

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3369, a bill to amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, super PACs, and other entities, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Alabama (Mr. SHELBY).

Further, if present and voting, the Senator from Alabama (Mr. SHELBY) would have voted "no."

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 180 Leg.]

#### YEAS—53

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

#### NAYS—45

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

#### NOT VOTING—2

Kirk	Shelby
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The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion upon reconsideration is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I withdraw my pending motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

#### BRING JOBS HOME ACT—MOTION TO PROCEED

Mr. REID. I move to proceed to Calendar No. 442, S. 3364.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 442 (S. 3364), a bill to provide an incentive for businesses to bring jobs back to America.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk in reference to this legislation.

The PRESIDING OFFICER. The cloture motion having been presented pursuant to rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 442, S. 3364, a bill to provide an incentive for businesses to bring jobs back to America.

Harry Reid, Debbie Stabenow, Sheldon Whitehouse, Al Franken, Richard J. Durbin, Sherrod Brown, Richard Blumenthal, Jeff Merkley, Christopher A. Coons, Robert P. Casey, Jr., Benjamin L. Cardin, Jeanne Shaheen, Kirsten E. Gillibrand, Charles E. Schumer, Jack Reed, Barbara A. Mikulski, John D. Rockefeller IV.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

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

Mr. REID. Mr. President, once again I am disappointed, as I think most people in this country are, on an issue as timely as this, outsourcing jobs, that we once again are being stymied on moving to that legislation. We are going to have a vote. The rules are we cannot have a vote on this until 2 days go by, so that is a vote on Thursday. If cloture is invoked on that, then we are only on the bill, and then to get off of it would take another series of days. I think to get final action on this is going to take a week.

It is so unfortunate that we have to go through this. We have gone through this so many times. There is, I repeat, not an issue more timely than this—outsourcing jobs. Whether it is the Olympic uniforms or the many other jobs that have been lost around the country, the American people are tired of it, but I think it is unfortunate the Republicans are stopping us from being able to start legislating on this bill.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to urge my colleagues to support the motion we have before us to begin consideration of my bill, the Bring Jobs Home Act. I thank my leader for making this a priority and thank the President of the United States for also making this a priority as we move forward.

Let me start on process, to say it is true, of course, as the leader indicated, we could be simply on this bill and working to complete it and pass it. But unfortunately, as happens on everything now, when the leader attempts to move to a bill, there is an objection to that. When there is, it puts us into a situation where we have to spend several days trying to overcome a potential filibuster to be able to move to the bill. So, process-wise, that is where we are.

From a substance standpoint it is absolutely critical that we move to this bill and that we pass it. The great recession and the financial collapse of 2008 were absolutely devastating to our economy. We know that during that time, 8 million Americans lost their jobs and many are still struggling to get out of their own deficit hole because of what happened. These are people who worked all their lives and played by the rules, only to have the rug pulled out from under them.

Many of these people were folks who worked in manufacturing, many in my great State of Michigan. We are so proud that we make things in Michigan. We do not have a middle class, we do not have an economy unless we make things. That is what we do in Michigan. For decades, this has been the foundation of our economy. Frankly, it created the middle class of our country and we are proud it started in Michigan with the beginning of the automobile industry.

It is no coincidence that as those jobs have disappeared over the decades, the middle class has begun to disappear as well and families are in more and more difficult situations personally as a result of that. Those jobs have been the driving force of our economy for decades, as I indicated. Those jobs are the jobs that allowed the "greatest generation" to build the greatest economy in the world, the greatest economy we have ever seen. Those jobs led to tree-lined streets with at least one car in every driveway, and the freedom to raise a family and send them to college and maybe have the cottage up north and be able to take the family on vacation and have the American dream.

Today in fact that dream is in jeopardy and every American family knows that. But it does not have to be that way. In the last decade, companies shipped 2.4 million jobs overseas. To add insult to injury, American taxpayers were asked to help foot the bill.

It is amazing. When I explain that to folks in Michigan, they say you have to be kidding—or they say other things I cannot repeat on the floor of the Senate. Just imagine if you are one of those workers in Michigan or in Virginia or in Ohio or in Wisconsin or anywhere in this country who maybe was forced to train your overseas replacement before you were laid off. Imagine what your reaction would be—more colorful than I have been able to state here. When an American worker is asked to subsidize the moving expenses, as they do today under current

tax policy—the moving expenses and costs so their own job can be shipped overseas—there is something seriously wrong with our Tax Code and with our priorities.

It does not have to be that way. In fact, we can change that. We can change that this week on the floor of the Senate by passing the Bring Jobs Home Act and sending it to the House and then sending it to the President where I know he will enthusiastically and immediately sign it.

Instead of rewarding companies for shipping jobs overseas, we want to reward companies for bringing jobs home. That is the whole point of this bill. We stop the tax deduction for moving expenses related to moving jobs overseas. That is what this bill does. Right now you can deduct those expenses as part of your business expenses. We say: No more. Second, we say: However, if you want to come home, we will happily give you that deduction for the costs of moving back to the United States and we will add an additional 20 percent tax credit for those costs of bringing jobs back to the United States. That is what we are doing in the Bring Jobs Home Act.

This is common sense. Unfortunately it is not that common these days, but it is common sense and it is good economic sense as well. It is so important that we pass this bill. We talk about tax reform. We talk about having a lot of tax loopholes. This is one we can eliminate right now, together, on a bipartisan basis. Let's start here, the No. 1 loophole, we will close it; No. 1 priority, jobs in America.

I know some of my colleagues do not believe these jobs are ever coming back. I hear that all the time. We in Michigan have been seeing that same defeatist argument for 20 years. But in fact that is not true. One of the things I am proudest of in the last 3½ years is that we have refocused on advanced manufacturing, making things in America, in this country. We have a lot more to do but we have in fact refocused on jobs here at home and we are seeing, because of that, a whole range of policies—whether it is the advanced manufacturing tax cut I offered in the Recovery Act, that allows a 30-percent writeoff for clean energy manufacturing jobs, or whether it is the retooling loans we put in place to be able to help retool plants to be able to modernize in the name of advanced manufacturing. It is bringing jobs back.

We put in place some initial actions that are making a difference and we are now seeing every month that manufacturing is having an uptick. It has been one of the only areas where pretty much every month we have begun to see a slow return. We are beginning to see some of these jobs come back as a result. Our companies are doing the calculations, finding out that bringing jobs home makes good business sense. It is time our Tax Code stops standing in the way and actually has caught up with what many businesses are doing.

Ford Motor Company brought jobs back from Mexico to support advanced vehicle manufacturing at their newly retooled Wayne Assembly Plant in Wayne, MI. Chrysler is growing and expanding their operations here in the United States, investing—95 percent I believe is the last number which I heard of their investments are being done in America. We are proud to have them investing in Detroit and in Michigan. Last week we saw a report that GM is about to go on a “hiring binge.” I love this, I love anything called a hiring binge, as they bring almost all of their information technology needs back in-house, and to America.

We have a great company in Detroit—actually from New Jersey, now in Detroit—Galaxy Solutions, that has an “outsource to Detroit” effort going on to bring IT back from places such as India and Brazil and China. We have on the side of one of our largest buildings this great sign that says “outsource to Detroit.” If we are going to outsource somewhere, let's outsource to our American cities. We love the fact that they are part of the effort to rebuild and refocus on Detroit.

We have companies that want to invest in America. We have stories about GE coming back. We have stories in every State of companies that are bringing jobs back to America. We have men and women who want to work. We have companies that are looking at bringing jobs back. CNBC called it “the stuff that dreams are made of.”

I think going forward the great economic resurgence for us is involved in advanced manufacturing, making things in America and bringing our jobs back to America. It is more than time. It is what our workers are dreaming of. We are proud in Michigan of our workforce, these folks who know how to work, they want to work, they work hard every day. I have to say that efforts such as “outsource to Detroit” are giving them a new chance to do that, as well as the other efforts that are going on around Michigan.

There are so many opportunities right here in America. We have the great new ideas. We have the ingenuity and the innovation. We have to make sure we have the right policies to make it happen, that we are not doing anything in our Tax Code that encourages jobs to go overseas; that we do everything possible to support efforts to bring them back and then to reinvest and to expand upon research, development, innovation, retooling the plants we have, reinvesting in communities, reinvesting in our cities, and focusing on a strategy of American jobs. That is what everyone wants us to be doing.

