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Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Father of all, out of the noisy world, we come to this quiet place of prayer. We depend on Your goodness, Your mercy and grace.

As our lawmakers face the challenges of their calling, inspire them to have a mature faith in Your providential leading. Lord, fill them with Your spirit so that they will acknowledge their dependence on You for every breath they breathe and every creative thought they think. May today be for them a building block for making America a nation that glorifies You.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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, November 28, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLI-

BRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013—MOTION TO PROCEED—Resumed

Mr. REID. Madam President, I now move to proceed to Calendar No. 419, the DOD authorization bill.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 3254) to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SCHEDULE

Mr. REID. Madam President, the first hour will be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half. We expect to begin consideration of the DOD authorization bill today.

DISABILITIES CONVENTION

On April 14, 1945, a very young Robert Dole lay gravely wounded in the mud of a war-torn Italian hillside. He had been hit with shrapnel which tore through his shoulder and his spine. But 24 years later, after years spent rebuilding his body and building a political career, the future Senate majority

leader gave his maiden speech on the Senate floor. His first floor speech here in the Senate was about the challenges faced each day—even in this the richest of nations—by people just like Robert Dole, people with disabilities. That is what he spoke about. He described the discrimination disabled Americans faced as “maybe not exclusion from the front of the bus, but perhaps from even climbing aboard it.”

Over the next 27 years of his Senate career, including 11 years as majority leader, and throughout his years in the private sector, Bob Dole would remain a vocal advocate for Americans with disabilities. Since Senator Dole fought for passage of the Americans With Disabilities Act in 1990, barriers have been lifted, helping people with disabilities in this country live the full and productive life they want and deserve.

There is no finer example of the extraordinary goals Americans can achieve in spite of their disabilities than Bob Dole’s inspiring career. In my mind’s eye, I can see Senator Dole on the Senate floor standing straight and tall, slim, and articulate—as I indicated yesterday, always with something funny to say. But what people did not notice was that one of his arms was inoperative. He always kept a pen in that hand so people would not grab his hand or something like that. But it was distinctive. That was the distinctive Robert Dole. He was such a force here in the Senate, and to think that he did it all after having been really blown up in a war.

The United States has been a leader in expanding disability rights across the globe. U.S. law has been the gold standard for the rest of the world. But the United States must continue to lead by example and must do more to protect American citizens traveling and working abroad.

The disabilities convention before the Senate today—a treaty ratified by 125 nations—would advance those goals. This convention would give us

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



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an opportunity to strengthen our leadership on disability rights around the world. It is another step toward ensuring that all people with disabilities in any country are treated with dignity and given the right to achieve to their full potential.

Ratification of this treaty will not cost the U.S. taxpayers a single dime. It will not require any changes in our existing law. It has the support of veterans groups and disability groups around the country. It has the strong backing of a bipartisan group of Senators and leading Republicans such as George H.W. Bush as well as Senator Dole. He called me a few days ago to tell me how much he wanted this passed.

Like passing the Americans With Disabilities Act, ratifying the treaty is the right thing to do. Ralph Waldo Emerson wrote, "If you would lift me up you must be on higher ground." If the United States wishes to be a global example for the huge strides people with disabilities can make when barriers to succeed are removed, we must take the high ground.

I thank Senator KERRY, the chairman of the Foreign Relations Committee, Senators McCain, Lugar, Durbin, Barrasso, Coons, Tom Udall, Moran, and others, and especially Senator Harkin, who is the father of the Americans With Disabilities Act, leading the way on this issue. With their help, I hope we can quickly ratify this treaty.

RECOGNITION OF THE MINORITY LEADER

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

FISCAL CLIFF

Mr. McCONNELL. Madam President, over the past few weeks Americans have started to really focus on the debate we are having here in Washington about how the two parties can work together to prevent a short-term economic crisis in January and an even bigger budgetary crisis later on. So it may come as a surprise to many to see that with just a few weeks to go before a hard deadline on solving the short-term issue, President Obama has decided to hit the road—hit the road—this week to drum up support for his favored approach. It is hard to believe, really. I mean, every week he spends campaigning for his ideas is a week we are not solving the problem. It is completely counterproductive. The election is over. He won. Congratulations. We have a hard deadline here, however. He is still out on the campaign trail kind of celebrating. This is a problem.

If the President really wants to reach an agreement, he needs to be talking with the members of his own party right here in Washington, trying to broker an agreement, not out there firing up crowds and giving speeches. He is the only one who can do it, the only one who can bring folks together to broker a consensus solution that can pass a Democratic-controlled Senate as well as a Republican-controlled House.

This has been my message for weeks. I reiterated it on Monday. I repeat it today.

There are some important points to keep in mind as well. Yesterday I came to the floor to remind folks that we did not get here by accident. The only reason we are even facing these twin crises right now is because Democrats have spent taxpayer money with total abandon over the past 4 years and done nothing to address the main drivers of the debt.

Our Democratic friends like to say we cannot simply cut our way to prosperity. Well, leaving aside for a moment the fact that no one is actually proposing we do that, we cannot spend our way to prosperity either. That is exactly what Democrats have been trying to do for 4 years. We have been trying to spend our way to prosperity. It has not worked yet and is not likely to work in the future.

This is not complicated. We are not in this mess because Washington taxes too little, we are in this mess because Washington spends too much. The American people know that. And we are not going to get out of it until Democrats get serious about real spending cuts and meaningful entitlement changes. So this morning I would like to speak in a little more detail about why it is that we need to strengthen and protect these entitlement programs through reforms that match them up with the Nation's changing demographics.

Democrats like to pretend they are the great protectors of Social Security, Medicare, and Medicaid. They make solemn pledges all the time about how they will not even entertain a discussion about reform. What they do not say is that ignoring those programs is the surest way to guarantee their collapse.

All we are calling for is an honest conversation. We all know these programs are in trouble. Let's figure out a solution. When it comes to entitlements, Republicans are guided by a simple principle: We do not want Americans to age into a system that no longer exists. We do not want Americans to age into a system that no longer exists. We want to protect them and to protect people's investment in them. But we can't do it alone. Reform is something that can only be done by both parties together. That is the reality. And there has been a scandalous lack of leadership on this issue for years among Democratic leaders in Washington because they think it is a winner politically.

What I am saying is that the Democrats just won the election. Congratulations. Turn off the campaign and recognize the opportunity that divided government presents to actually do something to strengthen these programs and protect them for future generations. That is all Republicans are asking for. Medicare, Medicaid, and Social Security are critical to the economic and health care security of mil-

lions of older, lower income, and disabled Americans. We want to make sure they remain viable not only for today's seniors but for their children and their grandchildren and that they do not consume so large a share of Federal spending that we do not have the money to pay for other necessities.

Here are the facts, just the facts. Longer lifespans and Federal spending patterns threaten the viability of all of these programs as well as the economic well-being of our country and our children. Think about it. The number of Americans over the age of 65 will increase from 40 million in 2010 to 54 million at the end of this decade and then 72 million a decade after that. Americans are living longer, more productive lives. That is great and a testament to modern health care here in the United States, but it creates obvious challenges for which we need to prepare. We cannot just let seniors age into promises that can no longer pay promised benefits. It is not right. Yet already Medicare and Social Security are both paying out more benefits than they take in from taxes. Medicare and Social Security are paying out more benefits than they take in from taxes now—not some other day, now.

The problem is particularly urgent in Medicare, which paid out nearly \$30 billion more than it took in last year and which is on the road to bankruptcy in about 10 years—10 years from now, a bankrupt Medicare. This is not alarmism. It is math. It is a fact. And the studies that illustrate the gravity of the problem come from members of the President's own Cabinet who serve as the Medicare trustees.

In discussing the Medicare Part A trust fund, for example, the Medicare trustees report that expenditures for this program have exceeded income every year since 2008, and projected expenditures continue to do so every year until the fund becomes exhausted in 2024, which is not that far away.

