

solve this present crisis and get past the political stalemate is for the President himself to lead.

To illustrate the point, let me remind everyone of something that happened just 2 years ago next month—just 2 years ago next month—because it says a lot about the power of Presidential leadership in critical moments such as this. Less than 2 years ago, the President said he was not going to allow tax rates to go up on anyone because, as he put it, you do not raise taxes in the middle of a recession.

So let's leave aside for a second that if it was a good idea then, it is an even better idea now, since the economy is growing even more slowly now than it was in late 2010. Let's leave that aside.

The point is that the moment the President of the United States said those words—the moment he signaled he was OK to keep rates where they were—40 Democrats, including many who had spent the previous decade campaigning against them, got in line and followed his lead.

That is an example of Presidential leadership, and that is just what is needed now. The President is the only person in America—the only 1 out of 315 million—who can sign a bill into law. He is the only one who can lead the members of his own party to do something they would not ordinarily do. But first he needs to decide it is time to put away the talking points and do something good, something really good for the country.

Ronald Reagan understood this, Bill Clinton understood this, and President Obama seemed to understand it, too, in December 2010. So I will say it again. The only way we succeed is if the President steps up and leads. It starts by showing that he is serious about success.

Let's be clear. An opening bid of \$1.6 trillion in new taxes just is not serious. It is more than Simpson-Bowles or any other bipartisan commission has called for. It has been unanimously rejected in the House and Senate. It is twice as much as the White House seemed ready to agree to during last summer's debt ceiling talks and looked at in the context of the spending cuts that are yet to be enacted from the President's other proposals. It amounts to about 20 cents in cuts for every new dollar in tax hikes. In other words, no cuts at all. It is a joke—a joke.

Look, people I talk to across Kentucky do not want any more political fights. They would like to see us get somewhere. They want the two parties to work together to find a solution to our fiscal problems, and that is just what we are proposing. Yesterday, the President said he had an open mind when it came to finding a solution to those things. He said he is happy to listen to other people's ideas. I think that is a good sign.

If the President has an open mind, maybe he will see that Republicans are the ones who have expressed a willingness to step out of our comfort zone if

it actually leads to a solution. We do not happen to think the government needs more revenue. The government spends too much as it is. But if Democrats are willing to reduce spending and strengthen entitlement programs, which we all know are on an unsustainable path that threatens their own long-term viability and the economic well-being of our children and grandchildren, then we will be there.

What we will not do is raise tax rates and kiss goodbye more than 700,000 good jobs in the process. What we will not do is embrace a tax policy that disincentivizes saving and work. What we will not do is agree to revenue in exchange for reforms that we know will not ever happen. That is not a good deal for anybody, certainly not the middle class, which the President says he has a mandate to protect.

If the President wants to help the middle class, he will accept a basic outline that Speaker BOEHNER proposed last week and convince his fellow Democrats to do the same. Ignore the reckless voice of those on the far left who are calling for fiscal calamity. Ignore the extremists who want to cover their eyes and do nothing to protect and strengthen entitlement programs for the future and propose a plan that both sides can actually accept.

That is how we get out of this. That is how we succeed. The scope of this challenge calls for Presidential leadership. That is what the American people should be able to expect. That is all Republicans are calling for. It is the President's turn to propose a specific plan that brings both parties together. That is what Presidents are elected to do. That is what he pledged to do. It is precisely the sort of leadership we need.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### SPORTSMEN'S ACT OF 2012— Resumed

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 3525) to protect and enhance opportunities for recreational hunting, fishing and shooting, and for other purposes.

Pending:

Reid (for Tester) amendment No. 2875, in the nature of a substitute.

Reid amendment No. 2876 (to amendment No. 2875), to change the enactment date.

Reid amendment No. 2877 (to amendment No. 2876), of a perfecting nature.

Reid amendment No. 2878 (to the language proposed to be stricken by amendment No. 2875), to change the enactment date.

Reid amendment No. 2879 (to amendment No. 2878), of a perfecting nature.

Reid motion to commit the bill to the Committee on Energy and Natural Resources, with instructions, Reid amendment No. 2880, to change the enactment date.

Reid amendment No. 2881 (to (the instructions) amendment No. 2880), of a perfecting nature.

Reid amendment No. 2882 (to amendment No. 2881), of a perfecting nature.

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 3525, a bill to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes.

Harry Reid, Jon Tester, Kent Conrad, Joe Manchin III, Jeff Bingaman, John D. Rockefeller IV, Benjamin L. Cardin, Ben Nelson, Max Baucus, Jeanne Shaheen, Mark Pryor, Christopher A. Coons, Al Franken, Amy Klobuchar, Jim Webb, Mark R. Warner, Michael F. Bennet.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 3525, a bill to protect and enhance opportunities for recreational hunting, fishing, shooting, and for other purposes shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KERRY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The yeas and nays resulted—yeas 84, nays 12, as follows:

[Rollcall Vote No. 203 Leg.]

#### YEAS—84

Akaka	Feinstein	Mikulski
Alexander	Franken	Moran
Ayotte	Gillibrand	Murkowski
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Portman
Bingaman	Hatch	Pryor
Blumenthal	Heller	Reid
Blunt	Hoeben	Risch
Boozman	Hutchison	Roberts
Brown (MA)	Inhofe	Rubio
Brown (OH)	Isakson	Sanders
Burr	Johanns	Schumer
Cantwell	Johnson (SD)	Shaheen
Cardin	Johnson (WI)	Shelby
Carper	Klobuchar	Snowe
Casey	Kohl	Stabenow
Chambliss	Landrieu	Tester
Coats	Leahy	Thune
Cochran	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lugar	Vitter
Coons	Manchin	Warner
Corker	McCain	Webb
Crapo	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Enzi	Merkley	Wyden

## NAYS—12

Boxer	Kyl	Paul
Coburn	Lautenberg	Reed
Cornyn	Lee	Sessions
DeMint	Menendez	Toomey

## NOT VOTING—4

Inouye	Kirk
Kerry	Rockefeller

The PRESIDING OFFICER (Mr. UDALL of New Mexico). On this vote, the yeas are 84, the nays are 12. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Cloture having been invoked, the motion to commit falls.

## VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the cloture vote on the Sportsmen's Act (S. 3525). If I were able to attend today's session, I would have supported cloture on this legislation. •

Mr. PORTMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, the Reid substitute, S. 3525, the Sportsmen's Act of 2012, is legislation that has a lot of very good things in it. Senator REID attempted—although outside the normal committee process—to put together a package of bills that could do some good things. I generally am supportive of the package. I think it has some very good qualities to it, and I very much want to support it. But there is a problem with it. It is a small but important problem, and it needs to be fixed.

That is that, once again, after the Budget Control Act agreement reached in August, 15 months ago, the majority has brought forth a bill that violates the Budget Control Act, in which we agreed to a deemed budget as part of that process, and we are now spending more than we agreed to spend.

Fifteen months ago, we agreed to limit spending each year for the next 10 years and to stay within a limited amount of spending. Because we are borrowing virtually 40 percent of every dollar we spend, this country has a debt crisis staring us in the eye. Without any doubt, the most obvious threat to America's future is the surging debt: \$4 trillion-plus increased debt in just 4 years, and the end is not in sight.

So we agreed, as part of raising the debt ceiling, to limit spending. This bill violates that agreement, and we need not do that. This is not the first one; it is the fourth one. That irresponsibility is one of the things that has placed us into this fix.

We looked the American people in the eye 15 months ago and said, Okay, we will raise the debt ceiling \$2.1 trillion—because the administration had

reached the limit of borrowing that the United States can incur—but we will reduce our projected spending increases over 10 years by \$2.1 trillion. Part of the agreement in the Budget Control Act limited spending in various accounts, and this violates it.

You might say, JEFF, that is your opinion. No, it is not my opinion. I raised this with Chairman CONRAD of the Budget Committee, of which I am ranking member. He and his staff have looked at it, and they certify that this budget violation actually occurs; therefore, the legislation is subject to a budget point of order. It cannot go forward because it violates the deemed budget that we agreed to.

If the budget point of order is raised, which will happen, then my colleagues will have a choice: They can either place the bill on a sound financial path that does not violate the Budget Control Act; or, they can say, Well, we won't pay any attention to that objection. We will waive the budget and just spend more than the budget allowed, because this is really important. It is really important that we raise revenue and spend more on the duck program.

