

Federal Government, and the money it spends—whether on planes or bombs or servicemembers' education—comes from U.S. taxpayers.

When I asked Secretary Mattis if Department of Defense Tuition Assistance funds are indeed Federal funds, he responded, "Yes . . . these benefits are Federal funds." Seems like common-sense. Yet the law doesn't see it that way.

That is why my colleagues and I have introduced the POST Act. Our bill will close this ridiculous loophole. It will count all Federal education benefits as Federal revenue and take the targets off the backs of veterans and servicemembers. The bill also reduces the Federal revenue limit to the original 85 percent.

Our legislation is supported by, among others, Student Veterans of America, the Military Officers Association of America, Paralyzed Veterans of America, and the National Association for College Admission Counseling.

Last year, in response to a request from Senator CARPER and me, the Department of Education publicly released Federal revenue data for the first time that included VA and DOD benefits. The data showed that 186 for-profit institutions received more than 90 percent of their revenue when these additional Federal education benefits were included. Mr. President, 563 institutions received more than 85 percent of their revenue from Federal taxpayers when all Federal sources were included.

I was disappointed that when the Department released its 90/10 calculations this year, Secretary DeVos did not continue the practice of releasing calculations that included VA and DOD funds, though maybe that shouldn't be surprising. After all, unlike Secretaries Shulkin and Mattis, Secretary DeVos has refused, when asked, to acknowledge the obvious—that VA and DOD education funds are indeed Federal funds or support closing the loophole.

But I am confident that the American people will see the current 90/10 rule for what it is—a loophole that makes no sense and that puts those who have served our country at risk.

This week, on the eve of Veterans Day, I will stand with my friend—Senator CARPER of Delaware—as he reintroduces the Military and Veterans Education Protection Act. This bill also closes the 90/10 loophole, but leaves the Federal revenue limit at 90 percent. It is a step in the right direction, and that is why I support it.

I hope our colleagues will consider supporting one or both of these commonsense proposals.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I yield back all time on this side and reserve one minute for Senator CARPER.

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

The Senator from Delaware.

Mr. CARPER. Mr. President, as we prepare to vote on this nominee, I wish to implore my colleagues to take one last moment to think about this decision before us. I ask them to recall the words that I said just a bit earlier this morning from the hymn that Martha and I heard at church, not far from my home in Wilmington, DE, one Sunday on a beautiful spring morning. It is a song, a hymn that we all know:

For the beauty of the Earth,
For the glory of the skies,
For the love which from our birth
Over and around us lies,
Lord of all, to Thee we raise
This our hymn of grateful praise.

That powerful message reminds me of the incredible responsibility we have in this body to serve and protect the people who sent us here. We must serve as stewards, also, of this planet, which has been entrusted to us and to care for all the most vulnerable among us.

For me, that is not just my responsibility as a parent or as an official elected to serve the people of my State for all these years. It is a moral imperative and a sacred obligation, and there is no more basic human need than having clean air to breathe.

I implore my colleagues. We have seen Mr. Wehrum's extreme agenda at the EPA once before. It would be the height of irresponsibility and a shirking of our moral obligation to confirm him today. I implore you to join me in voting no on Bill Wehrum.

Thank you very much.

The PRESIDING OFFICER. All time has expired.

The question is, Will the Senate advise and consent to the Wehrum nomination?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Kentucky (Mr. PAUL) and the Senator from Kansas (Mr. ROBERTS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Montana (Mr. TESTER) are necessarily absent.

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

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 268 Ex.]

