So we wish her God bless, Godspeed, and we hope to see her speaking out exactly on what she did today, a call toward citizenship and more bipartisanship and less partisanship.

God bless you, Senator SNOWE.

AMERICAN STEEL

Ms. MIKULSKI. Madam President, I wish to take a few minutes to speak about another sad situation in the State of Maryland. Today we got the terrible, sad news that it looks as though Bethlehem Steel, our biggest, largest, most famous steelyard, is going to close, and it is going to close forever.

Throughout the entire 19th and 20th centuries and through to today, Bethlehem Steel hired people, making it one of our largest employers, to build steel for our great iconic projects and to help build America. In its heyday in 1957, 30,000 steelworkers were there. They thought they had lifelong jobs in helping build steel. It was the largest single employer in Baltimore for decades. It made steel for everything from Campbell Soup cans to National beer cans. It built steel for refrigerators, toasters, and thousands of other products. During the war, Bethlehem Steel was part of the arsenal of democracy in which it built Liberty ships.

I am very close to the people at Bethlehem Steel. Members of my own family worked in this steel mill and they worked very hard. People who came into my father's grocery store worked at Bethlehem Steel. They thought they had a job that would last forever because America would need steel. It doesn't look that way, because even though those workers thought America would always want American steel, we looked the other way when foreign imports began to drive down our prices and drive down our steel mills.

We have to begin to rethink what we are doing in this area. America's steel and steelworkers protected the United States and our freedom.

At Sparrows Point they rolled gun barrels, made steel for grenades, shells and landing craft for airplanes and ships. We have to remember whose steel it was that truly built America. But do my colleagues know who the last owner was; not the most recent but the ones before that? The Russians. I am not against Russia, but I am against Russia owning America's tools of production.

What will happen to America if we need more steel to go to war? What about needing steel when we build our infrastructure? When American steelworkers built the great new Golden Gate Bridge with American taxpayers' dollars, the steel came from China. What are we doing to America and what are we doing to our manufacturing?

I think we need a wakeup call. We are busy holding up the entire Congress protecting tax breaks for billionaires. When are we going to start looking out for American jobs? When we are talking about this fiscal cliff, we are not talking about having the jobs component in it. When are we going to start talking about tax breaks so we can have an infrastructure bank, so we can rebuild America using American products? Why is it when we say we want it made in America, some call us protectionists? I welcome the label of ''protectionist.'' I am going to protect American jobs. I don't want them on a slow boat to China or a fast track to Mexico.

I might not ever get my steel mill back and Baltimore might not ever have those jobs back, but we have to get serious in our country. What are our priorities? We have to start rewarding those industries that make products in this country. Right now, our whole code is oriented to protecting people who make money off money. Let me tell my colleagues, we are already getting a big wakeup call in America.

I have fought for more than 25 years to reverse this tide against American manufacturing and for American steel and I am going to keep on fighting. But right now, as we go on debating this fiscal cliff, we have to make sure we protect the safety net. If my colleagues went with me to Dundalk and to Sparrows Point, people would tell us they want their job, and if they can't have their job, could they please have a safety net that protects them in terms of unemployment insurance and health care benefits so they have a bridge to get their family over this very hard time. I worry that during this fiscal cliff debate we are going to lose those benefits, but I will tell my colleagues that I will fight to not go over the fiscal cliff.

In the meantime, I say to the men and women at Bethlehem Steel: Thank you for what you did. You built America. You helped save America. You helped save Western civilization. We are going to try right now to save your safety net benefits. Go to that hall where you can apply for those benefits. They are still there. We still want to make sure you are eligible, but we want not only a safety net to get you over the hard times, we believe the best safety net is jobs in American manufacturing.

I am going to yield the floor, but I will not yield the fight for American jobs.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF LORNA G. SCHOFIELD TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

NOMINATION OF FRANK PAUL GERACI, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

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 Lorna G. Schofield, of New York, to be United States District Judge for the Southern District of New York, and Frank Paul Geraci, Jr., of New York, to be United States District Judge for the Western District of New York.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate, equally divided in the usual form.

The Senator from Vermont.

ON THE CONFIRMATIONS OF LORNA SCHOFIELD TO THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND JUDGE FRANK GERACI TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Mr. LEAHY. Madam President, today, the Senate will finally be allowed to vote on the nominations of Judge Frank Geraci to fill a judicial emergency vacancy on the U.S. District Court for the Western District of New York and Lorna Schofield to fill a vacancy on the U.S. District Court for the Southern District of New York. Both of these nominees were voted out of the Judiciary Committee virtually unanimously before the August recess and should have been confirmed months ago.

By now, no one should be surprised that it has taken so long to have a simple up-or-down vote on two consensus nominees, even though one would fill a judicial emergency vacancy and the other would fill a vacancy on one of our Nation's busiest courts.

