welder, and later as a noncommissioned officer.

In 1952, Senator AKAKA used the GI bill to earn his degree in education from the University of Hawaii and began his lifelong dedication to our Nation's students, first as a teacher, then as a principal at a high school in Honolulu, and later with the Department of Health, Education and Welfare.

Senator AKAKA was first elected to the U.S. House of Representatives in 1976 and then went on to win six more elections. It was clearly evident to the people of Hawaii within that second congressional district they valued his passion and his dedication for the office. In 1990, after the death of Senator Spark Matsunaga, Senator AKAKA was appointed and then subsequently elected to the seat in the Senate that he has held for 22 years now.

Senator AKAKA's fortitude and his determination have not waned in these 70 years. As the first Native Hawaiian ever to serve in the Senate, and the only indigenous person currently serving in the Senate, he is a proven champion for American Indians, Alaska Natives, and Native Hawaiians. It was just in October of this year that Senator AKAKA came to Alaska and was honored by the Alaska Federation of Natives with the Denali Award. This award is presented to an individual who is not an Alaska Native for their contributions to the growth and development of the Alaska Native community's culture, economy, and health. Senator AKAKA has done that repeatedly over the years.

The efforts he has worked on, whether it was bigger initiatives or whether to ensure the people in King Cove had access to an airport so their lives weren't threatened in a medical emergency and they could get out, Senator AKAKA has stepped up to ensure the people of Alaska are cared for.

It has truly been a pleasure to work with Senator AKAKA over these past 10 years on the Senate Indian Affairs Committee. The chairmanship he has administered has been admired and appreciated by all of us who are on that committee.

Senator AKAKA's leadership, wisdom, and grasp of issues has helped us work together toward many visions and goals that we shared. The Save Native Women Act—a bill to help protect native women and children across our 565 federally recognized tribes—was largely incorporated into the Senate version of the 2012 Violence Against Women Act. We need to make sure that legislation passes. And again, as we think about the statistics that so many of our native peoples face, we need to make certain we are making appropriate gains and strides to help address them, and Chairman AKAKA has worked with us on that. We fought to ensure the preservation of native languages not only in our communities but within our classrooms.

As I mentioned, I have long supported the concept that Senator Inouye and Senator AKAKA have championed with regard to Federal recognition of Native Hawaiians.

But Senator AKAKA is also special to two other constituencies—our Federal employees and our veterans. He is one of this body's leading experts on some of the more arcane laws that apply to Federal civil service. Alaska's Federal employees clearly appreciate his leadership on the Non-Foreign AREA Act, which made them eligible for locality pay that counts toward retirement. This is an issue in my State that took some time to negotiate and to move through, but the Federal employees in Alaska—as they are seeing the benefits of that locality pay—owe thanks and gratitude to the work of Senator AKAKA. And of course he knows well the laws that govern the U.S. Postal Service probably as well as anyone in this body.

During Senator AKAKA's tenure as chairman of the Senate Veterans' Affairs Committee, this body has made great progress in ensuring that the VA had a budget commensurate with its needs. His contributions to ensuring that post-9/11 veterans had access to critically needed health and education resources will endure.

As neighbors in the Pacific, Alaska and Hawaii have always shared a very special bond, not only because of our geography and our time differences. Every time I endure a 12-hour flight across the country to go home—and home is four time zones away—I am reminded that it takes Senator AKAKA a couple hours more and one time zone more to get home. But it is not only our geography that binds us; we have many other similarities: our indigenous peoples, the relative youth of our States, our unique landscapes, and for years our delegations have worked together across the aisle for the good of our people.

Senator AKAKA's bipartisan approach, his willingness to work toward success, will be missed by myself and so many of our colleagues. And, of course, I don't think Senator AKAKA would call it bipartisanship. He would call it aloha. We work in the aloha spirit.

With that, I wish to tell my friend and my colleague, mahalo. From the bottom of my heart, mahalo. I am going to miss you, Senator AKAKA. I am going to miss your wife Millie and your entire extended family. But as you return home to your beloved Hawaii, know that you have left an impression on so many.

With that, Mr. Chairman, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RULES CHANGES

Mr. MERKLEY. Mr. President, I rise to talk about the challenge of this Chamber being a Chamber that can deliberate and decide issues, the big issues facing America.

I don't think it will come as a surprise to anyone that the Senate, once famed as the world's greatest deliberative body, has become paralyzed. At the heart of that paralysis is a change in the use of the filibuster. ''Filibuster'' is a term I believe comes from the Dutch, and it refers to piracy. In this context, it is about someone taking over this Chamber—taking over the normal process by which we debate issues and decide issues by majority vote.