There is a great place to start and that is with our Tax Code so that it catches up with what leading-edge business leaders already know. American businesses, American workers can compete with anybody in the world if we have a level playing field and we give them a chance to do it.

This is a moment, I believe, for us to indicate very strongly to everybody in the country that we get it and that we are not going to allow the Tax Code to continue to create a situation where if someone wants to close up shop and move overseas they can get a tax writeoff as a result. That makes absolutely no sense. I cannot imagine any other country in the world allowing that to happen.

When I think about places such as China, where at this point they say: Come on over, we will build the plant for you. Forget about a retooling loan; we will build the plant for you. Of course, then we will steal their patents, and there are a lot other challenges, but: Come on over and we will build the plant for you. The last numbers I saw showed that China was spending \$288 million a day—probably more now—on clean energy policies and manufacturing, and new cutting-edge efforts to try to compete and beat us in an area we should own.

Between our universities and our businesses and our great workforce we ought to completely own these technologies. I am very proud to say that Michigan is now No. 1 in new clean energy patents. We were proud to open, last Friday, the first U.S. Patent Office outside of Washington, DC, in Detroit, MI, as a result of that. There are great ideas happening all over this country right now, innovators—frankly, people who have lost their jobs and they are now back in their garage or basement or the extra bedroom, with new ideas. We want to create businesses to support their creation of businesses by incentivizing them, not having a Tax Code that incentivizes somebody to move overseas.

This legislation I think is pretty simple. It is about bringing jobs home to America. We are going to stop writing off the costs, allowing that business to be subsidized by all of us, including the people they lay off, in order to move overseas. Instead, we are going to say no, if you move overseas you are on your own. But if you want to come back we are happy to allow you a business deduction for those moving expenses and we will add another 20 percent toward the costs of your expenses on top of it. That is what we should be doing. That is smart tax policy. It is common sense. It is one step in a series of things we need to do in order to be able to bring jobs home and make things in America again. I hope we will see an overwhelmingly positive, bipartisan vote on this bill. It would send a wonderful message that we can work together.

We worked together not long ago to pass a farm bill with a strong bipartisan vote because we need to make and grow products in America. That is how we make an economy; that is how we have a middle class. We came together, and I am very appreciative of everyone coming together and working with me and Senator ROBERTS to get that done. This is another opportunity.

It is another way for us to come together and say: We get it. We understand what is going on in the country.

Let's work together and get the job done. I strongly urge colleagues to come together and pass the Bring Jobs Home Act.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

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

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

#### TAX REFORM

Mr. HOEVEN. Madam President, I rise to speak about progrowth tax reform. One week ago Monday, President Obama proposed to raise taxes on over 1 million small businesses in this country. Even though he said in the past that we cannot raise taxes in a recession and that higher taxes will hurt our economy and hurt job creation, he proposed raising taxes on more than 1 million small businesses across this country.

Last week I came to the floor to talk about why that is not the right approach and to discuss the approach we should take, the right approach. I pointed out that his approach—the administration's approach—has made our economy worse since he took office.

Here are the facts, and they speak for themselves. Today we have 8.2 percent unemployment. We have had over 8 percent unemployment for 41 straight weeks. We have more than 13 million people who are out of work and another 10 million people who are underemployed. That is 23 million people who are either unemployed or underemployed. Middle-class income has declined from an average of \$55,000 down to \$50,000 since the President took office. Food stamp usage is up. There were 32 million food stamp recipients at the beginning of the Obama administration; today there are 46 million recipients. We have gone from 32 million people on food stamps to 46 million people on food stamps. Home values have dropped from an average of \$169,000 to an average of about \$148,000.

Let's talk about economic growth. GDP growth is the weakest for any recovery since World War II. In the last quarter, the rate of growth was 1.9 percent over the prior quarter. There were 82,000 jobs created in the month of June. We need 150,000 jobs gained each month just to keep up with population growth and to reduce the unemployment rolls.

Those are some of the statistics.

When I spoke on the Senate floor last week, I also read a letter from one of my constituents back home who is a small business owner. He owns an Ace Hardware store. In his letter, he stated very clearly and very eloquently that the President's approach with small business is hurting our economy. I am not going to read the full letter, but I

do want to read a couple of lines from his letter.

His letter states:

The president's programs not only limit my company's potential to grow, but they destroy any incentive to work and hire more people. I just don't know if he doesn't understand what he's doing, or just doesn't care.

I am taking that right out of a small businessperson's letter. Keep that last line in mind for just a minute.

I just don't know if he—

President Obama—

doesn't understand what he's doing, or just doesn't care.

I referenced that because the President gave a speech last Friday in Roanoke, VA. In his speech, he followed up on his plan to raise taxes on small businesses. I am going to read right from the President's speech. I think it gives insight as to his view of small business and how our economy works.

He said:

There are a lot of wealthy, successful Americans who agree with me—because they want to give something back. They know they didn't—look, if you've been successful, you didn't get there on your own. You didn't get there on your own. I'm always struck by people who think, well, it must be because I was just so smart. There are a lot of smart people out there. It must be because I worked harder than everybody else. Let me tell you something—there are a whole bunch of hardworking people out there.

If you were successful, somebody along the line gave you some help. There was a great teacher somewhere in your life. Somebody helped to create this unbelievable American system that we have that allowed you to thrive. Somebody invested in roads and bridges. If you've got a business—you didn't build that. Somebody else made that happen. The Internet didn't get invented on its own. Government research created the Internet so that all the companies could make money off the Internet.

So that is right out of the President's speech in Roanoke, VA, last Friday. I think these comments provide real insight into President Obama's view of our economy and the role of small business in our economy. He says we have all had help in our lives, and that is certainly true. There is no question about that, and I don't think anyone disputes that.

He makes it clear that he believes government, not small business, is the driver of our economy. He says it is government that paves our roads and invented the Internet. In essence, it is government that made successful people successful and government that makes our economy go.

That is just not right. It is small business that makes our economy go. It is small business that made our economy the envy of the world. It is small business that serves as the backbone of our economy, that employs our people, that generates tax revenue to build our roads, creates innovation like the Internet, and that provides Americans with the highest standard of living in the world. Small business is the engine that drives our economy, and we need to get it going. We don't do that by raising taxes and growing gov-

ernment. Clearly, that is not the way to go.

The President says everyone needs to pay their fair share. Well, of course everyone needs to pay their fair share, but the way to ensure that gets accomplished is with comprehensive progrowth tax reform and closing loopholes. Let's extend the current tax rates for 1 year, and let's set up a process to pass comprehensive progrowth tax reform that lowers rates, closes loopholes, that is fair, that is simpler, and that will generate revenue to reduce our deficit and our debt through economic growth rather than through higher taxes. The reality is that is the only way to go—along with reducing government spending—that will get our debt and deficit under control and get our people back to work. To be successful, this effort needs to be bipartisan, and the clock is ticking.

So let's get started. Let's give small business in this country the legal, tax, and regulatory certainty to encourage private investment and innovation. That is the American way. That is the real American success story. We can do it, and we need to make it happen now.

Thank you, Madam President, and I yield the floor. I would also suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa.

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

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

#### FDA INVESTIGATION

Mr. GRASSLEY. Madam President, I come to the floor to address my colleagues about a Federal agency that has forgotten that this Federal agency is supposed to be working for the American people. This is an agency that has gotten too big for its britches. Some of the officials have forgotten who pays their salary.

The Food and Drug Administration is supposed to protect the American people, except lately the only thing the FDA bureaucrats seem to have any interest in is protecting themselves. According to whistleblowers and published reports in the Washington Post and in the New York Times, the agency in charge of safeguarding the American public and providing for the public safety has trampled on the privacy of its very own employees. The FDA mounted an aggressive campaign against employees who would dare to question its actions and created what the New York Times termed an "enemies list" of people it considered dangerous. It kind of reminds us of President Nixon and the IRS going after enemies.

The Food and Drug Administration has been spying on this enemies list. The FDA has been spying on the personal e-mails of these employees and

everybody these employees contacted. That includes their protected communications even with those of us in Congress.