There is an editorial in today's New York Times that explains the slow pace of confirmations, and I ask unanimous consent to have the editorial printed in the RECORD after my statement.

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

(See exhibit 1.)

Mr. LEAHY. The editorial notes:

A significant reason for the slowdown has been the partisan opposition of Republicans to appeals court and even to trial court nominations, even though almost none of the nominees have backgrounds that raise ideological issues. The Republicans have time and again used the filibuster, the threat of filibuster, holds on nominations and other tactics to confirmations.

This is the new practice that Senate Republicans adopted when President

Obama was elected. They delay and obstruct judicial nominations for no good reason. There are currently 13 circuit and district court nominees still pending on the Senate Executive Calendar who were reported before the August recess and should all have been confirmed before the recess. Most are consensus nominees. All have the support of their home State Senators, including their home State Republican Senators.

The Federal Bar Association wrote a letter earlier this week to Senate leaders that said:

[W]e write to urge you to promptly schedule floor votes on pending, noncontroversial United States circuit court nominees and district court nominees who have cleared the Judiciary Committee with strong bipartisan support and who await a final up-or-down vote. The high number of existing judicial vacancies—81, of which 35 constitute judicial emergencies—underscores the need for prompt attention by the Senate in fulfilling its Constitutional responsibilities.

They are absolutely right. I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 2.)

Mr. LEAHY. We have a constitutional responsibility to advise and consent, and we must also help our courts uphold their constitutional responsibility to provide speedy justice.

The judges whose confirmations Senate Republicans are delaying are not nominees they will oppose on the merits. They are by and large consensus nominees.

Senate Republicans' obstruction on these important nominations is especially damaging at the end of the year. Starting in 2009, Senate Republicans broke from longstanding tradition and prevented votes on eight judicial nominees as the Senate adjourned at the end of the year. It took until September 2010 for the last of those nominees to have an up-or-down vote. Senate Republicans did the same thing—their new version of a pocket filibuster—to 19 nominees in both 2010 and 2011. This forces the Senate to waste time in the new year working on nominations that should have been confirmed the year before. This year it took until May to confirm the 19 left from last year. That is why we have confirmed only 23 nominees reported by the Judiciary Committee this year, and that is why we face this current backlog of 18 nominees and an additional 4 who had a hearing earlier this week and could also be considered and confirmed before adjournment.

One of the nominations Senate Republicans are holding up is that of Judge Robert Bacharach to the Tenth Circuit, whom they filibustered earlier this year. Senator COBURN, one of his home State Senators, said: ''He has no opposition in the Senate . . .. There's no reason why he shouldn't be confirmed.'' His words apply to almost all the judicial nominees being delayed.

When George W. Bush was President, Democrats cooperated in moving judicial nominees quickly through the committee and to a confirmation vote at the end of the year. I did so whether I was chairman or the ranking member. I have said that I am willing to do the same for the nominees who had their hearing yesterday and expedite committee consideration of their nominations so that they can be voted on this year. By way of example, in 2008 we confirmed five of President Bush's nominees just 3 days after their hearing. We have often been able to do this at the end of a Congress, and this year should be no exception—especially given the high level of judicial vacancies plaguing our Federal courts.

Yesterday, the Judiciary Committee had a hearing for four more of President Obama's outstanding, consensus judicial nominees. Senators from both sides of the aisle appeared to endorse nominees to vacancies in their home States. Representative PAUL RYAN, the Republican candidate for Vice President, appeared to testify in favor of a nominee to fill a vacancy on the District Court for the District of Columbia. So did Representative ELEANOR HOLMES NORTON. After Congressman RYAN's endorsement, the committee's ranking Republican member quipped that after hearing Congressman RYAN ''we could just vote you out right away.'' He is right. The Senate should confirm her and the others without delay. That is how we used to proceed as we approached the end of a Congress. We used to expedite confirmations of consensus nominees. Now Senate Republicans insist on stalling proceedings and slowing things down and carrying large numbers of them over into the next year and needlessly delaying them for months and months.

I remind Senate Republicans that the Senate confirmed an Alabama nominee to the district court within 2 days of his vote by the Judiciary Committee just a couple of years ago. There have literally been hundreds of judicial confirmations within 14 days of our Judiciary Committee hearing, including more than 600 confirmed since World War II within just 1 week of their hearings. In contrast, obstruction by Senate Republicans has caused President Obama's district court nominees to wait an average of 102 days for a Senate vote after being reported by the Judiciary Committee. This destructive practice of delaying for no good reason must end.

