

that we must take steps to assert Congress's role in the appropriations process in the face of a President who is willing to disregard the laws we pass—and he signs—to further his individual agenda. Because this bill does not restrict the President's ability to flout Congress's stated intent, I regret that I cannot vote for it.

#### ALTERNATIVE FUEL MIXTURE CREDIT

Mr. GRASSLEY. Madam President, I ask unanimous consent to engage in a colloquy with Finance Committee Ranking Member WYDEN to discuss a tax provision included in the spending package currently before the Senate.

The tax title in this bill contains an important clarification to the alternative fuel mixture tax credit under section 6426(e). This credit is intended to promote the use of nontraditional fuels, such as compressed natural gas and biomass-based fuels, for transportation and other purposes. Unfortunately, some in the oil industry have sought to turn this credit on its head by claiming the credit for ordinary gasoline based on the amount of butane mixed in. Ranking Member WYDEN, is it correct that every gallon of gasoline produced in the United States includes some amount of butane?

Mr. WYDEN. That is correct. All gasoline includes butane and, as far as I am aware, always has. Adding butane during the gasoline refining process is simply how gasoline is produced. The idea that Congress intended oil companies to benefit from a credit intended to reduce our dependence on traditional gasoline by rewarding them for making traditional gasoline doesn't pass the commonsense test. This is why the Internal Revenue Service has correctly denied such claims. However, the oil industry is litigating this issue in the hopes of winning a nearly \$50 billion windfall for producing gasoline the same way they have for a century. Mr. Chairman, am I correct that Congress never intended for gasoline to qualify for this credit based on its butane content?

Mr. GRASSLEY. I can assure the Senator that it was never Congress's intent for gasoline to qualify for this tax credit. I was chairman of the Senate Finance Committee when the alternative fuel mixture credit was enacted in 2005 as part of a surface transportation bill. During that time, there was great interest in reducing our dependence on foreign oil and traditional fuels. The alternative fuel mixture credit was added to reduce that dependence, not to provide a handout to large oil and gas companies. The fact is, if anyone had thought oil companies could qualify for this credit they already engaged in, the credit would never have been enacted. Not only would I have objected on policy grounds, but the Joint Committee on Taxation's revenue score associated with the provision would have been so

large that its passage wouldn't have been feasible. What is more, if we had intended for butane mixed with gasoline to qualify when the credit was enacted in 2005, I don't understand why industry waited more than 10 years to start claiming the credit for doing what they have been doing for more than a century, as you point out.

Mr. WYDEN. Thank you for that background, Mr. Chairman. I agree with you that it is clear that the benefit some in the oil and gas industry are seeking from this provision is illegitimate. However, given the significant amount of taxpayer dollars at stake should these companies somehow prevail in litigation, it is also important for Congress to provide clarity in this area, to protect the public purse. The tax package under consideration in the spending bill addresses this by amending the alternative fuel mixture credit to more explicitly deny the credit for butane mixed with gasoline, consistent congressional intent. This clarification is effective for any claims filed on or after January 8, 2018, when the IRS issued a formal revenue ruling putting taxpayers on notice that a mixture of butane and gasoline does not qualify for the credit. However, this does not mean we agree that such mixtures prior to January 8, 2018, qualify for the credit, and, in fact, we are of the opinion that they do not. Do you agree Mr. Chairman?

Mr. GRASSLEY. I do agree. The IRS got the law correct when it issued Revenue Ruling 2018-2, and our clarification makes clear that it is our intent for the IRS interpretation of the law to be controlling for all claims. This is the basis of the "no inference" language in the bill that states: "Nothing contained in this subsection or the amendments made by this subsection shall be construed to create any inference as to a change in law or guidance in effect prior to enactment of this subsection."

I thank the ranking member for engaging in this colloquy to discuss this important issue and the clarification included in the pending appropriations bill.

