

concerned about out-of-control Federal spending. At the beginning of the President's term 4 years ago, the debt limit stood at \$10.626 trillion plus. In the 4 years of that term, it has risen to over \$16.400 trillion—nearly a \$6 trillion increase.

It is unprecedented in the history of our country to have such out-of-control spending. It has resulted in our borrowing a very substantial amount of each year's budget, which is not healthy whether you are a family or you are a business or you are a State government or you are the Federal Government. The chickens will come home to roost if we continue to do that.

Each American's share of our national debt now is well over \$50,000. That means every new baby born in this country instantly owes the government more than \$50,000.

We have had 4 straight years of trillion-dollar deficits without a budget in this body. The minority leader just talked about that. Hopefully, we will finally have a budget to work off of and a budget for which we can look at what the priorities are and make tough decisions about how we spend taxpayers' money.

We currently spend over \$40,000 a second. These are not partisan numbers, and this should not be a partisan issue. These are the facts. As our former Governor in Indiana, Mitch Daniels, said: Just do the arithmetic. This is not a deep philosophical or ideological issue. It is a matter of basic math.

With financial problems as great as these, it is my hope as we return now to this 113th Congress we will be able to address this fiscal crisis. It is the same hope I had 2 years ago when I joined the 112th Congress. As we know, we went through a series of efforts to begin to address this problem. Many of those were on a bipartisan basis—we had the Gang of 6 and then we had the supercommittee of 12. These were bipartisan efforts. Many of us worked with our colleagues across the aisle to try to put a grand bargain together. Of course, the President had his own commission led by Mr. Bowles and former Senator Simpson. He rejected that. The Simpson Bowles proposal would have been a good blueprint upon which to begin our discussions. I will be talking some more about that and the disappointment—the extreme disappointment—of Mr. Bowles and Mr. Simpson in terms of the inability of this body to address what has been predicted as the most predictable financial crisis in our Nation's history.

We went through this whole process of the fiscal cliff. We, unfortunately, had to pick the lesser of two evils in order to protect nearly 99 percent of taxpayers from drastic tax increases, starting with the lowest to the highest taxpayer. The fiscal cliff deal may have allowed the President to fulfill his campaign promise to raise taxes on millionaires and billionaires, but it did little or nothing to address excessive Federal spending.

So the debate now shifts. The President got his taxes. With revenue off the table, the debate shifts to where it needs to be and should have been in the first place; that is, addressing spending reductions.

Just last week Fitch Ratings warned that America's AAA credit rating is at risk if the Congress and the President increase the debt limit but fail to enact a "credible medium-term deficit reduction plan." We can expect to see more headlines like this if we do not come together and take action to deal with our country's debt obligations.

In the coming days and weeks I will be speaking in this Chamber and outlining what I believe are rational steps we need to take to get our fiscal house in order. The easy thing to do, and the way Congress has operated over these past 2 years, is to look at our fiscal situation and say: Well, we have more time; or we can deal with this after the next election. While I thought that was exactly the wrong tactic to take, that is what happened. There were a series of efforts, but each one ended up so-called kicking the can down the road or postponing the day of decision.

This is the day of decision. This is the hour of decision. This is the time when we have to step up now and address our out-of-control spending. We have had that next election. The President has been reelected for 4 years. Members have been reelected. We have this challenge now in front of us. Continuing with the status quo, governing by a crisis, and failing to address our spending problem must be unacceptable.

Mr. President, 2013 is the year. In 2014 we are back in another election. We all know the precious 6 to 9 to 12 months that lay before us is the time—post-election, with the President's reelection and new Members here—this is the time we have to step up and address our debt and deficit problem.

If we do not do so now, most experts who look at this, whether they are liberal or conservative, nonpartisan or partisan, ideological or nonideological, have virtually all come to the conclusion that unless we address this now in 2013, with an election year in 2014, 2015 will be too late.

We have seen what is happening in Europe. We see what is happening in Japan. We see what is happening around the world—a world hungry for America to lead, to address its problem, not by pushing it down the road, not through avoiding tough decisions, but addressing the real issue before us that impacts the future of this country and the future of generations to come.

So now is the time, now is the hour of decision that we have to take to go forward and address this problem. As I said, I will be using this platform and others as a way to address what I believe we need to go forward with, not only looking at the larger picture but also looking at how this government spends way beyond its means, spends money that it does not have, wastes

money through bureaucracy and waste and failed efforts, tries to do more than it should or could or is able, and I want to document some of those—everything from the macro to the micro, from the absurd to the bureaucratic to the necessary tough decisions, particularly in regard to our entitlements that have to be addressed in order to preserve and save those programs for not only current beneficiaries but for future beneficiaries.