I have been supportive, and the duck stamp is important. But this is not the right way to do this. If you are going to spend more money, you need to reduce spending somewhere else.

Also, I would point out the legislation was changed from the time it came out of committee. Part of the legislation at least when it was proposed in the Committee on Environment and Public Works of which I am a member, we observed that the proposal was to give bureaucrats—government officials, unelected—the power to meet with special interests, or whoever they chose to meet with or not meet with, and set the amount of fees—taxes, you might call it—that would be required of Americans before they could hunt ducks. That has never been so. Previously, the Congress set how much you could charge for a duck stamp.

So this was raised in committee, and our able chairwoman Senator BARBARA BOXER agreed and by a voice vote it was accepted that Congress would set the limit on how much you could raise for duck stamps and burden duck hunters with. That is an important principle, in my opinion. That is violated by the bill that was brought up—not the one that passed committee, but the one brought up by the leader.

I grew up in the country. When I go back home, I love to be in the woods. I don't hunt anymore, but I have been a big supporter. Many of my friends are hunters and fishermen and conservationists. So it is sad that we are having a dispute over this legislation, because we are so close to being able to work out the problems. My request to Senator REID and to our colleagues would be: Let's fix this. Now it looks as though the bill will not be brought up until Monday when we come back, and I hope there will be ample opportunity

for us to fix this problem so we are not passing a bill that violates the budget.

Under the bill, it would authorize \$142 million in new direct spending over the next 10 years. Some may say that is not a lot, but if that is so, they have been in Washington too long. Mr. President, \$142 million is a lot of money, and it is a very important principle because this is not the first time we violated the Budget Control Act.

If we stay with our agreement that we made with each other, that we made with the American people 15 months ago when the Budget Control Act was agreed to, we will at least save \$2.1 trillion over 10 years. But if we keep nibbling away at it and eroding what we agreed to, we not only undermine our own credibility, but we weaken our ability to balance the budget. And if we reach a new agreement—which we need to do as we deal with the fiscal cliff then don't the American people need to know we will stand by the agreement we make? Don't they need to know an agreement is something more than a momentary event to get past a crisis and then the next year we can just ignore it? There is too much of this attitude in this Congress. That is one reason this country is in such a dire financial condition. The Reid amendment would violate the committee spending allocations in the deemed budget and would do it not only next year but every year over the next 10 years. This violation does not need to happen.

You say: This is technical. It is technical because it is paid for. We raise the revenue and we spend the revenue, but new spending is paid for by revenue—the tax increase on duck hunting—and therefore what are you worried about, Sessions?

What are we worried about? The agreement was that this whole area of spending would be capped at a certain level. The way to do this is, if you are going to spend more on the duck program, then reductions ought to be made somewhere else in this vast spending program or else you tax and spend. That is what we are doing. It is just tax-and-spend.

They say: We cannot cut anything else in the budget in dealing with interior, environment, and those issues. There is no way we can save another dime. We can't save \$14 million a year over ten years anywhere.

Of course we can. There are plenty of places to save it there and in any of the other items of this government that waste money. What are they really saying? What they are saying is that of all the money we are currently spending, all of that is more important than finding \$14 million to spend on more duck preservation programs. I am not sure that is correct. I am a believer in the duck stamp program, and I would like to see if we can figure out a way to do more to make sure we preserve those migratory bird habitats and the duck population in America, and I am prepared to be pretty aggressive as a Member of the Senate in developing

policies to do that. But you do not have to tax and spend more. That is the point.

If you look at it and say that we cannot cut any other spending in the entire Federal Government to find \$142 million for the duck program, I will just say to my colleagues, that is what we are paid to do. We are paid to make those tough choices. I don't like them sometimes, but it should not be hard in this instance to find this kind of payment. The idea that we can just up a fee and spend more money and violate the budget and nothing is going to happen and we are going to just go along and do that without objection, that time is over because we are in a debt crisis.

We have run up trillion-plus deficits for the last 4 years. President Bush's last deficit was huge. It was one of the largest we had in—maybe ever, \$470 billion. We have averaged about \$1,300 billion the last 4 years. The year before he left office, there was a \$160 billion deficit. So we have \$160 billion, \$470 billion, a trillion-plus, 4 consecutive years. We are on the road in just a few years to double the debt of the United States again. This cannot be sustained. That is all I am saying. We have had similar budget problems on the postal reform bill, the highway bill, and the veterans jobs corp bill. We have had problems with spending violations on those bills too.

I really hope we will use this period of time to work out some language that fixes this problem. My budget staff can provide a long list of things that would save us this much money and have no real impact on the productivity of our government.

The Migratory Bird Habitat Investment and Enhancement Act—that is a good name, sounds like something we should be for—would actually give the Interior Department a blank check to increase the price of the duck stamp. It gives the Interior Department—unelected bureaucrats—the power to set how much we pay. Currently, it is \$15. They could make it whatever figure the Secretary decides it should be, without any limit whatsoever. We discussed this in committee. The committee said: No, this is not the way we want to go. We have not done this before. Congress has stepped up to the plate and been responsible and decided how much we are going to extract from the American people before we allow them to go duck hunting. Granting that power to the Secretary is a significant change from what the committee voted on.

The duck stamp is purchased by all duck hunters in the United States. It was established in 1934. Since its beginning, it has always been set by Congress, not somebody in the bureaucracy. This is an unchecked power. I think it is a delegation of power to a person not accountable to the people, and it might violate the Constitution because only Congress can appropriate money and raise taxes. If it doesn't vio-

late the Constitution explicitly, it violates the spirit of the Constitution. Moreover, by increasing the price of the duck stamp, if you think about it, in this amendment—it is an amendment, a revenue-raising amendment to an S. numbered bill. Senator REID, therefore, by doing that, has put up a revenue enhancement bill originating in the Senate. The Constitution says revenue bills have to originate in the House. That places the bill in jeopardy. The House is very jealous—rightly so—of their constitutional prerogative of commencing all tax revenue bills in the House. The Congressional Budget Office, our objective analysis team, scores the duck stamp provision as an increase in revenue. If the House exerted its privilege under the Constitution, this bill would be subject to a blue slip, a rejection based on the revenue clause.

Also, amazingly, we have no amendments. There is no process to even bring up amendments to vote. So we are stuck with the position of either supporting the bill as is in all its complexity or not. If we fixed this matter, I would be supportive of the bill. We tried to study it. I think it is OK and pretty good, actually. It is a positive step in the right direction if we simply fix this. So the proper remedy for this situation is to allow amendments or send the bill back to committee and figure out how to pass legislation that is within the budget limit.

I will not mention all the good things about this bill. There are a lot of them: the National Fish and Wildlife Act; the North American Wetlands Conservation Act has some good provisions in it. A number of the other pieces of legislation are excellent. I do not think that is in dispute. It is supported by a lot of great wildlife organizations. I support that.

On September 22 the Senate voted 84 to 7 to invoke cloture on a motion to proceed, with the full expectation that when the Senate returned this month, an opportunity would be provided to address the budget concerns and to improve the bill. But now we see that my friend the majority leader has decided to move forward without confronting these issues.

I hope we can figure out a way to avoid this situation. Maybe people did not think about it clearly. Maybe they just thought it is paid for, therefore it cannot be a problem with the budget. But even though it is paid for, it really is a problem with the budget, and we do not need to delegate to some unelected official, even if it is constitutional—about which I have doubts—the ability without limit to raise fees for a normal historic right of Americans to go hunting ducks. I believe that has to be fixed, too, and we should do that.

Finally, I understand the intent is to recess for the rest of the day and all next week. However, in the Armed Services Committee yesterday, we were told we can get the armed services authorization, the Defense author-

ization bill up for a vote. We can actually bring it up and we can have a vote, and this is great news, and we have to do it in 3 days and very limited amendments, but if you Republicans will agree with that, we can get the bill up.

This is the first time in 50 years we have not passed a Defense bill prior to the September 30 fiscal year end. We are already into the new fiscal year. It should have been passed long ago. More than that, we could have spent 3 weeks on the Defense bill. We did nothing in September. We are doing nothing next week.

