

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Under the previous order, the motion to concur with the amendment is withdrawn.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 bill 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	Thune
Coons	McSally	Tillis
Cortez Masto	Menendez	Udall
Cramer	Merkley	Van Hollen
Crapo	Moran	Warner
Duckworth	Murkowski	Wicker
Durbin	Murphy	Wyden
Feinstein	Murray	Young
Gardner	Peters	
Graham	Portman	

##### 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 (Mr. YOUNG). 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	Moran	Udall
Duckworth	Murkowski	Van Hollen
Durbin	Murphy	Warner
Ernst	Murray	Whitehouse
Feinstein	Perdue	Wicker
Fischer	Peters	Wyden
Gardner	Portman	Young
Graham	Reed	

##### NAYS—23

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

4 percent in the third quarter. That is because of the adverse tax treatment. That is not good for any of us. It is not good for the United States. It is not good for our States. In the omnibus bill that we just passed, we had all kinds of tax provisions—\$427 billion, actually, worth of tax provisions announced at 2 in the morning on Tuesday, by the way.

It has things, including a resurrection of a special tax rule that was supposed to die in 2017. We are going to send checks to people for what they did in 2018, which will have no impact whatsoever, obviously, on changing incentives since it is the past. We did that. We reversed a deal that was struck in 2015 to phase out expensive renewable energy credits. We made two changes to the tax reform of 2017, but we weren't able to include the technical fix that 66 Senators want that would cost zero.

What we were told by our Democratic colleagues is that, if you want to do that, there is a price you have to pay. The price would be tens of billions of dollars of increases in refundable tax credits. That is checks being sent to people who don't pay taxes. Ranking Member of the Finance Committee, Senator WYDEN, said just this week: "Democrats have long said the Republicans need to negotiate on broader issues if they want to fix all the mistakes in their tax giveaway." In other words, there has to be a price.

Well, if I were adopting the approach of my Democratic colleagues—and when my colleague from Hawaii comes down and makes this request—I could say, Well, you need to come up with \$50 billion worth of Republican priorities, maybe \$50 billion worth of capital gain tax cuts, or \$50 billion in reduction in some kind of mandatory spending or something. That is what I would do if I were taking the exact same approach that our Democratic colleagues took.

I am not going to do that. I am going to suggest that we both get what we are after here, and the American people get the benefit. Here is what I am going to do. I am going to modify the unanimous consent request. The way I am going to do that is to take the bill advocated by the Senator from Hawaii, drop it into a legislative vehicle, add the technical fix that I and 66 Senators support—and, by the way, 297 House Members have cosponsored the companion legislation, including 145 Democrat House Members—I am going to put them together in an otherwise empty legislative vehicle so that we can do both. When we pass it here in the Senate by unanimous consent in just a moment, if we do, then the House would virtually be assured of passage, since 297 House Members have cosponsored this legislation.

Mr. President, my suggestion is we modify this unanimous consent request so that the Senator from Hawaii gets the provision that he wants and I get the provision that 66 Senators want.

UNANIMOUS CONSENT REQUEST—H.R. 748

Mr. President, I ask unanimous consent that the Senator modify his request so that the Senate proceed to the immediate consideration of Calendar No. 157, H.R. 748. I further ask unanimous consent that the Toomey amendment at the desk be considered and agreed to, the bill, as amended, be considered read a third time and passed, and that the motions to reconsider be considered made and laid upon the table.

THE PRESIDING OFFICER. Does the Senator so modify his request?

Mr. SCHATZ. Mr. President, reserving the right to object.

Let's get clear about what is happening here. The first thing is we did something momentous as a group. We, on a bipartisan basis, decided to provide paid parental leave of 12 weeks for the Federal workforce—2.1 million Federal workers—so that individuals who are new parents don't have to make that impossible choice between receiving a paycheck and being a new dad or a new mom. Now, this is catching us up with the rest of the world. The rest of the industrialized world understands that this isn't just a humane thing to do for families. This is the right way to manage the workforce because you get higher productivity; you get better morale; and you get lower turnover. This is a smart thing to do.

There were 2.1 million people covered by this momentous change of Federal policy agreed upon over the last 48 hours on a bipartisan basis. There was a technical problem, and so the following Federal employees are not going to be covered unless we make this technical fix: employees of the DC courts, public defenders, Presidential appointees, FAA, and CSA employees, and article I judges. Everybody else is going to get 12 weeks of paid parental leave, except for these people. We can solve that today.

That is what my unanimous consent request is all about. What the Senator from Pennsylvania has decided to do is take a hostage and say, These are the only Federal employees who are not going to get this benefit because of a technical and drafting error because I didn't get something totally unrelated that has to do with a tax bill that was passed on purely partisan lines in a hurry, written primarily by lobbyists in the middle of the night.

Now, I do not mind entertaining a change to the Tax Code to deal with this question of how you expense the renovation of restaurants and retail operations, but I think Senator WYDEN is exactly right. I guess the Senator from Pennsylvania thought this was a talking point on the Republican side. Heaven forbid if there should be a negotiation. Heaven forbid something that is as important to the Republicans that is as a result of their screw-up and would cost tens of billions of dollars would not be given away for free.

The argument being made is, hey, technical for technical. This is an ac-

tual technical fix. This is a bill we just enacted in the last 48 hours. I am not even sure if the President has signed it yet, but it is about to be enacted into law, and nobody is arguing that we should not cover some small portion of the Federal workforce.

Nobody is arguing that was the legislative intent. Nobody is arguing that is public policy. What the Senator from Pennsylvania is saying, If I don't get my thing, then these people don't get the help that they deserve. These people, by happenstance of a drafting error, don't get paid parental leave. Now, this has human consequences.

I object to the Senator's modification of my unanimous consent request, and I am deeply disappointed that we can't fix this simple thing. I am happy to work with the Senator from Pennsylvania on a quick fix. I think we will get there at some point next year, but this has to be part of a broader bipartisan deal, and he knows that.

This is going to cost tens of billions of dollars, and no one gives tens of billions of dollars for nothing. Everything of that magnitude has to be negotiated on a bipartisan, bicameral basis. That is not what he is trying to do. He is trying to say because we made a technical error that was monumentally wrong and, as a result of the flawed process, why don't we trade technical fixes. This is a relatively small technical fix, and he wants to trade it for a massive technical fix that is now 2 years old.

The only thing I would say is this may be small in the context of how we operate in the U.S. Senate. It is not small if you work for the FAA and you are a new dad. It is not small if you are an article I judge and you are a new mom. It is not small for these people who deserve paid parental leave like every other Federal employee will get soon.

THE PRESIDING OFFICER. The objection is heard to the modification.

Is there an objection to the original request?

The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I am kind of shocked by what I just heard, that I am characterized as taking a hostage. Let's just be very clear. I am the Senator on the floor who is proposing that both Senators get their way, that the outcome works for both sides. This is a Democratic priority. Some Republicans support it; some don't. It is a Democratic priority on a mistake that was made, and I am suggesting let's fix it.

Let's take the opportunity to also fix something that 66 Senators have supported. They cosponsored it. There is even broader support—much broader in the House where it is massive. I do not know what is more reasonable than a very broadly bipartisan technical fix that scores at zero and helps every single community in America and tying that with an opportunity to do something that is a very high priority for my colleague from Hawaii.