Mr. President, I appreciate the opportunity to begin this process, and I think each of us must dedicate ourselves to the challenge that lies before us. That challenge is dealing with our out-of-control fiscal situation, that if not controlled will bring this country down and continue this economic malaise that we are currently in.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CHANGING SENATE RULES

Mr. UDALL of New Mexico. Mr. President, I rise today to talk about our efforts to change the Senate rules. As we began the 113th Congress on January 3, Senators MERKLEY, HARKIN, and I submitted a resolution to reform the Standing Rules of the Senate. Thirteen of my colleagues have signed on to cosponsor our resolution.

When we submitted the resolution, we agreed with the majority leader that it would be best to have the debate about reforming our rules after the inauguration. I appreciate his willingness to work with us on this important issue. Although we postponed the debate, we preserved the right of a simple majority of this body to amend the rules in accordance with article 1, section 5 of the Constitution.

Senate Resolution 4, our proposal to reform the rules, is simple, it is limited, and it is fair. Again, we are not ending the filibuster. We preserved the rights of the minority. Here is what we are proposing: an end to the widespread abuse of silent filibusters. Instead, Senators would be required to go to the floor and actually tell the American people why they oppose a bill or nominee in order to maintain a filibuster. Debate on motions to proceed to a bill or to send a bill to conference would be limited to 2 hours. Postcloture debate on a nominee, other than a Justice of the Supreme Court, would be limited to 2 hours rather than the current limit of 30 hours.

These are sensible changes. These are reforms we are willing to live with if

we are in the minority, and yet we are warned these simple reforms will transform the very character of the Senate and leave the minority without a voice. These arguments are covers for continued abuse of the rules.

The reforms we propose are modest—some would say too modest—but they would discourage the excessive use of filibusters. The minority still has the right to filibuster, but not the right of one Senator to do so by simply picking up the phone, by simply making an announcement and then going out to dinner or, more likely, out to a fundraiser. I have listened carefully to the arguments by the other side against these changes. Let me say, again, we are not talking about taking away the rights of the minority, we are not talking about abolishing the right of debate or to filibuster, but there must be change. The abuse of the filibuster and other procedural rules has prevented the Senate from doing its job. We are no longer the world's greatest deliberative body. In fact, we barely deliberate at all. This does not honor this institution, and it does not serve the American people.

For most of our history the filibuster was used very sparingly, but in recent years what was rare has become routine; the exception has become the norm. Everything is filibustered, every procedural step of the way, with paralyzing effect. The Senate was meant to cool the process, not send it into a deep freeze.

Since the Democratic majority came into the upper Chamber in 2007, the Senates of the 110th, 111th, and 112th Congresses have the three highest totals of filibusters ever recorded. Lyndon Johnson faced one filibuster during his 6 years as Senate majority leader. In the same span of time HARRY REID has faced over 390. Lyndon Johnson, 1, HARRY REID, 390. Legislation is blocked at every turn. The result is not surprising. The Senate of the 112th Congress passed a record low 2.8 percent of bills introduced. That is a 66-percent decrease from the last Republican majority in 2005–2006, and a 90-percent decrease from the high in 1955–1956. By every measure, the 112th Congress was the most unproductive Congress in our history.

My Republican colleagues have come to the floor and made many impassioned statements in opposition to amending our rules at the beginning of this Congress. They say the rules can only be changed with a two-thirds supermajority, as the current filibuster rule requires. They argue that any attempt to amend the rules by a simple majority is breaking the rules to change the rules. This is simply not true. The supermajority requirement to change Senate rules is in direct conflict with the U.S. Constitution. Article 1, section 5 of the Constitution states:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

When the Framers required a supermajority, they explicitly said so, as they did for expelling a Member. On all other matters, such as determining the Chamber's rules, a majority requirement is clearly implied. There have been three rulings by Vice Presidents, sitting as President of the Senate—where the Presiding Officer is sitting today—who have ruled on the meaning of article 1, section 5.

In 1957, Vice President Nixon ruled that:

The right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of a previous Congress.

Vice President Rockefeller and Vice President Humphrey made similar rulings at the beginning of later Congresses.

The Constitution is clear, and there is also a longstanding common law principle—upheld in the Supreme Court—that one legislature cannot bind its successors. Many of my Republican colleagues have made the same argument. For example, in 2003 Senator JOHN CORNYN wrote in a Law Review article:

Just as one Congress cannot enact a law that a subsequent Congress could not amend by majority vote, one Senate cannot enact a rule that a subsequent Senate could not amend by majority vote. Such power, after all, would violate the general common law principle that one parliament cannot bind another.

So amending our rules at the beginning of a Congress is not breaking the rules to change the rules, it is reaffirming that the U.S. Constitution is superior to the Senate rules. When there is a conflict between them, we follow the Constitution.