What do the President's own trustees think we should do about all of this? This is from their report:

The financial projections in this report indicate a need for additional steps to address Medicare's remaining financial challenges. Consideration of further reforms should occur in the near future. Not some other day, now.

Again, these are the President's own trustees. They are the ones saying we need to do something about the problem; not just me, the Medicare trustees.

Yet Democrats are telling those on the hard left, don't worry about it, don't worry about it. They won't do anything to reform and protect these programs. For some reason these groups all applaud, as if this is some kind of an achievement—as if this is some kind of an achievement, allowing entitlements to crumble. That is the kind of leadership vacuum we have had on this issue from Democrats in Washington literally for years. Here is a concrete example of what I mean.

The Medicare Modernization Act requires Medicare trustees to send a funding warning letter whenever Medicare begins to rely on the Treasury for more than 45 percent of its financing. The law then requires the President to submit a plan to Congress on how he plans to address the shortfall. The trustees issued their first such warning back in 2007, and they have continued to issue one every year since. President Bush submitted his plan. This President has ignored the warnings every year he has been in office, every year.

Here is another example. In 2010 the Director of the nonpartisan Congressional Budget Office warned that “the single greatest threat to budget stability of the Federal Government is the growth of Federal spending on health care.” Yet how did President Obama and his allies respond to these warnings about overspending on health care? He increased Federal spending on health care by \$580 billion. That was their response, to increase spending on health care by \$580 billion. That was their solution.

As for Social Security, the only thing we hear from Democrats is that they don’t want to talk about it. Don’t want to talk about it? Why in the world wouldn’t they want to talk about the fact that this vital program started spending out more than it took in in 2010 for the first time in nearly 30 years, and that its trustees now estimate that it will keep spending more than it takes in for 75 years unless we strengthen it?

But, again, it is not just a question of when these programs go broke, it is also about the strain they continue to put on the rest of the Federal budget on their way to going broke. Look, I understand that when it comes to government spending, those on the hard left have no limiting principle. No limiting principle. They don’t think about this. They think every dollar secured is sacrosanct forever and forever, amen. But when you are in charge, when you are the steward of the Nation’s finances, you don’t have that luxury. You are actually responsible.

These are just a few of the ways in which Democrats have been slowly undermining the very programs they claim to champion, making it even harder for us to reform and strengthen them in the future. The good news is these challenges are neither unprecedented nor insurmountable. We have done it before. When a President of one party has decided to sit down with leaders of the other party in Congress, we have faced up to challenges such as these and made the tough choices necessary to resolve them.

In 1983, President Reagan worked with Tip O’Neill to reach an agreement that increased the retirement age and laid the groundwork for preserving Social Security for decades to come. In 1997, Medicare faced total insolvency by 2001. President Clinton, working with a Republican Congress, reached an agreement that added decades to the life of the Medicare trust fund.

We can do this. We can do this. But the President, as I have said, has to lead. That is the issue. It is that simple.

RULES CHANGES

Madam President, we have been having a spirited discussion this week over the plans of the Democratic majority to break the rules to change the rules. That is how my friend from Nevada repeatedly described it when Republicans considered doing something similar several years ago but wisely chose not to.

At the end of the following year, my friend was poised to become Senate majority leader, which was back in 2006. With the experience of having served in the minority in his mind, the majority leader, the soon-to-be majority leader, the Senator from Nevada, made a commitment to practice the Golden Rule, as he put it, by running the Senate with respect for the rules and for the minority rights the rules protect.

Unfortunately, he appears to have repudiated that clear commitment. Unfortunately, he no longer recognizes, as Senator Byrd did, by the way, that the Senate was not established to be efficient but to make sure minorities are protected.

Then my friend recognized that is what the Senate is all about. That is what he said back then. Now he says the primary consideration is “efficiency.” He seeks to minimize concerns about this majoritarian power grab by characterizing the effect as “tiny,” just a little change, a “minor change,” as changing the rules just a little bit.

But when one of my new Members asked the majority leader if this change occurred what recourse he would have to ensure he ever got an amendment to the bill, the majority leader quipped, “You can always vote against the bill.” In other words, my friend from Nevada acknowledged that if this change occurred, the minority will no longer have any ability to ensure that it and those whom it represents have a meaningful voice in the legislative process.

My new colleague was surprised, but I can’t say I was. After all, the majority leader brazenly told Senator McCain that “the days of amendments are over.”

The record of the Democratic leadership, of course, backs this up. It is engaged in a systemic effort to use and abuse Senate procedures to marginalize the voice of the minority in the legislative process. Let us review the record.

It used to be unprecedented to use Senate rule XIV frequently. This rule allows the majority to bypass committees and write bills behind closed doors. Doing so deprives all Senators, Republicans and Democrats, of the chance to have their committee work actually make any difference.

According to the Congressional Research Service, the majority has used

this rule to bypass committees nearly 70 times—70 times. When Republicans were last in the majority under Senator Frist, we used that rule less than half as often, only 30 times to be specific, which is a much lower rate, proportionately speaking.

When a bill that has bypassed committee goes straight to the floor under the current Democratic leadership, there often isn’t an opportunity to participate there either. In fact, according to the Congressional Research Service, the current Democratic leadership continues to break records there as well. It has blocked Senators from both sides of the aisle from offering amendments on the floor 68 times—68 times. That is a conservative figure in which the majority has simply made it impossible for any Senators to offer any amendments on the floor. For if the Democratic leadership indicates it won’t let us offer any amendments to a bill, and in response we don’t allow the majority to get on the bill, then there is no tree to fill that shows up in the statistics, but there is a filibuster. Of course, the filibuster statistic doesn’t indicate the reason for the filibuster in the first place. Let me say that again. The filibuster statistic doesn’t indicate the reason for the filibuster in the first place.

But even this conservative figure is 70 percent greater than the number of times the six prior majority leaders combined—combined—shut their colleagues out of the amendment process. Our friend, the majority leader, cavalierly dismisses this unprecedented blocking of Senators of both parties from offering amendments. He said this behavior has “no bearing on what’s going on around here.” It has “no bearing on what’s going on around here.”

Well, maybe in his mind it doesn’t, but that is a pretty convenient and, frankly, self-serving attitude coming from the one who is picking the amendments. It is a little bit bigger deal to the other 99 of us who don’t get to offer any amendments, when our constituents elected us to be a meaningful voice for them.

Of course, that wasn’t the majority leader’s view when he was in the minority and had to live under that procedure. Senator Frist as majority leader blocked his colleagues from offering amendments a relatively modest 15 times in 4 years—15 times in 4 years. Do you know what the reaction of my friend from Nevada was when Senator Frist did this a relatively modest number of times over 4 years? He said it was “a bad way to run the Senate.” He said it was a “very bad practice.” He said it “runs against the basic nature of the Senate.”

Well, if it was a bad way to run the Senate, if it was a very bad practice, if it ran against the basic nature of the Senate to do it 15 times in 4 years, what would be the fair way to characterize the practice when it happened nearly 70 times on bills, especially when many of those never went

through committee? Is it fair to conclude that this sort of stewardship of the Senate might be more than just a few tweaks shy of how this institution, which is supposed to protect the rights of all Senators, including those in the minority, is supposed to function?

But the current Democratic leadership wasn't content to stop there in marginalizing the minority. Because the minority isn't allowed to offer amendments in committee and isn't allowed to offer amendments on floor, some of our Members began to put forth legislative ideas by moving to suspend the rules.

This wasn't exactly a level playing field for us because of the requirement in the Senate rules that motions to suspend the rules receive 67 votes to prevail. But even if the deck was stacked against us, it was a chance for us to put our ideas and those of our constituents before the body.

Well, of course, that was even too much, too much legislative freedom for the majority. Even if the majority started with a 27-vote built-in advantage under the rules to defeat these motions, having to bother with them was just too much, just too much of a bother. It got in the way of efficiency. So the majority leader used a simple majority to change Senate procedure to shut down the minority there too.