We would not have known the extent of the spying if internal FDA documents about it had not been released on the Internet, apparently just by accident. We would not have known how the FDA intentionally targeted and captured confidential, personal e-mails between the whistleblowers, their lawyers, and those of us in Congress.

In these internal documents, the FDA never wanted the public to see that it referred to whistleblowers as “collaborators.” FDA refers to congressional staff as “ancillary actors.” FDA refers to newspaper reporters as “media outlet actors.” These memos make the FDA sound more like the East German Stasi than a consumer protection agency in a free country.

At the beginning of Commissioner Hamburg’s term, she said whistleblowers exposed critical issues within the FDA. That seems to be a very approving comment. She vowed to create a culture that values whistleblowers. That appears to be a very approving statement. In fact, in 2009 she said: “I think whistleblowers serve an important role.”

I wanted to believe Commissioner Hamburg when she testified before the Senate committee during her confirmation. I wanted to believe her when she said she would protect whistleblowers at the Food and Drug Administration. However, the facts now appear very different.

In this case, the FDA invaded the privacy of multiple whistleblowers. It hacked into the private e-mail accounts and used sophisticated keystroke logging software to monitor their every move online.

When an FDA supervisor was placed under oath in the course of an equal employment opportunity complaint, that employee—that supervisor—testified that the FDA was conducting “routine security monitoring.” That is entirely false. This monitoring was anything but routine. It specifically targeted five whistleblowers. It intentionally captured their private e-mails to attorneys, to Members of Congress, and to the Office of Special Counsel. The internal documents showed that this was a unique, highly sophisticated, and highly specialized operation.

According to the Office of the Inspector General, the Food and Drug Administration had no evidence of any criminal wrongdoing by these whistleblowers. This massive campaign of spying was not just an invasion of privacy; it was specifically designed to intercept communications that are protected by law. The Office of Special Counsel is an agency created by Congress to receive whistleblower complaints and to protect whistleblowers from retaliation. The law protects communications with the special counsel as a way to encourage whistleblowers to report waste, fraud, abuse,

mismanagement, and threats to the public safety, and to do that reporting without fear of retaliation. The FDA knew that contacts between whistleblowers and the Office of Special Counsel are privileged and confidential, but the James Bond wannabes at the FDA just didn’t seem to care what the law said.

In the end, the self-appointed spies turned out to be more like the bumbling Maxwell Smart. Along with their own internal memos about spying, the fruits of their labor were also accidentally posted on the Internet. It is tens of thousands of pages of e-mails and pictures of the whistleblower computer screens containing some of the very same information the FDA bureaucrats were so keen to keep secret.

When I started asking questions about this, FDA officials seemed to suffer from a sudden bout of collective amnesia. It took them more than 6 months to answer a letter from last January starting my investigation of this issue. When I pushed for a reply during those 6 months, FDA told my staff that the response would take time to make sure it was accurate and complete.

When I finally got the response on Friday, it doesn’t even answer the simplest of questions, such as who authorized this targeted spy ring, and isn’t it a coincidence that just Friday, before the New York Times article was going to come out, they finally answered a letter going way back to my questions of January. Worse than that, though, it is misleading in its denials about intentionally intercepting communications with Congress.

When I asked them why they couldn’t just answer some simple questions, they told my staff that the response was under review by the “appropriate officials in the Administration.” The nonanswers and the doublespeak would have fit right into some George Orwell novel.

Of course, when my staff dug deeper and asked if the response was being reviewed by the Office of Management and Budget, the Food and Drug Administration responded: No, it wasn’t being reviewed by OMB.

FDA refused to identify who within the administration was holding up the FDA’s response to my letter. Now, that is in an administration that said on January 20, 2009, they are going to be the most transparent in the history of this country. FDA refused to say how long it had been sitting on that person’s desk or why it had been approved by the political officials outside the FDA. Who is this shadowy figure conducting some secret review of the FDA’s responses to this Senator’s questions? Why was there all of a sudden interest in exerting political control over the correspondence of this supposedly independent Federal agency? And when we use the words “independent Federal agency” around here, we mean not subject to political control.

We need answers, and we need answers now. I have been demanding answers for 6 months. For the past 6 months, FDA has been telling me to just be patient. The FDA has been telling me they have a good story to tell—and those are their words, “a good story to tell.”

Apparently, though, there is someone in this administration—President Obama’s administration—who didn’t want them to say anything for as long as they could possibly get away with not saying anything. I finally got Commissioner Hamburg on the phone in June of this year. Commissioner Hamburg personally assured me the FDA was going to fully cooperate with my investigation. Yet the FDA has provided me with nothing but misleading and incomplete responses.

The FDA has failed to measure up to Commissioner Hamburg’s pledge of cooperation. The FDA buried its head in the sand in hopes I would lose interest and go away. They don’t know me very well. That is not going to happen.

I don’t care who is in charge of the executive branch—Republican or Democrat—I am going to continue demanding answers. When government bureaucrats obstruct and intercept my communications with protected whistleblowers, I am not going to stop. When government bureaucrats stonewall for months on end, I will not stop. When government bureaucrats try and muddy the waters and mislead, I will not stop. I intend to get to the bottom of it.

I will continue to press the FDA until we know who authorized spying. Can my colleagues imagine spying in American government, a transparent government—supposed to be transparent—spying on whistleblowers who are protected by law and who have a special office set up to protect them, and spying on communications between a lawyer and their client?

Someone within the FDA specifically authorized spying on private communications with my own office and with several other Members of Congress. Someone at FDA specifically authorized spying on private communications with Congressman VAN HOLLEN’s office. Someone at FDA specifically authorized spying on private communications with the staff of the Senate Special Committee on Aging. Someone at FDA specifically authorized spying on private communications with the lawyers for whistleblowers, and those lawyers are called the Office of Special Counsel.

These whistleblowers thought the FDA was approving drugs and treatment it shouldn’t. These whistleblowers thought the FDA was caving to pressure from the companies who were applying for FDA approval. They have a right to express those concerns without any fear of retaliation whatsoever, if the law is going to be followed—the law protecting whistleblowers. But after doing so, two of these whistleblowers were fired, two more were forced to leave FDA, and five of them

were subjected to an intense spying campaign.

Senior FDA officials may have broken the law. They authorized the capturing of personal e-mail passwords through keystroke logging software. That potentially allowed them to log in to the whistleblower's personal e-mail accounts and access e-mails that were never even accessed from a work computer. Without a subpoena or warrant, that would be a criminal violation.

After 6 months, FDA finally denied that occurred. However, that denial was based on the word of one unnamed information technology employee involved in the monitoring. We need a more thorough investigation than that.

I have asked the FDA to make that person and several other witnesses available for interviews with my staff. We will see how cooperative FDA plans to be now. I will continue to press the FDA to open every window and every door. Eventually enough sunlight on this agency will cleanse it.

FDA gets paid to protect the public, not to keep us in the dark. Secret monitoring programs, spying on Congress, and retaliating against whistleblowers—this is a sad commentary on the state of affairs at the FDA.

I know there are hard-working and principled rank-and-file employees at the FDA who care very much about their mission to protect the American public from harm. Unfortunately, all too often those rank-and-file employees are unfairly tarnished by others, such as those involved in this spy ring.

This is a sad commentary on President Obama's promise to the American people that this would be the most transparent administration in history. The American people cannot lose faith in the FDA. Unfortunately, after this debacle, some of that faith may deteriorate. The FDA has a lot of work to do to restore the public's trust.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### THE ECONOMY

Mr. HATCH. Madam President, the American people are struggling. Our economy is barely keeping its head above water. Millions of citizens remain out of work. President Obama has spent trillions in taxpayer dollars, and there is nothing to show for it. He talks about investments—investments in infrastructure, in roads, and in bridges—while he has spent trillions. Where are the roads? Where are the bridges? Where is the new electrical grid?

This reckless spending is a sin of commission. But the administration's sins of omission are perhaps worse.

With businesses and families lacking any certainty at all about their tax rates next year, the President and his liberal allies have, nonetheless, steadfastly refused an extension of the 2001 and 2003 tax relief.