From 1980 until this year, when a lameduck session followed a Presidential election, every single judicial nominee reported with bipartisan Judiciary Committee support has been confirmed. According to the nonpartisan Congressional Research Service, no consensus nominee reported prior to the August recess has ever been denied a vote—before now. That is something Senate Democrats have not done in any lameduck session, whether after a Presidential or midterm election.

Senate Democrats allowed votes on 20 of President George W. Bush's judicial nominees, including 3 circuit court nominees, in the lameduck session after the elections in 2002. I remember, I was the chairman of the Judiciary Committee who moved forward with those votes, including of a very controversial circuit court nominee. The Senate proceeded to confirm judicial nominees in lameduck sessions after the elections in 2004 and 2006. In 2006 that included confirming another circuit court nominee. We proceeded to confirm 19 judicial nominees in the lameduck session after the elections in 2010, including 5 circuit court nominees. The reason that I am not listing confirmations for the lameduck session at the end of 2008 is because that year we had proceeded to confirm the last 10 judicial nominees approved by the Judiciary Committee in September and long before the lameduck session.

That is our history and recent precedent. Those across the aisle who contend that judicial confirmations votes during lameduck sessions do not take place are wrong. It is past time for votes on the 4 circuit nominees and the other 13 district court nominees still pending on the Executive Calendar. We should expedite confirmations for the four consensus nominees who had their hearing yesterday. Let's do our jobs so that all Americans can have access to justice.

Lorna Schofield is nominated to serve on the U.S. District Court for the Southern District of New York. She has served as a Federal prosecutor and since 1988 has worked at the law firm Debevoise & Plimpton LLP, where she was a partner for two decades and where she currently serves as of counsel. She serves as chair of the litigation section of the ABA, where she has actively promoted pro bono activities, including programs for children's rights and litigation assistance for military personnel. The ABA Standing Committee on the Federal Judiciary unanimously gave her its highest possible rating of ''well qualified.''

Judge Frank Geraci is nominated to fill a judicial emergency vacancy on the U.S. District Court for the Western District of New York. Since 1999 Judge Geraci has served as a Monroe County Court judge, and since 2005 he has also served as an acting supreme court justice on the New York State trial court. Judge Geraci has presided over 555 civil proceedings that have gone to judgment. He has also served as both a State and Federal prosecutor.

Both of these nominations have the support of both their home State Senators. They were voted on by the Judiciary Committee 5 months ago and stalled unnecessarily since then for no good reason.

If we are willing to follow Senate precedent and to protect Americans' access to justice, we should vote on the nominees being delayed. Many are nominees whose nominations have been pending for many months, and many of

them would fill judicial emergency vacancies. I see no reason why the Senate should not confirm them before the end of the year. We should allow these nominees to get to work on behalf of the American people.

EXHIBIT 1

[From the New York Times]

JUDGES NEEDED FOR FEDERAL COURTS

There has been a severe breakdown in the process for appointing federal judges. At the start of the Reagan years, it took, on average, a month for candidates for appellate and trial courts to go from nomination to confirmation. In the first Obama term, it has taken, on average, more than seven months.

Seventy-seven judgeships, 9 percent of the federal bench (not counting the Supreme Court), are vacant; 19 more seats are expected to open up soon. The lack of judges is more acute if one considers the growing caseload. The Judicial Conference, the courts' policy-making body, has recommended expanding the bench by 88 additional judgeships.

President Obama must make fully staffing the federal courts an important part of his second-term agenda—starting with the immediate Senate confirmation of the 18 nominees approved by the Senate Judiciary Committee.

A significant reason for the slowdown has been the partisan opposition of Republicans to appeals court and even to trial court nominations, even though almost none of the nominees have backgrounds that raise ideological issues. The Republicans have time and again used the filibuster, the threat of filibuster, holds on nominations and other tactics to block confirmations.

The Democratic majority, led by Senator Harry Reid, can speed up the process by limiting use of the filibuster. He can do so by pushing for a simple majority vote at the start of the January session to alter Senate rules so that every judicial and executive-branch nominee is assured an up-or-down vote within 90 days. Without that change, many judicial nominations will founder.

Even if that rule change is made, the process of identifying, vetting and approving judicial candidates will need greater attention. Senators, who by custom recommend to the president candidates for federal trial judgeships in their states, should put in place more effective steps for making timely recommendations (like setting up merit selection committees) and making a choice within a reasonable period, like within 60 days of an opening.

The White House and the Justice Department, meanwhile, need to commit more resources to keeping up with those recommendations, to verify and nominate candidates for confirmation within, say, 60 days of receiving names. And the administration must be similarly prompt in identifying and nominating appeals-court candidates.

