

The U.S. Helsinki Commission, of which I had the honor to be the Senate chair and Senator WICKER is the lead Republican on the Senate side, has a proud history of putting a spotlight on problems. People do not like name calling, but we have to point out where the violations occur. Unfortunately, if we do not do it, it becomes statistics. But if we do it, we put a face on it—so we realize these are people who have families who have been abused because they are trying to do the right thing—we can get action. That is why I am so proud of the legacy of the U.S. Helsinki Commission and what we have been able to do.

This is another chapter in that proud history of saying we are going to stand for basic human rights, that is a priority for our country, we can do better and we can do justice for Sergei Magnitsky and we can do justice for the people of Russia.

Mrs. SHAHEEN. Will the Senator yield for a question?

Mr. CARDIN. I will be glad to yield.

Mrs. SHAHEEN. One of the things the Senator talked about so eloquently, as we talked about the ability of our financial systems to impact what is happening in Russia—one of the things we heard about at the hearing on the Magnitsky bill was from the head of the American Chamber in Russia who talked about what the impact of this kind of case is on American companies trying to do business and the concern it raises about issues of corruption and the ability to operate freely in Russia. Does my colleague not agree that we can also urge those companies that are operating in Russia to speak out when cases such as this happen and they have concerns about what it does to their business in the country?

The ACTING PRESIDENT pro tempore. The majority's 30 minutes has expired.

Mr. CARDIN. We are going to yield the floor. Let me agree with my colleague, Senator SHAHEEN. She is absolutely right. It is going to be easier for them to speak out if they know we are going to continue raising these issues.

I thank Senators SHAHEEN and WICKER and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

#### THE BUDGET

Mr. BARRASSO. Mr. President, I come to the floor as someone who sat through the President's State of the Union and I have just come from a Senate Energy Committee hearing. I sat through the State of the Union near the Secretary of Energy and was happy when I heard some of the comments of the President when he talked about an "all of the above" strategy, needing all of the sources of energy. But this Monday the President's budget came out which is very different than that. It is a budget I would like to discuss this

morning and talk about because, as I read through it, it looks to me as though the President has abandoned his role as leader of the Nation by not being honest with the American people about the significance of the debt that we as Americans face. To me, this budget ambushes the American people. The President, under the pretense of economizing, promises to cut \$4 trillion of deficit over 10 years, but the budget itself actually piles \$11 trillion of new debt in that same timeframe.

Under the pretense of helping everyone to prosper, to me the President's budget buries every single American under a mountain of debt and that is a debt that is going to rob more and more from their paychecks with each passing year. The savings the President promises are not going to come. The spending he demands is for things we cannot afford. It seems to me this President's budget is another painful step on the road to bankrupting America.

We are in the fourth year of the Presidency, and for each of those 4 years the deficit has exceeded \$1 trillion; \$1 trillion in each of the 4 years of this Presidency.

How does that match with what the President has been saying? In February of 2009, the President had been President about a month, he made a pledge. The pledge was he would cut the deficit in half by the end of his first term in office. Here we are, the final year of the President's first term in office, and this deficit is still above \$1 trillion. Once again, what the President has said to the American people is very different than what he has delivered to the American people. I am still waiting for a chance in this body, in the Senate, to vote on the President's budget. The majority leader, who sits in the front row, has said he doesn't intend to even bring it to the floor of the Senate for a discussion or a debate or a vote. The law is pretty clear: The President has to introduce a budget by a certain date—the President missed that deadline—and the Senate and the House have to go ahead and pass a budget, which this body has not done now for over 1,000 days. Multiple years and no budget has passed this body.

There actually was a vote last year on the President's budget. It was one where the budget itself was called irresponsible, and there were a number of press renderings on it. The majority leader refused to bring it to the Senate floor, so the minority leader brought the President's budget to the Senate floor. Not one Republican voted for it, but not one Democrat voted for the President's budget either. The total count on the President's budget last year in the Senate: 0 votes for the President's budget, 97 votes against the President's budget. Yet the President introduces another budget this year ignoring the two major tidal waves we face, the tidal waves of Social Security and Medicare.

