

However, if we are going to supply enough food for this growing population around the world—9 billion more people in the next several decades—we need agriculture of all types, and that includes organic and conventional and biotech crops. The more nations we can help to feed and bring economic prosperity, the more stable the world will become. That is good for our families, our Nation, and the world, and the world's stability. We can only do that through commonsense policies based on sound science that will allow our producers to do what they need to do to get the job done.

My colleagues—and I see the distinguished chairperson. I will conclude in just about 30 seconds. I am glad she is here. I will just say to my colleagues in the Senate that we should not be putting on lab coats individually and taking action on this amendment. We have a clear scientifically based review process that works. If we pass this amendment, probably in Vermont, California, you will have a requirement; some other States may or may not; in Kansas we will not, and so our State legislature would have no need of putting on lab coats.

At any rate, the FDA has guidance for voluntary labeling, and companies can choose to voluntarily label food and products if their customers want it, if they demand it. Let the consumer decide.

I urge my colleagues to reject this amendment.

I yield back.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

#### ORDER OF PROCEDURE

Ms. STABENOW. Mr. President, now that the circuit court nomination vote has been scheduled for later this afternoon, I ask unanimous consent that at 10:30 a.m. the Senate resume consideration of S. 954, the farm bill; that there be 2 minutes equally divided prior to a vote in relation to the Sanders amendment No. 965, as provided under the previous order; finally, following the confirmation vote at 2 p.m., the Senate resume legislative session and consideration of S. 954.

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

Ms. STABENOW. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AGRICULTURE REFORM, FOOD, AND JOBS ACT OF 2013

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of S. 954, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 954) to reauthorize agricultural programs through 2018.

Pending:

Stabenow (for LEAHY) amendment No. 998, to establish a pilot program for gigabit Internet projects in rural areas.

Sanders/Begich amendment No. 965, to permit States to require that any food, beverage, or other edible product offered for sale have a label on indicating that the food, beverage, or other edible product contains a genetically engineered ingredient.

The ACTING PRESIDENT pro tempore. Under the previous order, there is now 2 minutes of debate prior to a vote in relation to amendment No. 965 offered by the Senator from Vermont, Mr. SANDERS. The time is equally divided.

The Senator from Vermont.

Mr. SANDERS. Mr. President, I wanted to thank Senators BEGICH, BLUMENTHAL, BENNET, and MERKLEY for cosponsoring this amendment, as well as support from many environmental and food organizations all over this country. The concept we are talking about today is a fairly commonsense and nonradical idea. All over the world, in the European Union, in many other countries, dozens and dozens of countries, people are able to look at the food they are buying and determine through labeling whether that product contains genetically modified organisms.

That is the issue. In the State of Vermont our legislature voted overwhelmingly for labeling. The State Senate in Connecticut, by an almost unanimous vote, did the same. All over this country States are considering this issue.

One of the concerns that arises when a State goes forward is large biotech companies such as Monsanto suggest that States do not have the constitutional right to go forward; that they are preempting Federal authority. This bill makes it very clear that States can go forward. I would appreciate my colleagues' support for it.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. First, Mr. President, before discussing the amendment, I think it is important to note that this is not germane to the farm bill. Food labeling is properly subject to the jurisdiction of the HELP Committee; therefore, Senator HARKIN opposes the amendment.

While I appreciate very much the advocacy of Senator SANDERS on so many different issues, I do believe this particular amendment would interfere with the FDA's science-based process to determine what food labeling is necessary for consumers. It is also important to note that around the world now we are seeing genetically modified crops that have the ability to resist crop disease and improve nutritional content and survive drought conditions.

In many developing countries we see wonderful work being done by foundations such as the Gates Foundation and others that are using new techniques to be able to feed hungry people. I believe we must rely on the FDA's science-based examination before we make conclusions about food ingredients derived from genetically modified foods. They currently do not require special labeling because they have determined that food content of these ingredients does not materially differ from their conventional counterparts. I would urge a "no" vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Ms. STABENOW. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. FLAKE).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 71, as follows:

[Rollcall Vote No. 135 Leg.]

#### YEAS—27

Begich	King	Reid
Bennet	Leahy	Rockefeller
Blumenthal	Manchin	Sanders
Boxer	Merkley	Schatz
Cantwell	Mikulski	Schumer
Cardin	Murkowski	Tester
Feinstein	Murphy	Udall (NM)
Heinrich	Murray	Whitehouse
Hirono	Reed	Wyden

#### NAYS—71

Alexander	Enzi	McCaskill
Ayotte	Fischer	McConnell
Baldwin	Franken	Menendez
Barrasso	Gillibrand	Moran
Baucus	Graham	Nelson
Blunt	Grassley	Paul
Boozman	Hagan	Portman
Brown	Harkin	Pryor
Burr	Hatch	Risch
Carper	Heitkamp	Roberts
Casey	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Isakson	Shaheen
Cochran	Johanns	Shelby
Collins	Johnson (SD)	Stabenow
Coons	Johnson (WI)	Thune
Corker	Kaine	Toomey
Cornyn	Kirk	Udall (CO)
Cowan	Klobuchar	Vitter
Crapo	Landrieu	Warner
Cruz	Lee	Warren
Donnelly	Levin	Wicker
Durbin	McCain	

#### NOT VOTING—2

Flake  
Lautenberg

The ACTING PRESIDENT pro tempore. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Ms. STABENOW. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

UNANIMOUS CONSENT REQUEST—H. CON. RES. 25

Mrs. MCCASKILL. Mr. President, I rise to make a unanimous consent request, but I want to make a few remarks first.

At the risk of being patronizing to my colleagues about the Constitution, I wish to give a basic lesson on the Constitution this morning.

My understanding is our Founding Fathers in the Constitution devised a system where we had a House of Representatives and a Senate, and they have to agree before something becomes a law. I think this is an amazing decision our Founding Fathers made because what it does is require the Senate, where all of us represent a whole State, to reach agreement with our colleagues in the House, who have much smaller constituencies and, therefore, may be targeted more to one specific area than some of us are.

I have listened to lecture after lecture from my colleagues across the aisle about the Constitution. It is almost as if some of them think they are the only ones who have read it or that they are the only ones who understand it. Well, they are not. Here is how the Constitution works: When we pass a bill and the House passes a bill, we go to conference. Why did the Founding Fathers want that? Because they understood that compromise was the mother's milk of a democracy.

But here is the bizarre thing about this. As a candidate for office last year, I bet I heard 10,000 times: Why don't you pass a budget? I listened to the leader of the Republican Party stand on this floor—and I would love to put together a montage, because we do a lot of hyperbole around here. We exaggerate, we go too far and say too much—but it is not exaggerating that the rallying cry of the Republican Party was: Pass a budget. Regular order. Pass a budget. Regular order. Pass a budget. Regular order. So what did we do? We passed a budget in regular order.

Here is the bizarre part. Following the Constitution, which my friends like to wave around and pretend they are the only ones who love it, some people on that side now think regular order doesn't matter and, by the way, they do not want to go to conference and they do not want to compromise, blowing up the constitutional premise of compromise between the two Houses—blowing it up.

I don't know what the American people think of this, but we have to shake our head at the politics of this. We have got to shake our heads, because here is what is bizarre. They keep moving the goalpost about what it would take to get us to conference.

By the way, the people who are going to be conferring on the other side are in the Republican Party. Are my colleagues worried their counterparts in the House haven't read the Constitution and they are not answerable to

their constituents who voted them into office as Republicans so that we have to have another budget bill and redo the debate or we have to make sure they can't compromise on anything and we have to put it in the law?

They had an opportunity to get their way. It is called amendments. My colleagues could have gotten their way through the amendment process. We had over 100 of them. We were here until 5:30 in the morning voting on them. We passed 70 of them. How many amendments did the Senator from Texas offer on the debt ceiling that he is now saying he has to have before we can go to conference? How many amendments did he offer on that? Zero. He offered 17 amendments, but he didn't offer 1 on the debt ceiling. In fact, there was not one Republican amendment on the debt ceiling—not one. So I have to say it is pretty obvious they didn't want a budget, they wanted a political talking point. They wanted to make it look as though we didn't care about doing our job.

They didn't care about a budget. Because if they cared about a budget they would hightail it to conference right now. They would hightail it to conference. It has been 2 months.

I hope the American people are paying attention. No wonder they think we are all losers. This is not a game. You can't love the Constitution one day and blow it up the next. You can't be a situational constitutionalist when you don't get your way. That is not the way our democracy works. I got elected fair and square, and so did my Republican colleagues, and that is why we all have to be willing to compromise with one another. We are not serving the American people by playing these games, and they are sick and tired of it. Frankly, I think it makes the body look a little silly.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 33, H. Con. Res. 25; that the amendment which is at the desk, the text of S. Con. Res. 8, the budget resolution passed by the Senate, be inserted in lieu thereof; that H. Con. Res. 25, as amended, be agreed to; the motion to reconsider be considered made and laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate; that following the authorization, two motions to instruct conferees be in order from each side—motion to instruct relative to the debt limit, and motion to instruct relative to taxes and revenue; that there be 2 hours of debate equally divided between the two leaders or their designees prior to votes in relation to the motions; further, that no amendments be in order to either of the motions prior to the votes; all of the above occurring with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Utah.

Mr. LEE. Mr. President, reserving the right to object, I ask unanimous consent that the Senator modify her request so that it not be in order for the Senate to consider a conference report that includes reconciliation instructions to raise the debt limit.

The ACTING PRESIDENT pro tempore. Will the Senator so modify her request?

Mrs. MCCASKILL. Could I inquire of the Senator? I am asking: Is the Senator saying the constitutional provision for a conference between the two Houses—what the Founding Fathers put in the Constitution for conferences—is, in fact, a backroom deal of the Constitution; you don't accept that part of the Constitution?