In a critically important court like the United States Court of Appeals for the District of Columbia Circuit, three unfilled vacancies and a fourth expected this winter, out of 11 judgeships, hobble the court's ability to make expeditious rulings in significant cases about regulation of the environment, financial markets and other social and economic matters. Many statutes channel review of such cases to the federal courts in the District of Columbia for their expertise about administrative law and for geographic convenience.

The circuit court is a stark example of the broken appointment process and the harm caused by the Senate's inability to do its job.

Mr. Obama and the Senate should also look to broaden the diversity of the judges they appoint. In his first term, Mr. Obama commendably named a higher share of women (44 percent) and a higher share of minorities (37 percent) than any president before him.

Most of the appointees were already judges, prosecutors or private lawyers, with few public defenders or public-interest lawyers from outside government. Expanding the breadth of experience would help ensure that federal courts have jurists who have some real-life understanding of the myriad issues that come before them.

The Constitution requires the president, with the Senate's advice and consent, to fill federal judgeships. That duty has been terribly neglected and needs to be an absolute priority in the coming year.

EXHIBIT 2

FEDERAL BAR ASSOCIATION
Arlington, VA, December 11, 2012.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: As the lame duck session continues, we write to urge you to promptly schedule floor votes on pending, noncontroversial United States circuit court nominees and district court nominees who have cleared the Judiciary Committee with strong bipartisan support and who await a final up-or-down vote. The high number of existing judicial vacancies—81, of which 35 constitute judicial emergencies—underscores the need for prompt attention by the Senate in fulfilling its Constitutional responsibilities.

We also strongly encourage cooperation among Senators to avoid undue procedural delays that slow the judicial confirmation process and compound the vacancy crisis.

Thank you for your past efforts and for your consideration of our views on this important issue.

Sincerely,

KAREN SILBERMAN,
Executive Director.
WEST ALLEN,
Chair, Government Relations Committee.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I rise in support of each of these judges, both fine citizens of New York. First, I will speak about Judge Geraci.

I rise in strong support of an outstanding nominee for the Federal bench in the Western District of New York, Judge Frank Paul Geraci, Jr., to the Federal district court in the Western District of our State, which serves two large metropolitan areas, Rochester and Buffalo. These cities are large, vibrant centers of the commercial and legal communities of our State. In fact, each metropolitan area has a population of over 1 million residents.

Judge Geraci has been an important and respected part of this community for his entire life. Born in Rochester, he graduated from McQuaid Jesuit High School. He left New York long enough to earn both his undergraduate and law degrees from the University of Dayton in Ohio, staying within the Jesuit fold, I might add, by attending that institution. He returned to Rochester and immediately leapt into public service, working for 5 years in the Monroe County District Attorney's Office and rising to become chief of the Special Investigations Bureau. Judge Geraci then contributed another 4 years of distinguished service to Rochester as an assistant U.S. attorney in the Western District. In 1988, he left and founded his own law firm.

I was particularly impressed, as I got to know Judge Geraci, by the fact that while he was in private practice, he also served as a mediator and expert in alternative dispute resolution. I have come to believe, as a Senator from a State with among the heaviest caseloads in the country, that an important part of managing a docket is getting parties to talk to each other before they are staring at an imminent trial date.

It is likely that few nominees know this truth better than Judge Geraci. Over and above his dispute resolution experience, he has been a judge in the city of Rochester, in Monroe County, and on the bench of the New York State Supreme Court for 20 years.

I have served on the Senate Judiciary Committee for my entire time in the Senate—since 1998—and I served on the House Judiciary Committee for 18 years before that.

Rarely, if ever, have I encountered a candidate who so perfectly combines judicial experience, judicious temperament, and complete dedication to his community as Judge Geraci.

Taken together, the breadth and depth of his professional experience in both the State and Federal system, civil and criminal, make him a perfect fit for the Federal bench in Rochester. But Judge Geraci's sterling qualifications do not stop there. His dedication to his community, it is no exaggeration to say, is legendary. When you mention his name, people say: Of course, what a great and obvious choice.

Monroe County is small enough that members of the bar all know him but large enough that many lawyers, like Judge Geraci, do have the opportunity to have varied and deep experience. Judge Geraci has worked for the bar and bench on issues such as criminal case management and jury diversification. He has served on boards and governing bodies of diocese Catholic schools. He even has conducted court tours, coached girls' basketball, and served as the president of the local Little League.

Judge Geraci has earned the admiration of the people of western New York and, in turn, they deserve no less than an accomplished lawyer of his intelligence and magnanimity to serve on the Federal bench. I thank the Presiding Officer for the opportunity to discuss such a fine man.

I will conclude with one final observation. The seat for which Judge Geraci is about to be confirmed has been vacant since March of 2009, making it a judicial emergency vacancy. His is one of 13 remaining judicial

nominations on the calendars, 11 of whom have received bipartisan support in the Judiciary Committee. I hope we can continue to move these other nominees.

