

other, start talking to each other. So I want to publicly state I appreciate the Senator from Michigan for many different reasons.

Senator LEVIN has been a long-time protector of our military, as the chairman of the Armed Services Committee. I am not an expert on what is happening in that committee, but I do know that during the more than three decades I have been in Congress no one has been more vigilant and caring about the men and women who serve in our military. So I admire, appreciate, and have great affection for the Presiding Officer.

The burdens we as leaders here in the Senate have—and I was reflecting on this as I was walking in here this morning—whether it is the Armed Services Committee or the things I am called upon to do, are so minimal compared to the burdens of the President of the United States—whoever the President of the United States happens to be. But let's focus on Barack Obama. Every day he gets up for a briefing about what is going on around the world, and there are so many things going on around the world that are so difficult—for him, for us as a country, and for the world. The problems we have here at home, as the leader of the superpower that we are, he has to deal with every day.

I had a visit with the President yesterday on the telephone. After we worked out an arrangement here in the Senate that was pleasing to virtually everybody, he called me and said: Thanks. I know it was a lot of hard work—and all that stuff. But I commented to him: We all realize the burdens that you bear. And I think we do. If we pause and think for a minute, it is easy to understand the heavy burdens this man bears.

We all know what a fine human being he is, and we have watched him, as we have seen all Presidents change before our eyes, this vibrant young man who served here in the Senate with us, with his coal-black hair, and now, after a few years, that hair is similar to that of myself and Senator LEVIN. He is still vibrant and strong, but he has a lot of burdens on his shoulders. Having worked with him as closely as I have, I have such understanding of what I think he goes through—at least somewhat of an understanding and some empathy for what he goes through.

Maybe somebody at the White House will pass him a copy of this exchange between the Presiding Officer and myself and they will tell him how much we in the Senate, Democrats and Republicans—the Republicans may disagree with him politically, but I don't think you can find a Republican who doesn't admire him as a good human being.

#### RESERVATION OF LEADER TIME

Mr. President, would you announce the business of the day?

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

#### EXECUTIVE SESSION

#### NOMINATION OF FRED P. HOCHBERG TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The assistant legislative clerk read the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. 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.

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

The PRESIDING OFFICER (Mr. MURPHY). Without objection, it is so ordered.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

Harry Reid, Tim Johnson, Benjamin L. Cardin, Christopher A. Coons, Patrick J. Leahy, Charles E. Schumer, Ron Wyden, Patty Murray, Heidi Heitkamp, Tom Udall, Martin Heinrich, Jack Reed, Sheldon Whitehouse, Elizabeth Warren, Richard J. Durbin, Kirsten E. Gillibrand, Robert Menendez

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States for a term expiring January 20, 2017, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 82, nays 18, as follows:

[Rollcall Vote No. 175 Ex.]

YEAS—82

Alexander	Baucus	Blumenthal
Ayotte	Begich	Blunt
Baldwin	Bennet	Boozman

Boxer	Heinrich	Nelson
Brown	Heitkamp	Portman
Burr	Heller	Pryor
Cantwell	Hirono	Reed
Cardin	Hoeven	Reid
Carper	Isakson	Rockefeller
Casey	Johanns	Sanders
Chiesa	Johnson (SD)	Schatz
Coats	Kaine	Schumer
Cochran	King	Scott
Collins	Kirk	Sessions
Coons	Klobuchar	Shaheen
Corker	Landrieu	Stabenow
Crapo	Leahy	Tester
Donnelly	Levin	Thune
Durbin	Manchin	Udall (CO)
Feinstein	Markey	Udall (NM)
Fischer	McCain	Vitter
Flake	McCaskill	Warner
Franken	Menendez	Warren
Gillibrand	Merkley	Whitehouse
Graham	Mikulski	Wicker
Hagan	Murkowski	Wyden
Harkin	Murphy	
Hatch	Murray	

#### NAYS—18

Barrasso	Grassley	Paul
Chambliss	Inhofe	Risch
Coburn	Johnson (WI)	Roberts
Cornyn	Lee	Rubio
Cruz	McConnell	Shelby
Enzi	Moran	Toomey

The PRESIDING OFFICER (Ms. HEITKAMP). On this vote, the yeas are 82, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Pursuant to S. Res. 15 of the 113th Congress, there is now 8 hours of postcloture debate equally divided in the usual form.

Who yields time?

If no one yields, the time will be equally divided.

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I rise to speak for a few moments about the cloture vote we just had and the confirmation vote that is upcoming.