Even that is not enough. That is not enough. The same Democratic leadership now wants to take away the right to extend the debate on motions to proceed to a measure. Don't worry, they say. Don't worry about it. Trust us, they say. We would never take away the right to extended debate on the measure itself.

Really? Really? In light of the systemic effort to marginalize the minority at every turn, are we supposed to believe that the current majority won't subsequently cite "efficiency" as a reason to take away that Senate rule as well? Are we supposed to believe this assurance when the Democratic leadership so easily discards past unequivocal commitments to respect the rights of the minority?

On the record of this Democratic leadership, there is no basis, none, to believe that the proposed changes are "tiny," that they are "minor," that they would affect the Senate just "a little bit" or that they would stop there. To my colleagues who have never served in this body in the minority, who have never served under different leadership, this is not how the Senate is supposed to function.

To my Democratic friends in particular who have never served in the minority but no doubt will at some point, are you prepared to live under the rules you are now demanding? Are you prepared to be shut out from even offering amendments when the shoe is on the other foot?

We in the minority cannot fairly expect the majority to allow us to offer every amendment we wish to a bill. I understand that. We need to exercise

self-restraint and good judgment as well. We know we will not get every amendment we wish to offer. But the majority cannot prevent us from offering amendments in committee, block us from offering amendments on the floor before cloture, and change Senate procedure so it can rule out of order motions we want to offer after cloture and then turn around and assert that these systemic practices "have no bearing on what's going on around here." That is an abdication of responsibility.

I would encourage my friend the majority leader not to employ a heavy-handed procedure. With the House of Representatives in control of Republicans, it is important to note here, what short-term advantage would be gained by all of this nuclear option activity? The House of Representatives is in the hands of my party. So you will have degraded the Senate, created a bad precedent for the next time you are in the minority, and sent measures to the House nowhere. But in the long term it will establish a precedent for breaking the rules to change the rules that our Democratic colleagues will have to endure when they are next in the minority.

Now, what we should be doing, Madam President, is we should work together on a bipartisan basis to resolve our respective differences. That is what the Standing Rules of the Senate anticipate, and that has been how changes to Senate rules have occurred in the past. We can reach agreement, as previous majority leaders have done, without making the Senate irrelevant.

The time for the majority leader and myself to discuss these matters has come.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

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

ORDER OF PROCEDURE

Under the previous order, the following hour is equally divided and controlled between the two leaders or their designees, with the majority controlling the first half.

The Senator from Illinois.

ENTITLEMENT PROGRAMS

Mr. DURBIN. Madam President, the minority leader, Senator McCONNELL, has addressed two issues: the entitlement programs as well as rules changes. I would defer to my colleagues from New Mexico and Oregon to address the rules changes. I would like to briefly respond to Senator McCONNELL on entitlements.

There is no question that as a Senate and House of Representatives we should address the longevity and solvency of Social Security and Medicare. It should be part of our conversation about the deficit facing this country and the debt of our Nation. But the way we approach it, the changes we make, are significant. It should be looked at carefully.

On the issue of Social Security, I might remind those following this debate that the answer from the Republican side for years has been to privatize Social Security; to get government out of the business of retirement and let individuals take their life savings in Social Security and invest them. That debate disappeared when we had a recession recently—in the last 7 or 8 years—and people saw their life savings evaporate, melt away, as a result of downturns in the stock market. They started envisioning what would have happened had they retired at that moment in time with their Social Security savings. So the Republican answer of privatization of Social Security is a nonstarter and never mentioned in polite company in these times because it is not a credible position.

My belief is Social Security has performed admirably since its creation under President Franklin Roosevelt. I can recall in 1983, when we revised Social Security in anticipation of the baby boomers' arrival, we said: We will collect more money while they are still working so we can take care of them when they arrive in large numbers after they retire.

That is exactly what has occurred, with 10,000 people turning 65 yesterday in America, 10,000 today, 10,000 tomorrow, and 10,000 a day for the next 18 years. The boomers have arrived, having paid a lifetime into Social Security, and, rightfully, they expect their coverage to be there when they need it. It will be. But beyond the 21 or 22 years of solvency and longevity, I believe we should take a step further.

Having studied this for some time—the Simpson-Bowles Commission and other places—I think it is thoughtful and perhaps careful for us to take a look at the future of Social Security and that we need to create something like the Simpson-Bowles Commission on Social Security to report back to us in 6 or 8 months with a plan to increase the longevity of Social Security for 75 years. I think we can do that, and we can do it in a sensible way since we have 20 years to make small changes and then let them play out to give solvency to Social Security. We can then bring the issue to the floor and let bipartisan groups of Senators offer alternatives, if they wish.

But let's do this on Social Security separate from this deficit and debt debate. Social Security does not add one penny to the deficit. It is an important program, a critical program. Let's take care of it in the future, but let's do it separate from the debt debate.

Medicare is another story. Medicare has 12 years of life left. Let me make a point of saying it has 8 of those years because of President Obama's leadership. He said: We will reduce the reimbursement to providers under Medicare over the next 10 years because we are going to increase the number of people under health insurance coverage under ObamaCare. As we reduce the compensation to providers, we will buy

more life for Medicare. And we did, literally—12 years. We need to do more; 12 years is not enough.

What I said yesterday and will repeat today is we cannot come up with a solution on Medicare in the next 2 or 3 weeks. We shouldn't even try. It is too important, it is too serious when it comes to this fiscal cliff debate. But Medicare entitlement reform should be part of our conversation over the next 10 years in deficit reduction. Let's find a way to do it that does not reach the extreme of the Paul Ryan budget, which created premium supports which literally foreclosed opportunities for seniors to have Medicare coverage when they needed it the most.

Let me also add to my colleague's comments that the notion about extending the eligibility age for Medicare is one we ought to think about long and hard. To think a person would retire at the age of 64 or 65 and not have Medicare coverage until 67 raises an obvious question. These people in their mid-sixties, probably with a health history, will find it difficult to buy health insurance on the open market or afford whatever is available. I want to make sure there are no gaps in coverage for those who need it the most—retired Americans who have a health history and can't find affordable health insurance. So before we jump at the notion of increasing the eligibility age for Medicare, let's make certain there are insurance exchanges, good competition, and affordable health care available for those seniors. That should be part of the conversation about this entitlement reform.

Let's get to entitlement reform, but let's start where we should. Let's bring in the revenue and taxes needed for deficit reduction. That is the President's plan. We sent a bipartisan bill to the House—a bill passed in the Senate—to protect every American family making \$250,000 or less so that they have no increase in their income taxes on January 1 after the cliff. It is in the hands of the Speaker of the House. He could call it today. He could pass it today. I hope he will. That is what the President is asking.

What we are also saying is those who have lived the American dream, have been successful and blessed with wealth and a good position in America, should be willing to give a little more in taxes so another generation would have a chance to attain that American dream. Asking those in the highest income categories to pay a little bit more to reduce our deficit is not unreasonable. It is the President's starting position, and should be, before we get into serious discussion about deficit reductions over the long period.

I will now yield to my colleagues and thank them for their leadership. I will say, as a way of introduction, what the Republican Senate leader failed to mention, which that in the last 6 years we have had no fewer than 386 filibusters on the floor of the Senate. Senator MCCONNELL, as their leader, has led us

into more filibusters than ever in the history of the Senate. That is why most people who tune in to C-SPAN and look at the Senate floor say: Where are the Senators? Why aren't they here working? We have been stuck in Republican filibusters to a record level.

What my colleagues are addressing is a way to avoid that in a sensible manner which could apply to either party in the majority or the minority.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

SENATE RULES CHANGES

Mr. MERKLEY. Madam President, I am pleased to be here with my colleague from New Mexico, Senator TOM UDALL, to talk a little about the issue of how this body, which was once considered the world's premier deliberative body, can actually discuss and decide things in this modern era—a modern era that has seen unlimited paralysis, with huge hurdles placed in the way of addressing the large issues facing America.

