

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

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

The yeas and nays resulted—yeas 76, nays 20, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Hoeven	Portman
Blumenthal	Hutchison	Pryor
Blunt	Isakson	Reed
Boozman	Johanns	Reid
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burr	Kohl	Shaheen
Cantwell	Kyl	Snowe
Cardin	Landrieu	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Coats	Lieberman	Udall (NM)
Cochran	Lugar	Vitter
Collins	Manchin	Warner
Conrad	McCain	Webb
Coons	McCaskill	Whitehouse
Cornyn	McConnell	Wicker
Durbin	Menendez	Wyden
Enzi	Merkley	
Feinstein	Mikulski	

NAYS—20

Ayotte	Hatch	Roberts
Barrasso	Heller	Rubio
Coburn	Inhofe	Sessions
Corker	Johnson (WI)	Shelby
Crapo	Lee	Thune
DeMint	Paul	Toomey
Graham	Risch	

NOT VOTING—4

Chambliss	Kirk
Inouye	Lautenberg

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 20. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The motion to proceed is agreed to.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3637) to temporarily extend the transaction account guarantee program, and for other purposes.

AMENDMENT NO. 3314

Mr. REID. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3314.

The amendment is as follows:

At the end, add the following new section: **SEC. \_\_\_\_.**

This Act shall become effective 5 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3315 TO AMENDMENT NO. 3314

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3315 to amendment No. 3314.

The amendment is as follows:

In the amendment, strike "5 days" and insert "4 days".

MOTION TO COMMIT WITH AMENDMENT NO. 3316

Mr. REID. Mr. President, I have a motion to commit the bill with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill, S. 3637, to the Senate Committee on Banking, Housing, and Urban Affairs, with instructions to report back forthwith with an amendment numbered 3316.

The amendment is as follows:

At the end, add the following new section: **SEC. \_\_\_\_.**

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3317

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3317 to the instructions (amendment No. 3316) of the motion to commit.

The amendment is as follows:

In the amendment, strike "3 days" and insert "2 days".

Mr. REID. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3318 TO AMENDMENT NO. 3317

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3318 to amendment No. 3317.

The amendment is as follows:

In the amendment, strike "2 days" and insert "1 day".

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The bill 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 S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

Harry Reid, Debbie Stabenow, Tom Harkin, Jeff Bingaman, Robert Menendez, Tom Udall, Jack Reed, Kay R. Hagan, Tim Johnson, Richard Blumenthal, Bill Nelson, Patrick J. Leahy, Sherrod Brown, Robert P. Casey, Jr., Max Baucus, John F. Kerry, Thomas R. Carper.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. REID. Mr. President, as provided under the previous order, at 4 p.m. today, the Senate will proceed to executive session to consider Calendar Nos. 762 and 829. For the information of the Senate, we expect at least one rollcall vote on the nomination of John E. Dowdell to be U.S. district judge for the Northern District of Oklahoma and Jesus G. Bernal to be U.S. district judge for the Central District of California at about 4:30 today.

The PRESIDING OFFICER. The Senator from Utah.

SENATE RULES CHANGES

Mr. HATCH. Mr. President, some things never change in the Senate. For more than 200 years, our practice of extended debate has been the single most defining characteristic of the Senate. For more than 200 years, extended debate has annoyed the majority and empowered the minority.

What has changed, however, is that the majority today threatens not only to change Senate rules and practice in order to cripple this tradition and consolidate power but to use unprecedented tactics to do it. I urge my colleagues on both sides of the aisle to come together and preserve the fundamental integrity of this body, even if we may disagree about some of the political issues.

I wish to explain to my colleagues why neither the ends nor the means that the majority has been discussing are legitimate. First, there is no debate crisis on the Senate floor, none whatsoever.

In fact, it is easier to end debate today than during most of American history. For more than a century since we had no cloture rule at all, ending debate required unanimous consent. A single Senator could filibuster merely by objecting. From 1917 to 1975, ending debate required a supermajority of two-thirds, higher than the three-fifths required today. As I said a minute ago, extended debate has always annoyed the majority.

Today is no different. Yet we hear the majority claiming there have been hundreds of filibusters, that the rules are being abused, that obstruction is at

an alltime high. The American people likely do not know the particulars of our debate rules and practices but Senators making such claims certainly should.

The majority pumps up the filibuster numbers by claiming that every cloture motion is evidence of a filibuster. They know that is not true. As the Congressional Research Service says:

The Senate leadership has increasingly utilized cloture as a routine tool to manage the flow of business, even in the absence of any apparent filibuster. . . . In many instances, cloture motions may be filed not to overcome filibusters in progress, but to preempt ones that are only anticipated.

That is what is going on today. The majority leader often files a cloture motion as soon as a motion or a bill becomes pending. He does that to prevent debate from starting, not to end debate that is underway. In the last three Congresses under this majority, a much higher percentage of cloture motions got withdrawn without any cloture vote at all than under the last three Congresses under a Republican majority.

The majority leader appears to think that debate itself is simply dilatory. While extended debate has long been annoying to the majority, this majority leader apparently believes any debate is annoying.

Neither filing a cloture motion nor taking a cloture vote is evidence of a filibuster. A filibuster occurs when an attempt to end debate, such as a cloture vote, fails. That is why some on the other side of the aisle want to address what they claim is a filibuster problem by changing the cloture rule.

Let's use some common sense and stop misleading our fellow citizens about how this body operates. A filibuster is a debate that cannot be stopped. During this 112th Congress a much smaller percentage of cloture votes have failed than in the past. That is right. Cloture votes today are more successful in preventing filibusters than in the past.

The same is true about motions to proceed, which is the particular focus of those who are now threatening to weaken debate by forcing a rules change. In the 112th Congress, 32 percent of cloture votes on motions to proceed have failed, compared to an average of 54 percent during the previous dozen congresses. Put simply, the current Senate majority has used cloture to prevent filibusters on motions to proceed more effectively than in the past.

By the way, during the last several Congresses when the Democrats were in the minority, the current majority leader and majority whip voted to filibuster motions to proceed dozens of times. As I said, extended debate has always annoyed the majority and empowered the minority.

Once again, it is easier to end debate today than during most of American history. The majority has done so more effectively in the current Congress

than in the past, both in general and on motions to proceed. There simply is no crisis, no unprecedented abuse that requires some sort of fundamental change in the rules and traditions of this body.

Rather than blowing up the Senate, I suggest that the majority actually try working with the minority. That is something we have not seen under the current majority leader's tenure. Since the Democrats took control of the Senate in 2007, the majority leader has not only routinely filed cloture motions to prevent debate, but he has severely limited the minority's ability to offer amendments. Since the majority leader is at the front of the line in this body, he uses that preference to offer amendments so the minority cannot. He did that here just a few minutes ago.

The current majority leader has used this tactic more than 60 times, more than any previous majority leader of either party. In fact, he has done so more than all previous majority leaders combined. It is one thing to require a majority to pass an amendment, but the effect or, rather, the intent of this tactic is to require Senators in the minority to obtain the majority leader's permission to even offer amendments in the first place.