Mr. LEE. My friend and my distinguished colleague from Missouri is absolutely correct in citing the Constitution and pointing out the fact the two Houses do have to agree before something becomes law.

It is also important to point out that under article 1, section 5, clause 2 of the Constitution, each House of Congress is constitutionally charged with the task of establishing its own rules for operation. The rules of operation in this body, as they apply right here, require this kind of request receive unanimous consent. What that means is every one of us has to be willing to vote for this. What I and a few of my colleagues have said is that regardless of what you might decide to do, we respect your opinion. But if you are asking us to vote for this, meaning to give our consent, which is a vote, we are asking for one slight modification, and that slight modification includes something very simple, which says we are not going to negotiate the debt limit as part of a budget resolution.

They are two separate things. We didn't consider a single amendment that would have addressed the debt limit. Not a single part of the budget resolution passed out of this body addressed the debt limit. The debt limit not having been the subject of the budget resolution, it is not important for that to be addressed by the conference committee.

The ACTING PRESIDENT pro tempore. Will the Senator so modify her request?

Mr. MCCAIN. Reserving the right to object, and I will object to the modification.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. First of all, I think what is being done here, if we agree that a small number of Senators could basically change the way the Senate does business, could have serious ramifications for the future.

The Senator from Utah said he doesn't want to be deprived of his vote. We are ready to vote, I say to my colleague from Utah. We are ready to vote. We are ready to vote on a motion that would send this bill, which was the subject of an enormous amount of

debate and discussion for hours and hours—until perhaps 7 in the morning—to a conference, with motions to instruct the conferees.

I would be more than happy to vote on instructions to the conferees concerning his previous concern about a tax increase, which somehow has been removed, and/or that of increasing the debt limit—instructing those conferees. That is the way the Senate should do business.

If the Senator from Utah will allow this body to vote on whether we should move to conference with instructions to conferees, that is the regular order. It is not the regular order for a number of Senators, a small number—a minority within a minority here—to say we will not agree to go to conference because of a particular problem with an issue, which I grant is important to the Senator from Utah, and it is important to many Senators as to whether we raise the debt limit.

We are on the agriculture bill right now, I say to my colleague from Mississippi. Suppose we pass the agriculture bill and the House of Representatives passes the agriculture bill and we want to appoint conferees, but there is a burning issue that a number of my colleagues might have. Are we then going to block going to conference?

Look, this isn't just about the budget conferees, this is about whether we will ever be able to appoint conferees on a bill that has been passed by the House and also by the Senate; that we will come together and do what we have been doing since the Congress of the United States started functioning, and that is to sit down and iron out our differences.

If the Senator from Utah is worried about the result, I understand. I am worried about the result. I am worried about a bill right now that is just outrageous, porkbarrel spending on catfish and all kinds of stuff I have concerns about, subsidies for the tobacco companies and all that. But that does not mean I am going to object that we move for conferees, not when the will of the Senate and the Congress and the people is heard in open and honest debate and voting. We are here to vote. We are not here to block things. We are here to articulate our positions on the issues in the best possible and most eloquent way we can and do what we can for the good of the country and then let the process move forward.

I say to my friend from Utah, he is not going to win every fight here. He is not going to win every battle here. But if he is right, I can tell him from the experience I have had in the Senate, he will win in the end if his cause is just. But he can only win if he articulates his argument before his colleagues in the Congress and the American people.

We are about to, I hope—I hope—conclude the immigration reform bill. There will be portions of that bill I do not like. There will be portions of that bill that many of my colleagues do not

like. But we are not counting on 100 votes in the Senate. But we are counting on a majority of votes in passing it, and we are hoping the House will do the same. Then we will go to conference.

Does that mean that if a group of Senators—4, 5, 10; I don't know how many colleagues the Senator has on this issue—object to us going to conference on the immigration bill that therefore it should stop?

I am very worried, if this happens, about the precedent that will be set on how the Congress of the United States does business. Just a couple or few weeks ago, after the Newtown massacre, my colleague from Utah and my colleague—I believe from Florida, I am not sure who else—said we do not want to take up the gun bill. We do not want to discuss the gun bill.

I happen to have disagreed with many of the proposals, but was it right? Would it have been right for us not even to debate in light of the Newtown massacre? But the Senator from Utah thought it was the best thing for us not to move forward. Thank God there was a group of us who said let's move forward, let's debate the gun bill, let's do what we can to prevent these further massacres. That is our obligation and our duty to the American people. So here we are again. So here we are again.

The budget that for 4 years I loved beating the daylights out of my friend from Missouri, who would not insist on a budget being brought to the Senate—now a budget has been passed. Everybody was talking about what a great moment it was. We stayed up all night—at my age that is not nearly as enjoyable as it once was—and now, after being so proud, we cannot observe at least a vote?

If the Senator from Utah wants a vote on whether we should appoint conferees and what those instructions to the conferees should be, then that is what we should be doing. I understand how important it is for the Senator from Florida or the Senator from Utah—I don't know how many there are. But I can tell you there is a majority of us who want the Congress to work the people's will.

All I would do is say I hope my colleagues will agree with motions to instruct the conferees. If it is the concern of the Senator from Utah that the conferees should not address the issue of the debt ceiling, then let's vote to instruct the conferees to do that. That is the regular process. That is regular order around here.

But I can also tell my colleague from Utah something else. If we continue to block things such as this and block what is the regular order, then the majority will be tempted to change the rules of the Senate. That would be the most disastrous outcome I could ever imagine. I do not begrudge anybody—whether they have been here 6 months or they have been here 30 years—their rights as Senators. But I hope my col-

leagues will look at the way the Senate has functioned in the past.

Are the American people unhappy with us? Of course they are unhappy with us. One reason is because they do not see us accomplishing anything.

What I have done for these years, and the people whom I have respected in this body on both sides of the aisle—we fight the good fight. We make our case to our colleagues and the American people, and then we accept the outcome of a regular order while preserving our rights as an individual Senator. We have maintained that balance to a large degree. I hope my colleagues will understand how important that is. I urge my colleagues to do what we have been doing; that is, to have motions to instruct the conferees—if their issue is taxes, if their issue is the debt ceiling—and we vote to instruct those conferees and those conferees carry out the will of the majority of the Senate.

[Several Senators addressed the Chair.]

The ACTING PRESIDENT pro tempore. Is there objection to the modified request? The Senator from Missouri.

Mrs. MCCASKILL. I reserve the right to object to the request made by the Senator from Utah to amend my request. I would say within my request there is, in fact, the opportunity to vote; and he had the opportunity to offer an amendment on the debt ceiling on the budget and he did not.

I thank my colleague from Arizona and I renew my unanimous consent request.

The ACTING PRESIDENT pro tempore. Is there objection to the modified request?

Mrs. MCCASKILL. There is an objection to the modified request.

The ACTING PRESIDENT pro tempore. Objection is heard. The Senator from Michigan.

Ms. STABENOW. Just for 30 seconds, this is a very important debate. I do not intend to interrupt it. But for purposes of colleagues who wish to speak next, I ask that once the debate is done, Senator FEINSTEIN and Senator MCCAIN have 15 minutes to discuss a farm bill amendment.

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

Is there objection to the original request?

Mr. LEE. Mr. President, reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. LEE. Mr. President, for 62 days several of my colleagues and I have objected to the majority's request for unanimous consent to circumvent regular order to go to conference with the House on the budget.

They want permission to skip a few steps in the process, and jump straight to the closed-door back-room meetings.

There, senior negotiators of the House and Senate will be free to wait until a convenient, artificial deadline and ram through their compromise—

un-amended, un-debated and mostly un-read.

And with the country backed up against another economic cliff crisis, we are concerned they will exploit that opportunity to sneak a debt-limit increase into the budget.

We think that is inappropriate.

And yet, objecting to this dysfunctional, un-republican, undemocratic process has invited anger and criticism from colleagues here on both sides of the aisle.

We just don't get it, you see.

Proceeding to a secret, closed-door, back-room, 11th-hour deal, we are told, is the way the process works. It is the way the Senate works. It is the way the House works. It is the way Washington works.

We know this. That is why we're objecting. In case nobody has noticed, the way Washington works stinks. Closed-door, back room, cliff deals are not the solution, they are the problem.

The unspoken premise of every argument we have heard in favor of going to conference on this budget without conditions is that Congress knows what it is doing.

"Trust us—to go into a back room and cut a deal."

"Trust us—to ignore special interests and only work for the good of the country."

"Trust us—to not wait until the 11th hour, to not hold the full faith and credit of the United States hostage, to not ram through another thousand-page, trillion-dollar bill, sight unseen."

"Trust us—We're Congress!"

As it happens, the American people don't trust Congress—or either party. And we have given them at least 17 trillion reasons not to.

I can even provide physical evidence to support my claim. If the American people had confidence in the way the Senate works I know for a fact I would not be here. I do not think my colleagues joining me in this objection would be here either.

We were not sent here to affirm "the way the Senate worked" as Congress racked up trillions in debt, inflated a housing bubble, doled out favors to special interests, squeezed the middle class and trapped the poor in poverty.

We were sent here to change all that. We are fully aware that "Washington" and the establishments of both parties do not like what we are doing—but as computer programmers say, "that's a feature, not a bug."

The tactics of Washington serve the interests of Washington—of Congress itself, the Federal bureaucracy, corporate cronies and special interests.

And does so at the expense of the American people, their wallets, and their freedom.

The only time I can think of when it has not worked out that way was with the recent budget sequestration and that was—literally—an accident; a mistake.

The sequestration process worked out exactly the opposite of how Washington expected and intended.

There is a reason that six of the ten wealthiest counties in the United States are suburbs of Washington, D.C.—a city that produces almost nothing of actual economic value.

And it is not because the two parties have been so effective taking on the special interests and doing the people's business.

