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Senate

The Senate met at 10 a.m. and was called to order by the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, before Whom the lives of all are exposed and the desires of all known, be at work in our lives. Wipe away selfish interests so that we may perfectly love and truly serve You. Lord, give our lawmakers courage as they face today's challenges, providing them with the necessary skill to perform their duties and accomplish Your purposes. Give them the wisdom to refuse to sow to the wind, thereby risking reaping the whirlwind. May they find joy in both serving and loving You. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 27, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHELDON WHITEHOUSE,

a Senator from the State of Rhode Island, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. WHITEHOUSE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE FISCAL CLIFF

Mr. REID. Mr. President, New Years Eve is fast approaching and for decades and decades the American people have watched the ball drop in Times Square. It is the countdown to midnight, the start of a new year.

This year the American people are waiting for the ball to drop, but it is not going to be a good drop because Americans' taxes are moving in the wrong direction. Come the first of this year, Americans will have less income than they have today if we go over the cliff—and it looks as if that is where we are headed. The House of Representatives as we speak, with 4 days left after today to the 1st of the year, is not here, with the Speaker having told them he will give them 48 hours' notice. I can't imagine their consciences. They are out wherever they are around the country and we are here, trying to get something done.

They are not in Washington, DC. The House of Representatives is not here. They could not even get the Republican leadership together yesterday. They had to do it with a teleconference.

If we go over the cliff, we will be left with the knowledge it could have been prevented with a single vote in the Republican-controlled House of Representatives. Prior to this session starting today, the Presiding Officer

and I had a conversation about how things have changed around here. I served in the House of Representatives. There are 435 Members of the House. What goes on in this country should not be decided by the majority, it should be decided by the whole House of Representatives. Everyone, including the Speaker of the House of Representatives, knows that if they had brought up the Senate-passed bill that would give relief to everyone making less than \$250,000 a year, it would pass overwhelmingly. Every Democrat would vote for it and Republicans would vote for it. But the Speaker, he says: No; we cannot do that. It has to be a majority of the majority. So we have done nothing.

He even tried to bring up the bill last week to show they could defeat it. They could not do that even. They could not defeat the bill that passed in the Senate.

I don't think the American people understand the House of Representatives is not operating as a House of Representatives. It is being operated with a dictatorship of the Speaker not allowing the vast majority of the House of Representatives to get what they want. If the \$250,000 threshold would be brought up, it would pass overwhelmingly, I repeat.

On any given day for the last 5 or 6 months, since July 25, Speaker BOEHNER could have brought the Senate-passed middle-class tax cut legislation to a vote in the House and it would have passed. But he has made the decision he is not letting us have a vote on that because if he let it be voted upon, it would pass. I have said it is not too late for the Speaker to take up the Senate-passed bill, but even that time is winding down. Today is Thursday. He is going to give 48 hours' notice to the House before they come back. So 48 hours from today is Saturday. With just that one vote, middle-class families would have the security that taxes would not go up by at least \$2,200 on

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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New Year's Day. That is the average. Some would go up more, some less, of course.

Speaker BOEHNER should call Members back to Washington today. He should not have let them go, in fact. They are not here. JOHN BOEHNER seems to care more about keeping his speakership than about keeping the Nation on a firm financial footing. It is obvious what is going on around here. He is waiting until January 3 to get re-elected as Speaker before he gets serious with negotiations because he has so many people over there who will not follow what he wants. That is obvious from the debacle that took place last week, and it was a debacle.

He made an offer to the President. The President came back—they are just a little bit apart—and he walked away from that and went to Plan B. All that did is whack people who need help the most—poor people. He could not even pass that. Remember, he is not letting the House of Representatives vote. He is letting the Republicans vote. It was so bad, and he was in such difficult shape there he would not even let a vote take place with his Republicans because he knew he would lose. For months, he has allowed House Republicans to hold middle-class taxpayers hostage to protect the richest 2 percent, and the funny thing about that is the 2 percent do not want to be protected. The majority of people in our great country are willing to pay more. The only people who disagree with that are Republicans who work in this building.

The Speaker just has a few days left to change his mind, but I have to be very honest; I don't know, timewise, how it can happen now. Everyone knows we cannot bring up anything here unless we do it by unanimous consent because the rules have been so worked the last few years that we cannot do anything without 60 votes. There are 53 of us. After the first of the year, there will be 55 of us.