Isn't that ironic? The majority leader uses the rules to his legislative advantage but wants to strip from the minority the ability to do the same. The Senate is not supposed to work that way and did not when Democrats were in the minority. Back in April 2005, when he was the minority whip, our distinguished current majority leader defended the minority's ability to offer even nongermane amendments because doing so prompted Senate consideration of subjects that the majority may have ignored.

That was then; this is now. Today it does not require three-fifths to block an amendment. The majority leader can and has done the same thing all by himself. This kind of silencing of minority views does not even happen in the House of Representatives, which operates by majority rule across the board. In the House, the majority party, either Republican or Democratic, often limits amendments, sometimes barring them entirely.

But at times the minority is entitled, before final passage, to a motion to recommit, which means a chance to propose a different version of the bill. This motion is not merely symbolic. Not infrequently that motion carries. In contrast, when the Senate majority leader fills the amendment tree, as he just did, he precludes anything such as the House's motion to recommit.

When the minority's rights are trampled like this, what is it to do? Acquiesce or respond in self-defense? Frankly, it should be no surprise that a minority blocked from influencing legislation through amendments would demand extended debate by opposing cloture. But look what happens. The majority obstructs the minority's right to

participate in the development of legislation and then attacks the minority for opposing the passage of that same legislation.

Again, that is not the way the Senate is supposed to operate. It is not just the minority who suffers from this strategy. More to the point, the American people suffer. They sent us to be real Senators, individuals who represent them and their concerns. They expect us actually to legislate, which means to amend as well as debate legislation, not simply to vote on whatever the majority puts in front of us.

Our constituents want us to force attention to public issues, even when the majority would prefer to avoid them. This is the caliber of representation our constituents both demand and deserve. The rules and practices of the Senate have been designed to facilitate just this kind of representation. It is these same rules that the majority now seeks to change because they find them inconvenient.

There is a conceit expressed in Washington that what happens in Congress is beyond the comprehension of interest of most Americans. But that is not so. When our voice is stifled, full representation for our constituents is denied. When we are gagged, the people are gagged. Nothing can be easier to grasp or to provoke greater public indignation.

So my first point is that debate is not the problem. If there is a crisis, it is the majority's gambit of preventing amendments and then filing hundreds of cloture motions to prevent debate. My second point is that the unprecedented tactic threatened by the majority to limit debate even more will only further undermine the integrity of this body.

Some of those pushing in that direction have never served in the minority. But all Senators should be alarmed by this prospect. The majority has talked about changing Senate rules to eliminate the opportunity to filibuster motions to proceed. This opportunity has been available to Senators since at least 1949, and as I have mentioned, the majority leader himself repeatedly seized that opportunity when he was in the minority.

I do not believe the cloture rules need to be changed. I do believe, however, that if the Senate is to consider a change, it should follow the process laid out in our rules.

That process exists for a reason. It is the process we have used to change rules in the past, and there is no reason other than a raw power grab to do it any other way.

Senate rules specify that ending debate on a rules change needs approval by two-thirds of Senators present and voting, and there is a very good reason this is so. This cloture hurdle on rules changes exists to ensure that such amendments are not made without bipartisan cooperation. If anything should require broad consensus, it should be the rules by which this institution itself operates.

That is how, for example, we changed the rules in 2007 concerning the content of conference reports and the use of earmarks or how we established a way to provide for public disclosure of holds. All of these changes, some of which require amending the rules, occurred during the tenure of the present majority leader. None was muscled through by majority fiat or forced on an unwilling minority. Bipartisanship was possible because these changes were good for the Senate.

But now we have learned that the majority may begin the next Congress by disregarding our rules and attempting to change those they find inconvenient by a simple partisan majority. They threaten, as they did before the start of the current Congress, to use the so-called nuclear option to force new rules by single-party will. The substantive changes they have proposed would be degrading enough to the Senate. The method they propose to impose them would be catastrophic.

I urge my colleagues, from freshmen to the most senior Members, to take some guidance from our predecessors, such as Senator Mike Mansfield, who served in the minority and later became majority leader. In 1975, when Senators similarly proposed using this same nuclear option similarly to change the cloture rule by simple majority, he said this tactic would “destroy the very uniqueness of this body . . . and . . . diminish the Senate as an institution of this government.” He said it would “alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it.”

Senator REID expressed a similar view in 2003 when he was the minority whip, arguing that rules changes should be considered through regular order, through the process our rules provide. Senator REID reaffirmed that view in 2005 when he was minority leader, saying that the so-called nuclear option would amount to breaking the rules to change the rules.

Senator REID further observed:

One of the good things about this institution we have found . . . is that the filibuster, which has been in existence since the beginning, from the days of George Washington—we have changed the rules as it relates to it a little bit but never by breaking the rules.

In other words, if the majority wants to grab even more power, if blocking amendments is not enough for them, if debate is too annoying for them, if they want to rig the rules to further sideline the minority, then they should use the process we have here in place in the Senate. They should make their case and present their arguments, and if they are compelling enough to attract a wide consensus, then the rules of this body can be changed. That is the way we have changed rules in the past. Senator REID expressed this view when he was in the minority.

Former Senator Chris Dodd, a good friend to many of us still in this Chamber and someone who, I would surmise,

would be sympathetic to the current majority’s views on policy, did so while in the majority. He stated in his farewell address his opposition to changing the Senate rules in the way the majority leader presently proposes.

My friend Senator Dodd had this to say:

I have heard some people suggest that the Senate, as we know it, simply can’t function on such a highly charged political environment, that we should change the Senate rules to make it more efficient, more responsive to the public mood, more like the House of Representatives . . . I appreciate the frustration many have with the slow pace of the legislative process . . . Thus, I can understand the temptation to change the rules that make the Senate so unique—and simultaneously, so frustrating.”

Senator Dodd continued:

But whether such a temptation is motivated by a noble desire to speed up the legislative process, or by pure political expedience, I believe such changes would be unwise.

In conclusion, Senator Dodd said:

We 100 Senators are but temporary stewards of a unique American institution, founded upon universal principles. The Senate was designed to be different, not simply for the sake of variety, but because the framers believed that the Senate could and should be the venue in which statesmen would lift America up to meet its unique challenges.

Those who know both Senator Dodd and me know that we didn’t agree on much during our years together in the Senate. However, on this point, I have to say that Senator Dodd couldn’t have been more right. We did agree on a number of things, but it took bipartisan agreement to be able to accomplish that.

Rules changes such as the ones proposed by the majority would alter the very nature of the Senate and undermine its unique purpose. For more than two centuries, the procedural rights of individual Senators, both in the majority and in the minority, have been a hallmark of this body. Those rights and the rules and practices developed to protect them have earned us the reputation as the world’s greatest deliberative body. Among those rights are the minority’s right to offer amendments and debate. The majority has already put the former under attack, and now the majority leader threatens to undermine the latter. Quite simply, the majority would weaken this institution in a partisan quest for power. Do these steps serve the Constitution? Do they maintain checks and balances? Do they foster bipartisanship? Do they benefit the American people? The answer to all of these questions is resoundingly negative.

