

bill being—as we saw and heard the Vice President on TV—a big expletive deal, success is not defined in the desires of 2010 but in making sure ObamaCare exists in some form or fashion on January 20, 2017.

We saw more of this digging in and sorting out on this very day when the President spoke. Insurance companies sent 4 million cancellation notices to comply with the President's law. They did it to comply with the law. Let's be clear about it. In other words, these insurers read the law, and then do you know what they did. They did what every company ought to do: Follow the law. Unfortunately for them, the President did what he has been doing for 3 years: He has taken out his pencil and eraser and rewritten or delayed his law on the fly when it is not working.

So what does it now mean for insurers who were simply trying to follow the law as written, as you would expect them to follow the law? Let me tell you what one insurance company had to say:

This means that the insurance companies have 32 days to reprogram their computer system for policies, rates, and eligibility, send notices to policyholders via US Mail, send a very complex letter that describes just what the differences are between specific policies and ObamaCare compliant plans, ask the consumer for their decision—and give them a reasonable time to make that decision—and then enter those decisions back into their system without creating massive billing, claim payments, and provider eligibility list mistakes.

That was a quote from the consultant who was commenting on what the President did today by delaying or by making sure you could keep your program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 4 more minutes.

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

Mr. GRASSLEY. So the only thing the President has accomplished with his announcement today is that he is delaying his broken promise for another year. I have to wonder: What will it take for him to admit his law is not working and at least call for a full delay?

Remember how all these big health insurance companies back in 2009 got behind the President's program for nationalizing our health insurance program. They put up a lot of money to sell it. Their lobbyists lobbied for it. What they ought to do is tell the American people what a big mistake they made because they are getting stuck with it right now—as I just quoted from this consultant from an insurance company.

It is time for us to admit that ObamaCare has not achieved the correct or desired results of an attempt—in other words, the definition of success as I stated earlier in my remarks. It has not been a success by any measure, unless, of course, you lower your standard to the point that the mere act

of keeping the doors open is a success. How sad is it that after all we have been through—and we have been through a lot. Maybe, just maybe, it is time to admit that the massive restructuring has failed. It may be that partisanship has failed. Perhaps it is time to sit down and consider common-sense, bipartisan steps we could take to lower costs and improve quality. Perhaps we could enact alternative reforms aimed at solving America's biggest health care problems, such as revising the Tax Code to help individuals who buy their own health insurance; allowing people to purchase health coverage across State lines and form risk pools in the individual markets; expanding tax-free health savings accounts; making health care price and quality information more transparent; cracking down on frivolous medical malpractice lawsuits; using high-risk pools to insure people with preexisting conditions; giving States more freedom to improve Medicaid, such as Rhode Island got a few years ago and which seems to be a success; and using provider competition, consumer choice to bring down costs in Medicare, throughout the health care delivery system. The American people need to know this failed program is not the only answer. I yield the floor.

I thank the Senator from New York for yielding to me. I forgot to say that earlier.

The PRESIDING OFFICER. The Senator from Connecticut.

#### MILITARY JUSTICE IMPROVEMENT ACT

Mr. BLUMENTHAL. Mr. President, my purpose in being here today is to support the Military Justice Improvement Act and the very urgent need to include its worthwhile and comprehensive provisions in the National Defense Authorization Act for Fiscal Year 2014, either by way of amendment or whatever measure may be appropriate, and to support the very eloquent remarks made by the Senator from New York. She has been a steadfast and strong advocate of necessary changes in the Military Code of Justice and has acted as chairman of the Subcommittee on Personnel of the Senate Armed Services Committee to approach this issue—a very difficult issue—in strengthening the system of justice for our men and women in uniform with care and caution as well as vigor and bravery.

I know how different the views may be in this body among our colleagues, and I have listened to people on both sides of this argument very carefully before reaching my own conclusion.

One statistic that strikes me as perhaps paramount in importance is the gap between the number of victims, which is estimated to be close to 30,000, or perhaps more. We don't have a precise number, but the estimates from the military indicate that there are tens of thousands, and very likely more

than 30,000. The number of reported cases is around 3,000, or perhaps 2,500, who have sought justice for sexual assault in the military. By the way, only about 300 go to trial every year. At least that was the number for last year.

My view is that we must remove any concerns about undue command influence on the process so that more victims will seek justice. The only way to deter this heinous, horrific crime is to encourage more reporting so there can be more prosecution and enable more deterrents through strong and swift justice. The goal is justice. The goal is not necessarily punishment for its own sake but justice.

I have listened to my colleagues who feel that the act as written or as amended should keep prosecuting authority with the commander. I have listened carefully to them, and I believe their sincerity and respect for victims is unquestionable. This is not about who respects victims or cares for them the most, it is about what system will best seek justice and deter the epidemic—the spreading numbers of these horrific crimes.