Ms. BALDWIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

#### POINT OF ORDER

Mr. ENZI. Madam President, I rise to raise a point of order on the Further Consolidated Appropriations Act of 2020, which provides funding for eight appropriations subcommittees and includes numerous tax and healthcare provisions and other new legislation called "authorizations." That is code for bills that haven't been debated on the Senate floor. These are Christmas presents for everyone, all put on the Federal credit card, which is overspent already.

This legislation was unveiled Monday afternoon and totals more than 1,800 pages, and here we are on Thursday, with just hours to go before a government shutdown, being asked to vote on

a bill that has not been subject to amendment or debate and that the Congressional Budget Office tells us will increase deficits by more than \$400 billion over the next 10 years. Actually, by the time you add in interest costs to this debt, it is half a trillion in 10 years and \$2.1 trillion on 20 years. That is according to the Committee for Responsible Federal Budget, which added in that interest. They added it up. So that will be half a trillion dollars of new overspending in one vote, and what makes it so expensive is that we are trying to do something here to buy everybody's vote.

This bill completely bypassed regular order and violates nearly all the Senate self-imposed budget rules with its billions of dollars in giveaways and tax policy changes. We are legislating on funding bills. Legislation is supposed to be scrutinized differently, especially if they pay out real money.

I will remind my colleagues that our national debt stands at just over \$23 trillion, and the Congressional Budget Office tells us that the Federal deficits are already on track to exceed \$1 trillion this year and every year thereafter. That is besides this \$2.1 trillion add-on.

We should be talking about how to address the budgetary mess we are in, not pressing the gas on an unsustainable fiscal trajectory, which is exactly what this bill does. We are making promises that can't be fulfilled.

Now, some people will mention the Tax Cuts and Jobs Act, but I need to emphasize and remind you that that boosted the economy. It created jobs, it increased wages, and it is bringing in more revenue than ever before—ever before. But we are spending it faster than it is coming in. So it is not a revenue problem. It is a spending problem.

Now, rather than an aberration, busting has become commonplace. This is the second time this week that I have come to the floor to raise a point of order against legislation that violates the budget. But to be fair, from a budget perspective, this bill is exponentially worse than the Defense authorization bill we considered earlier this year. It is at least 50 times worse.

I oppose this legislation. I oppose adding to the already massive debt burden being placed on future generations.

The pending measure, the House amendment to the Senate amendment to H.R. 1865, the Further Consolidated Appropriations Act of 2020, would cause a deficit increase of more than \$5 billion in each of the four consecutive 10-year periods beginning in fiscal year 2030. This increase violates section 3101 of the 2016 budget resolution. Therefore, I raise a point of order under section 3101(b) of S. Con. Res. 11, the concurrent resolution on the budget for fiscal year 2016.

I have been here long enough to know that you will now hear a list of wonderful things that are on this bill. You will not hear how to pay for all of these Christmas presents.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

VOTE ON MOTION TO WAIVE

Mr. SHELBY. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974 and the waiver provisions of applicable budget resolutions, I move to waive all applicable sections of that act and applicable budget resolutions for purposes of consideration of the message to accompany H.R. 1865, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays are ordered.

Under the previous order, the motion to concur with the amendment is withdrawn.

The question is on agreeing to the motion to waive.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Georgia (Mr. ISAKSON).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

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

The result was announced—yeas 64, nays 30, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—64

Alexander	Grassley	Reed
Baldwin	Hassan	Roberts
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Rounds
Blunt	Hoeven	Rubio
Boozman	Hyde-Smith	Schatz
Brown	Jones	Schumer
Burr	Kaine	Shaheen
Cantwell	King	Shelby
Capito	Leahy	Sinema
Cardin	Manchin	Smith
Casey	Markey	Stabenow
Collins	McConnell	Sullivan
Coons	McSally	Tester
Cortez Masto	Menendez	Thune
Cramer	Merkley	Tillis
Crapo	Thune	Udall
Duckworth	Murkowski	Van Hollen
Durbin	Murphy	Warner
Feinstein	Murray	Whitehouse
Gardner	Peters	Wicker
Graham	Portman	Wyden
	Graham	Young