Some of my colleagues may believe that using the Constitution in this way would be harmful to the Senate. But there is an alternative. We do not have to reform the rules with only a majority vote. Each time the filibuster rule has been amended in the past, a bipartisan majority of Senators was prepared to use the constitutional option. But with a majority vote on the reforms looming, enough Members agreed on a compromise and they passed the changes with two-thirds in favor.

We could do that again. I know many of my Republican colleagues agree with me. The Senate is not working. As I visit with my Republican colleagues on the other side of the aisle, they tell me they are unhappy with the way things are. I said 2 years ago I would push for the same reforms at the beginning of the next Congress regardless of which party was in the majority.

At the time, many people believed the Democrats would lose their majority. So let me be clear: If Leader MCCONNELL had become the new majority leader in this Congress, I would have asked him to work with me on these same reforms.

I will say again, the proposed changes will reform the abuse of the

filibuster. They will not trample the legitimate rights of the minority party. I am willing to live with all the changes we are proposing, whether I am in the majority or the minority.

The other side has suggested a change in the rules is an affront to the American people. But the real affront would be to allow the abuse of the filibuster to continue.

We have to change the way we do business. We have to govern. It is time for us to pay attention to jobs and the economy and what matters to American families—what they talk about around the kitchen table. That was the message that was sent us from this election, and we would do very well to listen to it.

Under the abuse of the current rules, all it takes to filibuster is one Senator picking up the phone. That is it—does not even have to go to the floor and defend it—just a phone call by one Senator: no muss, no fuss, no inconvenience, except for the American public, except for a nation that expects and needs a government that works, a government that actually works together and finds common ground.

Maybe some of my colleagues believe the Senate is working as it should, that everything is fine. We do not take that view. It is not working and it needs change. The American people of all persuasions want a government that actually gets something done. The challenges are too great, the stakes are too high for a government of gridlock to continue.

The New York Times yesterday and several of the local newspapers in my home State have editorialized about moving forward with reform and how important that is. I ask unanimous consent that an editorial from the New York Times and an editorial from the New Mexican be printed in the RECORD.

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

[From the New York Times, Jan. 21, 2013]

#### A CHANCE TO FIX THE SENATE

For six years, Democrats in the Senate have chafed at an unprecedented abuse of the filibuster by Republicans, who have used the practice to hold up nominees high and low and require a supermajority for virtually every bill. But now that they finally have an opportunity to end much of this delay and abuse, Democrats are instead considering only a few half-measures.

When the Senate returns on Tuesday, it will still technically be in the first legislative day of the session, which means only a simple majority is necessary to change the rules for the rest of the session.

With the support of 51 senators, the rules could be changed to require a "talking filibuster," forcing those objecting to a bill to stand and explain their reasons, at length. The current practice of routinely requiring a 60-vote majority for a bill through a silent objection would end, breaking the logjam that has made the chamber a well of inefficiency and frustration.

Several younger senators, led by Jeff Merkley of Oregon and Tom Udall of New Mexico, say that if pressed, a majority of the Senate would support their plan for the talking filibuster. But older senators aren't so

sure, and have reportedly persuaded Harry Reid, the majority leader, to back off the idea. With the experience of having been in the minority themselves, these Democrats are fearful of losing a powerful tool should Republicans ever return to power in the chamber.

That would squander a moment for change. Supermajorities were never intended to be a routine legislative barrier; they should be reserved for the most momentous bills, and the best way to make that happen is to require that objectors work hard for their filibuster, assembling a like-minded coalition and being forthright about their concerns rather than hiding in the shadows or holding up a bill with an e-mailed note.

Currently there are six opportunities to filibuster most bills, and Republicans have exploited them all. Mr. Reid wants to reduce those opportunities and speed things up, primarily by ending the filibuster on motions to proceed to debate on bills.

That change alone could cut a week of delay on most measures. He also wants to curb filibusters that prevent conference committees from meeting and that hold up some presidential nominations.

A faster-moving Senate would be useful, but that should not be the only goal. The best way to end the Senate's sorry history of inaction is to end the silent filibuster, forcing lawmakers to explain themselves if they want to block legislation supported by the majority.

[From the New Mexican, Jan. 5, 2013]

#### FILIBUSTER REFORM: WE NEED IT NOW

The first day of the 113th Congress took place last week. But fortunately, for the hopes of filibuster reform in the U.S. Senate, opening day will continue later this month, likely Jan. 22. It is, after all, on the opening day of a session that the Senate can revise its rules with a simple majority of 51 votes—and a rules revision to make it easier to do the people's business is desperately needed.