In the past, when everyone understood the very heart of what we do is to make decisions by majority vote, the filibuster—the takeover of this Chamber, the objection to a simple majority vote—was very rare. People did this only once or twice in a career for some issue of profound personal values or of extreme concern to an issue in their State, and it was most often small factions who would do this.

In 1916, there was a debate—a debate that went on about whether to put weaponry on our commercial shipping. This was pre-World War I. In the course of that debate, there was a small faction who said: We are going to interrupt and we are going to object to the simple majority because we strongly oppose the United States putting any defenses on its merchant vessels, even though those vessels were being sunk by the Germans as they went over to Europe.

This was enormously frustrating to President Woodrow Wilson, and it was enormously frustrating to the Members of this Chamber who said: We must complete debate and make a decision and only a small number want to block us from making that decision.

The following year, in 1917, they adopted a rule that we could close debate if we had two-thirds of this Chamber voting to close debate. That is called cloture. Cloture continued to be an instrument that in situations where there was an individual or a small group who stretched the limits of the courtesy of full debate, then the Chamber as a whole could say: Enough is enough. We need to bring this debate to an end and make a decision.

Over time, things have changed. This objection to a simple majority—which makes it impossible for the Chamber to end debate—has grown from its occasional use to a routine instrument of legislative destruction. It is used on virtually every debatable motion.

A single bill can have as many as seven or so steps where you have a debatable motion. In that situation, then an objection to a simple majority can be done multiple times. Each one of those objections wastes a week of the Senate's time on this floor, which means the Senate not only cannot decide the issue at hand, it runs out of

the time to debate and deliberate on the other issues that we should be doing on the floor.

As I will show in a chart later, we can measure this in part by the action on appropriations bills. We have an expectation of—it used to be 13 appropriations bills; now it is 12. In the last 2 years we have done exactly 1, 1 out of 24—totally unacceptable in terms of this Chamber fulfilling its responsibility just in that one area of appropriations, decisions about how to spend moneys in different parts of the government.

I know when people hear the word ''filibuster'' they do not think of simply a silent objection. Yet that is what is in the rules, a silent objection to a simple majority. They think of someone taking the floor and making their case on an issue of deep principle or deep concern to their State. They might be thinking a little bit about a picture that looks a little like this.

This is that famous scene from ''Mr. Smith Goes to Washington.'' Jimmy Stewart is on the floor. He talks through the night, making his case. He is fighting for fairness and justice in the face of corruption. That is what people think of when they think of a filibuster.

But the way it works today, it is a simple objection. We ask for a unanimous consent request, meaning do all 100 Senators agree to go to final vote, and someone says: I object. That is all that is required. That is all it ever meant. But in the past, that objection to the heart of democracy, to the simple majority, meant you felt honor bound to come to the floor of the Senate and make your case while you stood in the way of the decisionmaking of this august Chamber. But that sense of honor-bound responsibility to make your case before your colleagues, make your case before the American people, has disappeared. Indeed, instead of the filibuster being something done by an individual or a small group, it is now used as an instrument of party warfare.

The minority party, be it the Democrats or be it the Republicans, say: You know, we can slow down the majority by eating up their time. We can do it by filing an objection on every debatable motion, and we will simply eat up the calendar and prevent them from getting their work done. Then we will say how incompetent they are, that they can't get their work done—after we have caused them to be unable to do it.

I thought I would go through the enormous expansion of this tool of legislative destruction in many different categories in the years since 1970. Before we do that, by the way, every now and then someone says: You know, the Senate was designed as a supermajority body. Indeed, that could not be further from the truth. There are specific cases where our forefathers said a supermajority makes sense; for example, in the case of overriding a Presidential veto, in the case of approving a treaty, in the case of having a constitutional amendment. But they viewed that these legislative Chambers, like every legislative chamber in the world, would make decisions by simple majority.

In fact, they addressed this in the Federalist Papers. Here we have Alexander Hamilton and his commentary on supermajority decisionmaking that was fierce. He said—and this is just a small part of his diatribe about how destructive it would be to have this Chamber tied up in a supermajority. He referred to it as driving ''tedious delays; continual negotiation and intrigue; contemptible compromises of the public good.''

We have seen some of those tedious delays, we have seen some of those contemptible compromises, and certainly he was looking into a crystal ball and accurately summarizing the situation.

He was not alone. Here we have compatriot James Madison, also in the Federalist Papers. He noted ''the fundamental principle of free government would be reversed.''

