I close by thanking all those who have been in this conversation, certainly LAMAR ALEXANDER from the Republican Party and CHUCK SCHUMER, who have been working on rules to hold hearings to craft the structure for our leadership, our majority leader HARRY REID and minority leader MERTY McCONNELL, who have been in this conversation that has resulted in these steps forward that we are taking today. I applaud all the Members who have said that as Senators sworn to uphold the Constitution, they have an obligation to make the Senate a great deliberative body, something it once was, something it is not now but something that is in our hands to make happen again.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

The PRESIDING OFFICER. The Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. SANDERS).


The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I call up S. Res. 28, the Wyden-Grassley-McCaskill resolution to end secret holds.

The PRESIDING OFFICER. The resolution is pending.

Mr. WYDEN. Mr. President, with the passage of this resolution, no longer will it be possible for a Senator to engage in the unconscionable practice of secretly blocking a piece of legislation that affects millions and millions of Americans.

The fight for more sunshine in the way the Senate does business feels like it has been the longest running battle since the Trojan War. Today, after scores of battles, the cause of open government is going to prevail.

Over the years, Senator GRASSLEY and I, with the strong support of Senator MCCASKILL, have been able to secure leadership agreements to end secrecy. We have been able to pass amendments to end secrecy and send them to conference committees—where they would then magically disappear. We actually, at one time, got a watered-down version of our law passed. In each case, the defenders of secrecy have found a way to keep sunshine out and obstruct the public interest. When this proposal passes, we believe there will be real change.

There are three reasons why we believe our bipartisan proposal to end secret holds will be different from previous approaches.

First, now with any hold here in the Senate, there would be a public owner.

Every single hold would have a Senator who is going to be held accountable for blocking a piece of legislation.

Second, there will be consequences. In the past, there have never been any consequences for the Senator who objected anonymously. In fact, the indication was usually that they would send somebody else out to do their objecting for them, and they would be completely anonymous. Essentially, the person who would be doing the objecting would sort of say: I am not involved. I am not doing it for somebody else. So the entire Senate lacked transparency with respect to who was actually responsible.

Third, the Wyden-Grassley-McCaskill proposal would deal with all holds, whether they reach the point of an objection on the floor or are objected to when the bill or nomination is hotlined. Our approach requires objections to a hotline be publicly disclosed, even for bills or nominations that never get called up on the floor. This is a particularly important provision.

Senator GRASSLEY and Senator MCCASKILL feel very strongly about this as well because most holds never reach the point that there is an objection on the floor, and that is something I think has been lacking in this debate. They hear about discussions of people objecting on the floor. Most holds never reach that point. Typically, what happens is, a Senator who objects to a vote has to pick up the objecting. The Senator's leader that the matter should not be allowed to come up for a vote, and then the leader objects to bringing up the bill when it is hotlined. Because of that objection, the bill or nomination never actually gets called up on the floor. That type of hold effectively kills the bill or nomination long before it gets to the point of an objection on the floor. So we want to make it clear this is an important distinction and, for the first time, we would not just be talking about objections that are made on the floor.

I see my friend and colleague, Senator MCCASKILL, who has crusaded relentlessly for this. Senator GRASSLEY and I—I say to Senator MCCASKILL we sort of feel like we have been at it as part of the longest running battle since the Trojan War. I say to the Senator, your energy has been absolutely crucial in this fight.

So a warning to everyone: If we are going to amend the rule, be prepared to live by it because it is the right thing to do. I think our stock will rise with the American people. I think the transparency is essential.

I am very proud that it appears—I will keep my fingers and toes crossed because it has not happened yet—we have bipartisan agreement that this nonsense is going to end.

I wish to thank my colleague from Tennessee, Senator ALEXANDER, because I think he has been essential in these negotiations as it has related to an amending of the rules as it relates to the secret holds.

Thank you, Mr. President. I yield the floor.

Mr. WYDEN. Mr. President, I thank our colleague, our invaluable ally in this fight.

Senator GRASSLEY, I believe, is on his way. But the Senator from Tennessee has had many discussions on this topic with me and other Senators, and I wish to thank him for all the time and effort he has put into it. I yield him whatever time he would like.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, Senator GRASSLEY and Senator WYDEN and Senator MCCASKILL, they have pointed out the obvious fact that so-called holds that Members of the Senate place on nominations or legislation should be public. I think that is a good idea. That has bipartisan support. I believe today we will change the rules to make that clear, and I congratulate Senators WYDEN, GRASSLEY, and MCCASKILL for their perseverance and persistence in pushing this ahead.
I have always been glad to be public with my holds. I remember when Senator Reid filibustered my TVA nominee by putting a hold on him, so I filibustered one of his Nevada citizens by putting a hold on him. Then we were able to work it out. But Senator Reid and I made our objections public. I knew what he was doing and he knew what I was doing. That is important to build confidence in the Senate.

Senator Grassley is on his way over and he has been a partner with Senator Wyden on reforming holds for some time. I would like to say to Senators Wyden and McCaskill and others—as I have already said to Senators Udall and Merkley—that the efforts they have made to change the rules of the Senate have created a window of opportunity which I believe those of us on both sides of the aisle believe will make the Senate a better functioning forum. These Senators will not succeed in all the changes they are seeking to make but this window of opportunity will allow the Senate to better function as a place to discuss serious issues.

The majority leader and the Republican leader earlier today said they were doing this in the best of their best to see that most bills come to the floor after first going to committee. Then once bills get here we will have amendments. I think that is what most of us want. We want a chance to represent the views we hold. We are elected to represent. Sometimes our views are in the minority. Sometimes we are very solitary with our views. Maybe we are the only one who has a particular view. But we want a chance to be heard and a chance to offer amendments to express our views.

I think we are preserving the Senate as a forum in which that can be done, but at the same time we are making it a more effective place in which to do that. I congratulate Senator Wyden and my colleague, Senator Grassley, and others for their efforts.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, while we wait for Senator Grassley, who, as Senator Alexander has mentioned, has been relentlessly pursuing this with us for years—again and again, Senator Grassley would come to the floor and make the point that a Senator has to have the guts just to have the guts to stand up and say: Look, this is important to me. I am the individual who ought to be held accountable. Senator Grassley, in that inimitable Midwestern way, always manages to get these issues down to what they are truly all about. It is about accountability and, as Senator Grassley says, it is about guts.

I would also mention, what is striking about the secret hold is this astounding power. I think it is only fair to describe it that way. I know of few powers that an elected official has that resemble the ability to anonymously block a bill or a nomination that affects millions of people. It is an astounding power, and for years and years it has never been written down anywhere.

As part of the ethics legislation that was passed a few years ago, we were able to get a watered-down version of secret holds reform in there. But literally to think that a power such as this—so sweeping, almost unrivaled in terms of the powers an elected official has—could be maintained in secret is something worth reflecting about in and of itself.

I will also tell colleagues that for those who want to get into the history of this, there are all kinds of holds. There was the West ''hold, which came to also be known as the ''come look me over'' hold. It was declared that they were not sure what they wanted to do with their hold, but somebody ought to come up and see them sometime.

It just goes to show you, these kinds of practices, that what has been good about the work done by Senator Schumer and Senator Alexander, my friend and colleague from Oregon, Senator Merkley, and Senator Udall, which has been so important—because, for the first time, they have brought us into real debate what these rules are all about. My hope is, this will just be the beginning of the discussion about how, in the days ahead, it will be possible to bring more sunshine and more transparency and accountability to the Senate.

But Senator Grassley, who has made this point in the past about doing business in public—that the principle at stake is accountability and transparency, that has been the case for a long time and has additionally told Senators that since he—and there have been a number of us who have always put our holds in the CONGRESSIONAL RECORD; I have not used them very often, but I have, Senator McConnell...

The PRESIDING OFFICER. The yeas and nays were ordered.

There appears to be a sufficient second.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. Klobuchar. Mr. President, I first wish to commend Senator Wyden, Senator Grassley, and Senator McCaskill for their incredible determination to get this done. We thought we did it when our class of Senators came in. We thought we had gotten rid of the secret hold, but lo and behold, it was the first order we worked on in 711—and, and their determination has meant we are finally going to do this and we are going to do it right.

Secondly, I wish to thank Senator Alexander as well as Senator Schumer of the Rules Committee for negotiating a number of these changes, as well as Senator Reid and Senator McConnell. When I think back over the last few months and what has happened, we had an incredibly productive lame duck session at the end of the last Congress. We all know there is a lot of work to be done, but in the closing months of this year, we showed people—I think to their surprise—that we could actually get something done on a bipartisan basis. When the American people unite and see a clear issue—whether it was the nuclear arms treaty, whether it was the vote on the repeal of don't ask, don't tell, or whatever it was—people found a way to work around it, and they see what is happening in this Chamber because they actually see a debate, to see someone standing up and making their points as the Presiding Officer does so well on so many issues today.

That is all we are talking about, when we talk about these sometimes complicated and convoluted rules changes, is getting things out in the open. Obviously, the first thing is to get rid of the secret holds and permanently end them.

The second important thing is filibuster reform. It is a longstanding tradition in the Senate that one Senator can, if she chooses, hold the floor to express objections to a bill. We always think of Jimmy Stewart's character Jefferson Smith in Mr. Smith Goes to Washington. This is where Senator Udall—and by the way, I always think his voice sort of sounds like Jimmy Stewart—and Senator Merkley have done such a tremendous job of pushing these filibuster reform issues, as well as Senator Tom Harkin, who has been working on this long before our group ever came to the Senate.

I have just been notified that Senator Grassley is unavoidably detained. He is not going to make it to the floor at this time.

On behalf of myself, Senator Grassley, and Senator McCaskill, at this time I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. Wyden. Mr. President, while we wait for Senator Grassley, who, as Senator Alexander has mentioned, has been relentlessly pursuing this with us for years—again and again, Senator Grassley would come to the floor and make the point that a Senator has to have the guts just to have the guts to stand up and say: Look, this is important to me. I am the individual who ought to be held accountable. Senator Grassley, in that inimitable Midwestern way, always manages to get these issues down to what they are truly all about. It is about accountability and, as Senator Grassley says, it is about guts.

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ones we can truly get through; what is a package we can go to the other side of the aisle with and talk about what we need to do to get it done. The agreement that has been reached includes some of the important changes we want. The first I mentioned is to get rid of secret holds. Of course, technical reforms to the filibuster are still necessary as far as I can see. One of the things I hope we reconsider as we go down this road is the idea that we could actually make people stand to filibuster. If just they are in this Chamber, they are discussing why it is so important that they hold up something, whether it is a judge, whether it is the assistant secretary of Oceanic Affairs, whether it is a major bill or a minor bill. People should be able to hear the arguments and then make their own decision. By the way, if they have a good argument for filibustering something or if a group of Senators has a good idea, the American people will say OK. I can understand why this is happening. If you are just doing it for reasons that don’t make any sense to the people of this country, then they are going to be seen for what they are doing, and that is slowing down the progress of this country at a time when there are major issues we need to deal with in this Chamber.

So I am happy we have been able to reach agreement on a number of these important issues. It would not have happened without the determination of the people here today, and I look forward to more changes and agreements in the future.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERR r.

r. President, I rise to continue the debate on this set of rule proposals, but specifically to talk about the talking filibuster.

There is one scene from an American movie that everyone's attention, and that is the scene of Jimmy Stewart here in the well of the Senate holding forth to make his case before his colleagues and before the American people to stop a corrupt act designed to destroy a camp for children. That is Jimmy Stewart in the role of Jefferson Smith in “Mr. Smith Goes to Washington.” He wasn’t making some behind-the-scenes move, some backroom deal; he was out in front of the American people so the American people can weigh in as to whether we are heroes or bums.

When we hold the vote on the talking filibuster today—I understand there is this being applied for there to be a unanimous party-line vote across the aisle against it. It troubles me. A number of our new Senators campaigned on transparency. They campaigned on accountability. They campaigned on the broken ways of Washington, and one of the first votes their leadership is asking them to do is toss away accountability, toss away transparency, and not help fix the broken Senate.

There are some who said we must make sure we protect the rights of the minority. The talking filibuster does exactly that. We still need 60 votes to close debate. My colleague from Oregon, Senator Wyden, was just here. If there was no vote on Oregon that we must oppose, the two of us alone could take and hold this floor back and forth to make sure this body doesn’t run over the rights of Oregon as long as we have the 40 colleagues with us to avoid cloture. That is the way it is now and that is the way it will be under the talking filibuster.

I am not going to belabor this. There are others who wish to speak and we want to hear them. But let me say this: When we have gotten to the point that we could not even appropriations bill done in 2010, when we cannot address 400 House bills that lie collecting dust on the floor, when we have 100 nominations in which we did not fulfill our constitutional responsibility to advise and consent, then we have a responsibility to work together to change the conduct of this Senate, to change the rules of this Senate, so those rules are not abused in a fashion that undermines our performance under the Constitution.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the Senator from Oregon has talked about the number of nominations that couldn’t be considered. I am sure the Senator from Oregon remembers that there cannot be a filibuster on a motion to proceed to a nomination. All the majority leader has to do is bring it up. You can’t debate that. If he should bring up the motion to proceed to a nomination, and if a Senator over here or over there objected, then the motion can be put to a minority vote. When I was nominated by President George H.W. Bush to be Education Secretary, a secret hold was placed on my nomination. Senator Metzenbaum, by turns, had a hold on my nomination for 3 months when all it would have taken for me to be confirmed was the majority leader to bring my name to the floor. Then if we had gotten 60 votes for it, we could have debated for 30 hours and had a final vote on my nomination.

What would happen during the 30 hours? We don’t have Senators going out to dinner except on the other side of the aisle. Because of current rules, in those 30 hours, one Senator gets 7 hours to speak. We know a Senator can do that because a distinguished Senator from Vermont demonstrated very capably that he was capable of doing that not long ago. He did a good job. People all over the country saw it, wrote him, and he became a little bit of a celebrity for that day. Senators are still capable of that. But if a Senator had wanted to take the whole 30 hours in a post-procedural method, he then has to get 23 more Senators to join him in taking an hour of that 30 hours. Without getting into the complications of it, if Senators fail to talk, then the majority leader can say those are dilatory tactics and force any Senator who wants to extend the debate to be very uncomfortable. That Senator would have to get up to 23 Senators to come join him at some time during the speech and take 7 hours. The reason why that hasn’t been done is because the majority didn’t want to do it.

Now I am not just saying that. The master of the Senate rules, Senator Byrd, said it in his last testimony before our Rules Committee last May.

He said this:

Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the majority.

Senator Byrd was talking about what some considered the abuse of a filibuster. Most recently, before he died, Senator Byrd said:

Senate Majority Leader Reid announced that the Senate would stay in session around the clock and take all procedural steps necessary to bring financial reform legislation through the Senate. Preparations were made and cuts rolled out. But the majority was struck within hours and the threat of a filibuster was withdrawn. I heartily commend the majority leader for this procedures, but I must caution my colleagues as some propose to alter the rules to severely limit the ability of a minority to conduct a filibuster.

I know what it is like to be a minority leader, and wake up on a Wednesday morning in November, and find yourself a minority leader.
Senator Byrd said the Senate rules provide the means to break a filibuster. He went on to describe that:

Mr. President, I don’t want to suggest the distinguished whip, who knows the rules of the Senate much better than I, to Mr. Harry Reid, the majority leader, how to break a filibuster that he thinks is an abuse. But they know how to do it. That takes a little trouble. You cannot go out to dinner and have a glass of wine, as the Senator from Oregon was talking about. You must be there and be ready. If we voted on more than zero Friday, which was the number of Fridays we voted on last year, you could confront filibusters.