The last couple of days we have heard a lot of passionate terms—terms such as power grab and suppression of minority rights, broken promises or abuse of the rules. I must say all of those allegations create a smoke screen designed to take away from thoughtful conversation about a broken system, about the dysfunction of the Senate. So let's take a step back and recognize that the goal of this discussion about rules is to simply enhance or restore the ability of this body to deliberate and decide issues.

Perhaps during the time we have the honor to serve in this body we will be able to once again claim that we are the world's greatest deliberative body. The conversation often starts with the Constitution and about the design of this body as being the cooling saucer, as President Washington was alleged to have claimed. And, indeed, the early debate over this body did say let's take a longer term for Senators—6 years rather than 2—so they are more insulated from the public debate. Let's have the indirect election of Senators. States used to have a legislative process to decide who would represent them in the Senate rather than direct election. Let's do that so there is a little more insulation for Senators to be able to thoughtfully consider issues, whereas the House might be a little rash.

But, colleagues, there is a huge difference between being a cooling saucer and a deep freeze. Indeed, we have become a deep freeze.

Let's take a look at this first chart. This chart essentially shows the rise in the number of cloture motions. If you can't see the details, what you can see is the trend of this great soaring number. I think what captures attention is that during the 6 years Lyndon Johnson was majority leader in this body he had to file just one cloture motion—just one—in order to get to a final simple majority vote.

During the 6 years that Senate Majority Leader REID has presided here we

have had 386 filibusters. Realizing that each one can consume a week of the Senate's time, we quickly see the paralysis that has invaded this body.

When Members talk about the frustration of not getting to appropriations bills and how few of them we have considered and debated, we know why. It is because of the incessant, day-in-and-day-out filibusters launched by members of the minority. This must be addressed.

I first came to the Senate to observe this Chamber in 1976. I was an intern for Senator Hatfield. I sat in the staff gallery and covered the debate that summer over the Tax Reform Act of 1976. There were no cameras on the Senate floor, no e-mail, so I would run down and meet Senator Hatfield outside of the elevators and brief him on each amendment. I watched as every hour or hour and a half an amendment was brought up, it was debated in this body, and it was voted on. There was no filibuster of a motion to proceed. There was no filibuster of amendments. There was no 3-week deep freeze during the negotiation of what amendments would come up because it was understood we were here as a majority body to debate issues.

The filibuster would be a rare exception, occurring once or twice in one's career, when someone would stand and say: There is a principle so profound at stake, an interest of such concern to me personally, to the Nation, or to citizens of my own State that I am going to break and interfere with the majority decision and hold this floor and make my case before the people. But that is not what we have now. So there are various ideas being put forward on how we can restore the filibuster as something that happens in front of this Chamber, in front of the public; that there is accountability and transparency that facilitates debate. Rather than throwing accusations about abuses of power, let's just have a thoughtful debate about how to make this Chamber work.

One question is whether we should have filibusters on the motion to proceed. I have a little chart that shows what has happened. It used to be unheard of that the motion to proceed was filibustered. In the time period between about 1930 and 1970 the motion to proceed was only filibustered 12 times or roughly once every 3 to 4 years.

What we have here is 57 filibusters in 2007–2008 of just the motion to proceed. In other words, we see this growing trend of trying to paralyze the Senate from even getting to a debate on an issue. This makes no sense because whatever one is filibustering at the front end one can do at the back end. So we need to consider the possibility of saying, no, this does not enhance debate.

Filibustering to prevent the Senate from debating cannot possibly enhance debate. So we need to be thoughtful about whether we continue this change, this change that has emerged since 1970.

We need to look at the problem of motions being filibustered going to conference committee. A conference committee is a chance to negotiate with the House on a bill that has been passed by both bodies. Why should we possibly obstruct a bill from getting to conference committee? Yet we rarely have a conference committee now because of the routine threat to filibuster the motions necessary to get to conference committee. Yes, we should still be able to debate and filibuster what comes back from conference committee. Absolutely. But to prevent negotiations—again, that doesn't seem reasonable in any frame other than to paralyze this body, which is paralysis not about debate, it is about preventing debate.

I put forward the notion of the talking filibuster. That is simply to say that the American people believe that if you are going to object to a simple majority vote and say there should be more debate, then there should be more debate—more debate on this Chamber floor. So I am proposing that after cloture, when you have a majority but not a supermajority, that Members be required to actually debate. I can tell my colleagues that the public reaction to this is so strongly in the affirmative. And there are other ideas being put forward that merit thoughtful consideration.

Today the minority leader said the test should be whether you feel as though a proposal would work when you place yourself in the minority. Both Senator UDALL and I have expressed that very position from the beginning of this conversation 2½ years ago, that whatever we support on this floor needs to be something we would accept in the minority, and that means it enhances debate and dialog without crushing in any way the right of the minority to be heard.

Madam President, at this moment I yield the floor for my colleague from New Mexico, who has done a spectacular job at framing that we have a responsibility to American citizens to enable this Chamber to work and that we have an opportunity at the start of every 2 years to have a thoughtful and considerate debate on how to fulfill that responsibility.

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

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the remaining time on the Democratic side be equally divided between Senator MURRAY and me.

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

Mr. UDALL of New Mexico. Madam President, I say to Senator MERKLEY, who has been a good friend and partner on this issue of filibuster reform, I couldn't agree more with his comments and with the kinds of things he has been talking about: commonsense proposals to make the Senate work.

What Senator MERKLEY and I have been talking about is the way we can

have the Senate do the work of the American people. We just went through an election. We know our States are hurting. People want to create jobs. They want us to deal with health care costs and make sure there is quality health care. On education reform, we haven't even reauthorized the No Child Left Behind Act or dealt with education. So all of those issues are front and center. As we know, the last couple of years, because of the filibuster and because of the delay and because of the obstruction we have had go on, we haven't been able to get to those issues. And I think Senator MERKLEY has experienced what I have when we have talked to our friends on the Republican side—they agree it is not working.

Really what we are trying to do is come up with commonsense proposals such as the Senator has talked about to make the Senate work. The first one is very simple. It is to make sure that the motion to proceed to a bill will not be debatable. We are talking about not allowing filibusters on the motion to proceed because, as we have seen on the chart here, we are in a situation where we now cannot even get on the bills. So this is a commonsense proposal.

One of the other areas we are trying to address deals with conference committees. There are three debatable motions—three motions that can be filibustered to get us into the conference committee. We have not gone to conference as a result, and so we don't resolve differences between the House and the Senate—another important area we could reform and really make the process work much better.

The final one is one Senator MERKLEY and I have worked on. Senator Specter, a Republican who at the very end of his career became a Democrat, talked about it as the talking filibuster. He said: If you are going to object, if you are going to slow down the Senate and prevent the Senate from doing anything, you should have to come down here and talk about it. That is really the essence of what we are trying to do—shift the burden onto the people who are obstructing to say: Come down here and talk about it. And as Senator MERKLEY has said several times, it could be that what you talk about, you become a hero or you become a bum in the eyes of the American people. But the reality is that the Senate is deliberating, the Senate is doing its work, the Senate is engaging—we are engaging each other and having a debate about those particular issues.

I think these are commonsense proposals, and the minority should understand that we have thought through these proposals in such a way that if we were in the minority, we could live with them. That is the crucial fact here. We are not trying to ram something through that we couldn't live with in the minority. I believe this place can work a lot better and we can

do a better job if we just work with each other and try to come up with rules and not abuse the rules.

My colleague and our leader, Senator MURRAY, has joined us. Senator DURBIN was here earlier. I know the time has been equally divided. It was shortened a little bit with Senator DURBIN's talk at the beginning of our half hour. At this time, I yield for Senator MURRAY's remarks.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleagues.

