those who can't, who are going to immediately go on the government assistance programs? But this law is effectively not being enforced.

Senators GRASSLEY, HATCH, and ROBERTS are ranking members on key committees, and I sent a letter.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 3 minutes.

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

Mr. SESSIONS. So another question I asked was concerning the Department's goal to place more people on food stamps. Here is part of the question from the letter: According to USDA, ''only 72 percent of those eligible for SNAP benefits participated,'' adding, ''their communities lose out on the benefits provided by new SNAP dollars flowing into local economies.''

If USDA's enrollment goals were reached, we asked, how many people would be receiving food stamps today? We have gone up dramatically; how many more would be of benefit? I would simply ask that question.

I will ask him again on the Senate floor. How many millions more people would be on the Food Stamp Program if 100 percent of those qualified had enrolled? In 2011 USDA gave a recruitment award, as I mentioned, for overcoming ''mountain pride.'' They produced a pamphlet instructing their recruiters on how to ''overcome the word 'no.' '' The USDA claims the chief obstacle to recruitment is a ''sense the benefits aren't needed.'' That is an obstacle.

USDA asserts that ''everyone wins when eligible people take advantage of benefits to which they are entitled,'' claiming that ''each $5 in new SNAP benefits generates almost twice that amount in economic activity for the community.''

Well, I guess we just ought to do it another fourfold. That would really make America prosperous.

USDA produced a Spanish-language ad in which the main character is pressured into accepting food stamps.

This is what is on the video: The lady said, ''I don't need anyone's help. My husband earns enough to take care of us.'' Her friend mocks her and replies—this is the Department of Agriculture pitch—''When are you going to learn?'' Eventually, she gives in to her friends who are pressuring her and agrees to enroll.

Is this the right approach for America? We need to work, to help people with pride, help people to assume their own independence, to be successful, take care of their own families and move them from dependence to independence. That ought to be the fundamental goal of our system. It was the goal in the reform of 1996 in the welfare reform that worked very well. More people prospered, fewer people are in poverty, and more people are taking care of themselves. It really was a success. We have been drifting back away from that.

What I sense is when you ask questions about it, you are treated as someone who doesn't care about people who are hungry, who do need our help. We want to help. All we are asking is, Can't we do it better? Can't we look back to the principles of independence, individual responsibility, and individual pride that Americans have and nurture that and use that as a way to help reduce dependence in this country? So those are the things I wanted to share.

I would just say this: The Secretary of Agriculture has the responsibility to answer.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I don't want to get in a fight with it, but, if necessary, I will use what ability I have in the Senate to insist that we get responses.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed on S. 3637, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 554, S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I would ask to speak as if in morning business.

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

SENATE RULES CHANGES

Mr. UDALL of New Mexico. Mr. President, there has been much discussion about the need to reform the Senate rules, and I have listened closely to the arguments against these changes by the other side. Today I rise to address some of their concerns. My Republican colleagues have made impassioned statements in opposition to amending our rules at the beginning of the next Congress. They say the rules can only be changed with a two-thirds supermajority. They say any attempt to amend the rules by a simple majority is breaking the rules to change the rules. This simply is not true.

Repeating it every day on the Senate floor doesn't make it true. The supermajority requirement to change Senate rules is in direct conflict with the U.S. Constitution. The Constitution is very specific about when a supermajority is required and just as clearly when it isn't required.

Article I, section 5 of the Constitution States:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

When the Framers require a supermajority, they explicitly said so. For example, for expelling a Member. On all other matters, such as determining the Chamber's rules, a majority requirement is clearly implied.

There have been three rulings by Vice Presidents sitting as President of the Senate. Sitting up where the Presiding Officer is sitting, three Vice Presidents have sat there. And the meaning of article I, section 5, as it applies to the Senate, this is what they were interpreting. In 1957, Vice President Nixon ruled definitively, and I quote from his ruling:

While the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of a previous Congress. Any provision of Senate rules adopted in a previous Congress, which has the expressed or practical effect of denying the majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional.