Mr. DURBIN. Will the Senator yield for a question?

Mr. ALEXANDER. After I finish my sentence, I will yield the floor to the Senator from Illinois.

I say to my friends, what we are trying to do today is to move past this time where we point out that the majority, but our right to amend and debate six times more than recent majority leaders. That is what gets everybody stirred up over here. It is like telling us we can join the Grand Ole Opry, but we can’t sing.

We are here to let people know what the people in Tennessee and other States think. We might be in the minority, but we are in the Senate where the minority is supposed to have a voice.

When, time after time, you bring a bill to the floor and cut it off, and you call that a filibuster—that is why we are upset. You are upset because as a result of that you didn’t get to bring as many bills to the floor as you would like. We are trying to put that all behind us today. This window of opportunity has produced what I think is important. These rules changes we are going to adopt are good and will move us in the right direction.

The real value of this whole effort has been to cause us to think about how the Senate operates and realize the best way to do it is for most bills to go to committee, come to the floor, and for most Senators to get to offer most amendments they want to offer and get them voted on. We might have to vote on a Friday—maybe even a Thursday night or maybe even a Saturday. It might be that the majority has to confront a filibuster by saying: Senator so-and-so, if you are going to slow us down, we are going to make you use that 30 hours. You are going to have to talk your 7 hours and get 23 other Senators, and we are going to be here to see that you do it.

My guess would be that you do that about once, maybe twice, and that would end that particular problem. My real guess is if this general attitude that the majority and minority leaders talked about earlier today occurs, then you will see very few uses of the filibusters you think are inappropriate. The Leaders described an attitude which is that we are going to do our best to see that most bills come to the floor, that most Senators get to offer the amendments they want, and that Senators get the votes on those amendments they want. If you think inappropriate filibusters are occurring, according to Senator Byrd, you have the means to confront them.

My billing—this whole exercise not only is producing some rules changes that are valuable but a change in behavior on both sides of the aisle which will be valuable. We will wait and see.

I am happy to yield to my friend from Illinois.

Mr. DURBIN. Mr. President, I see others standing. I will be brief and just say a few words in support of the so-called talking filibuster. In the world of the book and the rules included? Many senators of the most arcane things that people never, ever have any glancing occasion to even observe these rules, let alone pay any attention to them.

Why are we doing this when we have all these people unemployed in America and the challenges at home and abroad? Why are we taking the time of the Senate to talk about this book and the rules included? Many of us, including my friend—and that term is sometimes used loosely here but I mean it literally, know what happens on the floor of the Senate has an effect on America and the world. If we do our job well, we are going to solve some of the problems of the world. If we do it poorly, the exact opposite is the case.

What my colleagues from Colorado and Oregon and New Mexico have urged us to do is to think about whether we can do things better in the Senate. The history of the filibuster in the Senate is an interesting one. There was a time when any Senator could stand up and object and stop the proceedings of the Senate. Then Woodrow Wilson, as President, suggested that we should arm the Merchant Marine so that our ships would fire back if the Germans and others fired on them. He asked for legal authority for that. He brought that issue to the Senate before World War I, and two or three pacifist Senators stood up and said: No, we don’t want these ships to have guns because that will drag us into a war.

At that point, Wilson said: I want to take that issue to the American people. Three Senators should not be able to stop that from a vote. He got his way.

At the end of the day, the rule was initiated—the cloture rule—that said two-thirds of the body could decide to move forward even if one or more Senators objected. That cloture rule of two-thirds guided the Senate until the 1960s, and the civil rights debate ended up amending that rule from 67, under that day’s count, to 60. So 60 has been the guiding way to end a filibuster. It has been that way the entire time I and the Senator from Tennessee have served in the Senate.

What is being suggested is fundamental. I would at least say I disagree in principle with the Senator from Tennessee, respectfully, and here is what I believe. I think the mvants of this bill believe the Senator from Tennessee believes in his heart of hearts that something is so bad, so controversial, so wrong that he wants to stop the business of the Senate in considering and debating an amendment or a bill—if he feels that strongly about the value or principle that would lead him to want to stop the Senate, what we are being told is that he ought to be willing to stand here and say why.

Currently, you can initiate a filibuster and close down the Senate, where for 30 hours nothing happens except the drone—the lovely drone—of quorum calls. People across America tune in and say: What is happening there? Are they going to actually pay these men and women for doing nothing another day?

A person who initiates a filibuster can literally leave the floor and head out for dinner, and the Senate is at that point deserted. What is being suggested is that if you believe it, if it is important enough to stop the business of the Senate, for goodness’ sakes, stand up and tell us why. Defend yourself. Stand up for your principles.

I remind the Senator from Tennessee—I think he was a Member at this time—that one of our colleagues, who will go unnamed but is from his side of the aisle, initiated a filibuster once which forced us to come in on a Saturday—as you say, it is a rare occurrence here—and to be here and have over 60 votes because of his filibuster. That Senator didn’t show up. He initiated the filibuster and didn’t stick around. He was asked later about it, and he said: I had something important to do back home.

Mr. ALEXANDER. Will the Senator yield for a question?

Mr. DURBIN. After I explain my position I will.

That is a classic illustration of some one who initiates a filibuster and then takes a powder—goes out to dinner or goes home to attend an event and says: Just let the Senate burn up 30 hours. I will be back later.

What we are hearing is that it is better to stop by the Senator, if it means that much to stop the Senate it should mean enough for that Senator and that Senate’s colleagues to stand up and fight for that right. Is it worth it? Will the Senator at least take the floor and speak?

The Senator from Tennessee says there is a better way: to force the entire Senate, during a filibuster, to be
here—all of us. So any one Senator can change and affect the lives of all Senators by saying we are going to stay all night. We will have live quorum calls and we will sleep on cots in the marble room, and that is the way to stop the filibuster about that. That, my friend from Tennessee. Is this a punishment to the person who initiates the filibuster? Does it even put responsibility on the person who initiates it? The answer is clearly no. The burden, under the defense of your position, falls on the entire Senate to sit here all night long because one Senator objects. I think this talking filibuster is much more reasonable. If it means enough to object to the Senate moving forward on the debate of an amendment or a bill, then, for goodness’ sakes, have the courage and be open enough to stand at your desk and defend your position. That is not unreasonable and it is a way that hard and fast hold a number of colleagues to your position. If you don’t want to stand and debate the issue but want to go out to dinner with your buddies, fine. But don’t stop the Senate while you are out to get a nice dinner, not you personally, but the person who would move the filibuster. I support the talking filibuster, not because of Jimmy Stewart, who created this mental image, but I think the principle is sound and what our colleagues recommend would help the Senate.

Mr. ALEXANDER. Mr. President, since the distinguished whip has apparently been an amendment that the “which side of the aisle goes out to dinner” amendment, let me ask him this: Isn’t it true that if your side didn’t go out to dinner—since you asked to be elected to the Senate, you raised a lot of money, and you worked hard and defeated some Republican to get here—if you really think somebody over here is abusing their minority rights by filibustering, then why would you go out to dinner, and why would you not want to be there and hear that person talk and respond to him? Why would you not do that?

Isn’t it true that Senator Byrd said that forceful confrontation to the threat of a filibuster is undoubtedly the antidote to the malady? He did not want us tampering with this 60-vote procedure we have that forces consensus.

My question to the majority whip is this: why did you go out to dinner so often—through the Chair—when instead, you could have been here, under the rules as Senator Byrd suggested, dealing with abuses to the filibuster or what you consider they were?

Mr. President, an obvious question is, what do we accomplish by staying here all night? Every 15 minutes or every hour the majority leader could ask for a live quorum and Members could come vote. If they don’t, their voting record would reflect that. So the body would pay the price of applying pressure—the confrontation that Senator Byrd speaks of.

What the Senators proposing this suggest is that the person who wants to stop the Senate should have the burden of explaining why or standing and defending his or her position. I don’t think that is unreasonable.

The PRESIDING OFFICER. The Senator from Oregon recognized.

Mr. MERKLEY. Mr. President, I want to correct the record on something that has been said on the other side of the aisle; that is, the abuse of the filibuster has been a response to filling the tree. In the last 2 years, we had the tree filled once. We had 33 filibusters. In response to those filibusters, the tree was filled 9 times. We had 34 filibusters, the tree filled 6 times, and a filibuster 36 times. Obviously, 36 times was not a response to 6 times filling the tree.

That myth created by the opposing side is actually a myth. So while it is a convenient argument, it happens to be a wrong one. I think that is important to know.

I also wish to note that my colleague from Tennessee was talking about post cloture discussions for 30 hours, thereby confusing the conversation about the filibuster on the motion to proceed. If one of the amendments, the filibuster on a bill with a 30-hour requirement on nominations. Actually, we had a proposal to reduce those 30 hours to 2 hours. That proposal is in S. Res. 10, which will be voted on today.

I do hope that in support of the principle he was putting out, which is that those hours should be reduced, will support S. Res. 10, noting that is a very logical way to reduce the delay of the Senate.

My colleagues wish to speak. I will close with this comment: If you have the courage of your convictions and you want to exercise the privilege of shutting down the Senate for a week, then stand up and make yourself accountable to the American people.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise to speak on a particular proposal we will consider later today, but I wish to associate myself with the Senator from Oregon, who has been tireless in pushing for commonsense reforms in the way the Senate operates.

The majority whip made the comment in his remarks before the Senator from Oregon that we want to make these changes so the Senate can respond to the changing nature of the world around us and in particular focus on our economy and getting Americans back to work. If the Senate is tied in knots, we are not going to put the policies in place that these stalwart, committed Senators, including the Senator from Iowa, Mr. HARKIN, and the Senator from New Mexico, Mr. UDALL, so compellingly presented to us.

I know there are others who wish to speak, so I will briefly speak to the proposal I have submitted that would bring us a step closer to fixing some of the redundancy in the rules that slow down our progress here and I think ultimately make not just our constituents in our individual States frustrated but Americans all across our country.

Put simply, this proposal would encourage Senators to file their amendment or a bill to ensure we all have a chance to review that amendment. But then it would also discourage the practice of delaying a final vote by calling for an out loud reading of the amendment. I have heard concerns from Members of both parties about this particular practice. We all want to have an opportunity to read the provisions in amendments and broader bills, but it has become increasingly obvious to me that we need to make changes in our rules, as I said, to ensure the process works smoothly.

My proposal would encourage Senators to file amendments 72 hours in advance, and it would prevent any Senator from creating a logjam on the Senate floor by forcing the text of that amendment to be read aloud if it is made available in advance.

Mr. President, you and I have been around long enough to know that in the days before copy machines and the Internet, if one Senator opposed an amendment, it was probably helpful to sit here and hear the text of each amendment read aloud. That practice is outdated, and it is not the way the Senate operates today. Instead, our technology allows us to read the text of amendments, and therefore, there is no crucial need to hear them read aloud at the last minute. Most of the time, in fact, we just waive the reading and move to the final vote.

When a full reading, however, has been forced, it largely brings this place to a halt, as Senator DURBIN pointed out earlier. The effect has been to tie the Senate in knots, and it creates a spectacle when the hard-working clerks, who are actually the people who make the Senate run, have to sit here and read amendments, sometimes for hours, to an empty Chamber. That said, there have been cases in which one party believes the text of a rather large amendment has been withheld from them in order to deny them adequate time to review it. I do not want to take that power away from the minority to reasonably voice their opinions on the floor to get the information they need, which is why my proposal is an expedient way of fixing the Senate rules.

This resolution is designed to help us find common ground and prevent needless delays by allowing us to prevent the live reading of an amendment when the text has been available long enough for everyone to have studied it in advance. Instead of allowing an individual Senator to put the Senate on hold literally for hours by forcing an amendment to be read, a simple majority of Senators would be able to collect a collective vote to dismiss the reading, provided that it was filed on time. This is a commonsense approach. It seeks to address the concerns of those
who want more time to read amendments and those who see the forced reading of amendments as needlessly obstructive. It is a simple approach, and I believe later today the Senate will approve such a rules change.

In ending my remarks, I wish to acknowledge former Chairman SCHUMER and Senator ALEXANDER. There is an agreement, as I understand it, and we will vote on it later today. I applaud their work and offer my very sincere thanks.

I acknowledge Leader REID and Leader MCCONNELL for helping bring this package to the floor today and for reaching their own agreement on how to improve the way the Senate works.

Finally, as I did in my beginning remarks, I wish to acknowledge Senator TOM HARKIN, Senator TOM UDALL, and Senator JEFF MERKLEY for bringing true attention to a concern so many Americans have had on this particular issue. Senator MERKLEY and Senator DURBIN have indicated that this is an issue that has been seen as an obscure topic to many constituents. This is historic progress we are going to make today that ultimately will make the Senate function together. I know that is the mission of these three outstanding Senators.

I ask unanimous consent that Senator MERKLEY be listed as a cosponsor of the resolution I am offering today.

The PRESIDING OFFICER (Mrs. McCaskill). Without objection, it is so ordered.

Mr. UDALL of Colorado. Madam President, I close on this note: I urge my colleagues to vote for the simple commonsense reform of the Senate rules.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I rise to support the Wyden-Grassley-McCaskill public hold proposal. I apologize to Senator MCCASKrILL for two colleagues from Oregon and Missouri that I was not on the floor at the proper time. It is all my fault.

I am pleased to see this day come where the Senate will finally have the opportunity for an up-or-down vote on our freestanding Senate resolution to require public disclosure of holds. Senator WYDEN and I have been at this for a long time. We have made progress at times, and we have also had many disappointments where things did not quite work out the way we had hoped and what we thought the Senate had spoken on through even rollov call votes.

It has also been good to have Senator MCCASKILL join us in helping push this issue to the forefront easily. She did that—I shouldn’t say “easily” but recently because it has not been easy. Ending secret holds seems like a simple matter, doesn’t it. But that has not proved to be the case because secret holds are an informal process. It is easier said than done to push them out into the open using formal Senate procedures. It is kind of like trying to wrestle down a greased hog. However, after a lot of thought and effort, two committee hearings, and many careful revisions, I think this resolution does a pretty good job of accomplishing our simple goal. That goal is to bring some more transparency into how the Senate does its business and, with transparency, accountability.

This is not the only proposal we are considering today related to Senate procedure, and I do not want there to be any confusion. This proposal is not about altering a balance of power between the majority party and the minority party; neither does our resolution alter the rights of any of the 100 Members of this Senate.

Over the time I have been working on this issue, I have occasionally encountered arguments purporting to defend the need for secret holds. However, the arguments invariably focus on the legitimacy of holds, not on the subject of secrecy. I want to be very clear that secrecy is my only target and the only thing that this proposal seeks to end. I fully support the fundamental right of individual Senators to hold or withhold his or her consent when unanimous consent is requested. Senators are not obligated to give their consent to anything. No Senator is entitled to get any other Senator’s consent to their motion.

I think the best way to describe what we seek to do with this resolution is to explain historically how holds came into being, as Senators have heard me do before.

In the old days, when Senators conducted much of their business in a daily way from their desks on the Senate floor, it was a simple matter to stand up and say “I object” when necessary. These days, most Senators spend most of their time off the Senate floor. We are required to spend time in committee hearings, meetings with constituents, and attending to other duties that keep us away from this Chamber. As a result, we rely on our respective party leaders in the Senate to protect our rights and prerogatives as individual Senators by asking them to object on our behalf.