It is interesting. You read in the New York Times:

Obama Faces Task of Selling Dueling Budget Ideas.

President Obama more than ever confronts the challenge of persuading voters that he has a long-term plan to reduce the deficit, even as he highlights stimulus spending.

Challenging to persuade voters that he has a long-term plan to reduce the deficit. What did he promise? What did he deliver? What we see is a health care law where he promised one thing and delivered something very different. We see it now in the budget, and the numbers are so large. The numbers are so astronomically large that it is hard for one to comprehend how much a deficit of \$1 trillion truly is. You can visit with high school students or service clubs or go to townhall meetings or senior centers, the number is so large it is hard to wrap one's mind around it.

The President tries to make people believe that everything would be OK if he could just raise some taxes—just a little bit, he says—on some other people—not you but other people—and everything would be fine. When you actually look through this, to get to \$1.3 trillion, which is what the President has proposed in this year's budget as a deficit, you could take all the millionaires and billionaires—things he likes to rail about—and you could take every penny they earn over that \$1 million, all of them combined, and then on top of that sell off all the gold in Fort Knox, add it all together, and that would not be enough to cover just the deficit, that \$1 trillion the President plans to spend over and above what comes in. It is completely irresponsible, but that is what we have seen from this administration.

So we have a President who makes presentations, gives speeches, and yet what the American people see is something very different. So this morning in the Energy Committee, we had an opportunity to visit with the Secretary of Energy specifically on budgetary issues relating to the budget and the future.

Of course, the President said he supported an all-of-the-above energy plan for the country. Well, I support an all-of-the-above energy plan for the country, but when you go through the details, that is not exactly what the American people see. What the American people see is the cost of gasoline at the pump continuing to go up. They see an administration that is blocking an opportunity to move oil from northern parts of our country, as well as from Canada, to the United States for use here.

Take a look at the front-page headline of USA Today from a couple of days ago:

"Chaotic spring" predicted for gas. Average prices likely to hit \$4.05 a gallon.

People care about that. People all across the country drive around, they see the signs up, they see what the cost of a gallon of gasoline is, and they see it impacting their daily lives.

Today a number of us visited the Energy Committee and talked about today's Wall Street Journal article this

morning. "Oil Rise Imperils Budding Recovery." We want this country to recover. We want people to get back to work. We want to make it easier and cheaper for the private sector to hire people and get America working again. The price of energy goes up, the price of oil goes up—"Oil Rise Imperils Budding Recovery."

What does it say? "The average price of a gallon of regular gasoline has jumped 13.1 cents to \$3.51 cents in the past month." So gasoline at the pump is up 13 cents in the last month. This is according to AAA.

It goes on to say:

Some parts of the country have seen even bigger increases, with prices approaching \$4 a gallon in parts of California.

Higher prices at the pump—and this is where it really hits home. This is what I hear about at home in Wyoming when the price of gasoline goes up. And we drive great distances, Mr. President, in your home State and my home State. People notice it because it impacts on other things for which they can use that same money.

It says here in the Wall Street Journal:

Higher prices at the pump force consumers to cut back spending on discretionary items like restaurant meals, hair cuts and family vacations, hurting those industries.

Isn't that what it is really about as the price of gasoline at the pump goes up? It hurts the ability of families and the quality of life—they could spend that money in other ways.

It says:

A prolonged increase can drive up inflation and drive down hiring.

We are a country that wants people to get back to work. We want to give them those opportunities, and it just seems that the President's budget and the policies of this administration and a rejection of things that would actually help us with American energy are going to make it harder for families. When the price of gasoline goes up, the impact on an average family is over \$1,000 a year in terms of their ability to have disposable income. If it is a family dealing with a mortgage and bills and kids, that is a huge difference in the quality of life for those American families.

