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Senate

The Senate met at 2:01 p.m. and was called to order by the Honorable TIM KAINE, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Shepherd of love, sustainer of our lives, and superintendent of our destinies, we honor Your Name. Lord, in these turbulent times, we continue to look to You, our helper, as You lead us beside still waters, restoring our souls. Help us to trust You even when we don't understand Your providential movements, as we find joy in Your presence each day.

Thank You for Your constant love and for Your reminder that in everything You are working for the good of those who love You and are called according to Your purposes. Guide our Senators, keeping them from deviating from strict integrity, as they strive to live worthy of Your love. We pray, in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 15, 2013.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIM KAINE, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

KEEP STUDENT LOANS AFFORDABLE ACT OF 2013—MOTION TO PROCEED

Mr. REID. I now move to proceed to Calendar No. 124.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1238) to amend the Higher Education Act of 1965 to extend the current reduced interest rate for undergraduate Federal Direct Stafford Loans for 1 year, and to modify required distribution rules for pension plans, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, following my remarks, the time until 5:30 p.m. will be equally divided and controlled. At 5:30 there will be a rollcall vote, with a live quorum requested. Senators should be advised that may not be the only vote today. We may have to have some more votes before we start our joint caucus, which is scheduled for 6 o'clock. I hope there will only be the need for one vote—we should know at 5:30 or thereabouts—but we could have several votes. I look forward to the joint caucus.

RESERVATION OF LEADER TIME

Mr. REID. At this time I ask the Chair to announce the business of the day.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5:30 p.m. will be equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. If there are quorum calls during this time, I ask unanimous consent that they be equally divided.

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

Mr. REID. 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. WARREN. 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.

CONSUMER FINANCIAL PROTECTION BUREAU

Ms. WARREN. Mr. President, I rise today to speak about the Consumer Financial Protection Bureau and the renomination of Rich Cordray to serve as its Director.

Several years ago I began working on the idea for a consumer finance agency because our consumer credit system was badly broken. The laws were inconsistent, they were often arbitrary, and the basic rules changed for the same kind of product, such as a mortgage, depending on what kind of company sold it. People got cheated. And, as we know, in 2008, reckless and dangerous mortgage lenders and Wall Street traders who made money off those mortgages nearly brought our entire economy to its knees.

In 2010 Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. The consumer protection part of that was the new consumer agency—the CFPB—which was designed as a watchdog to keep credit card issuers, mortgage lenders, and student loan marketers from cheating people.

Now, there was a lot of negotiation over the structure of this new agency. Hearing after hearing, markup after markup, floor vote after floor vote. But now the same big bank lobbyists are fighting the same fight and using the same tired old talking points about the consumer agency they were using years ago. You know, you really have to wonder just how much money they are making fighting this fight over and over. But now let's go ahead one more time and talk about the facts.

Congress built in many features to the consumer agency so that it would have strong oversight. Let me share just a few examples.

The CFPB is the only agency in government that is subject to a veto from other agencies over its rules—the only one. The CFPB is the only banking regulator that is subject to a statutory cap on its funding—the only one. The CFPB Director is legally obligated to produce regular reports to Congress, to testify before Congress regularly, and to comply with audits. The CFPB also has now testified more than 30 times before Congress—30 times. In addition, the CFPB is subject to all the regular constraints in our system of government that constrain every agency—the Administrative Procedures Act, judicial review, and so on. And, of course, there is the ultimate oversight: Congress can overrule any CFPB regulation.

Since the agency became law in 2010, there have been two major developments. The first is that Director Cordray has done an excellent job. He has won praise from consumer and industry groups and from Republicans and Democrats for his balanced rulemaking and his measured approach. Small institutions such as community banks and credit unions—the ones that didn't cause this crisis—think he has been fair and effective. Other institutions that want a fair marketplace, those that don't want to make a profit by cheating their customers, like Rich too.

The agency is working. It has already forced credit card companies to refund nearly $½ billion they tricked consumers out of, and the complaint center is giving tens of thousands of people a chance to fight back when they are cheated. The agency has helped out military families, seniors, and students. It has helped a lot of people.

The agency has become the watchdog so many of us fought for, and Rich has surpassed even the high expectations I had for him 2 years ago when I stood next to him in the Rose Garden as the President nominated him for the first time to the CFPB.

There has been a second development since.

The need for certainty has been intensified. It has been nearly 5 years since the crisis and 3 years since the passage of Dodd-Frank. The banks need to know for sure who is in charge and what rules apply. They need to know that everyone will be playing by the same rules and exactly what those rules will be.

Here is an example. Both lenders and consumer groups have praised the CFPB's new mortgage rules. Now it is time for everyone to know that these rules—not the unpopular default rule in Dodd-Frank that the new rules replaced—are the law. That helps everyone.

The American people deserve a government that will hammer out good rules, that will enforce those rules, and then will get out of the way so the markets can work. They do not deserve endless relitigation of stale political disputes and the uncertainty caused by repeated filibusters of qualified and proven nominees.

I am new to the Senate, but I don't understand why this body accepts a system where this kind of political stalemate will not end in more government or less government but just in bad government—government that lacks the consistency, clarity, and predictability that honest businesses and hard-working families need to plan for the future.

I don't understand why we would let an honorable public servant such as Rich Cordray get stuck in this nonsense. I don't understand why, when everyone says Rich is terrific, we can't just vote on his appointment.

I know some Republicans and some lobbyists think if they filibuster Rich's appointment they are somehow going to be able to shut down the agency and protect the big banks from any meaningful consumer protection rules. They can use all the slogans they want and talk about things such as accountability, but outside the Halls of this Congress and the fancy lobbyist offices around Washington no one wants more fine print and more tricks and traps. No one thinks it is OK to cheat regular people and cut special deals for giant banks. No one wants to take cops off the beat so big banks can break the rules without being held accountable.

So let me be clear to those who think this filibuster will shut down the work of the new agency. Let me be crystal clear. The Consumer Financial Protection Bureau is the law, and it is here to stay. Do your dirtiest with obstructing the confirmation of the new Director, but the agency will keep on doing what it does best: fighting for the American people.

We fought to get this consumer agency. We fought big banks and their army of lobbyists. We fought hard and we won. Now we have a strong and independent watchdog to stop the banks from cheating families. We are not giving up now.

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.

Mr. HARKIN. 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.

Mr. HARKIN. Mr. President, I have some comments and statements to make regarding filibuster reform and nominees. I ask unanimous consent that I be allowed to speak for up to 30 minutes.

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

NOMINATIONS

Mr. HARKIN. Mr. President, I wish to take the floor to talk about these critical nominations the Senate is currently considering. In all of the talk about these nominations, about the politics of recess appointments and everything, one thing that has been missing is a real consideration of who these people are. Let's bring it down to the personal. Who are these people? What have they done? What can they do to serve our country?

We seem to have forgotten, in all this chaff that is out there and all the arguments going on, what we are supposed to be doing to fulfill our constitutional responsibility to advise and consent to Presidential nominations. As I understand it, we are supposed to look at the qualifications of the candidates, determine if they are fit to serve, and beyond that, that is it. The answer with all of the nominees before us is an unqualified yes. They are qualified, they are fit to serve, and the President should be allowed to put together his team. That should be the end of our task. We should confirm them all today—or tomorrow, I guess, when they come up—and move on to the many other important issues facing this body.