I have also listened to military professionals who have come before Senator GILLIBRAND's subcommittee, as well as the committee as a whole. I have questioned them repeatedly in public and in private, and I am convinced beyond any doubt that they are as outraged and find this crime as abhorrent and antithetical to their profession as anyone in this body. Yet, for years and years, we have heard that the military has zero tolerance. Their renewed vigor is welcomed but in my view has to be matched by reforms in the process which will make sure that that commitment is real and realized in real life.

Most importantly, I have listened to the victims who have come, both publicly and privately, to the Armed Services Committee, where I serve, and have told their stories. They have told their stories also in writing and in documentaries, such as "The Invisible War"—a very powerful and compelling argument for reform.

I have listened to them as they have expressed to me that what matters to them is the fear of retaliation and adverse effect on their careers from the present structure of prosecuting authority. I believe that prosecuting authority should be made the responsibility of an independent, experienced, objective, and trained professional.

I recognize and I understand that there is immense power in the present system given to any commander who sends men and women under his power potentially to give their lives for their country. Their argument and feeling is that they should hold the same power over punishment for crimes that those men and women may commit under their command.

Good order and discipline, I recognize, is a profoundly important goal, and a paramount, irreplaceable, and

undeniable goal. Good order and discipline is hardly well served by acts of sexual assault in the military, which is why those professionals say they have zero tolerance for this heinous crime. I have listened to them about why they feel the present system should be continued.

We need a military justice system that works as well in Camp Leatherneck as it does in Camp Pendleton or Camp Lejeune, and we need a justice system that works well not just in one season or another, politically, but in all seasons at all times for all men and women. I think the approach best suited to reach that goal is the one that embodies legislation that has been introduced by the Senator from New York, Mrs. GILLIBRAND. Of course, in listening to all of those sources of insight and perspective on this issue, I have also utilized my own experience as a prosecutor. I would say the most difficult decisions I made as a U.S. Attorney prosecuting under Federal law, and as State attorney general, largely with civil authority, was whether to charge and what violations of law to charge, because, as a practical matter, the charge can ruin a life, and often does. It can ruin a career, ruin a family, and ruin an individual's standing in society. Even if that individual is eventually found not guilty at trial, the charge stands forever. I found that the decision of whether to charge was often the most difficult decision I had to make not only because of the consequences to the individual, but the difficulty of making a decision about whether a fact finder—whether a court or a jury—would conclude that every element of the crime as charged was proved beyond a reasonable doubt. That is the responsibility of the jury or the judge, depending on who is trying the case and who the fact finder is. There are instances where these decisions are air tight and easy, but in many cases, and most particularly in cases involving sexual assault, they are sometimes difficult to make. There is forensic evidence, there are metrics, there are precise scientific measures, but there is also a judgment to be made about whom to believe when there are conflicting versions of an incident.

That is why I believe these decisions should be made by professionals who have experience, who know how to prove cases, how to try them and how to bring them to court, and who are capable of making decisions that will not only be fair and objective but will be seen as fair and objective, because in the criminal justice process often perception is as important as reality when it comes to a victim coming forward to put his or her life on the line and complain, particularly in a system such as the military, but often in society in general. Sexual assault as a crime in society is often underreported and underprosecuted because of the fears, correctly and understandably, on the part of victims.

We have made progress in encouraging victims to come forward in civil-

ian life and in the military, but there is much more to be done. I believe the reforms offered by the Military Justice Improvement Act are important and essential to that goal.

The National Defense Authorization Act in title V has 14 specific revisions to our military justice system that will help ensure a more just process and a more just outcome for cases involving sexual assault. These changes to our current system were drafted in a bipartisan manner that defines so often—in fact, almost uniformly—the work of the Armed Services Committee under the leadership of Chairman LEVIN and Ranking Member INHOFE, and I wish to express my appreciation for their leadership. Those reforms are important to ensure a crime victim's rights are acknowledged under the Uniform Code of Military Justice and that victims receive a special victims advocate, and that those found guilty of sexual assault will receive a mandatory discharge. These reforms, which were initially proposed by myself and others, will help improve this system. They are a telling refutation of anyone who says, in testimony before our committee or otherwise, that the UCMJ is serving its intended purpose of justice when it previously dealt with cases of military assault.

These reforms are necessary and necessary now, and I support them. Yet, as I look at the totality of what is now contained in this bill, it seems insufficient. I am left with the conclusion—it is an uneasy conclusion but a very strong one—that we have not yet achieved what we need to accomplish, namely, a system of justice that has the full confidence and trust of victims and all parties, that has the confidence and trust of survivors. They are indeed survivors. It is vital to encourage reporting of this crime and building the evidence that is necessary for those trained and experienced prosecutors to decide whether to pursue charges, against whom, and what kind of charges.