That was Vice President Nixon. Vice Presidents Rockefeller and Humphrey made similar rulings at the beginning of later Congresses.

I have heard many of my Republican colleagues quote Senator Robert Byrd's last statement to the Senate Rules Committee. The Presiding Officer knew Senator Byrd well. He is from his State of West Virginia. Senator Byrd came to that Rules Committee. I was at that Rules Committee, and I was at the hearing where he appeared—and I have great respect for Senator Byrd. He was one of the great Senate historians. He loved this institution, but we should also consider Senator Byrd's other statements and the steps he took as majority leader to reform this body.

In 1979 it was argued that the rules could only be amended in accordance with the previous Senate rules. Majority Leader Byrd said the following on the floor:

There is no higher law, insofar as our Government is concerned, than the Constitution. The Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, Section 5, says that each House shall determine the rules of its proceedings. Now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past.

That was Senator Robert Byrd. This Congress is not obliged to be bound by the dead hand of the past.

As Senator Byrd pointed out, the Constitution is clear. There is also a

longstanding common law principle upheld in the Supreme Court that one legislature cannot bind its successors. For example, the Senate cannot pass a bill with a requirement that it takes 75 votes to repeal it in the future. That would violate this common law principle and be unconstitutional. Similarly, the Senate of one Congress cannot adopt procedural rules that a majority of the Senate in the future cannot amend or repeal.

Many of my Republican colleagues have made the same argument. In 2003 Senator JOHN CORNYN wrote in a Law Review article—as many of you know, Senator CORNYN was an attorney general in Texas, was a distinguished justice. Senator CORNYN said the following in this Law Review article:

> Just as one Congress cannot enact a law that a subsequent Congress could not amend by a majority vote, one Senate cannot enact a rule that a subsequent Senate could not amend by a majority vote. Such power, after all, would violate the general common-law principle that one parliament cannot bind another.

That was Senator JOHN CORNYN.

Amending our rules at the beginning of a Congress is not breaking the rules to change the rules, it is reaffirming that the U.S. Constitution is superior to the Senate rules. And when there is a conflict between them, we follow the Constitution.

I find some of the rhetoric about amending our rules particularly troubling. We have heard comments that any such reforms, if done by a majority, would ''destroy the Senate.'' Again, I can turn to my Republican colleagues to answer this accusation.

In 2005 the Republican Policy Committee released a memo entitled ''The Constitutional Option: The Senate's Power to Make Procedural Rules by Majority Vote.'' That memo supports the same arguments I make today for reform by a majority, and it also refutes many of the recent claims about how the Senate will be permanently damaged.

One section of the memo titled, ''Common Misunderstandings of the Constitutional Option'' is especially interesting and enlightening. It responds to the argument that ''the essential character of the Senate will be destroyed if the constitutional option is exercised,'' and it responds with the following words:

> When Majority Leader Byrd repeatedly exercised the constitutional option to correct abuses of Senate rules and precedents, those illustrative exercises of the option did little to upset the basic character of the Senate. Indeed, many observers argue that the Senate minority is stronger today in a body that still allows for extensive debate, full consideration, and careful deliberation of all matters with which it is presented.

What is more important about the Republican memo is the reason they believed a change to the rules by a majority was justified. Because of what Republicans saw as a break in longstanding Senate tradition. They claimed they weren't using the constitutional option as a power grab, they were using it as a means of restoring the Senate to its historical norm.

This is exactly where we find ourselves today. Back then, the Republicans argued the constitutional option should be used because 10 of President Bush's judicial nominees were threatened with a filibuster. I believe the departure from Senate tradition now is far worse.

Since Democrats became the majority party in the Senate in 2007, we have faced the highest number of opposition filibusters ever recorded. Lyndon Johnson faced one filibuster during his 6 years as Senate majority leader. In the same span of time, HARRY REID has faced 386.

For most of our history, the filibuster was used very sparingly. But in recent years, what was rare has become routine. The exception has become the norm. Everything is filibustered—every procedural step of the way, with paralyzing effect. The Senate was meant to cool the process, not send it into a deep freeze.