I am going to talk in a little bit about the whole filibuster issue itself, but first I would like to talk a little bit about one of the first of the nominees who is up, and that is the President's choice to be our Secretary of Labor, Tom Perez. Without question, Tom Perez has the knowledge and experience needed to guide the Department of Labor—one of our key Cabinet posts.

Through his professional experiences, especially his work as secretary of the Maryland Department of Labor, Licensing and Regulation—yes, he was basically the secretary of labor for the State of Maryland, and he developed a very strong policy expertise about the many issues that confront American workers and businesses. He spearheaded major initiatives on potentially controversial issues, such as unemployment insurance reform and worker misclassification, while finding common ground between workers and employers to build sensible, commonsense

solutions. It won him the support of the business community and worker advocates alike.

To quote from the endorsement letter of the Maryland Chamber of Commerce:

> Mr. Perez proved himself to be a pragmatic public official who was willing to bring differing voices together. The Maryland Chamber had the opportunity to work with Mr. Perez on an array of issues of importance to employers in Maryland, from unemployment and workforce development to the housing and foreclosure crisis. Despite differences of opinion, Mr. Perez was always willing to allow all parties to be heard and we found him to be fair and collaborative. I believe that our experiences with him here in Maryland bode well for the nation.

That is from the Maryland Chamber of Commerce.

Tom Perez has dedicated his professional life to making sure that every American has a fair opportunity to pursue the American dream. Most recently, as the Assistant Attorney General for Civil Rights at the Department of Justice, he has been a voice for the most vulnerable, and he has reinvigorated the enforcement of some of our most critical civil rights laws. He has helped more Americans achieve the dream of home ownership through his unprecedented efforts to prevent residential lending discrimination. He has stepped up the Department of Justice efforts to protect the employment rights of service members so that our men and women in uniform can return to their jobs and support their families after serving their country.

As the Senate author of the Americans with Disabilities Act, I am particularly pleased with Mr. Perez's long history of leadership on disability rights issues. While at the Department of Justice, he helped ensure that people with disabilities have the choice to live in their own homes and communities rather than only in institutional settings and to receive the support and services to make this independent living possible.

Like any leader whose career has involved passionate and visionary work for justice, Tom Perez's career has been one of making difficult decisions and management challenges. He has been the target of a lot of accusations and mudslinging and misperceptions. But we have looked—I have looked carefully into his background and record of service, and I can assure my colleagues that Tom Perez has the strongest possible record of professional integrity. Any allegations to the contrary are totally unfounded.

Again, Mr. Perez appeared before our committee. He was willing to answer any and all questions. To those who were at the committee, those who submitted letters—he has answered more than 200 written questions. He made himself available to any Senator who wanted to meet with him. He has been most accommodating, and I can say that the administration has provided all the access people have wanted to his personal e-mails. In fact, this administration, I can say from my experience in the last 29 years, has gone further in providing access to even the personal materials of Tom Perez than any President has ever done before, any administration has ever done before.

Again, he has been thoroughly vetted. He has the character, integrity, and expertise to lead this Cabinet, and the Senate should vote on it. When I say the Senate should vote on it, we should vote on it with a majority vote, but, no, Mr. Perez has been filibustered and held up to a 60–vote threshold. We know Mr. Perez has well over 50 votes—the majority—but because my friends on the Republican side are stonewalling this, he may not have 60 votes. But why should it take 60 votes, I ask? Why shouldn't it be a majority vote, up or down?

The same is true for our nominees to the National Labor Relations Board. Again, these are three exceptionally well qualified candidates.

Mark Pearce has been a board member since 2010 and Chairman since 2011. He was previously a union-side attorney in private practice. Before that he was a career attorney at the National Labor Relations Board. Richard Griffin, Jr., is former general counsel of the Operating Engineers Union and, again, a former career attorney at the NLRB. Sharon Block served as Deputy Assistant Secretary for Congressional Affairs at the U.S. Department of Labor and before that was staff on our HELP Committee. She was the senior counsel for Chairman Kennedy when Senator Kennedy was chairman of our committee, and she is a 10-year veteran of the NLRB.

Again, I have yet to hear one Senator question their qualifications. Indeed, even the ranking member on the HELP Committee conceded at the hearing that these candidates are exceptionally well qualified and that he admired their qualifications and their distinguished backgrounds.

They have been thoroughly vetted. They met with any Senator who asked. They have each answered more than 100 written questions. They have come before our committee in a public hearing, which is not typical for all NLRB nominees. They produced every document requested and answered every question they have been asked.

Again, if we concede that they are all exceptionally well qualified and well vetted, why can't we vote for them with an up-or-down majority vote? Some time ago my friend Senator GRAHAM when speaking about the Senate's role and the nomination process said:

> Our job, as I see it, is not to say what we would do if we were President. Our job, as the Constitution lays out for us, is to advise and consent by a majority vote to make sure the President . . . is not sending over their brother-in-law or sister-in-law or unqualified people.

So no one on this list is anyone's brother-in-law or sister-in-law, and everyone is exceptionally well qualified.

Again, if we are doing our constitutional duty, we would confirm all of these nominees tomorrow and move on to our legislative work.

Why aren't we doing that? Because my friends on the Republican side are hijacking these nominations and this nomination process to try to make changes to laws they know they could not change through regular order. Many times a single Senator or a handful of Senators might hold up a nominee not because the nominee is not qualified but because they want some changes made someplace else that they don't feel they can get through the regular order of business in the Congress.

For example, my friends on the Republican side don't like the National Labor Relations Board. So what do they do? They can't repeal it, so they make it inoperable. They make it inoperable by not letting us confirm nominees. In fact, one of my Republican colleagues announced his intention to filibuster the NLRB nominees 6 days before their nominations were announced.

In fact, he went on to say that an inoperable NLRB would be good for the country. If that is the way they feel, offer amendments to defund it, do away with it, and repeal the law. But to hold up qualified nominees from carrying out the law—the National Labor Relations Act is the law of the land. The National Labor Relations Board is constituted under that law to carry out its functions. So to hold up qualified nominees because they want to change the law, again, is to try to get something done that they couldn't otherwise do through the regular order.

This level of obstructionism is unprecedented in the nomination process. Repealing laws by fiat is not and was never intended to be a part of the Senate's advise and consent function. A Senator's dislike for a particular law or a particular agency certainly was not intended to prevent qualified and dedicated people from answering the President's call to serve their country.

Again, it is not only the nominees but the American people suffer from these unprecedented abuses of the process. The laws that these boards and agencies and departments enforce are important laws designed to protect people. When the system breaks down—or in this case, intentionally undermined—real people are hurt.

Let's take the example of the National Labor Relations Board. They have to have a quorum of three members to act. If there are fewer than three members at any time, the Board cannot issue decisions and must essentially shut down. The Board currently has three members, but Chairman Pearce's term expires in August—next month. At that point the National Labor Relations Board would be unable to function unless we confirm additional members.