What is this about? It is about the management of the Senate defeating the historic ability of Members of the Senate to actually participate in the great issues of our time. One of them is the Defense Department budget and policy. The Defense authorization bill came out of the Armed Services Committee unanimously, but several of us in committee said that we have amendments we want to bring up on the floor. Other Members not on the Armed Services Committee have a right to talk about this \$540-some-odd billion expenditure, the largest single expenditure outside of Social Security and Medicare in the entire budget. We are supposed to be thankful we did nothing in September, we are going to do nothing next week, but you now only have 3 days and just a very few amendments, and Senator REID will pick and choose which ones you Republicans get to offer. That is why we are having problems.

Senator REID continues to assert that Republicans are filibustering. What Republicans are saying is we are prepared to move to these bills, but we would like the leader to tell us how many amendments we can get. He has figured out a way to fill the tree—what we call the amendment tree—to a degree that has never been done before, and that allows him to pass legislation without any amendment.

So we say we would like to have amendments, Mr. Leader. This is the Senate.

OK. Submit a list of them to me. You can have two, and it can't be this amendment, it can't be this amendment, and it can't be this amendment. It can only be these kinds of amendments. We will be nice to you. Well, maybe three. Ok, you get three—on a \$540 billion defense bill that sets the policy for our military, that decides what weapons systems we are going to invest in with billions of dollars?

Some people in this Senate have opinions about it and they want to come to the floor. Maybe when they were campaigning they said: I am against such and such in the Defense bill, and they want to come here—and it is in the bill and they are against it and they want to offer an amendment and explain why it shouldn't be in the bill. They want to offer an amendment to take it out.

Sorry. We don't have time.

I think this is a dangerous trend. I believe we shouldn't be recessing

today. I believe we should be working. We have the fiscal cliff. We have the defense sequester. We have monumental tax increases about to occur. We have the death tax going to 55 percent of virtually anything somebody has. All these things are going to happen if we don't take some action. We have all these people talking, secretly planning and talking and working, and so about Christmas Eve I suspect they will walk in here with a plan we will be told we have to support or else we will work through Christmas or on January 1 we will be here, and we will have a catastrophe if all these bad things happen.

The President will not even say what he is for. He will not even lay out a plan. Congressman RYAN laid out a plan. He has defended it all over the country and is prepared to discuss it and explain it. What is the President's plan? What is Senator REID's plan? Does the majority leader have any plan to confront our pension programs for Social Security and Medicare that are going broke? Does he have any plan to fix them? What is it? Isn't this important? Does he have any plan to get us off this trillion-dollar debt course? What are we going to do?

Growth is going down. We were at 2.4 percent in 2010; we had that much GDP growth. We have had a very slow recovery from the 2007–2008 recession. But then did it go up in 2011? No; it dropped to 1.8. What about the first three quarters of this year? It was 1.77. The growth is not occurring. We are borrowing and spending, but we are not creating growth. I think we need to deal with this crisis we face and the uncertainty of policies is hurting America's economy also.

I am disappointed we are not dealing with these important issues. I am disappointed we are recessing, and we need to do better.

Mr. DURBIN. Today the Senate voted to end debate on S. 3525, the Sportsmen's Act of 2012. Along with 84 of my colleagues, I voted to support cloture in an effort to move this bill forward. It is a compilation of almost 20 different pieces of bipartisan legislation that are important to the sportsmen's community. The Sportsmen's Act will increase habitat conservation while improving access to recreational fishing and hunting lands. These are laudable goals that are worth supporting. However, the bill also contains troubling provisions allowing the importation of polar bear trophies and lead ammunition that I hope will be changed before final passage of the bill.

In its current form, the bill would allow several hunters who killed polar bears in Canada before a ban was put in place to bring those bear hides back to the United States. This provision would reward hunters who unethically killed polar bears despite multiple warnings of an imminent ban on imports and the imminent listing of polar bears as an endangered species. If enacted, this provision could easily lead

to outcomes that no one wants—it could increase demand for polar bear trophies and lead to more poaching or illegal trade of polar bear parts. It could also stimulate demand for other exotic and endangered animal parts from around the globe. That is why I am a cosponsor of Senator KERRY's amendment to remove this provision from the bill.

I also oppose the current bill's exemption of ammunition and fishing tackle from regulation under the Toxic Substances Control Act. Many people are concerned that wildlife in heavy-hunting regions is being poisoned as they consume prey that contains lead ammunition fragments. The U.S. Fish & Wildlife Service banned the use of lead shot for hunting waterfowl nationwide in 1991 because of concerns that lead shots were causing sickness and death in migratory birds that end up ingesting the shots. And several states have banned the use of lead ammunition in areas where protected bird species live. Exempting ammunition and tackle from EPA regulation doesn't make sense when we know these products are harmful to game and birdlife. I hope the Senate will adopt Senator LAUTENBERG's amendment, which I cosponsor, to remove this provision from the bill.

Ensuring adequate funding for conservation programs and access for sportsmen to recreational lands is important. There is no doubt about that. I support that. But these goals should not be achieved at the expense of animal welfare or public health and safety.

I thank the Chair and yield the floor. The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I listened with interest to my colleague from Alabama, and I have great confidence that we will have a robust debate on the National Defense Authorization Act over the next few weeks and that we will keep our record intact that has now been in place for some 50 years of putting in place a national defense authorization act. We did so at this time last year and we did so the previous year and I have every confidence that we will have a comprehensive national defense authorization act that will direct the Pentagon and all the men and women in uniform who serve us so well as to the policies of the United States. I know I will work with my colleague from Alabama to see that accomplished.

#### WIND PRODUCTION TAX CREDIT

I come back to the Senate floor, as I have on many occasions, to urge all of us to take action on a policy that is bipartisan in its support and in its ramifications, and that policy is the production tax credit for wind energy. We need to renew that production tax credit. Why? It has encouraged billions of dollars in investment and it has helped create tens of thousands of good-paying American jobs all across our country.

However, I have to tell my colleagues that our inaction over these last few months is jeopardizing the future of what is a very promising industry. We have literally, over the last months, seen wind industry jobs in the thousands disappear. That is not just a statistic. That is not just a statement. Those jobs have affected real Americans. These job losses were completely preventable. It is time for us to get back to work and extend the production tax credit so our wind industry can also get back to work.

One of the things I have done is I have come to the floor some 20-plus times to focus on an individual State. Today I wish to speak about a State that has an incredible potential for wind power; that is, Montana, the "Last Best Place" as Montanans like to describe their amazing State. Similar to almost every State in the country, Montana has seen the jobs, clean energy, and economic benefits of wind power.

I wish to take the viewers on a little bit of a tour of Montana. "Big Sky Country" is home to wind resources that could mean the State's current electricity needs 210 times over. When we compare that to other States, we see that Montana then has the third highest wind resource potential in the country. So it is a prominent player in the future progress of our Nation's wind industry. Therefore, it is no wonder that Montana has seen strong development in the wind industry sector.

Looking at this map, Toole County, up here in the northwest corridor of Montana, is the site of a new wind farm, the Rim Rock Wind Farm, north of Cut Bank. It has 126 turbines. They completed the project in September of this year. What is most important is when we think about the jobs for local workers, the generation of \$2 million in tax revenue which contributes to the \$5.7 million in property taxes from wind farms across the State, it all goes to those local communities for schools, roads, and social services to enhance the quality of life for Montanans. The Rim Rock Wind Farm will power thousands of Montana homes and, along with other wind farms across the State, as I have mentioned, it provided great construction jobs as the project was built.

So Montana will continue to be an attractive State for wind development. However, with the expiration of the PTC looming—literally, within a few weeks the PTC will expire—the future growth of this important industry in Montana is in jeopardy.

We have seen how important this industry is to our energy and manufacturing future. If it is sidelined by partisan wrangling, that would truly be a tragedy. I know—as does the Presiding Officer in his State of New Mexico as well as my State of Colorado—and the people in Montana know we need an all-of-the-above energy strategy to improve our overall energy security, and wind is playing a major role in that effort.

We know Montana's two Senators, Senator BAUCUS and Senator TESTER, are hard-working. They are very effective. They have always supported the production tax credit for their State and for the country. Senator BAUCUS, as the chairman of the Finance Committee, pushed forward bipartisanly supported tax extenders in early August that included the extension of PTC. It is crucial we take up this package as soon as we possibly can and pass it. I wish to acknowledge the work of Senator BAUCUS and his focus on creating American jobs and securing true energy security. However, his work—our work—isn't finished. We have to get the PTC over the finish line and affirm our solemn commitment in this Chamber to Made-in-America energy and American manufacturing. It is this simple. If we fail to extend the production tax credit, we are, in effect, shipping thousands of jobs overseas to places such as China and Europe and our foreign competitors.