Since the Democratic majority came into the upper Chamber in 2007, the Senates of the 110th, 111th, and current 112th Congresses have witnessed the three highest total of filibusters ever recorded. A recent report found the current Senate has passed a record low 2.8 percent of bills introduced. That is a 66-percent decrease from the last Republican majority in 2005 and 2006 and a 90-percent decrease from the high in 1955 and 1956.

So the Republicans argued in 2005, ''[a]n exercise of the constitutional option under the current circumstances would be an act of restoration.'' An act of restoration. I cannot improve on that statement. We must return the Senate to a time when every procedural step was not filibustered.

I respect the concerns some of my Republican colleagues have regarding the constitutional option, but there is an alternative. We don't have to reform the Senate rule with a majority vote in January. This is up to my colleagues on the other side of the aisle. Each time the filibuster rule has been amended in the past, a bipartisan group of Senators was prepared to use the constitutional option. But with a majority vote on the reforms looming, enough Members agreed on a compromise and passed the changes with two-thirds in favor. We could do that again in January.

I know many of my Republican colleagues agree with me that the Senate is not working. Some say we don't need to change the rules, we need to change behavior. But we tried that—the changing of behavior—with a gentleman's agreement at the beginning of this Congress. It failed. So now it is time to make some real reforms.

This is not a ''power grab,'' as some have charged. We want to make the Senate a better place—a place where real debate happens for both parties. So I ask my friends on the other side of the aisle to bring their own proposals to the table. Let's work together to restore the deliberative nature of the Senate where all sides have the opportunity to debate and be heard.

I said 2 years ago I would push for reforms at the beginning of the next Congress regardless of which party was in the majority. I will say again that our goal is to reform the abuse of the filibuster, not trample the legitimate rights of the minority party. I am willing to live with all the changes we are proposing whether I am in the majority or the minority.

The American people, of all political persuasions, want a government that actually gets something done, that actually works. We have to change the way we do business. The challenges are too great, the stakes are too high, and we do not want a government of gridlock to continue.

I thank the Chair for the time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RELEASE JOHNNY HAMMAR

Mr. NELSON of Florida. Mr. President, a very disturbing thing has happened in Mexico with one of my constituents—a U.S. marine who served honorably.

Johnny Hammar fought in Fallujah and was honorably discharged in 2007. He and another marine, both having suffered under posttraumatic stress disorder, were taking advantage of the fact they were surfers to lessen their stress. They had surfed up and down the east coast. This is a marine whose family lives in Miami, so they had gone to Cocoa Beach, and they were going to others. They wanted to go to Costa Rica to catch the big waves in the Pacific, and so Johnny bought a camper and entered Mexico at Matamoros.

As they crossed the border, he checked with United States Customs because he had a shotgun that was an antique that had been owned by his great-grandfather. He registered the weapon with U.S. Customs so that when he returned Customs would have a record of it. But when he went from the American side of the U.S.-Mexico line into Mexico, and openly showed his great-grandfather's antique shotgun, the Mexican authorities arrested him.

His companion, another marine, after interrogation was released, but they put Cpl Johnny Hammar, now age 27, in the general prison population in Matamoros, Mexico.

This case came to my attention last August, and I immediately responded. As a result of my contacting the Mexican Government, they moved him from the general population of the jail into an individual jail cell. But as they have

gone in to interrogate him, they have manacled him, shackled him, and at one point they had him chained to the bed.

This has gone on long enough. If it is against the law to take a gun into Mexico, even though he had already declared it at U.S. Customs, the Mexican authorities could have, when they released his fellow marine to go back into the United States, sent him back into the United States and told him don't bring your great-grandfather's shotgun into Mexico. If that is against Mexican law. But they didn't. They have put a U.S. Marine, who has honorably served his country, in a Mexican jail, and he has been there since last August.