Keeping the Board open is vital to employees, employers, and our economy. Without the Board workers cannot seek justice if they are discharged

or discriminated against for, say, talking with colleagues to improve their working conditions or for joining or assisting a labor union or for organizing a labor union. The only avenue available to these employees to file a grievance and have their grievance heard and adjudicated is to file a charge with the National Labor Relations Board. Without it, they have no options at all.

If the NLRB, the National Labor Relations Board, cannot function, workers effectively don't have no rights. Yet my Republican colleagues said an inoperable NLRB would be good for the country. Imagine leaving workers without any forum or recourse to have their grievances heard.

I could also say the same is true for the Consumer Financial Protection Board. As we know it was created as part of the Dodd-Frank Act with a simple idea in mind: Consumers deserve to have a watchdog looking out for their best interests when using financial products and services from mortgages to credit cards, to student loans, to payday loans. Without the creation of the Consumer Financial Protection Bureau, consumers don't have that cop on the beat looking out for their well-being.

Mr. Cordray, who has been chosen by the President to head this agency, has carried out his mission admirably. If Republicans have their way, he will never be confirmed. Not only will they lose his leadership but the ability to adequately oversee these financial services and financial products in order to protect the American consumer.

By refusing to confirm Mr. Cordray—and if I am not mistaken, I believe his nomination has been pending for over 500 days. His nomination has been held up for 500-some days. By refusing to confirm him, the Republicans are using this nomination process to thwart the intent of the Dodd-Frank law, and that brings us to the crux of what is going on around here. It has been in the press so much lately. We are going to have an unprecedented caucus of the Democratic Senators and Republican Senators out here in the old Senate Chamber at 6 p.m. tonight to air these grievances.

As we know, last Thursday the majority leader laid down a number of these nominees and filed cloture on them. We will bring them up tomorrow. If the Republicans continue to filibuster, the majority leader has made clear his intention to change the rules of the Senate by using 51 votes to provide that nominations for executive branch positions are not subject to the filibuster rule.

So what we are talking about is the nullification of laws which are already on the books through the abuse of the Senate's power to advise and consent to nominations—nullification. Read your history books about nullification. It is one of the issues we fought the Civil War over: Could States nullify, on their own, Federal laws?

What we are seeing are the Republicans saying we can nullify the essence of laws or what boards are supposed to do by abusing the advise and consent clause of the Constitution. It is appalling and something has to change.

I first took to the floor on this issue in 1995. This is the CONGRESSIONAL RECORD, and it is dated January 4, 1995. It was an interesting time. The Democrats had lost control of the Senate and the Republicans were in charge. I—along with Senator Lieberman, Senator Pell, and Senator Robb, from the great State of Virginia—proposed a change in the rules that wouldn't end the filibuster but would keep the filibuster as it was kind of intended, a method whereby the minority could ensure that they could amend or offer amendments on legislation.

The right of the minority should be the ability to offer—not to have them adopted—thoroughly debate and vote on amendments. Secondly, to make sure the filibuster could be used to slow things down but not to be used to stop something. That is why I proposed on January 4, 1995, I said: It is getting worse. I also said: I believe in the long run it will harm the Senate and our Nation if this pattern continues. I went on to talk about the rising tide of the filibusters. I said: Clearly, this is a process that is out of control. We need to change the rules. We need to change the rules, however, without harming the longstanding Senate tradition of extended debate and deliberation and slowing things down.

When I laid down the proposed rule, I went on to discuss about how dysfunctional this place was becoming. If you thought it was bad in 1995, you should see what it is like now. Never in my wildest dreams did I think in 1995 that 18 years later the Senate would come to this point where we simply can't do anything unless we have 60 votes.

We now have a system whereby 41 Senators decide what we do. Essentially, that is what they do, and through the use of the filibuster, a handful of Senators can truly thwart the will of the Senate.

There has been a lot said about different nominees and what is going on here. There has been this accusation and that accusation. We have to cut through all that fog and all that haze. I referred to it in 1995 as sort of like the fog of war. It is sort of like the fog of war; we have to cut through it.

There is only one question we and the American public need to ask ourselves: Should a person selected by the President, any President, Democratic or Republican President, to be a part of his or her team—after being thoroughly vetted, after having a thorough committee hearing, and after making sure there is nothing terribly wrong with this person and they meet the qualifications—have an up-or-down vote by the Senate with a majority vote or is it going to require 60 votes?

Again, the Constitution of the United States very clearly points out that there are only five times when the Senate needs a supermajority to act, such as impeaching the President, expelling a Member, adopting a treaty, joining a treaty, approving a treaty, and things such as that. For all other things, the Constitution envisions a simple majority vote. That is the real question. There is no other real question before us.

Before I yield the floor, I just wish to address an issue that has come up regarding the National Labor Relations Board nominees. I wish to set the RECORD straight. I have taken the time to put this in the RECORD. There have been accusations made on the Senate floor—I shouldn't say accusations. There have been comments made that two of these Board members are serving illegally and were illegally put on the board by President Obama. I am talking about Sharon Block and Richard Griffin.

Let's look at a little history. They were appointed by the President in January of 2012 as a recess appointment because the Republicans had already announced they would not let us have an up or down vote on them. Since we needed a National Labor Relations Board to function, the President gave these two people a recess appointment in January of 2012. They have been serving since that time.

They were taken to court to decide if the President had the authority to appoint them as recess appointees. The DC Circuit Court issued an opinion. The reasoning they used was contrary to any other court reasoning in the past about recess appointments. The DC Circuit said, No, the President could not make those appointments and, furthermore, the President can only make a recess appointment during the intervening times from one Congress to another for vacancies that arise between sessions. No other court has ever held that. There was another court that agreed the President couldn't make these recess appointments, but it didn't go quite that far; it just said that the appointment had to be made between sessions. Other courts, including the Second, Ninth, and Eleventh Circuit Courts, have all decided these things differently in the past.

What we have here is a decision by one court—the DC Circuit—taking a position that has never been taken before by any court. We have another court—the Third Circuit—that also narrowly defined the President's power. Then we have other circuit courts that have defined the President's power more broadly.

So what happens now? This case goes to the Supreme Court and the Supreme Court will decide this during the 2013–2014 term.

Sharon Block and Richard Griffin are on the NLRB. They took an oath of office to carry out their responsibilities. Some of my Republican friends are saying they should resign; they should get off the board because they are serving illegally. They are not serving illegally

until the Supreme Court has made a final decision. I have said before, the contention of some of my friends on the Republican side is like Alice in Wonderland: First the verdict, and then we have the trial. I don't know what the Supreme Court will decide. We don't know. We have had precedents in the past. There is a longstanding NLRB precedent when the agency faces a split in circuit court opinions. When the DC Circuit Court ruled in Laurel Baye v. NLRB that the NLRB needed three members to have a lawful quorum to act—again, this was contrary to the decision of other circuits—the two-member board, consisting of Republican Peter Schaumber and Democrat Wilma Liebman, continued to issue decisions until the legal issue was finally resolved in the Supreme Court. The Supreme Court said, No, they need more than two. They have to have at least three people to make decisions.