States around the country get it. I look at Wyoming. We are in our legislative session there right now. We balance our budget every year. The constitution demands it. If less money comes in, we spend less money. They make the tough decisions.

The President said he is ready to make the tough decisions, but I don't see tough decisions in this budget. What I see is a political document, a campaign document, something that has more stimulus money in it, money so he can promise people things. We all know how that first so-called stimulus program went. To me, it was a failure. We had spending of about \$800 billion. The President promised that if we passed the stimulus program, the unemployment rate would stay less than

8 percent. They put out charts, and by today, from those charts, the unemployment rate should be 6 percent. The unemployment rate is still 8.3 percent. It has been over 8 percent for 36 months now.

When you look at this and look at the President's budget, to me, it is debt on arrival. The budget spends \$47 trillion, it borrows \$11 trillion, and it increases the national debt to \$26 trillion by 2022. It is debt upon debt upon debt. So from where do you borrow the money? A lot of it you borrow from overseas. A lot of it comes from China. So what role is China playing now? Well, they are continuing to lend us money.

By the way, when the President blocked the Keystone XL Pipeline, what did China say to our northern neighbors, our big trading partner, Canada? If the United States doesn't want it, if President Obama isn't interested, we will take the oil in China. The Prime Minister of Canada was in China last week doing exactly that—cutting a deal with the Chinese for energy that will be sold from Canada. I think we should want it. I think if we want to be energy secure and work on energy security, which, to me, is an issue of national security, we should want that energy. Good jobs; the amount of money in terms of jobs that are available—this isn't government money, it is private money to put people back to work. We haven't seen it, and this administration, through its budget and through its policies, continues to oppose those efforts for American jobs.

So what we see is that under the President's 10-year budget proposal, the spending goes up every year without stop. Every year from now to over the next 10 years, spending goes up and we see trillion-dollar deficits year after year after year.

What is most disturbing to some of my colleagues who have accounting degrees—especially the senior Senator from the State of Wyoming, who is an accountant, who has run businesses; he looks at this, and he can easily point out the budgetary gimmicks, the accounting tricks that have been used over and over to make this budget, as irresponsible as it happens to be, look not as bad as it really is.

This budget is bad for America, and it is a continuation of a number of policies that have come out of this administration that have made it harder and more expensive for the private sector to create jobs. What I am trying to do is look for ways to make it easier and cheaper for the private sector to create jobs. We have not seen it in the President's budget, we have not seen it in the policies of this administration, and we have not seen it in this President.

Thank you very much.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

Mr. LEAHY. The Senate was forced to spend the better part of this week ending a filibuster against the nomination of Judge Adalberto Jordan of Florida to fill a judicial emergency vacancy on the Eleventh Circuit. Finally, after a four month Republican filibuster that was broken on Monday by an 89-5 cloture vote, and after Republicans insisted on two additional days of delay, the Senate was allowed to vote on the nomination. We voted 94-5 to confirm Judge Jordan. I suspect the vote would have been the same four months and two days sooner. It was a colossal waste of the Senate's time and another week lost to obstruction and delay.

Now the Senate Majority Leader has been required to file another cloture petition on yet another consensus nominee. This is the ninth time the Majority Leader has had to file a cloture petition to overcome a Republican filibuster of one of President Obama's superbly-qualified judicial nominees. The nomination of Jesse Furman to fill a vacancy on the Southern District of New York has been stalled for more than five months after being reported unanimously from the Senate Judiciary Committee. Consensus nominations like this to Federal district courts have nearly always been taken up and confirmed by the Senate within days or weeks, whether nominated by a Democratic or a Republican President. Certainly that was the approach taken by Senate Democrats when President Bush sent us consensus nominees. That is how we reduced vacancies in the presidential election years of 2004 and 2008 to the lowest levels in decades and how we confirmed 205 of President Bush's judicial nominees in his first term. Yet, in an almost complete reversal of this approach, Mr. Furman's nomination has been blocked by Senate Republicans for over five months, without reason or explanation.