I urge my good friend the majority leader and my friends and colleagues on the other side to exercise serious self-restraint over whether and how Senate rules changes proceed. Those who are unhappy with the rules are free to propose amendments. As we have done in the past, those proposals should be referred to the Rules Com-

mittee and considered in the regular course of business. If the proposals have merit, support for them will cross party lines.

Bipartisan solutions are urgently needed to resolve the Nation’s problems. I speak as a Senator with a long record of working with Democrats to achieve bipartisan consensus and answers. But invoking the nuclear option will unnecessarily start a new Congress on a divisive and discordant tone. It will generate a poisonous climate guaranteed to impair our capacity to cooperate. No majority can expect the minority to stand on the side lines while its rights are destroyed and its place in this body is diminished. Any minority of either party would defend its place and defend the integrity of this body. We will do so now if the majority pursues this reckless and entirely unnecessary course.

I urge the majority to respect the traditions of the Senate and to follow our rules. I urge the majority to avoid rather than generate those crises.

I have to say that we do not want to be like the House. This is a place where legislation has to be cooled, according to Washington. This is a place where we have to do more reflection. This is a place where there are rights in the minority that are time-honored rights, for good reasons. Yes, we don’t always get our will or our way here. That is tough for some of us sometimes. But, on the other hand, rather than throw these rules out or to modify them in ways that really diminish them and to use a nuclear option, it is less than honorable, in my opinion.

But the fact is that I have been through a lot of this, and I have to say there is a reason these rules are in existence, and you don’t just throw them out the door for political advantage. The fact is that this body was never intended to be one where you could just sluce things through any way you want to and where the majority could get its will no matter what happens. This is a body where literally we have to deliberate. This is a body where we need to bring about a bipartisan consensus. Now, that is hard sometimes, it is painful sometimes, it is irritating as can be sometimes, but it is the right thing to do.

I really don’t believe the majority leader is going to push this. I think he is a better man than that. And I don’t believe most Senators in the majority would put up with that because they are better men and women than that.

I have to say, on our side, we would like to see full debate. We get a little tired of the majority leader calling up the bill, filing cloture immediately, and then filling the amendment tree so no amendments can be brought up unless he approves them. That is not the Senate’s way. I am not saying you can never fill the amendment tree, but that should only be used at the end of the debate when it has gone on too long and it has to be brought to a close. It should not be used at the beginning of

the debate. This is a body where we allow nongermane amendments. It is a body where we have rights. It is what makes it the greatest deliberative body in the world. It is a body where rules make a difference.

Even though they are to our disadvantage now, I will argue exactly the same if anybody on our side, when we get in the majority, decides to change these rules this way. So I hope we all think it through because there will be all-out war from this day on, from the day on that we use the nuclear option to change perhaps the most important rule in the Senate.

The filibuster rule is a time-honored right by the minority. It is one of the only protections the minority has—or should I say one of the few protections the minority has—and it should not be thrown away frivolously.

I say to my colleagues on the other side, you may not believe it, but someday you are going to be in the minority, and you don't want to see these rules thrown out any more than we do. If we ignore this, "Katy, bar the door." We will have obstructed and hurt the greatest deliberative body in the world and the system that has allowed us to be the greatest deliberative body in the world.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from California.

Mrs. BOXER. I ask unanimous consent to speak as if in morning business.

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

Mrs. BOXER. Mr. President, I rise to speak on a number of matters.

Before Senator HATCH leaves the floor, I really do think it is important that we listen to what he said, but I also think his criticism of the majority leader was really over the top. We just finished a defense bill, I say to my friend, that had over 100 amendments. I chair the Environment and Public Works Committee. We had a transportation bill that had endless amendments.

Mr. HATCH. Would the Senator yield for a colloquy?

Mrs. BOXER. I yield to the Senator.

Mr. HATCH. There was no intention in my mind to disparage the majority leader. I disparage what the majority leader is doing.

Mrs. BOXER. I am glad the Senator cleared that up.

Mr. HATCH. Well, I want to clear it up because he is a friend.

Mrs. BOXER. That is fine.

Mr. HATCH. But these rules are friends, too, and I feel really deeply about this. I hope the Senator and other Democrats feel deeply about it too, because you might wind up in the minority someday when some people on our side might want to do what is being done here today. There is a reason for these rules.

Mrs. BOXER. Reclaiming my time.

Mr. HATCH. I appreciate that.

Mrs. BOXER. I was here in the minority, and I was able to exercise the

filibuster, and I was able to stop a lot of legislation that came over from Newt Gingrich's House. I believe in the filibuster completely, and I think it is important to protect minority rights. But I do think there is such a thing as the use of the filibuster versus the abuse of the filibuster. So my position has always been clear that I think the abuse of the filibuster is wrong.

When I first came here, I thought, well, we should just do away with the 60-vote rule. I came to understand that I didn't really, at the end of the day, wind up believing that was wise. So I am working with colleagues to figure out a way we can have a talking filibuster but protect the rights of the minority. But I have to say, I don't think there ought to be a filibuster allowed on a motion to proceed to a bill. We have seen that abused and abused and overused. These are the kinds of things we should get together on as colleagues, as friends, across the issues that divide us and not engage in filibusters on a motion to proceed to a bill. There is plenty of time to filibuster the bill itself. There is plenty of time to argue. But it seems to me whoever is the majority leader, be it a Democrat or a Republican, he or she should have the right to take us to a bill. I think that is a power that should lie with the majority, whoever that majority is. So I would certainly approve of fixing that problem.

In addition, how many filibusters do we have to have before we go to conference? I will support one and we will fight it out. But three motions that can be filibustered before going to conference? That is not doing the people's business. Imagine if a bill gets all the way to that conference phase. Remember, it has gone through the committees of the House and Senate, it has gone through the votes of the House and Senate, it has gone through the conference committee to a vote of the conference committee. Why on Earth should we be allowed to filibuster three motions? So I think there are ways we can work together.

I know my friends from Tennessee and New York at one point were working on ways to prevent any President, be it a Democrat or Republican, from facing filibusters on more or less routine nominations. I could support that change too. But I do want to say, as I look at the abuse of the filibuster versus use of the filibuster—and, again, I believe the rights of the minority must be protected—we have to look at the bold, stark facts. Since HARRY REID became the leader here, he has had to face 388 filibusters. The last time the Democrats were in the minority we forced half as many. I think that is too much, but it is only half as many. So we have our majority leader facing twice as many as Democrats led, and it has gotten out of hand.

Members can stand up here and say it is a horrible thing to try to change the rules, but my test is abuse versus use. I think we can come together and avert

any type of showdown at the OK Corral. That is ridiculous. We don't need that. We can talk as friends and figure out some of these commonsense reforms that we can do without having to get angry at one another. I don't think it serves anyone's purpose if we are all angry at one another over this.

#### THE FISCAL CLIFF

My last comments have to do with the fiscal cliff. I stand here 21 days before a tax increase on all Americans is going to occur. This tax increase will go up \$2,200 for an average middle-class family.