The two-member board, during that interim time, issued decisions in hundreds of cases after the DC Circuit's adverse ruling, yet not one Republican Senator called on either member to resign. So what happened? After the Supreme Court issued its decision and the board now had more than three members, they went back and looked at these decisions, and if there were still open contentions they reviewed them and they issued another decision.

Some of the decisions were accepted by both sides and people moved on. Those that weren't were redecided by the board, including the two people who had served on that board during that interim period of time.

Again, we have a recent precedent—and this was just within the last 5 years, if I am not mistaken. So we have a recent precedent that demonstrates that both Block and Griffin are acting appropriately by remaining in place and that the NLRB is acting appropriately by continuing to issue decisions pending the resolution of this issue by the Supreme Court. They cannot and they should not resign because they took an oath of office to fulfill their duties, and they must fulfill that oath. After President Obama made these appointments, each new board member took an oath of office promising to fulfill their duties as a member of the NLRB.

I wanted to clear that up. They are not illegal. We await the Supreme Court's decision. I have no idea how they are going to decide because there has been a split of the circuits. As I have shown, this issue has come up before where we had a case split in circuits. Two board members continued to issue decisions. No one here asked them to resign, and this was in the last 5 years. No one asked them to resign. But now, for some reason, my friends on the Republican side want to deny the President his choice of people to serve on the NLRB. Two of those people, Ms. Block and Mr. Griffin—let's say the Supreme Court says the President couldn't appoint people during that recess. Well, OK. We are not talking about that now; we are talking about an appointment that is going to take place right now, and he should be allowed to have who he wants, as long as they are thoroughly vetted and qualified.

As I said, no one has questioned their qualifications. The President should have the right to have his NLRB board put in place now, and the question of whether the decisions made in the last year and 5 or 6 months—those decisions, just as the ones before in the case of the two member Board—went back and were revisited and the court issued its decisions. The same thing can happen here. So we shouldn't let anyone tell us these nominees are illegal. That is absolutely not true. People may think it is true, but it is not true.

I keep hearing: Well, now there are overtures from the Republican side to make some deals—to make a deal on not having the vote tomorrow on doing away with the filibuster rule on nominations. Oh, I have heard all kinds of things floating around: This deal here, that deal there, and we have a little deal here. Since I took the floor in 1995 as a Member of the minority, I might add, to propose a change in the filibuster rules, this issue has come up several times. It has come up several times since 1995. Every time there is always a deal. There is always some little deal made so we don't fix what is wrong with the Senate. We sort of paper it over and move on. I hope that doesn't happen again. Every time a deal was made and it was papered over, things got worse—every single time they got worse. They might have been OK for a little bit, but then we go right back to our old ways again. The old ways won't work any longer around here. They just won't work.

I hope the only deal that is struck is the Republicans agree—we all agree—that any President should have his or her right to put their team in place by a majority vote of the advise and consent of the Senate. They first should be thoroughly vetted with committee hearings and answering questions, but they are entitled to an up-or-down vote, with a majority vote in the Senate. That is the only deal that will get us out of this trap in which we find ourselves. I think it is the only thing that will reassure the American people that, once again, the Senate is going to function; it is going to do its job; it is not going to be thwarted by a handful of people—one or two or three or four people—and that we can actually move this country forward and let this President and the next President, who may be a Republican, have his team. I said that in 1995 when I was in the minority, I have said it in the majority, I have said it in the minority, and I say it once again as a Member of the majority.

I hope tomorrow we finally put an end to this nonsense of the filibuster on nominations, at a bare minimum. I would like to see the filibuster changed even more than that, but at a minimum get rid of the filibuster on nominations to the executive branch.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. FLAKE. Mr. President, I speak today recognizing that I have only been a Member of this body for about 6 months and a couple of days. I am hardly an expert on Senate rules, procedures, or precedent. But this much I do know: The rule change being considered this week is more far-reaching and more significant than has been advertised.

This rule change was described this afternoon by the majority leader as a ''minor change, no big deal.'' It is a big deal. It has the potential to change this institution in ways that are both hazardous and unforeseen.

We will discuss these changes later today in the Old Senate Chamber. I think it is appropriate we should meet there. The Old Senate Chamber hasn't been used for official Senate business in over 150 years. It gives some perspective to the gravity of what is being considered.

The majority leader noted today that Senate rules have been changed 18 times in the past 36 years by a simple majority vote. There needs to be a qualifier here—a very big qualifier. This rule change will allow, for the first time in Senate history, majority-imposed cloture. That is not minor; that is a big deal.

It is said by the advocates that it will only affect the President's executive branch nominees. That may be true initially, but once a simple majority has been used to impose cloture for executive branch nominees, why can't it be used for judicial nominees who have a lifetime tenure? Why not use it for everyday legislation? But even in the unlikely event this rule change remains confined to the President's executive branch nominees, it would not be a minor change or one that can be described as ''no big deal.''

Let me give one example, and I hope it gives some of my colleagues pause as they consider this rule change.

Currently under consideration by this body is the President's nominee to head the Environmental Protection Agency. This agency has broad reach across the country. Its regulatory authority extends to power generation and air quality. A heavyhanded approach on these issues in particular has a potential to put a stranglehold on Arizona's economy. With only 15 percent of Arizona's land privately owned, EPA's influence is magnified by a considerable footprint the Federal Government already has in the State. So the President's choice to head the EPA is an important choice and the Senate's advise-and-consent role is vital.

After reading some of the media reporting on the President's pick for this

position, I initially had some heartburn. However, after meeting in my office with the President's nominee, discussing some of the issues unique to Arizona, and receiving assurances that we could, where appropriate, work collaboratively on these issues, I felt comfortable with the President's choice. On the whole this has been my experience with the President's nominees. If this rule we are to consider were in place, would I have received a visit from the President's nominee? No. I served in the House of Representatives for 12 years. Not once did I receive a visit from the President's nominees during the nomination process. Why is that? It is not because they didn't like me, and it wasn't because I served in the other body or they have some aversion to the other Chamber. No. It is because the House has no role in advice and consent. This is precisely the position that nearly half of the Senate will be in in perpetuity with regard to executive branch nominees by the end of this week if this change occurs. Let me repeat that. Senators will be in the same position that House Members are in if you happen to be in the minority here with regard to executive branch nominees.

The House has no role in advice and consent. If a bare majority could be used to invoke cloture on an executive branch nominee, there is no reason for them to come see you in your office, to talk about what they are doing, to talk about what their philosophy is. Like I say, in most cases you feel comfortable after that, and after assurances that you can work collaboratively on the issues, then you move on and vote for the nominee, in most cases. But that will not happen if this rule change occurs.

In my maiden Senate speech just a few months ago, I said the following: The Senate is a body governed largely by consensus. The party holding the gavel is on a short leash. Bringing even the most noncontroversial resolutions to the Senate floor requires the agreement or at least the acquiescence of the minority. Over the past decade both parties wielding the gavel have chafed under this arrangement. Both parties have at times considered changing the rules. Both parties have wisely reconsidered. The House has rules appropriate for the House. The rules of the Senate, however frustrating to the party that happens to be wielding the gavel, are appropriate for the Senate.