Just as any Senator has the right to stand up on the Senate floor and publicly say “I object,” it is perfectly legitimate to ask another Senator to object on our behalf if we cannot make it to the floor when consent is requested. By the same token, Senators have no inherent right to have others object on their behalf while keeping their identity secret. If a Senator has a legitimate reason to object to proceeding to a bill or nominee, then he or she ought to have the guts to do so publicly.

We need have no fear of being held accountable by our constituents if we are acting in their interest as we were elected to do. Transparency is essential for accountability, and accountability is an essential component of our constitutional system. Transparency and accountability are also vital for the public to have faith in their government. As I have said many times, the people’s business ought to be done in public. In my view, that principle is at stake.

I see my colleague from Oregon. If he will indulge me, I ask unanimous consent to engage in a colloquy with the Senator from Oregon to get his thoughts as well.

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

Mr. WYDEN. Madam President, as Senator GRASSLEY has said, Senator GRASSLEY, Senator MCCASKrILL, and I have always maintained that there is no legitimate reason for Senators to keep holds they have placed with their leaders secret for any period of time. In fact, for quite some time, we have made a practice of immediately disclosing any hold we place in the CONGRESSIONAL RECORD, and that has been at the heart of our resolution, in my judgment. Would my friend from Iowa agree?

Mr. GRASSLEY. Absolutely correct. One of the defects of the watered-down secret holds provision that was included in the ethics reform bill in the 110th Congress was that it allowed for large windows of secrecy before disclosure was required. Our resolution makes clear that the leaders shall recognize holds placed with them only if two conditions are met: if the Senator first submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator’s name and, secondly, not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the CONGRESSIONAL RECORD and to the legislative clerk for inclusion in the applicable calendar section.

Mr. WYDEN. I thank the Senator because I think that is an important point because the bipartisan resolution clearly establishes the responsibility of all Senators to go public with their holds and the understanding that the leaders will not honor secret holds.

In addition, a concern that has been expressed is the lack of an enforcement mechanism in case there is a breakdown in this process, that it does not work as intended. Will the Senator from Iowa address that point? I believe our resolution addresses that concern adequately.

Mr. GRASSLEY. It certainly does. Even if the process we talked about is not followed, once a hold comes to light in the form of an objection, someone will be required to own up to that hold. It will no longer be possible for a leader or designee or object to object on whose behalf they are objecting and claim it is not their objection. They can say on whose behalf they are objecting and why not.

We also require Senators placing a hold to give their permission to object in their names. Still, if a Senator objects and does not name another Senator as having the objection, and another Senator does not promptly come
forward claiming the objection, the Senator making the objection will be listed in the relative section of the Senate calendar as having placed that hold.

If, for a final conclusion, to the Senator from Oregon.

Mr. WYDEN. I thank the Senator from Iowa, because with this colloquy he has laid it out very well. The fact is we have been at this so that it sometimes feels as though it has been the longest running battle since the Trojan War, given the fact we have had leadership agreements, we have had amendments, and we have had a watered-down version of the law. Today, we finally have an opportunity to ensure this unconscionable practice of secrecy that keeps the American people, millions of Americans, from learning about who is blocking a bill or a nomination, and that practice is finally eliminated, and I thank my colleague. It has been a long fight and a pleasure to work from the floor stand to have the energy and enthusiasm of Senator McCaskill, who has given this cause a huge push.

Madam President, I ask unanimous consent to add Senator Merkley as a co-sponsor of the bipartisan Senate resolution eliminating secret holds.

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

Mr. WYDEN. I appreciate the hard work of the leadership and my partners in this effort and it has been a battle between Senator Grassley and Senator McCaskill. We would not be here today without them. We have a strong, bipartisan bill that will bring greater transparency to the process of holding.

There are a few matters that we wanted to clarify to ensure there is no confusion during the implementation. First, subsection (d) notes that when a Senator makes an objection, but within 2 session days, no Senator submits a Notice of Intent to Object to the Record, then the clerk should add to the Notice of Intent to Object calendar the name of the Senator who actually made the objection. Obviously, the calendar should also note the name of the matter actually objected to, as well as the date that the objection was made on the floor. Is that my colleague’s understanding, as well?

Mr. GRASSLEY. My colleague is correct and that is pretty straightforward. The intent to object should reflect all of the matters necessary to understand holds. If no other Senator has come forth and claimed the objection, then the Senator who actually made the objection should be credited with holding the matter objected to. It is also worth noting that this approach saves a Senator who actually made an open objection on the floor on his or her own behalf the trouble of filing the “Notice of Intent to Object” with the clerk.

Mr. WYDEN. Yes, the Senator from Iowa makes a good point. Our resolution turns the Notice of Intent to Object calendar into a one-stop shop for recording information about objections made to covered requests. At the same time, some have asked us—what happens if a matter that had been objected to later passes? Shouldn’t the clerk just remove the relevant information from the Notice of Intent to Object calendar in that situation? It seems to me that makes sense and such action by the clerk would be keeping with the intent of our resolution.

Mr. GRASSLEY. I agree. If something has passed the Senate, then obviously it is not being held. The Notice of Intent to Object calendar should be updated to reflect that development. Some of my colleagues have raised another small wrinkle on this issue with me—what if the matter passes after an objection has been made but before the 2 session days have elapsed? It seems to me that in that case, the clerk does not need to go through the ministerial motion of adding an item to the Notice of Intent to Object calendar to immediately remove it. Again, if a matter has passed the Senate, there obviously is no hold.

Mr. WYDEN. That seems like a commonsense approach to me. I thank my colleague for his help on secret holds. We are achieving a big victory for transparency at the beginning of this Congress.

Mr. GRASSLEY. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I ask unanimous consent to require filibustering Senators to come to the floor and actually filibuster. The filibuster is a right that is reserved for Senators when they object to the inclusion of legislation that we are dealing with, and if they are able to get the floor, to keep it until such time as 60 votes develop, which says, let us end this debate. So we know that at the moment that is a tool the minority has used regularly and it brings the Senate to a halt. But if the plurality—the majority—shifts, the same thing is liable to happen but with the Democrats then using the filibuster for dilatory reasons.

What we are going to do will make the body more transparent. It will remove the practice of grinding the Senate to a halt for no good reason. Today, we will have the opportunity to vote on a couple of resolutions that include the basis on the Mr. Smith Act. Everybody knows what the Mr. Smith situation was. Jimmy Stewart came to Washington and he stood for hours—an unimaginable length of time—to try to get something done. It was a heroic gesture and it has lasted as an icon for the American people.

Like my bill, which we entitled the Mr. Smith bill, the proposals put forward by Senators Merkley and Udall come down to a simple idea: Senators who want to delay action on a bill or a nomination must stand up here and explain why we are delaying responding to the needs of the American people. An empty Senate Chamber can’t help Americans back to work, protect them from dangerous weapons, or improve our country’s schools. We can’t invest in our railways, roads and bridges, other infrastructure needs, and help struggling Americans to stay in their homes if there is no Senator willing—sent here after. I am sure in every case, an arduous election, even though the numbers might not say that—to debate the issues. Why aren’t they at work? We would have no tolerance for schoolchildren if they continued in their classrooms doing their homework. Why in the Senate should it be allowed without intervention?

We want people to be able to see that there are Senators in this Chamber debating the issues; that they are not clock watching and doing nothing to take care of the needs of the country. We are not making progress on vital issues because the rules of the Senate are being abused. Some of our colleagues are conducting silent filibusters, which is an irritation. Under these silent filibusters, Senators are allowed to object to a bill or a nomination without ever having to defend
their position. Instead of explaining to their colleagues and the American people why they oppose a bill, they are able to skip off to dinner, leaving this Chamber to total gridlock. Is it any wonder so many Americans have such a low opinion of Congress? When people look back on the Senate, they think we are stuck in a morass of dilatory activities, they do not appreciate it, they do not like it, and they want action. They want the people whom they have sent here, whom they voted for, for whom they depend, and on whose behalf. If there is a disagreement about whether one path is right, they will understand that at least we are trying to do something.

That is why I have spent so many months in trying to improve the way we conduct business. Passing these resolutions today will assure the American people that we are here to do their business.

In addition to the Merkley-Udall resolution, we will be voting on other important reforms to the Senate rules today. For example, I support the measure of the Senator from Oregon, Senator Wyden, to end secret holds, because the American people, again, deserve a body that is holding up important legislation. Transparency is something we talk about constantly around here. Yet we are not willing to put it in front of the people. This is a much-needed reform.

But we need to do more to make the Senate a more effective and more efficient chamber. The Senate—and I have been here a long time—was once known as the world’s greatest deliberative body. At some point we decided—some years ago—that in order to bring the message more clearly to the American people we would allow television cameras to be here so the American people could watch us at work. They could see us at work—maybe even call it supervision or oversight. Well, when they see a beautiful facility such as the Senate Chamber with no action going on, it gets to be quite depressing as far as they are concerned, and as far as we here are generally concerned.

As I said, the Senate was known as the world’s greatest deliberative body—the place where national conversations began and the major issues of the day were debated. Many of my colleagues and I want to see the Senate regain the standing of the American people and restore our reputation for serious debate and civil discourse, but we will never achieve this if we continue to allow our own rules to be abused. So I urge my friends and colleagues to join in supporting these resolutions, because if we want to help the American people get back to work, if we want to restore their confidence, if we want to let them know government is here to help and not delay, then we have to get back to work too. The fact is time is being spent, but it is not being spent on behalf of progress for the country.

With that, Madam President, I yield the floor, and I thank my colleague from Iowa, Senator Harkin, who agreed to let me intervene with my remarks before he spoke at the time that was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. HARKIN. Madam President, exactly 16 years ago, on January 4, 1995, for the first time in 8 years I found myself as a member of the minority party here in the Senate. At the beginning of that Congress, Republicans outnumbered Democrats 53 to 47, the exact same majority-to-minority ratio that exists today, just in reverse order. Yet even though I was opposed at that time to the majority party’s agenda, I introduced legislation to change the Senate rules regarding the filibuster.

My plan was to ensure ample debate and deliberation, which I always hear is the stated purpose of the filibuster, but would also have allowed a bill or a nominee to eventually receive a yes-or-no vote. Again, my proposal didn’t pass.

I first proposed this at a conference of our Democratic Senators that was held in 1994, because at that time I saw and I predicted—and it is in the Constitution—that enjoyed majority and often had the entire 19th century, there were only 23 filibusters. From 1917, when the Senate first adopted rules on this until 1969, there were fewer than 50 in that whole timespan—less than one a year. In the 104th Congress, there were 82 filibusters. But it was not until the 110th and 111th Congresses that the abuse of the filibuster would spin wildly out of control. In the 110th Congress, there were an astonishing 139 motions to end filibusters. In the 111th Congress just ended, there were 136. That is 275 filibusters in just over 4 years. It has spun out of control.

But we need to do more to make the Senate a properly functioning legislative body. Keep in mind, we are a legislative body. The filibuster was once an extraordinary tool, the rarest of instances. Across the entire 19th century, there were only 5 filibusters. From 1917, when the Senate first adopted rules on this until 1969, there were fewer than 50 in that whole timespan—less than one a year. In the 104th Congress, there were 82 filibusters. But it was not until the 110th and 111th Congresses that the abuse of the filibuster would spin wildly out of control. In the 110th Congress, there were an astonishing 139 motions to end filibusters. In the 111th Congress just ended, there were 136. That is 275 filibusters in just over 4 years. It has spun out of control.

The truth is, in the future, whether the Chamber is controlled by Democrats or Republicans, I will continue to work to accomplish a couple things. One, to provide that if there is going to be a filibuster, that it is a real filibuster; that the filibuster is used to obstruct the majority ample time to debate and discuss and to amend, but in the end the majority rule must come to the Senate. I thank Senator Schumer and Senator Alexander for the effort they made to negotiate a package of badly needed reforms. Of course, eliminating secret holds is long overdue. It is wrong that not only can the minority block the majority from acting, but, too often, it does it secretly and without any public accountability. So eliminating that and eliminating the confirmations of many low-level executive branch nominees I think is meaningful movement in the right direction.

While I fully support these steps, there is a long way far from there to still. And reforms that I think are essential to make the Senate a properly functioning legislative body. Keep in mind, we are a legislative body. The filibuster was once an extraordinary tool, and I think the rarest of instances. Across the entire 19th century, there were only 23 filibusters. From 1917, when the Senate first adopted rules on this until 1969, there were fewer than 50 in that whole timespan—less than one a year. In the 104th Congress, there were 82 filibusters. But it was not until the 110th and 111th Congresses that the abuse of the filibuster would spin wildly out of control. In the 110th Congress, there were an astonishing 139 motions to end filibusters. In the 111th Congress just ended, there were 136. That is 275 filibusters in just over 4 years. It has spun out of control.

This is not just a cold statistic of 275 filibusters. It means the filibuster, instead of a rare tool to slow things down, has become an everyday weapon of obstruction, of veto. On almost a daily basis, one Senator is able to use just the threat of a filibuster to stop bills from even coming to the floor for debate and amendment, let alone a final vote.

In the last Congress, the filibuster was used to kill many pieces of legislation that enjoyed majority and often bipartisan support. The reality is, because of the way the filibuster is abused today, the minority—the majority—has unchecked veto power over public policy. When I say minority, I do not say Republicans, I say the minority. It could be the Democrats, it could be the Republicans. In 1969, with a majority of one, one Senator could use the filibuster to stop the House-passed bill from coming to the floor. In 1969, with a majority of one, one Senator could use the filibuster to stop the House-passed bill from coming to the floor. In 1969, with a majority of one, one Senator could use the filibuster to stop the House-passed bill from coming to the floor. In 1969, with a majority of one, one Senator could use the filibuster to stop the House-passed bill from coming to the floor.
say that legislation should be able to be passed with a majority vote. But that is not what has happened in the Senate. The power to pass legislation has been given to the minority. Reason alone would dictate there is something inherently wrong and inherently unconstitutional about this.

As James Madison noted when rejecting a supermajority requirement to pass legislation, here is what James Madison said: "It would no longer be the majority that would rule: the power should be transferred to the minority.'"

Unfortunately, Madison’s prediction has come true. We are the only democratic body in the world—and I challenge anyone, to contradict me on this with proof—we are the only democratic body in the world where the minority, not the majority, controls.

In today’s Senate, democracy, of which we all claim to be such strong supporters, is turned on its head. The minority rules; the majority is blocked. The majority has responsibility and accountability but lacks the power to govern. The minority has power but lacks accountability or responsibility.

This means, as we have seen recently, that the minority can block bills that would improve the economy, create jobs, and then turn around and blame the majority for not fixing the economy. The minority can block popular legislation, then accuse the majority of being ineffective.

Again, I wish to note that when I refer to the minority, I am not saying Republicans, I am saying the minority. Both parties have abused the filibuster in the past and both will, absent real reform, abuse the filibuster in the future. Although Republicans are currently in the minority, there is no question that control of this body will change at some point, as it always does periodically.

Some have argued that filibuster reform is nothing more than a "power grab" by a Democratic Senator reacting to the recent elections in which his party lost seats. I have heard that said. Well, it is true it is now harder for either party to obtain the 60 votes needed to pass legislation. But I wish to make clear that the reforms I advocate are not about one party or one agenda gaining an unfair advantage. It is about the Senate as an institution, operating more fairly, effectively, and democratically.