New Mexico Sen. Tom Udall, a Democrat, has been a leader in the efforts to reform the U.S. Senate, a move that should not be seen as partisan. Should easing the logjam of holds on bills and appointments help the Democratic majority right now, a rules change could assist Republicans in the future. In politics, no majority is permanent, after all. However, Udall and others—notably U.S. Sen. Jeff Merkley, an Oregon Democrat—are right to keep pressing for substantive reform in how the contemplative Senate does its work. The problem facing the Senate is this: Obstructionists in the minority have essentially made it impossible to do business without a supermajority. To pass legislation, the Senate routinely needs 60 votes—the number that can overcome a filibuster—rather than a simple majority. With their reform, Udall and Merkley want any senator who puts a hold on a bill to have to get up and actually filibuster. That is, talk and talk and talk, without stopping, so that the whole world sees who is gumming up the works. Anonymous holds would stop, whether on legislation or appointments that require Senate confirmation. This seems like common sense. A senator who wants to make a stand should have to stand up and tell the country why.

What is common sense in flyover country is controversial in Washington, D.C., where lawmakers enjoy exercising secret holds out of the light of day. Even instituting the reform will be difficult. Normally, changing Senate rules takes 67 votes; on the first day of Congress, though, 51 votes will do the job. Senate tradition—and boy, is the Senate traditional—frowns upon changing rules with such a narrow margin. Doing so is called the

“nuclear” option by detractors, and the “constitutional” option to those hoping to break open stifling Senate culture. In recent days, a different Senate rules change package has been discussed, one proposed by Democratic Sen. Carl Levin of Michigan and Republican Sen. John McCain of Arizona and backed by others. We like its bipartisan origins, but unfortunately, the senators' proposal appears too watered down to fix gridlock. It would make it tougher for the minority to block debate, but by guaranteeing minority members two amendments, could serve up another method of killing legislation.

We are encouraged that Majority Leader Harry Reid of Nevada chose to recess, rather than adjourn, the Senate on its first day of the session, thus giving Udall and Merkley time to garner support for their substantive rules reform. The right for a single senator to stand on principle, holding up legislation out of strong conviction, must be protected—and asking a politician to talk, after all, is no heavy penalty. What must go by the wayside is the ability of any senator to stall appointments, or hold up necessary legislation, just because.

When the Senate continues its first day later this month, we urge Majority Leader Reid to go for broke. Seek true reform, allowing the filibuster to remain only if senators will stand up and speak for their positions out loud where all can see. If need be, institute the reform with 51 votes. Otherwise, the Senate will not be able to conduct the essential business of the country—again. And whether approving Cabinet secretaries or ambassadors or judges, or passing necessary laws on immigration and gun control, the nation needs a Senate that can move legislation through in a timely, thoughtful but never cumbersome fashion.

Mr. UDALL of New Mexico. Three of my Senate colleagues who have just been elected are in the Chamber. I think one of the best things about this new class of Senators who have come into the Senate is they have studied this issue, they understand this issue, they have been out there with the American people and listened to them. The American people are demanding change.

So it is a real pleasure to see in the chair the Senator from Hawaii, who is the Presiding Officer, and on the floor the Senator from North Dakota and also the Senator from Maine. I know shortly we will be going into our caucus and having a very lively debate about which way to move forward, how we do reform.

I am convinced we are going to reform these rules. I hope we do it working with our colleagues on the other side of the aisle. But if they will not come with us, we are in a position where we are in the majority, and we have to make this institution work for the American people.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. HEITKAMP). Without objection, it is so ordered.

Mr. MERKLEY. Madam President, I am rising today to talk about the vision we have ahead for the next 2 years and how this Senate can fulfill its responsibilities under the Constitution to do its legislative responsibilities addressing the big issues facing America.

I don't think anyone is unaware that for the last 2 years this Chamber has seen simply inaction and paralysis. It has been rated as one of the worst 2-year sessions in the history of the U.S. Government.

Well, what are we going to do differently? How is it that we only address 1 out of 24 appropriations bills over the last 2 years? How is it that so many important bills never made it to the floor of the Senate, bills such as the replacement for No Child Left Behind, which was a bipartisan vision that came out of committee.

How is it that so many bills came to this floor to never see a final vote? These are bills, such as the DISCLOSE Act, which would have eliminated secrecy in campaign donations; the DREAM Act, which would have honored creating a future for those who know only America as their home; the President's jobs package, which would have helped put America back to work; and the closing of loopholes for the biggest, most wealthy oil companies. Those funds could be put to use reducing our deficit or funding critical programs for working Americans.

On issue after issue after issue, we saw inaction. What we heard yesterday at the start of this next 2 years was a call from the President for action. In his inaugural speech he said:

For now decisions are upon us, and we cannot afford delay. We cannot mistake absolutism for principle, or substitute spectacle for politics, or treat name-calling as reasoned debate. We must act, knowing that our work will be imperfect. We must act, knowing that today's victories will be only partial.