We have been hearing a lot recently about the inability of our Nation's elected officials to come together on a balanced and bipartisan budget deal. Here in Washington, DC, this issue is often viewed through the prism of partisanship and political point-scoring.

The conversations and the coverage are very focused on the moment that we are in—this debate, the next few weeks, the next year—but for families who are sitting around their tables and in communities across America, this issue is about a lot more than that. It is about their lives and their futures. It is about tough questions too many of them have to ask themselves every day: Will they be able to afford to stay in their homes? Will they get the support they need to get skills and get back on a job? Are they going to be able to send their kids to college or go to the doctor when they get sick? Is Medicare going to be there for their parents or for them or for their children? Are their taxes going to go up next year?

Those are the questions they are asking, and they want their elected officials to come together around real answers and real solutions and smart policies that work for families like theirs.

These are the people I am fighting for as we work toward a balanced and bipartisan deal in this lameduck session of Congress. Those are the questions I feel very strongly we need to be answering. That is why I am absolutely focused on making sure any deal we make over the next few weeks works for middle-class families and for our seniors and for our country, and that is why I have been very clear that I will not sign on to a deal that throws the burden of deficit reduction right on to the backs of families and communities who have already sacrificed so much.

As cochair of the Joint Select Committee on Deficit Reduction last year, I made it very clear: Democrats were willing to compromise, we were willing to make some tough concessions, but only in the context of a balanced and fair deal that called on the wealthy to pay their fair share as well. As we all know, Republicans didn't just refuse to meet us halfway then, they wouldn't even step out of their corner. They insisted that seniors and the middle class feel all of the pain in that deal and that the wealthiest Americans—millionaires and billionaires—be protected

from paying a single penny more in taxes.

Democrats rejected that deeply unfair approach, and we decided to keep fighting for the middle class rather than roll over and let Republicans lock in new giveaways to the rich and major cuts to programs on which our families depend. And then we made our case to the American people. We built our campaigns from the top to the bottom around the idea that budgets need to work for our middle class and that the wealthy need to pay their fair share. The Republican approach—the Ryan budget plan—was literally on the ballot, and Romney and Ryan and other Republicans were not shy about telling the American people they didn't think the rich should pay a penny more in taxes in this deal. Well, not only did Democrats win races across the country, but in exit polling it was clear that the vast majority of Americans supported our approach to deficit reduction—a balanced approach, an approach that cuts spending responsibly but also calls on the wealthy to pay their fair share. Voters spoke pretty clearly in this election, and they stood behind Democrats to fight for a budget deal that works for the middle class.

We are hearing encouraging words from some of our Republican colleagues who have indicated a willingness to put revenue on the table and to break the stranglehold DC lobbyist Grover Norquist has on the modern Republican Party. One of my Republican Senate colleagues said Republicans should “put revenue on the table . . . We don't generate enough revenue.” And he said he would not be beholden to the Norquist pledge.

Another has said:

The world has changed. And the economic situation is different. Ronald Reagan and Tip O'Neill realized that in the 1980s. I think everything should be on the table.

Another said:

I'm not obligated on the pledge . . . The only thing I'm honoring is the oath that I take when I'm sworn in in January.

Another Republican Senator recently said:

I care more about my country than I do about a 20-year-old pledge. If we do it his way, then we'll continue in debt.

Of course, Grover Norquist is fighting back. He called those statements by my Republican colleagues impure thoughts; he called one of them a weasel. He is used to blind allegiance from the Republican Party, and he is not going to take this lying down. But I am hopeful that more and more Republicans will break away from Grover Norquist and that they will actually follow up on their new rhetoric with a genuine willingness to help us call on the wealthy to pay their fair share. And it should be easy for them because the Senate actually has already passed a bill to do that and in a way that works for our middle class. The Senate passed a bill that would extend the tax cuts for 98 percent of our workers and 97 percent of small business owners and

just let the tax cuts for the wealthiest Americans expire as scheduled. We have sent that bill over to the House now. The President said he would sign it. All House Republicans have to do is pass that bill, and a significant chunk of the fiscal cliff will disappear for the middle class. When that is done, we will then continue the serious conversation we need to have about our country's budget future.

But there is no reason middle-class families should have to go into the holidays not knowing if their taxes are going to go up. Democrats and Republicans both agree that the middle class should have their tax cuts extended. So there is no reason the House should continue holding that bill and the middle class hostage.

By the way, one conservative Republican in the House agrees. Representative TOM COLE of Oklahoma told his colleagues and reporters yesterday: “The first thing I'd do is make sure we don't raise taxes on 98 percent of the American people.” He said that was “the right thing to do” and that “where there is common ground . . . we should seize that common ground.” I applaud Representative COLE for that commonsense and brave position. I am hopeful that he can persuade other Republicans to do the right thing for our families, small business owners, and communities across the country who have so much at stake and who are looking to us to solve this problem. I am hopeful they will join Senate Democrats and pass that middle-class tax cut, and I am confident that once we move forward on that bill, then both sides will sit down and listen to the American people, allow the wealthy to pay more, and then focus on the questions families are asking about—our budgets, our priorities, our fiscal health, and the future of the Nation.

Madam President, I yield the floor.

THE FISCAL CLIFF

Mr. BARRASSO. Madam President, I rise today to talk about the fiscal cliff this country is facing and is coming upon us on January 1. As my colleagues have been pointing out, Congress must act soon to take on the numerous expiring tax provisions in the sequester. I believe President Obama needs to supply the leadership in those efforts. If he does not, we know taxes are going to go up on all Americans; we know the economy is going to be thrown back into a recession; and we know unemployment will return to even higher rates than we have right now.

Our recovery from the last recession has been far too sluggish. We see that all across the country. It has left too many Americans still out of work. Today our economy has created 9 million fewer jobs than we were promised under the President's own stimulus plan. Our economy has rebounded far more slowly than it did following previous recessions. As a nation we simply cannot afford another recession right now.

It would be especially tragic if there were a recession caused by a failure of leadership coming out of the White House. That is what we are trying to avoid, and we have a very limited amount of time to do it.

As chairman of the Republican policy committee, we have come out with a policy paper called “On the Fiscal Cliff, Entitlement Reform Is Key” because what we see is that no amount of tax revenue will fix entitlement spending when we look at the history of the United States. Over the last 40 years the average amount of tax revenue was a little over 18 percent of the gross national product. The highest ever was a little over 20 percent of the gross national product. Yet when we take a look at the tidal waves coming at us of Social Security and Medicare, unless we deal with those two tidal waves we are going to significantly have problems long term, and that message to the markets is going to be one that is quite destabilizing.

Tax increases do not solve the spending problem. If we do what the President requests, which is raising tax rates on people with over \$200,000 a year of income, in terms of spending for next year that would pay for about 6.8 days. If we did it at the other level of over \$1 million of income as some suggested, it would only pay for 4 days of spending.

I am very concerned about what I call the fiscal cliff. Yesterday, Politico reported that some Democrats want to call it the fiscal slope. It is time for Democrats in Washington to stop searching for better sound bites and start looking for solutions.

President Obama has said repeatedly that he wants to take a balanced approach. This balanced approach should govern how we deal with other issues as well and how Democrats work with Republicans in the Senate. Given the challenges we face, it is unfortunate that some of the President's closest allies in the Senate are for pushing the exact opposite approach.

RULES CHANGES

The majority leader and some members of his party have now proposed what would be an unprecedented power grab that will forever change this Chamber's rules. It will make it easier for the political majority to silence those who disagree with them and even harder to find common ground. I am speaking, of course, about the Democratic plan to change the rules of the Senate to drastically limit the use of the filibuster.

I believe the majority leader would take a dangerous step toward abolishing the rights of the political minority and restricting the right to free and open debate. They seem to want to break the rules to change the rules, and I believe it is fundamentally wrong to break the rules in order to change the rules. This would be a terrible mistake and a irresponsible abuse of power. The rules of the Senate ensure a balanced approach to debating important matters such as the fiscal crisis.