Regrettably, for the second time, we will have to vote to end a Republican filibuster of one of President Obama's district court nominations. I cannot recall a single instance in which a President's judicial nomination to a Federal trial court, a Federal district court, was blocked by a filibuster. Yet, Senate Republicans nearly did so last year when they sought to filibuster Judge Jack McConnell's nomination to the Rhode Island District Court, despite the strong support of both home state Senators who know their state best. At that time I emphasized the danger of rejecting the Senate's traditional deference to home state Senators and beginning to filibuster district court nominations. Fortunately, the Senate rejected that filibuster and that path and Judge McConnell was confirmed. I trust the Senate will do so again, bringing to an end another filibuster, this time for a district court nominee, Mr. Furman, who was reported unanimously by the Judiciary Committee.

Like the needless delay in Judge Jordan's confirmation, the Republican filibuster of Jesse Furman, who by any traditional measure is a consensus nominee, is another example of the tactics that have all but paralyzed the Senate confirmation process and are damaging our Federal courts. It should not take five months and require a cloture motion for the Senate to proceed to vote on this nomination. At a time when nearly one out of every 10 judge-ships is vacant and we have over 20 judicial nominations reported favorably by the Committee, 16 of which have been stalled on the Senate calendar since last year, nearly all of them superbly-qualified consensus nominees, our Federal courts and the American people cannot afford more of these partisan tactics.

I read with interest this morning Gail Collins' column in *The New York Times* on the approval rating of Congress. She notes that Congress is "unpopular like the Ebola virus, or zombies . . . like TV shows about hoarders with dead cats in their kitchens." She goes on to discuss the Republican filibusters of judicial nominees and writes:

This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

I ask consent that a copy of Ms. Collins' column be printed in the *RECORD* at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. This is the kind of obstruction that is hard to explain to the American people. This Republican filibuster, like that of Judge Jordan, is very hard to understand. Jesse Furman is an experienced Federal prosecutor who has prosecuted international narcotics trafficking and terrorism and consulted on some of the Southern District's most complex cases, including the Galleon insider trading case, the prosecution of former Madoff employees, and the Times Square bomber case. A dedicated public servant, Mr. Furman has been a law clerk at all three levels of the Federal judiciary, including as a clerk to Supreme Court Justice David Souter.

I got to know Mr. Furman when he was the counselor to Attorney General Michael Mukasey. That is right: The Senate Republicans are filibustering someone strongly supported by President Bush's Attorney General who was himself a Federal judge. When Mr. Furman's nomination was before the Committee last summer, Attorney General Mukasey wrote to the Committee in strong support:

All I can hope to add is my own belief that he is a person to whom one can entrust decisions that are consequential to the lives of

people and to the general welfare of the populace, with confidence that they will be made wisely and fairly . . . and I urge that he be confirmed.

Former Supreme Court clerks who served at the same time as Mr. Furman, including clerks for conservative Justices such as Chief Justice Rehnquist, Justice Thomas, and Justice Scalia wrote in support of Mr. Furman's nomination, stating that, "Mr. Furman has demonstrated his deep respect for and commitment to the rule of law, over and above politics or ideology."

With this bipartisan support, the strong support of his home state Senators, and his impressive background, Mr. Furman's nomination was reported by the Judiciary Committee on September 15, without opposition from a single member of the Committee. We should have voted on his nomination many months ago, and certainly before the end of the last session. Senate Republicans have blocked this nomination for over five months without any explanation.

Sadly, this is not the first New York judge to be filibustered by Senate Republicans. Just a few years ago, Judge Denny Chin, an outstanding nominee with 16 years of judicial experience, was delayed from being elevated to the Second Circuit for four months until the Majority Leader forced a vote and he was confirmed 98-0.

Last May, the Majority Leader was required to file for cloture to end the filibuster of Judge Jack McConnell of Rhode Island. By rejecting that filibuster, the Senate took a step toward restoring a longstanding tradition of deference to home state Senators with regard to Federal District Court nominations. The Senate turned away from a precipice. It is wrong now for us to approach that precipice again. Filibustering this nomination would set a new standard for obstruction of judicial nominations.