YEAS—49

Alexander
Barrasso

Blunt
Boozman

Burr
Capito

Cassidy
Cochran
Corker
Cornyn
Cotton
Crapo
Cruz
Daines
Enzi
Ernst
Fischer
Flake
Gardner
Graham
Grassley

Hatch
Heller
Hoeven
Inhofe
Isakson
Johnson
Kennedy
Lankford
Lee
McCain
McConnell
Moran
Murkowski
Perdue
Portman

Risch
Rounds
Rubio
Sasse
Scott
Shelby
Strange
Sullivan
Thune
Tillis
Toomey
Wicker
Young

NAYS—47

Baldwin
Bennet
Blumenthal
Booker
Brown
Cantwell
Cardin
Carper
Casey
Collins
Coons
Cortez Masto
Donnelly
Duckworth
Durbin
Feinstein

Franken
Gillibrand
Harris
Hassan
Heinrich
Heitkamp
Hirono
Kaine
King
Klobuchar
Leahy
Manchin
Markey
McCaskill
Merkley
Murphy

Murray
Nelson
Peters
Reed
Sanders
Schatz
Schumer
Shaheen
Stabenow
Udall
Van Hollen
Warner
Warren
Whitehouse
Wyden

NOT VOTING—4

Menendez
Paul

Roberts
Tester

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table and the President will be immediately notified of the Senate's action.

The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent to speak for 5 minutes.

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

Ms. CANTWELL. Thank you, Mr. President.

REPUBLICAN TAX PLAN

I come to the floor to speak right now because I know our colleagues are trying to move forward next week on some various proposals that are part of the tax package. I am very concerned and remain very concerned about the measures within the policy that raise taxes on middle-class families because I don't think we should be passing a tax bill that raises taxes on middle-class families. For me, in Washington, obviously, it is a big concern. We don't have an income tax. They are getting rid of our local deductions that are so meaningful to us.

Literally, we have done calculations—and I know there will be calculations in other States—that show you are literally raising taxes on middle-class families to give a tax break to corporations that, in some cases, aren't asking for them or certainly are not paying that corporate rate today.

I think we can do better than these policies. I certainly think we can do better than the policies that are going to be before the Energy Committee next week, if the information we are hearing now or getting word of is that my colleague on the Energy Committee, the Senator from Alaska, is going to propose literally getting rid of

the wildlife refuge as a refuge and basically the purposes for the refuge and instead saying that drilling would happen and thereby destroy the refuge.

I know today there are going to be scientists from across the country who are going to give word and testament to the fact that it is too dangerous to have drilling in the same place as a wildlife refuge, that they cannot coexist, that it will destroy the refuge. Apparently, that is what my colleague from Alaska already believes because she is now going to say that to do drilling, you have to change the status of the refuge.

I definitely believe there are much better ways in America to get revenue than basically destroying the wildlife habitat of caribou and of Arctic wildlife that is so treasured in the United States of America.

I certainly think there are better ways to do it than raising taxes on middle-class families, in both my State and your State that don't have an income tax and would rather continue to have the deductibility. I hope our colleagues will look at both of these ideas and go back to the drawing board. It is not where we need to be. We need to be protecting things that are so near and dear to us.

We definitely don't need to fund tax breaks for millionaires by destroying wildlife habitat. Instead, we should be going back to the drawing board on things that are going to help our economy grow in the future.

I hope the public is well aware that this is kind of dark-of-night tactics, where they want us to leave town on Thursday night only to come back on Monday and start in on a tax policy we haven't even seen. We haven't even seen the language yet.

I think we can do better than to have a rush-rush approach to give tax breaks to corporations and certainly not do it on the backs of working-class families in America—taking away from them viable deductions for education, for housing, for property taxes, for expenditures that they make. We can do better than to leave here and come back on Monday to rush-rush a tax break for corporations while raising taxes on middle-class families and destroying a wildlife refuge that scientists say is so important to our ecology to keep.

I thank the Presiding Officer.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1:45 p.m.

Thereupon, the Senate, at 12:03 p.m., recessed until 1:46 p.m. and reassembled when called to order by the Presiding Officer (Mr. SASSE).

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the

Senate the pending cloture motion, which the clerk will state.

The 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, do hereby move to bring to a close debate on the nomination of Derek Kan, of California, to be Under Secretary of Transportation for Policy.