There is a reason Tea Partiers on the right and Occupiers on the left protest their shared perception that our economy, our politics, and our society seem rigged.

That elites on Wall Street, K Street, and Pennsylvania Avenue get to play by one set of rules and people on Main Street have to play by another.

It is because they are mostly right. This is our true inequality crisis: not between rich and poor, but between Washington and everyone else.

The national debt, and its statutory limit, is a hidden part of this inequality crisis.

After all, what is new debt but a tax increase on future Americans? On those who cannot yet vote? On those who have not yet been born?

Raising the debt limit thus results in a form of taxation without representation. That is why the American people resent it. And it is why Washington desperately wants to raise the debt limit with as little public scrutiny and accountability as possible.

And that is why we're objecting.

Our critics say we should allow the process to move forward so we can have a debate. I don't know if they've noticed, but we are having the debate. We have had it several days in a row.

More than that, we are having the debate here on the floor, open to public scrutiny, and not secretly behind closed doors. This, right here, is how the process is supposed to work. The only way the American people can have any hope of supervising their Congress—not ours, their Congress—is for us to do our work above board and in the open, according to the rules.

That is all we are asking for—and only on one issue. For all our concerns, we have still said all along that we will not block a budget conference. We can go to conference right now. We are willing to give the majority permission to break from regular order and scurry off to closed door negotiations to cut their back room deal.

All we have asked is one thing, a very small and simple request: leave the debt limit out of it. Do everything else you want, spend all the money you want, use all the accounting gimmicks you want, but when you go into that back room, check the debt limit at the door. That way the American people can have that separate debate, on its own merits, here on the floor.

This should not be controversial. The House Republican budget did not include a debt limit increase or instructions to include one. The Senate Democratic budget does not include it either. House and Senate negotiators, therefore, have no procedural or demo-

cratic justification for including a debt limit hike in their talks. They have no right to do it. Yet they won't promise not to.

Once again: Trust us, we are Congress.

"This is how the Senate works," they say. "This is how we do things."

Respectfully, this is how we fail. This is how we earn our 15 percent approval rating. We know this is business as usual around here. That is why we're objecting.

If the majority wants to proceed to a budget conference through regular order, we can not stop them. But again, that is not their request. Their request is for permission to break from regular order, skip a few steps, and go straight to the secret negotiations, behind closed doors, where in the Washington-centered view of the world, the real governing can be done.

The American people do not trust secret, back-room deals, and neither do I. Unless and until the American people are assured that we will not sneak a debt limit increase into the Conference report, I will happily continue to object.

I object to the motion on the floor.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, we have been through it before. In a nutshell, what the Senator from Utah has just said is that if we pass this legislation, and if the House passes this legislation, we will not go to conference unless certain conditions are imposed on those conferees that happen to be important to a small group of Senators. Obviously, that will paralyze the process. Obviously, we can predict the outcome.

The Senator from Utah keeps talking about backroom, closed-door deals. It is the process of the Senate and the House to appoint conferees. Those conferees come to agreement and then subject their agreement to an overall vote in both bodies.

If the Senator from Utah wants to get rid of the "backroom"—and all of the other adjectives and adverbs he used—then what is the process? What is the process? How do we reconcile legislation that is passed by one body and the other body? That is what we have been doing for a couple of hundred years.

Mr. DURBIN. Will the Senator yield for a question?

Mr. MCCAIN. All I can say is, Does the Senator from Utah have another way of reconciling legislation between the House and Senate? Of course not. Of course he doesn't. Of course he doesn't because that is the only way we can get legislation that will be passed by both bodies and signed by the President of the United States. That is the only way.

I tell the Senator from Utah again, if this condition is imposed then there is no reason why any group of Senators should impose conditions on conferees from now on, which will then mean, of course, we would not go to conference.

I would be glad to answer a question.

Mr. DURBIN. Mr. President, I would like to ask the Senator from Arizona a question through the Chair.

It is my understanding the budget resolution passed by the House and the budget resolution passed by the Senate, if conferenced and agreed upon, will result in a resolution passed by both the House and Senate but never sent to the President. It is a budget resolution that governs the way we appropriate from that point forward.

So as to the question of the debt ceiling, it could not be done in a budget resolution. If there is going to be any action on the debt ceiling, it has to be in a separate legislative vehicle that ultimately goes to the President of the United States.

Even if there were an agreement on debt limit in the budget conference, it would have no impact of law. Is that not true?

Mr. MCCAIN. Perhaps the Senator from Utah doesn't know about that, and the fact that even if they did raise the debt limit, it could not become law because it doesn't go to the President of the United States.

Again, maybe the Senator from Utah ought to learn a little bit more about how business has been done in the Congress of the United States. Budget resolutions are not signed by the President of the United States, so even if we did vote to increase the debt limit as a result of the conference—which, by the way, would be irrelevant to the work of the conference—it would not have any meaning whatsoever.

Mrs. MCCASKILL. Would the Senator yield?

Mr. MCCAIN. This business of secret backroom dealmaking, that is what conferences are about, and conference results are subject to a vote of both Houses as to the conference result.

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

Mr. MCCAIN. I would be glad to yield for a question.

Mrs. MCCASKILL. I say to the Senator, through the Chair, I have conferred with our budget chair while Senator MCCAIN was debating this with the Senator from Utah, and maybe they are not aware that conference committees are open to anyone who wants to observe them. I would like Senator MCCAIN to invite the Senator from Utah to sit in on the conference committee and listen to every word.

This notion that our democracy is a backroom deal because of bills in conference—the Founding Fathers are shaking their heads in disgust at this notion. It is not a closed-door process. It is an open process. Anybody can come and listen.

Mr. MCCAIN. It is my understanding since the conference is open to the public, it will also be broadcast on C-SPAN so all the American people can watch the deliberations.

I wonder, why would the Senator from Utah say it is a backroom, closed-door deal when, in fact—doesn't the

Senator from Utah know this conference is open to the public and seen by everybody?

I mean, for the Senator from Utah to say this is a backroom, closed-door deal, he is either directly misleading or my colleague has no knowledge of how the budget conference works. I don't know which one it is, and I don't know which one is worse.

All I can say is we know, one, even if we had a restriction on allowing raising of the debt limit, it would not matter because it is not legislation that would be signed by the President of the United States—no matter what the budget conferees did. We also know the budget conferees—I will admit, unlike many—meet in open session with C-SPAN so the American people are able to observe it.

So I at least hope the Senator from Utah would withdraw his comment that this is a backroom, closed-door deal because it is not. Those are fundamental facts.

Again, it is disappointing that we are spending this time when we should be on the farm bill. The Senator from California and I have an important amendment to remove a lot of the corruption that is in that bill.

I will yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. LEE. Mr. President, as to the suggestion that this produces a budget resolution that at the end of day does not go to the President, and therefore it isn't law, technically, on its own face, is accurate.

What we are concerned about are the instructions which would accompany the conference report. We are concerned about instructions that would allow the normal rules of the Senate to be circumvented specifically for something like this or perhaps a piece of legislation which would itself raise the debt limit to be considered—

Mr. DURBIN. Would the Senator yield for a question?

Mr. LEE. I would like to finish what I am saying—legislation which would itself raise the debt limit and voted on a 51-vote margin rather than a 60-vote margin. So this is different.

Regardless of how open they make that conference meeting, it is not the same kind of open debate in which every Senator and every Representative is able to participate in the same way they would be able to on the floor.

Mr. MCCAIN. Does the Senator admit it is not a deal that is made behind closed doors? Does the Senator admit that? Does the Senator admit he misspoke on that issue? It is not behind closed doors.

Mr. LEE. Compared to the way we do things on the floor, this is a closed-door deal. Compared to the way we do things on the floor, this is not subject to the same kind of scrutiny.

The fact is that we have rules in the Senate—rules—on something like this, which would allow us to proceed on the basis of a 60-vote threshold. That is the

whole purpose of this discussion. That is the basis of our concern. We don't want legislation that can run through to raise the debt limit, incurring potentially trillions of dollars in borrowing authority on the basis of only a 51-vote threshold. That is our concern.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I have been listening to this debate, not just today but for 61 days as we have been working extremely hard to get the budget passed and go to conference so we can work with our House colleagues—and, by the way, the majority are Republicans. We are working to do that because the American people have been very loud about not managing by crisis. We all know that what will happen if we don't go to conference is exactly what the Senator from Utah has been saying he doesn't want.

If we go to conference we will have an open conference committee to discuss the differences between the House and the Senate budgets. They will then give those instructions to the conference committee on how to move forward on our appropriations bills that we are now looking at and how we are going to deal with sequestration. It will be an open debate that will come back here.

If we are not allowed to go to conference—we do have to pass our appropriations and spending bills or move to a continuing resolution because we can't if we don't get a budget deal—we are going to have to have a closed-door and secret discussion to figure out what we are going to do when the debt ceiling hits. It will come down on them in the middle of the night, and they will not have had an opportunity to be a part of it because of the delay that is occurring right now.

If the Senate allows us to go to conference, Members of the Senate, both Democrats and Republicans, my counterpart Senator SESSIONS, and I, his committee, as well as Congressman RYAN from the Republican Party in the House and his committee members and Democrats will sit together in an open process and determine how we move our budget forward.

Mr. MCCAIN. Will the Senator yield for a question?

Mrs. MURRAY. I am happy to yield for a question.

Mr. MCCAIN. In the case of the appointment of conferees, will that be open to the public on C-SPAN or any other media coverage that wishes to come in the room?

Mrs. MURRAY. Once the conference is set and we begin meeting in a conference, it is like any other committee hearing where the public will be able to come in and listen. They will be able to watch on C-SPAN, and it will be an open process.

I will tell the Senator from Arizona that if we don't get to conference, we are going to have to have discussions, as a country, about how we manage our finances and our government moving

forward, and those will be behind closed doors.