I believe we can strike a balance and achieve justice and not only maintain good order and discipline but, in fact, enhance them. I think, if this reform is adopted, future military commanders will thank the Senate and the Congress for enabling them to pursue what they know best professionally—what is their calling and their mission—which is to make this Nation's national security and defense the best in the world, as it has always been. They are to be thanked, and we all thank them for their commitment and their professionalism in the service of that goal.

I am joined in supporting these reforms in the Military Justice Improvement Act by the Defense Advisory Committee on Women in the Service, which last month recommended that “decisions to prosecute, to determine the kind of court martial to convene, to detail the judges and members of the court martial, and to decide the extent of the punishment, should be placed in

the hands of military personnel with legal expertise and experience and who are outside the chain of command of the victim and the accused.”

That is also the view of Jeh Johnson, the President's nominee to head the Department of Homeland Security and former Pentagon general counsel who was asked whether there are shortcomings in the military justice system, and he replied, “I have recently come to the conclusion that the answer to that question is yes.”

He went on to say:

Last year Secretary Panetta raised the initial disposition authority for how these cases should be handled to the 06 colonel captain level, and the problem, I believe, has become so pervasive, the bad behavior is so pervasive, we need to look at fundamental change in the military justice system itself.

We are joined in this view also by the Vietnam Veterans of America, an organization that stands in favor of the Military Justice Improvement Act because “far too many victims fail to report or choose restricted reporting primarily for two reasons: Retaliation and total lack of faith in fair just treatment within the chain of command.”

So despite my deference to our military leaders and my respect for them and my feeling that they are entitled to deference in issues that affect good order and discipline, I believe we have a responsibility in this Congress to fix this system, to repair it and reform it, and do it in ways that vindicate the rights of victims, survivors, as well as the accused, to make sure we do justice. Our responsibility under article I, section 4, clause 14 of the Constitution is “[t]o make Rules for the Government and Regulation of the land and naval Forces.” That is why the Uniform Code of Military Justice was adopted by Congress, and we will be held rightfully responsible and accountable if we fail to act and make effective reforms and if we fail to put an end to sexual assault in the military.

Our military system has some of the most dedicated, our best and our bravest, of this generation, just as has been true in past generations. I am proud to say two of my sons currently serve in the military. We need a system of justice that matches their excellence, that keeps faith with their dedication and sense of duty, that is as fair and just as they are strong and capable in protecting this country. We owe our freedom, we owe our own justice system in this country, and all of our rights and liberties to the defense they have provided decade after decade, war after war, to this Nation.

So I urge my colleagues to come together—and I know they are working on a bipartisan basis—to finish the work of reforming our system of military justice. I look forward to the day of realizing a very simple ideal—that every servicemember who is a survivor, a victim of sexual assault, is entitled to an independent arbiter and an objective prosecutor with the knowledge that the victim will be embraced and

supported by the system, and welcomed back into the ranks, even as they face the grueling and painful task of being involved in a prosecution. I look forward to the day also when any perpetrator knows, without question, that they will be separated from service and punished if they are found guilty. These ideals are as much engrained in our military as the ideals of valor, honor, and tradition. These changes will help our bravest and finest members who contribute and put their lives on the line to reach those ideals. These changes are necessary and I look forward to accomplishing them, working with my colleagues.

Mr. President, I thank the Chair, and I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak as in morning business for such time as I may consume.

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

#### TAX EXPENDITURES

Mr. WHITEHOUSE. Mr. President, I am here because I serve on the conference committee that is charged with negotiating a bipartisan budget deal. The Democrats have come to the table with a Senate-passed budget. The Presiding Officer will remember the long all-night ordeal of that budget.

Our budget replaces the dumb and harmful sequester cuts with balanced deficit reduction. If fact, you do not get much more balanced than the Democratic program. It is half from spending cuts and half from closing loopholes in the Tax Code. Our proposal would add almost \$2 trillion more of deficit reduction to the \$2.5 trillion we have already done so far.

Let's look at what we have done so far. Of the \$2.5 trillion in deficit reduction to date, about \$1.5 trillion has come from cuts in what we call discretionary spending; the spending that Congress approves each year that funds most government operations including our military. This is the \$1.5 trillion in cuts out of all of the \$12.6 trillion in spending.

We got another \$600 billion in revenue, mostly from letting the Bush tax cuts expire for very high-income taxpayers. So this thin red line is the additional \$600 billion in revenue compared to the existing revenue of the country. As you will see, we have cut far more in spending than we have added in revenues going into this budget discussion.