I wish to repeat, I first introduced this in 1995 when I was in the minority. So as we say in law school, in the court of equity, I come with clean hands. The truth is, as it is situated right now with Republicans controlling the House, any final legislation will need to be bipartisan, with or without a filibuster.

Let me also say, again, that for a bill to become law, it has to be passed by the House and the Senate in the same form—in the same form. Then it must go to the President. The President can veto it and then it takes a two-thirds vote to override a veto. There are a lot of checks and balances out there. So the need for the check on legislation by the minority with the ultimate power to veto that is not needed—not needed; in fact, inimical to a democratic institution.

It was former majority leader Bill Frist who said, when he normally shut down the body over the use of filibusters to block judges, again by Democrats, "This filibuster is nothing less than a formula for tyranny by the minority.'"

Further, I wish to make it clear it is not those of us who seek reform who are engaged in a power grab. It is those who insist on hanging on to an anti-quated rule who are grabbing for power. It is those who have taken an extraordinary tool, once used sparingly, to ensure ample debate and deliberation and turned it into a monster, a blocking tool of the majority to govern, turning over effective control of the Senate to the party that failed to elect a majority of Senators.

That is the real power grab. That is the real power grab. Moreover, despite the dire predictions of opponents of reform, filibuster reform does not mean the end of minority rights in the Senate. Senators of all parties will continue to have ample time to make arguments, attempt to persuade the public or a majority of their colleagues.

The reform proposals that are being considered fully protect the rights of the minority to full and vigorous debate and deliberation, maintaining the hallmark of the Senate.

Presently, Republicans have stated the filibusters were necessary because Democrats employed a procedural maneuver to deprive them of the right to offer amendments, the so-called filling of the pothole. With, not me, unidentified the rejoinder that Republican abuse amendments, such as offering amendments totally unrelated to the pending matter—and there again this is where you get into the chicken and egg, who did it first to whom? Nonetheless, I am sympathetic to the argument that the minority ought to have the right to be able to offer amendments. That is why I have included in my resolution guaranteed rights to offer germane amendments not an amendment dealing with something totally unrelated to the legislation on the floor—to offer legitimate, germane amendments which the minority feels would improve or change, to the minority’s liking, whatever legislation, amendment or bill might be on the floor.

Too many people, I believe, confuse minority rights with minority winning. Having the right to debate and to deliberate and to offer amendments does not mean you have the right to get your way. Being allowed to vote on your amendment does not mean you have a right to win the vote. The minority does not deserve the right to prevail in every instance.

The minority obviously can convince some of the majority to join them. Then they become the majority on a given issue or given amendment. That usually happens all too often here. There is nothing wrong with that. But the minority, I submit, does not deserve the right, under our Constitution, nor under any reasonable interpretation of a Democratic legislative body—they do not have the right to systematically block the majority and to veto, to have veto power, over what can even be considered on the floor of the Senate.

The fact is, provided that the minority is vested with ample protections, as it is in my proposal, at the end of ample debate, the majority should be allowed to act. What is so radical? What is so strange about the notion that in a legislative body, the peoples’ representatives should vote up or down or amend or oppose or support?

As Senator Henry Cabot Lodge stated many years ago: "To vote without debating is perilous, but to debate and never vote is imbecile." I think at the heart of this debate is a central question that we are not coming to grips with. Do we truly believe in democracy? Do we truly believe the issues of public policy should be decided at the ballot box and not by the manipulation of archaic procedural rules? I think the truth is, both parties appear to be afraid of majority rule, afraid of allowing a majority of Senators to work their will.

At its heart, those who hang on to this outdated rule, those who vigorously oppose the majority having the ability to govern fear the American people. They fear that the people’s choices and wishes will be translated into action here in Washington.

The central question for this body is clear. What should we believe in democracy and majority rule? Elections should have consequences. After ample protections for minority rights, the majority party in the Senate, whether Democratic or Republican, duly elected by the American people, should be allowed to carry out their agenda and be allowed to govern.

Should I be opposed to reform of the filibuster because I am afraid Republicans someday will become the majority in the Senate and proceed to enact their agenda? No. I believe in democracy for Republicans and Democrats alike. I believe in majority rule for Republicans and Democrats alike.

The distinguished minority leader said recently in regard to this proposal that Democrats ought to be concerned because a couple years from now Republicans might take over this place and would be able to undo a lot of the things we did—fear that somehow the Republicans will get the majority and then proceed to do what my friends, God bless them. If they win the election and become the majority party, they ought to govern. What are
vote on an amendment, a bill, a nom-inee. My proposal would restore a basic and essential principle of represent-
dative democracy: majority rule in a legis-
lative body.

I also think there is another advan-
tage to my proposal, at the end of a period of time to make arguments and attempt to persuade the public and a majority of compromise. Many have argued that it is the filibuster that forces compromise and collaboration. I disagree. The fact is, right now the minority has no real incentive to compromise. Why shouldn't the majority just block something and then go out and cam-
paign on a message that the majority just couldn't get anything done? Again, the minority has a great deal of power but zero incentive on compromise.

I believe my proposal would encour-
gage a more robust spirit of com-
promise. If the minority knows that at the end of the day, at the end of 8 days, 51 votes will be enough to bring a bill to the floor or to end debate on an amendment or a nominee, it seems unlikely they will change the course of the Senate. That is why I propose, for the majority to have the right to slow things down. And for the majority, the reason to compromise is because for the majority party in the Senate—either one, Democratic or Re-
publican—one of the most valuable elements of majority power is the number of 60 votes. The minority always wants to save time. So rather than chew up 8 days on a nomi-
ee or an amendment, the majority would like to get it done in a day or so. And the minority, knowing that at the end of 8 days they can still slow things down. I read in the press that someone said I propose 8 days, 51 votes could move something. I say: Maybe we ought to com-
promise now and get what we can out of it without dragging it out 8 days. Right now, there is literally zero incen-
tive to compromise.

I also strongly encourage colleagues to support the talking filibuster pro-
sponsor Senator MERKLEY. They claim it is about silencing the minority. The fact is, the filibuster has nothing to do with debate and deliberation. It is used to prevent consideration. Rather than serve to ensure the representation of minority views and to foster delibera-
tion, the filibuster is used to prevent debate and deliberation. The filibuster has been used to defeat bills and nominees without their receiving a discussion on the floor. So the world's greatest deliberative body has now be-
come the world's greatest non-deliberative
committee. I think a "yes" vote today on a vote for reform would change the way a gov-
ernment that can effectively address our Nation's challenges is a vote to move ahead. It is a vote for progress—
or we can vote for continued gridlock, continued obstruction, and broken gov-
ernment. This body does not function the way it is supposed to.

I often hear opponents of reform claim that what I am proposing would turn the Senate into the House of Rep-
resentatives because at the end of 8 days, the majority can govern. So one can slow it down—slow down ev-
erything, every amendment, every bill—so compromise negotiations would still go on.

If I had to sum up the minority side: What if the tea party gains a majority in the Senate? We will need to filibuster to stop them. I say to my friends on this side and others, it is a sad day in America when the only way we can stop the tea party or any other extreme group is through subterfuge, through filibusters, secret holds, and parliamentary trickery. We have to have a fundamental confidence in democracy and the good sense of the American people. I have to have confi-
dence in our ability to make our case to the American people and to prevail at the ballot box. We must not be afraid of the American people. We must not be afraid of how they cast their votes or for whom. I am not afraid of the will of the people expressed at the ballot box. That is what sent me to this Chamber. I should note, that used to be the operating principle of this body, but over the years, especially re-
cently, it has become grossly distorted. We all have our views on the recent election, and what the American people said. Everybody has a view on that. I will say what my view is. The American people spoke loudly that they are fed up and angry with Washington, with government, and with Congress. They want change, and they want an end to the dysfunction in this city. In too many critical areas—job creation, energy, the economy—people see a Con-
gress that is unable to respond effect-
tively to the urgent challenges of our time.

My proposal is basically the same as I offered 16 years ago. It would amend the Standing Rules of the Senate to permit a decreasing majority of Sen-
ators over a period of 8 days to invoke cloture on a given matter. A deter-
mined minority could slow things down for 8 days. Senators would have ample time to make arguments and attempt to persuade the public and a majority of their colleagues. This protects the right of the minority to full and vig-
orous debate and to maintain the hallmark of the Sen-
ate. At the end of ample debate, how-
ever, there would be an up-or-down
Moreover, reform of filibuster rules stands squarely within a tradition of updating Senate rules as needed to foster an effective government that can respond to the challenges of the day. The Senate has adopted rules that forbid the filibuster in numerous circumstances, such as war powers and the budget. Think about that. For some reason, the Senate, at some point in time, said you cannot filibuster the budget. Imagine that. You can filibuster other things, but you cannot filibuster the budget. What could be more important than whether or not we go to war? It is a power granted to the Congress by the Constitution, but you cannot filibuster it. Think about that.

So we have rules that forbid the filibuster. We have passed four significant reforms of the filibuster since 1917. Today, unfortunately, it has become abundantly clear that we cannot govern a 21st-century superpower when a minority of 41 Senators can dictate action or inaction to a majority of the Senate and a majority of the American people—a majority of the American people.

We had a bill here last year: it was called the DISCLOSE Act. The House passed it twice overwhelmingly. They sent it to the Senate. Now, what did the DISCLOSE Act say? All it did is say the Supreme Court decision in Citizens United, that allowed corporate or union campaigns to defeat or support an opponent and did not have to be accounted for, did not have to be made public. Many people suspected there was foreign money coming in through various sources to influence campaigns in the United States because they did not have to report it. So the bill came through that did not overturn the Supreme Court decision. It just said: If you are going to do this, you have to disclose where you got the money.

That passed the House. Polls showed it was supported by well over 80 percent of the people, a majority of Republicans and Democrats around the country. It came to the Senate twice. It got 59 votes. Why isn’t it law today? Because you need 60 votes—50 votes. Go back and explain that at your town meetings. Go back and tell them: We don’t have that today. We don’t have that sunshine law because we need 60 votes. It is not the extreme. It is not the right to veto anything. It is the Senate.

This is not the kind of representative democracy the Founders envisioned. It is not the kind of representative democracy that our sons and daughters have fought and died for. Many of our young men and women in uniform today, risking their lives in Afghanistan, Iraq around the globe—how many of them know they are risking their lives for minority rule—for minority rule, not majority rule? Very few, I submit. Very few.

It is time to end the paralysis, the drift, and the decline in the Senate. Yes, let’s commit ourselves to debate and deliberation. There is nothing wrong with that, nothing wrong with extended debate. There is nothing wrong with having compromises. There comes a time when maybe a compromise is not in the cards. But should that mean we cannot vote on it, I say no. Should that be taken away? Should that mean if we cannot get 60 votes, we do not even deserve to have 51 or 52 or 53 votes? Is that what we are saying?

I have heard my friends on the other side—I think I heard; I do not know exactly what it was today—say: Well, the Senate is to do this, you have to disclose where you got the money.

So I say every Senator has a lot of power here. The power of a Senator comes not from what we can do but from what we can stop. I have often said that is kind of the dirty little secret of the Senate.

Well, I think it is time for each of us to give up a little bit of our power, to give up a little bit of our power for the good of the country, to give up a little bit of our power of being able to stop things in order—whomever that majority may be—can carry out their agenda on behalf of the American people.

I do not fear—Ido not fear—the votes. I do not fear the ballot box. What I fear is this Senate will continue to be dysfunctional. It will not be able to act, we will continue to drift, we will not be able to respond to the exigencies of our time, the American people will get more and more frustrated and disappointed in the workings of our government, and the end result will be a decline in America.

Look, I am not Pollyannaish. I know none of these proposals will succeed. It
takes 67 votes, they say, to change the rules of the Senate. I believe that is inherently unconstitutional. Can one Congress bind another? Can one Congress bind all future Congresses? Can one Senate bind all future Senators? Can the Senate in a moment of passion say we need 90 votes to pass anything here because 90 Members happen to be of one party, so they enact a rule and they say we have to have 90 votes to change any rule, knowing it will probably never happen again?

As Senator, I said one time—I know he is being quoted a lot around here today and when it comes to these debates—we should not be bound by the dead hand of the past—the dead hand of the past. I believe it is the inherent right of the Senate to change its rules by a majority vote at the beginning of any Congress. That is what it says in the Constitution. Each House shall make its rules. It does not say each House makes its rules and every succeeding House must abide by those rules. It does not say that.

So I think we are left with a situation where the Senate—where the Senate—cannot live up to its constitutional obligations. I think it is almost inherently impossible for the Senate to do so. Therefore, I think we must now have to look to the courts to provide some relief in this matter, just as the Supreme Court decided in Baker v. Carr that legislatures could not reapportion themselves. So, therefore, they found it unconstitutional. I, quite frankly, think a case can be made to the courts that the Senate rules, as they are now applied with the 67-vote threshold, prevent me, a Senator from Iowa, prevent a Senator from Georgia, prevent a Senator from Oregon from fulfilling his or her constitutional obligations to their constituents, to the people who elected them, to try to get legislation passed on a majority basis.

So, like I said, I am not Pollyannaish. I know where the votes are today. I do not know—I know my proposal will not get many votes. It did not get many in 1995 either. And people say: Well, HARKEN, why are you doing this? Why do you do it when you know you do not get many votes? I do it because I believe in it. I believe with all my heart and all my soul that the Senate is not operating constitutionally right now. So I feel this fight must continue.

As I said, I now come to that point in time where I believe that perhaps we must look to the courts for their decision on whether the Senate is capable of fulfilling its constitutional responsibilities and obligations.

So I hope we do not have to go there. I hope we could adopt some of these reforms, such as the Merkley amendment or my proposal. Quite frankly, at the essence of it is the proposal by the Senator from New Mexico. That is the heart of it. Can a majority of the Senate change its rules at the beginning of a Senate? I believe it is constitutionally not only permissible, but I think we are obligated by the Constitution every 2 years to adopt the rules of the Senate by a majority vote and not by 67 votes.

So I close my part of the debate by appealing to the conscience of our Senators to think about majority rule, think about the rights of the minority but think about the rights of the American people to have their voices heard here today and not by a supermajority. I believe that is our constitutional obligation.

Madam President, I yield the floor.

THE PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, I rise briefly to address a few remarks made by the senior Senator from Iowa and to compliment my colleague from Tennessee. But first, regarding all of these talk about our Founding Fathers and our Constitution, if our Founding Fathers had not intended for supermajorities to determine certain acts of this Congress, why would two-thirds be required to pass a constitutional amendment and three-fourths of the States have to vote to ratify one? I think that showed the intent. If our Founding Fathers had not intended for minority representation to exist, I would have two Senators like California; everybody would have a proportionate number of Senators. Finally and most importantly, with regard to the notion that we are the only democracy in the world to have a rule where majority rules, the fact is, that may be true. We are also the richest, safest, most prosperous democracy in the world, and that has a lot to do with the way we govern ourselves. So I wanted to make those three points.

With that in mind, I wish to thank Senators WYDEN, MCCASKILL, and GRASSLEY on what I think is a very appropriate amendment to make sure we have total transparency in our process of holds in the Senate, as is its right, and I think that is exactly what the American people would expect.

Lastly, I wish to thank the Senator from Tennessee and the Senator from New York. In the last few weeks, they have done a lot of good work—yeoman's work, as a matter of fact—to make sure this Senate doesn't rush to judgment and make a mistake that would not be in the interests of the institution or the American people. The end result is all good Senators putting their shoulders to the grindstone and making things work, and I think in this case the Senator from Tennessee has done exactly that, and I wish him the best of luck.