That is the bad news. Taxes are going to rise. Here is the great news. The great news is the Senate already passed legislation to fix the problem. And guess what. We didn't do it yesterday or the day before yesterday. We saw it coming and we passed it on July 25, 2012. We passed the middle-class tax cuts. My understanding is we took care of the AMT.

The fact is all that now has to happen is for the House to take up our bill. If they take up our bill and they pass our bill, we will see everyone in America keep their tax cuts up to \$250,000 in income, and after that \$250,000 we will go back to the Clinton rates.

But here is the really good news, if we do that: We will raise \$1 trillion and reduce our debt by \$1 trillion. There is no reason why Speaker BOEHNER shouldn't bring this bill to a floor vote. He will win the vote because I know Democrats and some Republicans will definitely support him. He needs to be Speaker of the House, not Speaker of the Republicans, just as Tip O'Neill, when I was there, wasn't Speaker of the Democrats, he was Speaker of the House.

As a matter of fact, the way Tip did it is, he would get half the Democrats and half the Republicans—and he didn't care what you were, an Independent, whatever your affiliation, conservative, liberal—and he would go up to you and say: Can you be with me on this? It is good for the country. Ronald Reagan and I agree.

That was Tip O'Neill. And I know what that is like. Ronald Reagan and Tip O'Neill. So it ought to be President Obama and JOHN BOEHNER saying: We should pass this middle-class tax cut.

Here is the thing I don't get. When the Bush tax cuts went into place they were passed overwhelmingly by Republicans. Why wouldn't the same Republicans want to make sure they continue for 98 percent of the people? I don't get it. I did not vote for the Bush tax cuts then. I am going to vote for them now, for the 98 percent, because we are coming out of a tough time. I didn't vote for them then. You know why? I said we would go into huge deficits. And I don't want to say I was right, but we did go into a huge period of deficits. It was that, plus two wars on a credit card, and it was a prescription drug benefit that was not paid for by allowing Medicare to negotiate for lower prices. I voted against that too.

So here we are at a magic moment in time—a magical moment because it is the holiday season—and we know the Senate passed the middle-class tax cuts in July, and we know there are 21 days left before taxes go up on 98 percent of the people. Rhetorically, I ask the Speaker: Why don't you just pass this?

Today I read the Speaker of the House said: Well, I don't want to do this until I see what programs Barack Obama is going to cut. That is his latest thing. To which I respond: Here is the deal. In the debt ceiling fight we cut \$1 trillion of spending. It is shown in those caps that we vote on. Very tough, \$1 trillion in spending cuts over 10 years. That equals what we will get from the tax hikes on those over \$250,000. Plus, as part of health care reform, we found savings in Medicare of \$700 billion.

By the way, the Republicans ran ads against our people saying the Democrats cut Medicare, and we explained they were savings, because what we did is we told providers: Cut down on fraud and abuse—you are overcharging. Be that as it may, the Republicans were just wiping their brow and crying for the Medicare recipients and saying we cut Medicare. Now they want more Medicare cuts. They have come up with a plan which would raise the age of Medicare, which I think is completely disastrous, and I will tell you why.

If we were to raise the age of Medicare recipients, we would leave 300,000 seniors uninsured. Just what we want. Happy New Year, Merry Christmas, and Happy Hanukkah all in one. We would increase the cost to businesses by \$4.5 billion because people would stay longer on the business payroll—their medical payroll—at an age when they are getting older. We would increase out-of-pocket health care costs for those age 65 and 66 by over \$3 billion. We would increase costs to the States by \$700 million. We would cost millions of seniors age 65 and 66 \$2,200 more for health care. And we would increase premiums for all other seniors enrolled in Medicare by 3 percent because the population enrolled in Medicare would be older and less healthy.

In other words, we would be pulling the healthiest seniors out of Medicare so that those who are left are sicker, and premiums would go up on everybody else.

The source for these statistics is the Kaiser Family Foundation and the Congressional Budget Office. I ask unanimous consent to have printed in the RECORD these facts regarding the raising of the Medicare eligibility age.

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

Raising the Medicare eligibility age would:  
 Leave nearly 300,000 seniors uninsured.  
 Increase costs to businesses by \$4.5 billion.  
 Increase out-of-pocket health care costs for those aged 65 and 66 by \$3.7 billion.  
 Increase costs to states by \$700 million.  
 Cost millions of seniors age 65 and 66 an average of \$2,200 more for health care.  
 Increase premiums for all other seniors enrolled in Medicare by about 3 percent, because the population enrolled in Medicare would be older and less healthy.

Mrs. BOXER. I want to say this rhetorically to Speaker BOEHNER, and I will quote Senator STABENOW, who is quite eloquent on this point. You have a three-legged stool here: You have reductions in spending, which we did in the debt ceiling argument of \$1 trillion. It is done. You have cuts in the so-called entitlements of \$700 billion, which was done under Obamacare—that is Medicare. The only thing we haven't taken care of is the third leg, which is revenues, and we are suggesting for that \$1.7 trillion that we get \$1 trillion in revenues.

There have been no revenues put on the table. The Republicans in the House are defending the billionaires, the millionaires—the Koch brothers and all the rest—from having to pay their fair share.

In closing, I would say the American people are very smart. I believe they understand this. They understand what it means to raise the age of Medicare, which we are not going to do. They understand what it means if we do not make sure they get that renewed tax cut. They understand what it means when they see millionaires and billionaires who not only have made even more millions and billions, but the disparity between the middle class and the millionaires and billionaires has grown wildly.

This last election was a lot about that. In this election that was not a side issue—that millionaires and billionaires aren't paying their fair share. It was not a side issue that we should have a budget issue that is fair. It is not a side issue.

It is very easy to resolve this. It is not a good idea for us to fall off that cliff. It is not a necessary thing. So I say to the Republicans, you want a tax cut for everyone, including billionaires. How about taking it for 98 percent of the people? I think that is a deal you should grab and leave Medicare alone. Let's do this now, and when we come back we can get a budget deal that is fair all around.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. ALEXANDER. Mr. President, while the Senator from California is still on the Senate floor, I want to thank her for her comments on the Senate rules.

I would agree this is something we should be able to talk amongst ourselves and work out. Some of us who have been here for a little while and watch the Senate know it is a unique institution. Fundamentally, most of us on both sides of the aisle know we are not functioning as effectively as we should. And there are only two things that need to happen: We need to get bills to the floor, and then we need to have amendments. Historically, it has been the responsibility of the majority to decide what comes to the floor, and

historically the minority—whoever that happens to be—has an opportunity to have amendments.

Over the last 25 years, a couple of things have happened. One is the motion to proceed has been used to block bills coming to the floor. That happened rarely 25 years ago. But, on the other hand, something else happened over the last 25 years: a procedure called filling the tree—which is really a gag rule on amendments—was once rarely used but is now abused. During his tenure, Senator Bob Dole used the so-called filling the tree procedure, and used it seven times. Later, Senator Byrd used it three times when he was the majority leader. Senator Mitchell used it three times; Senator Lott, 11; Senator Daschle, only once, this gag rule; Senator Frist, 15. All those leaders used it 40 times. Our majority leader, Senator REID, has used it 68 times.