It is my sincere hope that this body can realize its potential and that whatever behavioral changes need to be made are made within the longstanding rules of the Senate, rules that have served this institution and the country very well for more than 200 years.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. UDALL of New Mexico. Madam President, today we are here debating the issue of rules. I have listened to this debate about the Senate rules, and the word ''broken'' gets tossed around a lot—broken agreements, breaking the rules to change the rules. Those are the sideline comments and they miss the real point, because what is broken is the Senate itself.

I have said for a long time the Senate is a graveyard for good ideas, and the shovel is unprecedented abuse of filibusters, of delay and obstruction. It all adds up to one thing: broken.

We called for changes in the Senate rules at the beginning of this Congress. We should have put in place a talking filibuster and other changes, but we didn't. So we have this tyranny of the minority, where the minority governs—just the situation our Founding Fathers feared.

Too often the Senate is still a graveyard for good ideas, and the bodies keep piling up, especially with executive branch nominees.

In January, the two leaders agreed to—

> . . . work together to schedule votes on nominees in a timely manner by unanimous consent, except in extraordinary circumstances.

The minority leader said,

> On the subject of nominations, Senate Republicans will continue to work with the majority to process nominations, consistent with the norms and traditions of the Senate.

That was the agreement, and it has not been kept. The only extraordinary circumstance has been continual obstruction, and it all began very early on.

For openers, we saw the filibuster of Chuck Hagel's nomination—the first time a Secretary of Defense was filibustered. But this is part and parcel for President Obama's Cabinet secretaries.

By way of comparison, looking at other Presidents, not one of President Carter's Cabinet nominees was filibustered; President George H.W. Bush, zero; President Reagan, one; President George W. Bush, one; President Obama, four and still counting.

I am old enough to remember the era when my father was Secretary of Interior in the Kennedy and Johnson administrations. When I joined the Senate, I told my dad when I went home one weekend, We can't get executive nominees in place. The President and Cabinet secretaries don't have their teams in place. He said, Tom, I had virtually my whole team in place in the first 2 weeks. Imagine that. Imagine if the whole team for the Department of the Interior—or any other Department, for that matter—was confirmed in the first 2 weeks. Agencies could function, our government could do its work.

Instead, the President's nominations are ambushed by filibusters. Confirmation now almost always requires 60 votes, contrary to the historical practice of the Senate and, more importantly, contrary to the explicit simple majority requirement in the Constitution. These are not the traditions and norms the Republicans committed to. It is anything but. Still, that is what we have seen, one nominee after another blocked and key leadership posts left unfilled.

Americans thought they spoke with a clear voice last November. No doubt they now wonder. And why wouldn't they? The will of the majority is drowned out by a small minority. People in my home State of New Mexico want to know—Americans want to know—who is minding the store? The answer, in too many cases, is no one. We still don't have a Secretary of Labor. The National Labor Relations Board is an empty shell. The Senate has failed to confirm a full five-member board and general counsel. Two of these nominees are Republicans. Even they couldn't get through. This has real impact for 80 million Americans who rely on workplace protections, for the rights of workers, and the integrity of the collective bargaining process.

Some believe it is a good thing that we toss out the enforcement of labor law in this country. I don't share that view. But it isn't just workers who are left hanging. Leadership positions at other vital agencies remain unfilled: the Consumer Financial Protection Bureau, the Environmental Protection Agency, the Centers for Medicare and Medicaid Services, the Federal Election Commission. These are important jobs—important work—for the American people, affecting the environment, consumers, health care, and even our elections.

Earlier this year we debated gun safety legislation. Republicans argued that we don't need new laws, we just need to enforce the existing laws. Unfortunately, the agency responsible for enforcing many of those laws—the Bureau of Alcohol, Tobacco, Firearms, and Explosives—has not had a Senate-confirmed Director in 7 years. Why? Because Republicans do not want the ATF to function.

Many of these highly qualified Americans get tired of having their lives put on hold because of partisan obstruction. Rather than continue to languish in a dysfunctional system, they withdraw from consideration.

One such example was Dawn Johnson, nominated to head the Justice Department's Office of Legal Counsel. Johnson was a respected law professor and former top assistant in the Office of Legal Counsel in the Clinton administration. But Republicans blocked her nomination. In 2010, after her nomination was stalled in the Senate over a year, she withdrew.

Another example is Peter Diamond. In 2011, he withdrew as President Obama's nominee to the Federal Reserve Board. Diamond's nomination was blocked because a small minority

of Senators questioned whether he was qualified. I tend to believe he was, as he won the Nobel Prize in economics the year before.

It makes you wonder why anyone would subject themselves to a Senate confirmation, people who want to serve their country, often at a significant pay cut from their private sector careers, who know they will be subjected to a partisan fight that may have nothing to do with their qualifications. So months and years go by, work is left undone, with no one at the helm of major government agencies.

That is why the Senate is in crisis. That is why we are here today. The American people deserve better. We need a government that does its job. That is not possible without leadership. Congress's approval ratings remain in the cellar. Why? Because of a failure to get things done, even things as basic as allowing the President to select his own team. Find 60 votes or find someone else or leave the position empty—this is the status quo, and it must change.

It is time for us to act. It is time to restore the confirmation process—restore it to how it has worked for over 200 years. Doing so is not breaking the rules to change the rules. They have been changed before and it is often done by a simple majority—when the minority is abusing Senate procedure. As Senator MERKLEY pointed out last week, it has been done at least 18 times since 1977.

Contrary to the Republicans' dire warnings, making these changes has never led to the death of the Senate. In fact, the Republicans themselves made a strong argument for such changes back in 2005. They were up in arms. Why? Because 10 judicial nominations had been blocked. That number seems quaint now, but it was enough for the Republicans, and they were very clear about it. That is what the Republican Policy Committee said in 2005:

> This breakdown in Senate norms is profound. There is now a risk that the Senate is creating a new, 60-vote confirmation standard. The Constitution plainly requires no more than a majority vote to confirm any executive nomination, but some Senators have shown that they are determined to override this constitutional standard. . . . Exercising the constitutional option in response to judicial nomination filibusters would restore the Senate to its longstanding norms and practices governing judicial nominations, and guarantee that a minority does not transform the fundamental nature of the Senate's advice and consent responsibility. This approach, therefore, would be both reactive and restorative.

''Restore the Senate to its longstanding norms and practices.'' It would be difficult to state the case more clearly.

This isn't just about the rules; it is about the traditions and norms of the Senate and their collapse under the weight of filibusters. I know the winds can change, positions can change. Neither side is 100-percent pure. Both sides have had their moments of obstruction and, no doubt, their reasons at the time. But I don't think the American people care much about that. They don't want a history lesson. They don't want a primer on parliamentary procedure. They want a government that works, that gets things done, period.

I came to the Senate in 2009. My position has not changed since then: The Senate needs to do its job, and it is missing in action.