Madam President, I yield the floor.

THE PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, I wish to thank all of the Senators who have come forward for this debate. These are just a couple of cleanup, housekeeping things I need to do.

First of all, the charge was made that we are trying to make the Senate like the House. Rather than get in a long debate here, I ask unanimous consent to have printed in the Record Federalist Paper No. 62 and a letter from a number of Senators who testified before the Rules Committee.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE FEDERALIST PAPERS

FEDERALIST NO. 62

The Senate

Alexander Hamilton

James Madison

To the People of the State of New York:

HAVING examined the constitution of the House of Representatives, and answered such of the objections against it as seemed to merit notice, I enter next on the examination of the Senate.

The heads into which this member of the government may be considered are:

I. The qualification of senators;
II. The appointment of them by the State legislatures;
III. The equality of representation in the Senate;
IV. The number of senators, and the term for which they are to be elected;
V. The manner of vesting the seat in the State.

I. The qualifications proposed for senators, as distinguished from those of representatives, consist in a more advanced age and a longer period of citizenship. A senator must be thirty years of age at least; as a representative must be twenty-five. And the former must have been a citizen nine years; as seven years are required for the latter. The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life most likely to supply these advantages; and which, participating immediately in transactions with foreign nations, ought to be exercised by none who are not thoroughly weaned from the prepossessions and habits incident to foreign birth and education. The term of nine years appears to be a prudent mediocritiy between a total exclusion of adopted citizens, whose merits and talents may claim a share in the public confidences and an indefinite admission of them, which might create a channel for foreign influence on the national councils.

II. It is equally unnecessary to dilate on the appointment of senators by the State legislatures. Among the various modes which might have been devised for constituting the branch of the government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring talent, and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.

III. The equality of representation in the Senate is another point, which, being evident from the result of the comparison between the opposite pretensions of the large and the small States, does not call for much discussion. If indeed it be right, that among a people thoroughly incorporated into one nation, every district ought to have a PROPORTIONAL share in the government, and that among independent and sovereign States, being either by a mixture of parties, however unequal in size, ought to have an EQUAL share in the common councils, it
ambition or corruption of one would other-
and excess of law-making seem to be the dis-
concur, first, of a majority of the peo-
Adventages accruing from this in-
this spirit it may be remarked, that the 
perhaps to enlarge, and most important, in na-
will be, points out, in the strongest manner, the
necessity of some stable institution in the
if they be repealed or revised before they are
The truth that laws are made for the FEW, not
blessing of liberty itself. It will be of little
barrassed affairs.
From this misfortune arising from a mutable
and for the general safety and prosperity of the
The number of senators, and the dura-
their important trust. In this point of view,
the concurrence of two distinct bodies in
the Constitution may be more convenient in
Constitution which is allowed on all hands to
The only option, then, lies between the ac-
the comprehensive interests of their coun-
the genuine principles of republican govern-
and numerous assemblies to yield to the im-
distinguish them from each other by every 
the pulse of sudden and violent passions, and to
probability of sinister combinations will be 
probability of sinister combinations will be
in proportion to the dissimilarity in the ge-
in the history of other nations. But a position that will not be 
considered. In order to form an accurate
practice than it appears to many in con-
ble, it is not impossible that this part of the
the additional impediment it must prove
the advice of prudence must be to embrace
itself, and consequently ought to be less 
me, is that in a compound republic, partaking both
judgment on both of these points, it will be 
that object can be best attained. Some gov-
advances will not render him a victim to an
availing to the people, that the laws are made
began, on the best grounds, that no small
wise be sufficient. This is a precaution 
set to be from it, and consequently ought to be less 
many have been made of the powers, object,
our governments; and that these have pro-
time, and led by no permanent mo-
and profit of which may depend on a continu-
sistent advantage to the sagacious, the enter-
that in a compound republic, partaking both
founded on such clear principles, and now so 
other than that would be more than superfluous to enlarge 
the State, that it would be more than superfluous to enlarge
and profit of which may depend on a continu-
their governments; and from proceedings within the United
will be necessary to re-
proper to inquire into the purposes which are
their governments; and from proceedings within the United
that in a compound republic, partaking both
Constitution which is allowed on all hands to
In order to form an accurate
The truth that laws are made for the FEW, not
The number of senators, and the dura-
those who administer, if they forget their obligations to 
their governments; and from proceedings within the United
that object can be best attained. Some gov-
advances will not render him a victim to an
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The number of senators, and the dura-
that in a compound republic, partaking both
Constitution which is allowed on all hands to
In order to form an accurate
The truth that laws are made for the FEW, not
many of their flattering hopes. No government, any more than an individual, will long be respected without being truly respectable; nor be truly respectable, without possessing a certain portion of order and stability. 

PUBLISHS.

DECEMBER 2, 2010.

DEAR MEMBERS OF THE SENATE: As you know, the Senate has debated the merits of the filibuster and related procedural rules for over two centuries. Recently, several senators have proposed changes to Senate Rule XXII have renewed this discussion. We write this letter today to clarify some of the common misconceptions about the filibuster and Rule XXII that all too often surface during debates about Senate rules.

First, many advocate that senators have a constitutional right to extended debate. However, there is no explicit constitutional right to filibuster. In fact, there is ample evidence that the framers preferred majority rather than supermajority voting rules. The framers knew full well the difficulties posed by supermajority rules, given their experiences with the Confederation Congress. The Articles of Confederation (which required a supermajority vote to pass measures of important matters) was often found to be stalemate; legislators frequently found themselves unable to muster support from a supermajority of the states for essential matters of government. The Constitution, the framers specified that supermajority votes would be necessary in seven, extraordinary situations—which they specified, including overriding a presidential veto, expelling a member of the Senate, and ratifying a treaty. These, of course, are all voting requirements for passing measures, rather than rules for bringing debate to a close.

Second, although historical lore says that the filibuster was part of the original design of the Senate, there is no empirical basis for that view. There is no question that the framers intended the Senate to be a deliberative body. But they sought to achieve that goal through structural features of the chamber intended to facilitate deliberation—such as the Senate’s smaller size, longer and staggered terms, and older members. There is no historical evidence that the framers anticipated that the Senate would adopt rules allowing for a filibuster. In fact, the first House and the first Senate had nearly identical rules and privileges, including overriding a presidential veto, expelling a member of the Senate, and ratifying a treaty. These, of course, are all voting requirements for passing measures, rather than rules for bringing debate to a close.

It is this fact that makes the Senate very different than the House. As a Senator from New Mexico, I represent just over 2 million people, while Senator Feinstein and Senator Boxer represent over 37 million constituents. Senators are elected by the people, but Senators will be appointed by the State legislatures.

But perhaps the most important distinction between the bodies is whom we represent. In Federalist No. 62 explains that the equality of representation in the Senate was the result of compromise between the opposite pretensions of the large and the small States. . . . [T]hat among a people thoroughly incorporated into one nation, every member of the government ought to be founded on a mixture of the principles of proportional and equal representation.

IT IS THIS FACT THAT MAKES THE SENATE DISTINCT FROM THE HOUSE. Unlike the House, the Senate is unique from the House in many ways.

Mr. UDALL of New Mexico. Time and time again last year, during the Rules Committee hearings on rules reform, my Republican colleagues said that any attempt to change the filibuster would make the Senate no different than the House. They said reforming the filibuster would make the Senate no different from the House. This, I would argue, is a far more drastic change to the Senate than anything we could do with rules reform, yet even that change did not turn the Senate into the House.

It is this fact that makes the Senate very different than the House. As a Senator from New Mexico, I represent just over 2 million people, while Senator Feinstein and Senator Boxer represent over 37 million constituents. Senators are elected by the people, but Senators will be appointed by the State legislatures.

But we do not have to rely on today’s scholars to tell us that the Senate’s uniqueness is not premised on the filibuster and unlimited debate. Our Founders explained their vision for the Republic in the Federalist Papers, and Federalist No. 62 explained quite clearly the ways the Senate is unique from the House of Representatives.

In Federalist No. 62, Alexander Hamilton and James Madison wrote the following:

The qualifications proposed for senators, as distinguished from those of representatives, consist in a more advanced age and a longer period of citizenship. A senator must be thirty years of age at least; as a representative must be twenty-five. And the former must have been a citizen nine years; as seven years are required for the latter.

They go on to explain about how Representatives will be directly elected by the people, while Senators will be appointed by the State legislatures. This course was changed in 1913 by the 17th amendment, which established direct election of Senators by popular vote.

But perhaps the most important distinction between the bodies is whom we represent. In Federalist No. 62 explains that the equality of representation in the Senate was the result of compromise between the opposite pretensions of the large and the small States. . . . [T]hat among a people thoroughly incorporated into one nation, every member of the government ought to be founded on a mixture of the principles of proportional and equal representation.

IT IS THIS FACT THAT MAKES THE SENATE DISTINCT FROM THE HOUSE. Unlike the House, who are always facing reelection less than 2 years away, two-thirds of the Senate is always free from the same worry.

Coupled with the fact that senators were appointed by the State legislatures, the Founders believed that the
Senate would be a check on the House against legislation that was passed too quickly and without sufficient consideration. But they intended the structure of the Senate to make us a more deliberative body, not the rules that govern its operation.

So whatever changes we might make to our standing rules, whether minor or significant, the Senate will always be distinct from the House of Representatives. The cloture rule was only implemented in 1917—and any changes we make to it today cannot destroy the uniquely deliberative nature of this body.

So to speak more generally now, today we come to the floor as a body to debate changes to the rules that guide this institution. All of the proposals we consider today have merit, in my opinion, and all deserve an up-or-down vote by this prestigious body.

Each proposal is important, but as we consider them one-by-one, we must remind ourselves what brought us to this point in the first place.

The reason we are here is simple: This Senate is broken. Because of partisan gridlock and our own incantating rules, this body is failing to represent the best interests of the American people.

The unprecedented abuse of the filibuster, secret holds, and of other procedural tactics routinely prevents the Senate from getting its work done. It prevents us from doing the job the American people sent us here to do.

In the Congress that just ended, because of the gridlock and our own gridlock, not a single one of the 4,000 bills on a variety of important issues was sent over from the House. Not a single one was acted upon. Key judicial nominations and executive appointments continue to languish.

The American people are fed up with this. They are fed up with us. And I don’t blame them. We need to bring the workings of the Senate out of the shadows and restore its accountability.

That begins with addressing our own dysfunction. Specifically, the source of that dysfunction—the Senate rules.

That is what I—along with my colleagues and friends Senator MERKLEY of Oregon and Senator HARKIN of Iowa—have been trying to do these past four years. We have been trying to restore the uniquely deliberative nature of this body—while also allowing it to function more efficiently.

On Tuesday, Senator HARKIN, Senator MERKLEY and I each were denied the right to have my amendment to the Filibuster Reform Act ordered to be printed in the Record, as follows:

Parliamentarian shop headed by Alan Boudwich and her whole crew over there have a responsibility to the American people to come together and fix the Senate.

That remains true today. I want to thank my colleagues for their consideration of our proposals, for their willingness to listen, and for their friendship.

And I want to make clear to all those who are supporting this effort—our work is not complete: our cause endures. History has made clear that substantial rules reform is—more often than not—the work of many Congresses, not just one.

The debate that began in this Congress will serve as a foundation for reform moving forward. And I commit to doing all I can to ensure that the Senate is not a graveyard for good ideas—but instead remains a shining light of Democracy around the world.

So now we come to the concluding point in the debate where I think it is very appropriate to thank staff. My two staff members who have worked the hardest—all my staff have worked hard on this, but Alan and Tim Woodbury deserve individual recognition for their tireless work. I know that as a result of this, we put a lot of pressure on the Rules Committee. Jean Boudwich and her whole crew over there have done a great job and the Parliamentarian should be thanked.

At several places in the Record, a variety of different items were mentioned. To clarify the Record, I ask unanimous consent to have printed, No. 1, a New York Times editorial from January 25; No. 2 includes quotes from constitutional scholars and conservative scholars on the constitutional option; and No. 3 is an op-ed from the Washington Post entitled “Fixing a Broken Set of Rules.”

I also commend to my colleagues a Harvard Law and Policy Review article entitled “The Constitutional Option: Reforming the Rules of the Senate to Restore Accountability and Reduce Gridlock.”

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 25, 2011]

MAKE THEM WORK FOR IT

Senate Democrats now have a rare opportunity to reduce the abuse of the filibuster and increase the chances that the people’s voice gets heard. As I have repeatedly said, they are now close to an agreement on a watered-down package of changes that will have only a modest effect on the chamber’s gridlock.

Over the last four years, Republicans have more than doubled the number of filibusters from the previous period, requiring 60-vote supermajorities for virtually every measure to move forward. In most, a single senator has raised an objection, bringing progress to a halt.

A group of Democratic senators—led by Tom Udall of New Mexico and Jeff Merkley of Oregon—came up with a reasonable proposal to reduce this practice while preserving the minority’s right to bring a filibuster. It would require 10 senators to start a filibuster and then speak continuously on the
floor to keep it going. If an issue is important enough to block, then senators should be willing to work for it and explain themselves to the public.

Democratic tradition has passed this rule change with a simple-majority vote. But Senate aides say several Democrats are afraid the new rules will put them at a disadvantage in a party that no longer has a majority. That misses a much more important point. The rules need to be changed not to cripple one party or the other but to improve the efficiency of the Senate no matter who is in power. There is no excuse for even routine budgets and spending bills to languish for lack of 60 votes.

The agreement being negotiated by the leadership of both parties would at least make it harder to block presidential nominations with anonymous holds and would reduce the one-way proceedings Senate confirmation—welcome changes.

The two parties are also expected to reach a “handshake agreement” to cut back on filibusters and allow the minority party a chance for the Senate to adopt real rules, according to a leadership source. The source said Tuesday that the matter would be set-the chamber’s charged environment.

Democratic senators are also expected to introduce common-sense proposals to fix the system—our dysfunction—our broken Senate rules. Reform will make the Senate a better legislative body by instituting the transparency and accountability the American people deserve.

Over the past few years, open and honest debate has been replaced too often with secret backroom deals and partisan gridlock. Under current voting rules, bills that have been unreasonably delayed or blocked entirely at the whim of a single senator. In the past two years alone, more than 400 House-passed bills went unnoticed by the Senate. Stalled judicial and executive nominations left more key government posts vacant longer than during any other period in our country’s history. We couldn’t even properly fund the government.

We need to bring the workings of the Senate out of the shadows and restore accountability within the chamber.

Under the Constitution, the Senate and the House each “may determine the rules of its proceedings.” On the first day of the new session, rules can be as simple, rather than two-thirds, majority. It is past time for senators to reflect on our rules, how they incentivize obstructionism; how they inhibit, rather than promote, debate; and how they prevent bipartisan cooperation. We then have an obligation to the people to enact real reforms to confront these challenges—reforms along the lines many of my colleagues have submitted over the past year.

Ultimately, such changes will not reward one political party over another. Instead, reform will pull back the curtain on those who obstruct the Senate’s business for no reason other than to score political points. Rules reform is about restoring good-faith legislation for the betterment of the country. We need to take the backroom deals out of the legislative process and allow for restoration. Instead of obstructing from individuals: this means no more secret holds and endless delays by threat of filibuster.

With reform, we will ensure that all senators have a fair and full opportunity to debate legislation, offer amendments and evaluate nominees. We will respect the Senate’s unique history of unfettered debate and ensure that the minority’s voice is heard. But we also will prevent the chamber’s rules from being manipulated to allow a small minority to silently obstruct the will of the majority.