I thank the Chair.

(Mr. FRANKEN assumed the chair.)

Mr. SCHUMER. Now, Mr. President, I have a second nominee to speak about. We are voting at 2:15, as I understand it, so there is plenty of time to wax on the fine qualifications of both of these new additions to the bench.

I am extremely pleased to rise today in enthusiastic support of the nomination of Lorna Schofield to the Federal bench in the Southern District of New York at the other end of our State.

I have had the privilege to recommend a number of truly outstanding nominees to become judges in New York—in fact, 15 nominees—and Ms. Schofield is among the best. She is the embodiment of three qualities I search for in judicial nominee candidates: excellence—they should be legally excellent, no hacks; moderation—they should not be too far right or too far left because then they want to turn the law to their own purpose rather than interpret it; and diversity—I try to bring diversity in every way to the bench in terms of race, gender, sexual orientation, and religion because that is for the good of America.

First, her excellence. Her professional resume puts her right at top of her field. She went to Indiana University for her undergraduate studies and then came to New York to study law at one of the Nation's best law schools, NYU Law School, where she graduated as one of the top 15 students in her class. She went on to serve the public as an assistant U.S. attorney in the Southern District of New York and then to join a top law firm, Debevoise & Plimpton. She has been there for 25 years.

Ms. Schofield has a wealth of practical experience, having represented and advised all manner of clients in the ''real world'' of New York City—businesses large and small and individuals. As a true generalist, she has tried a wide variety of cases, and her professional accomplishments and accolades are numerous, including serving as the head of the litigation section—the largest section—of the American Bar Association. She was, in fact, a pioneer in this position as the first Asian American to hold this prestigious post.

Second, on the point of moderation, when I met Ms. Schofield, I was struck by the fact that she has one singular agenda: preservation of the rule of law. Indeed, her professional work has been devoted to the general improvement of the practice of law and to zealously representing her clients in the best and most ethical traditions of the profession. Evidence of her moderation can be found in the support she has across the political spectrum. Both Democrats and Republicans have called me to tell me what a great judge she would make. She has done everything from teaching trial advocacy to performing pro bono work for the Women's Prison Association.

Finally, diversity. I like to have diversity on the bench. Ms. Schofield's personal background and life experience will help broaden the perspective of the Federal bench. Most notably, if confirmed, she will become the first Filipino judge, man or woman, to sit on the Federal bench. So the great nation of the Philippines, which contributes so many immigrants and then citizens to our country, can be very proud that Ms. Schofield has risen to this high post once she is confirmed.

In conclusion, I believe she will make a terrific judge, and I look forward to her confirmation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, can you tell me how much time is remaining on this side?

The PRESIDING OFFICER. Fifteen minutes.

Mr. CORNYN. I thank the Presiding Officer.

THE FISCAL CLIFF

Mr. CORNYN. Mr. President, it has become disturbingly clear that President Obama does not mind whether or not we drive off the fiscal cliff. Just last week his own Treasury Secretary, Secretary Geithner, said the White House was ''absolutely'' prepared to go off the cliff unless Republicans agree to raise marginal tax rates. In other words, during a period of high unemployment—the highest since the Great Depression—the President is willing to risk another recession in order to increase taxes on small businesses and the people we depend upon to create jobs.

How much revenue will the President's tax hike generate? Well, by raising the top two rates, it would produce only about $68 billion in 2013. I say ''only'' because in relationship to the gap between how much money the Federal Government is spending and how much money this would generate, it is relatively small. If we factor in the various stimulus tax expenditures the President wants to extend, the net revenue falls below $55 billion.

Again, President Obama is so desperate to secure this revenue that he is willing to risk another recession. Meanwhile, he is asking for more stimulus spending, along with the authority to raise the debt ceiling whenever he chooses. His idea of compromise appears to me to be pretty simple: Republicans should give him everything he wants in return for a meaningless promise that the White House will somehow, someday get around to reforming and preserving Social Security and Medicare. I ask, is that really a balanced approach? Well, I think the answer is self-evident. Of course it is not.

Until the President supports real reforms to preserve and protect Medicare and Social Security—something he himself has acknowledged is on an unsustainable fiscal path—until he is willing to come up with real ways to rein in Federal spending, where right now we are spending 46 cents out of every $1 in borrowed money, the Federal Government is, until he comes up with a plan on both of those issues—reining in spending and reforming Medicare and Social Security to preserve them for future generations—he is not offering a serious plan for long-term deficit reduction.

After all, we have a $1.1 trillion annual deficit. I know we have become a little bit numb to the numbers we have been using. We used to talk about $1 million being a lot of money. Then there was $1 billion. Now there is $1 trillion. Someone said, tongue in cheek: Don't tell the Federal Government what comes after a trillion because we will end up spending it.