The President echoed, if you will, the thought that he brought into his first 4 years, the urgency of now. We have big issues facing America, and it is time for the executive branch and the legislative branch to work together to address those issues.

In this call for action, we must ask how much action can there be if we see more than 100 filibusters in the next 2 years? How much action can there be if on every request for a vote an objection is heard that creates a day of delay in this Senate? The contrast is enormous from the time that Lyndon B. Johnson was President of the Senate.

Lyndon B. Johnson, during 6 years of presiding over this body, saw one filibuster. HARRY REID, in his 6 years of presiding over this Senate, has seen 391 filibusters.

Let me convey that even when we have the votes to end a filibuster, the fact that it is launched creates enormous paralysis. Imagine you are debating a bill, and you continue debating through the end of the week. When you come in the following Monday to debate, and nobody has anything left to

say, then someone says: I ask unanimous consent that we have a final vote on this bill. Now, you see, we don't have a previous question on this floor, so one has to ask unanimous consent. Any of the 100 Senators can weigh in and say no.

When they weigh in and say no on that Monday, then on Tuesday a petition is put forward with 16 Senators saying: Let's have a vote on closing debate. That vote can't happen until Thursday, under the rules.

If it is successful on a Thursday, we have to have 30 hours more of debate before we can hold the final vote. That takes us into Saturday. Monday through Saturday is lost based on an objection on Monday by one Senator.

If we have 391 of these objections that waste a week of our time in the course of a 6-year period, then we basically waste every legislative week because there are not 391 weeks in a 6-year period.

It becomes pretty simple to see why we only were able to get one appropriations bill done in the last 2 years, and why so many bills never made it to the floor of the Senate for consideration even though they were essential to restoring the economic vitality of our Nation and putting people back to work. I, for one, find this absolutely unacceptable.

Over our history there have been three basic forms of filibusters. The first only worked in an age when transportation didn't work very well, and at any given moment there were a number of Members who couldn't get here to the floor of the Senate because they were traveling from their farms and the axle on their wagon broke or the train broke down or so on and so forth. Sometimes those journeys would take many weeks and things happened along the way. In that situation, a quorum of 50 percent plus 1 was sometimes in doubt, and those seeking delay could say: You know what. Let's deny a quorum.

Well, that was an effective tool only through that period. Then, as that changed, folks said: You know, we have the respect here of hearing everyone out. Therefore, if I can get to the floor of the Senate, I may delay this Senate as long as I am able to speak.

Well, it is through this effort that we have a number of famous filibusters, folks such as Strom Thurmond holding forth for 24 hours. We have, however, seen that a person can only delay the Senate for 24 hours. Then someone else can seek the floor, and you may proceed. So that was a fairly modest strategy.

In both the case of the denying quorum and in the case of speaking as long as you could, you had to spend time and energy. You had to organize, and it was visible before this body. It was visible before the reporters gathered in the balcony. Therefore, the American people, long before there was a television camera here, could see what you were doing, and the public could provide feedback on that.

But now we come to the modern era, from 1970 forward, in which it has become popular to start using the objection as an instrument of party warfare, the objection to a final vote. If we turn back before 1970, we had an overlap between the parties of perhaps 30 Members. So if you had used this objection, you would have a good sense that you would be able to get cloture. Furthermore, there was a social contract that you only interrupted the workings of this body on an issue of deep principle. You only blockaded the operations of the Senate on an issue of profound concern to your State, not as a routine instrument of party politics.

But that has changed over the last 43 years, since 1970 forward, and now the minority party can say: Let's show that the majority can't even get an agenda onto the floor of the Senate, and then let's complain about them not acting. This is not a philosophy that serves America. It is not a philosophy that was embraced through the extent of our history. You came here with the responsibility to contribute in committee, to contribute on the Senate floor, to try to make bills better, and to try to get issues addressed. You were not trying to paralyze this body so issues don't get addressed that may be contained on that side. That, quite frankly, is an unacceptable theme that has started to haunt this Hall, and we need to do something about it.

Indeed, if we look at the modern era where the parties have become so divided, we no longer see that overlap of 30 Senators. Therefore, any minority group, be it the Democrats, be it the Republicans, has the ability to bring this Chamber to a halt. But is it right to do so? If we cannot persuade our colleagues it is wrong to do so, then we need to change the rules of the Senate. We need to insist if someone is going to throw a shoe into the gears, if someone is going to blockade the ability of the Senate to deliberate and decide, then that Senator needs to take responsibility here on the floor of the Senate.