First of all, let me start by saying I think Mr. Hochberg is a good, capable, and competent person. The point I am making is that the candidate for President of the Ex-Im Bank, for whom we just granted cloture and are likely to confirm, is a capable individual.

I voted against cloture, and I am going to vote against this confirmation. It is not about him. I wish to explain what this is about for me and why I think this is a lost opportunity. Precisely, it is this: By invoking cloture, as we have just done, and confirming Mr. Hochberg, as we are no doubt about to do, I think we are going to miss a big opportunity to insist on some modest reforms that are necessary at the Ex-Im Bank and we are going to miss an opportunity to pressure the administration and the Ex-Im Bank to follow existing law in ways that are not currently being followed. I wish to touch on a couple of these.

First of all, just by way of background, a reminder about the Ex-Im Bank: This is a taxpayer risk. This is a bank that makes taxpayer-backed loans and guarantees to countries and companies that buy American products. In 2012 we reauthorized the ongoing existence of the Ex-Im Bank and increased its lending authority to \$140

billion. Now, not only are taxpayers taking a risk every time a loan is made by the Ex-Im Bank, but the taxpayers are systematically being undercompensated for that loan. The pricing on these loans is necessarily not reflective of the full risk to the taxpayer. How do we know that? Because if they were fully pricing in the risk, then the Ex-Im Bank wouldn't have a competitive advantage over other private banks. They would be more than happy to finance exports. In fact, the export bank exists for the purpose of subsidizing these exports, and they do it in the form of consciously and intentionally underpricing the loans so that the taxpayers do not get an adequate compensation and certainly not a market compensation for the risk they take. That is just the reality. That is the nature of the Ex-Im Bank.

I would also point out that Ex-Im Bank's inspector general issued a report in September about some of the issues they discovered in the management of the Ex-Im Bank. They recommended that the Ex-Im Bank undergo stress testing. We require this of all of the big private financial institutions. They require that they go through all kinds of analyses about what would happen to their institutions under different economic and market circumstances that could occur, and then we evaluate how well they hold up to the stress of changes in interest rates, changes in economic conditions, and so on. The Ex-Im Bank has promised they will do this, but we haven't seen any results.

The inspector general also suggested some at least soft limits on concentration because the Ex-Im Bank is massively concentrated in a single industry. Almost all of the financing it provides is in a single industry, and that creates a risk to the taxpayers, of course, if there is a problem in that industry. The Ex-Im Bank has rejected considering any concentration limits.

The third thing I would point out is that the inspector general's report suggested that the board have more oversight authority. The Ex-Im Bank has not agreed to increase the board's oversight authority.

There is another problem with the Ex-Im Bank, it seems to me; that is, by its very nature it picks winners and losers in ways that are inappropriate. I will give a few examples. Because it is a government entity, it is ultimately controlled by the political class and its activities ultimately get politicized. It has already happened. For instance, in an entity that is supposed to be all about subsidizing exports for job creation purposes, there are mandates that a certain amount of their business has to be green activity. It has to be what some people think is acceptable or preferable in the energy space. That is a judgment which has nothing to do with maximizing overall exports. It is a political decision that is imposed on the Ex-Im Bank because politicians can. There is also a mandate on small

business, which is to favor one sector over another.

There was an amendment when we were considering this bill. One of our colleagues offered an amendment that would force the Ex-Im Bank to make sure a certain amount of their business was subsidized loans to African companies and countries. I am sure this Senator has a very sincere interest in supporting Africa in various ways. That is fine if he has that interest, but is the Ex-Im Bank the vehicle we are supposed to use to do that? Let's keep in mind that when we establish a minimum statutory lending hurdle for some geographical area and Ex-Im is not there, they have to lower their standards to reach that goal, so it increases taxpayer risk for this political goal.

My point is that it is inevitable, it is guaranteed, it is already happening that this process becomes politicized, and that is not a good idea.

There is another problem with the activity of the Ex-Im Bank, which is that taxpayer-backed loans and guarantees also inevitably help some American companies at the expense of others. That is the nature of this, and that is a problem. One clear example is commercial air carriers. We have American companies that are airlines, they are commercial carriers, and then there are foreign companies that do this as well, and they compete directly against American carriers. Well, if you are a foreign airline, you get the Ex-Im Bank subsidy loan to buy your aircraft, and if you are an American airline, you don't. This happens. It happened recently. Air India got a \$3.4 billion loan subsidy from Ex-Im Bank so they can buy their aircraft, and Air India competes directly with American companies that are not eligible for the loans because it is not considered an export.

These are the sorts of unintended consequences that occur when the government creates these mechanisms for meddling in the markets.