By ''fundamental principle,'' he is talking about the fact that when you make a decision by simple majority, you make the decision that most people think is the right direction in which to go. But when you make a decision by supermajority, and a minority can block it, you are making the decision the smaller number thinks is the right decision. In that sense, you have a series of worst decisions rather than a series of best decisions. So the wisdom of the group tapping into the expertise of colleagues who came from many directions, many walks of life, is not realized.

Let's take a look at what has happened in this use of the objection to a simple majority, otherwise known as a filibuster. Here we are evaluating it in terms of the cloture motions that are filed. These are motions that are designed to drive a vote on whether to close debate. It is one way of measuring the number of filibusters. How about nominations? We can see that basically the first filibusters on nominations were in about 1970. I was about 14 years old. I was starting high school. That is when this started to be done. We can see that as time passed, we have an enormous increase in the number of filibusters on nominations. Over here, in 2012–24. It is a situation where these are only cloture motions. So many other nominations were blocked because of threatened filibusters.

We have this vast number of positions in the executive branch, this vast number of judge positions that are unfilled. The advice and consent clause in the Constitution that gives this Chamber, the Senate, the chance to weigh in has been turned, through the expanded use of the filibuster, into a tool that damages the other branches of government. It prevents the President from having his team that he would like to have, and that blocks us from getting the judges onto the courts so we can have the sort of speedy criminal justice system we envision and promise.

That was just nominations. Let's take a look at some other areas. The motion to proceed is the very first step for a bill. It is just a motion to get the bill on the floor to debate. That was virtually never filibustered. We have one time down here in 1932, until we are in the 1960s, and then early 1970s. It takes off. We see this massive expansion that makes no sense unless you are just trying to paralyze the system because these filibusters are not in any way construed to enhance debate.

These are to prevent debate, prevent us from getting to a bill to debate it, prevent an agenda from ever being considered by this body. Here we have over 30, and over 20—in recent years just a huge number of efforts to prevent these bills from ever coming to the floor to be debated. How can we weigh in and address the big issues facing our Nation if we cannot get the bill on the floor to begin with? Again, in recent times, and enormous change in strategy used by the minority to prevent debate.

Here we have amendments. The first time, about 1962, the filibuster was used on an amendment because people envisioned the filibuster as something to be used at the end of the process on a bill when all the different pieces have been put in place, and you say: Is their a core principle compromise after I have fought and won or fought and lost? But then folks got the clever idea: We can do this on any debatable motion, including an amendment. So the number of filibusters on amendments also grew enormously from the early 1970s forward.

Final passage? This is where we see the traditional role of the filibuster, one or two or three a year over these many years from the 1920s on through the 1960s. Stop the chart right here in the middle. That is what the filibuster was, very occasional battles over core principles. Then we have 1970 and look what happened. We had this explosion of 25—that was 1974. What happened as a result?

In 1975 there was a big battle on this floor about changing the rules because this abuse was preventing the Senate from doing its business. So in 1975 we have this enormous battle. There are three votes in which a simple majority says, yes; we can change the rules by simple majority, and we intend to do so. The majority leader who opposed this finally said: OK, I get the message. A simple majority is prepared to change the rules if we do not address the paralysis of the Senate, and they changed the rules.

The compromise was to change it from 67 required to close debate down to 60, from two-thirds down to three-fifths. You can see the number of filibusters then dropped off, and they were resolved more easily.

But what do we have? Again, this enormous explosion until 2012, 35 filibusters. We are deeply afflicted. This is

why we are having this conversation over how to save the Senate from itself, from this instrument of the objection to a simple majority that is being used to thwart the ability of the people's elected leaders from addressing the issues our Nation faces.

After a bill has gone through passage, it goes over to the House or the House bill comes to the Senate. When both Chambers have passed the same bill in different forms, then you need to get it to negotiation. That is done through a conference committee. It used to be nobody filibustered a conference committee. Here we have in 1972 the first filibuster on a conference committee.

Why would you object to getting the three motions done that are required to get a bill into negotiation with the House? That doesn't facilitate debate in any conceivable way. But it was an instrument to eat up the time of this Chamber so they could not address other issues. It is like walking knee deep in molasses. You just cannot get very far very quickly.

Then we see this huge explosion in using this filibuster, the objection to a simple majority, in the latter part of this last decade. The result has been this: We have basically given up on conference committees. It is too hard to get to conference. So we have informal negotiation, or we have kind of a process called ''pinging,'' where we change the House bill after we pass our own version, we change it, send it back over, they change it, send it back over to us—not a very effective way to negotiate a compromise that can pass in the same form. And until and unless it passes both Chambers in the same form, it cannot get to the President. So this was a huge change as well.