When we proposed to change the rules at the beginning of the Congress, we were very clear: We called for a talking filibuster. If you want to hold up legislation, you should have to stand here in this Chamber, on the floor, and make your case. We did not intend to trample on the legitimate rights of the minority, and we were willing to live with these rules, no matter if we were in the majority or the minority.

I do not believe the Constitution gives me the right to block a qualified nominee no matter who is in the White House. I say that today, and I will say it if I am in the minority tomorrow. A Republican President may have nominees I disagree with—most likely so. But the people elect a President, we only have one President at a time, and they give him or her the right to select a team to govern.

If those nominees are qualified, a minority in the Senate should not be able to block them—on either side of the aisle. Oversight, yes; review, yes, but not block because you don't like their policy or their program or the law they are committed to enforce. This is not advice and consent, this is obstruction and delay.

New Mexicans want a government that works, the American people want a government that works, and they are tired of waiting.

Madam President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

REMEMBERING LIEUTENANT GENERAL RICHARD SEITZ

Mr. MORAN. Madam President, there is no group of individuals I hold in higher regard than our Nation's veterans who have dedicated their lives to serving our country.

Among our veterans I have special admiration for the members of the greatest generation who served during some of our Nation's darkest hours and liberated the world from the forces of tyranny.

Following the attack on Pearl Harbor, more than 16 million Americans answered the call to serve our country and more than 400,000 husbands, fathers, brothers, mothers, and daughters never returned home.

More than 200,000 Kansans served during the war, including GEN Dwight D. Eisenhower, future U.S. Senator Bob Dole, and my own father.

During the dedication of the World War II Memorial here in Washington, Senator Dole described the greatest generation this way:

> On distant fields and fathomless oceans, the skies over half the planet and in 10,000 communities on the home front, we did far more than avenge Pearl Harbor. The citizen soldiers who answered liberty's call fought not for territory, but for justice, not for plunder, but to liberate enslaved peoples around the world.

Among those citizen soldiers was a young Kansan named Richard Seitz. When WWII began, Dick was attending classes at K-State University, but by the end of the war he had successfully led his battalion through some of the fiercest fighting of the war in the Battle of the Bulge. Our country lost a great man, a dedicated soldier and an American hero when LTG Dick Seitz recently passed away.

Dick was born in 1918 in Leavenworth, KS. At an early age he showed great interest in serving his country through the Armed Forces. In high school he was the cadet commander of his school's ROTC unit and received the American Legion Cup as an outstanding cadet.

As a young man Dick attended Kansas State University and while a student, he accepted a commission as a Second Lieutenant in the U.S. Army. While spending a year away from K-State to earn enough money to finish his degree, Dick was called into active duty in 1940.

During an infantry course at Ft. Benning, Dick witnessed the original parachute test platoon and volunteered to become a paratrooper. He was part of the sixth jump school class ever held by the Army and became one of its first paratroopers.

Dick rose rapidly through the ranks until at the age of only 25, as a major, he was given command of the 2nd Battalion of the 517th Parachute Infantry Regimental Combat Team.

Showing great potential at a young age, Dick was soon promoted to Lieutenant Colonel. As the Army's youngest battalion commander, he led his men throughout many historic combat operations in Europe.

During the Battle of the Bulge, Dick's battalion and a Regiment of the 7th Armored Division formed what became known as Task Force Seitz. Their mission was to plug the gaps on the north slope of the Bulge every time the Germans tried to make a breakout. During the battle, some of the bloodiest fighting in WWII, Dick's battalion went from 691 men to 380.

Years later when asked about the worst day in this life, Dick quickly identified it as Jan. 3, 1945, during the Battle of the Bulge, when his unit came under heavy artillery fire and 21 of his men were killed.

Before shipping out to Europe and while still a student at K-State, Dick began dating his first wife, the former

Bettie Merrill. When Dick was called up for active duty, Bettie continued her studies at K-State, graduated in 1942 and joined the Red Cross.

In 1945 she was stationed in Holland when she read that Dick's battalion was heavily engaged in the fighting around St. Vith. Determined to see him, she drove by herself from Holland to the front in Belgium and managed to find his battalion.

She wasn't allowed to go to the very front lines where Dick was, but her trip put them back in touch and 6 months later they were married in France, with one Red Cross bridesmaid and 1,800 paratroopers in attendance.

Dick spent the next 33 years by Bettie's side before her passing in 1978. Together they raised one son and three daughters and traveled the world as Dick continued to serve his country.

Among his many command posts were the 2nd Airborne Battle Group, 503rd Infantry Regiment and the 82nd Airborne Division, which he led into Detroit and Washington, DC, in 1967 to quell the riots.

An airborne historian, Dr. John Duvall, said Dick was:

. . . an airborne pioneer and one of the fellows who set the standards for what the airborne was all about. That standard continues to be the standard the paratrooper follows today. They have bigger airplanes and more complex weapons today, but standards were set by them. We have lost a great soldier in Dick Seitz.

During his Army career which included nearly 37 years of active duty, Dick received numerous awards. Because of his great courage and heroism during WWII, Dick was awarded with the Silver Star, two Bronze Stars and the Purple Heart.

Despite his many accomplishments in the military, one friend said he:

. . . remained humble and sincere. Often embarrassed by any fuss made over him. He was the kind of person you wanted to be. He was always concerned for others above himself.

As a soldier and commander, Dick's philosophy was always to take care of his troops. Throughout his career, he served as a mentor to many other soldiers and leaders in the Army.

Retired Brigadier General and former senior commander of Ft. Riley, Don MacWillie said:

LTG Seitz showed to me and the entire 1st Infantry Division what it is to be a soldier, a statesman, and a gentleman. Very few men come along who can live as all three—Dick Seitz certainly did. I will miss him not only because of our friendship but because other soldiers will not have the opportunity to learn as I did. Our Army, community and nation has lost a treasure.

In 1975, Dick returned to Kansas upon his military retirement and 3 years later, his wife Bettie passed away. In 1980, he married Virginia Crane and together they spent the next 26 years actively involved in the local community until her passing in 2006.

Dick was a mentor, a friend, and someone I greatly respected. He not only served our country but also his state and community.

Dick settled in Junction City following his retirement, but he never truly retired from serving. He frequently visited Ft. Riley to greet deploying and returning units from Iraq and Afghanistan—no matter the hour, day or night.

He was also involved with the Coronado Council of the Boy Scouts, served on the Board of the Eisenhower Presidential Library, and was named an outstanding citizen of Kansas.

Most recently, the General Richard J. Seitz Elementary School at Ft. Riley was named in his honor in 2012.

Dick was well known to the students and staff because he regularly visited the school. During his visits, he would talk with the students about what it meant to be a ''proud and great American.'' And his message was always to ''respect the teachers and be a learner.''

His family and friends have described him as a gentleman, compassionate, respected, full of integrity, gracious and giving. He was truly a remarkable individual.

His daughter Patricia said this about her father:

He was my role model. An individual who had great wisdom, great sense of humor, always interested in others, always looking for ways to help others succeed.

Dick lived each day to its fullest and his commitment to his fellow man serves as an inspiration to us all.