Among these rules, filibuster is critically important.

The filibuster was created so that competing groups of Senators would actually have to work together to find responsible solutions—not solutions based on one political ideology or the other.

Back when he was a Senator, President Obama understood the need for rules to protect the rights of political minorities. In 2005, then-Senator Obama said:

If the majority chooses to end the filibuster—if they choose to change the rules and put an end to democratic debate—then the fighting and bitterness and the gridlock will only get worse.

Another former Senator was Vice President BIDEN, currently the President of the Senate. He agreed. He said:

At its core, the filibuster is not about stopping a nominee or a bill, it is about compromise and moderation.

At the time, in 2005, some Republicans wanted to vote on well-qualified judges despite Democrats' insistence not to. They believed we needed to change the Senate rules to get these votes. Back then, Democrats called this the nuclear option. That is because of the damage it would do to the balance and compromise in Washington. Today some of those same Democratic Senators are preparing to use this nuclear option themselves.

Anytime one party or group is frustrated with the Senate's inefficiency, there are always calls to change the rules. The frustration is natural, but it is also intentional. Our Nation's Founding Fathers purposely made the pace of the Senate deliberate. They wanted to make sure there was free debate on important subjects. That is what has happened now for more than 200 years.

Way back in 1789, the very first session of the first Congress, Senators used the rules to slow down one of the first votes this body ever took. Naturally, there were complaints at the time about the delay. The father of our Constitution, James Madison, explained the importance of the rules that allowed the brakes to be applied to policymaking. He wrote:

If angels were to govern men, neither external nor internal controls on government would be necessary.

Angels have always been in very short supply in Washington, so voters must keep an eye on government officials and hold them responsible. Those officials must also keep close watch on each other. At times they must be able to stop each other from doing harm.

Restricting the right to debate would seriously undermine the ability of Senators to keep that watchful eye. It will lead to more bickering, more bad blood, and more bills being written by one party behind closed doors. There will be less transparency, less consideration of the unintended consequences in bills and less open discussion for the American people to see.

The filibuster is not just about stopping bad ideas. More often it is about

amending bills to make them better. It is about taking the time to have the reasoned discussion that the Founders knew we should be having. It is about maintaining the balanced approach the President is calling for in these important talks on the fiscal cliff. It is about giving members of the minority and the people they represent a chance to offer their solutions.

Instead of allowing that measured approach the Founders intended, what we are seeing is the majority leader has already done an awful lot to limit debate. He has already restricted the rights of minority Senators and the people they represent. He has bypassed committees at an extraordinary pace, and he has made unprecedented use of the parliamentary trick known as filling the tree.

Senator REID has filled this amendment tree 67 times since he has been majority leader. That is more than twice as often as the four previous majority leaders combined. Now the majority leader wants to cut off debate and abolish the filibuster. He wants to change the rules by breaking the rules. He would set the precedent that just 51 Senators could band together to change any rule of the Senate at any time. Currently, it takes 67 votes to change the rules of the Senate. In January it might be filibusters on motions to proceed. Then when the majority gets impatient on something else, it might change the rules again.

President Obama recognized in 2005 the damage that this kind of chipping away at minority rights would do to prospects for compromise. If Senate Democrats succeed now, they will destroy, for temporary political gain, any hope of achieving a truly balanced solution to the challenges we face as a nation.

Our political system functions on majority rule but with strong minority rights. That is true when the minority is outvoted 51 to 49 or 99 to 1. Democracy is not winner-take-all. The right to debate is not a luxury for the majority to hand out. It is essential to our system of government. Majorities are temporary. Being forced to listen to someone give an opinion you disagree with can be exasperating, but as a country it does us more good than harm.

Way, way back, John Adams wrote on the need for minorities to have the ability to stop the majority in the legislature. He said:

Every Member must possess it, or he can never be secure that himself and his constituents shall not be sacrificed by all the rest.

That was centuries ago. Sixteen years ago, Senator Robert Byrd spoke to the newly elected Members of the Senate about the history of this body. He said:

As long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will be secure.

Through his excessive use of filling the tree, the current majority leader

has gone a long way toward gutting the power to amend. The proposals he has now made to do away with the power of unlimited debate would do even greater harm to the liberties of the people. Many Senators here today were not around 16 years ago to hear that speech by Senator Byrd, but I hope all of us on both sides of the aisle take his warning to heart.

If Members on the other side of the aisle are frustrated with how the Senate is being run, look at how the majority leader has set the calendar and cut off amendments. Don't take this terrible and irresponsible step. We are not only arguing about the rights of the Senators to speak, we are not just talking about maintaining rules for their own sake, or even the terrible precedent that would be set under the proposal of the majority leader. We are talking about the rights of the people we represent, the right to be heard in the Senate.

The Senators who are so eager to change our rules by breaking the rules should not be so eager to take away the rights of the American people whom those rules were designed to protect. The cost is simply too high. We have too much important work to do in the Senate. We should be focused on doing all we can to avoid the fiscal cliff, to grow our economy, and to create the jobs the American people need and deserve.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. THUNE. I want to echo the words of my colleague from Wyoming with regard to the whole issue of the Senate rules. I come from the House of Representatives. I came to the Senate having first served in the House of Representatives, three terms there. The House of Representatives, of course, is very structured. There is a Rules Committee. If someone wants to get an amendment considered, debated, voted on in the House of Representatives, there is a process. They have to go plead their case to the Rules Committee.

The Rules Committee can decide, no, we are not going to allow that amendment to be considered; we are not going to allow that amendment to be debated. They can decide which amendments are offered in what order and how much time is allowed on each amendment. It is a very structured process in the House of Representatives, but it makes it very difficult for an individual Member to be able to have their voice heard in the House of Representatives.

That is the way it works. I had the luxury, I guess, while I was serving there of being in the majority. But even in the majority a lot of times I could take what I thought was a very worthwhile amendment, reflective of the views of the people who sent me there to represent them, and they could shoot it down. I never got a chance to have that amendment debated or voted on.

That is what is distinctive about the Senate. That is what the Founders intended with the Senate—to allow for open debate, to allow individual Members to come down to represent their constituencies and to debate the big issues of the day in a way that is different and distinct from the House of Representatives.

I think what many of my colleagues who are proposing this rules change want to see happen is they want to see the Senate function more like the House. It was not designed to. This is a very different place. It was designed to be a very different place where we have debate, where we have votes on amendments, where individual Members have an opportunity—particularly members of the minority in the Senate—have an opportunity to have their voices heard and the voices of their constituents heard.

So this is an unprecedented power grab by the majority. What the majority leader is proposing is essentially to break the rules to change the rules. That will be a legacy, if he is successful, that he will have to live with because he will change the way that this institution has functioned for so long. If we think about how this ought to be done, there is a process by which rules changes can be considered in the Senate, and it starts with the leaders consulting and talking about whether some of those changes ought to be put in place, whether those are appropriate, and then getting the necessary two-thirds vote that is required under the rules of the Senate to change the rules.

The Senate is a very different place from the House of Representatives. What we do ought to reflect that. We should not have these power grabs and attempts to violate the rules of the Senate in order to change the rules in a way that is completely inconsistent with the history and the tradition in the Senate. What the Founders intended when they created the Senate, distinct and separate from the House of Representatives, was to allow for debate and votes on amendments.

I hope the majority leader and members of his party will see clearly to do the right thing and to go about this in the right way; that is, for the leaders to consult, and if there is a need for changes in the rules or modifications, let's do it in the way it has always been done, not by breaking the rules or changing the rules.

FISCAL CLIFF

Madam President, I wish to speak as well to the issue that was raised by my colleague from Wyoming; that is, the fiscal cliff. We are on the threshold of something that could be very harmful to the economy of this country, very harmful to jobs. If we go over the fiscal cliff, the experts are telling us—and by the experts I mean not only private economists but the CBO and others in Washington, DC, who analyze and study such things—that we could plunge the country into another recession,

we could see unemployment go above 9 percent if tax rates go up and a sequester is triggered a little more than 1 month from now. Longer term, we place unsustainable fiscal imbalances largely because of entitlement programs that have not been reformed in a way that aligns our current demographics with the needs of these programs.