Then we have, after conference committee, reports coming back from conference. Now you have the same version; it normally has not changed very much. Again, we see this explosion—once, basically, in about 1945, and then about 1970 an explosion, and then we see the dropoff in part because we just started giving up on conference committees.

In each one of these debatable motions we have a problem, a problem that has grown enormously from 1970 forward, the last 40 years. This is something I have witnessed within my own lifetime. I came here in 1976 as an intern for Senator Hatfield. I was assigned to the Tax Reform Act of 1976. In those days there was no camera on this floor and there was no e-mail, so essentially the only way the Senator had to monitor a bill was that he or she would meet with a staff member outside these doors where the elevators are.

I would sit up in the staff gallery and monitor the debate on the Tax Reform Act, and I would rush down with each vote, meet Senator Hatfield coming out of the elevators, and brief him on the details of the amendment. There were sometimes a couple of layers of motions, and I would proceed to say: Here is what the folks are thinking about back home; here is what folks back home are thinking about this issue.

He would come back to vote, and I would rush back upstairs and see how he voted, how everyone else voted, how it came out.

I would rush back and start making notes on the next debate. Well, this Chamber deliberated on amendment after amendment. When one amendment was done, then a series of folks near the Chamber would raise their hand and call on the Presiding Officer. Whoever the Presiding Officer called on—and according to the rules, the Presiding Officer is supposed to call on the first person he or she hears—and that person would present the next amendment and then the debate would begin. They would debate for an hour, hour and a half, and then they would vote.

These amendments were germane and relevant to the issue. They had to do with different aspects of the Tax Code: Was it Employee Stock Ownership Plan, ESOPs. That was something Senator Hatfield cared a great deal about. Was it the change in a provision regarding teachers' home offices? It seemed that was something every teacher in Oregon was writing us about. We debated these issues, we decided these issues, and it was a simple majority. That is the way the Senate deliberated and decided on issues over our history until the last 40 years when this massive expansion of the use of the objection to the simple majority has paralyzed this body.

I thought it was interesting to see this cartoon. It says: I will tell you all the reasons we shouldn't reform the filibuster. I assume it is depicting a Senator on the floor of the Senate. And it says, No. 1, it will restrict my ability to frivolously stymie everything. And then the Senator says, No. 2—well, the Senator thinks about it, grimaces, frowns, and cannot think of any other reason that we should not reform the filibuster other than the ability to frivolously stymie everything. Finally the Senator says: How long do I have to keep talking? A little farther down here it says: You can read recipes for paralysis.

Well, that is what we have in the Senate right now. Due to the extraordinary abuse of the filibuster, we have a recipe for paralysis.

It is time to do something about that. The first thing we should do is eliminate the filibuster on the motion to proceed. That was the first step in the process I showed in the earlier chart. It doesn't make sense to debate whether to debate. We should be able to vote on whether the bill comes to the floor. Let's have a couple of hours to debate that. Then we have a simple majority vote. Either we decide we are taking up that bill or nomination or we are not taking up that bill or nomination, and we go on to the next order of business. We should not waste a week of Senate time trying to decide whether we are going to have a debate on a bill or nomination.

Those listening may wonder why there is a week of wasted time. Well, it works like this: First of all, we have the motion and then we have debate that takes place and we think we will wrap it up, but we don't. Then we think we have a motion to close debate, but to do that there has to be a petition signed by 16 Senators. So on day three we get the petition. Then the petition has to ripen, which means it has to sit over on intervening days. So we start the debate on Monday, sign the petition on Tuesday, and now we cannot vote on whether to close debate until Thursday. Then if we are able to vote and get 60 votes, we have to have 30 hours of postcloture debate. Now the week is gone. The 30 hours wipes out Friday.

If that is done multiple times on a bill, it means multiple weeks are wiped out with nothing productive. There is no productive conversation on this floor, no point and counterpoint, no insights with people's life experience, no questions asked or questions answered. Nothing productive gets accomplished.

If we want to sum up all of the filibusters on all of these different motions, here is one way to compare it. Lyndon Johnson was the majority leader for 6 years. During those 6 years, he had to file one petition. Technically it is called a motion, but actually 16 people have to sign a petition. He had one motion to end debate in 6 years.

Now we have HARRY REID who has been the majority leader for 6 years. As this poster says, ''387 and counting.'' I think the number today is 391. There have been 391 1-week delays in 6 years. How many weeks are there in 6 years? Well, that would be about 312 weeks. Is that right? Yes, 312. So that is 312 weeks, and as it says here, ''387 and counting''—390 weeks wasted.