Mitch McConnell, Orrin G. Hatch, John Barrasso, Johnny Isakson, Chuck Grassley, Thom Tillis, Lindsey Graham, Roy Blunt, John Cornyn, John Thune, John Boozman, Cory Gardner, Pat Roberts, Mike Crapo, Mike Rounds, James M. Inhofe, John Hoeven.

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 Derek Kan, of California, to be Under Secretary of Transportation for Policy, 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.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Kentucky (Mr. PAUL) and the Senator from Kansas (Mr. ROBERTS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Montana (Mr. TESTER) are necessarily absent.

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

The yeas and nays resulted—yeas 87, nays 9, as follows:

[Rollcall Vote No. 269 Ex.]

YEAS—87

Alexander	Feinstein	McConnell
Baldwin	Fischer	Moran
Barrasso	Flake	Murkowski
Bennet	Franken	Murphy
Blunt	Gardner	Murray
Boozman	Graham	Nelson
Brown	Grassley	Perdue
Burr	Harris	Peters
Cantwell	Hassan	Portman
Capito	Hatch	Reed
Cardin	Heinrich	Risch
Carper	Heitkamp	Rounds
Casey	Heller	Rubio
Cassidy	Hirono	Sasse
Cochran	Hoeven	Schatz
Collins	Inhofe	Scott
Coons	Isakson	Shaheen
Corker	Johnson	Shelby
Cornyn	Kaine	Stabenow
Cortez Masto	Kennedy	Strange
Cotton	King	Sullivan
Crapo	Klobuchar	Thune
Cruz	Lankford	Tillis
Daines	Leahy	Toomey
Donnelly	Lee	Van Hollen
Duckworth	Manchin	Warner
Durbin	Markey	Whitehouse
Enzi	McCain	Wicker
Ernst	McCaskill	Young

NAYS—9

Blumenthal	Merkley	Udall
Booker	Sanders	Warren
Gillibrand	Schumer	Wyden

NOT VOTING—4

Menendez	Roberts
Paul	Tester

The PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 9.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Derek Kan, of California, to be Under Secretary of Transportation for Policy.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I rise today to voice my strong support for the nomination of Derek Kan to be Under Secretary for Transportation Policy at the Department of Transportation. The Commerce Committee held a hearing on his nomination on June 8, 2017, and reported his nomination favorably out of Committee on June 29, 2017, by voice vote.

It is now November 9—over 4 months since the nomination was reported out of Committee. This noncontroversial, well-qualified nominee has been languishing in the Senate for far too long. It is truly unfortunate that we have to go through the cloture process on this particular nominee, who is well known to many of us in the Senate due to his previous work as a Senate staffer.

To illustrate how noncontroversial and well-qualified this nominee is, less than 2 years ago, Mr. Kan was confirmed by voice vote in the Senate to be a director on the Amtrak Board of Directors. The only thing that has changed in the 2 years since Mr. Kan was previously confirmed is that some on the Democratic side have decided to hold this nomination hostage, as well as the nomination of Ronald Batory to be Administrator of the Federal Railroad Administration—a very important position, I might add—and the nomination of Adam Sullivan to be Assistant Secretary of Transportation for legislative affairs, pending assurances that the Trump administration will approve and fund the multibillion dollar Gateway project in New York and New Jersey. While no one questions the importance of this corridor, there are many other important projects that are also awaiting approval and funding at the Department. No project should get to cut the line based on the machinations of a handful of our Democratic colleagues.

As I mentioned, Mr. Kan previously served as a director on the Amtrak Board of Directors, and before that, he served as a general manager for Lyft, the transportation network company. Earlier in his career, he served as a staffer to the Republican leader and as chief economist for the Senate Republican Policy Committee. Before becoming a Hill staffer, Mr. Kan served as a Presidential Management Fellow at the White House Office of Management and Budget.

Once confirmed, Mr. Kan will be Transportation Secretary Elaine Chao's chief policy adviser on legislative and regulatory matters across all modes of transportation at the Department. With the ambitious agenda that