If you have a deficit of $1.1 trillion a year, as we did in 2012, then raising taxes by $68 billion or $55 billion does not get you very far. In fact, it would fund the Federal Government for about a week—1 week. That tax increase would also damage economic growth, upon which we depend in order to create jobs, to bring down the unemployment rate, and to put the 20 million-plus people who are either unemployed or underemployed back to work.

Here are some numbers the President does not talk about:

On top of our $16 trillion national debt, we have more than $100 trillion in unfunded liabilities. Those are promises we have made to future generations that Medicare and Social Security will be there for them, even though there is not money to pay for those liabilities.

The Federal Government is already spending about $220 billion a year on interest payments alone. Under President Obama's latest budget proposal, the annual cost of servicing our debt would reach $804 billion in 2022—an amount greater than total U.S. defense spending in 2012. We all know that interest rates are also at historic lows because of the action of the Federal Reserve. If they were to return to their historic norms—the 4- and 5-percent range—you can easily see how our debt would spin out of control and there would be very little room to spend money either on safety-net programs or on national security.

One more point. The President often says his tax increases would merely restore the top tax rates that prevailed when Bill Clinton was in the White House. But that is demonstrably false. Thanks to new taxes under ObamaCare, including the new 3.8-percent surtax on investment income, the top rates would be significantly higher than they were under the Clinton administration. And, of course, you are not just talking about Federal taxes. People all around the country have to pay State, local, and Federal taxes, many of whom would end up paying the majority of their paycheck in taxes.

Here is the reality: Tax cuts did not create our fiscal problems, so it is axiomatic that tax increases will not solve our fiscal problems alone. We can and we should reform our Tax Code so that it helps promote stronger growth and higher revenues. The President's own bipartisan fiscal commission, Simpson-Bowles, made a proposal to do just that when it comes to corporate taxes. But ultimately the only way to prevent fiscal Armageddon is through major reforms of Medicare and Social Security and reining in Federal spending.

As we debate various strategies for avoiding the fiscal cliff, it is important for us to remember that our actions—or inactions—will have real-world consequences for millions of Americans. Many folks here in Washington seem too casual about the possibility of a massive tax hike and what that would do to our economy. Indeed, some of my Democratic colleagues apparently think they could quickly undo all of the tax increases that would fall on middle-class workers. In reality, it would not be that simple. Just ask any small business owner trying to meet payroll and plan for the future.

Everyone knows, as I said to start with, we are experiencing the weakest economic recovery since World War II and the longest period of high unemployment since the Great Depression. If you ask me, this is the worst possible moment for a huge tax hike—something the President himself acknowledged when he agreed to extend the so-called Bush tax cuts in 2010 when the economy was growing slower than it is today.

Too many of my colleagues across the aisle seem to be comfortable with threatening the possibility of a recession by driving off the fiscal cliff only to extract more revenue for the Federal Government—by the way, not revenue necessarily used to pay down the debt or to sustain and preserve our programs such as Medicare and Medicaid, but to expand spending even further. I hope cooler heads will prevail.

One final thought. When I talk to people all across the country, who tell me they are watching us here in Washington to see what we are going to do, it is the uncertainty that is freezing them into place and preventing them from starting new businesses, growing existing businesses, or making investments that will help grow the economy.

The saddest part about this is how manufactured this crisis really is. All of these decisions were kicked off until after the election into this so-called lameduck session, and this crisis, this fiscal cliff crisis, was manufactured, as I say. We should have tackled these challenges a long time ago to give American families and American businesses the certainty they need in order to plan for the future. Instead, we have created a highly volatile situation in which everyone is preparing for the worst. It is hurting investment. It is hurting job creation. Above all, it is hurting millions of Americans who are still unemployed or working part time. And it is completely and totally unnecessary.

Whatever the outcome of these negotiations, I hope we will all resolve to never let this happen again.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There are 7 minutes, 20 seconds remaining.

Mr. DURBIN. Mr. President, I would like to respond very briefly to my colleagues from Texas. The fiscal crisis was not manufactured, it was enacted—enacted into law, a law passed with the support of both political parties in the hopes that we would never, ever reach this day. We can still avoid it, and we should. I hope cooler heads will prevail and we will reach some bipartisan agreement because I think all of us agree it would be a negative impact on our economy if we, in fact, go over the cliff. I sincerely hope there will be a good-faith effort on both sides. But this fiscal cliff was created by law passed by Democratic and Republican leaders and sent to the President.

So this is clearly something we envisioned as the last straw. Let's hope it is one that we will avoid.