No wonder we don't get things done, such as our nominations for the executive branch or the judiciary, our appropriations bills, our authorizing bills, or the policy changes that are going to make a big impact on the challenges we face in America. As we can see here it is 1 versus 387. This is now a couple of days old, so it is 391 and counting. We cannot allow this to continue. We have a responsibility to the people who elected us to be a seasoned, deliberative body.

Some say: Well, this is what the Senate is all about. There is a story recited by historians that says that is apocryphal. It is a story about President Washington and Thomas Jefferson. They are having a discussion. Washington says the Senate is meant to be the cooling saucer. Just as we poured our hot tea out of our cup and into our saucer to let it cool so we can drink it, the Senate is meant to be a cooling saucer. Well, perhaps the Senate was meant to be a cooling saucer, but it was not meant to be a deep

freeze. The cooling saucer concept is that the Senate is a little more detached from the immediate fashion of the moment. It is a little more detached because we are elected for 6-year terms, not 2-year terms. It is a little more detached because we are staggered so some have been here 2 years, some 4 years, and some 6 years. After their first term, then they will be here many years thereafter. It is supposed to have a little more distance on the immediate trends because in the beginning we were indirectly elected by State legislators. Of course, we changed that. We changed that in the early 1900s because of the abuses that occurred and went to directly electing Senators.

The idea was longer terms, a little bit more deliberation, a smaller body of folks in the Senate, two per State. That was so we could deliberate thoughtfully, not so we could not deliberate. There is a big difference. This is unacceptable. If this majority leader were a Republican and the Democrats were doing this, it would be unacceptable. It is unacceptable for either minority party to devise and execute a strategy that prevents this body from doing its work.

The thing that is diabolical about the filibuster is that in the procedural sense it is invisible. So we have this unanimous consent request—this courtesy—is everyone ready? Should we vote? When the Senate was a small Senate, and prior to 1970, virtually the answer was always yes, except for those rare moments on issues of deep values. But now it is done as a minority party strategy to obstruct, and it is done on virtually every motion. And because it is an objection to a vote, it has never required people to talk on the floor. Of course, we all believed someone would talk on the floor because that is the way it was done. If someone violated the majority principle, that person had the courage and principle to come to this floor and explain that to colleagues and the American people. That is no longer true. Now there is no courage. It is in hiding.

I will give an example. We had a bill on the floor in 2010. It was called the DISCLOSE Act. The DISCLOSE Act said that for every donation, the public should know where it comes from. If it comes from ranchers, people should know about it; if it comes from Oklahoma, people should know about it; if it comes from the tobacco industry, people should know it. The people have a right to understand who is financing the ads they are seeing or who is financing the literature they are seeing. That is part of a transparent and accountable democracy.

We had 59 folks on the floor of the Senate say: Yes, we have debated enough, let's close debate, and we could not get the 60th vote. Not because there was more to be said, but no one among those who were voting for additional debate would want to be seen debating. They didn't want to be seen defending secrecy. They didn't want to be seen defending the creation of vast pools of cash that flowed freely between super PACs and dumped into campaigns at the last second with nobody knowing where it came from. They didn't want anyone to know where vast pools of money were going under deliberately misleading names. Maybe it was a group that wanted to keep some polluting factory open, but they called themselves the Blue River Coalition or the Blue Skies Coalition because the money could not be traced. No one wanted to come here and debate that, but they voted for a debate. That is the silent secret filibuster that has wiped out accountability to colleagues and accountability to the American public. We need to end that.

Right now the minority leader has come down and said several times he doesn't like this idea. He doesn't like it at all. He has called those of us who promoted transparency and accountability sophomoric. Well, I didn't think that was particularly a polite thing to say, but let's say we have a difference of opinion. I am out here advocating for this Chamber to be able to do its responsibility before the American public. I am out here advocating that if someone votes for more debate, they have to have the courage of their convictions to make their case before their colleagues and come to the floor. If they don't have the courage, then we go ahead with the simple majority vote. It is that straightforward.

There are some folks who say: We can already have a talking filibuster under current rules. We don't need to change the rules. I found this interesting because the fact is that all of the writing about the theory and historical efforts—I will say one thing, and that is that over any length of time it is impossible for the majority to keep a filibustering minority talking. Why is that? It is because it takes the majority of 51 Senators to create a quorum and force 1 filibustering Senator on the floor. That has been a myth that some of my colleagues have been perpetrating. I thought I would go over it a little bit more. There was a recent book by two very well-steeped scholars. Richard Arenberg was one of those scholars. Richard Arenberg was an aide to Senator CARL LEVIN as well as to Senator Tsongas and majority leader George Mitchell, so he has had a long career of experience here on the floor of the Senate. The other scholar is Robert Dove. Who is Robert Dove? He was a Parliamentarian in this Chamber. He spent his time working here from 1966 until 2001. In the chapter of their book entitled ''Bring in the Cots,'' they explained how this works. Here are a couple of passages between pages 146 and 152 that I thought summed it up:

Those who call for forcing the filibusterers to talk either ignore or are unaware of the fact that for a sizable organized minority, and certainly for a minority of forty-one senators or more, lengthy sessions are a little more than exercises in scheduling.