I hope the Speaker and the Republican leader in the Senate would come to us and say here is what we think will work. Let's find out what that could be because the Speaker cannot pass, it seems, much of anything over there. On the Sunday shows they had Republican Senators and they were asked on the FOX network—pretty conservative, and that is probably a gross understatement—would you filibuster the President's bill? They refused to answer. We don't make that decision. We can't answer that. A filibuster is over all our heads.

That is why we have to look seriously next year at changing the rules around here. The bill that has passed the Senate protects 98 percent of families and 97 percent of small businesses. They passed a bill in the House, that we defeated, that extends the tax cuts for everybody. That was voted down over here. The President said he would veto it. So this happy talk—the Republican House leadership said yesterday:

Let them take our bill. That bill was brought up and it was defeated.

I repeat, the American people do not agree with the Republicans in the House and Republicans over here. The way to avoid the fiscal cliff has been right in the face of the Republican leaders, both MCCONNELL and BOEHNER, for days and days, going into weeks and months, and it is the only option that is a viable escape route and that is the Senate-passed bill. It would not be hard to pass. I have talked about that at some length. Every Democrat in the House would vote for it, a handful of Republicans would vote for it, and that is all that would be needed. But Grover Norquist is standing in the way of this—not the rich people but Grover Norquist, the man who says what the Republicans can do. I say to the Speaker: Take the escape hatch we have left you. Put the economic fate of the Nation ahead of your own fate as Speaker of the House. Millions of middle-class families are nervously watching and waiting and counting down the moment until their taxes go up. Nothing can move forward in regard to our budget crisis unless Speaker BOEHNER and Leader MCCONNELL are willing to participate in coming up with a bipartisan plan.

Speaker BOEHNER is unwilling to negotiate, we have not heard a word from Leader MCCONNELL, and nothing is happening. Democrats cannot put forward a plan of their own. Without the participation of Leader MCCONNELL and Speaker BOEHNER, nothing can happen on the fiscal cliff and so far they are radio silent.

We are going to work in the next couple of days to get the most important legislation done on FISA. There should be a good debate. We have people who are interested in changing what we have on the floor. There have been a series of amendments on trying to change FISA—the espionage legislation that guides this country. It should be a good debate.

We have to finish the supplemental appropriations bill that is so important for the people in the Northeast. We have a lot to do. There could be as many as 28 votes in the next few days. We are in Washington working while the Members of the House of Representatives are out watching movies, watching their kids play soccer and basketball and doing all kinds of things. They should be here. They should be here urging the Speaker: Let's bring up the \$250,000 bill. Let's not have middle-class Americans and small businesses get hurt.

What is the business?

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FISA AMENDMENTS ACT REAUTHORIZATION ACT OF 2012

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of H.R. 5949, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5949) to extend the FISA Amendments Act of 2008 for five years.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon, Mr. WYDEN, is recognized.

Mr. WYDEN. Mr. President, I thank Leader REID for the honor of being able to open this morning's debate. I also wish to particularly identify with a point the leader made. There is an old saying that most of life is just showing up. I think what the American people want—I heard this at checkout lines in our local stores, for example, this week—they want everybody back in Washington and going to work on this issue, just as the leader suggested.

I think Senators know I am a charter member of what I guess you could call the optimist caucus in the Senate. As improbable as some of these talking heads say on TV that it is, I still think we ought to be here, just as the leader said, working on this issue because of the consequences.

Mr. REID. Mr. President, will my friend yield for a question?

Mr. WYDEN. I would be happy to yield to the majority leader.

Mr. REID. The distinguished Senator from Oregon and I served together in the House of Representatives. Does the Senator remember the days when the House voted not as a majority but as a body to come up with how legislation should be given to the American people? Does my friend remember that?

Mr. WYDEN. I do. The leader is being logical, and Heaven forbid that sometimes logic break out on some of these matters. I remember when we started out—and I joked that I had a full head of hair and rugged good looks—the majority leader and I used to work with people on both sides of the aisle. We would try to show up early, go home late, and, as the leader said, focus on getting some results. I thank the leader for his point and again for the honor of being able to start this discussion.

As I indicated, what I heard at home is that we are supposed to be here and try to find some common ground. I know the talking heads on TV say this is impossible and it cannot be done. First of all, as the majority leader said, this has been done in the past. When there are big issues and big challenges, historically the Congress will come together and deal with it.

I am particularly concerned about some of the effects going over the cliff will have on vulnerable senior citizens. As the Presiding Officer knows, that is my background. We have often talked about health care and seniors. My background was serving as codirector of the Oregon Gray Panthers. If the reimbursement system for Medicare, in