Yes, we should get rid of the filibuster on the motion to proceed. Filibustering on whether to get to a bill does not enhance deliberation on the bill itself. We should make that decision in a crisp fashion and get on to the work, not waste weeks trying to decide if we are going to do the work of the people.

Second, we should get rid of the filibuster on going to a conference committee. Both Chambers have decided. They have voted in favor of the bill. It has been passed in different forms. Nothing should impede getting to conference and having a negotiation. Indeed, out of those negotiations, even if starting with one Chamber having a dramatic view different from the other, there is a coming together that takes steps forward that both Chambers can agree to. So nothing should impede that negotiation from going forward. We recognize a bill can still be filibustered when it comes back from com-

mittee, so why impede getting to the conference committee in the first place?

We should greatly reduce the number of hours after we have gotten cloture on debate. On nominations, by the time we vote on closing debate, our Members know how they are going to vote on that nominee. So we could have a final 2 hours but not a final 30 hours. Thirty hours is another wasted set of days we can ill afford. And certainly it makes sense to say, whenever possible, we should cut down that 30 hours on bills after we have reached cloture. We can do it by unanimous consent, and we often do that now. We can do it by requiring Senators to proceed to a vote if they do not stand and talk, but that is postcloture.

Here is the thing: When 41 Senators say they want additional debate, they want to delay the decisionmaking process here in the Senate, they should be willing to stand and make their case before their colleagues and the American people. It takes time and energy if you go that direction. It doesn't become a freebie where one Senator spends no time, no energy, and can go off to dinner or on vacation while paralyzing the Senate. You should have to spend the time and energy to be here to make your case.

Not only is that important in stripping away frivolous filibusters, it also means the American people get to weigh in. I am absolutely convinced if we were to go back to the debate on the DISCLOSE Act, which stripped away secrecy in campaign donations, and we had 59 votes to close debate—we needed a sixth vote—if those who voted for additional debate, and who fled this Chamber fearful of making their case before the American people, had been required to stand and defend secrecy and foreign donations in our campaign system, the American people would not have said they were heroes but they were bums. They would have weighed in and said to their own Senators: Join the effort to close debate, because to stand in the way of a final vote over secrecy in campaign donations does great damage to our democracy. Maybe the pressure and common sense of the citizens would have helped address the bitter partisanship that guides this body.

At a minimum, the citizens of this Nation have the right to know what is happening to legislation here on floor. The idea it is being paralyzed by the secret filibuster is unacceptable, so we should include the talking filibuster in any package we bring to modify the rules of the Senate.

I see my colleague from New Mexico has come to the floor, and he spoke earlier. He has put forward the vision that we must, at the start of every 2 years, evaluate how the Senate is working, and if it has problems we need to pass changes in the rules to address those problems.

This is not some remote concept of inside baseball. This is about American citizens having a legislature that can

address the big issues facing our Nation. So I praise him for his leadership in putting this forward, which has led to this day. And it is the second time. We were here 2 years ago making this case, making this argument that we owe it to our citizens to improve the workings of the Senate, and we are here again today.

There is a saying about the Senate, that the Senate is the world's greatest deliberative body. If only it were so. It has been, at various points in its history, a thoughtful Chamber, a deliberative Chamber. But not today. It is driven by deep partisan differences, those being converted into strategies of paralysis, that prevent deliberation. We must change that. It is our responsibility as Senators to change that. The American people expect it. Let's make it so.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent to engage in a colloquy with my friend, the Senator from Oregon.

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

Mr. UDALL of New Mexico. Madam President, once again let me say at the beginning it is a real pleasure to see my old attorney general colleague, now the Senator from North Dakota, HEIDI HEITKAMP, in the chair presiding over the Senate, and also to see the Senator from Maine, ANGUS KING, here—our new Senators. I think Senator MERKLEY would agree with this, that our new Senators bring an energy to this that we don't necessarily have. We are 4 years from our last campaign. We ran in 2008. I love hearing their stories and what they have heard and how they have visited with people in townhall meetings.

The American people get this. I don't think there is any doubt that they really get this. I know my colleague has done a number of townhalls on this issue. I just hope, as we have the chance to discuss this, both in our caucus and on the floor and with other Senators, that we can capture the energy of the Senators who have arrived here and have been out with the people in their States, with their constituents, and what they bring to this.

But I wanted to ask the Senator because, among many of our Senators, he does regular townhall meetings—and I have also done a number in my career—is this kind of rules change something that is so arcane that people don't understand it? Are they saying: Why are you bothering with procedure or do people get it? Do they get it in Oregon when you are in a meeting?

Mr. MERKLEY. To my colleague from New Mexico, I would say they most adamantly get it. In fact, I had 13 townhall meetings 2 weeks ago, in conservative parts of the State, in more liberal parts of the State. And in every setting—every setting from conservative to liberal—folks said: Please,

please continue this effort to address the filibuster and the paralysis, and the simple notion behind the talking filibuster.