So what the Senator is objecting to as to the closed-door secret meetings he is causing.

I hope our Republican colleagues would allow us to move forward. As the Senator from Missouri said, we had 50 hours of debate, we had over 100 amendments which were considered. Not one amendment was offered or considered on the debt ceiling, which is now what they are objecting to if we go to conference.

The Senator from Texas, I believe, offered 17 amendments, and he has been objecting because of this. Not one of them was about the debt ceiling.

I know the Senator wants to have a debt ceiling debate on the floor of the Senate. He is welcome to come to the floor anytime and talk about the debt ceiling. We welcome that discussion. We believe our bills should be paid, but that is separate from what we are talking about here. We are talking about a budget resolution.

Mr. MCCAIN. How many amendments were considered?

Mrs. MURRAY. There were over 100 amendments considered. There was 50 hours of debate equally divided. Every Senator participated.

Mr. MCCAIN. How many were voted on?

Mrs. MURRAY. Over 70 were agreed to.

Mr. MCCAIN. But there was not one amendment on the debt ceiling?

Mrs. MURRAY. Not one amendment was offered or considered on the debt ceiling.

Mr. MCCAIN. I thank the Senator.

Mrs. MURRAY. I would add that what the Senator from Missouri has offered, after talking with the Senator from Arizona, is the ability now to have a vote, despite there wasn't any during that time. There was an offer, with our consent, that, yes, OK, fine. If you have to have that now, we want to get to conference so we will allow a vote on that and proceed to the conference.

So I do not understand this argument that we are going into some secret meeting. I assure the Senator that we have seen secret meetings here when it comes to the budget in the past that have gotten us all to a very frustrating point.

Let's move to conference so we do not have those secret meetings. The Senator is arguing for something—I say to the Senator from Utah—that the Senator from Utah is going to cause.

I hope we can come to an agreement. We have offered a consent which offers two motions to be considered. We hope to have those, and we hope to go to conference.

I assure the Senator that we will be as open and as transparent as possible. That budget resolution will come back to the Senate, everyone will have a chance to have their say if they want that, and then that budget resolution will give us our instructions so we can

continue to move forward on regular order to fund the Defense Department, Agriculture, Education, and to fund the different aspects of government such as transportation and housing. That is our obligation as the United States Congress in order for the American public to be able to manage what they are required to do once we pass our budget.

I urge our Republican colleagues to back off on their insistence on this matter. I am ready to go to conference. Am I going to like what comes out of conference as chair of the Budget Committee that worked very hard to get a budget passed in the Senate? Probably not.

I know my responsibility as a Senator is to work with my House Republican colleagues and those on our conference committee to come to the best judgment we can mutually so we can move our country forward and get us out of this management by crisis that has been forced on us time and time again over the last several years.

The American people deserve certainty. That certainty will come when we can move to conference with an open, transparent committee process which allows us to get the budget in order.

Again, I urge my colleagues to reconsider their objections.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. RUBIO. Mr. President, I too want the Senate to move to negotiate with the House on the budget. I think it is critically important.

I have tremendous respect for the legislative process and our Republic at the State level, local level, and the Federal level. In fact, my colleagues are correct. Oftentimes in this place we have to vote for issues we don't like because it is a product of compromise. It may not have everything we want, but it gives us the things we need.

I have certainly been on the losing end during multiple votes in this place during the time I have been here because I am in the minority both in party and sometimes in view. So I certainly understand that part of it.

That is why I voted against the budget. I am glad we finally produced a budget after 1,000 days, but that budget is one that I believe is deficient. That is why I voted against the budget.

Nevertheless, I believe this institution should move forward in negotiating the differences between our budget and the budget that the House has so we can finally have a budget in this country and so this country can move forward.

The only thing me and my colleagues are asking for is that as part of that negotiation the issue of the debt limit not be included.

I have heard here today statements made that there were X number of amendments filed and they didn't include the debt limit. I think the reason is because most of us agree that is an issue which needs to be dealt with on

its own. This is not just some issue. It is an extremely consequential issue—one that needs to be debated in and of itself because it is a function not just of an annual budget. The massive debt our country faces is a function of a structural problem we have. We basically have these massive government programs that are going bankrupt, and if we don't deal with it, it will keep getting worse.

I have also heard statements made here today that we can't raise the debt limit even if we wanted to because of the way it is structured. That is why I am puzzled. Why, then, the objection? Why the objection to a very simple notion?

We could be in conference with the House today. We could be negotiating with the House at this very moment if all we would do is just say: Go ahead and negotiate the differences with the budget. Negotiate taxes. If there is a tax increase, I am voting against it, but negotiate that. Negotiate all of these sorts of things. But the debt limit cannot be part of it; it has to be dealt with separately.

I don't understand the objection to that being in there.

I would say one more thing about the amendment process, and this is a cautionary tale. The next time someone comes up to you and says, "Don't file any more amendments; you are slowing the place down," maybe you should file them because if you don't file them, you will have to hold your peace forever.

With that being the case, I think we need to move to negotiation with the House with the very simple language in it that it should not have a debt limit increase.

I am going to move and ask for unanimous consent that the Senate proceed to the consideration of Calendar No. 33, H. Con. Res. 25; that the amendment which is at the desk, the text of S. Con. Res. 8, the budget resolution passed by the Senate, be inserted in lieu thereof; that H. Con. Res. 25, as amended, be agreed to; that the motion to reconsider be made and laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate, all with no intervening action or debate; further, that a conference report in relation to H. Con. Res. 25 not be in order in the Senate that includes reconciliation instructions to increase the debt ceiling.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. RUBIO. Well, then, we are in the same place we were before. Basically, this is senateese, but what I basically said is that I want the Senate to go into negotiations with the House. The only thing we ask is that when they come back, there not be reconciliation



instructions in there that the debt limit be dealt with or increased because the debt limit is so consequential for our country that it needs to be dealt with on its own.

Let me remind everybody of what we are dealing with. Let me tell my colleagues that this is a bipartisan debt. I said it yesterday, and I will repeat it today. This is a debt that grew over the last 20 or 30 years with the cooperation of both parties, unfortunately, although we have never seen anything like the last 5 years. It is a function of a structural problem in our spending programs. If we don't deal with those programs, it is going to collapse our economy within our lifetime and certainly that of our children. It is time to deal with it now. That issue should be debated on its own, not as part of a budget negotiation that deals with a 1-year spending agreement.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we have been through this quite a bit, but, again, I wish to respond by saying that if it were part of the budget resolution, it would have no effect in law. So one has to then question what the knowledge of those who are advocating this is about fundamental procedures.

Second of all, if this is a prerequisite, then for every conference we send, Senators will be allowed, according to this precedent, to set certain parameters of those conferences, which is a procedure we use now—instructions to conferees. We are willing to have votes on instructions to conferees on any issue any Senator feels necessary for the conferees to do their job.

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

Mr. MCCAIN. I will be glad to.

Mrs. MCCASKILL. The Senate is a wondrous creation by our Founding Fathers in that a great deal of power was given to the minority in the Senate.

Mr. MCCAIN. Thank God.

Mrs. MCCASKILL. And I know the Senator from Arizona has enjoyed having that power from time to time, and I am sure when my party has been in the minority it has been important, and we have respected that in this body, although there have been some really dicey times, and I am sure the Senator from Arizona has been involved when we have been on the brink of blowing up the rights of the minority.

I want to make sure I understand. The way I really see what is going on is we now have a superminority. If this were allowed to pass, what we would be doing is changing what the Founding Fathers had in mind in terms of the power of the minority and actually saying: Let's go back in history and say there were one or two or three Senators or four Senators who decided, by gosh, they weren't going to do voting rights legislation or they weren't going to do the vote for women or they weren't going to do some of the changes that have occurred in our country.

Does the Senator from Arizona see a problem that if we allow a superminority—a minority of the minority—to hijack a process laid out in our Constitution, that what would happen is the majority would have no choice at that point other than to begin to circumscribe the rules for the minority?

Mr. MCCAIN. Well, I think that is a danger and I think it is a significant danger if a number of Senators, either large or small, should insist that certain conditions be imposed unilaterally without motions to instruct. That is what we have the motions to instruct for. It is not that we don't want the conferees to do certain things, but we have motions to instruct. That is the regular order of how we do business.

The Senators who are here who say the debt ceiling should not be part of any negotiations, fine. Let's have a vote, motions to instruct the conferees. It has been my experience that the conferees have stuck with the instructions that were voted on by the majority of the Senate.

So this is kind of a sad time because here we are debating as to whether we should allow the debt limit to be part of negotiations, which would have no meaning in law whatsoever because it is not signed by the President. We have pressing issues. The Senator from California and I have an issue that has to do with tobacco and the health of our kids that we would like to have considered before the Senate. We could be debating on the instructions to the conferees. We could be doing so many things, and we are not. We are not doing those things.

Finally, I would again share my experience with my colleagues. I have lost a lot more times than I have won, but I have come to the floor of the Senate using the rules of the Senate and made the argument on those things I believe in and stand for. I have been passionate on those issues, and sometimes I have irritated my colleagues, but at least I have had my say.

But then after I have had my say, there have been votes, and the body has decided, and the body has decided whether I was right or wrong. When I have been voted down, I have gone back on those issues and I have tried to convince my colleagues of the rightness of my position, rather than, as with the gun bill, after people were slaughtered in Newtown, CT, my colleagues didn't even want to debate the issue of gun control and what we should do about that. That is not how the Senate should function. The Senate is supposed to debate and discuss and give our passionate appeals and beliefs and then put it to the will of the body. That is the protection of the individual Senator, not to just say we are not going to do anything. That is not the way the American people want us to act. And to throw in all this stuff about the debt and the deficit—I will match my record on opposing the debt and the deficit against certainly my colleagues here.