So we can all come up with statistics on both sides, but shouldn't we just resolve that what we would like to do is show the country we are grown-up, responsible adults; that we can sit down and say, yes, we can agree on ways to make sure that most bills come to the floor and Senators get to offer most of the amendments they want to offer on the bill? I think we can do that. I think there is a spirit on both sides of the aisle to do that, and I am working toward that goal and I know a number of Democrats and Republicans are doing that. I appreciate the spirit of the Senator's remarks on the rules.

The Senator from California also mentioned the fiscal cliff, and I would like to talk about that in two ways. I have a little different perspective.

The campaign is over. Congratulations to President Obama. He won it. He won the campaign. Isn't this an opportunity for the President to now shift gears, to become President of the United States—to do for the debt that we have, for the social safety net programs that are in jeopardy, to show the same kind of leadership on those issues that President Eisenhower did on the Korean war; that President Lincoln did on the Civil War; that President Reagan did working with Tip O'Neill as was mentioned on Social Security—that was a difficult thing to do back in the early 1980s—and President Clinton did on welfare reform.

Robert Merry, who wrote the biography of James K. Polk, said the other day: In the history of the United States every great crisis has been solved by Presidential leadership or not at all.

A number of us have made our suggestions about what to do about the fact that our debt is too big, we are spending money we don't have, and one way or the other we have to fix it. It is that simple. We shouldn't be borrowing 42 cents of every dollar we spend. So we have to fix it. And a number of us have said on the Republican side: We will hold our noses and do some things we normally wouldn't do.

If the President will come forward with a reasonable proposal on restraining entitlement spending, we will help

raise revenues and we will put the two together, and that makes a budget agreement that the new Foreign Minister of Australia described in this way: The United States of America is one budget agreement away from reasserting its global preeminence, one budget agreement away from stopping all talk in the Pacific area of America's decline, one budget agreement away from showing that we can govern ourselves.

So why don't we do that? Well, I was Governor of a State. That is a much smaller potatoes job—I know that—than being President. But if we needed better roads—which we did—and I waited around for the legislature to come up with a road program, we would still be driving on dirt roads. If I wanted to recruit the Japanese industry to Tennessee—which we did—and I waited around for the legislature to decide which country to go, we wouldn't have any of the auto jobs we now have. If we needed to reward outstanding teaching, and I waited around for the legislature to decide how to be the first State to pay more for teaching well, we wouldn't be doing it at all—which we are now leading the country in doing.

I am trying to say that the way our constitutional system works, at the smaller level in a State with the Governor, or at the national level with the President, the President sets the agenda.

Lyndon Johnson's press secretary, George Reedy, said: The President's job is, No. 1, to see an urgent need; No. 2, to develop a strategy to deal with the need; No. 3, persuade at least half the people he is right. Well, President Obama has done 1 and 3, but he hasn't done 2. We are all sitting around waiting for the President's proposal on what to do about fixing the debt. He has told us what he wants to do about taxes, but he has not yet said what to do about spending on runaway entitlement programs which we all know we have to fix. If he will do that, we will get a result.

We are not the President. We wanted to be. We tried to be. Some of us have even run for the office, but we are not. He is. It is a great privilege. He won the election. We congratulate him for that. So let's have the President's proposal. We need Presidential leadership on the question.

And it is not just an abstract matter of a budget agreement so that the Australian Foreign Minister is happy with the United States, his ally.

I know a lot of people in Tennessee—hundreds of thousands of them actually—who can't wait until they are 65 years old in order to get Medicare so they can be assured they can afford their health care bills. There are hundreds of thousands of people in our State for whom Social Security is their only or most of their income.

What do we say to them? Do we say to them that we are going to ignore the fact—let's just take Medicare—that they are not going to be able to depend

on Medicare unless we take some steps to save it? I mean, we can all count. We know, from the Urban Institute, the average two-earner couple who retires this year will have paid about \$122,000 into Medicare during their lifetime and are going to take \$387,000 out, that simply can't continue. One way or another we have to make certain that the millions of Americans who are looking forward to Medicare can count on it when they become eligible for Medicare. We have the same responsibility with Social Security.

So I would hope the President would recognize there are a lot of us on both sides of the aisle who want to reach a budget agreement. We are waiting for his leadership. He is not sitting around a table as one Senator anymore. He is the President. He is the agenda setter. We need his proposal. Then we can react to it and then we can agree on it. He is not the Speaker. He is not the majority leader of the Senate or the minority leader. He is the President of the United States.

Just as President Eisenhower, President Reagan, President Lincoln, all of the Presidents who have led in resolving great crises, I hope President Obama will as well.

I want him to succeed in resolving this crisis, and the crisis includes not just raising taxes on rich people—I mean, of course, most people are in favor of raising taxes on the guy with the bigger house down the street. It includes finding a way to fix the debt.

I would make one other point on the fiscal cliff. I mentioned that I thought the campaign was over, but the President was in Michigan yesterday on what looked like a campaign event. It seems to me, that time would have been better spent here in Washington, D.C. working on the fiscal cliff, but he was in Michigan. By my way of thinking, he was doing two things: First, he was encouraging the people of Michigan to continue to deny working people the right to get or keep a job without having to pay union dues; and, second, to continue to perpetuate a system that will keep our auto industry from being able to compete in the world marketplace.

Michigan is on the verge of becoming the 24th right-to-work State in the United States. The state Senate and the House each passed separate bills in Michigan last week. They passed a final bill today, and I understand the Governor is about to consider whether to sign it. This is what it will do:

It will ensure that employees in Michigan do not have to pay union dues in order to get or keep a job.

The President said yesterday that Michigan legislators shouldn't be taking away the people's right to bargain for better wages or working conditions. But no one, in passing a right-to-work law, is taking away workers' rights. They're actually giving them a new right—the right not to have to pay union dues in order to get or keep a job. Workers have the right to collec-

tively bargain. Federal laws have recognized that since the 1930s. But since 1947, the Federal Government has also said that States have the right to determine whether to a state may prohibit compulsory unionism. So if Michigan goes the way of the right-to-work law, 24 States have made that decision.

The President also said that these right-to-work laws "have nothing to do with economics and everything to do with politics." I would respectfully disagree with that based upon my life's experience. Thirty years ago, Tennessee was the third poorest State. I was looking around for a way to increase family incomes and to attract new jobs. So I went off to Japan to recruit Nissan. We had virtually no auto jobs in Tennessee at the time. They took a look at a map of the United States at night with the lights on, showing that most of the people lived in the east. While most of the people lived in the east, the center of the market is where you wanted to be if you are making big heavy things, and the center of the market had moved toward the southeast. So Tennessee and Kentucky were more in the center of the market than Michigan or other states where autos had normally been manufactured. So Nissan looked aggressively at Tennessee, Kentucky, and Georgia. But then they looked at something else.