Indeed, I have looked back over the last six decades and found only four district court nominations—four in over 60 years, on which cloture was even filed. For two of those, the cloture petitions were withdrawn after procedural issues were resolved. In connection with the other two, the Senate voted on cloture and it was invoked and the filibuster ended. All of those nominations were confirmed.

From the start of President Obama's term, Republican Senators have applied a heightened and unfair standard to President Obama's district court nominees. Senate Republicans have chosen to depart dramatically from the long tradition of deference on district court nominees to the home state Senators who know the needs of their states best. Instead, an unprecedented number of President Obama's highly-qualified district court nominees have been targeted for opposition and obstruction. That approach is a serious break from the Senate's practice of advice and consent. Since 1945, the Judi-

ciary Committee has reported more than 2,100 district court nominees to the Senate. Out of these 2,100 nominees, only six have been reported by party-line votes. Only six total in the last 65 years. Five of those six party-line votes have been against President Obama's highly-qualified district court nominees. Indeed, only 22 of those 2,100 district court nominees were reported by any kind of split roll call vote at all, and eight of those, more than a third, have been President Obama's nominees.

Democrats never applied this standard to President Bush's district court nominees, whether in the majority or the minority. And certainly, there were nominees to the district court put forth by that administration that were considered ideologues. All told, in eight years, the Judiciary Committee reported only a single Bush district court nomination by a party line vote. President Obama's nominees are being treated differently than those of any President, Democratic or Republican, before him.

When I first became Chairman of the Judiciary Committee in 2001, I followed a time when Senate Republicans, who had been in the majority, had pocket filibustered more than 60 of President Clinton's judicial nominations, blocking them with secret holds in backrooms and cloakrooms, obstructing more with winks and nods, but with little to no public explanation or accountability. I worked hard to change that and to open up the process. I sought to bring daylight to the process by making the consultation with home state Senators public so that the Senate Republicans' abuses during the Clinton years would not be repeated.

When Senate Democrats opposed some of President Bush's most ideological nominees, we did so openly, saying why we opposed them. And when there were consensus nominees—nominees with the support of both Democrats and Republicans—we moved them quickly so they could begin serving the American people. That is how we reduced vacancies in the presidential election years of 2004 and 2008 to the lowest levels in decades. That is how we confirmed 205 of President Bush's circuit and district nominees in his first term.

Now we see the reverse of how we treated President Bush's nominees. Senate Republicans do not move quickly to consider consensus nominees, like the 14 still on the Senate Calendar that were reported unanimously last year and should have had a Senate vote last year. Instead, as we are seeing today and have seen all too often, Senate Republicans obstruct and delay even consensus nominees, leaving us 43 judicial nominees behind the pace we set for confirming President Bush's judicial nominees. That is why vacancies remain so high, at 86, over three years into President Obama's first term. Vacancies are nearly double what they were at this point in President Bush's

third year. That is why 130 million Americans live in circuits or districts with a judicial vacancy that could have a judge if Senate Republicans would only consent to vote on judicial nominees that have been favorably voted on by the Senate Judiciary Committee and have been on the Senate Executive Calendar since last year.

This is an area where we should be working for the American people, and putting their needs first. It is the American people who pay the price for the Senate's unnecessary and harmful delay in confirming judges to our Federal courts. It is unacceptable for hard-working Americans who are seeking their day in court to find seats on one in 10 of those courts vacant. When an injured plaintiff sues to help cover the cost of medical expenses, that plaintiff should not have to wait for years before a judge hears his or her case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute. With over 20 judicial nominees favorably reported by the Committee and cloture motions being required for consensus nominees, the Senate is failing in its responsibility, harming our Federal courts and ultimately hurting the American people. Is it any wonder that barely 10 percent of the American people view Congress favorably?