If a Senator is voting for more debate—that is to delay the workings of the Senate—then he or she should be making their case on the floor so the citizens get to see what is going on and they get to decide whether they support it or oppose it. That idea resonates with people. It is the way folks think the Senate works, and they often think the rules that required it in the past have been changed so it does not happen now. So it is a chance I have to explain to them that what has changed is the social contract; that when people objected to the Senate proceeding with its business in the past, they wanted to make their views known on the Senate floor. They wanted to take responsibility because they realized it was a very high privilege to be able to delay the Senate and they had a responsibility to do so only for deeply principled or large issues and to make their case known.

So I do see overwhelming support. I feel as though the American people are so far ahead of maybe our own Chamber in understanding how broken we are and how much it needs to be fixed.

Mr. UDALL of New Mexico. The Senator made some nice comments about me—he was probably a little too generous—and I wanted to also thank him for all the work he has done on this issue. He has been a passionate voice for change, and he and I have both reached out to our friends across the aisle and tried to get things done.

I always bring this back to the question of why are we doing this. We are doing this so government can tackle the issues the American people care about. And I think there are two times in history—I am sure there are many others—where for me the Senate was in its glory days. We should always remember we have that potential. We see little bits of light every now and then here, such as with the passage of a transportation bill or a farm bill out of the Senate where bipartisanship exists and we come together, but I wish to talk very briefly about two time periods that I consider to be the glory days of the Senate.

One was before the Civil War. In the 40 years before the Civil War, the Senate was grappling with how do we hold the Union together. There was tremendous discussion, and Senators such as Daniel Webster and John Calhoun and others would work with each other and have heated debate, but for that 40 years before the Civil War, they held the country together. It was the Senate that fashioned those compromises that allowed the country to stay out of the Civil War. They didn't completely prevent it, but most people, looking at history, say those were some of the glory days of the Senate.

The second period was in the 1960s and 1970s, with Senators such as Muskie and Stafford and Chafee—gi-

ants in this body—who stepped forward on civil rights, stepped forward on environmental issues, stepped forward on the pressing issues of the time. So the Senate, once again in that time period, passed laws.

I remember; I was a kid here in Washington, and my father was Secretary of the Interior, when the wilderness law, the Clean Water Act, the Clean Air Act, and the Environmental Protection Agency was set up. Those were big laws—big, bold laws—that were dealing with our problems. So once again, they are glory days of the Senate.

I think we have that potential. As I see the new Senators coming in, the folks who were elected with us, and the Senators who arrived in the last 5 or 10 years, I think we have the ability to respond in a big, bold way to the crises that face us.

I know Senator MERKLEY came here as a young man with Senator Hatfield, I believe, and he saw a different Senate. Maybe he could talk about that. We don't want to stay; I know we are going to a caucus and we have our generous chair here—our presiding officer—so we don't want to keep her up here too long.

Anyway, I yield to the Senator.

Mr. MERKLEY. I think my colleague from New Mexico is absolutely right in pointing out there were periods when the Senate really worked to face the big issues of America. And it wasn't that there weren't profound differences. There were fierce differences, emotional differences, deep differences, but folks came to this floor, they conversed, they laid out their arguments and, ultimately, they made decisions about which way to go. They didn't bring the attitude: Well, let's paralyze this Chamber from doing anything. Had they done that, there would never have been the set of changes that addressed significant issues in either of those periods.

My colleague is right that a part of the reason I feel so strongly about restoring the functioning of this Senate is that when I came here as an intern at age 19 for Senator Hatfield, I had the very good fortune to be assigned to the Tax Reform Act of 1976, and then I had the even better fortune that it came up on the floor of the Senate. So during the many days it came before the body, I sat up in the staff gallery and watched as amendment after amendment was raised and debated and voted on. And since in those days there was no camera or e-mail, the member of the Senate team who was responsible for it would run down from the staff gallery, intercept their Senator, and tell them what the issue was, what was said about it, what the folks back home thought about it, what the set of motions was that had been dealt with on it, and so it was a legislature at work. And rarely, rarely, did the thought that anything would not be decided by 51 pass the minds of Senators.

Again, that objection for 51 was reserved for very special, very rare occasions. It might happen once or twice in your career.

I do feel that the conversation we have before us is so important that I thought I would put up this chart. As my colleague can see, this just dramatizes it. It is a picture of Lyndon B. Johnson showing his one filibuster in 6 years, one time that he needed to get a cloture motion to try to shut down debate; otherwise, there was a courtesy that people said what they had to say and then stood aside and took votes. And here we have HARRY REID in his 6 years—it says “387 and counting.” It hit 391 before we completed his sixth year. So there is an enormous difference.