The remainder of the \$2.5 trillion comes from the interest savings that

are associated with those, just to make the numbers true up. This circle is here to demonstrate that to date we have yet to touch one dime in the other big budget item, which is loophole spending in the Tax Code.

This is a pretty good-sized chunk of annual spending, about 12 percent of the levels projected in 2010. The fiscal cliff bill that restored the Clinton-era rates to families making over \$450,000 added about 2 percent to other revenue projections, to the loophole category which is worth at least \$14 trillion, conceivably a lot more, because some of the loopholes are so wide you do not even know what is going through them. The money just shows up in the Cayman Islands. We do not know what we have lost. That remains totally untouched.

What we want to do is take just 7 percent, a tiny slice of this loophole revenue, and bring it back and use it for deficit reduction. That touching the loophole nerve is what has brought the Republicans to a screeching halt. In contrast to our exactly balanced approach—50 percent spending, 50 percent loopholes—Chairman RYAN's budget would 100 percent go after the programs on which low-income and middle-class Americans rely, without touching a single Tax Code giveaway—no balance at all.

But, of course, unbalanced is the Republican way in budgets. For instance, the Republican budget changes Medicare into a voucher program. That is not very balanced. That is not what the American people want. The Republican budget cuts nondefense discretionary spending to levels lower than anything the American public has ever seen since OMB started keeping track. That is an extreme budget and not a balanced approach.

The Republican budget would set annual domestic spending levels below 1962. If you think back to what America was like in 1962, there were no Pell grants. So if any of the pages were thinking of someday getting a Pell grant, that is gone. It did not exist in 1962. In 1962, 30 percent of American seniors lived in poverty. That is the level of spending the Republican budget would take us back to.

The rhetoric has been just as unbalanced as the proposals. Speaker BOEHNER has said talk about raising revenue is over—over. We have not even started and he says it is over, zero percent out of loopholes. He says the conversation is over. I do not think so. The conversation has not even begun.

But true to the Speaker's rhetoric, the Republican budget puts the burden of deficit reduction back onto Americans who can least afford it, while preserving for corporations and for the people who get the benefit of Tax Code giveaways every single dollar. In his conference committee opening remarks, Chairman RYAN said: If this conference becomes an argument about taxes, we are not going to get anywhere.

Let's take a look at the so-called taxes in this loophole area that Democrats would like to discuss. By the way, we get \$975 billion out of that, which is a slice slightly larger than this one and considerably smaller than that one. So where do we get it from? We go to what I refer to as the Republican treasure trove. We go to their Ali Baba's cave of treasure carved aside and saved for corporations and the rich.

We go to the tax earmarks and the special deals, the special interests which year after year have been squirreled away into the Tax Code through their lobbyists and through their numbers. How big can Ali Baba's cave be? Seriously? How much money goes out the backdoor of the Tax Code through these loopholes and deductions? I will show you.

This bar represents \$1.13 trillion, which is the amount of revenue collected by the government through the individual income sections of the Tax Code. That is what goes into Uncle Sam's pocket from the Tax Code. Here is what goes out the backdoor in loopholes and deductions: \$1.02 trillion. So for every \$1 that actually gets collected under the individual income tax, 90 cents goes out the backdoor through the loophole circle.

That is off-limits? Oh, I do not see why. It is a grand total every year of more than \$1 trillion. Do not tell me we cannot touch it at all. By the way, when you are talking budget numbers, you multiply by 10. So \$1 trillion over 10 years becomes \$10 trillion. That is talking some pretty serious money, to pretend, as Chairman RYAN said: If we are going to have an argument about taxes, we are not going to get anywhere. You are not even going to look at \$10 trillion and not get anywhere?

On the corporate side, for every \$1 in revenues the United States collects, here it is, \$242 billion that we actually collect, that goes into Uncle Sam's pocket from corporate income tax revenue, here is what goes out the backdoor of the corporate Tax Code: \$148 billion.

So like individual income, when it comes to corporate income, for every \$1 Uncle Sam actually gets in revenues through the Tax Code, 60 cents-plus goes out the backdoor through loopholes and deductions and other tax gimmicks. So, again, we budget for 10 years. So \$148 billion becomes pretty close to \$1.5 trillion. That is big bucks. If you add the two together and do it for 10 years, which is what we do in the budget world, and account for modest growth over those 10 years, we are talking about \$14 trillion.

We need to do \$975 billion in deficit reduction out of loopholes from a \$14 trillion number. Do not tell me we cannot find it there. Of course, the \$14 trillion does not even count the billions of dollars that corporations and wealthy tax avoiders hide offshore. They do not even go through the gateway of the Tax Code and then out the backdoor.