There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

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

The bill (H.R. 3588) was ordered to a third reading, was read the third time, and passed.

Mr. SCHUMER. To go over what happened, this is on behalf of myself and Senator TOOMEY. It is a bipartisan bill.

There was a recently released Environmental Protection Agency interpretation of a law that could cost local governments, municipalities, and taxpayers across the country millions of dollars and undermine public safety.

It is a classic case of the Federal bureaucracy and restriction harming our local communities and their budgets. No one would believe this, but it is about one of the most basic functions of government—fire hydrants.

Almost 3 years ago, Congress passed the Reduction of Lead in Drinking Water Act, legislation with an admirable goal, a goal that is spelled out right in the name, and the law is set to be implemented on January 4, 2014.

As we know, Congress intended for this law to direct the EPA to make rules that would keep our drinking water safe from coming into contact with lead-based parts. Congress did that and EPA exempted parts in bathtubs and showers that don't have direct impact on the quality of the drinking water, such as the knobs, the hot and cold knobs. Of course, the faucets would be under the law.

But at the end of October, suddenly, the EPA released a new interpretation of the law that for the first time put fire hydrants under the new standard set by law, meaning everyone needs to buy and install new and upgraded fire hydrants that contain less lead.

It took everyone by surprise. Only a small fraction of fire hydrants are ever used for drinking water. Even when they are, lead poisoning is associated with long-term exposure, which does not occur on the occasions when someone might drink from a hydrant.

While that surprising rule was announced at the end of October, the EPA expects all new fire hydrants installed after January 4 to be of this new reduced-lead standard. No manufacturer can make fire hydrants that quickly. If the interpretation stands, cities and county water authorities would be forced to throw out hundreds of hydrants now in stock, wasting millions of dollars and passing that waste on to consumers in terms of rate hikes. At the same time, there would be no new hydrants they could install when a fire hydrant malfunctioned, when it was run over by a car in an accident or when a snowplow knocked it down.

We are pleased this legislation we have just passed—my colleague from Pennsylvania and I—will now exempt fire hydrants from the reduced lead standard, just as bathtub and shower pieces that don't have contact with the water are exempt.

Simply put, the EPA's interpretation of reduced lead standards unnecessarily imposed a huge burden on municipalities and first responders without any discernible safety benefit. We have now undone that danger.

Mr. PORTMAN. Would the Senator yield?

I yield to my colleague from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. I wish to thank the Senator and our colleague from Pennsylvania, Mr. TOOMEY, for the work on this issue.

Municipalities all around the country, including my State of Ohio, were shocked to hear about this. I appreciate joining my colleague from New York in a letter to the EPA.

Cash-strapped cities in New York, Ohio, and other States are happy to know they are not going to have to take on this burden. It makes sense to stop, take a look at this, and be sure we are not forcing these hydrants—that are otherwise in good shape—to be repaired and replaced. It is not something that is in the budgets of these cities.

I appreciate the Senator's work on it and look forward to ensuring that this does not move forward into regulation but also that we figure out a more sensible way to deal with the issue.

Mr. SCHUMER. I thank my colleague from Ohio. We appreciate his good work. We have now saved municipalities millions of dollars, as well as ensured safety in our communities because the fire hydrants that are in stock will be able to be used.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. On the last vote, I wish to mention to my colleagues what happened and what has happened. A major bill dealing with the debt of the United States was supposed to come out of a budget conference committee and come here.

The budget conference committee failed to complete its meetings and a piece of legislation was sent to the Senate. That legislation has not been subject to amendment.

The majority leader decided there would be no amendments, and he would simply tell us that if we have amendments that will kill the bill or if we have amendments that will make us delay, we can't do it and we will not do it and we will not get an amendment.

A number of good amendments have been filed. The one we just voted on was one of the more egregious. That amendment reduces the retirement pay of the U.S. military without reducing the retirement pay of anyone else who served in government, only the military. So I moved to table the filled tree that Majority Leader REID has been using to block anybody from having amendments in the Senate on serious legislation.

I mean, this is serious legislation we didn't get to vote on. So the choice for our colleagues, when they cast their vote, was would they vote to allow an amendment to be voted on that would protect veterans, military retirees, from having their pensions reduced; or would they support the majority leader in his determination to block any amendments to the legislation? So a majority has voted. They voted to block the classical rights of Senators to have amendments and therefore to protect the leadership and the domination of this Senate in an unprecedented way by the majority leader.