The filibusterers are able to take turns holding the floor, and since they can demand the presence of a quorum at virtually any moment, it is the majority that carries the heavier burden because they need to keep fifty-one senators nearby. If the filibusterers call for a quorum and it is not produced, under the rules the Senate must adjourn.

So they lay out the theory, and they go on for several pages doing this. They also quote some other experts. One of those they quote is Franklin Burdette. He was a scholar who wrote ''Filibustering in the Senate.'' It is referred to as the classic text on the filibuster. Franklin Burdette said this:

> Any experienced maneuverer in the Senate knows that a determined group of filibusterers, before they are themselves exhausted, can usually manage to wear out the patience and endurance of the majority.

Dove and Arenberg go on to quote commentator Elizabeth Drew and she says this:

> Many people now insist that those who use filibusters should actually be made to stand up and talk through the night, but there's a reason that doesn't happen anymore. In the 1970s, Majority Leader Mike Mansfield realized that the real punishment was not to the small band of all-night speakers, but to the majority party, which had to keep a quorum on hand, sleeping on the famous cots near the Senate floor, lest the person conducting the filibuster suddenly make a motion to adjourn the Senate, thus defeating the purpose of keeping them talking.

Then Elizabeth Drew quotes Historian Ritchie who says:

> The all night filibuster wore down the majority much faster than it did the minority, and majority leaders haven't used the tactic since.

But then Dove and Arenberg go on to cite the historical record, go through the different filibusters that have been on this floor, and one of the examples they cite is majority leader Lyndon Johnson's 1960 effort to defeat a civil rights filibuster:

> Senator Johnson's effort did not work. . . . Civil rights supporter Senator William Proxmire, Democrat from Wisconsin, described the scene.

Now we are quoting Proxmire. He said:

> We slept on cots in the old Supreme Court chamber and came out to answer quorum calls. It was an absolutely exhausting experience. The southerners who were doing the talking were in great shape, because they would talk for two hours and leave the floor for a couple of days.

Then Arenberg and Dove proceed to take a look at other cases, including majority leader Robert Byrd's 1988 effort to break a filibuster against campaign finance reform:

> Senator Alan Simpson frustrated this effort for much of the time, simply by repeatedly requesting quorum calls. . . . The bottom line is the bill never passed. The minority that was blocking the bill was able to sustain their filibuster through a record eight cloture votes. In the end, Majority Leader Byrd had to back down.

In most theory and practice, we can't sustain a process of having those who are filibustering actually debate what they voted to debate. So what many of us are proposing is that we change the rule and say that if a Senator votes to debate, then that takes a minimum of 41 saying, yes, we want more debate, and of those 41, at least 1 has to be on the floor talking. This is only fair to the American people. They turn on C–SPAN and they see quorum calls. They see silence, and they wonder why the Senate isn't working on that jobs bill they had on the floor a few days before. They don't know it is still on the floor, but the silent secret filibuster is being used to prevent the Senate from proceeding and nobody is even willing to talk because they don't want to be seen in public defending their position. That needs to end. This process in which Senators do not have the courage to come down and make their case before the American people has to end because only if folks make their case on the floor can the public weigh in, can colleagues weigh in and say: Yes; you are a hero. Thank you for your filibuster because you are defending some core principle I too share or you are defending some key interest for my State that I too care about or they can weigh in and say: You know what. You are a bum. You aren't making any points. You haven't described any position. You are simply paralyzing the Senate or, worse yet, I disagree with you. You are defending big, vast pools of secret funds used to corrupt the American political system. Why would you do that? Why don't you, my Senator, join the next cloture vote to close debate and get on with solving this problem of vast pools of secret funds or some other key issue.

The Presiding Officer and I have been here just 4 years. Had I not been here as a young man and seen this Chamber as one that deliberates and decides, I wouldn't feel so passionately because I wouldn't understand what we had lost. What we have lost is something that started with a constitutional vision of the design of this Senate, including the courtesy of hearing everyone out before making decisions, and what we lost in losing the deliberative, decisionmaking body was everything—everything in terms of this body upholding its responsibility to address the big problems facing America.

