

real world—not in Washington or the think tanks—small- and medium-sized businesses and individuals are holding back on investing or holding back on making moves? You don't think someone who decided to leave their job, take their life's savings, and open a business because they believe so much in their dream—you don't think this uncertainty is hurting that from happening? It is.

You cannot grow your economy unless people are willing to start new businesses or grow existing businesses, and ObamaCare is keeping that from happening. That is the disaster.

Why would we fund a disaster? Why would we pay for something out of the American taxpayer's wallet we know isn't going to work? When they talk about shutting down the government and how it is going to be a disaster—ObamaCare threatens to shut down our economy. I am telling you this is a disaster. We should not fund it, and we should not have a temporary budget around here that gives money to this thing. It is a disaster, it will not work, and it is going to hurt people.

The other thing about this debt limit that I make such a big deal about—let me tell you why. We owe \$17 trillion, and that is bad, and it is bigger than our economy. Here is the worst part about it: There is no plan in place to stop that from continuing to grow. You heard right. There is no plan. This budget the Senate passed—I am glad we passed a budget—only makes it worse; it doesn't make it better.

Where is the urgency? What are we waiting for? This isn't going to take care of itself. We are not going to win the Powerball lottery and pay this thing off. When is someone going to step up and say it is time to solve it?

I have been here now 2½ years. If on the day I got elected you told me we would go 2½ years without seriously dealing with this, I wouldn't have believed you. I would have said: Look, I know it is going to be hard, but we have to do something. We are 2½ years into this, and they are saying: We are going to raise the debt limit, and we don't want any conditions. We don't want to deal with anything that fixes it.

People say: Well, the debt is something that is far off in the future. It is off in the future, but it is also happening now. Do you think when people decide to invest money to start a new business or expand an existing business—which is how you create jobs; that is how jobs are created in the private sector.

If you graduated college, went to school, got your degree, and now you can't find a job, I will tell you why you cannot find a job: The businesses that create those jobs will not create them until all of this is figured out. People do not want to risk their hard-earned and saved money in an economy that is headed for a catastrophe.

Look at what is happening in Europe now. Europe has a debt problem. You

know how they have had to deal with it? Disruptive changes in government and tax increases. If you think that stuff attracts investment in business, you are out of your mind. There isn't a chamber of commerce in the world that tells people: Come to us. Here we have high taxes and heavy debt that will make those taxes even bigger in the future.

The bottom line is that the debt limit and the fact that we don't have a solution for the debt is also the reason for the crisis. We need to begin dealing with this seriously and stop playing games. Someone has to draw a line in the sand, and I know many of my colleagues and I intend to do so every chance we get.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold that suggestion.

Mr. RUBIO. Yes.

RECESS

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

Thereupon, the Senate, at 12:48 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. HEITKAMP).

The PRESIDING OFFICER. The assistant majority leader.

MORNING BUSINESS

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

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

Mr. DURBIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATE PROCEDURE

Mr. NELSON. Madam President, I want to speak about a subject that is on the hearts of most of us now as we approach not what is a coming constitutional crisis, but what is already a constitutional crisis because this body is not functioning as the Constitution intended. The minority, under the rules of the Senate, is protected and has been.

In the early days of the Senate, there was no cutting off of debate. In the early 1900s, a level, a threshold of 67 was established in order to cut off debate. Then, after the abuses of that filibuster requirement to cut off debate in the abuses in the civil rights era, in-

deed, the threshold was lowered to what we have in the Senate rules today—60. But we are seeing that it is being abused.

Under the Constitution we have the checks and balances of the separate branches. But when a President is elected, the President is entitled to have the people he wants to advise him to be a part of his team to be confirmed. It has always been the practice under the Constitution to have, not a supermajority vote, as is required for treaties, but a simple majority vote in the approval of the nominations.