Even worse, they are so committed to raising taxes on small businesses—the same small businesses that must be cultivated to get our economy and job growth moving again—that he and his Democratic allies in the Senate have put their feet down and are denying tax relief to anyone unless they get their way on tax increases.

And make no mistake about it, increasing taxes is what they intend to do. They intend to do it so they can spend more. They live to raise taxes. It is almost as though their only source of pleasure is hiking taxes. Taking money out of the private sector and controlling it for their liberal agenda is like some power trip for the left.

And do not fall for that red herring fiscal responsibility argument advanced by my friends on the other side. If you look at comparable policy between the Hatch-McConnell amendment and the Democratic leadership's position, they differ by about \$41 billion for the policy for 2013. That \$41 billion represents 1.1 percent of the spending proposed in the President's budget for 2013. The House budget, rejected by our friends on the other side, would reduce the deficit by restraining spending by \$180 billion—more than four times the deficit reduction that would be achieved through the tax hikes insisted upon by the Democrats.

But what does that tax increase mean in terms of harm to the economy?

My friends on the other side of the aisle should consider this: Today, a study commissioned by the National Federation of Independent Business, the S Corporation Association, and the U.S. Chamber of Commerce confirmed again that the President's attempt to stick it to the rich is going to end up skewering small businesses and the families who work for them, or would like to work for them.

This report, published by Ernst & Young—one of the great accounting firms in this country—and authored by Dr. Robert Carroll and Gerald Prante, found that if the President gets his way, the economy will be 1.3 percent smaller than it would be and there would be 710,000 fewer jobs.

Study after study confirms that the President's policies prioritize spreading the wealth around over growing the economy and creating jobs.

The Vice President spoke yesterday about the values of Republicans and the values of Democrats. Naturally, he spoke pejoratively about Republican values. I disagree with him, naturally, on his negative assessment, but I do agree that there is a clear distinction—a clear choice—between the values embraced by Republicans and Democrats.

Republicans want to grow the economy and create jobs so that American

families can thrive. However, to judge by their single-minded pursuit of tax increases, President Obama and his liberal allies appear to value a politics of class envy and wealth redistribution. Having Washington bureaucrats manage the economy in the name of wealth equalization is their first priority, regardless of any evidence that this tax policy undercuts economic growth and job creation.

Unfortunately, the President's economic ethic is significantly hampering our economic recovery with disastrous consequences for America's families.

Today, Ben Bernanke, the Chairman of the Federal Reserve, testified before the Senate Banking Committee. As the Senate's Democratic leadership and the President ignore the fiscal cliff, Chairman Bernanke's words are a somber reminder of what we face if we do not address the fiscal cliff.

He testified that the recovery "could be endangered by the confluence of tax increases and spending reductions that will take effect early next year if no legislative action is taken." He stated that the public uncertainty about the resolution of these issues is a negative drag on the economy, and he concluded that addressing this cliff "earlier rather than later would help reduce uncertainty and boost household and business confidence."

But instead of addressing these critical economic issues, the Senate spent another day voting on the same doomed piece of partisan legislation. Rather than take on the hard work of addressing the fiscal cliff that our economy is approaching, we spent precious time yesterday debating the DISCLOSE Act. For those who are not aware, this is a bill that had one purpose: to discourage political engagement by President Obama's opponents.

It takes a pretty bad bill to unify the ACLU; that is, the American Civil Liberties Union, and the NRA against it. But the DISCLOSE Act has brought the lion and the lamb together against it.

It is bad enough that we spent all of yesterday debating a bill that has no shot of becoming law. It is even worse that we devoted nearly an entire day today to debating the same bill again. In the meantime, the American people continue to suffer under this weak economy. And to defend their lack of action, the President and his allies have engaged in some revisionist fiscal history.

I want to begin by correcting the record on this revisionist fiscal history. I will follow that with a discussion of the other side's insatiable appetite for taxes and spending.

We have recently been debating whether we should adopt the President's policy to raise taxes on small business. We have also discussed the tax monster that is stalking the American people under the guise of ObamaCare. In both of these debates, we have heard a good deal of fictional accounting.

These accounts share much with other stories we have heard from the other side over the past decade. You hear it from our friends in the majority whenever the Senate discusses spending or tax policy. I have noticed that the arguments boil down to two points.

My friend and colleague, the former chairman and ranking member of the Senate Finance Committee, Senator GRASSLEY, came up with this thumbnail description of this creative historical account:

First, all of the so-called good fiscal history of the 1990s was derived from the partisan tax increases of 1993. That is their argument. And second, all of the supposedly bad fiscal history taking place within the past 10 years is to be blamed on the bipartisan tax relief plans originally enacted during the last administration and continued under the present administration.

You could go one step further and, as a policy premise, refine that thumbnail description to two short sentences. First sentence: Lower taxes are bad. Second sentence: Higher taxes are good.

Not surprisingly, these revisionist historians support higher taxes and higher government spending. Not surprisingly, the revisionists oppose cutting taxes and cutting government spending.

I direct folks to the Senate floor remarks I made on Valentine's Day last year. It is important to reiterate the main point of those remarks. Our friends on the other side assert that raising taxes was the key to a growing economy in the 1990s, and raising taxes could work this magic again.

A quick look at the data from the 1990s shows this assertion can be summarily dismissed.

I have a chart. According to the Clinton administration's Office of Management and Budget or OMB, the impact of the much bragged about tax hike bill of 1993 was minimal. The Clinton administration OMB concluded that the 1993 tax increase accounted for only 13 percent—as you can see, the green bar on the circular chart—the 1993 tax increase accounted for only 13 percent of deficit reduction between 1990 and 2000. Thirteen percent puts the 1993 tax increase behind other factors, such as defense cuts, other revenue, and interest savings. The data clearly shows that tax increases did not drive the deficit reduction.

As a matter of fact, only 13 percent of the positive fiscal history of the 1990s is due to the 1993 tax increase. That is it—13 percent. It is right here on the green part of the chart.

Well, what about the last decade? The period of 2001 to 2010 saw a lot of deficits. From what you hear from our friends on the other side, those deficits are a direct result of the tax relief that benefited virtually every American taxpayer. Yet CBO data tells us a different story.

On May 12, 2011, CBO released a recap of the changes over the last decade. At

the start of 2001, as everyone agrees, CBO projected a surplus of \$5.6 trillion. Over the decade, deficits of \$6.2 trillion materialized. That is a swing of \$11.8 trillion. What did CBO say were the causes?

My friends on the other side might be surprised to learn that the answer is not primarily tax relief. Higher spending accounts for 44 percent of the change. Higher spending, no question about it.

Let me repeat that. Higher spending was the biggest driver of the deficits of the last decade.

Economic and technical changes in the estimates accounted for 28 percent of the change. So all tax relief, including the tax relief passed by Democratic Congresses and tax relief signed into law by President Obama, accounts for 28 percent. The tax relief legislation, much maligned by our friends on the other side, accounts for less than half of the fiscal change attributable to tax relief. Specifically, the bipartisan tax relief bills of 2001 and 2003, including the AMT patches in those bills, accounted for 13.7 percent of the fiscal change of the last decade.

That is not ORRIN HATCH speaking, it is the nonpartisan congressional scorekeeper, CBO.

So how much of the bad fiscal history of the last decade is attributable to tax relief? Twenty-eight percent. That is it. That includes the tax cuts in partisan bills such as the stimulus. If you isolate the bipartisan bills that are the object of sharp criticism from our friends on the other side—the 2001 and 2003 tax cuts—you will find that those bills account for only 13.7 percent of the fiscal change in the last decade.

Abnormally low levels of spending contributed significantly to the surpluses of the 1990s. Abnormally high spending drove the deficits of the past decade. Abnormally high spending is driving our current deficits, and it will drive our future deficits as well.

To my friends on the other side, if we focus instead on hiking taxes way above their historic averages, we are misleading and mistreating the problem. The reason for our previous surpluses was low spending, and the reason for our current deficits is high spending. We cannot tax our way to fiscal health.

I now turn to a second issue that demands a response. It has a corollary of the theme underlying the revisionist fiscal history I have discussed. It is the insatiable appetite for taxes and spending that we see from the President and my friends on the other side.