When we come into session on January 3, we are going to have a debate over rules. There are some who say let's get rid of the debate on the motion to proceed, the filibuster on the motion to proceed. We know what happens then. We get a double down in the paralysis at the later stage at which a bill goes through. At a minimum, we must change this dynamic of the secret silent filibuster and say if a Senator votes for more debate, a Senator must make their case on this floor.

I encourage citizens around this country—citizens who have watched this Chamber decline and be broken and fail to address the issues we should address—to weigh in with their Senators and their home States and let all the Senators know it is irresponsible and unacceptable for us to continue the current procedures in which we are so paralyzed and incapable of fulfilling the work that needs to be done.

Thank you. 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NOS. 834, 835, AND 877

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 834, 835, and 877; that there be 30 minutes for debate equally divided in the usual form; that following the use or yielding back of time, the Senate proceed to vote without intervening action or debate on Calendar Nos. 834, 835, and 877, in that order; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative session.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 4310

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the consideration of the conference report to accompany H.R. 4310, the Department of Defense Authorization Act for Fiscal Year 2013; and that there be up to 1 hour of debate equally divided between the two leaders or their designees prior to a vote on adoption of the conference report.

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

CRITICAL JOB PROGRAMS

Mrs. GILLIBRAND. Mr. President, I would like to engage my colleague, the Senator from Iowa, in a colloquy.

I would first like to take this opportunity to commend Senator HARKIN, Senators Inouye and COCHRAN and the rest of the Members of the Senate Appropriations Committee for crafting a responsible, commonsense and critical supplemental appropriations bill to allow New York, New Jersey, Connecticut, and other impacted areas recover from the devastation left by Superstorm Sandy.

I would like to highlight an important aspect of the recovery effort, and that is addressing the employment and workforce crisis following the storm that has exacerbated the already chronically high unemployment rates in many of the impacted areas in New York and beyond.

The human, infrastructure, and economic devastation that Superstorm Sandy inflicted upon New York has been crippling and only comparable most recently to the tragedy of the September 11 terrorist attacks. While it will be months before the economic impact of Sandy can be fully assessed, particularly as it relates to the dislocation of workers, initial figures clearly indicate a long economic recovery for businesses and employees, particularly given that the most densely populated region of the United States was at the center of the storm. In fact, the U.S. Bureau of Labor Statistics reports that four of the five counties with the highest number of labor force participants per square mile were among those hardest hit by Sandy. In addition, all 26 of the counties designated as major disaster areas are among the top 10 percent of U.S. counties in terms of labor force density, highlighting the sheer number of workers impacted by Sandy.

Preliminary estimates are that Sandy destroyed 265,000 businesses in New York State and 189,000 businesses in New Jersey, the two hardest hit States. To put these figures in perspective, it is estimated that 18,700 businesses were impacted by the devastation of Hurricane Katrina in 2005. The estimated 265,000 New York businesses impacted employed approximately 3.8 million workers with over $264 billion in annual wages. It is also worth noting that preliminary estimates point to the fact that 90 percent of the impacted firms are small businesses. Worth noting is also the surge in applications for jobless benefits increasing by 78,000 to 439,000 in the week of November 10, the highest since April 2011, mostly because a large number of applications were filed in States damaged by the storm. Given these staggering numbers, we can only assume that the recovery efforts of our impacted businesses and displaced workers will be long and difficult, demanding investment in government programs that can effectively help get businesses back on their feet and put people back to work.

While all levels of government have been very responsive in addressing the immediate emergency needs, it is essential to understand the lessons of previous catastrophic events when designing and implementing appropriate, long-term strategies for the impacted region's recovery. In particular, business closures and layoffs resulting from the storm's devastation could prolong the economic distress Sandy has caused without a dynamic, immediate, and comprehensive workforce initiative to head off these impacts.

It is well recognized that small- and medium-sized business are the backbone of our economy, employing half of private sector workers and accounting for the creation of two out of three new jobs in the United States. Immediate support and stabilization is critical to full recovery of small businesses, which, as noted, make up about 90 percent of the 265,000 estimated New York firms impacted by Sandy. Business continuation, including keeping the doors open while loans, insurance payments and other incentives are realized, is essential. One Federal investment worthy of consideration is temporary employment support, which will help maintain both business operations and help prevent the loss of jobs through the recovery, reducing the need for unemployment and other Federal benefits.

In addition to Federal investment in workforce retention programs, rapid response in identifying and servicing impacted businesses and unemployed workers is required. As recovery efforts move forward, Federal, State, and local authorities should look for ways to invest in and partner with the extensive networks of community-based organizations, economic development groups, as well as organized labor and affiliated management to deliver workforce development services, including outreach for job opportunities, job training, and placement for in-demand occupations and other related reemployment activities.