The issue in front of us is whether the President will be entitled to have approved by the Senate the people he has put forth to head the agencies and the Departments of his administration. That is what has brought us to the constitutional crisis where we are now finding ourselves ready to act.

Congress has failed to put aside political differences to find commonsense solutions not only on the issue of the approval of the President's appointments, but on so many of our Nation's pressing problems.

Let's start out with the charade that we call the sequester. The sequester is a meat cleaver approach to budgeting. I daresay in the minds of most of the Senators it was never intended to go into effect. It was the meat cleaver hanging over the head, a year and a half ago, of the appointed supercommittee that—after the initial \$1 trillion of spending cuts were made on the budget over a 10-year period, which was done—the supercommittee was to come along and work out deficit reduction with a target somewhere around \$4 trillion in total.

What was to encourage the supercommittee was this meat cleaver hanging over their heads, or guillotine hanging over all the heads that nobody wanted, which was cuts across the board without regard to programs—across the board in discretionary programs, defense and nondefense discretionary programs.

Such across-the-board budget cuts, is that the way to go about making proper appropriations decisions? Those kinds of meat cleaver approaches do real damage to people's everyday lives. In the long run, the sequester is certainly going to hurt our national defense, our national security, and our Nation's ability to compete economically with other countries. If we see these kinds of cuts continue in this ideological fashion without regard to programs, then we are going to be in serious trouble.

We can continue to have both sides of the aisle point fingers at each other, but isn't it about time we get rid of this approach to the budget—the sequester—and start talking about how we can get the job done?

Well, the ranking member of the Finance Committee is here. He is one of my dear personal friends. I believe he is very sincere, along with the chairman of the Finance Committee, to really

take on tax reform. Are we happy with the Tax Code we have? Do we think it has much too much complication? And couldn't its streamlining—particularly with tax expenditures, which are tax deductions and tax credits, and almost every special interest in the world has their own special tax expenditure—could we not clear out a lot of them, which produces revenue, and use that revenue in order to lower tax rates and also use some of it to lower the deficit?

Well, we need to close some of those loopholes, and I am hopeful, with the leadership of Senator BAUCUS and Senator HATCH, we are going to be able to do that. But there are a lot of other things in there.

It is no surprise that I have been speaking of subsidies that go to companies, such as oil companies, that have outlived their usefulness that were given a century ago in the Tax Code as incentives to drill for oil. Do we think oil companies need those financial incentives now? What about the offshore tax dodges?

I think it is also obvious that when you look at the Medicare drug program, you know the taxpayers of this country, through their government, got a break on the cost of prescription drugs that we supply to Medicaid and to the Department of Defense and to the Veterans' Administration. But when it comes to if you have been getting that price break on your drugs through Medicaid, but you now turn 65, and you get your drugs through Medicare, the U.S. Government does not get the break, the discount on the drugs through Medicare. The very same people who were getting them under Medicaid now are getting them by Medicare because they passed the threshold of age 65—same drug, same people; the government is paying it—but the government is paying a much higher price. That could be worth a savings of \$150 billion to the U.S. taxpayer over the course of a decade.

You do the math on just these few examples I have given in this short little speech, and it adds up to well over \$1 trillion. And that is just a starter. There are hundreds of billions of dollars more that might be saved by closing some of these tax loopholes.

I think we need to keep in mind that not all tax deductions are bad. Some serve very legitimate purposes. But here we are, and we come back to the gridlock we are experiencing. We passed a budget resolution in the Budget Committee. It passed out here on the floor of the Senate. The House of Representatives has passed a budget resolution, albeit much different than ours. The normal process around here is to try to work out our differences and to do it as ladies and gentlemen with comity. But we cannot even get a motion approved in order to go to a conference committee to work out the differences between the House and the Senate budget resolutions.

So I would continue to plead with our colleagues to allow this to move for-

ward. No less than one of the most stellar Members of this body, Senator MCCAIN, has called for the naming of the conference committee. My Republican colleague who helps me lead the Aging Committee, Senator COLLINS, has called for the naming of the conference committee.