None of the States north of us had a right-to-work law. They had a very different labor environment. So Nissan came to Tennessee. They weren't the only ones. General Motors and the United Auto Workers partnership came to Tennessee with a Saturn plant. They still have an important General Motors plant there where the workers are members of the United Auto Workers, but it is in a right-to-work State. Over the last 30 years, there have probably been a dozen large assembly plants built in the Southeastern United States. There are about 1,000 suppliers in our State today.

What has been the effect of the arrival of the auto industry in Tennessee, attracted by, among other things, our right-to-work law? One-third of our manufacturing jobs today are auto-related jobs. And what has been the effect on the United States? It has maintained a competitive environment where those who want to sell cars in the United States can make them in the United States. Without that competitive environment, my guess is that most of those cars would be made in Mexico or some other place around the world.

If you don't believe me, read David Halberstam's work in 1986, a book called "The Reckoning" about the American auto industry. In Mr. Halberstam's words, the big three carmakers and the United Auto Workers, had enjoyed setting wages, setting prices, and ultimately became uncompetitive. They laughed at these little Datsuns that Nissan was selling on the

west coast and these little Beetles that Volkswagen was selling in the United States in the 1960s and 1970s. They ignored the warning of Mitt Romney's father, George Romney, the president of the American Motors Corporation, who said there is nothing more vulnerable than entrenched success. He said that in the 1960s. And what happened? The American automobile industry nearly collapsed.

I believe what saved the industry, as much as anything else, was the right-to-work laws and the existence of a competitive environment in the Southeastern United States, where workers could make cars efficiently, be paid well for their work, and make them here in the United States, instead of in Japan. What President Carter said to me when I was Governor of Tennessee was: Governors, go to Japan, persuade them to make in the United States what they want to sell in the United States. They did that and they did well. In fact, the Nissan plant has, for year in and year out, been the most efficient and successful auto plant in North America.

The right-to-work law has been about jobs and it has made a difference in Tennessee. I am not entirely sure why Michigan has had a difficult time with its economy lately, but perhaps not being a right-to-work state is one reason. Michigan's right to adopt this law has been an important part of our law in Tennessee. I have literally grown up with it. I remember, as a 7-year-old, Senator Taft arguing the Taft-Hartley Act, or at least I heard my parents talk about it. Section 14(b) of the Taft-Hartley Act gave States the right to say that workers in their State did not have to pay union dues to get or keep a job.

And I well remember Everett Dirksen's arguments on the Senate floor in the mid-1960s. President Johnson, at the behest of union leaders, wanted to repeal Section 14(b). Dirksen rose up against it. He said:

It is the right of the State to do it if it so desires; if the Governor signs the bill, or if they override the Governor's veto. That should be their prerogative in a country where the States and those who represented the States in the Constitutional Convention in 1787 were safeguarded by that residual clause in the Constitution. The right of States to prohibit compulsory union membership has been challenged repeatedly by union officials. But that right has been upheld consistently by the judiciary, including the U.S. Supreme Court.

Finally, as a Tennessean, I could be upset that Indiana, and now it appears Michigan, has adopted right-to-work laws. That puts Tennessee at less of a competitive advantage. I believe in States rights. I believe States have the right to be wrong as well as the right to be right. With all these Midwestern States having the right to be wrong and not having right-to-work laws, we benefited enormously in our State by the arrival of the auto industries and other manufacturers.

But for our country to exist over the next 20 or 30 years in a very competi-

tive world, where jobs can be anywhere, where things can be manufactured anywhere, we want at least those things that are going to be sold here to be made here. Having a right-to-work law which permits the UAW and General Motors to have a partnership at one plant in Tennessee and Nissan and Volkswagen to have a nonunion plant at another place in Tennessee, by vote of the employees, I submit, will make us a stronger, competitive country.

It has everything to do with economics, and I wish the President yesterday had spent his time on the fiscal cliff instead of going to Michigan and arguing in favor of denying workers their right get or keep a job without having to pay union dues, and denying efforts to keep our American automobile industry as competitive as it needs to be in the world marketplace.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### MEDICARE

Mr. SANDERS. Mr. President, it is no great secret that the Congress has a very low favorable rating. Many people shake their heads and they wonder why this institution is so dysfunctional. There are a lot of reasons for that, but I suggest one of the reasons has to do with a lot of hypocrisy that we see in both bodies of Congress. I will give one example.

As all of us know, during the recent Presidential campaign, Republicans attacked Democrats over and over for voting to cut Medicare as part of the Affordable Care Act. They ran a significant part of their campaign on saying: Democrats have cut Medicare. We Republicans are here to protect Medicare.

In fact, this is exactly what Mitt Romney said on August 15, 2012.

My campaign has made it very clear: the President's cuts of \$716 billion to Medicare, those cuts are going to be restored if I become President and PAUL RYAN becomes Vice President.

The reality is that what we did under the Affordable Care Act resulted in zero cuts to benefits. We tried to make the system more efficient. But be that as it may, the Republicans posed as great champions of Medicare against those terrible Democrats who wanted to cut it. Meanwhile, Democrats went to town, taking on the Ryan budget which did make devastating cuts to Medicare and, in fact, wanted to voucherize that program. So we have Republicans beating Democrats for ostensibly—not accurately—trying to cut Medicare, Democrats attacking Republicans for, in fact—accurately—wanting to cut Medicare, and where are we today?

If we read the newspapers we hear and we know as a fact that Mr. BOEHNER, the Republican Speaker, has proposed devastating cuts in Medicare—a month after the election where the Republicans said they were going to defend Medicare. They want to raise the Medicare eligibility age from 65 to 67. Frankly, I am concerned there may be

some Democrats—not a whole lot, I hope none, but some Democrats—who may end up going along with that disastrous proposal. That is hypocrisy. Everybody during the campaign is saying the other guy wants to cut Medicare. The day after the campaign, our Republican friends are talking about devastating cuts and maybe some Democrats are prepared to support that.

Raising the Medicare eligibility age from 65 to 67 would be an unmitigated disaster. It would cut Medicare benefits by \$162 billion over the next decade and would deny Medicare to over 5 million Americans who are 65 or 66 years old.

The American people, when asked how do you feel: We are looking at deficit reduction. Do you think it is a good idea to raise the Medicare age? The American people overwhelmingly say, no, that is a dumb idea, don't do it.

According to a November 28, 2012, ABC News Washington Post poll, 67 percent of the American people are opposed to raising the Medicare eligibility age, including 71 percent of Democrats and, I suggest to my Republican friends, 68 percent of Republicans, 62 percent of Independents.

While there may be division in the Senate or House, there is no division among the American people. They think it is a dumb idea and the American people are right. They are right for very obvious reasons.

Think about some woman who is 66 years of age, not feeling well. She goes into the doctor's office and she is diagnosed with a serious health care problem. There is no Medicare there for her. What does she do? She goes over to a private insurance company. What do you think the private insurance company is going to charge this person who is already ill? An outrageous rate she cannot afford. What happens to this senior, that person who is 65 or 66? Do they die? Do they go bankrupt? Do they go to their kids who do not have the money to help them stay alive? It is a disastrous idea.