The last Congress produced amazing achievements of which we can be extremely proud—health-care reform, Wall Street reform and repeal of “don’t ask, don’t tell” are just a few. But the Senate also failed in many of its key responsibilities. By, for example, not passing a single appropriations bill, keeping critical government posts empty and leaving hundreds of House bills to die. It also failed by too often keeping the debate behind closed doors while the chamber sat empty.

I hope that this is the year we make the Senate accountable to the people again. It’s no wonder constituents are fed up with the way business is done in Washington. The first, fundamental step toward changing this failure lies in constitutional authority to reexamine the stagnant rules that have allowed dysfunction to...
disclosing the name of that Senator.” But the Wyden proposal is useful nonetheless.

The resolution by the Senator of Colorado, Mr. Udall, would establish a non-debatable motion to waive the threat of a continuing amendment if that amendment has been filed at least 72 hours before the motion and is printed in the RECORD. I support the resolution which is designed to end an abuse of the rules where Senators force or threaten to force unfriendly amendments on the Senate, not to advance their position, but only to delay and prevent debate.

The Harkin resolution would permit a decreasing majority of Senators to invoke cloture. I believe the Harkin resolution goes too far in weakening the fundamental minority rights. The Harkin resolution would allow limited germane amendments during post-cloture consideration of a measure, but in my opinion the germane standard is too restrictive. The Harkin resolution would deny the minority the right to offer relevant amendments and therefore I will vote against it.

The substitute amendment to S. Res. 10 offered by Senator Tom Udall, Senator Harkin, Senator Merkley and others makes important improvements to a measure designed to end abuses of the rules that have prevented the Senate from doing its work in recent Congresses. I support most of the provisions in this resolution. I support ending filibusters on motions to proceed; I support limiting post-cloture consideration of nominations; and, I support the elimination of secret holds in the manner prescribed in this resolution.

Those meritorious provisions would go a long way towards ending current abuses of the Senate rules. Those improvements to Senate procedure offset my concern with the extended debate provision, but I will address that point in more detail when discussing the Senator from Oregon’s provision.

In spite of my concerns with the extended debate provision, I believe this resolution would end many of the common abuses of the rules and deserves support.

Senator Merkley has put together a thoughtful proposal to address the abuses of the rules in recent Congresses where a few Senators with too little effort have prevented the Senate from doing its work. However, it does not prevent the minority adequately. Under the provisions of his resolution, a simple majority could offer a bill, fill the amendment tree, and file cloture on the bill. If there are more than 50 but fewer than 60 votes to invoke cloture—that is, if cloture is not invoked—once the minority is eventually exhausted, the Senate would proceed to a simple majority vote on the bill without the minority having the opportunity to offer amendments. I believe the Merkley resolution does not protect the right to offer amendments, under the rules of the Senate the minority could be precluded from offering amendments. I am concerned that the Merkley resolution, which is designed to end abuses of the minority, could thereby become a tool of abuse by the majority.

I am concerned that the current practices and procedures of the Senate, I believe there is too much protection for the minority. However, before the rules are changed for ending debate, sufficient protections in the rules must be provided to the minority to offer relevant amendments. We do not believe this resolution provides those protections and I, therefore, will vote against it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. Alexander. Madam President, I have already congratulated Senator Udall, Senator Wyden, Senator Merkley, and Senator Harkin for stimulating a good, full discussion about two objectives. No. 1 is, how do we make the Senate the best possible place to deal with serious issues that come before our country, because we have plenty of them right now, starting with our national debt and the high unemployment rates. They have done a good job on that. The second and lead us today to adopt what I believe are two important steps, one having to do with secret holds and another having to do with taking time away, that might otherwise be better used, by having the cloture on the Senate.

This debate has also produced a couple of other things. One is to create broader support than we have had over a number of years on dealing with the persistent problem of the difficulty a President has in staffing the government. Senator Reid and Senator McConnell, when they were whips, tried to deal with this issue. We had three bipartisan breakfasts on this, working with the White House, 2 years ago. Senator Lieberman and Senator Collins, who are the committee chairs, have tried to deal with this issue. And we have all failed so far.

But Senator Schumer and I will be introducing a bill which we will be discussing with committee chairs and ranking members especially, and it will have the support of the leaders, Senators McConnell and Reid. It will have the active involvement of Senator Lieberman and Senator Collins. What we want to do is to reduce the number on Senate confirmed positions—Senator Harkin spoke about this a little earlier. He has been a ranking member and a chair. He basically said that we don’t need to spend our time here having Senate confirmation of individuals of part-time boards and commission members or the public relations official for some department. We should focus our attention on issues that affect the American people such as jobs, debt and terror.

The second thing we should do is to end this practice of making it so that the citizens who are invited by the
President of the United States to serve in our government are innocent until nominated. We drag them through a maze of conflicting forms, many of them created by the executive branch and many of them created by the Senate. The very nominating fill-out forms that trap them and trick them and embarrass them. It is surprising that anybody will accept the opportunity to serve. I remember majority leader Howard Baker was nominated by President Bush to go to Japan as Ambassador to the Senate. I think he was voted him very well. He was quoted as saying "Most Admired Senator" by Senators on both sides of the aisle in the 1980s. It cost him $250,000 to fill out the forms so that he could be the Ambassador to Japan. I could give many examples of similar difficulties.

Washington, DC, has become the only place where you hire a lawyer, an accountant, and an ethics officer before you find your house and put your kid in school. We hire our colleagues to make us feel a sense of satisfaction with rules changes to make them function better. We have reached a consensus about what we want, and I think what we want is what Senator Udall said as a whole. We would like most bills to come through committee and then come to the floor. We want to have a chance for most Senators to be able to offer most of their amendments and then debate and vote. That is the way it ought to be. It is not a procedural gimmick. Some in this Chamber want to throw out 214 years of Senate history in the quest for absolute power. They want to do away with Mr. Smith as depicted in that great movie being able to come to Washington. They want to do away with the filibuster. They think they are wiser than our Founding Fathers. I doubt that's true.

The then-Senator from Illinois, Barack Obama, referring then to the Republican majority:

"They choose to end the filibuster, if they choose to change the rules and put an end to Democratic debate, then the fighting and the bitterness and the gridlock will get worse."

I would suggest that, as a result of this discussion, we preserve the Senate as an institution, a forum for deliberation where minority rights are protected.

But we have also taken some important steps forward—or are about to—with rules changes to make them function better. We have reached a consensus among ourselves—informally, anyway—that is represented by the collection that I have in the RECORD by Senator Reid and Senator McConnell. They said what we want is an opportunity to represent the American people the way they sent us here to do it, which is to take legislation, bring it through committee, bring it to the floor, and for us to have a chance to amend, debate, and vote. That would be most of the time. Some of the time we will exercise our minority and majority rights to defeat a bill, because that is also what we are sent here to do.

I thank the Senators for this spirited debate. As far as I know, there are no more speakers on the Republican side.
But another part of the President’s difficulty in filling jobs—one that has affected every President since Watergate—is the maze of investigations and forms that prospective appointees must complete and the risk they run that they will be trapped and humiliated and disqualified by an unintentional and relatively harmless mistake. I voted for nomination of Secretary Geithner because I thought it was a bad example for the man in charge of collecting the taxes all of us have paid them. And I thought his excuse for not paying was not plausible. But that does not mean that we should disqualify every Presidential nominee for mistakes that result from the complexity of our Byzantine Tax Code, a Tax Code which has reached 3.7 million words, according to a January report by the National Taxpayer Advocate, and which is badly in need of reform. I suggest very few Americans with complex tax returns can go through an annual audit without finding something with which the IRS might disagree.

Take the case of former Dallas mayor Ron Kirk, it is easy to make a mistake, to be U.S. Trade Representative, who headlines report paid back taxes primarily because he failed to list as income—and then take a charitable deduction for fees that he gave away to charity. Common sense suggests, and his tax preparer thought, what Mr. Kirk did was appropriate. After all, he did not keep it. This is not a IRS window dressing but a more convoluted rule for dealing with such things. In any event, the matter is so trivial as to be irrelevant to his suitability to be the Treasury Secretary.

Tax audits are only the beginning. There is the FBI full field investigation during which friends of the nominee are asked such questions as: Does he live here and his means? When I was nominated for Education Secretary a few years ago, one of my friends replied to the FBI, ‘‘Don’t ask me, I don’t know.’’

There are Federal financial disclosures. Then there is the White House questionnaire, and, of course, the questions from the confirmating Senate committee. The definition of what constitutes ‘‘income’’ on some forms is different than the definition of ‘‘income’’ on other IRS forms.

This is not as bad as it could be. We have a Democratic President and a Democratic Congress with big majorities in both Chambers. The IRS forms have gone largely fairly quickly. But when the Congress is of a different party than the President, the congressional parties expanded the times delay the nomination for more weeks.

Washington, DC, has become the only place where you hire a lawyer, an accountant, and an ethics officer before you find a house and put your kid in school.

The motto around here has become: ‘‘Innocent until nominated.’’

Even legal counsel to every President since Nixon would, I suspect, agree that in the name of effective government, this process need not change, but in Washington style, new regulations piling up on top of old ones, creating a more bewildering maze. So I have this suggestion: Congress should pass a rule requiring that every Presidential nominee be given a ‘‘grand bargain with our new President: If you want to make the suggestion is here today, you will keep your eye on the ball—in this case, fixing the banks so the economy will get moving again—we will work in a bipartisan way to make it easier for you and for future Presidents to promptly assemble a team and govern us properly.

I thank the Chair. I yield the floor.

EXHIBIT 2
THE FILIBUSTER: ‘‘DEMOCRACY’S FINEST SHOW . . . THE RIGHT TO TALK YOUR HEAD OFF’’
ADDRESS BY SENATOR LAMAR ALEXANDER, HERITAGE FOUNDATION

(Vol. 158, No. 1, January 4, 2011)

Voters who turned out in November are going to be pretty disappointed when they learn the first thing some Democrats want to do is cut off the right of the people they elected to make their voices heard on the floor of the U.S. Senate.

In the November elections, voters showed them that they remember the passage of the health care law on Christmas Eve, 2009: mid-night sessions, voting in the midst of a snow storm, back room deals, little time to read, amend or debate the bill, passage by a straight party line vote.

It was how it was done as much as what was done that angered the American people. Minority voices were silenced. Those who didn’t like it were told, ‘‘You can read the law or look it up after you pass it.’’ The majority’s attitude was, ‘‘We won the election. We’ll write the bill. We don’t need your vote.’’

And of course, there is a law that a majority of voters consider to be an historic mistake and the beginning of an immediate effort to repeal and replace it. Voters remembered all this in November, but only 6 weeks later Democratic senators seemed to have forgotten it. I say this because on December 14th returning Democratic senator sent Senator Reid a letter asking him to ‘‘take steps to bring [Republican] abuses of our rules to an end.’’

When the Senate convenes tomorrow, some have threatened to try to change the rules so it would be easier to do with every piece of legislation what they did with the health care bill, ram it through on a partisan vote, with little debate, amendment, or committee consideration, and without listening to minority voices.

The brazenness of this proposed action is that Democrats are proposing to use the very tactics that in the past almost every Democratic leader has denounced, including the efforts of both then Senate Minority Leader and Senator Riddle who has said that it is ‘‘a naked power grab’’ and destructive of the Senate as a protector of minority rights.

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least a temporary advantage to the Republican agenda.

Here is why Republicans who were in the majority then, and Democrats who are in the majority today, should reject a similar rules change:

First, the proposal diminishes the rights of the minority. In his classic Democracy in America, Alexis de Tocqueville wrote that one of his two greatest fears for our young democracy was the “tyranny of the majority,” the possibility that a runaway majority might trample minority voices.

Second, diluting the right to debate and vote on amendments deprives the nation of a valuable forum for achieving consensus on difficult issues. Sen. Byrd once said that when they were doing when they created two very different houses in Congress. Senators have six-year terms, one-third elected every two years. The Senate operates largely by unanimous consent. There is the opportunity, unparalleled in any other legislative body in the world, to debate and amend until a consensus is finally reached. This procedure takes longer, but it usually produces a better result—and a result the country is more likely to accept. For example, after the Civil Rights Act of 1964 was enacted, by a bipartisan majority over a filibuster led by Sen. Russell of Georgia, Sen. Russell went home to Georgia and told his family that, though he had fought the legislation with everything he had, “as long as it is there, it must be obeyed.” Compare that to the instant repeal effort that was the result of jamming the health care law through in a partisan vote.

Third, such a brazen power grab by Demo-
crats this year will surely guarantee a simi-
lar action by Republicans in two years if it is the Tea Party Express.

What would it take to restore today’s Sen-
ate to the Senate of the Baker-Byrd era?

Well, we have the answer from the master of the Senate rules himself, Sen. Byrd, who in his last appearance before the Rules Com-
mittee in September 2010, said: “For a thoughtful con-
frontation to a threat to filibuster is un-
doubtedly the antidote to the malady [abuse of the filibuster].” Most recently, Senate Ma-
jority Leader Reid announced that the Sen-
ate would stay in session around-the-clock and take all procedural steps necessary to bring financial reform legislation before the Senate long enough for the Democrats to roll up a deal, a deal was struck without hours and the threat of filibuster was withdrawn . . . I also know that current Senate Rules provide the means to break a filibuster.”

Sen. Byrd also went on to argue strenu-
ously in that last speech that “our Founding Fathers intended the Senate to be a con-
tinuing body that allows for open and unlimited debate and the protection of minority rights. ‘Senators,’ he said, ‘have under-
stood this since the ‘Senate first convened.’”

Byrd then went on: “In his notes of the Constitutional Convention on June 26, 1787, James Madison recorded that the ends to be served by the Senate were ‘first, to pro-
tect the people against their rulers, sec-
ondly, to protect the people against the tran-
sient impressions into which they them-
selves might let themselves go, as well as a number of body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this dan-
ger would be the retention of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils. That fence,’ Sen. Byrd said in that last appearance, “was the United States Senate. The right to filibuster an-
chor this necessary fence. But it is not a right intended to be abused.”

There are some other steps that can be taken to help the Senate function better without impairing minority rights.

One bipartisan suggestion has been to extend the new practice of confirming presidential appointments with key officials within a reasonable period of time. One reason for the current delay is the President’s own fault, taking an unnecessary amount of time in confirming judicial nominees. Another is a shared responsibility: the maze of conflicting forms, FBI investigations, IRS audits, ethics requirements and financial disclosures required both by the Senate and the President of nominees. I spoke on the Senate floor on this, titling my speech “In-
nocent until Nominated.” The third obstacle is the recessive leadership of the Republican Party. As preparations were made and cots were set up to bring financial reform legislation before the Senate, Sen. Byrd set up his leadership office in 1977 and watched the way that Sen. Baker and Byrd led the Senate from 1977 to 1981, when they were the majority for the first four years and Repub-
licans were the second four years.

Then, most pieces of legislation that came to the Senate during that time were in committee, that legislation was open for amendment.

There might be 300 amendments filed and, after a while, the majority would ask for unanimous consent to cut off amendments. Then voting would begin. And voting would continue.

The leaders would work to persuade sen-
ators to limit their amendments but that didn’t always work. So the leaders kept the Senate in session during the evening, during the middle of the night, during the weekend. Sen.

