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Senate

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Almighty God, king of kings and governor of all things, thank You for this opportunity to boldly approach Your throne of grace. It is at Your throne, God, that we obtain mercy to sustain us throughout the challenging seasons of living.

Lord, we build this moment of prayer into our day, aware of our need of You. Be for our lawmakers their shelter in the time of storm. Lord, prepare them to meet whatever difficulties that may lurk in life's shadows, as they seek to cultivate an experiential relationship with You. Give them the wisdom to persevere through tough times and never, ever give up.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, 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, December 3, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Following leader remarks, if any, the Senate will resume consideration of the National Defense Authorization Act. The filing deadline for second-degree amendments is 4 o'clock today.

At 5 p.m., the Senate will proceed to executive session to consider the nomination of Paul William Grimm to be United States District Judge for the District of Maryland. At 5:30 p.m., there will be two rollcall votes: first on confirmation of the Grimm nomination, and then on the motion to invoke cloture on S. 3254, the Defense bill I just spoke about.

Mr. President, significant progress has been made on this legislation. The two managers of the bill, as I indicated, know how this place works, and they worked extremely hard to clear a lot of amendments. We soon will be approaching 100 amendments that have been dealt with in this legislation. In fact, for all I know, they could have already done it since this morning, so I think we have made great progress. I know there is more progress that can be made by their continuing to work on this.

NEGOTIATION

Mr. REID. Mr. President, before I came to Congress I was a lawyer. I tried lots of cases, more than 100 cases to juries. My greatest victories, though, weren't the cases that we spent in a courtroom and worked on in a courtroom. My greatest victories were the cases that never saw the inside of a courtroom.

As English poet George Herbert said, "A lean compromise is better than a fat lawsuit," and that is true. It is always better to settle than to fight. I have done my fair share over the years of negotiating, both as a lawyer and as a Senator and as a Member of the House. I have a bit of negotiating advice for Republican leaders: You are doing it wrong. Generally during a negotiation, each side brings an offer or demand to the table. That is how it has always worked. Then the two sides sit down and find middle ground. It is not always easy and it is rarely fun. True compromise means no one gets everything they want, but unless both sides come to the negotiating table with an offer, you can't even begin the negotiation. In fact, unless both sides come to the table with an offer, there is no negotiation.

Over the last week, Republican leaders from both Chambers have complained that Democrats put forward a proposal for resolving the fiscal cliff that reflected our priorities—our priorities. What did they expect?

Our proposal is simple. We want to end unnecessary tax breaks for the richest of the rich and provide security for everyone making less than \$250,000 a year. No one should be surprised at President Obama's offer. It is exactly what he has said he supports time and time again. For months now, it is what I have said I support. I have said it time and time again. It is what Democratic Senators campaigned on across the country this election cycle. This plan would protect 98 percent of American families and 97 percent of small

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



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businesses from tax increases. It also passed the Senate 4 months ago, and it has the support of the American people. The vast majority of Americans—Independents, Democrats, and even more than 40 percent of Republicans—supports this.

I wish I could share with you the details of the Republicans' answering proposal, but there hasn't been one. They haven't produced a single proposal.

We are not doing their homework for them. It is the Republicans' responsibility to respond with a counteroffer—not a hint dropped during, perhaps, an interview with the Washington Post, the New York Times or even the Wall Street Journal or a Sunday talk show but a real modified offer. President Obama has told Republicans and the world where he stands. The sooner the Republicans make a legitimate offer, the sooner we can all start working to find middle ground.

So let me remind my Republican colleagues that as we work toward a final agreement, millions of middle-class families are nervously watching and waiting. For 4 months Republicans have held them hostage to protect the richest 2 percent of taxpayers. Reasonable rank-and-file Republicans are urging their leadership to stop delaying Senate-passed legislation that would give millions of middle-class families making less than \$250,000 the certainty that their taxes won't go up by about \$2,200 on January 1.

It will be hard for Speaker BOEHNER to pass our bill—no, it wouldn't be hard at all; it would be so easy. Every Democrat in the House will vote for it—every Democrat in the House. To reach 218 votes, which is half plus 1 in the House, it takes only 26 reasonable Republicans willing to put the needs of the middle-class demands ahead of Grover Norquist. That is so simple.

So when my friend, the Speaker, says he can't pass it, that is simply without foundation or fact, and it is not true.