Raising the Medicare eligibility age from 65 to 67 would leave at least 435,000 seniors uninsured every year. Imagine being 66 and not having health insurance. Easy for folks around here in the Congress to laugh. Easy for wealthy people to laugh about it. It isn't so funny when you are living on \$15,000 or \$20,000 a year and have no health insurance. It would increase costs to businesses by \$4.5 billion. It would, of course, increase out-of-pocket costs for seniors; the estimate is about \$3.7 billion.

For the individual senior, the estimate is that for two-thirds of seniors age 65 to 66, they would pay an average of \$2,200 more for health care. They are trying to live on \$20,000, \$25,000, \$30,000 a year. Suddenly they are hit, on average—could be more, could be less—\$2,200 a year. On it goes.

It would increase premiums by about 3 percent for those enrolled in the

health care exchanges created by the Affordable Care Act because many 65- and 66-year-olds would be enrolled in the exchanges instead of Medicare. It would save the Federal Government \$5.7 billion in 2014, but it would cost seniors, businesses and State and local governments \$11.4 billion—double that, double what the Federal Government would save.

I hope all those folks who, before the election—Republicans and Democrats—were running around the country and in their own States saying: We are for the middle class; we are going to protect Medicare—I hope they go back and read their preelection speeches and stick to what they said before the election.

That is one of the issues out there in terms of the so-called fiscal cliff or deficit reduction. Let me talk about another insidious one, in terms of raising the age of 65 to 67 on Medicare. That is a disaster, but it is pretty clear, everybody understands what it is about. There is now an underhanded way, an insidious way that some people are talking about doing deficit reduction, the so-called chained CPI, which nobody outside Washington, DC, has a clue as to what it is about.

What it would do is change the formulation in terms of how we determined COLAs for seniors, disabled vets, and others. The bottom line is, in my view and the view of many economists, we underestimate the inflationary cost of what seniors are spending because a lot of their spending goes into prescription drugs, health care, and that has gone up faster than general inflation. What the chained CPI says is: Oh, no. What we have now is too generous and we have to cut back. We have to make the COLA skimpier.

This is exactly what a chained CPI would do for people on Social Security. What it says is that somebody who was age 65 would see their benefits cut by \$560 a year when they turn 75 and \$1,000 a year when they turn 85. Again, I know we have CEOs from Wall Street who have huge salaries, who receive huge bonuses, who have the best care available in the world, they have great retirement programs—these guys who were bailed out by the working families of America when their greed nearly destroyed the financial system of the world—they are now coming to Capitol Hill and they are saying we have to cut Social Security and we have to cut Medicare and we have to cut Medicaid.

For those guys, when we talk about \$560 a year for somebody who is 75, that is not a lot of money and \$1 thousand when you are 85—what is a thousand bucks? Let me tell you, \$1,000 is a lot of money when you are trying to survive on \$18,000 or \$20,000 a year. We must not allow that to take place.

There is something many people do not know; that is, the chained CPI would go beyond cutting benefits for seniors on Social Security. It would take a real devastating whack at disabled veterans. What about that? I

want my Republican friends or any Democrats who support that to come to the floor of the Senate and tell the American people that when we send young men and women over to Afghanistan and Iraq and they got their arms blown off, they got their legs blown off, and we are now going to balance the budget on their backs by cutting benefits for disabled veterans—come to the floor of the Senate and tell the American people they support a chained CPI which would do exactly that.

We have some folks here saying, yes, people are making billions of dollars, we don't want to cut their taxes. But, yes, we will cut benefits for disabled vets who lost their arms and legs in Afghanistan. That is an obscenity and I hope very much we do not go in that direction.

When we talk about deficit reduction, we have to deal with it. It is a serious problem. There is a lot of discussion about the need to deal with \$4 trillion over a 10-year period, and I support that. Let's talk about a way we can go forward without balancing the budget on the backs of the elderly, disabled vets, working families.

First of all, we have to understand and acknowledge that in the deficit reduction debates of 2010 and 2011, the Republicans won, basically, those negotiations. We have to be honest about that. Republicans acknowledge that. Some Democrats do. Republicans are tougher than Democrats, Democrats cave, Republicans stand tall.

We have to understand, despite the fact we have a growing inequality in this country, rich getting richer, middle class shrinking, after all the discussions about deficit reduction, the wealthiest people in this country have yet to pay one nickel more in taxes. But because the Democrats are not quite as tough as the Republicans, what has happened is that we have cut, in those two negotiations, \$1.1 trillion in spending already. So if we are talking about a \$4 trillion bill, understand that we have already cut \$1.1 trillion, which leaves \$2.9 trillion to be dealt with. I think the President is right, and I simply hope this time he sticks to his guns and does what he says.

What I am suggesting is that there are ways to do deficit reduction that are fair. The first point, in terms of \$4 trillion over a 10-year period, we have already cut over \$1 trillion in terms of spending—\$1.1 trillion. No. 2, I think the President is right in suggesting we have to ask for significant revenue from the wealthiest people in this country—the top 2 percent—without asking for any tax increases for the bottom 98 percent. That would add \$1.6 trillion in revenue, bringing us somewhere around \$2.7 trillion, so we have a \$1.3 trillion problem. Over a 10-year period, that is not a difficult problem to solve.

Let me throw out a few ideas, and I am sure other people have equally good ideas.

Before we cut Social Security, Medicare, and Medicaid, we might want to

address the reality that this country is losing about \$100 billion every single year from corporations and wealthy people who are stashing their money in the Cayman Islands, Bermuda, and other tax havens, and \$100 billion is a heck of a lot of money.

At a time when gas and oil prices have soared recently, when we know major oil companies have in recent years paid nothing, in some cases—despite being enormously profitable—in Federal taxes, we can and must end tax breaks and subsidies for oil, gas, and coal companies.

This country is now spending almost as much as the rest of the world combined in terms of defense. Our friends and allies in Europe provide health care for all their people. In many of these countries, college education is free. We are spending twice as much as part of our GDP as they spend on defense. I think it is time to take a hard look at defense spending, and I think we can make cuts there which will still leave us with the kind of military we need to defend ourselves.

Instead of raising the Medicare eligibility age from 65 to 67, instead of cutting benefits, we can make Medicare and Medicaid more efficient. I believe we can save at least \$200 billion over a 10-year period by eliminating waste, fraud, and abuse and lowering prescription drug costs for seniors. For example, the Medicare Part D prescription drug program prohibited Medicare from negotiating with the pharmaceutical companies for lower drug prices. The VA negotiates, and other government agencies negotiate. Medicare should be able to do that.

Fortunately, the war in Iraq is over. We are about to wind down in Afghanistan, and there are savings there.

So before I give the mic over to my colleague from Vermont, I wish to conclude by saying, yes, we go forward on deficit reduction, but there are ways to do it. At a time of growing wealth and income inequality in America, we can move forward and make significant reductions in our national debt, in our deficit, without doing it on the backs of the elderly, the children, the sick, and the poor.

Madam President, I ask unanimous consent that an article from the Washington Post on the subject of increasing the age for Medicare eligibility be printed in the RECORD.