He has already filled the tree more times than the previous four majority leaders combined—more than twice as often. On every bill now, it seems, he fills the tree. To get an amendment, he has to approve it or you don't get it. If he decides there are no amendments, there are no amendments. So this is contrary to the tradition of the Senate, and we have to change this. This highlights the danger of supporting that kind of process because it keeps us from fixing bad legislation and improving it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

MAYORKAS NOMINATION

Mr. GRASSLEY. Madam President, soon we will be voting on the nomination of Mr. Mayorkas for Deputy Secretary of the Department of Homeland Security. I have concerns about the nomination. First, I will discuss how Mr. Mayorkas has carried out the President's directive giving legal status to thousands of individuals who are in the United States unlawfully.

In 2012, Mr. Mayorkas was charged with implementing this President's directive known as DACA—DACA—Deferred Action for Childhood Arrivals. I have always questioned whether the President's directive is legal. The administration never responded to our requests for their legal basis or opinions. This administration has not been transparent about who is getting deferred action, how they are processing them, and whether those who have been denied have been processed for removal.

They may call this program Deferred Action for Childhood Arrivals, but it clearly benefits older adults, and possibly people who intentionally broke our laws. The agency didn't deny any single applicant until after the 2012 election. We still don't know how many people were actually denied. We do know, however, that people were approved despite shoddy evidence, such as an Xbox receipt and Facebook posting. They always seem to find a way to get approval.

All denials for DACA have to be run through Washington. Adjudicators on

the line were given clear instruction they were not allowed to deny any applicant. Whistleblowers tell me that Mr. Mayorkas himself had to approve all denials.

Think about that. No denials were allowed unless the head of the agency personally approved the denial. What kind of message does that send to civil servants, the career employees trying to do their job under the law as the law requires, and to be very impartial. The boss has his thumb on the scales. That isn't the rule of law.

Mr. Mayorka's message to adjudicators seems to have been that they had better get to yes or he would personally get involved. This ''get to yes'' philosophy came up time and again with agency whistleblowers. The Office of Inspector General looked into the situation and the inspector general confirmed what employers had said. A quarter of Immigration Service Officers interviewed felt pressured to approve questionable applicants, and 90 percent felt they didn't have sufficient time to complete the interviews of those who seek benefits. The report of the Office of Inspector General clearly showed the agency had been pervaded by this ''get to yes'' culture.

Unfortunately, that culture hasn't changed under Mr. Mayorkas's leadership. In fact, based on concerns I heard from whistleblowers who contacted my offices in mid-July of this year, it seems to have even gotten worse. These whistleblowers were aware that Mr. Mayorkas had been nominated to this Homeland Security position by late June. They were also aware that since the fall of 2012, Mr. Mayorkas had been the subject of an Office of Inspector General investigation into allegations of ethical or criminal misconduct.

When Mr. Mayorkas's nomination hearing was scheduled, the whistleblowers were very surprised. They wondered why a hearing would proceed while the investigation was still open and pending, and then contacted my office to make sure Congress was told about the investigation. The existence of this investigation was news to me at that time. However, I didn't sit on the Committee on Homeland Security and Governmental Affairs. So my staff contacted the staff of the ranking member of that committee, Senator COBURN. His staff was also unaware the nominee was under investigation by the Inspector General.

It is extremely troubling that a hearing was scheduled to proceed without the ranking member of the committee knowing about the pending investigation of the nominee within the executive branch. Both my staff and the staff of Ranking Member COBURN contacted the inspector general's office. We told his office about the whistleblower allegations and asked for confirmation as to whether there was an open inquiry.

This type of procedural information is routinely disclosed by an inspector general's office to Congress, and rightly so. Further, we asked for an explanation of why that information would be withheld while the committee was considering the nomination.

Understand, the Senate has a constitutional function of providing advice and consent on these nominations. In order to do our duty, every Senator who is asked to vote on that nominee needs to have all the relevant information about that nominee, and particularly when there is a pending investigation.

To its credit, the Office of Inspector General answered our questions and confirmed there was indeed an open criminal investigation. Their written description stated that the inquiry involves ''alleged conflicts of interest, misuse of position, mismanagement of the EB–5 program, and an appearance of impropriety by Mayorkas and other . . . management officials.''

How was it possible that this information was withheld from staff for the ranking member of the committee considering that nomination? If not for the whistleblowers who came forward, would we have known of the investigation?

When a nominee is under investigation, the Senate has no business approving that nominee until the facts are in. Historically, committees have followed this precedent. As ranking member COBURN explained last week, both the President and the Vice President supported this precedent when they were in the Senate.

In July 2005, one ambassadorial nominee owned a company under investigation. Then-Senator BIDEN spoke out and supported delaying the vote on that nomination because of the investigation. Eventually, the nominee's company agreed to settle the investigation against it. Then-Senator Obama's spokesman issued a statement saying that due to the fact that a settlement was reached, Senator Obama would not seek to block the nomination.