The slow pace of confirmations of President Obama's judicial nominees is no accident or happenstance. It is the result of deliberate obstruction and delays. For the second year in a row, the Senate Republican leadership ignored long-established precedent and refused to schedule any votes before the December recess on the nearly 20 consensus judicial nominees who had been favorably reported by the Judiciary Committee. Here we are in the middle of February fighting to hold a vote on one of the 18 nominees who should have been confirmed last year. Fourteen of the nominees being blocked by Senate Republicans were reported with the unanimous support of their home state Senators and every Republican and every Democrat on the Senate Judiciary Committee. The result of these Republican delay tactics is clear—we are far behind the pace set by the Senate during President George W. Bush's first term, with a judicial vacancy rate nearly twice what it was at this point in his first term.

During President George W. Bush's administration, Republican Senators insisted that filibusters of judicial nominees were unconstitutional. They threatened the "nuclear option" in 2005 to guarantee up-or-down votes for each of President Bush's judicial nominees. Many Republican Senators declared that they would never support the filibuster of a judicial nomination—never. Yet, only a few years later, Senate Republicans reversed course and filibustered President Obama's very first judicial nomination, that of Judge David Hamilton of Indiana, a widely-re-

spected 15-year veteran of the Federal bench who had the support of the most senior and longest-serving Republican in the Senate, Senator LUGAR. The Senate rejected that filibuster and Judge Hamilton was confirmed.

But the partisan delays and opposition have continued. Senate Republicans have required cloture votes even for nominees who ended up being confirmed unanimously when the Senate finally overcame those filibusters and voted on their nomination. So it was with Judge Barbara Keenan of the Fourth Circuit, who was confirmed 99-0 when the filibuster of her nomination finally ended in 2010, and Judge Denny Chin of the Second Circuit, an outstanding nominee with 16 years judicial experience, who was ultimately confirmed 98-0 when the Republican filibuster was overcome after four months of needless delays. Just this week the long-delayed nomination of Judge Adalberto Jordan to the Eleventh Circuit was confirmed 94-5.

This obstruction is particularly damaging at a time when judicial vacancies remain at record highs. There are currently 86 judicial vacancies across the country, meaning that nearly one out of every 10 Federal judgeships remains vacant. The vacancy rate is nearly double what it had been reduced to by this point in the Bush administration, when we worked together to reduce judicial vacancies to 46.

Some Senate Republicans are now seeking to excuse these months of delay by blaming President Obama for forcing them to do it. They point to President Obama's recent recess appointments of a Director for the Consumer Financial Protection Bureau and members of the National Labor Relations Board. Of course, those appointments were made a few weeks ago, long after Judge Jordan's nomination was already being delayed. Moreover, the President took his action because Senate Republicans had refused to vote on those executive nominations and were intent on rendering the Government agencies unable to enforce the law and carry out their critical work on behalf of the American people. Some Senate Republicans are doubling down on their obstruction in response. They are apparently extending their blockage against nominees beyond executive branch nominees to these much-needed judicial nominees. This needless obstruction accentuates the burdens on our Federal courts and delays in justice to the American people. We can ill afford these additional delays and protest votes. The Senate needs, instead, to come together to address the needs of hardworking Americans around the country.

I, again, urge Senate Republicans to stop the destructive delays that have plagued our nominations process. I urge them to join us not only in rejecting the five-month filibuster of Mr. Furman's nomination, but also in restoring the Senate's longstanding practice of considering and confining con-

sensus nominees without extended and damaging delays. The American people deserve no less.

#### EXHIBIT 1

#### CONGRESS HAS NO DATE FOR THE PROM

(By Gail Collins)

I am shocked to report that Congress, the beating heart of American democracy, is unpopular.

Not unpopular like a shy kid in junior high. Unpopular like the Ebola virus, or zombies. Held in near-universal contempt, like TV shows about hoarders with dead cats in their kitchens. Or people who get students to call you up during dinner and ask you to give money to your old university.