Entitlement spending is the largest driver of our national debt over the long term. Those who argue that we can dig our way out of more than \$16 trillion in debt simply by raising taxes are ignoring reality. We have to do something to address what is our real problem in Washington, DC; that is, the spending problem, not the revenue problem. While it is true Federal revenue has declined over the past few years, it is due to the great recession, not because tax rates are too low. The average ratio of Federal revenue to GDP over the past 40 years has been about 18 percent. According to the Congressional Budget Office most recent forecast, under the current tax rates—the tax rates in place today—revenues from 2013 to 2022, the next decade, would average roughly 18 percent of GDP.

So let's be clear about exactly what the CBO is saying. The CBO is telling us Federal revenues will return to the historical average over the next 10 years without raising taxes on anyone. We are going to get back to the historical average. In fact, according to the CBO, under the current tax rates, revenues as a percentage of GDP will reach 18.6 percent by 2022, and that is more than one-half of a percent higher than the historical average.

Clearly, any deal to address our fiscal situation should be first and foremost about spending, not taxes. Our spending problem is exemplified by the past few years in particular. If we go back to the fiscal year 2007, before the recession, total Federal revenue was roughly \$2.5 trillion and total Federal spending was approximately \$2.7 trillion. So \$2.5 trillion in revenue and \$2.7 trillion in spending, so we were still running a deficit of about \$200 billion a year. For fiscal year 2012, which recently ended, total Federal revenue was \$2.45 trillion, basically back to the prerecession levels, but total Federal spending was above \$3.5 trillion. So what happened. Tax revenue is back to where it was before the recession, but Federal spending is now \$800 billion—almost \$1 trillion—higher than it was just 5 years ago in fiscal year 2007. It is no wonder that Federal spending and our national debt will continue to grow for the foreseeable future.

According to the CBO, mandatory spending, which comprised about 60 percent of total Federal spending in fiscal year 2012, is going to continue to grow, and if we look at what is driving that, it is Medicare, Medicaid, and Social Security. Those programs alone represent over 40 percent of Federal spending currently. Spending on these

programs is projected to grow at an unsustainable rate and we cannot simply raise taxes to pay for all this new spending. That is the problem. We have a spending problem in Washington, DC, and not a taxing problem.

We have to make significant changes in these programs to make our Federal entitlements sustainable and in line with today's demographics, and we need Democrats to join us in that effort.

To put a fine point on all that, I wish to mention what the nonpartisan Congressional Budget Office report, which was issued on November 12 of this year—just a couple weeks ago—said: “With the population aging and health care costs per person likely to keep growing faster than the economy, the United States cannot sustain the Federal spending programs that are now in place. . . .”

That is from the Congressional Budget Office.

The President's own fiscal commission, the Simpson-Bowles Commission, noted in its official report: “Federal health care spending represents our single largest fiscal challenge over the long run.”

Earlier this month, the Washington Post editorial board said, “Entitlement reform must be on the table.”

Of the debt reduction plan, the Post editorial board went on to say, “No serious plan can exclude entitlements.”

So we have experts inside and outside the government, we have the editorial boards of newspapers around this country, all recognizing what the real issue is; that is, the fact that Washington spends too much and it spends too much on programs that are unsustainable for our future.

What we have to be able to do is to come up with ways in which we can reform these programs to make them more sustainable. Of course, if we look at Medicare spending alone, in 1967, it was proposed that by 1990 Medicare would spend about \$12 billion. That is what the Congress projected when they created that program in 1967. That calculation, by the way, included inflation. If we look at actual Medicare spending in 1990, it was \$110 billion—almost 10 times the amount that was estimated in 1967. This year, we will spend \$550 billion on Medicare. Ten years from now, the Congressional Budget Office projects we will spend \$1.1 trillion on Medicare.

With regard to Social Security, for the past 2 years, this program has been operating at a cash deficit. If we look at the next 75 years, benefits promised to current and future beneficiaries exceed payroll tax revenue and trust fund redemptions by \$8.6 trillion. The present course of Social Security is unsustainable, and the trustees report projects that the trust fund is going to be exhausted by the year 2033.

In order to protect Social Security for future generations, it, too, must be reformed. We have to take on what is driving Federal spending and that is

entitlement programs. We have to reform them. Raising taxes is not the solution.

The President's only proposal so far is to raise taxes on small businesses to generate this next year what would be \$68 billion in revenue which, by raising the two top tax rates in the process, would hit nearly 1 million small businesses. What is ironic about that is raising taxes on the small businesses that create jobs in this country and that grow our economy—actually raising taxes on them to generate \$68 billion would fund the government a little under 1 week. That is what we are talking about. The dimensions of this problem are so vast we cannot solve them simply by raising taxes and particularly raising taxes on the very people we are looking to—small businesses. Raising taxes on small businesses would do harm to the economy. We would give back everything we get in the form of higher tax revenue by reduced economic growth. We have to deal with the fundamental problem we have; that is, entitlements.

I hope my colleagues on the other side will work with us. I hope the President will work with us. The President knows what the problems are, but he has folks all across the country who are putting pressure on him to not deal with the issue of entitlement reform. But I hope he will come to the table and address this issue. We have a spending problem and we have a growth problem. If we can address the spending problem, get entitlement program reform on a sustainable path. If we can get progrowth tax reform put in place to grow the economy and expand the economy, we can solve these problems. People across this country expect us to. The world expects us to. The financial markets expect us to. It can't be done simply by raising taxes on small businesses which so far is all we have gotten from the administration and from many of the Democrats in Congress.

We have to fix the spending problem and the growth problem. We have a solution to do that. We hope our colleagues will work with us to do that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

WORKING TOGETHER

Mr. HELLER. Madam President, one of the most visible expressions of the strength and resilience of our democracy is the moment when the incoming President stands on the steps of the Capitol, lays his hand on the Bible, and takes the oath of office. In that moment, America undergoes a peaceful transition of power that so many countries can only hope for or, as in this year, the President will smoothly resume his duty for another 4 years.

As we anticipate this remarkable moment in just a few short weeks, we are reminded of the ability of the American people to come together, even after long and challenging campaigns. I will watch the inauguration and re-

member my own difficult campaign. As we reflect on this past year, we are all reminded that this President, the House, and the Senate have not been given any mandate by the American people. For proof, look no further than the close margin of victories and the wide disparity in the ideology between the two parties. The only mandate is for Republicans and Democrats to work together.

What we saw during this election was an American electorate frustrated by gridlock in Washington and a Congress that does not get enough done for the American people. Our Nation has endured a brutal campaign season of attack ads and partisan sniping. The ads are now off the air, the campaign offices are cleaned out, and now we face some very difficult decisions. Right now, Congress must find a way to steer our Nation away from this fiscal cliff. We must move forward knowing that the only way to build a better, stronger nation is by working together and finding solutions on which both Republicans and Democrats can agree. Any solution to the impending fiscal cliff must be a bipartisan effort that fairly weighs the concerns of both parties. We must find a way to come together right now. The severe spending cuts and looming tax increases require it.

Nevada is already struggling to overcome the highest rates of unemployment, foreclosures, and bankruptcies in the Nation. The threat of this fiscal cliff and any failure to find a solution would have a real and negative impact on the recovery of my State. In the days following the election, I received phone calls from job creators in Nevada concerned about this fiscal cliff. These business owners told me this fiscal cliff would be too much for Nevada. Their employees are already bearing the brunt of Congress's inaction. Find a solution, they told me, and cut a deal. The devastating effect this fiscal cliff would have on Nevada's small businesses would simply be too much for their businesses and the small business sector in Nevada to handle.