So I come to the floor again to implore all my colleagues to stop this possibility from becoming a reality. I wish to reiterate this isn't a partisan issue. There is broad support in this body for wind energy. There is also support in the House. So there is bicameral support as well as bipartisan support. We risk losing thousands of jobs and crippling an industry that is just now establishing itself as a very important part of our economic portfolio.

I think the Presiding Officer would agree we are sent by the people of our States to make smart, informed decisions about the future on behalf of the American people. If we let this important production tax credit expire, it would be a decision we would all regret. I wish to underline as well that the tax credit is applied once that power is produced. This isn't a speculative subsidy. This isn't based on hoping something will happen. It actually is based on power that is produced and that tax credit is directed to the utility or the power company and, in some cases, the community power agency that provides the power. So it is based on actually producing those electrons through wind energy.

Let's show America and the world we are as committed to energy independence and job creation as we often say. Wind is key to reaching that goal. Wind is the path to that goal. Let's put action behind our words and pass the production tax credit as soon as possible.

It is as simple as this: The production tax credit equals jobs. Let's pass it as soon as possible. Let's pass it ASAP.

Thank you. I look forward to sharing some perspectives on the great State of New Mexico soon in the future, and I thank the Presiding Officer for his attention.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

Mr. LEE. Mr. President, I stand today to explain my "no" vote on cloture this morning in connection with the sportsmen's bill, S. 3525.

This is a large bill. It is made up of a number of legislative proposals that have been put together. In many settings this is a good way to legislate. In many respects it is, and we utilize this procedure on an almost constant basis in order to make the laws of our country. Like many other pieces of legislation that come before us that have been formed in this fashion, this is a bill as to which I can say I support it in part and I don't support it in part. There are parts of it I like a lot, and there are other parts I like a lot less. That is exactly why we have an amendment process. True debate in this country, especially in this body, presupposes and depends for its existence on the availability of an open amendment process.

You see, when people go into a store, they can decide which items they want to buy. They can decide to buy bread and milk and eggs or any combination of the three or other products they might want. It would be disturbing if they got to the grocery store counter and were told they may not buy bread and milk and eggs unless they also buy a bucket of nails, a half a ton of iron ore, a book about cowboy poetry, and a Barry Manilow album. Sometimes that is what we are told when we get to the table to vote in the Senate. In order to get some things we want, we have to buy a whole bunch of other things we might not want.

That is a reality of the legislative process. It is a reality that goes along with compromise, and it is one we live with every day. But, again, this is why it is important for us to have an amendment process, so that we can at least debate the relevant merits of each piece of legislation. More importantly, so that we might figure out how to take a good piece of legislation and make it better or how to take a bad piece of legislation and make it good.

In this circumstance, the majority leader has used a procedure known as filling the tree. He filled the tree, which means, in effect, that we can't offer amendments. We can't offer any amendments other than those few the majority leader decided could be offered. This shuts down debate. There can be no significant debate beyond that which will lead to a vote once the tree has been filled. This is a problem.

Now, Republicans in this body, myself included, voted recently to proceed to this bill believing in good faith there would be an opportunity to amend this bill. The bill is important to me in many respects. One of the

things that has gotten my attention is that it addresses a number of issues related to Federal public lands. It addresses a number of other issues related to wildlife conservation and wildlife management and other issues that are important to hunters and other outdoor enthusiasts across the country and in my State in particular.

One of the reasons this bill is especially important to me is that I represent the great State of Utah—a State that has a lot of Federal land. In fact, two-thirds of the land in my State is owned by the Federal Government. For that and other reasons I would like the opportunity to address this piece of legislation by offering amendments—amendments that would make a good bill better.

But this process—a process whereby the majority leader rules this body by dictate—is not good for the Senate. We have come to expect the Senate will be a great deliberative body. In fact, the Senate has long prided itself on being the world's greatest deliberative legislative body.

There are a number of realities about the Senate that make this possible—far more possible than it might be in the House of Representatives. Here in the Senate we have only 100 Members. Just down the hall, in the House of Representatives, they have 435 Members. In that body it is not always possible to have an open amendment process. In this body it is assumed this is the usual order. This is how we are supposed to operate, to have an opportunity for Members to offer and debate and discuss amendments in advance of voting for the bill at the end of the day. Yet we have not had such an opportunity in this case because the leader filled the tree.

This is significant, and I want to emphasize this point. It is true, of course, that majority leaders from both political parties have utilized this procedure from time to time, for one reason or another—perhaps out of a professed need to expedite the legislative process in certain instances. But this majority leader has utilized this procedure a lot more than others. In fact, he has utilized it, by my count, a total of 67 times, more than any other majority leader in history. Why, I ask, has he done this? Why did he do it in this circumstance? Why has he done it in so many other circumstances throughout this Congress and throughout his service as majority leader?

Is it because the Senate has demonstrated an inability to debate and discuss bills and amendments to bills in a reasonable, responsible manner? I don't think so. Let's point to a couple of examples. For example, the National Defense Authorization Act, which this body passed toward the end of last year—the NDAA of 2011. It passed out of this body overwhelmingly, notwithstanding the fact there were a number of amendments introduced. I believe there were dozens of amendments that were introduced, debated, discussed, and ultimately voted upon.

Another example involved the farm bill. It was passed by this body earlier this year. If I am not mistaken, we had over 70 amendments to that bill. I appreciated the majority leader's willingness in that circumstance to allow us to have a pretty open, robust debate and an open amendment process. We still passed the bill, even though we had to conduct a lot of debate and have a lot of discussion and have a lot of votes. But this, you see, is what makes this the greatest deliberative body in the world.

This is what separates us from other legislative bodies around the country and throughout this planet. So it is not the case the Senate simply isn't responsible enough to be able to handle something such as an open amendment process because it has demonstrated its ability to do so time and time and time again.

Now, let's talk about some of the things I like in this bill. I support the fact that this bill would increase access to public lands and remove some burdensome regulations on some activities occurring on those lands. On the other hand, I am not as wild about the fact that this bill devotes \$6.5 million on neotropical migratory birds on a program that would require 75 percent of those funds to be spent outside the United States. I know in the big picture of things this is a very small figure in terms of our total national budget. Nevertheless, this is a lot of money. It is a lot of money to hard-working Americans who are paying their taxes in order to fund programs like this. We ought at least to have an opportunity to debate amendments so that Americans can feel as if their money is being spent in the United States for causes that are important to Americans and not on birds outside the United States.

Other Senators have other differences with the bill, other concerns. I agree with some of those concerns; I disagree with others. Each of them should have an opportunity to have those concerns aired, to have them debated in connection with amendments they might choose to introduce. We should be debating all of them. Instead, in effect, we are debating none of them.

That kind of process is especially important in this circumstance because, you see, this bill, as I understand it, has never gone through committee. Normally, in committee we have an opportunity to put a bill through the markup process, to make amendments in committee. This didn't go there. All the more reason we should have an open amendment process right here.

So I have introduced several amendments, and I will refer to just a few of them. One of them would involve a proposal to not spend money we don't have in order to support the conservation of multinational species. It will cost \$150 million over 5 years. In other words, it is one thing to spend money on habitat preservation and species rehabilitation for species that actually exist in the United States. It is another

thing to spend a lot of money on species outside the United States, on creatures that have never entered our borders and never will. That is something I think Americans are concerned about, and it is something I think we ought to have a chance to debate as long as we are debating and voting on this legislation.

I have another piece of legislation that would require State legislative approval for any new Federal land designations. As I said a few minutes ago, with the Federal Government owning two-thirds of the land in my State, I am especially concerned about the possibility of, for example, the President deciding to just designate a new national monument within my State. This happened a few years ago when President Clinton designated the Grand Staircase Escalante National Monument inside Utah. He didn't go to Utah to announce it, he went to Arizona to announce it.

This is beautiful land. It is beautiful territory. But all of this was accomplished by the stroke of a pen from one Chief Executive without any opportunity or input from Utah, from its 3 million residents, from its elected officials. I think anytime the Federal Government takes this kind of action—action that will have a profound impact on the State, on its sovereign rights, on its ability to raise revenue, on its ability to encourage and promote economic activity within its boundaries—there ought to be input and approval from the State legislature. I have an amendment that would address this concern.