3. Finally, according to Sen. Byrd, it will be the end of the three-day work week. The Senate convenes on most Mondays for a so-called check vote. That’s like the Senate during 2010 did not vote on one single Friday. It is not possible either for the minority to have the opportunity to offer, debate and vote on amendments, or the majority to forcefully confront a filibuster if every sen-
ator knows there will never be a vote on Fri-
days.

There are some other steps that can be taken to help the Senate function better without impairing minority rights.

I asked Sen. Rudman of New Hampshire what I could do about Sen. Metzenbaum, and he said, “Nothing.” And then he told me how President Ford had appointed him to the Federal Communications Commission when he, Rudman, was Attorney General of New Hampshire. The Democratic senator from New Hampshire fled to the other chamber when President George H.W. Bush appointed me education secretary. He held up my nom-
ination for three months, never really saying why.

I have done my best to make the argument to an outsider, but every Senate insider knows that a major reason why the majority cuts off amendments and debate is because Democratic members don’t want to vote on controversial issues. That’s like volun-
teeering to be on the Grand Ole Opry but then claiming you don’t want to sing. We should say, if you don’t want to vote, then don’t run for Senate.

Second, there is a crying need to make it easier to confirm judges with a simple majority. The process of confirmations is long and costly. Another is a shared responsibility: the maze of conflicting forms, FBI investigations, IRS audits, ethics requirements and financial disclosures required both by the Senate and the President of nominees. I spoke on the Senate floor on this, titling my speech “In-
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issues, and surely guarantee that Repub-
Republic are about to be evaporated. The
wall, the necessary fence, that this nation
never, ever, ever, ever, tear down the only
it takes all winter.
would deprive minority voices in America of
the institution of the Senate in a way that
leaders who wisely argued against changing
partisan way during the next two years will
vantage from this destruction of the Senate
the Senate now provides for difficult
mit them to do with any legislation what
served best if cooler heads prevail and Demo-
Senators REID and MCCONNELL, which
important progress on a number of impor-
senators, who have never served a day in the mi-
different ideas brought forward.
will last two years. More than that, it is hard to
see how Democrats can gain any partisan ad-
advantage Senate in postponing of the Senate
and invitation for retribution since any bill
they force through the Senate in a purely
partisan way during the next two years will
surely be the Republican-controlled House of Representatives.
But I am not the most persuasive voice against the wisdom of tomorrow's proposed act.
I have collected some of them, mostly Democratic leaders who wisely argued against changing
the institution of the Senate in a way that
vote, you don’t get your way 100% of the
time.
POWELL: Senator CLINTON: You’ve got ma-
oriety rule. Then you’ve got the Senate over
here where people can slow things down where
they can debate where they have something filibuster. You know it
seems like it’s a little less than efficient, well that’s right, it is. And deliberately de-
signed to be so.
SEN. DODD: I’m totally opposed to the idea of changing the filibuster rules. I think that’s foolish in my view.
SEN. BYRD: That’s why we have a Senate, is to amend and debate freely.
SEN. ALEXANDER: The whole idea of the Senate is not to have majority rule. It’s to
force consensus. It’s to force there to be a group of Senators on either side who have to respect one another’s views so they work to-
gether and produce 60 votes on important issues.
SEN. DODD: I can understand the tempta-
tion to change the rules that make the Sen-
ate so unique and simultaneously so terribly frustrating. But whether such temptation is motivated by a noble desire to speed up the legislative process or by pure political expe-
diency, I believe such changes would be un-
wise.
SEN. ROBERTS: The Senate is the only place in government where the rights of a
numerical minority are so protected. A mi-
nority made up of experts who have been
in Congress can certainly improve legislation.
SEN. ALEXANDER: The American people know that it’s not just the voices of the Sen-
tator from Kansas or the Senator from Iowa that are suppressed when the Majority Leader
cuts off the right to debate, and the right
to amend. It’s the voices that we hear across this
country, who want to be heard on the Senate
floor.
SEN. GREGG: You just can’t have good governance if you don’t have discussion and different ideas brought forward.
SEN. DODD: Therefore to my fellow Sen-
ators, who have never served a day in the mi-
ority, issues that we care about, I say to you
enthusiasm to change Senate rules.
SEN. RUID: The Filibuster is far from a
"Procedural Gimmick" of the fabric of this
institution that we call the Senate. For 200 years we’ve had the right to ex-
tend the debate. It’s not a procedural gim-
ick. Seniors in this chamber want to throw out 214 years of Senate history in the quest
for absolute power. They want to do away with Mr. Smith, as depicted in that great movie, being able to come to Washington. They want to do away with the filibuster. They think they’re wiser than our Founding Fathers, I doubt that’s true.
POWELL: If the majority chooses to end the filibuster, if they begin to change the rules and put an end to
Democratic debate; then the fighting and the bitterness and the gridlock will only get
worse.
The PRESIDING OFFICER. The Sen-
tor from New York is recognized.
Mr. SCHUMER. Madam President, I
am the last speaker after this very
good debate preceded by months and months of serious
discussion. I think every one of us is better
for going through this process. We un-
derstand the Senate better. We have deeper feelings about this hallowed in-
stitution, about what it has done, what it
can do, and what is wrong with it as well. I think every one of us agrees
that the Senate needed to be fixed, and we also agree that we did a lot last
year, despite the fact that it was bro-
ken. We had different paths to fix it, but
fix it we must and fix it we will.
I will say this: Obviously, there are
going to be some rules changes and
some statutory changes. But a lot of
what will make this work is the agree-
ment—informal but serious—between Senators and the staffs of Senators,
which is how Senators ALEXANDER and I were part of.
I say to my colleagues, hopefully, we are opening up a bit of a new era,
where bills are allowed to come to the
floor, except under extraordinary cir-
cumstances, where amendments are al-
lowed to be added to those bills, except
under extraordinary circumstances, and there is vigorous debate.
I ask my colleagues to forbear—it is
easy for any Senator to stand up and
bollix up the whole works. The spirit of
the new agreement says think twice, or
maybe three times, before you do, be-
cause that was the path that led us to
the dysfunction.
I, too, want to salute my colleagues, Senators HARKIN, UDALL, and MERKLEY
for the great job they did. Senator WYDEN and Senator MCCASKILL and Senator GRASSLEY will have a dream of
their enactments into the rules moment-
arily. This has been a fine debate. I
don’t think the talking filibuster cuts
through. Senators on both sides of the
chamber have said that. I am going to
proudly vote for that provision, and maybe—miracle of miracles—it
will get two-thirds. But at least there
will be a vote, and maybe we can
work toward that in the future.
I also do believe that the proposal to
not invoke the constitutional option for this Congress and next Congress
gives us some time to try this out, without closing the door on it for
ever, because some on our side, I know, were worried about that.
Let us go forward in the spirit of
comity that we have seen since the
impeachment. Let us go forward in
a bipartisan way that we have worked on
these rules changes and move for-
ward in the next few months and try to
legislate in the way many of us who
have been here longer than a few years
used to love, enjoy, and relish.
If we can bring those times back, the
Senate will be a better place for every one of
us, no matter our party or ideology.
I thank all of my colleagues, including
my colleague from Tennessee and two leaders, who
waved to the plate, and the so-called young turks, some of whom have been here much longer than I have, for impor-
tuning us to act.
I yield the floor.
Mr. RUID. Madam President, over the past few months, Democrats and Republicans have had many positive
discussions about the direction of the
112th Congress. There are many
important issues facing our country and so-
lutions will require bipartisan coopera-
tion. In particular, there has been a
lot of discussion lately about the Senate
rules. Many of my colleagues have spoken
to me about the way the Senate
operated during the last Congress. I think
my friend from Kentucky would agree
with me that there was great frustration on both sides of the
aisle.
The Senate was always intended to be,
have always been, and should always remain, the saucer that allows the boiling
water to cool and work. Some rules do not get enacted into law; to ensure
that laws reflect the cold rationality of
reason and not the heat of perhaps mis-
placed passion. But, there has been
concern in recent years that the Sen-
ate rules have been abused—that a very
few have turned rules designed to en-
sure careful examination into a simple
bottleneck for parochial purposes.
Some have even expressed concern that
the Senate is broken.
Mr. MCCONNELL. I thank the Sen-
ator. Senators in both of our parties agree that there has been a significant
breakdown in the Senate, though I am sure there are different perspectives on the causes of the breakdown. We both recall that in the not too distant past, when the minority and majority were reversed, we both had somewhat different perspectives on these issues. But let me say that the majority leader and I both care about this institution and the vital role it plays in our democracy.

I am happy about the reforms that we worked on today. There are many rights that ought to be restored. We can create many rights—for individual Senators, for the minority, and for the majority leader. But, with rights come responsibilities, and Senator Reid and I have discussed how to ensure that we return to a better balance between these two this Congress, and that the twin hallmarks of the Senate—the right to debate and amend legislation—are restored.

Mr. Reid. Yes, we both would like to see a different Senate this year—with fewer filibusters, fewer procedural delays, and more opportunities for debate and amendments. In many cases, the problem is not necessarily in the Senate rules, it is in the lack of restraint in the exercise of prerogatives under the rules. And, we can now enter into a colloquy to discuss some of these issues. I have discussed with Senator McConnell that many Senators in the majority have been very unhappy at the excessive use of the filibuster to Congress, particularly on motions to proceed but also at other times when a matter that has bipartisan support is filibustered purely for delay.

Mr. McConnell. And, in my caucus, I have many Senators who have complained that the majority leadership has abused his ability to "fill the amendment" tree, preventing Senators from offering and debating amendments that they believe are important, especially when a matter has not gone through committee or cloture is filed too quickly.

Mr. Reid. As we have discussed, in the interests of comity and more open process in the Senate, we have agreed that we should use these procedural options of filling the amendment tree and filibustering the motion to proceed infrequently. And we will do our best to ensure that other members of our caucuses respect this colloquy, as well.

Mr. McConnell. I agree that both sides should do their best to reinstitute regular order, where bills come to the floor and Senators get amendments. Of course, there will be times when there is no consensus and when either side may want to use all its rights to defeat a bill. But we should endeavor to work together to follow the regular order where practicable and use our procedural options with discretion. And, I will do my best to ensure that other members of my caucus respect this.

I want to close by clearly reaffirming my view that if we are going to change Senate rules, we must do so within those rules. As rule 5 states, the Senate is a continuing body, and the rules continue unless changed within the parameters of the rules.

I strongly reject this notion that a simple majority can muscle their way to new rules at the beginning of a new Congress. I believe this is a flawed approach. Majorities come and go. My Democratic colleagues should be wary of attempting this maneuver because they will not always be in the majority. The Senate is not the House of Representatives. I would suggest others never intended it to be. What some of my colleagues in the majority propose would damage the institution and turn the Senate into a legislative body like the House where a simple majority can run roughshod over the minority. I would oppose such an effort to change the rules with a simple majority in this Congress or the next Congress, regardless of which political party is in the majority. I ask the majority leader to join me in rejecting this effort.

Mr. Reid. The minority leader and I have discussed this issue on numerous occasions. I know that there is a strong interest in rules changes among many in my caucus. In fact, I would support many of the changes in the regular order. But I agree that the proper way to change Senate rules is through the procedures established in those rules, and I will oppose any effort in this Congress or the next to change the Senate's rules rather than through the regular order.

And I hope and expect that we will have a more deliberative and efficient Senate this Congress. In particular, I hope we can reach an agreement to move nominees in regular order. One important reform to the nominations process is reducing the number of Senate confirmed positions. Our offices are working with Senators Schumer, Alexander, Lieberman, and Collins to draft a bill to accomplish this goal. This bill will be introduced in short order and we will work to get it enacted as quickly as possible.

Many of these positions are part-time boards and commissions or various agency positions that are unrelated to the management of that agency. They could be Presidential appointment rather than going through the Senate. Although similar efforts have been proposed in the past, I think all of my colleagues realize the need to address this situation as soon as all the details are finalized.

Mr. McConnell. I agree that the Senate spends too much time dealing with a growing number of nominees. It makes sense to reduce the number of nominations and free up committee staff to focus on other nominees or legislation. I appreciate the work of these Senators and look forward to passing this legislation as soon as it is complete.

Mr. Reid. I look forward to putting into practice the sentiments in this colloquy. Finally, I hope Senators of good will in both parties will continue discussions as to how we can make the Senate a better institution.

Our discussion today is in a spirit of bipartisan cooperation to express hope and anticipation that the 112th Congress will be different in many ways than the 111th. We look forward to greater comity on both sides of the aisle so that we can move legislation and nominees that have bipartisan support from the majority of Senators in this body. There are areas that we can agree on. For instance, we all support the idea that the Senate should be able to move forward and complete action on matters with broad bipartisan support. Neither party has all of the solutions to the problems our Nation faces. Many of the successes of past Congresses have been the result of bipartisan cooperation and input. I look forward to such cooperation and input in this Congress.

Mr. Reid. Madam President, I ask unanimous consent that all remaining time be yielded back to the Majority Leader. We will now have 2 minutes of debate, equally divided, prior to each vote; further, that all rollcall votes after the first one be for 10 minutes.

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

Mr. Reid. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas have been ordered.

The PRESIDING OFFICER. The PRESIDING OFFICER. The pending measure is S. Res. 28. Under the previous order, a vote of 60 is required for adoption of this resolution. There will now be 2 minutes of debate, equally divided.

The Senator from Oregon is recognized.

Mr. Wyden. Madam President, there has been much discussion about the seemingly endless procedural reforms that get us nowhere. To those who say that this resolution doesn’t go far enough, I ask, why have the friends of secrecy fought so hard for so long to allow Senators to anonymously block legislation and nominations?

The fact is this resolution deals with a sweeping, almost unparalleled legislative power—the ability of one Senator to anonymously block a bill or a nomination from going forward. That is right. Senator Grassley, Senator McCaskill, and I have worked with colleagues on both sides of the aisle to say that if you want to exercise that extraordinary power, you ought to do it in the sunlight. There ought to be public disclosure. There ought to be transparency.

I yield the remainder of our time to Senator Grassley, who has championed this cause along with Senator McCaskill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. Grassley. Madam President, the time has come to end secrecy on
the floor of the Senate. The time has come for Senators who think they ought to put a hold on a bill to be able to continue to put a hold on a bill or a nomination, but it is also time to show that you have guts enough to let the people know who you are and, more importantly, to let your colleagues know who you are. So if there is something wrong with a piece of legislation or a nomination, we can find out what it is and move the business of the Senate ahead.

This is something that is going to make the Senate a much more efficient place to work and get the people’s business done, and it will do what is most important—the public’s business in public.

I yield the floor.

The PRESIDING OFFICER. The question is an agreeing to the resolution.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. UDALL of Colorado. Who you are. So if there is something wrong with a piece of legislation or a nomination, we can find out what it is and move the business of the Senate ahead.

The yeas and nays were announced—yeas 92, nays 4, as follows:

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The PRESIDING OFFICER. On this vote the yeas are 92, the nays are 4. The Yeas—vote having been achieved, the resolution is agreed to.