As my friend and colleague, the senior Senator from Missouri, CLAIRE McCASKILL, said on a Sunday talk show yesterday, JOHN BOEHNER has a decision to make. This is what she said: "He's got to decide, is his speakership more important or is the country more important." That is a pretty easy question to answer for everyone. It should be an easy question to answer for Speaker BOEHNER.

As we continue to hope for a balanced agreement that will safeguard the economy, I hope Speaker BOEHNER ends the suspense for millions of American families and does it soon.

RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3254, which the clerk will report.

The 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 and for other purposes.

Pending:

Kyl modified amendment No. 3123, to require briefings on dialogue between the United States and the Russian Federation on nuclear arms, missile defense, and long-range conventional strike systems.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank the majority leader while he is still here on the floor for the support he has given to Senator MCCAIN and myself and all of us who are working so hard to get a Defense authorization bill passed for the 52nd straight time, I believe. We haven't missed a year in 51, and I think this will be the 51st and 52nd.

I want to thank Senator MCCAIN and his staff and all of my staff for the extraordinarily hard work they have put in on the bill, both in committee and here on the floor. I thank all of my colleagues for the cooperation which has been shown to allow us to dispose of somewhere now in the area of 100 amendments.

There will be even more amendments that can be cleared this afternoon. We, I believe, have a package that is ready, or almost ready, of amendments. I believe that after that, this afternoon there could be a second package of amendments which has been cleared for action by the body.

We will be here this afternoon. I haven't had a chance to talk yet with Senator MCCAIN today, but I am sure it is his plan, as it is mine, to be here with our staffs this afternoon to work with colleagues to see if we can't clear additional amendments.

The cloture vote is scheduled. There has been more than adequate time. I want to thank the leader, again, for giving this time. We are now into our fourth day where we are able to address the issues on this bill.

I hope cloture will pass this afternoon when the vote is taken, and that early tomorrow, since I am hopeful there won't be a need for postcloture time, we can perhaps adopt even a third package of cleared amendments tomorrow morning at some point, and then move to final passage at some time as determined by the leader, of course.

I want to again urge colleagues who have amendments that we have been working on to keep working with our staffs so we can hopefully clear as many amendments as possible prior to cloture. I think that would be bene-

ficial to all of us. We have worked together well as a body.

There have been a number of accommodations which have been made by many of our colleagues to each other and to us as managers which has made it possible for us to have a smooth passage at least until this point.

With that, again, I give thanks to my ranking member.

I yield the floor.

Mr. MCCAIN. I want to thank Senator LEVIN and also the majority leader for giving us this time. Also I am in agreement that the time has come for cloture to be invoked, unfortunately. The total time of debate for this bill up to now has been 27 hours of debate and 371 amendments have been filed. We have disposed of 94 amendments, some by voice vote, some by rollcall vote.

Of those amendments, many of them were offered by members of the committee, but a majority of them were offered by nonmembers of the Senate Armed Services Committee. So I think we have had a very inclusive and interesting debate and voting.

I tell my friend Senator LEVIN, I have just been informed that the Senator from Kentucky has objected, voiced an objection to taking up any further unanimous consent agreements or votes. That means that there will be many amendments which have been approved by both sides which will now not be allowed to be offered or acted upon. It also means that if cloture is invoked, and I anticipate that cloture will be invoked—I understand that will be the second vote we have today—a number of those amendments that are nongermane, which we have cleared and would have been passed, will now be put aside.

I will have a reading of a number of those amendments. There are 15 to 16 amendments that we would be ready shortly to approve. I am not exactly sure how many of them are nongermane in nature, which will fall when cloture is invoked.

All I can say to my friend the chairman is that, again, I find it disappointing that one Member of the Senate feels his particular agenda is so important that it affects the lives, the readiness, and the capabilities of the men and women who are serving in the military and our ability to defend this Nation. I think it is hard to answer to the men and women in the military with this kind of behavior, but I will leave that up to the Senator from Kentucky to do so.

In the meantime, I guess postcloture, we will continue with the legislation and try to get it completed. I have some guarded optimism that we may be able to do so.

Mr. Chairman, I again apologize for what seems to have happened. Much to my dismay, it lends some credence to the argument that maybe we ought not to do business the way we are doing here in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.