I have another amendment that would offer certain Federal lands for disposal by a competitive sale process. We have an enormous amount of land in this country. Some of it is being put to good use; other land is being set aside because of its wilderness characteristics; still other land is just sitting there not doing anything. I think some of that land could be sold and some of that money could be used to fund our programs—programs that are cash strapped, along with everything else in this country right now.

These and other amendments need to receive consideration. I am not saying every one of them has to pass in order for this legislation to proceed, but every one of them ought to be debated, and the American people should have an opportunity to have their input through their own elected Senators.

I would deeply regret it if this were somehow an indication that our majority leader intends to operate the Senate this way, not only throughout the duration of this Congress but into the next Congress as well. I want to be clear that I have great respect and admiration for our majority leader. I have known him for most of my life—since I was 11 years old, in fact. I consider him a friend.

I ask him—I implore him—as my friend to reconsider this practice of filling the tree and thereby forestalling

the introduction of amendments. We need an open amendment process. Our status as the world's greatest deliberative legislative body requires nothing less.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CYBER SECURITY

Mr. MCCONNELL. Mr. President, last evening the majority leader had a second cloture vote on S. 3414, the Lieberman cyber security bill. This vote to end debate on a comprehensive, complex bill that was never reported out of committee or subject to a markup came despite the fact that not a single amendment, except for those used to fill the amendment tree, was allowed to be made pending to the bill.

The majority leader had made prior commitments to allowing a free and open debate on cyber security, a matter that Republicans acknowledge must be addressed, especially in the areas of information sharing, and providing some degree of liability protection to those companies that do share cyber threat information with one another and the Federal Government. Yet, despite this commitment, the majority leader triggered this second cloture vote on the bill and filled the amendment tree throughout floor consideration of cyber security legislation.

Now the Senate will hopefully move to a full and open debate of the national defense authorization bill. During the time that that bill is considered on the floor—and I do expect that bill to be subject to an open amendment process—my hope is that the majority leader will work with me to reach agreement on allowing a debate on cyber security legislation with Republican amendments in order, especially since the ranking members of Armed Services, Intelligence, Commerce, and Judiciary are all cosponsors of a cyber security bill that needs to be considered as part of this debate.

My expectation is that sometime in December after we have completed floor debate on the Defense authorization bill, and then disposed of the Intelligence authorization bill, we will then attempt to get an agreement on amendments to the cyber security bill.

#### TRIBUTE TO ERNIE ALLEN

Mr. President, I rise to pay tribute to a close personal friend of mine of over 40 years, a Kentuckian who is a hero to his country and an inspiration to many for his work on behalf of children where he has made a national impact.

In his 23 years of service as president and chief executive officer of the National Center for Missing and Exploited Children, Ernie Allen has saved thousands of lives and reunited thousands of families.

Today, November 15, Ernie retires from the helm of the National Center for Missing and Exploited Children, a private nonprofit center which he co-founded. Under his leadership, the National Center assisted in the recovery of more than 178,000 missing children. They have trained almost 300,000 law enforcement and criminal justice professionals in policy and protocols for missing children investigations. And they have achieved a missing child recovery rate of 97.7 percent.

Losing Ernie's talents at the National Center will be a loss for Kentucky as well as for the Nation. Kentucky was proud to have one of our own leading this important cause. I have known Ernie for over 40 years, dating back to our days at Manual High School in Louisville. On the same day I won election as president of the student body of the high school, he was elected president of the junior high portion of the same school. We both went on to attend the University of Louisville and were actually fraternity brothers there.

Knowing Ernie so well, I can assure you that his dedication to rescuing missing children runs very deep. Over 25 years ago, when I was judge executive in Jefferson County—a position that is the head of the executive branch of county government—Ernie was the director of the Louisville/Jefferson County Crime Commission. Louisville, of course, is the major city located within Jefferson County, and in fact these days the city and county governments have merged. That was not the case, however, in those days, and we in the county government had to coordinate and work with officials in city government. This Louisville/Jefferson County Crime Commission was one of the best examples of cooperation between city and county government back in those days.

That commission was the first of its kind to bring police officers and social workers together on behalf of kids. Just one innovation Ernie came up with back then was to make a fingerprint card for as many Kentucky kids as possible, and send that card home to the child's parents to use to assist investigators in the awful event their child ever went missing.

Ernie's work in Kentucky established him as a national leader in his field as early as 1981. At that time, no nationwide organization existed to share and distribute information on missing children. If a child was abducted and taken over a State line, or even a county line, the chances that law enforcement in the new jurisdiction had all the information necessary to save that child were quite small.

Ernie led the effort to lobby Congress to establish laws so that police could talk to each other across boundaries about these missing children. His work and patience bore fruit in 1984, when President Reagan signed the bill creating the National Center for Missing and Exploited Children as a public-private partnership.

Ernie was an integral part of the founding of the National Center. He then became its president and CEO in 1989. He has been a nationally recognized authority in combating child abduction and exploitation for decades. The U.S. Justice Department sought out his expertise in the wake of the tragic child murders in Chicago and Atlanta, Congress has sought his expert testimony many times on issues ranging from international child abduction, to missing children, to online crimes against children.

Ernie worked to secure the passage of the National Child Search Assistance Act, which prohibits waiting periods for initiating missing child investigations. Previously, some law enforcement agencies refused to take reports of missing children until a certain period of time had elapsed. Now, thanks to Ernie, there are no unnecessary bureaucratic delays in cases where any hesitancy can be the difference in returning an abducted child to their parents or opening a murder investigation.

Ernie advocated for the AMBER Alert Program, which has to date saved 600 abducted children. Today there is an AMBER Alert plan in every single State. Ernie has always recognized the critical role technology plays in these rescue efforts, from the AMBER Alert, to his spearheading the launch of the National Center's CyberTipline in 1998. This so-called "911 for the Internet" is a clearing center for reports on crimes against children on the Internet, and so far has received more than 1.5 million reports.

Ernie is a lawyer and a member of the Kentucky bar. He is also a teacher, having held faculty positions at the University of Louisville, the University of Kentucky, and Indiana University. He has been honored by his alma mater, the University of Louisville, as a distinguished alumnus of the Louis D. Brandeis School of Law, and as an Outstanding Alumnus of the College of Arts and Sciences.

I am pleased to report to my colleagues that Ernie will not be leaving the fight for America's kids. No, his passion won't allow him to take a typical retirement. We are lucky that even as he is stepping down from his role at the helm of the National Center for Missing and Exploited Children, he will now focus exclusively on his new role as president and CEO of the International Center for Missing & Exploited Children.

If there was some way for me to express the gratitude that literally thousands of American families have for Ernie and the National Center, I certainly would, but that seems impossible. Imagine the relief of just one family who fears the worst about a missing son or daughter and then, thanks to the National Center for Missing and Exploited Children, is reunited with their child safe and sound. Multiply that by tens of thousands, and you will only just begin to see the enormous difference Ernie has made

during his career. I am honored to say that I have watched and admired his work for many years, and I am honored to call him a friend.

Thank you, Ernie, for your great contribution to the cause of justice.

I wrote Ernie a letter congratulating him on his career and wishing him well on his retirement, and I ask unanimous consent to have that letter printed in the RECORD.

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

NOVEMBER 15, 2012.

ERNIE ALLEN,  
President & CEO, National Center for Missing & Exploited Children, Prince Street, Alexandria, VA.

DEAR ERNIE: It is an honor to express to you my gratitude for your dedication to protecting America's children. You've brought peace to thousands of families, and your retirement from the National Center for Missing & Exploited Children will be a great loss.

When you took the reins at the National Center in 1989, it was easier to track down a missing car than a missing child. Now, thanks to your efforts, the National Center boasts a 97.7 percent recovery rate.

As your friend of over 40 years, I've been inspired by your career and character. Thank you, Ernie, for serving this mission of justice.

Sincerely,

MITCH MCCONNELL,  
United States Senator.

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

(The remarks of Mr. WARNER pertaining to the introduction of S. 3635 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation? Are we in morning business?

The PRESIDING OFFICER. We are postclosure on S. 3525.

Mr. LEAHY. I thank the distinguished Presiding Officer. I ask unanimous consent to proceed for no more than 5 minutes as in morning business and then resume in the regular order.