Mr. CORNYN. I am a little confused. I do not know whether the distinguished majority whip is talking about the expiring tax provisions on December 31 as being manufactured or a bipartisan agreement or—what part of this did we have a chance to vote on and create in a bipartisan fashion?

Mr. DURBIN. It was a bipartisan vote on the Budget Control Act, which spelled out how we would reach this terrible moment if the supercommittee failed. I sincerely hope we never reach this moment, that there is a good-faith effort by both parties to avoid it.

Mr. CORNYN. If the Senator would yield for one last question, my understanding is that the fiscal cliff is going to be caused by the expiring provisions of various tax provisions that have been in place for 12 years, the so-called Bush tax cuts that expired 2 years ago that were extended on a bipartisan basis in a negotiation with our friends across the aisle. That is what I am referring to as the fiscal cliff.

I do understand, and the Senator is correct, we also have the second body blow to the economy that is going to be in combination with these tax increases, $1.2 trillion in cuts that, as I understand it, is the sequester, which is what the Senator is referring to.

Mr. DURBIN. I would call the Senator's attention to our vote on August 2 when he and I both voted for the Budget Control Act. The vote was 74 to 26, with a substantial number of Senators from both sides of the aisle, that brought us to this moment in the negotiations. We all hoped we would never reach this moment. We can still avoid it.

I yield the floor and yield back all remaining time.

Mr. CORNYN. We yield back.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lorna G. Schofield, of New York, to be U.S. District Judge for the Southern District of New York?

Mr. THUNE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from North Dakota (Mr. HOEVEN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORAN), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 228 Ex.]

YEAS—91

Akaka	Feinstein	Murray
Alexander	Franken	Nelson (NE)
Ayotte	Gillibrand	Nelson (FL)
Barrasso	Graham	Paul
Baucus	Grassley	Portman
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Hatch	Reid
Blumenthal	Heller	Risch
Blunt	Hutchison	Roberts
Boozman	Isakson	Rockefeller
Brown (MA)	Johanns	Rubio
Brown (OH)	Johnson (SD)	Sanders
Burr	Johnson (WI)	Schumer
Cantwell	Kerry	Sessions
Cardin	Klobuchar	Shaheen
Carper	Kohl	Shelby
Casey	Kyl	Snowe
Chambliss	Landrieu	Stabenow
Coats	Leahy	Tester
Coburn	Lee	Thune
Cochran	Levin	Toomey
Collins	Lieberman	Udall (CO)
Conrad	Lugar	Udall (NM)
Coons	Manchin	Warner
Corker	McCaskill	Webb
Cornyn	McConnell	Whitehouse
Crapo	Menendez	Wicker
DeMint	Merkley	Wyden
Durbin	Mikulski	
Enzi	Murkowski	

NOT VOTING—9

Boxer	Inouye	McCain
Hoeven	Kirk	Moran
Inhofe	Lautenberg	Vitter

The nomination was confirmed.

VOTE ON NOMINATION OF FRANK PAUL GERACI, JR.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Frank Paul Geraci, Jr., of New York, to be United States District Judge for the Western District of New York?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will

be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The majority leader.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2011—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 14, H.R. 1.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Motion to proceed to H.R. 1, a bill making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 4:30 p.m. today, with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Washington.

WOMEN VETERANS AND OTHER HEALTH CARE IMPROVEMENTS ACT OF 2012

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 564, S. 3313.

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

The bill clerk read as follows:

A bill (S. 3313) to amend title 38, United States Code, to improve the assistance provided by the Department of Veterans Affairs to women veterans, to improve health care furnished by the Department, and for other purposes, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Women Veterans and Other Health Care Improvements Act of 2012''.

SEC. 2. CLARIFICATION THAT FERTILITY COUNSELING AND TREATMENT ARE MEDICAL SERVICES WHICH THE SECRETARY MAY FURNISH TO VETERANS LIKE OTHER MEDICAL SERVICES.

Section 1701(6) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(H) Fertility counseling and treatment, including treatment using assisted reproductive technology.''.

SEC. 3. REPRODUCTIVE TREATMENT AND CARE FOR SPOUSES AND SURROGATES OF VETERANS.

(a) IN GENERAL.—Subchapter VIII of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 1788. Reproductive treatment and care for spouses and surrogates of veterans

''(a) IN GENERAL.—The Secretary shall furnish fertility counseling and treatment, including through the use of assisted reproductive technology, to a spouse or surrogate of a severely wounded, ill, or injured veteran who has an infertility condition incurred or aggravated in line of duty in the active military, naval, or air service and who is enrolled in the system of annual patient enrollment established under section 1705(a) of this title if the spouse or surrogate and the veteran apply jointly for such counseling and treatment through a process prescribed by the Secretary.