But that is not the point. The point is, will this deliberative body, whether it is the greatest in the world or the worst in the world, go ahead and decide on this issue so we can have a budget so we can at least tell the American people we are going to do what we haven't done for 4 years and what every family in America sooner or later has to do, and that is to have a budget.

So, as I say, we have gone on too long. The farm bill is of the utmost importance, and the Senator from California and I have amendments on it. I hope my colleagues will realize the best way to get their point of view over and sway the opinion of our colleagues and the American people is to engage in honest and open debate, as the Senate does, instruct the conferees, let them go to conference in an open—not closed-door, not behind closed doors, not backroom—process that is the procedure employed by the Budget Committee in conference.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CRUZ. Mr. President, in "Gulliver's Travels," Swift told us of two fictional lands—Lilliput and Blefuscu—that had been at war for years over which end of the egg to open first. In Lilliput they opened the big end of the egg, and in Blefuscu they opened the small end of the egg, and the big-enders and little-enders battled endlessly. I am sorry to say that satirical depiction often reflects what occurs in this august body. We spend a great deal of time arguing about procedural niceties, about motions to commit or not commit that do not matter to the American people, and all the meantime we are bankrupting our children and our grandchildren.

If I could, I wish to cut through all of the arguments back and forth because in my view most of the arguments are by design missing the point of this disagreement. This disagreement is over one issue and one issue only: Can the Senate raise our debt limit with only 50 votes or does it take 60? Everything else that is being talked about is smoke, is a side issue. The central fight is, Should the Senate be able to raise the debt limit with 50 votes or 60?

I will note that my friend from Arizona questioned the knowledge of those who are objecting, and he suggested that perhaps our knowledge was lacking because this could not be done. Well, I know my friend from Arizona is a long veteran of this body, and he surely knows it was done in 1987 and 1990. This is not a hypothetical. In 1995 and in 2004 it was attempted. It didn't quite get accomplished, but it was attempted.

What occurs under the Budget Act of 1974 is that when a conference report is adopted and reconciliation instructions are sent, that raises the debt ceiling, and that can then be passed by this body with merely 50 votes. This is all an avenue to allow a debt ceiling increase to be raised with 50 votes. And I

know my friend from Arizona is well aware of that because he is such an esteemed historian of this body, he knows not only that it can be done but that it has been done.

We don't need to hypothesize over whether that is what this is about because for 62 days we have asked the majority leader: Simply say we won't use this as a procedural trick to raise the debt ceiling with 50 votes and then we can go to conference. For 62 days the majority leader has said: No, no, I will not do that; I will not do that. And those protestations make absolutely clear what this is about.

I think that on both sides of the Chamber there are different things at work. On the Democratic side of the Chamber—President Obama has been very explicit. He wants to raise the debt limit, and he has said he wants no debate about it. He is unwilling to debate. He wants to shut down the discussion. He simply wants a blank check. He simply wants an unlimited credit card to keep digging the debt hole this Nation is in deeper and deeper and deeper. He said this publicly, repeatedly from the White House.

What our friends the Democrats are doing is standing shoulder to shoulder with the Democratic President in fighting to enable the Senate to raise the debt limit with just 50 votes, which means, if that happens, that would then allow the 55-Member Democratic majority to vote to do so without listening to a word from the minority. That is what this fight is about, and there is no other issue being contested here.

What is happening on the Republican side? Well, some have suggested we ought to just have a motion to instruct. The problem with the motion to instruct is that a motion to instruct is nonbinding, so it is a purely symbolic gesture. But even a motion to instruct not to raise the debt ceiling would lose. Why? Because there are 55 Democrats, and the 55 Democrats would vote against it.

Here is the dirty little secret about some of those on the right side of the aisle: There are some who would very much like to cast a symbolic vote against raising the debt ceiling and nonetheless allow our friends on the left side of the aisle to raise the debt ceiling. That, to some Republicans, is the ideal outcome because they can go to their constituents and say: See, I voted no, and yet at the same time, wonderfully, they lost, and they did not actually have to stand up and stop what was happening. That is an outcome I believe some on this side of the aisle desire.

I do feel obliged to rise in defense of my colleagues, the Republicans, because the senior Senator from Arizona has impugned the Republicans by claiming repeatedly it is only a minority of Republicans who are opposed to raising the debt ceiling on 50 votes. He has repeatedly suggested on the floor of the Senate that, in fact, it may be a

small minority, that the overwhelming majority of Republicans, the senior Senator from Arizona said, stand with HARRY REID in wanting to be able to raise the debt ceiling on 50 votes.

Let me suggest to the senior Senator from Arizona that, No. 1, in saying that, he is impugning all 45 Republicans in this body, but, No. 2, it has been suggested that those of us who are fighting to defend liberty, fighting to turn around the out-of-control spending and out-of-control debt in this country, fighting to defend the Constitution—it has been suggested we are wacko birds. Well, if that is the case, I will suggest to my friend from Arizona there may be more wacko birds in the Senate than are suspected. Indeed, I would encourage my friend, the senior Senator from Arizona, that if he were to circulate to Republicans a simple statement that said: We, the undersigned Republican Senators, hereby state we support giving HARRY REID and the Democrats the ability to raise the debt ceiling with 50 votes instead of 60, I believe he will find his representation to this body that it is only a minority of Republicans who oppose that is not accurate.

This issue gets obscured by the procedural complexities, and that is not by accident. Washington is very good at speaking doublespeak that makes the citizens' eyes glaze over. But as its heart it is very simple. Majority Leader REID and the Democrats want to raise the debt ceiling. They have stated they want to raise the debt ceiling, and they want to do so consistent with President Obama's instructions to do so without debate because he does not want to debate this issue, without conditions, without anything to fix our out-of-control spending, our out-of-control debt—simply give him an additional blank credit card because going from \$10 trillion to \$17 trillion has not been enough. That is the desire of the Democrats, and it is candid.

We could go to conference right now, today, if the Democrats would simply say: We will not raise the debt ceiling with just using 50 votes. We will debate it on the floor with a 60-vote threshold and actually be forced to find some bipartisan agreement. But that is not what the majority wants to do.

Those who are arguing that Republicans should accede to that demand are arguing that all of us who have told our constituents we are going to fight to solve this economic problem, we are going to fight to stop out-of-control spending, we are going to fight to stop bankrupting our kids—that those promises are hollow, those are just what we tell constituents at home, that is not actually what we do when we are on the floor of the Senate.

I would note, indeed, when the senior Senator from Arizona said it is only a small minority that believes this on the Republican side, if my friend, the senior Senator, is able to produce a written letter with the signature of a majority of Republicans, I will offer

here and now to go to a home game of my Houston Astros wearing an Arizona Diamondback hat. And I can guarantee you, in Houston that will not be well received. But yet I stand in complete comfort that I will not find myself in that situation because I do not believe it is right that a majority of the Republicans in this body have given up the fight on spending, have given up the fight on reining in out-of-control Washington bipartisan spending, deficits, and debt. I believe we are seeing leadership in this body stand together to fix the problem. That is what the American people want.

Let me say this in closing: It is easy to get confused by all of the procedural discussions back and forth. This issue is about one issue alone: Should Majority Leader HARRY REID be able to raise the debt limit an unlimited amount with just 50 votes or should it require 60? If it requires 60, there will have to be some positive steps made to fix the problem. If it is just 50, the majority leader has the votes right now, today, to write a blank check for the Federal debt.

That is the issue, and I think the American people are not conflicted in the answer to that issue. The American people want us to fix the problem and stop digging the debt hole deeper and deeper, stop putting our kids and grandkids on the path to Greece.

I am proud so many Senators are standing here working very hard to honor our commitments to our constituents because that is exactly what our job is.

I yield the floor.

The PRESIDING OFFICER. (Ms. BALDWIN). The Senator from Utah.

Mr. LEE. Madam President, I thank my friend and my colleague, the Senator from Texas, for his remarks and I speak briefly to respond to a couple of points that have come up today.

First of all, it is important for us to remember that although the rules of our body might allow for a conference committee to meet in public, and although that may have happened in the past from time to time, it is not the norm. In asking around to some senior staff members who have been here longer than I have, it typically has not happened in recent years. In fact, it has become relatively rare in recent years. So to suggest it necessarily is an open process because it has the capacity to be made into an open process, those are not the same things. Typically, we can legitimately expect for this to be a backroom, closed-door process.

That is not the end of the world; we, of course, need conference committees. They do valuable, important work. We are not disputing that. We are not disputing the fact that sometimes it is important for conference committees to meet in order to reconcile competing versions of the same legislation—one passed in the House and one passed in the Senate. But what we are talking about here is a very limited request: to limit the scope of their work



so as to exclude the possibility of a debt limit increase without the 60-vote threshold.

It is also important to remember that although this is the procedure the majority has chosen to use in order to try to get to a conference committee, it is not the only way. In fact, it is possible to do this without unanimous consent. It is possible to do this without, in other words, all of us being willing to do it—all of us—by withholding our objection as effectively voting to do that.

If, as has been suggested, the other body does, in fact, want to go to conference, the other body could take the budget we passed, could slap their amendments on top of it, could even replace most or even all of our budget with theirs, send it back over, and at that point it is my understanding we could go to conference without the need for a unanimous consent.

So there are other ways. This is just the way the majority has chosen to go. The majority has every right to do that, and we have every right to object. That we do and that we will continue to do until such time as it either becomes unnecessary or until such time as the majority agrees to modify the request along the lines we have specified so as to permit and ensure that any debt limit discussions and votes will take place subsequent to the normal order and subject to a 60-vote threshold.

Thank you, Madam President.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I believe pursuant to a unanimous consent agreement propounded by the chairwoman of the Agriculture Committee that I am next up to be able to speak on an amendment. But for a brief moment I want to reflect on what I have heard and the lens through which I see it.