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

VERMONT CHAMBER OF COMMERCE'S CITIZEN OF THE YEAR

Mr. LEAHY. Madam President, Vermont is a small State, but it is filled with very big people. Perhaps none are better known or more well liked or more respected than Antonio Pomerleau. He is the Vermont Chamber of Commerce 2012 Vermont Citizen of the Year. Vermonters know Tony Pomerleau by many names. They either call him Mr. P or Tony. My wife

Marcelle and I have the good fortune of calling him Uncle Tony. He is my wife's uncle. They have a family bond that I admire. But no matter what we call him, we all agree that the best term to describe Uncle Tony is "generous."

This is not the first time I have come to the floor of the Senate to share stories of Tony Pomerleau's good deeds. Only 6 years ago, the Burlington Free Press named him the 2006 Vermonter of the Year. After that editorial, I came to the floor to tell the story of a successful real estate magnate turned philanthropist who touched the lives of thousands of Vermonters for the past several decades. At that time, he was 89 years old.

This year Tony has undertaken a series of good deeds so substantial that it would be irresponsible if we Vermonters did not acknowledge him with additional recognition and praise. In addition to his unwavering philanthropic commitment to Vermont, this year Tony has demonstrated why he is seen as a pillar of our community—I might say a granite pillar of our community. When Tropical Storm Irene destroyed people's homes, Tony immediately donated \$1 million to put them back together. When a decade-long struggle to save a mobile home park in Shelburne, VT, seemed destined to fail, Uncle Tony showed up to rebuild the neighborhood and donate it to the residents. And when his hometown, Newport—Marcelle's birthplace—began discussing plans to reinvigorate its beautiful waterfront, Tony offered to lead the way.

Any one of these three activities over a lifetime would warrant a lifetime achievement award. But Tony Pomerleau did them all in 1 year—at the age of 95.

This year's very public good deeds go hand in hand with a lifetime of public and private philanthropy. His generosity has touched tens of thousands of Vermonters, from college students at St. Michael's College, where he has been a leading benefactor, to the struggling families who attend his community Christmas parties, to the families of our deployed Vermont National Guard members who are able to come together in celebrations with Tony's support.

Perhaps the best gift Tony Pomerleau has given Vermont is the sense of community and work ethic he has instilled in his family and employees. He and his wife Rita had 10 children, 8 of whom remain with us today. And often one of his many grandchildren travels with him when he goes around the State.

Vermont is a better place thanks to Tony and his good deeds. On behalf of all Vermonters, I thank the Vermont Chamber of Commerce for spotlighting Antonio Pomerleau's good works on behalf of his beloved fellow Vermonters.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARDIN.) Without objection, it is so ordered.

#### THE FISCAL CLIFF

Mr. CORNYN. Mr. President, the American people have spoken, and once again they have given us divided government. In that sense, we can say this was a status quo election. Before the election, just a week or so ago, we had President Obama in the White House, Democrats controlling the Senate, and Republicans controlling the House of Representatives.

After the election, we have President Obama in the White House for another 4 years, Democrats controlling the Senate, and Republicans with the majority in the House. What that tells me is the American people do not completely trust either political party to come up with all the answers. They want those kinds of checks and balances that divided government brings; that is, conducive of consultation, deliberation, negotiation, and compromise, not the kind of compromise that violates one's most fundamental principles.

That would be wrong. But as one of my colleagues had told me who actually—Senator ENZI, I will use his name, from Wyoming, one of the most conservative Members of the Senate on our side from Wyoming, he worked famously with that—I say this with all due respect—liberal lion of the Senate, Teddy Kennedy, worked very productively to produce a lot of legislation out of the HELP Committee.

One time I asked Senator ENZI how was it that he and Teddy Kennedy—in other words, one of the most conservative Republicans and one of the most liberal Democrats—how did they work together so productively to come together to pass legislation. He said it is easy. It is easy. He said it is the 80-20 rule. I know it sounds simplistic, but there is a lot of wisdom there. If two people are trying to work together in a bipartisan way to try to advance solutions to our Nation's problems, neither side is going to get all they want. The only way perhaps to come up with moving the ball down the road or advancing solutions is to say: You know what. Do not let the perfect become the enemy of the good, and let's take the 80 percent we can agree upon and leave the 20 percent we cannot agree upon for another day and another battle.

A lot of wisdom in that it strikes me. The fact is that divided government means that neither Democrats nor Republicans are going to get everything they want. No legislation can pass. It cannot pass, no legislation can, strictly along partisan lines. It means bipartisan compromise is the only avenue to avoid further gridlock.

This Congress has kicked a lot of cans down the road. We have punt-

ed over into the lameduck session issues that we should have dealt with months ago in the regular order of things without the imminent pressure of the fiscal cliff or other things that threaten to put our country into a recession.

But the fact is, divided government has yielded some very positive developments for the American people in the past. In 1986, it produced landmark tax reform when Democrats and Republicans—Ronald Reagan as President, worked together to make our Tax Code more logical, more equitable, and more efficient. Ten years later, divided government produced a sweeping overhaul of our welfare system under then-President Bill Clinton. Conservative Republicans joined with a Democratic President to help millions of lower income people break free of the cycle of dependency and despair.

Of course, we know we have divided government. As I said earlier, we had a status quo election in that sense. We have had divided government since January 2011 when Republicans regained the majority in the House of Representatives. The result over the last 2 years sadly is it has produced legislative stalemates and bitter re-creations. Why should anybody think things will be different going forward?

I think what is different now from then is that Republicans and Democrats alike recognize we are at a crossroads, that our current fiscal path is unsustainable, and that we are either going to send the economy back into a recession unless we deal with the fiscal cliff and the sequestration or the alternative is—and being an optimist by nature I think we have an opportunity to address some of our Nation's most challenging fiscal issues.

But the fact is this. I would love to have someone tell me I am wrong. I would love to understand any reason they would disagree with this. But I would say it should be stipulated by Republicans and Democrats alike that we cannot continue to run trillion-dollar annual deficits. We cannot continue to run the Federal Government borrowing 42 cents out of every \$1 the Federal Government spends. We cannot do it.

The only reason we can do it now is because interest rates are at historic lows. Because of what is happening in Europe, the American dollar is probably the only safe currency, safe harbor in the world now for people worried about protecting their savings. But we cannot continue along this path. If, for example, interest rates go up, the amount of money we must pay to our creditors such as China simply to keep buying our debt—if it were to go up to historic norms, our national debt would spiral out of control.

Right now we see this on our savings, on money market accounts or savings accounts. If we want to save some money, about the best interest rate we can get is less than 1 percent return on our savings because the Federal Reserve has worked to keep interest rates

very low in order to help juice the economy and, hopefully, keep us from going into recession again. But we cannot continue down this path. If interest rates were to return to their historic norms, we would spiral out of control and into a recession or worse.

Secondly, we cannot continue to put off structural changes in Social Security and Medicare. I would think Republicans and Democrats alike would agree that we want to save and preserve Social Security and Medicare for our seniors. We may have different ideas about how to do that, but I would think we could agree on the goal. So far we have heard nothing from the President to deal with our broken programs such as Social Security and Medicare.

Unless we are happy with the Tax Code that wastes economic resources, that stifles job creation, and promotes crony capitalism, we cannot delay genuine tax reform. So we have an opportunity. We do not have to speculate on what bipartisan tax reform looks like. We do not have to speculate. We do not have to start from scratch. That is because in 2010 two separate bipartisan commissions recommended lowering the rates and broadening the base and eliminating a lot of tax expenditure deductions and credits which, in order to get the revenue the Federal Government needs to operate every time we grant a new tax expenditure, deduction or credit, what it means is we need to raise marginal tax rates, the percentage of tax people need to pay out of their net worth. Why is that important?

Because the higher we raise marginal tax rates, it operates as a disincentive on small businesses and individuals whom we are depending upon to grow jobs. Many small businesses do not operate as a corporation, a big C corporation, they operate as a subchapter S corporation. They operate as a sole proprietorship or a partnership. The point is they pay business incomes, the people who run those small businesses, they pay flowthrough income on a personal tax return not on a corporate tax return.

So higher marginal rates disincentivize these smaller businesses from spending money to hire new staff or to start or expand their existing business. That is why keeping marginal rates down low for as long as we can for everybody is so important. Yet before we get to this important point of dealing with our broken Tax Code, before we can implement this, support this sort of comprehensive tax reform that they did in 1986 with President Reagan and Democrats in Congress, we need to stop America from driving off the fiscal cliff.