So let's do it. Let's end the gridlock on this one little thing. Let's compromise. And let's start using some common sense. If we do, you will see a chorus of amens from our fellow countrymen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

NOMINATIONS

Mr. HATCH. Madam President, last month I spoke here about the confirmation process and how the majority was committing filibuster fraud.

The leaders on the other side of the aisle, including the majority leader and the majority whip, voted for judicial filibusters more than 20 times by this point in the previous administration.

They succeeded. There were five times as many judicial filibusters at that time during the Bush administration as there have been today. Looking at executive branch nominations, those same Democratic leaders voted to filibuster President Bush's nominees to be Assistant Secretary of Defense and EPA Administrator, and twice voted to filibuster his nominee to be U.N. Ambassador. They must have thought very differently then about whether the President deserves his team. Their actions then spoke more loudly than their words do today whether they think all nominees do deserve an up-or-down vote.

The Senate recently confirmed the Directors of OMB and the CIA, the U.S. Trade Representative, the Secretaries of Energy, Interior, Treasury, State, Transportation, and Commerce this year by a collective vote of 816 to 61. That does not sound like a Senate that is in jeopardy or trouble. In fact, it does not sound like they even have a case to make to do what they have alleged they are going to do.

The Congressional Research Service says the Senate is considering President Obama's executive nominees faster than during President Bush's second term, but none of that is good enough for this majority. They not only want more, but it appears they are willing to get it by any means necessary.

According to media reports, the majority leader is being pushed by political interests to use a parliamentary gimmick to limit or abolish filibusters. In other words, his political base, especially Big Labor, wants him to put short-term partisan politics ahead of the integrity and tradition of the Senate itself. If simply saying that is not enough to show how dangerous it is, we are in more trouble than I thought.

Thomas Jefferson called the Capitol the first temple to the sovereignty of

the American people. The people established our Constitution with its separation of powers. They designed the legislative branch with an action-oriented House and a deliberation-oriented Senate. We call ours a system of government because it includes all of these parts designed to be different and yet to work together.

Many people bemoan the division and conflict in Congress, the partisanship and on and on. Yes, there will be conflict over the important issues facing our country. Men and women of different perspectives, views and ideologies and serving different States serve in Congress. But I always thought we should be of one mind about the long-term integrity of the system of our institutions.

For more than two centuries, the Senate has been designed to play its own particular part in the legislative process. Form follows function, they say. So our rules reflect our role. For more than two centuries the minority has had some basic rights in this body, including the right to debate. That right has always annoyed the majority and empowered the minority. I know that from experience, as I have been among the annoyed, just as today I am among the empowered.

The majority knows it too. A decade ago when they were in the minority they began for a time using that right to debate to defeat judicial nominees who otherwise would have been confirmed. Now back in the majority, they want to ban the very tools they found so useful just a few years ago. Now that the majority leader is done using the opportunity for extended debate, he wants to make sure no one else can use it.

Why? For one simple reason. Because they want their way every time. They think they are entitled to it, and if they cannot get it the old-fashioned way, by persuading their colleagues and the American people, then they will simply rig the rules.

This short-term power grab, however, will cause long-term damage to the Senate and to the system of government of which it is such a vital part. Do not think just because they say they are limiting it to the executive branch appointments, excluding judges, do not think that is not going to lead to all kinds of other obnoxious approaches toward the Senate.

A little dose of history provides a big dose of clarity for this debate. For more than a century the right to keep debate going belonged to each individual Senator. There was no rule at all for ending debate. A single Senator could prevent bills from passing by preventing debate from ending.

We have had a rule for ending debate for nearly a century. Today it is easier to end a debate than at any time since the turn of the 19th century—not the 20th century, the 19th century. Not only that, but the majority is using that rule more effectively today to prevent filibusters than the rule has been