Last week, President Obama once again called for tax increases in order to fund his so-called progressive vision of government. I am specifically speaking of the President's latest proclamation that the tax relief of 2001 and 2003—tax relief supported by the President and 40 Senate Democrats in 2010—should not be extended for people earning \$250,000 or more a year. This was breathlessly reported in some quarters

of the fourth estate as if it constituted news. In my opinion, the more proper and accurate response would be to borrow from President Ronald Reagan when he said “there you go again” to Jimmy Carter in a 1980 debate.

Perhaps ironically President Reagan was responding to President Carter's comments on a national health insurance proposal. President Reagan was more right than even he knew.

Getting back to taxes and the role of government, President Reagan was essentially making the same point this chart shows, which is liberal logic. No matter what problems face the left, the answer is always the same solution. Health care is too expensive; raise taxes. Spending is out of control; raise taxes. Gas prices are too high; raise taxes. Too many people are unemployed; raise taxes. It is a broken record.

Again, no matter what problem faces the left, the answer is always the same. More taxes are always needed in order to increase the size and scope of the government in people's lives.

The Supreme Court recently affirmed the point of this chart—the liberal solution to rising health care costs and lack of coverage were tax increases.

The propensity of President Obama and his ideological allies to raise taxes is nothing new, and it is widely acknowledged as well. Back in August of 2008, David Leonhardt wrote a piece in the New York Times that quoted then-candidate Obama. It is titled “Obamanomics,” and here is what he said:

If you talk to Warren, he'll tell you his preference is not to meddle in the economy at all—let the market work, however way it's going to work, and just tax the heck out of people at the end and just redistribute it. That way you're not impeding efficiency, and you're achieving equity on the back end.

In order that people may peruse the whole story, I ask unanimous consent that the Internet Web address to Mr. Leonhardt's piece be printed in the RECORD.

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

[From the New York Times, Aug. 24, 2008]

OBAMANOMICS

(By David Leonhardt)

<http://www.nytimes.com/2008/08/24/magazine/24Obamanomics-t.html>

Mr. HATCH. For those of us not invited to the local Dairy Queen for a Blizzard with the oracle of Omaha, the Warren cited in this quote is none other than Warren Buffett. He is a friend of mine—you know, the same Buffett from which the Buffett rule or Buffett tax is named.

Setting aside the ridiculous notion that Americans are as oblivious to taxes as cattle are to the purposes of the slaughterhouse they are being led into, this quote very accurately illustrates the liberal attitude toward taxes, which is that they always need to go up.

This chart illustrates government revenue as a percentage of GDP. Look



at that. The purple line is total government. The red line is Federal Government. The green line is State and local government. When we combine them, we get the purple line, which is well over 25 percent for most of the time, from 1970 up to 2010.

There are some fluctuations, but over the last 40 years, revenues have been roughly stable. We can see in the past 10 years a dip around the time the so-called Bush tax relief was enacted, followed by a rebound as the tax cuts promoted growth, followed by a dip in revenues as the recession set in. We can see that it came down around 2000, went up a little more, and then came down again.

According to the CBO, as of June 5, 2012, Federal revenues averaged 17.9 percent of GDP over the past 40 years. The same CBO report—the 2012 long-term budget outlook—forecasts that under current law, Federal revenues will be 18.7 percent of GDP next year in 2013 and will be 23.7 percent of GDP in 2037.

Somebody could say that current law is not realistic and some tax provisions that are scheduled to expire will likely be extended. To account for this, CBO has an alternative fiscal scenario which assumes the extension of certain tax policies through 2022.

CBO assumes this would lead to the Federal revenues increasing to 18.5 percent of GDP in 2022, with that level being preserved going forward. We definitely know that President Obama doesn't support the assumptions that are part of CBO's alternative fiscal scenario because earlier this week he called for taxes to increase on hundreds of thousands of small businesses—almost 1 million small businesses and business owners.

The question remains, Why do my friends on the other side think taxes always need to go up? The answer to this question is more complex than I am going to discuss right now, but part of the answer is that taxes need to go up in order to increase the size and scope of government in the lives of all Americans.

Here is another chart that compares State and Federal Government revenues, which we have just examined, with total government spending. We will notice Federal Government spending is the purple line on the top most of the way through except where it intersects with the red line, which is total government revenue. All of a sudden total government revenue goes down, but total spending seems to go up between 2005 and 2010.

We can see that over the past 40 years it looks like spending has been inclined to move up, but only in the past few years does it jump to unprecedented heights. Virtually every action taken by the Obama administration and Democratic Senate leadership has amounted to an increase in the size and scope of government.

The continuing government takeover of health care is just the single most

prominent example right now. On all fronts, President Obama's expansion of government is on the march, trampling whatever gets in its way.

The chart behind me is a combination of Federal and State spending. If we are just talking about the Federal Government, in the CBO document I cited earlier, it is projected that debt will eventually reach 200 percent of our economy—that means of the GDP—that health care spending will rise to record levels, and that Medicare and Social Security are on a path to disaster.

Getting back to the chart, the combined State and Federal spending and revenues—the purple line—what I find particularly striking is the large gap between the spending and revenue lines. Once again, as CBO has indicated, that gap is likely to increase to more than twice the size of our whole economy. We are already at 103 percent of GDP.

If I recall correctly, Spain is a little more than half of that—around 70 percent. Yet Spain is considered in real trouble in Europe. Once again, as CBO indicated, that gap is likely to increase to more than twice the size of our whole economy.

Finally, here is a chart of Federal and State government spending as a percentage of GDP. Look at this.

I apologize for being repetitive, but if there is one message that should be taken from my remarks today, it is one that I and others have been making a long time. That message is that the United States doesn't have a tax problem; it has a spending problem.

We keep hearing that Republicans are too beholden to an antitax ideology, and that any resolution of our debt crisis will require that Republicans get with the program and acknowledge the need for increased taxes.

As I have shown, this characterization of our fiscal and political problems is not close to half right. By far, the greatest cause of our fiscal shortcomings is increased spending.

Our increasingly precarious fiscal situation did not arise from a dramatic decrease in taxes but, rather, is being caused by a dramatic increase in Federal spending. There is a continual effort underway to deny this reality but reality it remains.

I have a chart that summarizes the latest tactic being used to convince people that exploding government spending is not the disaster it appears to be, and this is called the rich guy chart. As John Stossel has pointed out, people like free stuff. The problem with free stuff from the government is that nothing is free. To quote John Stossel, "It's an Uncle Sam scam." Stossel was specifically discussing the ability of people to exploit a tax credit for electric vehicles in order to acquire golf carts, but the principle applies to any instance where the government supposedly provides something for nothing. This is where the cartoon of the rich guy behind me comes in. Goodies

from the government are a lot less appealing when there is a pricetag involved, and many people would like to decide how they are going to spend their own money. The left's preferred solution to this little quandary is to have someone else foot the bill.

For President Obama, that someone else is, in his words, "the rich," which includes all these small businesses that are formed in subchapter S corporations and other passthrough entities, including partnerships, LLCs, and so forth—small businesses that are vital to our economic recovery.

Unfortunately, that approach is just as realistic as the cartoon I am using to illustrate my point. While many of us may not while away our leisure time down at the club playing whist with monocled robber barons, a lot of us probably know of small businesses in our communities that employ us or our neighbors and provide goods and services that consumers want and our economy demands.

When liberals are talking about this guy in the top hat with the monocle, they are talking about the hard-working small business owner. So when President Obama talks about increasing taxes on the rich, he is talking about increasing taxes on around 940,000 small business owners who are already in the top two tax brackets. A lot of people who would not pay the Obama tax increase work for someone who would be hit by it. What we have seen is that President Obama and his allies want to increase the size of government and, in part, they want to fund this expansion with higher taxes on so-called rich people.

I want to conclude my remarks with a question. If we are getting more government, what are we getting less of? I am going to go back to the chart I displayed earlier of government spending as a percentage of GDP.

This one right here. We can see government spending is going up, but what is going down as a result? What does the area on the top of that chart, which is diminishing, represent? This is a subject that lends itself to prolonged discussion, but for one answer we can get back to Mr. Leonhardt's piece in the New York Times. This is the same piece from August 24, 2008, and contains a quote from then-candidate Obama critiquing his friend Warren's argument.