[From the Washington Post, Dec. 11, 2012]

RAISING MEDICARE AGE COULD LEAVE HUNDREDS OF THOUSANDS UNINSURED

(By Greg Sargent)

It looks increasingly possible that lawmakers will reach a fiscal cliff deal that includes a hike in the Medicare eligibility age—a concession to those on the right who seem determined to see very deep entitlement cuts, even if they take benefits away from vulnerable seniors. One argument for raising the eligibility age is that seniors who lose benefits can get insurance through Medicaid or the Obamacare exchanges.

But a new report to be released later today undercuts that argument—and finds that up to half a million seniors could lose insurance if the eligibility age is raised.

## EXECUTIVE SESSION

NOMINATION OF JOHN E. DOWDELL TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA

NOMINATION OF JESUS G. BERNAL TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of John E. Dowdell, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma, and Jesus G. Bernal, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Madam President, I want to begin by recognizing a significant achievement by the senior Senator from Iowa, our ranking Republican on the Judiciary Committee. Today Senator GRASSLEY has served for 31 years, 11 months, and 6 days as a member of our Committee. His tenure now exceeds that of our friend, former chairman, longtime member, and current Vice President, JOE BIDEN. Senator GRASSLEY is now the sixth longest-serving member in the history of the Senate Judiciary Committee. Senator GRASSLEY and I know how the Committee should operate in its best traditions. I will continue to work with him to achieve all we can for the American people.

Today, the Senate will finally be allowed to vote on the nominations of Jesus Bernal to fill a judicial emergency vacancy on the U.S. District Court for the Central District of California and John Dowdell to fill a vacancy on the U.S. District Court for the Northern District of Oklahoma. Both of these nominees were voted out of the Judiciary Committee by voice vote before the August recess and should have been confirmed months ago. These confirmations today will demonstrate that there was no good reason for the delay—just more partisan delay for delay's sake. This unnecessary obstruction is particularly egregious in connection with Jesus Bernal's nomination because it perpetuated a judicial emergency vacancy since the middle of July for no good reason and to the detriment of the people of Los Angeles and the Central District of California.

Also disconcerting is the Senate Republicans' continuing filibuster against another Oklahoma nominee. Although he had had the support of his two Republican home State Senators, Senate

Republicans filibustered in July the nomination of Robert Bacharach of Oklahoma to a judgeship on the Tenth Circuit. Senate Republicans continue to object to voting on this nomination and are apparently intent on stopping his confirmation for the remainder of the year. This, despite the reassuring comments made by Republican Senators when they joined the filibuster in September and excused their participation by saying that after the election he would receive Senate action. With the American people's reelection of President Obama there is no good purpose to be served by this further delay. But Robert Bacharach and nearly a dozen judicial nominees, who could be confirmed and who would fill four circuit court vacancies and five additional judicial emergency vacancies, are being forced to wait until next year—or perhaps forever—by the Senate Republican leadership. Among those nominations is that of William Orrick III to fill another judicial emergency vacancy in the Northern District of California and that of Brian Davis to fill a judicial emergency vacancy in the Middle District of Florida.

A perceptive and long-time observer of these matters is Professor Carl Tobias. I ask that a copy of his recent article entitled "Obama, Senate Must Fill Judicial Vacancies" from The Miami Herald be included in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. LEAHY. He recently wrote how these vacancies on our Federal trial courts "erode speedy, economical and fair case resolution." He correctly points out that this President, unlike his predecessor, "assiduously" consults with home State Senators from both parties. Senate Republicans nonetheless stall confirmations virtually across the board. For example, they are filibustering the Bacharach nomination from Oklahoma and the Kayatta nomination from Maine, despite the support of Republican home state Senators.

Professor Tobias observes that the judicial nominees of President Obama are "noncontroversial . . . of balanced temperament, who are intelligent, ethical, industrious, independent and diverse vis a vis ethnicity, gender and ideology." None of these characteristics or their outstanding qualifications matter to Senate Republicans intent on obstruction. The explanations that Republicans offer for their unprecedented stalling of nominees with bipartisan support, indicate that Republicans are fixated on a warped sense of partisan payback. They recognize none of the distinctions with the circumstances in 2004 when President Bush was seeking to pack the Federal courts with conservative activist ideologues and Senate Republicans ran roughshod over Senate practices and traditions. They ignore the history since 2004, the resolution of the impasse by recognition of a standard limiting filibusters only to situations of

The report, by the Center for American Progress, points out a key fact that's been mostly missing from the debate: The hope of getting seniors who lose Medicare insured through Obamacare could be seriously compromised by the Supreme Court decision allowing states to opt out of the Medicaid expansion. This would inflate the number of seniors who could be left without insurance, because many would fall into the category of lower-income senior that would be expected to gain access to Medicaid through its expansion. (Jonathan Cohn has written about this extensively.)

Here's how CAP reached its conclusion. The nonpartisan Congressional Budget Office recently concluded that a rise in the eligibility age could mean as many as 270,000 seniors are left uninsured in 2021. But that's assuming Obamacare is fully implemented in all states. The CAP report points out that 10 states have publicly declared they will opt out of the Medicaid expansion, and more are undecided.

The CAP study then totaled up how many seniors below the poverty line live in states that may opt out of the Medicaid expansion, using 2011 data. The total: Over 164,000. This table shows how many of these seniors live in each of these states:

Add these to the aforementioned 270,000 seniors, and you get a total of approximately 435,000 seniors who could be left without insurance annually by 2021. And this is a conservative estimate—it's based on 2011 data, and the population of seniors will grow significantly over the next decade.

Now, it's very possible that many of these states will ultimately drop their bluster and implement the Medicare expansion. But Republican state lawmakers are also stalling in setting up the exchanges and resisting the law in other ways. With Obamacare implementation up in the air, it may be too risky to raise the eligibility age and hope Obamacare can pick up the slack.

"With opponents of the health care law still working to block it at every turn, many more seniors would become uninsured because they would have nowhere else to turn," CAP's president, Neera Tanden, tells me. "As a result this misguided proposal would undermine the promise of affordable health care for all."

On top of this, the report finds, raising the eligibility age could also undermine a key goal of Obamacare by inflating medical costs and health care spending, for a range of reasons: Cost shifting, tampering with the health and age levels in insurance pools, and an increased reliance on private insurance, which isn't as good as Medicare at controlling costs.

In my view, the speculation that Dems will ultimately agree to raising the eligibility age has been a bit overheated—it's not clear this is definitely on the table. But it's certainly possible. After all, some on the right seem determined not to accept any entitlement reform as "real" unless vulnerable beneficiaries are harmed, and Obama and many Dems prefer a deal to going over the cliff. So anyone who doesn't want to see this happen should be making noise about it right about now. And there are a range of alternative ways to cut Medicare spending without harming beneficiaries.

I'll bring you a link to the report when it's available.

Mr. SANDERS. I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Vermont.

Mr. LEAHY. Madam President, I applaud my colleague from Vermont for what he has said. I think he expresses the feelings of so many Vermonters across the political spectrum, so I thank him for doing that.