''(b) COORDINATION OF CARE FOR OTHER SPOUSES AND SURROGATES.—In the case of a spouse or surrogate of a veteran not described in subsection (a) who is seeking fertility counseling and treatment, the Secretary may coordinate fertility counseling and treatment for such spouse or surrogate.

''(c) CONSTRUCTION.—Nothing in this section shall be construed to require the Secretary to find or certify a surrogate for a veteran or to connect a surrogate with an injured veteran.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1787 the following new item:

''1788. Reproductive treatment and care for spouses and surrogates of veterans.''.

SEC. 4. ADOPTION ASSISTANCE.

(a) IN GENERAL.—Subchapter VIII of chapter 17 of title 38, United States Code, as amended by section 3, is further amended by adding at the end the following new section:

''§ 1789. Adoption assistance

''(a) IN GENERAL.—The Secretary may pay an amount, not to exceed the limitation amount, to assist a covered veteran in the adoption of one or more children.

''(b) COVERED VETERAN.—For purposes of this section, a covered veteran is any severely wounded, ill, or injured veteran who—

''(1) has an infertility condition incurred or aggravated in line of duty in the active military, naval, or air service; and

''(2) is enrolled in the system of annual patient enrollment established under section 1705(a) of this title.

''(c) LIMITATION AMOUNT.—For purposes of this section, the limitation amount is the amount equal to the lesser of—

''(1) the cost the Department would incur if the Secretary were to provide a covered veteran with one cycle of in vitro fertilization, as determined by the Secretary; and

''(2) the cost the Department would incur by paying the expenses of three adoptions by covered veterans, as determined by the Secretary.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title, as amended by section 3, is further amended by inserting after the item relating to section 1788 the following new item:

''1789. Adoption assistance.''.

SEC. 5. REPORT ON PROVISION OF FERTILITY COUNSELING AND TREATMENT.

(a) IN GENERAL.—Each year, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the fertility counseling and treatment furnished by the Department of Veterans Affairs during the year preceding the submittal of the report.

(b) ELEMENTS.—Each report submitted under subsection (a) shall include, for the period covered by the report, the following:

(1) The number of veterans who received fertility counseling or treatment furnished by the Department of Veterans Affairs, disaggregated by era of military service of such veterans.

(2) The number of spouses and surrogates of veterans who received fertility counseling or treatment furnished by the Department.

(3) The cost to the Department of furnishing fertility counseling and treatment, disaggregated by cost of services and administration.

(4) The average cost to the Department per recipient of such counseling and treatment.

(5) In cases in which the Department furnished fertility treatment through the use of assisted reproductive technology, the average number of cycles per person furnished.

(6) A description of how fertility counseling and treatment services of the Department are coordinated with similar services of the Department of Defense.

SEC. 6. REGULATIONS ON FURNISHING OF FERTILITY COUNSELING AND TREATMENT AND ADOPTION ASSISTANCE.

(a) IN GENERAL.—Not later than 540 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations—

(1) on the furnishing of fertility treatment to veterans using assisted reproductive technology;

(2) to carry out section 1788 of title 38, United States Code, as added by section 3; and

(3) to carry out section 1789 of such title, as added by section 4.

(b) LIMITATION.—Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary prescribes regulations under subsection (a), the Secretary may not furnish—

(1) to any veteran, any fertility treatment using assisted reproductive technology;

(2) any fertility counseling or treatment under section 1788 of title 38, United States Code, as added by section 3; or

(3) any assistance under section 1789 of such title, as added by section 4.

SEC. 7. COORDINATION WITH DEPARTMENT OF DEFENSE ON FURNISHING OF FERTILITY COUNSELING AND TREATMENT.

The Secretary of Veterans Affairs shall coordinate the furnishing of fertility counseling and treatment by the Department of Veterans Affairs with the furnishing of fertility counseling and treatment by the Department of Defense.

Mr. COCHRAN. Mr. President, I will not object to the request made by the Senior Senator from Washington, and I do not object to the policy provisions in this bill. However, I must point out that this bill indiscriminately diverts Overseas Contingency Operations funds, which are necessary to ensure resources, equipment, and supplies are available to our servicemembers deployed across the globe. This is not how the provisions of this bill should be paid for. Taking away funds intended for our men and women who are currently serving could, in time, place some of the veterans that this bill intends to help at greater risk. This legislation could also divert funding intended for the security of our Ambassadors, Foreign Service Officers, and other State Department officials, placing them at additional risk.

Quality healthcare for those who have honorably served our country is something that I think all Senators, including me, support. If the provisions of this legislation are a priority for this body, we should be deliberate in determining how we should pay for them. The Senior Senator from Washington has put forward a thoughtful bill that merits consideration, but I think this body would prefer to consider other means to pay for new programs that do not divert funds intended to keep our troops well-equipped and safe.