President Obama said:

I do think that what the argument may miss is the sense of control that we want individuals to have in determining their own career paths, making their own life choices and so forth. And I also think you want to instill that sense of self-reliance and that what you do will help determine outcomes.

Let me refer to the Obamanomics II chart. If candidate Obama was in the midst of an internal struggle over the appropriate role of government back in 2008, that struggle is over—self-reliance lost and taxing the heck out of people and redistribution won. It runs through the theme of his revisionist fiscal history, and it is the ethic underlying the

insatiable appetite my friends on the other side have for taxes and spending.

This, in and of itself, is not anything new for liberals and progressives. Once again, I will quote my friend Ronald Reagan in my response to the President's plan to tax the heck out of people in the name of redistribution: "There you go again."

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, one of the foremost threats to our economy is the fiscal cliff. This is an issue my Republican colleagues and I have been talking about for several months now, calling for more transparency in the sequestration that will occur at the end of the year, a replacement of the defense sequester, and actions to prevent a massive tax increase on the American people.

Senate Democrats—who have only recently acknowledged the looming fiscal cliff—are now threatening to go over the cliff unless Republicans agree to increasing taxes on America's small businesses during this difficult economic period.

Think about that. Senate Democrats are willing to put our economy at serious risk and our national security in jeopardy unless Republicans agree to a massive tax increase on America's small businesses.

The headline from a news story in the Washington Post from over the weekend says, "Democrats Threaten To Go Over Fiscal Cliff If GOP Fails To Raise Taxes." They quote, "Senior Democrats say they are prepared to weather a fiscal event that could plunge the nation back into recession," if the New Year arrives without an acceptable compromise—which they have defined to be a major tax increase on small businesses in this country.

Think about the impact of that and what that means to people across this country. We have had now, for the last 3 years, a complete failure in the Senate to produce a budget. We are now faced with this fiscal cliff which consists of the sequestration, the across-the-board cuts that would occur early next year if nothing is done to prevent them, the tax hikes, and we are going to reach the debt limit, all threatening our economy in an already anemic recovery.

It is hard to overstate the magnitude of the tax increases that are going to hit our economy starting next year if we don't act. Over the next 10 years, this tax increase would result in nearly \$4.5 trillion in new taxes on American families and entrepreneurs. What does that mean to the average family in this country? The Heritage Foundation re-

cently published a study that estimated the tax increase per tax return in every State. For example, for my State of South Dakota the Heritage Foundation estimates that the average tax increase per tax return would be \$3,187 in the year 2013.

I would say to my colleagues on the other side of the aisle, many of whom I think generally believe in Keynesian economics, that the average family in South Dakota could do more to stimulate our economy and create new employment by keeping their \$3,187 and spending it as they see fit, not as Washington sees fit to spend it on their behalf.

Taxmageddon is a very apt description that has been applied to this fiscal cliff when you consider the impact of these tax increases not just on individual families but on our entire economy. Until recently we could just speculate about the impact of these tax increases on our fragile economy, but the magnitude of the damage was in dispute. Not anymore. Last month, the Congressional Budget Office gave us the most definitive estimate yet of the impact of the nearly  $\frac{1}{2}$  trillion of tax increases that would hit in 2013 when combined with the more than \$100 billion of spending cuts that would occur under the sequester I mentioned earlier.

The Congressional Budget Office projects the combination of the massive tax increases and the sequester will result in real GDP growth in calendar year 2013 of only one-half of 1 percent. Think about that, one-half of 1 percent. We are right now growing somewhere—they think—in the range of 1.9 percent or 2 percent this year. But next year, the real GDP growth would amount to only  $\frac{1}{2}$  percent. And the picture is even bleaker if you consider that CBO projects that the economy will actually have a decrease in GDP of 1.3 percent in the first half of 2013.

So you have the Congressional Budget Office saying that over the entire year of 2013, the likelihood is we will grow at one-half a percentage point if we don't address the fiscal cliff. But in the first half of next year, we actually see a decrease of 1.3 percent of economic growth. According to CBO, a reduction of 1.3 percent of economic growth in the first half of next year would "probably be judged to be a recession." That is according to the Congressional Budget Office, which is the nonpartisan authoritative referee we use to evaluate the impact of the spending and debt tax issues.

This morning, the Chairman of the Federal Reserve Board of Governors, Ben Bernanke, testified before the Senate Banking Committee, and he said:

Fiscal decisions should take into account the fragility of the recovery. That recovery could be endangered by the confluence of tax increases and spending reductions that will take effect early next year if no legislative action is taken. The Congressional Budget Office has estimated that if the full range of tax increases and spending cuts were allowed

to take effect—a scenario widely referred to as the fiscal cliff—a shallow recession would occur early next year. . . .

That is according to the Chairman of the Federal Reserve Board of Governors Ben Bernanke in his testimony as recently as this morning. He talked about a shallow recession occurring next year and the endangerment of the recovery that is under way if we have this confluence of events happen at the end of the year.

He went on to say:

These estimates do not incorporate the additional negative effects likely to result from public uncertainty about how these matters will be resolved.

In other words, the economic uncertainty that is associated with all these things happening at the end of the year are impacting the economy today as people are looking at how they are going to make investment decisions, and that our economy is likely to experience negative effects from that public uncertainty above and beyond the direct impacts that CBO has incorporated into its analysis.

So let's be very clear about what the fiscal cliff means. We are not talking about a slight slowdown of a few tenths of a percent. What we are facing is the difference between positive growth on the one hand—which will mean more jobs and higher incomes—and a potential recession on the other hand. We can, and must, provide Americans some certainty as to what their taxes are going to be next year.

The House of Representatives has already agreed to hold a vote to extend all of the existing tax rates before the August recess in order to avert the fiscal cliff. They are going to act on this sometime before we go out in August to extend all of the rates before the end of the year so there is certainty for those who are making economic decisions.

Unfortunately, thus far the Senate and the Senate Democratic leadership has only agreed to hold a vote on a plan to raise taxes on nearly 1 million small businesses. This tax increase on individuals earning more than \$200,000 a year and families making more than \$250,000 a year will raise taxes on more than half of all income in America earned by S corporations, sole proprietorships, LLCs, partnerships, and other passthrough businesses that pay their taxes at the individual rates.

A point of clarification: That applies to a lot of mom-and-pop businesses in this country. We are talking about that restaurant owner, that electrician, many of whom are organized in the fashion in which their income flows through their individual tax return and they pay at the individual tax rate. The Joint Committee on Taxation has estimated that the number of businesses that would be impacted by that is 940,000. So almost 1 million small businesses would see their taxes go up as a result of the fiscal cliff and tax rates expiring at the end of the year for those individuals who are making more



than \$200,000 and families making more than \$250,000 a year.

According to the National Federation of Independent Business, the small businesses most likely to be hit by the Democratic tax increase employ 25 percent of the total workforce. So we are talking not just about the small businesses that are going to be faced with higher taxes, but we are also talking about a huge portion of the American workforce in this country. Twenty-five percent of the employees in this country work for those small businesses that, according to the Joint Committee on Taxation, will see their taxes go up as a result of the President's proposal.

We essentially have in front of us three choices:

We can let all the tax rates expire, which we know is going to plunge our economy back into a recession; we can do what our Democratic colleagues want to do, which is to raise taxes on successful small businesses and entrepreneurs, slowing our economy even further and risking—according to the Congressional Budget Office and the Chairman of the Federal Reserve Board—a recession; or, we could do what the House of Representatives will soon pass and what I would suggest, and that is we can prevent a tax increase from hitting anyone and give the lackluster economic recovery at least a chance to gain some steam.

That is what we ought to do. We ought to do what the House of Representatives is going to do, and that is to extend the rates for a year so that people in this country have some certainty as to what their tax rate is going to be at the end of the year.

I hope my colleagues here in the Senate—and the Senate Democrats in particular—will realize the severity of the fiscal cliff, and come to the table to prevent this massive tax increase and the unbalanced and troubling cuts that will occur to our national security if we don't take steps to avert this fiscal cliff.

We have to prevent the dangerous cuts to our national defense that are scheduled to go into effect under sequestration by finding savings elsewhere in the budget. In order to do that, we need a detailed plan from the administration as to how they plan to implement the sequester.