NAYS—30

Barrasso	Ernst	Perdue
Blackburn	Fischer	Risch
Braun	Gillibrand	Romney
Carper	Hawley	Sasse
Cassidy	Inhofe	Scott (FL)
Cornyn	Johnson	Scott (SC)
Cotton	Kennedy	Sullivan
Cruz	Lankford	Tester
Daines	Lee	Toomey
Enzi	Paul	Whitehouse

NOT VOTING—6

Booker	Isakson	Sanders
Harris	Klobuchar	Warren

The PRESIDING OFFICER. On this vote, the yeas are 64, the nays are 30.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

VOTE ON MOTION TO CONCUR

The question is on agreeing to the motion to concur.

Mr. ROUNDS. Madam President, 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 senior assistant legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

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

The result was announced—yeas 71, nays 23, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—71

Alexander	Grassley	Roberts
Baldwin	Hassan	Romney
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Rounds
Blunt	Hoeven	Rubio
Boozman	Hyde-Smith	Schatz
Brown	Jones	Schumer
Burr	Kaine	Shaheen
Cantwell	King	Shelby
Capito	Leahy	Sinema
Cardin	Manchin	Smith
Casey	Markey	Stabenow
Collins	McConnell	Sullivan
Coons	McSally	Tester
Cortez Masto	Menendez	Thune
Cramer	Merkley	Tillis
Crapo	Thune	Udall
Duckworth	Murkowski	Van Hollen
Durbin	Murphy	Warner
Feinstein	Murray	Whitehouse
Gardner	Peters	Wicker
Graham	Portman	Wyden
	Graham	Young

NAYS—23

Barrasso	Daines	Lee
Blackburn	Blackburn	Paul
Braun	Enzi	Risch
Carper	Gillibrand	Sasse
Cassidy	Carper	Scott (FL)
Cornyn	Cassidy	Scott (SC)
Cotton	Cornyn	Johnson
Cruz	Cotton	Kennedy
Daines	Cruz	Toomey
Enzi	Lankford	Lankford

NOT VOTING—6

Booker	Isakson	Sanders
Harris	Klobuchar	Warren

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ORDER OF BUSINESS

Mr. TOOMEY. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the Senate proceed to executive session and resume consideration of the Singhal nomination; further, that at 1:45 p.m., the Senate proceed to vote on the confirmations of the nominations under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Anuraag Singhal, of Florida, to be United States District Judge for the Southern District of Florida.

The PRESIDING OFFICER. The Senator from Hawaii.

UNANIMOUS CONSENT REQUEST—S. 3104

Mr. SCHATZ. As if in legislative session, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from the further consideration of S. 3104, the Federal Employee Parental Leave Technical Correction Act, and the Senate proceed to its immediate consideration. I further ask that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Pennsylvania.

Mr. TOOMEY. Reserving the right to object, let me explain what is going on here.

My colleague from Hawaii has an amendment that he would like to make to the NDAA legislation that we passed recently. It has been described by our Democratic colleagues as a technical correction.

Well, I have a technical correction that I would like to have considered as well. So I think we have a good solution where we can both get the technical corrections we would like. We have been waiting on mine for 2 years, but the good news is that we have broad bipartisan support for mine. Every Republican Senator supports it, and 13 Democrats are cosponsors of my legislation to make this technical correction. If my math is right, that means 66 Senators support doing this. There is huge bipartisan support in the House. So I would say let's fix both problems. The fix that I have in mind is to fix a drafting error from our tax reform bill from 2 years ago, and specifically, it would be to restore the ability of people who make leasehold improvements to fully expense that at the time it occurs.

That was always the intent. Nobody disputes that was the intent, but because of a drafting error, when someone makes a leasehold improvement, not only are they unable to expense it in the year in which it incurs, but they have to depreciate it over 39 years, the exact opposite of our intention. This is a huge problem for restaurants and retailers generally, and every one of our States has how many retailers, how many restaurants that are adversely affected today by this technical error, and it is having an economic impact.

This category of business investment is the only category that has declined over the last year. It was down almost