Mr. CARDIN. Madam President, I move to reconsider the vote by which the resolution was agreed to and to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution (S. Res. 28) was agreed to, as follows:

(a) IN GENERAL.—(1) COVERED REQUEST.—This standing order shall apply to the notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request if a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants the notice of intent to object permission to the leader or designee to object to the letter Senator’s name; and

(B) not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—Who may be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

‘‘I, Senator , intend to object to , dated .’’ I will submit a copy of this notice to the Legislative Clerk of the Senate and states the following:

(a) Calendar.—(1) OBJECTION.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from the notice of intent to object to the applicable Calendar section entitled ‘‘Notices of Intent to Object to Proceeding’’ created by Public Law 110–81. Each section shall include the name of the Senator filing the notice of intent to object to the applicable Calendar section entitled ‘‘Notices of Intent to Object to Proceeding’’ created by Public Law 110–81. Each section shall include the name of each Senator filing a notice of intent to object on a certain measure or matter and the date the objection was made on the floor. If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2) within 2 session days after submitting the notice of intent to object to the Legislative Clerk, the Legislative Clerk shall list the Senator’s name and the measure or matter to which the objection was made under subsection (b) by submitting to the Legislative Clerk the following notice:

‘‘I, Senator , do not object to , dated .’’ The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the type of measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Legislative Clerk under this subsection.

(d) OBJECTING ON BEHALF OF A MEMBER.—Except with respect to objections made under subsection (a)(4), if a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2) within 2 session days after submitting the notice of intent to object to the Legislative Clerk, the Legislative Clerk shall list the Senator’s name and the measure or matter to which the objection was made under subsection (b) by submitting to the Legislative Clerk the following notice:

‘‘I object to , on behalf of Senator , dated .’’ The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the type of measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Legislative Clerk under this subsection.

The PRESIDING OFFICER. The question is on the adoption of S. Res. 29. Under the previous order, 60 votes are required for adoption.

Who yields time? The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, the resolution before us, which I introduced, would encourage Senators to file their requests 72 hours in advance of a vote to ensure that Members have time to review it, but it would also delay the practice of calling for an out load reading of the amendment in front of us.

It addresses a concern I think we all have about the amendment process. When a full reading of the amendment has been called for, it ties our Senate into knots. It is a spectacle, with the clerks standing here reading amendments on the floor of the Senate, and it is a spectacle we are required for adoption.

So I ask for the yeas and nays, and I hope for an overwhelmingly bipartisan approval of this important change to the Senate rules.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, this amendment puts into effect what the Republicans called in the health care debate the Bunning rule, which is, if it is not on the Internet and not available for 72 hours, it shouldn’t be brought up.

We think this is a sensible—I think this is a sensible amendment, and I urge a ‘‘yes’’ vote.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. 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 question is on agreeing to the resolution.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—81

Akaka (HI) Razi Merkley
Alexander (NM) Franken Mencia
Ayotte (NH) Galliard Moran
Barrasso (WY) Graham Murkowski
Baucus (ID) Grassley Murkowski
Begich (AK) Hagan Nelson (NE)
Bennet (CO) Harkin Nelson (FL)
Bingaman (NM) Hirono Portman
Blumenthal (CT) Isakson Pryor
Bhutto (PA) Johnson Reed
Boozman (AR) Johnson (SD) Reid
Brown (MA) Johnson (WI) Roberts
Brown (OH) Kerry Rockefeller
Brown (RI) Kyl Shelby
Burr (NC) Klobuchar Schumer
Cassidy (LA) Kohl Shaheen
Cardin (MD) Kyl Shelby
Carte (MD) Landrieu Snowe
Casey (PA) Lautenberg Stabenow
Chambliss (GA) Leahy Tester
Coats (IN) Levin Udall (CO)
Cooper (NY) Lieberman Udall (NM)
Collins (AK) Lugar Warner
Conrad (ND) Manchin Webb
Cochrane (TX) McCaskill Whitehouse
Corker (TN) McConnell Wicker
Durbin (IL) Menendez Wyden

NAYS—15

Akaka (HI) Inouye McCaskill
Alexander (NM) Johnson (SD)
Ayotte (NH) Johnson (WI)
Baucus (MT) Kirk Schumer
Barrasso (WY) Klobuchar Schumer
Bennet (CO) Landrieu Snowe
Bingaman (NM) Lautenberg Stabenow
Boozman (AR) Leahy Tester
Burr (NC) Levin Thune
Brown (RI) Log Cabin Udall (CO)
Brown (WA) McConnell Vitter
Burr (NC) McConnell Warner
Cochrane (TX) McConnell Whitehouse
Corker (TN) Menendez Webb
Collins (AK) Merkley Whitehouse
Corker (TN) Moran Wicker
Durbin (IL) Murkowski Wyden

NOT VOTING—4

Feinstein Inouye Hutchison McCain

The PRESIDING OFFICER. On this vote, the yeas are 12, the nays are 84.

Two-thirds of those voting for adoption not having voted in the affirmative, the resolution is rejected.

Mr. KERRY. Mr. President, I am necessarily absent for the votes today on S. Res. 10 and S. Res. 21. If I were to attend these vote sessions, I would oppose S. Res. 10 and would support S. Res. 21.

The PRESIDING OFFICER. The question is on the adoption of S. Res. 10. Under the previous order, an affirmative vote of two-thirds of the Senators voting is required for adoption. The substitute amendment is agreed to.

There is now 2 minutes of debate, equally divided.

The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, S. Res. 10 does five simple things: limits debate on the motion to proceed to 2 hours; eliminates secret holds; No. 3, guarantees the majority and minority three amendments with a 60 vote threshold; No. 4, institutes a talking filibuster; and No. 5, shortens postcloture debate on nominations, both executive and judicial, from 30 hours to 2 hours.

I would ask my colleagues to support the resolution I yield back.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I would ask my colleagues to support the resolution I yield back.
Committee, Senator Byrd quoted James Madison’s description of this body as a necessary fence against rul- ers and transient impressions and said the right to filibuster anchors this necess- ary fence and we must never, ever tear down the only wall, the necessary fence, that the Nation has against these excesses.

This amendment does not tear down that fence, but it seriously weakens it. I recommend a “no” vote.

The PRESIDING OFFICER. The Sen- ate from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the resolution.

The clerk will call the roll.

The PRESIDING OFFICER. The Sen- ator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from California (Mrs. FEIN- STEIN), the Senator from Hawaii (Mr. INOUYE) and the Senator from Massa- chusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massa- chusetts (Mr. KERRY) would vote “nay.”

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber de- siring to vote?

The yeas and nays resulted—yeas 44, nays 51, as follows:

[Rollcall Vote No. 5 Leg.]

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NAYS—51

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NOT VOTING—5

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The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 51. This two-thirds of those voting for adoption not having voted in the affirmative, the resolution, as amended, is rejected. The question is on agreeing to S. Res. 21, as amended. Under the previous order, an affirmative vote of two-thirds of the Senators voting is required for adoption of the substitute amendment, as agreed to.

There is now 2 minutes of debate equally divided.

The Senator from Oregon.

Mr. MCCASKILL. Mr. President, I thank Senator LUTTENBERG for intro- ducing the concept of a talking fili- buster 2 years ago, and I thank all col- leagues who have worked to end the abuse of our current filibuster. The fact is, we have not done any appropri- ations bills in 2010. We left 100 nomi- nations without our advise and consent or opposition, and we left 400 House bills collecting dust on the Senate floor. The American people believe the filibuster is an act of personal courage. Let’s make it so. They believe those who filibuster should make their case before the public. Let’s make it so. They believe that when 41 Senators want additional debate, let’s make it so. Let’s end the secrecy and obstruction of the current filibuster and establish the accountability of the talking filibuster.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Sen- ator from Tennessee.

Mr. ALEXANDER. Mr. President, in his last appearance before the Rules Committee, Senator Byrd said:

I urge a ‘‘no’’ vote.

The PRESIDING OFFICER. The question is on agreeing to S. Res. 21 as amended.

Forceful confrontation to a threat to fili- buster is undoubtedly the antidote to the malady.

He also said:

I also know that current Senate rules pro- vide the means to break a filibuster.

If Senator Byrd, who knew the rules better than any of us, thought that, we don’t need to change the rules.

I urge a ‘‘no’’ vote.

The PRESIDING OFFICER. The question is on agreeing to S. Res. 21 as amended. The yeas and nays have been ordered.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEIN- STEIN), the Senator from Hawaii (Mr. INOUYE) and the Senator from Massa- chusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massa- chusetts (Mr. KERRY) would vote “yea.”

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. McCAIN).

The PRESIDING OFFICER (Mr. BEN- NETT). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 6 Leg.]

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NOT VOTING—5

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The PRESIDING OFFICER. On this vote, the yeas are 46 and the nays are 49. Two-thirds of those voting for adop- tion not having voted in the affirmativa- tive, the resolution, as amended, is re- jected. Mr. KERRY. Mr. President, earlier today I supported S. Res 8 because I be- lieve additional action to change exist- ing Senate rules to limit filibusters are needed.

I very much appreciate the work of Majority Leader REID and Minority Leader MCCONNELL in developing a col- loquy printed in the RECORD today. Specifically, I support the pledges to limit the use of filibusters motions to proceed and to fill the amendment tree on legislation only when neces- sary.

Unfortunately, I do not believe that these pledges alone go far enough to address the dysfunction the—epic dys- function—of the last years.

Frankly, the extraordinary measure of a filibuster has become an ordinary expedient. Today it’s possible for 41 Senators representing only about one- tenth of the American population to bring the Senate to a standstill. The filibuster has its rightful place. I used it to stop drilling for oil in the Arctic Wildlife Refuge because I believed that was in our national interest—and 60 or more Senators should be required to speak up on such an irrevocable deci- sion. But we have reached the point where the filibuster is being invoked by the minority not necessarily because of a difference over policy, but as a polit- ical tool to undermine the Presidency.

Consider this: in the entire 19th cen- tury, including the struggle against slavery, fewer than two dozen filibus- ters were mounted. Between 1933 and
the coming of World War II, it was attempted only twice. During the Eisenhower administration, twice. During John Kennedy’s presidency, four times—and then eight during Lyndon Johnson’s push for civil rights and voting rights bills. By the time Jimmy Carter and Ronald Reagan occupied the White House, there were about 20 filibusters a year.

But in the 110th Congress of 2007–2008, there were a record 112 cloture votes. And in the 111th Congress, there were 130, one of which even delayed a vote to authorize funding for the Army, Navy, Air Force and Marine Corps during a time of war. That is not how the Founders intended the Senate to work—and that’s not how our country can afford the Senate not to work.

Chris Dodd said it best in his farewell address just a few weeks ago—a speech the Republican leader called one of the most important in the history of the Chamber. Chris sounded a warning:

“While it is true that this institution works or not, what has always determined whether we will fulfill the Framers’ highest hopes or justify the cynics’ worst fears, is not the Senate rules, the calendar, or the media. It is whether each of the one hundred Senators can work together...”

That was a speech that needed to be heard. But the question now isn’t whether it was heard; it is whether we really listened to it. Because when it comes to the economy, our country really does need 100 Senators who face the facts and find a way to work not just on their side, but side by side.

It was with Chris’s words in mind that I supported Senator Harkin’s effort to reform the filibuster rules even though I have concerns about how the provision would affect debate in the Senate by moving to a majority vote. I did so because I believe it is important to protest the actions by the minority over the past four years and make a statement that we must have an end to the unprecedented disruption that has occurred.

Ultimately, Leader Reid is right—the question is not the rules, but our decisions about how to abuse those rules. I hope the minority will end this needlessly obstructionism as we move forward in the 112th Congress.

THE PRESIDING OFFICER. The Senator from Delaware.

MORNING BUSINESS

Mr. CARPER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Delaware.

THE NEXT GENERATION OF AMERICAN MANUFACTURING

The PRESIDING OFFICER. The Senate is in order.

Mr. COONS. Mr. President, I rise to speak for the first time in this Chamber as a Senator. It is an honor to do so. Already, after my service at the end of the 111st Congress, I am keenly aware of the impressive array of skills brought to this place by my colleagues and of the great traditions of this Chamber as well as the tremendous challenges facing both our Nation and this institution as we work together to make progress.

On November 2, the citizens of Delaware elected me to come here on their behalf and work with other Senators for a very specific goal: getting America moving again and getting our economy back on track. With our country just now recovering from the loss of so many jobs, with a substantial deficit and the painful and lingering wreckage of a great recession, we must set aside politics and focus on progress.

I am honored to have this opportunity to serve. I am especially honored to serve alongside our State’s distinguished Senator, Tom Carper, and to serve at a time when the President of the Senate is another distinguished Delawarean, Vice President Joe Biden, whose service in this body for 36 years was marked by a tireless advocacy for American middle class and the people of our State. Membership in the Senate is a privilege not to be taken lightly, and I am determined to make the greatest contribution I can to solving the challenges facing us all.

Similar to my colleagues, my path to the Senate involved many experiences that have shaped my views and priorities. Growing up in Delaware, my family taught me the values of faith, hard work, and service to others. As a student, traveling and volunteering in Africa and later working with the homeless in this country, I learned difficult truths about poverty and human suffering but also witnessed the awesome power of hope and faith. Later, working for the National Wildlife Federation and running an AmeriCorps program, I saw the transformative power of education and of national service to change lives.

Following these early years of learning and service, I spent 8 years as in-house counsel to one of Delaware’s most innovative, high-tech manufacturing companies, where I saw the strength of American ingenuity and entrepreneurship. Later, as county executive, running a government that served half a million Delawareans, I learned how to make the tough choices that led to reining in spending, to growing our local economy, balancing a budget, and achieving a surplus. Most important, today, as a husband and father of three young children, I spend more time than ever concerned about their future, wondering whether we will leave them and all our children a nation burdened by debt and struggling to maintain its place in the world or a nation that is strong and focused on the fundamentals that made this the greatest Nation in human history. As a Member of the Senate, I look forward to applying these lessons while working with my new colleagues.

I said a few moments ago our constituents sent us here with the goal of getting our economy back on track, a goal of focusing relentlessly on economic recovery. However, mere recovery—recovery alone—cannot be our goal. The American people deserve and expect from us policies that will lead to an economy and a job market stronger, more vibrant, and more prosperous than before. To achieve this, we believe we need to pursue a new manufacturing agenda, one that will lead to the creation of inventive businesses and that will open new plants and hire skilled workers for modern and sustainable jobs, one that will produce the next generation of American manufacturers. It should focus on sustaining and growing American manufacturing by rewarding innovation and fostering outperformance every other Nation. Those great American strengths to an equally great American workforce.

As someone long committed to progress values, I believe the best way to stabilize and support families, to advance social justice and fight poverty, is through ensuring more and more Americans have access to good, high-quality jobs. I am encouraged President Obama chose to highlight competitiveness and innovation in his State of the Union Address and its potential to create those sustainable middle-class jobs. He is right to call this our generation’s “Sputnik moment.”

We have a choice. We can keep doing the things we have for years, but then we will simply keep getting the same results or we can recommit ourselves, as we did as a nation during the space race, to outinnovate, outcompete, and outproduce every other Nation. That is how we, once again, can spark an era of growth and prosperity. Unlike so many other sectors of our economy, with manufacturing, it is not just about creating jobs. It is about creating and sustaining good jobs that can earn a livable wage, provide quality health insurance, jobs with longevity and security.

According to the National Association of Manufacturers, the average manufacturing worker in our country earned 25 percent more than workers in all other sectors. That is over $72,000 last year, including pay and benefits, while the average nonmanufacturing worker earned less than $59,000. Manufacturing jobs means higher wages and better benefits, and they have for decades been a reliable path for the middle class for millions of hard-working American families. That path is not now and never will be wide or open as it was just 10 years ago. Since then, our Nation has lost more than 3 million manufacturing jobs not only to the developing world but to our competitors in the industrialized world as well.

For those who have lost jobs, the stakes couldn’t be higher, and for we as leaders our mandate couldn’t be clearer.