In closing, I'd like to share with you what Sen. Dole once said about his comrades in arms:

We were just ordinary Americans who were called on to meet the greatest of challenges. . . . No one knows better than the soldier the futility of war, in many respects the ultimate failure of mankind. Yet there are principles worth fighting for, and evils worth fighting against. The defense of those principles summons the greatest qualities of which human beings are capable: courage beyond measure, loyalty beyond words, sacrifice and ingenuity and endurance beyond imagining.

I would say that is a fitting description of my friend, LTG Richard Seitz.

I extend my heartfelt sympathies to his three daughters, Patricia, Catherine and Victoria; and to his son Rick and the entire Seitz family. I know they loved him dearly and will miss him very much.

I ask my colleagues and all Kansans to remember the Seitz family in your thoughts and prayers in the days ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I ask unanimous consent to speak as in morning business.

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

Mr. CASEY. Madam President, I rise this afternoon to talk about one of the aspects of the debate that is occurring and which has taken place over a long period of time but especially today, when it comes to Senate rules and what is happening on nominations and confirmations.

One major aspect of that debate relates to the National Labor Relations Act passed in the 1930s. I wish to start by highlighting one of the findings that undergirds one of the foundations of that act.

In the mid-1930s, because of labor strife and because of the conflicts between management and labor, people in both parties came together and said we had to put in place legislation to deal with that or we couldn't have the kind of growing economy we would hope to have. One of the findings—it is the third finding in the 1935 act—says as follows:

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce—Safeguards commerce, I repeat those words—safeguards commerce from the injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

So says one of the main findings of the 1935 act. There is an additional finding that speaks to it from the employer's vantage point—how it is important to the free flow of commerce to have disputes settled.

That is where we started in the 1930s. From that date forward—decades now of work and practice—we have had labor-management disputes settled and determined by use of the procedures in the National Labor Relations Act. Obviously, fundamental to that was the National Labor Relations Board—NLRB, the acronym. But here we are and we will not have, in just a number of weeks from now, in August we will not have a functioning board because of the conflict in the Senate about this issue and because of the debate between intrasession appointments and intersession—meaning appointments within a session of the Senate as opposed to appointments outside, from one session to the other. I will speak about that in a moment, but first I wanted to highlight one of the real-world consequences of this.

Sometimes we have debates around here and they tend to be a little theoretical, a little removed from the reality of life. Here is a real-life story about how these appointments matter. Marcus Hedger was illegally fired in 2010 from his pressman's job at an Illinois printing company for his union activities. Last September, a unanimous National Labor Relations Board—two Democrats, one Republican at that time—ruled that he should get his job back with backpay. There aren't many disputes settled here that are unanimous. That has not happened yet. That

was in 2010. The NLRB decision in the Hedger case has been vacated because of the decision of the court of appeals regarding, as I mentioned before, these recess appointments. Hedger has lost his house in the meantime.

This is what Marcus Hedger said, and I think we should all listen and act upon these words:

So, almost three years later, I still don't have my job back, even though the NLRB unanimously ruled I should get my job back. I am asking the United States Senate to do what is right for the people who gave you the power to represent them, and to confirm the bipartisan package of nominees to the NLRB so that other workers can have their rights protected, just like the NLRB tried to protect my rights.

''My rights'' meaning the rights of Mr. Hedger. That is what he is telling us to do—to do our jobs.

I don't have time today because of the limitations of time we have, but there are stories as well that speak to this from the employer's side. Listen to this one headline involving Walmart. The headline is from earlier this year, a Reuters headline, dated January 31, 2013: ''Walmart Protestors Will Stop Picketing After Reaching Deal With NLRB.''

So we have a board which for decades has functioned, helping to resolve disputes, sometimes to the betterment or to the advantage of one side versus the other, but settling those disputes nonetheless.

There is a lot of attention paid to what I would call kind of the inside baseball of this. It is about the difference between intrasession and intersession. But here is the record, despite what some in Washington have asserted. Here is the record going back over many Presidencies, just to give four Presidencies by way of example, and this idea that an appointment cannot be made during an intrasession—within the session of the Senate:

President Carter made one intrasession appointment to the National Labor Relations Board. President Reagan made four. President Clinton made two. President George W. Bush made four intrasession appointments to the National Labor Relations Board. Since President Reagan's first term—more than a generation ago—in addition to the members of the NLRB, hundreds of other recess appointments have been made intrasession.

So the idea that this is somehow a new development does not bear the scrutiny of the record.

I know we are out of time, but I rise to remind us what this Board has meant to this country. I read that first section principally to highlight the fact that the flow of commerce is mentioned twice—the flow of commerce. This isn't an act that says this act is to promote one side versus the other; it is all about the flow of commerce, the movement of goods, economic activity, so we can keep the country moving. Obviously, in the past, when there was unprecedented strife, we would have whole lines of production or whole sectors of our economy shut down because we didn't have a National Labor Relations Act and because we didn't have a National Labor Relations Board.

I end with the words of Marcus Hedger, who has suffered mightily—first, he is discriminated against; that is adverse to his life and his family. Then, when a decision is made in 2010, the decision is meaningless so far to him because he hasn't been granted the remedy and he lost his house in the meantime.

Here is what he said, and I will end with these words:

Companies shouldn't be able to get away with firing someone just because they stood up for their rights. That's un-American. We need a functioning NLRB to protect us and our rights.

That is what Marcus Hedger said. We should bear in mind those words. We should get the job done and get five people who are before the Senate voted on and confirmed so we can have that free flow of commerce and provide a remedy for people such as Marcus Hedger.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IN MEMORY OF THE MCMANUS AND ANTONAKOS FAMILIES

Mr. SCOTT. Madam President, I rise today to honor the memory of nine South Carolinians lost last week.

The McManus and Antonakos families, both of Greenville, were vacationing together in Alaska when the small plane they were flying in crashed on takeoff.

Melet and Kim Antonakos raised three beautiful children: Olivia, Mills, and Ana. They were close friends with Dr. Chris and Stacy McManus and their wonderful children: Meghan and Connor.

The loss of these two families has left the Upstate grieving, including the congregation at Christ Church Episcopal, where more than 1,200 people attended a memorial service last Friday.

When you talk to folks in Greenville about the McManus and Antonakos families, a few words come up over and over: faith, character, kindness.

Despite the heartbreak we feel, the Greenville community can hopefully take solace that these nine friends—nine neighbors, nine brothers and sisters in Christ—are now in a better place.

We remember them not for the tragic way they died but for the joy and compassion with which they lived.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HONORING MAINE VOLUNTEER FIREFIGHTERS

Mr. KING. Madam President:

Who is in charge of the clattering train?
The axles creak and the couplings strain,
And the pace is hot and the points are near,
And sleep hath deadened the driver's ear,
And the signals flash through the night in vain,
For death is in charge of the clattering train.

That is a poem from the 1930s that was quoted by Winston Churchill in his book ''The Gathering Storm.''

I rise today in the wake of a terrible tragedy, of a clattering train, where death was in charge—one that left more than 60 people missing, 20 confirmed dead, and has devastated a community. But despite the magnitude of this amazing loss, it is also a story of human heroism at its highest level.