I have been here for 20 years. When I came to the Senate, it was not this way. The rules of the Senate were observed. A small minority never tried to subvert the will of a majority. I think Senator MCCAIN said it well. We stand on the floor. We advocate for our views. We either win or lose. The dye is cast. But we have an opportunity for full deliberation.

It is one thing to have a minority have their rights. It is another thing to have a minority of the minority absolutely try and handcuff a committee of the Senate. I believe that is wrong. Because what is happening here sets a precedent for future answers. And there is no reason not to have a conference committee.

I think the Senator from Utah knows full well these conference committees are open to the public. They are open to the press. They are often long. They can be laborious. But it is a way of reconciling the differences between the House and the Senate.

So to handcuff this Budget Committee and say it can do this but it

cannot do that is not the right thing to do. I hope the credibility of the minority of the minority running this body diminishes with this debate.

#### AMENDMENT NO. 923

Let me now go to an amendment Senator MCCAIN and I are offering to eliminate taxpayer subsidies for tobacco production in the farm bill of America. It is No. 923. I will not call it up because I understand an agreement is—I am just told by the chairwoman of the committee that I can call up the amendment, and to this end I call up amendment No. 923.

The PRESIDING OFFICER. Is this objection?

Without objection, it is so ordered.

The clerk will report the amendment.

Mrs. FEINSTEIN. I ask reading of the amendment be vitiated, and I will proceed with my remarks.

The PRESIDING OFFICER. The clerk will simply report the amendment first.

Mrs. FEINSTEIN. Fine.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN, for herself and Mr. MCCAIN, proposes an amendment numbered 923.

The amendment is as follows:

(Purpose: To prohibit the payment by the Federal Crop Insurance Corporation of any portion of the premium for a policy or plan of insurance for tobacco)

On page 1101, between lines 5 and 6, insert the following:

#### SEC. 11. PROHIBITION ON PAYMENT OF PORTION OF PREMIUM BY CORPORATION FOR TOBACCO.

Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 11030(b)(2)) is amended by adding at the end the following:

“(9) PROHIBITION ON PAYMENT OF PORTION OF PREMIUM BY CORPORATION FOR TOBACCO.—

“(A) IN GENERAL.—Effective beginning with the 2015 reinsurance year, notwithstanding any other provision of this subtitle, the Corporation shall not pay any portion of the premium for a policy or plan of insurance for tobacco under this subtitle.

“(B) DEFICIT REDUCTION.—Any savings realized as a result of subparagraph (A) shall be deposited in the Treasury and used for Federal budget deficit reduction.”.

Mrs. FEINSTEIN. Madam President, I thank the chairwoman. She made a commitment to hold a vote on this amendment on Monday evening, and she has sought mightily to keep her word, and I very much appreciate that.

This amendment is, to my view, about common sense. Tobacco is not just another crop; it causes 443,000 deaths each year. It is the leading cause of preventable death in America. The CDC estimates that tobacco costs the American economy more than \$200 billion each year in health care expenses and lost productivity.

A recent study estimates that annual smoking-attributable expenditures add \$22 billion each year to Medicaid's bottom line. In other words, Medicaid costs \$22 billion more because of tobacco.

In 2004, Congress approved nearly \$10 billion—\$9.6 billion, to be exact—in payments over the next 10 years to to-

bacco farmers and quota holders in exchange for ending the tobacco program.

In addition to this \$10 billion, tobacco farmers also received more than \$276 million in taxpayer-funded crop insurance subsidies since 2004. That is what we are trying to change. Unlike crop insurance indemnities, the tobacco insurance subsidy is not based on losses. The government pays premium support subsidies year in and year out regardless of losses.

In 2012, farmers received \$37.4 million in subsidies; in 2011, \$33 million; in 2010, \$37.1 million; in 2009, \$40.1 million. If you add this up, there is \$147 million in subsidies given, despite the big tobacco buyout of \$10 billion, in subsidies to crop insurance.

If you look at our \$642 billion deficit, why would the government continue to subsidize crop insurance for tobacco?

Now that is not to say tobacco farmers should not have access to crop insurance. Insurance is an important risk management tool for any business, and our amendment allows tobacco farmers to continue to purchase crop insurance.

The amendment is specific. It eliminates the government's contribution to the annual cost of tobacco insurance premiums. But it does not impact the ability for crop insurance companies to sell these products. Farmers can manage weather and market risk without the mandatory taxpayer premium support.

Some may say: Well, market rate insurance is not feasible for farmers. I challenge that notion. Carrot farmers do not have access to any crop insurance—federally subsidized or otherwise—neither do spinach farmers, broccoli farmers, or artichoke farmers.

The list of crops with no insurance support goes on: cauliflower, celery, eggplant, cut flowers, Kiwi, kumquats, melons, garlic, raspberries, and pomegranates, to name a few.

Farming without government-subsidized crop insurance is possible, contrary to what some would have you believe.

I also want to remind my colleagues that tobacco farmers have done quite well by the government. In 2014, North Carolina tobacco farmers and quota owners will have received \$3.9 billion in buyout payments. In other words, they have taken this money to be bought out. Kentucky quota owners and farmers will have received \$2.4 billion from the government. Quota holders and farmers in Tennessee, South Carolina, Virginia, and Georgia will each have received more than \$600 million in buyout payments by the end of next year.

Evenly divided among the thousands of tobacco quota holders and farmers nationwide, the nearly \$10 billion buyout has provided very generous support. We need to remember this is not a struggling industry. Contrary to what some would have you believe, a 2012 University of Illinois study found that productivity on Kentucky tobacco farms increased by 44 percent in the last 10 years.

At the same time, tobacco farmers are seeing some of their best paydays since the 2004 buyouts began. Tobacco is fetching nearly \$2 a pound for some farmers. The 2012 crop was valued at \$1.579 billion.

To return to the question at hand, should taxpayers continue to subsidize tobacco productions, I believe the answer is no. Tobacco is the leading cause of preventable death in the United States. As I said, it kills 443,000 people each year. It costs \$200 billion in health care and reduced productivity.

I am not alone. This amendment is supported by the American Cancer Society, the American Heart Association, the American Lung Association, the Campaign for Tobacco Free Kids, the American Public Health Association, the Environmental Working Group, Doctors for America, Physicians for Responsible Medicine, and Taxpayers for Common Sense.

Some would have you believe this is going to affect the small tobacco farmer. Let's take a look at it. There are 16,228 farms that grow tobacco nationwide. Well, I will not get into that. The industry is concentrated. A small number of large farms produces the vast majority of the crop. Two percent of the farms produce 50 percent of the annual tobacco crop; 10 percent, 75 percent of the annual tobacco crop. Twenty percent of farms that grow tobacco are smaller than 50 acres. Eighty percent of farms that grow tobacco are larger than 50 acres.

The bottom line is most tobacco farmers are not relying on tobacco as their primary crop. Thus, it is not surprising that only 4,495—that is 72 percent of farms—have tobacco sales of more than \$50,000 a year. A fair assessment shows that about 5 percent of tobacco farmers, 908, do fall into the category of small farmers who rely on tobacco as their primary farm income.

The buyout expires, I believe, at the end of 2014. My point is nearly \$10 billion of taxpayer funds is in the process of being expended to buy out tobacco farmers. Why should we then subsidize crop insurance? I very much hope my colleagues will join me in supporting what I think is commonsense reform. We have to say no to tobacco in America. Most of us think we have made great progress. Young people smoke less; older people smoke less; you do not smoke in public places. All of these have had a big impact. I think by eliminating this subsidy on crop insurance, it also can have a constructive impact.

I urge an "aye" vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Madam President, I thank the Senator from California for her excellent work on the amendment she is offering which takes to another level the fight against tobacco addiction that has so plagued this country. She has been such a champion of the victims of nicotine

and tobacco addiction. Her work certainly has been a model for many of us who have been involved in this fight.

(The remarks of Mr. BLUMENTHAL pertaining to the introduction of S. 1041 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BLUMENTHAL. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I ask unanimous consent that the time until 1 p.m. be equally divided between proponents and opponents of the Feinstein-McCain amendment No. 923; that following the confirmation vote this afternoon and the resumption of legislative session, the Senate proceed to vote in relation to the amendment; that there be 2 minutes equally divided prior to the vote and that the amendment be subject to a 60-affirmative-vote threshold.

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

Ms. STABENOW. One more comment, as I see my colleague is waiting to speak on the Senate floor. I want to thank everyone. As we are working through the farm bill, we are making progress, moving forward, and looking forward to continuing to put in place the final path for passage of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNANIMOUS CONSENT REQUEST—S. RES. 133

Mr. TOOMEY. Madam President, I rise to make a unanimous consent request.

We have been following an extraordinary horror story in the news, and it is the story of Kermit Gosnell's truly unspeakable crimes that were committed over a long period of time—maybe as long as two decades—at the Women's Medical Society in Philadelphia, PA.

We suspect there were literally hundreds of late-term and very late-term abortions that were conducted there, and we now know from his conviction in a criminal trial that there were babies born alive—probably many—who were then murdered when scissors were used to sever their spinal cords after they were born alive in a failed abortion attempt. Further, we know that Kermit Gosnell and some of his colleagues kept aborted fetuses in bags and bottles, discarded them, left them on shelves.

It is unbelievable what was happening at that place for years and years. In fact, the crimes were discovered by accident. Police raided offices to seize evidence of illegal sales of prescription drugs. It was only during that raid for illegal prescription drug sales that they discovered the evidence of these atrocities.

It is my view and the view of many of my colleagues that we need to do a lot more to make sure that the laws, which were blatantly being violated by Kermit Gosnell, are better enforced. We need to do that through proper due diligence and discover where they are being violated.

About 2 weeks ago Kermit Gosnell was convicted. He was convicted of three counts of first-degree murder for killing three infants. He was convicted of one count of third-degree murder in the overdose death of a woman. There were 21 counts of abortion of an unborn child of 24 weeks or more, and he was convicted of 208 counts of violation of informed consent.