The latest Gallup poll gave Congress a 10 percent approval rating. As Senator Michael Bennet of Colorado keeps pointing out, that's lower than BP during the oil spill, Nixon during Watergate or banks during the banking crisis.

On the plus side, while 86 percent of respondents told Gallup that they disapproved of the job Congress was doing, only 4 percent said they had no opinion. That's really a great sense of public awareness, given the fact that other surveys show less than half of all Americans know who their member of Congress is.

So little attention, yet so much rancor. We're presuming that this is because of the dreaded partisan gridlock, which has made Congress increasingly unproductive in matters that do not involve the naming of post offices.

And Congress is listening! Lately, we have been seeing heartening new signs of bipartisan cooperation. For instance, the House and Senate are near an agreement on the payroll tax cut, namely that it will continue and not be paid for.

This is actually sort of a tradition. No matter who is in power in Washington, Congress has always shown a remarkable ability to band together and pass tax cuts that are not paid for. It's like naming post offices, only somewhat more expensive.

But there's much, much more. For instance, both chambers recently approved a big new ethics reform bill that would ban members of Congress from engaging in insider trading.

Perhaps you imagined that this was already against the law.

This piece of legislation had been lying around gathering dust since 2006. But, this year, the House and Senate decided to stand tall and pass it as a matter of principle. It had nothing to do with a "60 Minutes" report that made the whole place look like a convention of grifters. Totally unrelated. This was simply a bill whose time had come.

And that bill would probably already be signed into law were it not for a disagreement over whether to require the high-paid professionals who poke around Congress collecting information that might be of use to their Wall Street clients to register the same way lobbyists do.

You'd think this would be easy to sort out since most members of the House and the Senate have gone on the record in favor of registering these guys.

But, no, the idea ran afoul of the House majority leader, Eric Cantor, the Darth Vader of Capitol Hill. Cantor says the idea should be studied, which is, of course, legislatese for "trampled to death by a thousand boots."

Still, the good news is that the basic idea of prohibiting members of Congress from using the information they acquire in the course of their public duties to engage in insider trading did pass both chambers by enormous majorities.

Yippee.

And the bipartisan cooperation keeps rolling on. This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given the fact that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

But Americans ought to have a better grasp of how the Senate works. The nomination's progress had long been thwarted by Mike Lee, a freshman Republican from Utah, who has decided to hold up every single White House appointment to anything out of pique over . . . well, it doesn't really matter. When you're a senator, you get to do that kind of thing.

This forced the majority leader, Harry Reid, to get 60 votes to move Judge Jordan forward, which is never all that easy. Then there was further delay thanks to Rand Paul, a freshman from Kentucky, who stopped action for as long as possible because he was disturbed about foreign aid to Egypt.

All that is forgotten now. The nomination was approved, 94 to 5, only 125 days after it was unanimously O.K.'d by the Judiciary Committee. Whiners in the White House pointed out that when George W. Bush was president, circuit court nominations got to a floor vote in an average of 28 days.

No matter. Good work, Senate! Only 17 more long-pending judicial nominations to go!

Meanwhile, the House named a post office in Missouri for a fallen Marine.

Mr. LEAHY. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1633, of a perfecting nature.

Reid amendment No. 1634 (to amendment No. 1633), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1635, to change the enactment date.

Reid amendment No. 1636 (to (the instructions) amendment No. 1635), of a perfecting nature.

Reid amendment No. 1637 (to amendment No. 1636), of a perfecting nature.

The PRESIDING OFFICER. The assistant Republican leader is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that I be followed by the Senator from Texas, Mr. ALEXANDER.

The PRESIDING OFFICER. From Tennessee.

Mr. KYL. What did I say? From Tennessee. Whatever I said, I apologize. I said Texas. I apologize.

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

#### THE BUDGET AND OUR NUCLEAR ARSENAL

Mr. KYL. Mr. President, I need to speak for a few minutes this morning about two important news events of this week: the budget that was submitted by the President and the news reports that the President is considering reducing our nuclear arsenal to dramatically lower levels than they are today. Let me speak to both those subjects briefly this morning, and then I will have more to say about them as time goes on.