The work we are engaged in right now of trying to find a way to have every voice heard and then to be able to proceed to be accountable and transparent before the public is so important.

As the Senator and I have engaged in this conversation, sometimes we have heard criticism from across the aisle saying: You are trying to silence the voice of the minority. Does the Senator see anything in the proposals that we have been advocating that in any way silences the voice of the minority?

Mr. UDALL of Colorado. In looking at this, I do not see anything in the proposals, and I think we, in working on this together, tried to bring a discipline to it that said we want to preserve the best traditions of the Senate, we want the minority to be heard, we want the minority to have amendments, and we want them included in the process. What we don't want is the tyranny of the minority. And the Founders talked about the tyranny of the minority. They talked about the fact that if you allowed a small minority to govern and block the governing of the majority, that was the tyranny of the minority, and they feared that.

So I think that when we consider this and we talk about the filibuster and our institution today, our Senate, where many times the Republican leader has come to the floor and said that it is going to take 60 votes, everything takes 60 votes, that isn't the way the Founders designed it. The Founders actually had very strong language for what they thought of supermajorities.

Everybody remembers their history. The Founders came off the Articles of Confederation. It was a supermajority. It didn't work. It was broken. So they only put into the Constitution in five places supermajorities—things such as expelling a Member and ratifying a treaty—but otherwise it was simple majorities. And when the history is going to be written, it is hard to tell how this happened. But to have a leader of the Senate stand and say that everything takes 60 votes—the Founders never contemplated that. When they adopted rule XXII in 1917, that wasn't what they were trying to do, and the rule has actually been turned on its head.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I would like to follow up on the last point Senator UDALL of New Mexico made about our Founders.

I have in my hand three of the Federalist Papers, Federalist Papers 22, 75, and 58. These are by Madison and Hamilton, and they explore this issue of the supermajority. It was a very conscious decision that a supermajority was not put into the Constitution for decisions of these Chambers. And the reason why—and they explained it more eloquently—is essentially that if you take the path that the minority thinks is the right path rather than the path the majority thinks is the right path, then over time you make a series of worse decisions. The minority might be right on occasion, but most of the time the viewpoint brought by those representing the greatest number of States in this case or the greatest number of citizens on the House side is the path that makes sense. And they warned about the supermajority as an instrument that would bring paralysis. It is almost as if they could look forward 200 years to this moment and say: Don't do that because you will end up with paralysis.

This is from Federalist Paper No. 22 by Alexander Hamilton. He wrote this in 1787, and he notes in commenting about the issue of a simple majority that “there is commonly a necessity for action. The public business must, in some way or other, go forward. If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority, in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater, and give a tone to the national proceedings. Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good.”

Let me read that last set of words about what Hamilton said would happen if you had a supermajority requirement in the Senate: “tedious delays; continual negotiation and intrigue; contemptible compromises of the public good.” I think anyone watching the proceedings of the Senate for the last 2 years would say that Hamilton was right on the mark in that regard. And, of course, he was not alone. There was not a single Federalist Paper written arguing that there should be a supermajority in the Senate or the House because of the experience that had been had previous to forming the strategy embodied in the Constitution.

Let's turn to James Madison. In Federalist 58, James Madison said:

It has been said that more than a majority ought to have been required for a quorum . . .

He goes on to discuss it in various views, and he said:

Lastly, it would facilitate and foster the baneful practice of secessions; a practice

which has shown itself even in States where a majority only is required; a practice subversive—

And here is the key language—

a practice subversive of all the principles of order and regular government; a practice which leads more directly to public convulsions, and the ruin of popular governments, than any other which has yet been displayed among us.

He also made the point that we would end up with equitable sacrifices to the general weal—or general good.

So as we turn to our conversations in our respective caucuses and to the dialog here on the floor of the Senate, I ask my colleagues to search your hearts about our responsibility to the citizens of the United States of America to address the big issues facing America, which means that we don't paralyze this body in secret. If my colleagues have points to make, then make them as was done during the periods of great debate on the floor of the Senate: Make them on the floor of the Senate, engage in that debate, and when no more is to be said, when all 100 Senators say: We have had our full input, then let's make a decision.

Madam President, I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

The PRESIDING OFFICER. The Senator from Illinois is recognized.

#### EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent the period for morning business be extended until 4 p.m. today and that all provisions under the previous order remain in effect.

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

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

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

#### DEBT CEILING

Mr. MORAN. Madam President, let me take a moment to welcome you to the Senate. I look forward to working with you and welcome you, coming from the House of Representatives to the Senate.

Over the Christmas holidays most of our Nation was focused on what Congress would do to avoid the so-called