We have a resolution, S. Res. 133. It points to these atrocities that were committed. It simply calls on Congress and the States to investigate and correct the abusive, unsanitary, and the blatantly illegal abortion practices that certainly were conducted here at the Women's Medical Society in Philadelphia and similar such practices that may be occurring in other places.

I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Res. 133, that the Senate proceed to its consideration, and that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be made and laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Connecticut.

Mr. BLUMENTHAL. Madam President, reserving the right to object, and I will, in fact, but I want to first discuss the resolution that now for the third time essentially has been brought to this body, and I am here to speak and object for a third time but not out of disagreement with the basic goal that has been well articulated by my friend from Pennsylvania.

I think I am quoting him directly from his remarks just now in saying that the goal is to do a lot more to ensure that the laws violated by Kermit Gosnell are vigorously enforced. I am here to say, yes, let's condemn the kinds of practices that resulted in the conviction of Kermit Gosnell and his sentence, in effect, to life in prison. Let's do more to ensure that laws are vigorously enforced that protect innocent patients in any setting, whether it is a doctor's office, a hospital, or a nursing home; whether it is by a nurse, a doctor, or another kind of caregiver, or by a vicious, conscienceless practitioner like Kermit Gosnell.

Let's stop this kind of despicable medical conduct even if it may be only a tiny fraction of all the caregiving that occurs in the United States by an even tinier fraction of a great and noble profession, by extraordinarily experienced and expert members of our medical profession.

We need to talk about all of the kinds of malpractice and criminal misconduct that can cause death or injury or the threat of death or injury.

We ought to be equally outraged by the doctors and the nurses in States such as, for example, hospitals and nursing homes in both New Jersey and Pennsylvania—in 2006, a nurse was sentenced to multiple life sentences for

killing at least 29 patients by intentionally overdosing them with medication. There was simply no justification for those actions, and they are equally as heinous and unforgivable as the crimes that resulted in the conviction of Kermit Gosnell.

We need to talk about the nurse who was charged with killing 10 patients in a hospital in Texas by injecting them with a medication to stop their breathing. She pleaded no contest and is now serving life in prison.

I want this body to adopt a resolution that addresses those kinds of lapses in basic decency, ethics, and morality, as well as law.

We ought to be talking about the doctor who worked in hospitals in seven States—New Hampshire, Kansas, Maryland, Pennsylvania, Michigan, New York, Georgia—and exposed almost 8,000 patients to hepatitis C. He knowingly injected patients with his own infected blood and exposed them to a life-threatening disease.

The resolution I am going to ask this body to adopt speaks to those violations of trust, decency, and law.

In this place, I have talked about other similar violations—the Oklahoma dentist who exposed as many as 7,000 patients to HIV and hepatitis B and C through unsanitary practices. In Nevada, practitioners at an endoscopy center exposed 40,000 patients to hepatitis C through their unsanitary practices, and it went on for years.

My resolution speaks to those basic violations of trust and morality.

Kermit Gosnell's case has run its course. Our criminal justice system has done its work.

I have a resolution, and I ask unanimous consent that it be adopted.

I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Res. 134 and that the Senate proceed to its consideration; that the resolution be agreed to, the Blumenthal amendment to the preamble, which is at the desk, be agreed to, the preamble, as amended, be agreed to, and the motion to reconsider be laid on the table, with no intervening action or debate.

I object to the resolution offered by my colleague from Pennsylvania and ask him and my colleagues to join me in support of this alternative resolution.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the request of the Senator from Connecticut?

The Senator from Pennsylvania.

Mr. TOOMEY. Reserving the right to object, I think the Senator from Connecticut makes a number of important observations and raises a number of very important issues. I think there is an opportunity for the two of us to work together to address some of these. However, my reading of the actual resolution for which he is requesting unanimous consent, in my view, equates outcomes—including deaths but outcomes resulting from mal-

practice and unsanitary conditions and other completely indefensible practices—equates those with the serial, premeditated, intentional murder of babies. I don't think those things ought to be equated because I think they are of a very different nature.

Furthermore, the resolution of the Senator from Connecticut, it is my understanding, does not call for the investigations that I think are necessary to determine how widespread these practices are, under what circumstances they are occurring, and what more could be done to prevent them.

For those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, being a majority leader is not an easy job whether you are a Republican or a Democrat. Some good things have been happening in the Senate recently, and I think we should credit both the majority leader and the Republican leader with helping to make that happen.

Over the last few weeks we have seen the water resources bill come to the floor. The majority leader allowed Senator BOXER and Senator VITTER to manage the amendment process, to handle the necessary arguments that always occur about what they will be. They came to a conclusion and passed a bill. The bill went through committee, went through the floor. It is a very important bill because it deals with locks, dams, and ports in the United States. We want to make sure that as the Panama Canal is widened and deepened, that ports in the United States are deep enough to receive the bigger ships and that the locks and the dams are in good enough shape so that commerce can move through the company and the jobs can be created. That is an important piece of legislation.

And now we are on the farm bill and we see the Senator from Mississippi and the Senator from Michigan managing a bill. There is plenty of opportunity for amendments, as far as I have been able to tell, and that has been very helpful.

At the same time, we have coming out of the Judiciary Committee, after several days of intense work, a bill on immigration. Probably the four most important words that can be said about the immigration debate is that we are all Americans, and Americans know we must have a legal immigration system if we want to be able to say we are all Americans. And we want one. We don't have an enforceable legal system today. All of us know that. None of us like the status quo, I don't think, and all of us know the President and the Congress are the only ones who can fix it. This is not something we can dump on the mayors or the State legislatures.

Many of us haven't formed a final opinion about this legislation that is coming forward, but I, for one, respect the fact that it has moved; that it has four principal Republican sponsors and

four principal Democratic sponsors. It has moved through the committee, voices have been heard, it is coming to the floor, and, again, the majority leader has indicated, and the Republican leader has agreed, there will be a full and open debate so the American people can see it and watch us come to a result.

All those are good things. In addition, so that we might do that, there are a number of nominations about which we are likely to disagree. They will come after that so as not to interfere with the immigration debate.

That brings me to my final point. I would note the fact that with occasional interruptions for debate over whether we are going to go to a budget, which I hope gets resolved, we are on a pretty good path right now. I hope the majority and the minority leaders can see that.

We are moving this afternoon to a vote on a Federal appellate judge for the D.C. Circuit. A major objective of the Democratic side has been to get another judge on that circuit, and the President has nominated a person, Mr. Srinivasan, who, by every account, is an exceptional attorney. He came out of the committee with an 18-to-0 vote and has widespread respect and support.

The only glitch in the process is the majority leader believed it was necessary to file a cloture motion this week, even though the Republican leader had agreed we would have an up-or-down vote on the Tuesday we get back, and every indication is that almost everyone would vote for that judge. That has now been resolved, and we are going to vote this afternoon at 2 p.m. I know better than to predict how the Senate will vote, but I will vote for Mr. Srinivasan, and I suspect he will be easily confirmed.

In all of this the majority leader has believed it was necessary to suggest that somehow there is a problem with the President's nominations being considered by the Senate, so I think it is important that someone other than the Republican leader—because it is his job, really, to defend our side—lay out the facts, and I hope I can do that with some credibility because I worked with my Democratic colleagues at the beginning of the last Congress and at the beginning of this Congress to make it easier for this President and future Presidents to have their nominations considered. We have changed the rules to make it easier.

Just a few months ago, in a long discussion that involved Senators on both sides in a debate on the floor, we made a number of changes to make it easier for a President to have his nominations considered. And 2 years ago we adopted the expedited nominations, where nominations simply come to the desk. If no single Senator wants it sent to committee, it just sits there until all the paper is in, then the majority leader will just move it on. Within the next few days there will be a number of

those that come out of the Health, Education, Labor and Pensions Committee. So that speeds things up.

We removed from the list of nominations about 160 low-level executive nominations. They are not subject anymore to Senate advice and consent. The President may just go ahead and appoint those persons.

We have gotten rid of the secret hold, which was used for a long time to hold up nominees, and even to block them, because no one knew who was doing that. Earlier this year we changed the rules so that when a district judge comes up, there can't be a long debate after the district judge comes to the floor. As a result, things are moving along very well.

So I would like to say there is not a problem with the President's nominations being considered in a timely fashion by the Senate. There is no problem. There is, however, the responsibility for advice and consent. Most of our Founders did not want a king. They created a Congress and they said: Here is an advice and consent. So we now have about 1,000 people the President will nominate whom we are supposed to consider, and we should do that well. That is our job to do, and it is our check on a runaway Executive.

When I first came here, Senator Byrd made wonderful speeches about that. I remember the speeches Senator Kennedy gave from the back row, with that big booming voice of his, about President George W. Bush's recess appointments and how offended he was by those because they offended the Constitution. Senator Byrd, as I mentioned, was very eloquent, going all the way back to President Reagan's days.

So we have always jealously defended the people's right to have an elected group of representatives to check the Executive, and we need to use that in a responsible way. Therefore, it is important to have an accurate report on just how well President Obama is being treated by the Senate in terms of his nominations.

I have just noted that we have changed the rules to make it easier. I did not even say we have even made it easier for the nominees; we set up a working process to make it easier. I like to call it a response to the "innocent until nominated" syndrome.

The President picks some well-respecting person from the Midwest and sends his or her nomination to the Senate, and all of a sudden it is as if they were a criminal of some kind. That is because there were so many conflicting forms to fill out it was easy to make a mistake and look as though you were misleading the Senate. We have tried to simplify that, and this President is the first beneficiary of that change.

So this President is the first beneficiary of consecutive Congresses that have changed the rules to reduce the number of potential nominees subjected to advice and consent. We have expedited a number of others, and we have made it easier—easier and

quicker—for the President to have his nominations considered. This President is the first to benefit from that.