In the President's budget, there is a specific part for the Department of Energy that funds the nuclear weapons program. Despite promises of the President that he would follow what is called the 1251 study over the course of his Presidency and request in the budget the sums of money for the Department that is called the NNSA—part of the Department of Energy—he reduced that this year by \$372 million less than the target. The net result of that over 5 years is going to be \$4.3 billion.

I know my colleague from Tennessee is very interested in this. Before the START treaty was debated, there was a big debate about whether the funding for the NNSA in the nuclear modernization program was adequate.

On the Veterans Day recess, before we began the debate on START, General Chilton, former head of STRATCOM, and Dr. Miller, the Assistant Secretary of Defense, flew to Phoenix and said to me: You were right. We were wrong. We have underfunded this by over \$4 billion. We are going to add that to our 5-year budget profile.

This was the argument we had been making all along: You have underfunded the nuclear modernization program. You need to add between \$4 billion and \$5 billion to it. They agreed and that is what went into the revised 1251 report.

As a result of the budget request this year, we are right back where we started from before the revision—\$4.3 billion below—and that is where we were when the administration came forward and said: You were right. We were wrong. Our previous figure was not enough.

So we have a problem, and it is going to cause some real disruptions.

One of the things we have to do is extend the life of one of our old weapons called the B-61. This is a 2-year delay now on that, a 2-year delay on another warhead called the W-76, at least a 5-year delay in the construction of the plutonium processing facility at Los Alamos Laboratory called the CMRR facility.

Why is that important? We knew prior to commitments the President made before the START treaty was debated that the CMRR was critical. We do not have a production capacity. Unlike Russia and China, for example, we cannot produce new nuclear weapons. We have to go back and revise the ones we have. One of the facilities that would enable us to do that is this

CMRR facility. In fact, that is where a great deal of the work would be done.

What we were told was that the President was fully committed to constructing this facility on a timetable set out in the 1251 report. Some of us were a little dubious. The President's representative said: We will put it to you in writing. So he did. What he said in his message on the New START treaty to the Senate with regard to this facility—I will quote it; the letter related to his intent to modernize and replace the triad:

[To] accelerate to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF)—

That is the facility for uranium processing at Oak Ridge, TN—

[and to] request full funding, including on a multiyear basis as appropriate, for the CMRR building and the UPF upon completion of the design and engineering phase for such facilities.

We were concerned he would not request the funding in the outyears and that they would not accelerate the construction of these facilities. So he said he would. He would accelerate it to the extent possible and request full funding, including on a multiyear basis.

The budget he submitted this year breaks that commitment to the Senate, and those Senators who voted for the treaty based upon these commitments are obviously going to be reevaluating their support for the treaty. There are things that can be done by the Congress, including our power of the purse, to deal with the issue, which I will hope to have time to speak to in a moment.

Former Secretary Gates reflected on the Senate's reliance on these commitments when he said:

This modernization program was very carefully worked out between ourselves and the Department of Energy; and, frankly, where we came out on that played a fairly significant role in the willingness of the Senate to ratify the New START agreement.

For those who relied on the administration's commitment, they have been broken. We are right back to where we started from before the treaty was taken up.

If you want to know specifically what the problems are, Dr. Charles McMillan, the Los Alamos Director said:

Without CMRR, there is an identified path to meet the Nation's requirement of 50 to 80 pits per year . . . the budget reduction in FY13 compounds an already difficult set of FY12 budget challenges and raises questions about whether we can meet the pace of the modernization path outlined in the 2010 Nuclear Posture Review.

So we have a problem. Unless the President is willing to work with Members of Congress, and unless Members of Congress are willing to recognize that the Senate acted based upon some commitments the administration made and we have to keep our end of the bargain as well, we are going to find a huge problem with our modernization program, with our nuclear weapons