to argue about subsidies when we are talking about the Ex-Im Bank generating \$3.7 billion for U.S. taxpayers since 2005.

So if this is a subsidy, we need a lot more of it because you are winning in producing jobs and you are actually producing money for the Treasury. This is a very important tool for us to win in a global economy. I think my colleague from South Carolina who spoke earlier said it best when he talked about the manufacturing jobs that are now in that State and what an important tool it is.

I am not one of those who basically says: Oh, we should do it because other countries do it. I am saying, you should recognize that is going on, but that the United States needs to understand there is a global marketplace for its products. If you believe in U.S. manufacturers, as I do—and I have seen them in my State—they are winning the day in producing products and services that can beat the competition in international marketplaces. They can.

I have seen grain silos, I have seen music stands, and, yes, I have seen airplanes. So the question is, are we going to let U.S. products that can beat the competition in an international marketplace lose because the purchaser of those products is looking for financing mechanisms that will help them secure financing and purchase of those products? That is the question.

Does the United States want to do those kinds of activities? I say we should be even more aggressive. Why? Because the global development of many countries that are now buying U.S. products is going to continue to grow. In my State, in southwest Washington, in Vancouver, I saw the second largest grain elevator in the entire world—the second largest grain elevator. I said: Why do we have the second largest grain elevator in the entire world right here at the Port of Vancouver? They said to me: Because as the Asian middle class rises, they want to eat beef. And if they want to eat beef, they have to have grain.

What is wrong with the United States selling grain to Asian markets because they want our product—or all these other products we have been talking about today? These are examples of products in the United States where we are actually building a product that many countries and many end customers want. We should celebrate that, and we should realize, as the growing middle class around the globe increases, there is even more opportunity for the United States to sell products and win the day in the marketplace. So I do not know what they are talking

about when they say “subsidies,” because this has been good for the U.S. taxpayers, and it has been good for our economy.

Specifically to the Toomey amendment, this amendment would require unnecessary conditions for helping the bank in the future. Basically, it would put a hold on the financing of the Export-Import Bank until we negotiated on an international basis to terminate this kind of financing.

As I said, for many States, they have had great benefits. In Pennsylvania, they have had the economic benefit—this is in just 2011—of \$1.4 billion in exports and over 9,000 jobs. So here is something that has actually created jobs, created money for the U.S. economy—basically money back to U.S. taxpayers that we have used to help pay down the deficit. So how is it that is bad for us? In the meantime, that manufacturer in Pennsylvania is winning and getting his product out on an international basis and, hopefully, expanding his business to many different countries.

We had numbers on some of the other examples of companies that have been helped in various States. These are products and services like many in my State. We have visited a grain silo producer in Spokane, WA, that is winning in selling its product. We visited a music stands company, Manhasset Music Stands. You would think somebody might be able to compete with them and beat them in the international marketplace, but, in fact, they are winning the day in the international marketplace, and the Export-Import Bank helps them in doing so.

There are many examples of how this particular program is a win for taxpayers, is a win for manufacturers, and is a win for the U.S. economy. These amendments that are all trying to gut the Export-Import Bank would send this back to the House, when we need to be sending it to the President's desk, giving certainty and predictability to our economy, giving certainty and predictability to a program that has existed for decades, for which often there has been a voice vote—instead of holding it up, actually making sure manufacturers have the opportunity and know where the financing is.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

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

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

UNANIMOUS CONSENT AGREEMENT—MOTIONS TO PROCEED

Mr. CONRAD. Mr. President, I ask unanimous consent that following leader remarks on Wednesday, May 16, the Senate proceed to the consideration of motions to proceed to the following budget resolutions listed, en bloc: Calendar No. 357, S. Con. Res. 41; Calendar No. 354, H. Con. Res. 112; Calendar No. 356, S. Con. Res. 37; Calendar No. 384, S. Con. Res. 42; and Calendar No. 395, S. Con. Res. 44; that there be 6 hours of debate on the motions to proceed equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on the five motions to proceed in the order listed above; that there be 2 minutes equally divided between the votes and that all after the first vote be 10-minute votes; that the motions to reconsider be considered made and laid upon the table; that notwithstanding the adoption of any motion to proceed, the Senate proceed to the remaining votes on motions to proceed; further, that at the conclusion of those votes, the Senate resume consideration of the budget resolution if a motion to proceed is adopted; and that if no motion to proceed has been adopted, the majority leader be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. HELLER. Mr. President, reserving the right to object, there has not been a budget passed in the Senate and the House in over 3 years. I would argue that the exercise we have ending tomorrow will have no substantial difference. I do not think there is anyone in America who believes we will have a budget at the end of tomorrow. The Congressional Budget Act of 1974 requires Congress to pass a budget by April 15. So with that, I ask unanimous consent that the request of the leader be modified so that S. 1981, the No Budget, No Pay Act, be automatically discharged from the Homeland Security and Government Affairs Committee, the bill be immediately placed on the calendar, and that when the Senate proceeds to the budget votes mentioned in the Senator's request, the Senate also vote on the motion to proceed to S. 1981 under the same terms and conditions of the other budget votes.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. CONRAD. Objection has been heard on our side.

The PRESIDING OFFICER. There is objection to the modification. Is there objection to the original request? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, just on the note that the Senator raised, I want to make clear that I have heard over and over: No budget resolution has passed in 1,000 days. What is not being said is that instead of a budget