So what are the results? The majority leader suggested there was delay and obstruction. Those words just come out automatically sometimes when people wake up in the morning on that side of the aisle. But let's look at the facts.

I asked the Congressional Research Service to take a look at the Washington Post article written earlier this year—now, these are not Republican people I am asking, this is the Congressional Research Service—about how President Obama is being treated in terms of his Senate nominees.

According to the Congressional Research Service, as of May 16, 2013—that is last week—President Obama's Cabinet nominees were still, on average, moving from announcement to confirmation faster than those of President George W. Bush or President Clinton. President Obama's nominees were moving from announcement to confirmation, at that time last week, in 50.5 days, George W. Bush averaged 52 days, and President Clinton averaged 55 days.

So let me say that again: President Obama's Cabinet nominees are moving ahead in the Senate more rapidly than those of his two predecessors: one of them President George W. Bush and one of them President Clinton. So there is no delay there that is unusual.

It is not unprecedented, Madam President, for some second-term nominations to take much longer to move from announcement to confirmation than the average. President Clinton's nominee for Secretary of Labor, Alexis Herman, took 135 days; President George W. Bush's nominee for Attorney General, Alberto Gonzalez, took 85 days. I remember the case of one especially distinguished nominee for Secretary of Education by President George H.W. Bush, a former Governor of Tennessee whose name was Alexander. His nomination took 88 days from announcement to confirmation, and President Reagan's nominee for Attorney General, Ed Meese, took nearly 1 year.

Now that is an unusual case, but it is not so unusual for second-term nominees to take a little while—for the Senate to perform advice and consent. And as the Congressional Research Service and the Washington Post have reported in their own analysis, President Obama's Cabinet nominees are being better treated than either President Bush's or President Clinton's in terms of the time it takes to confirm them from announcement to confirmation.

Now, one last thing. What about judges? Sometimes I have heard Senators on that side and Senators on this side get up and give conflicting information about whether judges are being considered rapidly. Here is what the data says about the judicial nomination process.

If Mr. Srinivasan is confirmed today, as I expect he will be, President Obama

will have had 20 judges confirmed at this point in his second term, including 6 circuit judges and 14 district court judges. At this point in his second term, President George W. Bush had 4. So that is 20 for President Obama, 4 for President George W. Bush. No unusual delay there.

Apparently, President Obama's nominations are being considered more rapidly than those of President Bush. To be specific, let's go to the district court nominations. We know, with all the talk of a filibuster, in the history of the Senate there has never been a nominee for a Federal district court judge who has ever been denied his seat by a filibuster after that nomination came to the floor. So that needs to be said, too. But right now there are five pending district judge nominations that have been reported from committee that haven't been confirmed.

There have been 33 nominations this year. Fourteen are already confirmed, five are reported from committee, as I said, and await floor action. They were reported in May and April and three of them in March. So there is no big backlog. There are five. They were reported in the last few weeks. So no excessive delay there.

Finally, on circuit court nominations. I mentioned we are likely to confirm one of the three that are today pending, Mr. Srinivasan. Twelve nominations of Federal circuit court judges have been received this year. Six will have been confirmed after this afternoon. That leaves two—two—circuit court judges who have been nominated by the President and await floor action. They were reported by the committee in April and February.

So I can't find any evidence of any delay on Cabinet nominations. In fact, President Obama is being treated better than his predecessors. I don't see any evidence of any delay on judicial nominations. After the vote on Mr. Srinivasan, President Obama will have 20 confirmed in his second term, President Bush had 4. And there are only five pending district court nominations, all reported within the last few weeks. There are only three circuit nominations, one of which is likely to be confirmed this afternoon. On that one, the majority leader indicated Mr. Srinivasan, who has such widespread support on both sides of the aisle, had been waiting forever. Well, he has been waiting a while. President Obama nominated him on June 11, 2012. But why did he wait? Madam President, he had no hearing. Who is in charge of setting hearings? The Democratic majority is in charge of setting hearings. The Republicans can't call a hearing in the Judiciary Committee.

So their nominee, Mr. Srinivasan, sat there all of last year, after June 11, without a hearing. There may have been delay, but that was a self-inflicted delay.

What about this year for Mr. Srinivasan? Here is the timeline. He was nominated again on January 4 by

the President. His hearing was April 10. I don't know why they had to go from January to April to have a hearing, but, again, that is solely within the control of the Democratic majority. He returned his questions—which we all have to do if we are nominated for an executive position—on May 6. That is this month. The committee considered his nomination May 16, which is just last week. They approved it 18 to 0. That is all Democrats and all Republicans voting yes. He came to the calendar of the Senate on May 20. That was on Monday.

The PRESIDING OFFICER. Will the Senator yield?

#### EXECUTIVE SESSION

#### NOMINATION OF SRIKANTH SRINIVASAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Srikanth Srinivasan, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided in the usual form.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I will conclude for those who are expecting to do that, but these are timely remarks.

So, Mr. Srinivasan, nominated on June 11, 2012—no hearing by the Democratic majority and the executive committee, I wonder why; nominated January 4 by President Obama this year again, no hearing until April 10. If there is any delay there, it has no fault anywhere on the Republican side. May 6, questions returned; no nominee is considered by the committee until his questions come back; marked up May 16 last week, 18 to 0, unanimous; came to the floor on Monday and the Republican leader moved yesterday to ask unanimous consent that we consider an up-or-down vote for Mr. Srinivasan when we return after a week, which means he would have been fully considered then, to which the majority leader put down a cloture motion.

Now he has removed the cloture motion but there was no need for the cloture motion. The only suggestion may be he did it, he made it so it would look as though there was some delay over here, but there is no delay. Mr. Srinivasan has broad support. We are ready to vote for him up or down. I think it is time we got away from this idea of manufacturing a crisis about nominations when in fact we have made it easier for any President to

offer his nominations, and the majority leader and Republican leader agreed at the beginning of this year when we did that, that that was the end of the rule changes for the Congress in this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, I ask unanimous consent to speak for 5 minutes on the Feinstein amendment.

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

Mr. BURR. Madam President, let me first say about the comments of Senator ALEXANDER, you see why he is a former university president, a Governor, a Secretary of Education, a candidate for President, and now some would call him a Senator. I think you would call him a statesman, because he tries to lay it out in a way we can all understand it, with facts and not hyperbole, and this is an opportunity for us on both sides to step back from the brink and actually do the people's business, to get something done, to solve big problems.

I came to the floor to talk on the Feinstein amendment, knowing it is not up for an hour—and I will be very brief, to my colleague from Virginia, because I know he wants to talk about judges—primarily because there is some misinformation that has been stated. Let me recap the tobacco industry in a very brief summary.

Tobacco, like many agricultural products, for years received a price support system that the Federal Government, the Congress of the United States, put in place. A number of years ago, Members of Congress said, for obvious reasons, the Federal Government probably should not have a price support on something we consider not to be best for people's health. At that time farmers reluctantly listened to Members of Congress who said the international market should be open to you and we should do our best to make it unlimited, and we did. At that time we eliminated the price support system.

Senator FEINSTEIN came to the floor—I do not think she did this intentionally—and she said it costs the American taxpayer \$10 billion. In fact, there was not one dime of American taxpayer money that went to the tobacco buyer; 100 percent of the cost of the elimination of that program was absorbed by the tobacco companies. So, yes, if the purchase of a pack of cigarettes and the profit that goes to a tobacco company and the \$1.01 in Federal taxes they pay per pack of cigarettes is the American taxpayer paying the price of the buyout, she is right. I am not sure you can make that connection.

But I want to state for my colleagues: The Federal Treasury did not pay \$10 billion to buy out tobacco farmers. It was the companies, the ones that understand they have to have a viable, abundant source of product.

Sixty percent of what we grow in the United States is shipped for export. It does not go to the domestic market.

Let me say to my colleague, if the intention of this is to be punitive to this product, for gosh sakes, come to the floor; change your amendment; let's vote up or down as to whether tobacco is going to be legal. If the purpose here is to suggest we are going to save taxpayer money, let me suggest if you put every tobacco farmer out of business—and this is the commodity that achieves, actually, our best balance of trade in agricultural products—you would make a real long-term mistake. The only thing this commodity, this agricultural commodity, asks is let us participate in the Federal Crop Insurance Program. Without that protection it is impossible for my neighbor, your neighbor, the backbone of the community—a farmer—to go to a bank and say: Can you lend me enough money to plant my crop this year? And if Mother Nature is good and I work hard I am going to be able to sell this product, I am going to be able to pay you back, and I am going to be able to make a profit to feed my family. Without that assurance of a safety net they would never get the bank to loan the money.

This is about availability of capital, this one cost. Why in the world we would pick one commodity out of the entire agricultural industry and say everybody else can participate in the crop insurance program but you can't is insane.

Let me say to my colleague from California, Senator FEINSTEIN, I don't think this was intentional. I think she either got bad staff information or she made a gaffe.

To my colleagues, let me encourage you, vote against this amendment. Don't do this to a piece of the agricultural community that is profitable, that works hard, but, more importantly, contributes a lot to the backbone of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. KAIN. Madam President, I rise to support the nomination of Srikanth Srinivasan to be judge for the U.S. Court of Appeals for the D.C. Circuit. This matter will be before us for a vote later today. I want to talk for a bit about Sri's significant qualifications. I am going to discount the fact that he was born in Kansas and raised in Kansas, as I was. I will not take that into account. I will discount the fact he lives in Virginia as I do, and focus on other qualifications because he has them by the boatload.

Sri has a wonderful background that equips him for this most important judicial position, and this has been a position that has been vacant since June of 2008. He was an undergraduate and then law degree and then business degree, MBA at Stanford after he grew up in Lawrence, KS. Like many law graduates, his next step was to work in a clerkship with appellate judges. He