Members of Congress on both sides of the aisle have called for more transparency on the sequester from this administration, but they have so far failed to produce a plan. That is simply unacceptable. I will continue to work to see that a requirement be enacted so the administration will finally be transparent with the American people and give all Members of Congress a clear idea as to where the cuts are going to be applied.

Our economy is weak. We know that growth in the first quarter was a mere 1.9 percent. Expectations for the second quarter have been downgraded. We have witnessed now for 41 straight months unemployment above 8 per-

cent. We have 23 million Americans who are either unemployed or underemployed and 5.4 million Americans who have been unemployed for a long period of time.

We have a weak economy. The amazing thing about this debate is that 2 years ago the President of the United States said that raising taxes would strike a blow to the economy. That was at a time when we had 3.1 percent economic growth. We now have, as I said, according to the estimates, 1.9 percent economic growth for the first quarter of this year, and expectations for the second quarter have already been downgraded. So with 41 straight months of unemployment above 8 percent, 23 million Americans underemployed or unemployed, and the weakest recovery literally since the end of World War II, now is not the time to raise taxes.

Who in their right mind would think it would make any sense at all to raise taxes when you have an economy that is growing at such an anemic rate, particularly given the fact that 2 years ago, when we had more robust economic growth, the President said at that time that it would strike a blow to our economy if we raised taxes. Here we are with economic conditions that are much worse, circumstances that have deteriorated since then, and he is proposing a tax increase on 1 million small businesses that will have a ripple effect all across our economy and hurt job creation at a time we cannot afford that.

There was another study, an analysis that came out today done by Ernst & Young in which they analyzed the tax hikes that would occur on small business next year and came to the conclusion that it would cost 700,000 jobs in our economy, that it would cost us 1.3 percent of economic growth—which is again consistent with what the Congressional Budget Office has said—and that it would reduce wages to people in this country by 2 percent.

So you now have the Ernst & Young study out there which suggests that not only does this impact the small businesses out there that are going to see their taxes go up, but it puts at risk and in jeopardy jobs for hard-working Americans and a wage base that would actually shrink if, in fact, we drive the car over this fiscal cliff.

We cannot afford to do that. It is irresponsible to have people out there saying that they are so anxious to prove some point or to win some argument on raising taxes that they are willing to see this country run the risk of plunging into a recession and raising the number of people who are unemployed in this country. It really is.

I have to say that when I saw some of the remarks and some of these stories and some of the reporting about statements that are being made by our colleagues on the other side and Members of their staff with regard to the fiscal cliff and the willingness on the part of many of our colleagues to suggest that

this country could go through and endure even more difficult economic times than what we are already experiencing, even higher unemployment than what we are already seeing, it was really pretty remarkable and truly unfortunate.

I hope folks will walk back from that position, walk back from those remarks, and enter into a discussion about how we might be able to provide the necessary economic certainty for our job creators and our small businesses, how we can get people back to work, how we can grow and expand this economy.

Frankly, extending the tax rate should only be the first part, the short-term solution. The long-term solution is to get tax reform, comprehensive tax reform. People on both sides of the aisle agree with that. If we could enter into a discussion about how we could reform our Tax Code in such a way that it broadens the tax base, lowers the rates, does away with loopholes and deductions, coupled with entitlement reform—that we all agree has to be dealt with or we are going to continue to see the country on a fiscal trajectory that is completely unsustainable over time, is going to lead to the situation we see many European countries dealing with today—that is what we ought to be focused on.

We ought to be providing certainty to our businesses, extending rates at least for now until such time hopefully next year when we all agree we need to sit down and solve this tax mess we have in this country, this Tax Code that has become way too complicated, and come up with something that is more simple, more clear, more fair, and something that makes us more competitive in the global marketplace. Right now, we are losing to a lot of countries around the world simply because we have a tax code that makes American businesses noncompetitive in the international marketplace.

Tax reform, entitlement reform, a comprehensive energy policy, regulatory reform—it is not that hard to fix this if we have the will, the political will to do it. But we cannot start by saying to small businesses in this country that we are going to raise your taxes next year, run the risk of plunging the country into a recession and increasing the number of people in this country who are unemployed.

That is the exact wrong prescription. We ought to be providing certainty, extending the rates, and getting into a discussion and hopefully action on legislation that would reform the American Tax Code to make us more competitive in the world, do away with the costly, overreaching, excessive, and burdensome regulations that are making it more difficult and more expensive to do business in this country; an energy plan that makes sense, that relies upon American sources of energy; and a spending plan, a budget—something the Senate has not done now for 3 years, an actual budget. Lo and behold, go figure that we could actually

do a budget in this country that puts us on a more sustainable fiscal path by reforming entitlement programs, that will actually save Social Security and Medicare for future generations of Americans. That is the long-term prescription for what ails America. But certainly in the short term it makes matters much, much worse when we talk about piling a tax increase on the very people we are looking to, to create jobs and get this economy back on track.

I hope this Congress will come to its senses about this and that we will vote down any proposal that would raise taxes on hard-working small businesses and entrepreneurs in this country and instead give them the certainty they need for the months ahead, until such time as we can deal with the issue of tax reform.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask consent to speak as in morning business.

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

#### THE DREAM ACT

Mr. DURBIN. Mr. President, 11 years ago I introduced the DREAM Act to allow a select group of immigrant students with great potential to contribute more fully to America. The DREAM Act said that in order to qualify, they had to earn their way to a legal status and they had to have come to the United States as children, be long-term U.S. residents, have good moral character, graduate from high school, and agree to serve in our military or at least complete 2 years of college.

These young people literally came to the United States as infants and children. They grew up in this country. They went to school with our kids. They are the valedictorians, the athletes, and even the ROTC leaders in schools across America. They did not make the decision to come here; they were just kids. Their parents made the decision. As Homeland Security Secretary Janet Napolitano said, immigrants who were brought here illegally as children "lacked the intent to violate the law." It is not the American way anyway to punish children for the wrongdoing of their parents.

I am going to continue to work on this DREAM Act. It has been 11 years. I will work on it as long as I have to to get it done; it is that important. But the young people who are eligible, who would be eligible for it, cannot wait any longer. Many have already been deported to countries they never remembered and with languages they do not

speak. There are still some at the risk of deportation.

That is why the Obama administration decision a few weeks ago to stop the deportation of young people who would be eligible for the DREAM Act was the right thing to do. The administration says we will allow these immigrant students to apply for a form of relief known as deferred action that puts their deportations on hold and allows them, on a temporary renewable basis to live and work legally in America. I strongly, strongly support this decision. I think it was a humane decision by the President of the United States on behalf of these young people.

When the history of the civil rights era we have lived through since the 1960s is written, this will be an important chapter. The administration's deportation policy has strong bipartisan support. It was 2 years ago that Republican Senator RICHARD LUGAR of Indiana joined me in a letter to the President asking me to do this. Last year, Senator LUGAR joined me, along with 22 other Senators, to sign a letter to the President asking the same thing, and what do the American people think about President Obama's decision on the DREAM Act students? It turns out that 64 percent of likely voters—including 66 percent of Independents—support the policy, compared to 30 percent who oppose it.

Earlier, my colleague and friend from Iowa Senator GRASSLEY gave a speech on the Senate floor about this decision by the President. At one point in time, Senator GRASSLEY was a cosponsor of the DREAM Act. We wouldn't know it from his speech today. He has changed his position on this bill just like so many other Republicans. Let me take a few minutes to respond to his specific points.

He claimed the President's policy to not deport the DREAM Act students is going to hurt the American economy. I couldn't disagree more. Granting deferred action of DREAM Act students will make us a stronger country giving these talented immigrants a chance to be part of America and its future.

Studies have found DREAM Act students can contribute literally trillions of dollars to the U.S. economy given a chance to be a part of it. We are not talking about importing new foreign workers into the United States to compete with Americans, we are talking about taking young people who are educated in our schools at our expense, trained and ready to give something to America and giving them a chance. They are going to be tomorrow's doctors, engineers, teachers, and nurses. We shouldn't squander their talents and all the years we invested in educating them by deporting them at this important point in their lives.