Like then-Senators Obama and BIDEN, I believe the Senate should wait for investigations to conclude or, if the executive branch is taking too long, then Congress should do its own fact-finding. But forcing Senators to vote in ignorance is not a legitimate option. In fact, it is irresponsible.

Voting to approve a nominee who is under investigation without waiting for the facts is incredibly risky. What if the investigation determines allegations are true? By rushing to approve the nominee, this body would have failed one of our key functions under the Constitution.

I pointed this out when the Senate was considering the nomination of B. Todd Jones to become permanent head of the Bureau of Alcohol, Tobacco, Firearms and Explosives. Mr. Jones was the subject of an Office of Special Counsel investigation due to allegations he retaliated against a whistleblower in the U.S. Attorney's office in Minnesota.

As Mr. Jones' nomination progressed through the Senate, the Justice Department and the whistleblower agreed to try mediation. The majority tried to claim the special counsel's case was, therefore, closed. However, I did state on the floor the special counsel's investigation would continue if mediation failed.

Nevertheless, despite the open special counsel investigation, we voted on July 31 to confirm Mr. Jones. In early September, the whistleblower's mediation with the Justice Department did, indeed, fail.

The special counsel has resumed its investigation of Mr. Jones, just as the special counsel had told the Senate that it would. So the retaliation complaint against Mr. Jones is still pending this very day. We don't know what the outcome will be because we did not take time to gather the facts, as Senators should. If we are unwilling to wait for an executive branch inquiry, then we should further gather the facts ourselves.

Last week, Ranking Member COBURN asked Chairman LEVIN of the Permanent Subcommittee on Investigations whether that committee would consider interviewing witnesses in the controversy involving Mr. Mayorkas. While he declined, Chairman LEVIN rightly noted if the subcommittee were going to launch such an investigation, the vote on Mr. Mayorkas would need to be delayed. I completely agree. This vote should not take place until someone has been able to gather testimony and draw conclusions about these allegations.

Whistleblowers have provided my office with very troubling evidence regarding the substance of some of the allegations. Much of the evidence involves the EB–5 regional center program, which Mayorkas is responsible for managing. The evidence appears to support allegations Mr. Mayorkas and his leadership team at Citizenship and Immigration Services are susceptible to political pressure and favoritism. Our immigration system should be governed by equal application of the law, not by who has the best political connections to the director of the agency.

I have given Mayorkas a chance to defend himself and explain the evidence, which seems compelling. Back in July and August I wrote several letters to Mr. Mayorkas outlining whistleblower allegations and attaching some of the documents the whistleblowers provided. I asked how he accounted for this evidence, but he has utterly failed to reply to my letters.

It has been 4 or 5 months since I sent Mr. Mayorkas these letters. Just like his personal oversight of DACA, these documents show Mr. Mayorkas being much more directly involved in individual EB–5 cases than he has led my staff or the Homeland Security and Governmental Affairs Committee to believe. They appear to show him intervening in EB–5 decisions involving Gulf Coast Funds Management, an organization run by nobody other than Hillary Clinton's brother Anthony Rodham.

This decision benefited GreenTech Automotive, a company run by Terry McAuliffe which was receiving funding from Gulf Coast Funds Management.

This evidence about political influence and intervention is particularly troubling because of Mr. Mayorkas' prior history. In 2001 Mr. Mayorkas had a role in a group of pardons and commutations issued by President Clinton in the closing days of the second term. A 2002 House report found that then-U.S. Attorney Mayorkas inappropriately sought to influence a decision regarding whether drug trafficker Carlos Vignali's prison sentence should be commuted.

However, my concerns about the investigation pending against Mr. Mayorkas are about more than just improper political influence. Under his leadership over the last few years, the EB–5 Program has grown far beyond its original intent, which I supported. It is intended to be an avenue for foreign investors to participate in new commercial enterprises which actually create jobs in this country in exchange for a U.S. visa. The program was created as a pilot, allowing regional centers to pool funds from investors to create new businesses and jobs. In the process, the centers had to prove they were creating the jobs they promised to create.

Skeptics questioned whether the program truly creates jobs. Whistleblowers have expressed concerns that foreign investors are not being vetted carefully enough. They say Mr. Mayorkas is more interested in approving applications quickly than making security checks more robust.

Given what we know about these security concerns inside the agency, Congress needs to reexamine this program. It should serve its purpose without compromising our national security.

Mr. Mayorkas claims he has changed the program since learning of fraud and security concerns. The only tangible change we have seen is that additional economists have been hired and adjudicators from California were moved here to Washington, DC. Yet moving the EB–5 process to Washington increased Mr. Mayorkas' control over the program, just as he has in the DACA Program.