Enough is enough. I called my friend Arturo, the great and well-respected Mexican Ambassador, yesterday and I can't get a return call from the Mexican Ambassador, so I am bringing this to the attention of the Senate so we can further get through to the Mexican Government and indicate to them they have made a bureaucratic mistake.

Obviously, if it is against Mexican law to take a weapon in, then under these circumstances, this young U.S. marine does not deserve the treatment he is getting—holding him in a Mexican jail at the border of the United States for the past 5 months.

I hope cooler heads will prevail. If it requires me speaking on the Senate floor day in and day out to keep this issue alive, I will do so. Clearly, it has been in the press. It has been in the Miami Herald several times, a much more detailed account of his background, his service to the country, and his struggling with PTSD ever since he got home.

Mr. President, I thank the Chair for the opportunity to bring this to the attention of my colleagues, and once again I say to the Mexican Government: Send this marine home. Now that you have a new President installed in Mexico, relations with the United States are especially important and United States citizens who are peaceful in their intent, innocent in their observation of the Mexican laws, where no harm has been done, should be treated respectfully. Send that U.S. marine back to America and back to his family in Miami.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JOHNSON of South Dakota. Mr. President, I want to express my support for S. 3637, a temporary extension of the Transaction Account Guarantee, or TAG, Program.

The program, which is administered by the FDIC for insured depository institutions and the NCUA for credit unions, provides unlimited insurance for non-interest-bearing accounts at banks and credit unions. These transaction accounts are used by businesses, local governments, hospitals, and other nonprofit organizations for payroll and other recurring expenses, and this program provides certainty to businesses in uncertain times.

These accounts are also important to our Nation's smallest financial institutions. In fact, 90 percent of community banks with assets under $10 billion have TAG deposits. This program allows these institutions to serve the banking needs of the small businesses in their communities, keeping deposits local. In my State of South Dakota, I know that the TAG Program is important to banks, credit unions, and small businesses.

Our Nation's economy is certainly in a different place than it was in 2008 at the height of the financial crisis when this program was created, but with concerns about the fiscal cliff in the United States and continued instability in European markets, I believe a temporary extension is needed. Therefore, I believe that a clean 2-year extension makes the most sense and provides the most certainty for business and financial institutions and also provides time to prepare for the end of the program in 2 years.

I wish to note that this legislation has a cost recovery provision that ensures no taxpayer is on the hook for this insurance. Financial institutions pay for the coverage. This is not and never will be a bailout. This is simply additional insurance paid for by the banks to ensure these accounts remain stable.

I thank Leader REID for making this issue a priority in the lameduck session. I also thank Senator SHERROD BROWN for being a great partner for many months on this important topic. The administration has just issued a SAP in support of TAG, and I ask unanimous consent to have it printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, December 11, 2012.

STATEMENT OF ADMINISTRATION POLICY

S. 3637—TRANSACTION ACCOUNT GUARANTEE PROGRAM TEMPORARY EXTENSION

(Sen. Reid, D–NV)

The Administration supports Senate passage of S. 3637, which would temporarily extend the unlimited deposit insurance coverage for noninterest-bearing transaction accounts. The Transaction Account Guarantee (TAG) Program played an important role in maintaining financial stability and banking system liquidity for consumers and businesses during the financial crisis. While the Administration supports a temporary extension of the program, it remains committed to actively evaluating the use of this emergency measure created during extraordinary times and a responsible approach to winding down the program. The Administration looks forward to working with the Congress to move forward other measures that will support small businesses and accelerate the economic recovery.

Mr. JOHNSON of South Dakota. I ask my colleagues to support the extension of TAG.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Senate recess until 2:15, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:21 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer, (Mr. COONS).

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER (Mr. COONS). The Senate will come to order.

The clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 554, S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Richard Blumenthal, Mark Begich, Jon Tester, Max Baucus, Herb Kohl, Kay R. Hagan, Barbara A. Mikulski, Tim Johnson, Mary L. Landrieu, Kent Conrad, Jeanne Shaheen, Jeff Merkley, Daniel K. Akaka, Mark L. Pryor.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.