Senator GRASSLEY said President Obama "circumvented Congress to significantly change the law all by himself." With all due respect, I don't think that is how it happened. The Obama administration's new deporta-

tion policy is lawful and appropriate. Throughout history, all governments—and our Federal Government—have had to decide whom to prosecute and not to prosecute. It is called prosecutorial discretion. It is based on law enforcement priorities and resources. Every administration, Democratic and Republican, has stopped deportations of low-priority cases, as they should.

Just last month, the Supreme Court reaffirmed that the Federal Government has broad authority to decide whom to deport. Justice Anthony Kennedy, appointed by George H.W. Bush, wrote the opinion for the Court. This is what he said:

A principal feature of the removal system is the broad discretion exercised by immigration officials . . . Discretion in the enforcement of immigration law embraces immediate human concerns. Unauthorized workers trying to support their families, for example, likely pose less danger than alien smugglers or aliens who commit a serious crime.

The administration's policy is not just legal, it is realistic and smart. Today there are millions of undocumented immigrants in the United States. It is physically and literally impossible to deport them. So the Department of Homeland Security has to decide priorities. Shouldn't the highest priority be to deport those who are most dangerous to the United States? I think even the Senator from Iowa would have to concede that point. The Obama administration has made that its priority.

Senator GRASSLEY calls the administration's deportation policy an amnesty. That is not right. The DREAM Act students will not receive permanent legal status or citizenship under the President's policy. They have temporary renewable legal status. It is temporary renewable legal status.

During his speech, Senator GRASSLEY read a quote from an interview the President gave last year to support his claim that the President had changed his position on the DREAM Act, but he only read part of the quote. Here is what Senator GRASSLEY read:

This notion that somehow I can just change the law unilaterally is just not true . . . the fact of the matter is there are laws on the books that I have to enforce. And I think there's been a great disservice done to the cause of getting the DREAM Act passed and getting comprehensive immigration passed by perpetuating the notion that somehow, by myself, I can go and do these things. It's just not true.

That is what Senator GRASSLEY read. Here is the rest of the quote.

What we can do is prioritize enforcement—since there are limited enforcement resources—and say, we're not going to go chasing after this young man or anybody else who has been acting responsibly, and would otherwise qualify for legal status if the DREAM Act passed.

That is what the President said. I wish Senator GRASSLEY had read that in the RECORD. The President has done what he has the authority to do as our Chief Executive Officer to exercise prosecutorial discretion.

I personally discussed this with Secretary Napolitano. She has assured me that the Department of Homeland Security is going to follow the President's lead but is going to have strict enforcement of fraud. If any young person commits fraud in this process, there will be a price to be paid. Senator GRASSLEY should know that, and he shouldn't question it absent evidence to the contrary.

I might say it is sad we have reached this point that so few Republicans would stand for these young people. There was a time when Senator HATCH was the lead sponsor in this bill, and I was begging him to cosponsor it. Then it reached a point where he only voted for it, and then it reached a point where he voted against it.

Senator GRASSLEY has voted for this bill in the past too. In 2006, when the Republicans lost control of Congress, the DREAM Act passed the Senate out of an amendment to the comprehensive immigration bill 62 to 36. There were 23 Republicans who voted for it. Unfortunately, the Republican leaders in the House refused to take up that bill in 2006. Republican support for the DREAM Act has diminished over the years. I have to say I noted the lack of volume and firepower in criticizing the President on this DREAM Act decision. I think many of our Republican colleagues realized the American people do support this two to one, and it is the right thing to do.

I am going to do what I have done on 48 other occasions and try to make this DREAM Act discussion more than an abstract conversation. I wish to make sure people understand who is involved in these decision processes.

This is a photograph of Maria Gomez. Her parents brought her from Mexico to Los Angeles when she was 8 years old. She started school in the third grade with English as a second language. By the time she was in sixth grade, 3 years later, she was an honor student.

In middle school, Maria discovered art and architecture. She began her dream of becoming an architect. In high school, Maria was active in community service and extracurricular activities, captain of the school spirit squad, president of the garden club, and a member of the California Scholarship Federation. She graduated 10th in her class with a 3.9-grade point average.

Maria was accepted by every college she applied to. Her dream was to attend UC Berkeley, the only State college in California that offers architecture to undergraduate students, but she couldn't afford it. Maria, and the other DREAM Act students, are not eligible for any Federal assistance to go to school. Instead, she decided to live at home and to attend UCLA. She was a commuter student. She rode the bus to and from UCLA, 2½ hours each way each day.

While she was a full-time student, she worked to clean houses and did

babysitting to help pay for tuition. She graduated from UCLA with a major in sociology and a minor in public policy. She was the first member of her family to graduate from college. She was determined to achieve her dream of becoming an architect. She enrolled in the Master of Architecture Program at UCLA. She was the only Latino student in the program. She struggled financially. At the time, she had to eat at the UCLA food bank. Because she couldn't afford housing near the campus, she spent many nights in a sleeping bag on the floor of the school's printing room.

Last year, Maria received her master's degree in architecture and urban design. She said:

I grew up believing in the American dream and I worked hard to earn my place in the country that nurtured and educated me. . . . Like the thousands of other undocumented students and graduates across America, I am looking for one thing, and one thing only: the opportunity to give back to my community, my state, and the country that is my home, the United States.

I ask my colleagues who are critical of the DREAM Act and President Obama's new policy: Would you prefer that we deport Maria Gomez back to Mexico at this point in her life, a country that she has not lived in since she was a small child? She grew up here. She has overcome amazing odds to become successful. This determined young woman can make America a better nation.

Thanks to President Obama's new policy, Maria is going to be able to work. I hope she will be able to get a license as an architect in her State. A future President could change this policy so Maria's future is still in doubt because we haven't enacted the DREAM Act. Maria is not the only one. There are tens of thousands similar to her.

The DREAM Act would give Maria, and others similar to her, the opportunity to be our future architects, engineers, teachers, doctors, and soldiers.

Today, I again ask my colleagues to support the DREAM Act. The President's new deportation policy is a step in the right direction, but ultimately it is our responsibility. He has done his part. We need to pass this humane and thoughtful bill and give people such as Maria Gomez a chance to make America a better place to live.

#### MORNING BUSINESS

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

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

#### ADDITIONAL STATEMENTS

##### RECOGNIZING THOMPSON-MARKWARD HALL

• Mr. CONRAD. Mr. President, I am pleased to honor the 125th Anniversary of Thompson-Markward Hall, which was formerly known as the Young Women's Christian Home. Many young women working as interns or beginning staffers, including many from my office throughout the years, have found a safe place to live and meet friends as they establish their professional careers. The Thompson-Markward Hall, located across from the Hart Senate Office Building on Capitol Hill, provides a valuable service to young women working in Washington and our Congressional community. Its remarkable story is one very much worth sharing.

In 1833, Mrs. Mary G. Wilkinson recognized the need in the District of Columbia for suitable lodging for young ladies of good character and meager means. She vowed that there should someday be a home for young women coming alone to Washington seeking employment, where they could be protected and cared for until they became established in the community. She began what developed into the Young Woman's Christian Home by housing two such young women in her home.

In 1887, the Young Woman's Christian Home was chartered by Congress and incorporated "to provide a temporary home for young women coming to and being in the District of Columbia, who shall, from any cause, be in want of and willing to accept temporary home, care and assistance. . . ." By 1890, the Home was receiving an annual appropriation of \$1,000 from Congress.

Over the years, the Young Woman's Christian Home underwent renovations and changed locations. In 1931, Mrs. Flora Markward Thompson, a devoted Life Member of the Board of Trustees, passed away, leaving instructions for the executors of her estate to establish a suitable memorial to her mother and her husband. The executors decided that the most suitable memorial could be entrusted to the Young Woman's Christian Home. The Home then became known as Thompson-Markward Hall now most commonly known as TMH—to perpetually remember Mrs. Thompson's generous gift.

Despite the many changes throughout the years, the original spirit and mission of the founders and early benefactors remain. Today, TMH continues to be a "home away from home" for 120 young women in Washington for work or school.

As TMH celebrates the 125th anniversary of its Congressional charter, its roots are strong and the devotion to its founder's mission remains firm and constant. I ask the United States Senate to join me in congratulating Thompson-Markward Hall on this important milestone.●