I am referring to a horrific accident that occurred early last Saturday morning when a 72-car train carrying crude oil derailed in Lac-Megantic, Quebec, near the border of western Maine. As the train erupted into all-engulfing flames, it came crashing into the town demolishing everything in its path. Cars and buildings were instantly incinerated, pavement on the roads literally melted away, and sidewalks crumbled from the intense heat and pressure. As a result, nearly a full six city blocks were completely leveled, forcing almost 2,000 residents to flee their homes—a third of Lac-Megantic's total population.

And while local Canadian firefighters battled the flames valiantly—and I mean valiantly—it became clear they desperately needed support. So after receiving a call at 4 a.m., 30 firefighters from Rangeley, Farmington, Phillips, Strong, New Vineyard, and Chesterville—all wonderful small Maine towns—as well as the town of Eustis, arose from their sleep, rushed to their engines, and drove 83 miles nonstop—arriving at 6 a.m.—to help extinguish this horrendous blaze. It is worth noting that, except for the chief, every firefighter who made this journey and put their life at risk, every single one that morning, was a volunteer—serving and risking their lives of their own choice and volition.

Upon arrival, their efforts had immediate impact. They quickly realized there was a desperate need for water, and because the town lacked a hydrant system, they swiftly turned their attention to a lake 3,000 feet away and began to pump water using an extraction skill that Maine firefighters are specifically taught and trained to use. They continued to pump water from that lake for 21 straight hours.

Let's put that in perspective for a moment: For almost the entire next day those brave men and women, driven by an incredible spirit of perseverance and self-sacrifice, worked tirelessly to extinguish the blaze and gain control of the burning train cars.

Fire Chief Timothy Pellerin of the Rangeley station said everyone was hugging and cheering to celebrate their miraculous success when the fire was brought under control. It was ''like a ball team after a win,'' he said. The Canadians, overwhelmed by the selflessness and courageousness of those volunteer Americans, thanked them for their steadfast determination to see the crisis through.

Residents of Lac-Megantic and local firemen were coming up to one of the Rangeley firetrucks asking to have their picture taken with the American flag attached to the safety bar and pausing to touch it as a sign of their respect and gratitude. After returning home late Sunday afternoon, Chief Pellerin said he has ''never been more proud'' to be from Maine and from America and to be a firefighter.

We still do not know the full scope of the devastation wracked by this gruesome event. The cleanup and recovery costs will undoubtedly be astronomical, as well as the traumatic impact on the community upon which no dollar estimate can be placed. Initial reports indicated that at least up to 1.2 million gallons of crude oil spilled into the streets, basements of houses, storm drains, and contaminated that nearby lake. Currently, over 200 criminal investigators are sifting through the charred remains of what might be North America's worst railway disaster, and I sincerely hope that through their efforts we will be able to better understand the causes of this horrible tragedy and perhaps, more importantly, how it can be prevented in the future.

However, my real reason for rising today is to honor those volunteer firefighters from Maine—true American heroes who embody the best this country has to offer. They were called into action by their unwavering sense of civic duty, and throughout the night they overcame tremendous odds, including a language barrier and a lack of resources, to finally help extinguish the fire early Sunday morning. These brave Mainers showed true strength of character—strength of character that enabled them to overcome fear in pursuit of the greater good. It is without a doubt that their actions saved countless lives. We owe these American heroes our enduring gratitude.

My thoughts and prayers remain today with those who are impacted by this tragic event.

To go back to the words Churchill quoted so long ago:

Who is in charge of the clattering train?
The axles creak and the couplings strain,
And the pace is hot and the points are near,
And sleep hath deadened the driver's ear,
And the signals flash through the night in vain,
For death is in charge of the clattering train.

Death was in charge of the clattering train that dark night. The perseverance, skill, and courage of those firefighters from Maine and their brave Canadian counterparts could not prevent a tragedy but at least contained and controlled it.

Madam President, this is the best of America.

I yield the floor.

QUORUM CALL

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

Quorum No. 2

Ayotte	Enzi	Udall, (NM)
Begich	Hirono	Warner
Cowan	Reid	

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Alexander	Crapo	Moran
Begich	Inhofe	Toomey
Cornyn	Manchin	

The PRESIDING OFFICER. A quorum is not present.

Mr. REID. Madam President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is agreeing to the motion.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. 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. MENENDEZ) and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Florida (Mr. RUBIO).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 28, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—69

Baldwin	Flake	McCain
Baucus	Franken	McCaskill
Begich	Gillibrand	McConnell
Bennet	Graham	Merkley
Blumenthal	Grassley	Mikulski
Boxer	Hagan	Murkowski
Brown	Harkin	Murphy
Cantwell	Hatch	Murray
Cardin	Heinrich	Nelson
Carper	Heitkamp	Portman
Casey	Hirono	Pryor
Coats	Johanns	Reed
Cochran	Johnson (SD)	Reid
Collins	Kaine	Rockefeller
Coons	King	Sanders
Corker	Kirk	Schatz
Cowan	Klobuchar	Schumer
Donnelly	Landrieu	Shelby
Durbin	Leahy	Stabenow
Feinstein	Levin	Tester
Fischer	Manchin	Udall (CO)
Udall (NM)	Warren	Wicker
Warner	Whitehouse	Wyden

NAYS—28

Alexander	Crapo	Paul
Ayotte	Cruz	Risch
Barrasso	Enzi	Roberts
Blunt	Heller	Scott
Boozman	Hoeven	Sessions
Burr	Inhofe	Thune
Chambliss	Isakson	Toomey
Chiesa	Johnson (WI)	Vitter
Coburn	Lee	
Cornyn	Moran	

NOT VOTING—3

Menendez	Rubio	Shaheen

The motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call a quorum is now present.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that we now proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

BALANCED BUDGET AMENDMENT

Mr. UDALL of Colorado. Madam President, I rise today to talk about the balanced budget amendment to the U.S. Constitution that I recently introduced with several of my colleagues. These cosponsors include Senators MANCHIN, BEGICH, MCCASKILL, HEITKAMP and TESTER.

Debates over the merits of balanced budget amendments have occurred for decades, and there is a wide range of conflicting thought on the topic. Proposing to amend the Constitution is something I do not take lightly. But after much thought and consideration, and having conversations with fellow Coloradans, I came to the conclusion that fundamental budgetary reform like this is necessary to restore Americans' confidence in our government and ensure long term fiscal health and stability.

I introduced the same balanced budget amendment in 2011 when there was still a great deal of uncertainty about our economy and its recovery. Although there has been economic progress, it is clear that we have not yet completely emerged from the downturn that began in 2008. It therefore remains critical that Congress continue to focus—in a bipartisan fashion on ways to promote job growth and economic recovery. It is to that end that I am proposing the idea of a balanced budget amendment to enforce budgetary discipline.

The proposal I am introducing requires the President to submit a balanced budget each year and ensures that our Federal Government spends no more money than it takes in, while allowing for exceptions in times of emergency. But most importantly my proposal takes steps to ensure that Congress doesn't make some of the same budgetary mistakes that got us into the mess we are in now. For example, my amendment prohibits deficit-