If we do not act between now and the end of the year, Republicans and Democrats alike, we will see the single largest tax increase in American history. How is that possible? As you know, the so-called Bush tax provisions that were passed are getting ready to expire. Those only lasted for 10 years.

In 2010, President Obama agreed with Republicans and our Democratic friends agreed with us. As a matter of fact, the extension of the so-called Bush tax rates was passed with 81 votes in the Senate in 2010. At the time, President Obama made what I thought was a perfectly sensible observation. He said, in 2010, with the economy growing so slowly, with economic growth down around 3 percent, which was producing high unemployment because the economy was not growing fast enough, he said: It make no sense to raise taxes during that kind of fragile economic recovery. That makes me wonder what has changed between now and 2010, except for the fact that economic growth is even slower. The economy is even worse today than it was in 2010.

President Obama has said—contrast what he said in 2010. He said: Raising taxes will help solve our long-term debt problems. He says: Raising taxes will help us solve our long-term debt problems. But it is hard to take that argument seriously if we look at it closely.

First, according to the President's own Treasury Department, the tax increases he is advocating would generate about \$85 billion a year in new net revenue. These tax increases would generate about \$85 billion in new net revenue. By comparison, the monthly budget deficit in October was \$120 billion. The President says raised taxes would generate \$85 billion; Treasury is saying \$85 billion doesn't close the gap to \$120 billion, which is the current level of monthly deficits.

As we know, the Federal Government has run annual deficits in excess of \$1 trillion for at least each of the last 4 years, leading to a \$16 trillion national debt, roughly the size of our entire economy. These are dangerous waters we are navigating. The President has argued that we need to raise taxes, but he has not provided a prescription for closing the gap between what the Federal Government spends and what we take in, even with these tax increases. He has proposed nothing, absolutely nothing to deal with our unsustainable entitlement programs so we can keep the promise we have made to our seniors that when they qualify for Medicare and Social Security, those programs will be there for them.

I don't believe we can tax our way back to budget surpluses and economic prosperity. I am not a Ph.D. in economics, but I do think it is a matter of common sense to say that we cannot tax our way back into prosperity without a major reining in of Federal spending and entitlement reforms, which will continue to run up huge deficits, which cumulatively will add to that \$16 trillion of debt. That will happen regardless what we do on the revenue side, which is the only part of that equation the President has addressed so far.

That brings me to my second point. Nearly 4 years after President Obama

was sworn in—4 years after he was first sworn in—he has not yet given us a realistic plan for dealing with the deficit and debt reduction. You might say: Well, he was unwilling to stick his toe into those difficult waters knowing he was going to have to run for election again because all of this is controversial, no question about it, on both sides of the aisle.

I would think now that the President has been reelected for another 4 years and he doesn't have to stand before the voters again, he would feel flexibility, he would feel as though he has the political freedom to try to address this problem in a bipartisan way.

Last February Secretary Geithner told the Republican chairman of the House Budget Committee, "We're not coming before you to say we have a definitive solution to our long-term problem. What we do know is we don't like yours." That strikes me as a strange response given the responsibility we all have to protect the interests of our country and the American people when it comes to keeping us on a sound economic path and hopefully putting America back to work.

It is easy in a campaign season for the President to talk about the need for a "balanced approach" when it comes to the budget. Of course, we all have our own ideas about how that balance should be struck, but a truly balanced approach would include reining in Federal spending and preserving and protecting Social Security and Medicare. As a matter of political reality, it should include revenue, and our side of the aisle has identified ways that additional revenue might be put on the table, but that is simply not enough by itself to address the whole problem and is not a serious proposal in terms of solving the complex economic situation in which we find ourselves.

There is nothing balanced, though, about continuing to spend money we don't have and piling up trillions of dollars in new debt. It is irresponsible for our generation to impose on the generation of these young people sitting in front of me the debt they are going to have to pay. We are kidding ourselves if we think there is not a price to be paid for spending money we don't have. We ought to be big enough, we ought to be responsible enough to these young people, to our constituents, and to the American people to deal with this in a responsible way. That doesn't mean threatening America with a recession and almost 1 million people being put out of work if we drive off the fiscal cliff. It strikes me as the height of irresponsibility for the President or anyone else to say: If I don't get what I want, we are going to put America into a recession.

Can you believe that? It is completely irresponsible.

If the President is going to claim a mandate for governing, then he has a responsibility to offer a genuine solution to America's fiscal challenges. I am not saying he is going to offer a

plan that this side of the aisle is going to embrace, but what it does is it begins the negotiations we know we have to engage in between the different sides of the argument to try to come up with that 80/20 proposition, that we can actually address these problems and leave some of our other fights and differences for a future day.

Unless the President offers a plan, his posturing over the national debt cannot be taken seriously. And if he threatens that "if I don't get what I want, we are going to go off the cliff and put America in recession and Americans out of work," that is irresponsible and I submit it would be a violation of the oath of office.

A few final thoughts.

None of us came to Washington to try to play small ball. We came here to try to do important work. I accept the fact that 100 Senators from every part of the country, from all political philosophies came here because they wanted to do the right thing for their constituents and the American people. I would stipulate to that. Granted, we all have different philosophies of government and the role of government that might lead us in different directions. That is what our debate is all about. It is irresponsible for anyone to suggest that we should not tackle these problems in an open, transparent, and responsible sort of way.

Why would we want to play small ball? Why would we want to refuse to tackle the Nation's most serious fiscal problems? Why would we want to continue to see 23 million Americans either out of work or underemployed, with people taking part-time jobs because they can't find full-time employment? Of course, more Americans back to work means more people who actually pay taxes, which is part of the solution to closing that gap between what we spend and what we bring in.

I realize and I don't want to minimize the importance of the daunting challenges we face. We were sent here to face them, not go hide under our desk, not say: Well, I don't want to do that; I don't want to vote on that issue because I might get an opponent in the next election. I believe these enormous challenges are enormous opportunities in disguise. I admit I come from Texas and we are optimists by nature. We believe that for every challenge, every complication, every problem, somewhere in there is an opportunity for us to deal responsibly and in an accountable sort of way to our constituents to pass the long-overdue reforms that would balance our budget, revitalize our economy, restore American competitiveness, and put Americans back to work.

None of us came here to play small ball. We now have a momentous opportunity to maybe swallow a little bit of our pride, to show a little humility, maybe. Something you don't think of when you think about politicians is humility. But I think we all have to realize the hand we have been dealt, not

look back and keep pointing the finger of blame. We need to say that this is the hand we have been dealt, this is the job we have volunteered for and gotten a vote of confidence in the election that our constituents have enough confidence in us that we will act responsibly and not kick the can down the road and make the price for our inaction and irresponsibility paid for by the American people or these young people who sit here before me. I hope we seize that opportunity. I want to be part of the solution. I am willing to cast tough votes, and I am willing to stand before my constituents and say: You know what, we had to solve this problem. As long as people are still engaged in campaigning rather than governing, as long as we are playing to the television audiences and the peanut gallery rather than trying to solve these problems, we won't do it. But I hope we will seize it. I am optimistic we will.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### THE FISCAL CLIFF

Mr. GRASSLEY. Madam President, in less than 2 months, American taxpayers are set to experience one of the largest tax increases in American history. With the elections behind us, it is time for us to work together to reach an agreement that can pass both chambers of Congress and be signed by the President.

Reaching an agreement won't be easy, but it must be done to avoid going head first off the fiscal cliff. By this time we are all aware of the Congressional Budget Office warning that failing to come together threatens to send us into another recession.

An agreement is certainly doable, but all we hear about is what revenues Republicans are willing to put on the table.

We need to hear what the President and my colleagues on the other side are prepared to tackle in regard to reforming entitlements that are the long-term drivers of our fiscal problems.

That being said, we will not be able to reach an agreement if the other side continues to insist on punishing entrepreneurs and small businesses in the name of raising taxes on the "wealthy."

My colleagues on the other side of the aisle seem to believe that tax increases, particularly on high-income individuals, do not matter. They argue that raising taxes on the so-called wealthy will return us to the economic growth experienced at the height of the 1990s.

This defies common sense. If you ask a business owner if raising his taxes

will hinder his ability to grow his business, he assuredly will tell you they will. He understands that the more the government takes from him, the less he has to put back into his business.