For example, the Consortium for Worker Education, CWE, a nonprofit agency specializing in workforce preparation, industry specific training, and employment services has partnered in the past with all levels of government and other community based organizations to deliver job placement services and temporary employment support programs to ensure worker retention in the aftermath of disasters. Their efforts alone have helped train and put back to work thousands of people during similar workforce crisis situations as New York finds itself in now following Sandy.

By investing in innovative programs like CWE's, workforce recovery efforts will more effectively take into account the unique needs of each impacted area and deliver tailored services to impacted businesses and displaced workers alike.

Mr HARKIN. Mr. President, let me commend the Senator from New York for highlighting the critical employment and workforce needs in the areas impacted by Superstorm Sandy. Now more than ever, Congress must give our States and localities that have been hard hit by Sandy the tools and resources that help dislocated workers return to their jobs or, if necessary, find new, good-paying employment. The supplemental appropriations for disaster assistance bill's funding for dislocated workers is just one step in the recovery process, but an important one to help workers get back on their feet.

As New York, New Jersey, and the other impacted areas move forward with their recovery, I will continue to work with Senator GILLIBRAND so that the short- and long-term needs of impacted workers are addressed.

Ms. COLLINS. Mr. President, I rise today to engage my colleague, Senator TESTER, in a colloquy regarding language he authored in this bill that would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This language would authorize chief executives of federally recognized tribes to submit a request for a major disaster or emergency declaration directly to the President of the United States.

The principal effect of this language would be to eliminate the current requirement that tribal chief executives submit such requests to the Governor of the State in which the tribal reservation is located; tribal chief executives would be permitted to submit such requests to the President without first obtaining the Governor's approval.

The tribes of Maine—the Penobscot, the Passamaquoddy, the Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs—have a jurisdictional relationships with the State of Maine which is unique among the 50 States. Although, based on my analysis, this language would not in any way affect the relationship between the State of Maine and the tribes of Maine, to make this clear, I would like to pose some questions to the Senator regarding the intent of the language.

The jurisdictional relationship between the tribes of Maine and the State of Maine is set forth in the Maine Indian Claims Settlement Act and the Maine Implementing Act, the latter having been enacted by the Maine State Legislature and ratified and approved by Congress when it enacted the Maine Indian Claims Settlement Act.

If the language the Senator authored was to be enacted into law, would this in any way change the relationship of the State of Maine and the tribes of Maine?

Mr. TESTER. No. I understand that the Maine Indian Claims Settlement Act not only recognized the uniqueness and significance of that jurisdictional arrangement but specifically provided that, following the enactment of the Settlement Act, no future congressional legislation would in any way alter or affect that arrangement unless Congress specifically so provided. This requirement is set forth in Title 25, Section 1735, of the United States Code.

Ms. COLLINS. Did the Senator take Section 1735 into account in his drafting of this legislation?

Mr. TESTER. Yes. I understood that, given the requirement that Section 1735 imposed on Congress, this provision would not and should not apply within or to the State of Maine unless Congress specifically so provided. Knowing that Section 1735 operated to that effect, I did not include specific language making this legislation inapplicable to Maine, as such language was unnecessary. Our Senate colleagues should understand that this legislation in no way supersedes Section 1735.

Ms. COLLINS. Did my colleague also consider the unique foundation for the Maine Indian Claims Settlement Act and the Maine Implementing Act, as well as the subsequent acts for the Houlton Band and the Aroostook Band?

Mr. TESTER. Yes, I understood that the Maine Indian Claims Settlement Act and the Maine Implementing Act constitute statutory settlement documents. Therefore, our colleagues should understand that the current legislation respects the intent of the parties to Maine's historic and complex settlement and does not in any way disturb the settlement agreement or the statutory construct on which that settlement rests.

The intent of this legislation is to improve communication, response times, and recovery of disasters in Indian Country while better respecting tribal sovereignty. I understand that tribes in Maine have a unique relationship with the State of Maine and nothing in this Act should be interpreted to change or degrade that relationship.

This legislation, if enacted into law, would in no way change the relationship between the State of Maine and the tribes of Maine. That means that, even after the enactment of this legislation, if any of the tribes of Maine wished to obtain a declaration from the President that a major disaster existed, they would have to bring their request to the Governor of Maine, who would have to consider the request in accordance with existing standards and procedures but who would retain the discretion to deny that request.

Ms. COLLINS. I appreciate the time and attention of my colleague from Montana, Senator TESTER, regarding the intent of this language, as well as the care that he took in crafting this legislation.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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