There are a number of issues Republicans and Democrats can work together on to address immediately. First, we must stop living by a temporary Tax Code. Right now, there is no certainty for a small businessman or woman to grow or start a new endeavor. These men and women need to know how to plan for the future so they can invest in new equipment, new buildings, and more employees.

Second, we need fundamental tax reform. As with many small businesses across this country, businesses want nothing more than to grow, hire more people, and pass on a legacy to their children and grandchildren that shows with hard work and dedication, anything is possible in America. As I have often said, our current Tax Code is too costly, too complex, and too burdensome. There is no question the Tax Code is unfair and needs an overhaul. Our Nation is long past due for an hon-

est discussion about how to transform our Tax Code into one that encourages job growth and one that doesn't hinder it.

Third, we need to put a stop to the ever-increasing number of regulations. Instead of encouraging businesses to develop and grow, Washington has increased their burden with miles and miles of regulatory redtape, passed a health care law that is costing jobs, and continues with a top-down, Washington-knows-best mentality that has led to an anemic economy.

While I do not believe sequestration is the answer, Congress must engage in honest debate on spending reform to right our Nation's fiscal situation. Nevadans and all Americans deserve a federal government that is more efficient and more effective. Washington cannot continue to spend money we don't have and place our Nation in deeper debt and threatening future opportunity for our children and grandchildren.

Divisive partisan politics does a great disservice to every American. Far too many Nevadans are forced to stay up late at night wondering how they are going to make their mortgage payment, send their children to college or feed their family. While people across our country are struggling to get by, Congress has a responsibility to prioritize the people over the party and find a way to avoid this looming crisis and get our economy back on track.

These next few weeks are absolutely critical for the health of our country. Similar to that moment when the President takes office, how we work together to reach across the aisle and find bipartisan solutions is a testament that our democracy—the greatest democracy in the world—is alive and well.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HELLER. Madam President, I ask unanimous consent to speak as in morning business for an additional 2 minutes.

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

Mr. HELLER. I thank the Acting President pro tempore.

As I was mentioning, like that moment when the President takes office, how we work together to reach across the aisle and find bipartisan solutions is a testament that our democracy—the greatest democracy in the world—is alive and well. Let's not squander this opportunity to place our Nation on a path to greater economic prosperity.

The American people have children to raise, mortgages to pay, businesses to grow, and new discoveries to make. It is time for Congress to come together to make the tough decisions necessary so that Americans can get back to work and create a brighter future for generations to come.

Madam President, thank you very much. I yield back the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Madam President, what is the matter now before the Senate?

The ACTING PRESIDENT pro tempore. The motion to proceed to S. 3254.

Mr. REID. Is there further debate on this matter?

The ACTING PRESIDENT pro tempore. Is there further debate on the motion to proceed?

If not, the question is on agreeing to the motion.

The motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3254) to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2985

Mr. REID. Madam President, on behalf of Senator UDALL of Colorado, I call up amendment No. 2985.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. UDALL of Colorado, for himself, Mrs. MURRAY, Mrs. SHAHEEN, and Mr. BINGAMAN, proposes an amendment numbered 2985.

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

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

The amendment is as follows:

(Purpose: To strike section 313, relating to a limitation on the availability of funds for the procurement of alternative fuel)

Strike section 313.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I want to describe to the Senate what we just did. It is a little different from what we sometimes do around here, which is we have long threats of filibusters on motions to proceed; then, we, finally, often or sometimes reach unanimous consent agreements to proceed. What we did here—and it was very deliberate—was to proceed by motion, not by unanimous consent, to this bill so that if persons were going to filibuster the motion to proceed, they were then going to have to come to the floor and debate it—not just simply threaten to filibuster the motion to proceed, but they would have to come and actually debate it. Because I believe that is the correct way for us to operate.

Motions to proceed, I believe, have been abused. The threats to filibuster those motions have been allowed to be successful. One way we can overcome what has been a bad habit of allowing threats to filibuster motions to proceed

to succeed is to basically tell those folks, our colleagues, that if they want to filibuster a motion to proceed—in this case, the Defense authorization bill—they are going to have to come over and filibuster.

This is something which is significant. It may sound like a nuance to many. I think it probably would to most outside this body and our staffs as to what I am saying. But it is important to those of us who are trying hard to get this body to be more functional that we use the existing rules—and I am all in favor of rules changes, by the way—but that we use in the meantime the existing rules to get this body more functional than it is right now. And one of those existing rules is the one we just used, which is to proceed by a motion to proceed, and then to indicate, as our leader just did, there appears to be no one who wishes to be recognized to debate it, and then for the Chair to put the question, the Presiding Officer to then put the question to the body: All those in favor of the motion say “aye,” all those opposed say “nay.” The ayes have it, and now we are on the bill.

So, Madam President, I have a long opening statement. I will, however, with the assistance here of my friend, Senator MCCAIN, also make the following statement. There is no cloture motion which is filed or pending. We hope we can adopt this bill without a cloture motion. We are hopeful that people who have amendments will bring them over. We will try to dispose of them, either by saying we could agree to them or we cannot agree and putting them in line for debate; but proceeding in a way that if folks, colleagues, have amendments, they bring over those amendments and let us try to work those amendments through this process without having to go through cloture and without having to set aside pending amendments in order to make other amendments pending.

If we can proceed without a cloture motion, we are not going to have to use that process of setting aside pending amendments, making other amendments pending, because if we can avoid a cloture motion, we are not going to have a postcloture period where that pendency of amendments becomes relevant. If we are not going to need to go to a cloture, then it is not relevant that an amendment is made pending because the bill is open to amendment. That is what we are hoping to do.

We are willing to stay here late hours. Senator MCCAIN and I have spent a lot of time talking about this—we spent a lot of time getting this bill to the floor, by the way; and it came out of our committee unanimously—but we spent a lot of time talking about how do we get this bill done in 3 days because that is what we told the majority leader we think we can do. By the way, that is all the time we are going to have. The majority leader has made it clear we do not have more than 3 days.

We want colleagues, Senators, who have amendments to bring those amendments to us. We will try, if we cannot resolve them, to put them in packages. If they need to be debated and voted on, that is fine. That is what we are here for. We are going to then try to line up those amendments so that we will go back and forth to the extent we can between Democrats and Republicans offering amendments and voting on those amendments.

So, therefore, I intend to object, in the absence of a cloture motion being filed, to laying aside amendments because, again, in the absence of a cloture motion pending, there is no need to do that and it confuses and complicates the life of the managers of this bill. So I want to make that clear to our colleagues.

I wonder if Senator MCCAIN might have a comment on that.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, could I say, I thank my dear and old friend from Michigan. I was recollecting that he and I have now worked together for over a quarter of a century. But far more important than that, this legislation and how we handle it, I say to all my colleagues, can be a model for how this body should do business: Take up a piece of legislation, have amendments and debate, and move forward. If that requires long hours, and even occasionally a Friday or even more, then I think our colleagues should be prepared to do that. We are not sent here for a 3-day workweek. We are sent here to do the people's business.

I am not proud, Madam President—and I will not point fingers at anybody—it was judged by historians the last session of Congress was the least productive since 1947. Now, maybe Senator LEVIN and I were around in 1947, but we do not remember exactly what happened in those days. But the fact is that when we are looking at basically continuous gridlock, day after day, week after week, month after month, then we have to change the way we do business.

Hanging over all this, I say to my friends on this side of the aisle, is a change in the rules, which could cause what we used to call the nuclear option, which we were able to avoid some years ago when this sort of same thing was contemplated on the confirmation process of judges.

So we are now proceeding, I say to my friend from Michigan, without a motion to proceed, without a cloture vote, without the normal parliamentary back and forth that takes up 2 or 3 days of every week here, and we want people to come to the floor, have amendments—as there is one pending from the Senator from Colorado—we debate it openly and honestly, we have votes on it, and we move forward. If it requires quite a while—because we are talking about this Nation's security, the National Defense Authorization