Whistleblowers have provided me with emails from Mr. Mayorkas saying that he wants to keep fraud and national security concerns about GreenTech or the SLS Hotel in Las Vegas ''close hold.'' As I said earlier, the rule of law isn't possible when the boss has his thumbs on the scales.

Further, the regional center program has serious national security risks that the Director hasn't addressed. He convened a working group with national security advisers but no formal product was finalized. The interagency collaborations seemed to fizzle. Whistleblowers say the working group was mere window dressing.

In the agency, employees received EB–5 applications from individuals with derogatory information about them in classified government files, but they were given little or no guidance about how to make sure that such were denied. Instead, they were pressured to approve applications as quickly as possible.

Simply put, the integrity of our immigration system is in question as long as the program continues without needed reforms which could be done this very day.

On May 15, 2012, Chairman LEAHY and I wrote to Mr. Mayorkas regarding the program and expressed our concerns about the potential for abuse of the program. We asked for his commitment to administratively reform two aspects of the program. He responded that he was interested in the reforms. Yet it has been a long 19 months and he has taken no action.

Mr. Mayorkas says he is concerned with fraud and abuse of the program, but actions speak louder than words. Despite my recent letters with questions about fraud and security concerns, not to mention political influence, Mr. Mayorkas is either completely unwilling or unable to respond to the allegations.

I sat down with Chairman CARPER on August 1, and he agreed that I deserved answers to my questions from the nominee. Now he has pressed forward without getting answers. I am truly surprised that this majority is not interested in getting to the bottom of these allegations—in other words, something that is under investigation—the same way that Senator BIDEN and Senator Obama demanded that we do during a previous Presidency.

If this body is unwilling to await the end of an investigation or if we aren't willing to conduct our own inquiry, one day this whole nomination will come back to bite us. As I said when B. Todd Jones was confirmed, eventually a situation will embarrass the Senate and damage the reputation of the Federal Government.

If this majority is determined to ignore ongoing investigations and at the same time ram through nominees, the American people should hold the Senate accountable for not doing its constitutional job—in fact, refusing to do its constitutional job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

ENOUGH IS ENOUGH

Mr. MURPHY. Madam President, I come to the floor for a few minutes, as I have most weeks, to mark a new number. That number is 11,584—the number of gun deaths America has experienced over the last year, since December 14 of last year. That date is burned in the memories of those of us in Connecticut and across the Nation because that was the date 26 people—20 little 6- and 7-year-olds and 6 teachers and educators who were there to protect them—died in Sandy Hook. We recognized the 1-year mark of that shooting this weekend. Almost 12,000 people have died at the hands of guns since then.

I have tried to come to the floor of the Senate in the months since to remind folks that these victims have stories and to give voice to these victims. I will share a few more today.

We were all gripped just a few days ago by news of another school shooting. Not too far from Columbine, Arapahoe saw another very troubled young man walk in with a shotgun and essentially open fire, apparently because of a grievance he had with his debate coach. Caught in the crossfire was a 17-year-old girl, Claire Davis.

Claire was described as outgoing, athletic, and an excellent student. According to reports, she loved horses and recently placed second in an equestrian competition. Another student said Claire is ''one of the nicest people I've met at Arapahoe'' High School. Claire, 17 years old, survived, but she is still in a coma today just because she was in the wrong place at her high school—a place where everyone expects to be able to go to school in safety. She isn't on this number yet because she survived, but her life is changed forever because of yet another school shooting.

School shootings now seem to pop up on the news on a weekly basis. But it is not just these school shootings where mass violence takes place. Now you can pick up most local papers every month and see evidence of a new mass shooting.

In Manchester, CT, on December 7 of this year, 41-year-old John Lynn shot Brittany Mills, 28, Kamesha Mills, 23, and Artara Benson, 46, before killing himself in a quadruple murder. He had a history of domestic violence. Police haven't completely sorted out exactly what happened, but all four of them are dead, marking the eighth homicide stemming from intimate partner violence in Connecticut since January 1, 2013.

Just days before, in Alma, AR, Tim Adams, believed to be in his early fifties, before killing himself killed his 4-month-old grandson, 4-year-old granddaughter, and Michael Williams, the 31-year-old boyfriend of his daughter, in the midst of what seemed to be a pretty simple argument about his daughter's court date that exploded into an episode of mass violence that took the lives of a 4-month-old, a 4-year-old, a 31-year-old, and then, as many of these episodes do, the life of the shooter himself.

These episodes of mass shootings are not just happening in schools, movie theaters, or places of worship; they are happening in backyards in Alma, AR, and they are happening in apartment complexes in Manchester, CT. And this body, in the 360-some-odd days since December 14, has done absolutely nothing about it. The survivors of these incidents of violence are the stories we don't talk about.

I have come down here to tell the story today of Claire Davis, Brittany