By the way, under current law the Ex-Im Bank is required to provide an analysis and make the analysis public about any adverse impact on American companies when they engage in this sort of activity, and we haven't seen that analysis. In fact, we have a court decision that criticizes the Ex-Im Bank. The court of appeals found that they had, in fact, failed to comply with this law about assessing the negative financial impact on U.S. companies; nevertheless, they are continuing to make these loan guarantees in this context.

All of these problems have been discussed in the past. We have had this debate before. One of the very constructive things we did in the 2012 reauthorization of the Export-Import Bank was that we said: What is the reason—why do we do all of this? The proponents always give the same argument—it is always the same—and it is that other countries around the world do this to subsidize their exports, and if we don't

subsidize ours we will be at a competitive disadvantage and we can't have that.

That is the justification we always get. One can question the wisdom of that justification. We could have a big debate about that. But let's put that aside for a second because there is a potential solution to that problem. It is that in global trade talks and bilateral and multilateral trade talks, we, the United States—the world's biggest trading country, the world's biggest economy—could insist on a process by which we have a mutual wind-down of this economically unhealthy activity. The countries of the world that have these export-subsidizing banks could mutually agree to phase them out. Then we wouldn't have to do it because they do it, taxpayers wouldn't have this risk, and we wouldn't be unfairly benefiting some companies at the expense of others. We could phase this out.

In fact, that is exactly what the 2012 authorization bill requires. It requires the administration to begin negotiating with our trading partners for a mutual phaseout of all export subsidies. I believe that is the right solution to this admittedly difficult problem. Let's all agree we are going to phase out this activity.

Well, despite the fact that this mandate is in the reauthorization bill we passed a year ago—it is the law of the land—it is not happening. It is just not happening. There are no such discussions under way. There are no such negotiations. This is certainly not a priority of the administration's trading activity. I am not sure it exists at all as a priority. This is the main reason I came to the floor this morning and voted against cloture.

Cloture—the requirement to get the 60 votes to cut off debate to then consider the vote on the underlying nominee—is a very important tool. If we had held 41 votes, 41 Senators who refused to agree to cut off debate, the administration would have been in a little bit of a pickle because by the end of this month, in the absence of a newly confirmed President, the Ex-Im Bank couldn't do any business. So what would have happened? Would the Ex-Im Bank have just shut down? No. That wasn't ever going to happen. But what might have happened is we might have had a discussion: Can we get the administration to actually begin the negotiating they are supposed to do under existing law? Could they please begin to observe the law? Could the Ex-Im Bank actually begin to respond to the inspector general's reports? And in the pressure, frankly, of this moment, I think we would have had progress. Instead, we have voted for cloture. I think later today we are going to vote to confirm the nominee, who, as I said, is a very capable, very competent individual. So none of this is going to happen. What we are going to do is confirm the status quo, continue business as usual, business as it has been.

This, of course, occurs in a context, right? It occurs in the context of this argument we have been having about whether Republicans have been obstructing nominees, and I think, frankly, it infects the judgment about how Senators might consider voting on something such as a cloture measure. I would just remind everybody that going into this discussion earlier this week, the Senate had confirmed 1,560 of the President's nominees and was blocking 4—1,560 to 4. Some are suggesting that is an outrageous activity on our part because it denies the President the opportunity to assemble his team. Really? He has 1,560 confirmed, and there are 4 we are holding. That works out to 99.7 percent of the President's nominees confirmed, and we are portrayed as preventing the President from assembling his team. I completely reject that characterization. I think the President has enjoyed a tremendous opportunity and reality of getting his team in place, getting them confirmed.

We ought not relinquish the power the Constitution gives to the Senate to advise and consent. Remember, the Constitution doesn't just say that the Senate shall advise, it says advise and consent. "Consent" has a very specific meaning. If we do this automatically and routinely and we think that—I guess those who object to our approving 1,560 and objecting to 4—it seems to me the implication is that we are supposed to simply routinely rubberstamp everyone, there can't be any objections ever, whatsoever. That is not what the Constitution calls for. As a matter of constitutional principle, that is a very flawed analysis.

I wanted to speak this morning because this is a very real, specific case of where, had we exercised more fully, in my judgment, our opportunity to deny cloture, we would have made a little bit of progress in better observation of existing law, further reducing risk the taxpayers take, and getting the Ex-Im Bank to comply with some of the recommendations in the inspector general's report. I wanted to share that.

I know how this vote is going to go. I know Mr. Hochberg is going to be confirmed. I hope we will be able to make progress anyway, but I am sure we would have had a better chance of making meaningful progress if we had used this moment.

As we consider future nominees, I hope we will remember that this is a fundamental and important role for the Senate to play—to use confirmation as a moment to focus the attention of the administration on what is important to our constituents, to our taxpayers, and I hope we won't relinquish that opportunity.

I yield the floor.

OBAMACARE

Mr. LEE. Madam President, 2 weeks ago, while most Americans were busy getting ready for the Fourth of July holiday, the Obama administration

made a stunning announcement about the President's signature legislative accomplishment, the Patient Protection and Affordable Care Act.

The President admitted to the American people that because ObamaCare was so poorly crafted, he was delaying the enforcement of the employer mandate and would not assess fines and penalties to big companies that refused to provide insurance to their employees. The President explained that businesses could not handle "the complexity of the requirements," and government bureaucrats would spend the next year simplifying the reporting rules so companies could comply.

I expected that in the next paragraph he would acknowledge that American families also deserve relief because, as polls consistently reflect, they have very big problems with the requirements as well. They have concerns about the government-run health care scheme known as the exchanges.

Henry Chao, the chief technical officer in charge of implementing the ObamaCare exchanges, has said:

I'm pretty nervous. . . . Let's just make sure it's not a third-world experience.

American families also have very grave concerns about how much ObamaCare is going to add to our national debt. The Congressional Budget Office now estimates that the cost to taxpayers over the next 10 years will be \$1.8 trillion. Young Americans are particularly concerned about ObamaCare because it is becoming clear that they will see the highest increases in health care premiums.

One study published in the magazine of the American Academy of Actuaries shows that middle- and low-income single adults between 21 and 29 years of age will see their premiums rise by 46 percent even after they take the ObamaCare subsidy.

A joint report by Republicans on the House Energy and Commerce, Senate Finance, and Senate HELP Committees that looked at over 30 different studies concluded that:

Recent college graduates with entry-level jobs who are struggling to pay off student loan debt could see their premiums increase on average between 145 and 189 percent. Some studies estimate young adults could experience premium increases as high as 203 percent.

In my State, the State of Utah, premiums for young people will jump anywhere from 56 to 90 percent. As I read this statement from the Treasury Department, I was shocked to find no mention of these people. Parents, families, students, employees, taxpayers, hard-working Americans in general were totally left out, along with their concerns about the complexity of the requirements imposed by ObamaCare.

A senior adviser to the President took to the White House blog to spin the administration's announcement before long. She said:

In our ongoing discussions with businesses, we have heard that you need time to get this right.

But why aren't American families part of these same ongoing discussions? Isn't the White House obligated to get this right for them too, before assessing fines and penalties and forcing them into a government-run third-world experience?

We knew ObamaCare would be unaffordable, but now we know it is also going to be unfair. It is fundamentally unfair for the President to exempt businesses from the onerous burdens of his law while forcing American families and individuals into ObamaCare's unsound and unstable system. It is unfair to protect the bottom lines of big business while making hard-working Americans pay the price through higher premiums, stiff penalties, cutbacks in worker hours, and job losses.

It is unfair to give businesses more time to figure out complex regulations but force everyone else to figure out equally complex mandates and requirements applicable to individuals. This administration has chosen to put its own political preferences and the interests of various government cronies ahead of those of the American people.

Republicans in Congress must now stand up for the individuals and families who do not have the money, who do not have the lobbyists, who do not have the connections to get this administration's attention on this important issue. We should do so using one of the few constitutional powers that Congress still carefully guards: its power of the purse.

As long as President Obama selectively enforces ObamaCare, no annual appropriations bill and no continuing resolution should fund further implementation of this law. In other words, if the President will not follow it, the American people should not fund it.

Last week's admission by the administration means that after more than 3 years of preparation and trial and error, the best case scenario for ObamaCare will be rampant dysfunction, waste, and injustice to taxpayers and working families. Even the President himself is now admitting that ObamaCare will not work. It is unaffordable and unfair.

If he will not follow it, we should not fund it. The only reasonable choice now is to protect the country from ObamaCare's looming disaster, start over, and finally begin work on real health care reform that works for everyone.

I would like to shift topics and speak briefly in opposition to the confirmation of Fred Hochberg to continue as Chairman and President of the Export-Import Bank. By confirming Mr. Hochberg, we would perpetuate the existence of an organization whose sole purpose is to dispense corporate welfare and political privileges to well-connected special interests.

The Export-Import Bank, or Ex-Im as it is commonly known, is an example of everything that is wrong with Washington today. It is big government