This is in line with the general understanding around here that taxes can be used as both a carrot and a stick to affect behavior. If you want to discourage behavior you impose a tax. If you want to encourage behavior you provide a tax incentive.

For example, the excise tax on cigarettes has been increased to reduce the number of people smoking. A tax has been imposed on individuals for not purchasing insurance, so more will. Our tax code is littered with tax incentives to get people to do more of the things we like and less of the things we don't like. Individuals and businesses have and do respond to these incentives.

Yet, if we are to believe the other side, when it comes to marginal income tax rates the influence of taxes ceases to exist. According to them, we can raise income taxes on the wealthy as high as we want with no ill effects for jobs and the economy.

Well I have news for my colleagues; high marginal tax rates influence many factors that contribute to economic growth. Capital accumulation and the availability of a well trained labor force are two important factors influenced by taxes. Just as an increase in the excise tax on cigarettes leads to fewer packs of cigarettes being purchased, increasing taxes on capital reduces capital accumulation. Likewise, the more you tax labor the fewer hours worked you will get. In other words, taxes matter.

Some of my colleagues on the other side have pointed to a Congressional Research Service report they claim proves raising the top marginal tax rate does not impact economic growth. There has been ample criticism of this one analysis that I will not go into here.

But, even if one gives any credence to this one analysis, it must be viewed in light of a larger body of economic research that indicates higher taxes do hinder economic growth.

This research confirms that high marginal rates reduce the hours worked and are a disincentive to small business owners and entrepreneurs.

Among this research is a 2007 study by Christina Romer that found that a tax increase of 1 percent of GDP reduces economic growth by as much as 3 percent. According to this study, tax increases have such a substantial effect on economic growth because of the "powerful negative effect of tax increases on investment."

The last thing we need to do now is discourage business investment. Business investment has been stagnate. This has directly contributed to slower economic growth than in past economic recoveries. It has also contributed to weak job creation and wage growth.

Raising marginal tax rates on entrepreneurs and business owners, thereby reducing their after-tax rate of return is not the answer.

We need to give entrepreneurs and business owners the certainty they need to start investing again.

The Organization for Economic Cooperation and Development has issued several reports analyzing how different forms of taxation impact economic growth. This OECD research found that income taxes significantly impact economic growth.

According to this research, the most damaging tax was the corporate income tax followed by the individual income tax. The study further noted that highly progressive individual income tax rates are negatively associated with economic growth.

The United States of course relies extensively on both corporate and individual income taxes. Our corporate rate of 35 percent is the highest in OECD countries, which is bad in its own right. But a large number of American businesses are taxed at the individual rate, not the corporate rate. We also already have a highly progressive tax system. In fact, according to a 2008 OECD study we have “the most progressive tax system and collect the largest share of taxes from the richest 10 percent of the population.”

Currently, the top individual rate of 35 percent is the same as the top corporate rate. Starting in 2013, if the President has his way, the top rate goes up to 39.6 percent with the second highest rate scheduled to go up to 36 percent from 33 percent. When you consider the effects of the personal exemption phase-out and limitation on itemized deductions, the marginal effective tax rate jumps to over 41 percent.

These tax increases will hinder the growth of small businesses, and of course, slower business growth means slow job growth.

Evidence of this is documented by a 2001 study available from the National Bureau of Economic Research. This study looked at how the marginal rate cuts in the 1986 tax reform affected the growth of small firms.

The study showed that businesses that experienced the largest marginal rate cuts saw their businesses grow the fastest. Conversely, the study concluded that when marginal tax rates go up, the growth of small businesses goes down.

Similarly, a 2005 study conducted by the Small Business Administration found that “lower marginal rates on entrepreneurial income encourage more entrepreneurial entry and lower rates of exit, and lengthen the duration of spells of activity.” This means that if my colleagues are successful in raising the top two marginal rates there will be less entrepreneurial activity. Fewer people will seek to start their own business and more current business owners will be looking to close up shop.

Further research confirms that high marginal tax rates leads to fewer hours worked. A 2008 study that appeared in the *Journal of Monetary Economics* and a 2004 study conducted by the Federal Reserve Bank of Minneapolis examined how taxes impact the labor supply across time and across countries.

Both of these studies found that countries with higher marginal tax rates generally worked fewer hours. Conversely, those with low marginal rates worked more hours. In fact, these studies, controlling for other variables, found that the marginal tax rate accounted for the “vast majority” or “preponderance” of the difference in hours worked.

Research by economist Michael Keane has highlighted that high marginal rates have the biggest impact on labor over the long-run. This is because of the effect of marginal rates on lifetime decisions.

While a sudden increase in taxes may not lead to an immediate shift in current hours worked, it will impact future decisions.

For instance, higher marginal rates will discourage the accumulation of human capital through work experience and training. His review of research in this area further concluded that the effect of high marginal tax rates is especially pronounced when it comes to women’s participation in the workforce.

There are many more examples of economic research that point to high tax rates hindering economic growth. For the sake of time, I am not going to go through all of them. Instead, I will ask unanimous consent to place a list of more than 20 studies in the RECORD. This is by no means an exhaustive list, but I believe these provide a good starting point for my colleagues who are interested in learning the truth about taxes.

In sum, this research suggests that soaking the rich through an ever more progressive tax code will only reduce incentives for work and entrepreneurship thereby reducing economic growth. It means that for a couple deciding whether or not a spouse who left the workforce should go back to work, taxes matter;

for an individual who is considering investing in their own human capital through education or training to increase their earning potential, taxes matter;

for a small business owner considering hiring employees, purchasing equipment, or expanding their business, taxes matter;

for an entrepreneur deciding whether or not a business venture is worth pursuing, taxes matter.

Let me turn to another argument used by my colleagues on the other side to support increasing taxes. This argument is that tax increases on the “wealthy” are necessary to reduce the deficit and balance the budget.

The truth is there are not enough so-called rich people to make this happen.

Based on 2009 tax returns, if you raised the top tax rate on income over \$200,000 to 100 percent, you would still come short of covering the the \$1.1 trillion budget deficit for fiscal year 2012.

This back of the envelope calculation assumes that people will not work less or engage in tax planning or fraud to avoid such a confiscatory tax. I imagine my colleagues on the other side would even concede this would be the case with such a high rate.

For people out there who think they don’t have to worry about the President’s proposals because you are not wealthy, my message to you is this: You should be worried, because in order to tackle the deficit and pay for all his proposed new spending; the President will have to increase taxes on individuals well under \$200,000.

The President of course claims that he wants a balanced approach to deficit reduction. He says we should do a combination of tax increases and spending cuts. So far he has been rather specific about his tax increases. However, he has not said much about entitlements that are going to be the main drivers of our national debt over the coming years and decades.

The President needs to lead in this area to get a serious discussion rolling. He needs to begin offering serious solutions, not just attacking those that have been offered up by Congressman RYAN in his budget proposal.

Given my tenure in Congress, I have learned to be skeptical when people around here start saying we will reduce the deficit by raising taxes now and cutting spending later. Especially when no specifics are articulated regarding what programs can be cut or what reforms they will accept for addressing entitlements. It’s been my experience in these situations, the taxes always go up, but the spending cuts never happen.

Professor Vedder of Ohio University, who has studied tax increases and spending for more than two decades, confirms this in recent research. Professor Vedder looked at tax increases and spending spanning from the end of WW II through 2009 and discovered that “each dollar of new tax revenue has been associated with \$1.17 in new spending”.

If we are ever going to get a handle on the deficit, we are going to need to learn to live within our means. Spending as a percent of GDP has averaged about 20.5 percent since 1970. From 1998–2001, when we did balance the budget, spending as a percent of GDP averaged 18.5 percent. In fact we have never balanced the budget with spending as percent of GDP exceeding 20 percent. Spending under President Obama has averaged 24.5 percent of GDP. We must curtail our spending if we ever hope to balance the budget in the future.

Some around here insist that cutting spending will be as damaging, if not more so, than increasing taxes. They use the rationale of spending multipliers pushed by some economists that

suggest for every dollar of spending by the government we will get more than a dollar in economic activity.

This theory is deeply flawed. Even if we assume the government spends money wisely with no fraud, waste or abuse—and that is a big if—it means one less dollar to be spent by the private sector.

If this was solid economic theory our economy should be booming given all the money we have been spending around here. The truth is spending is not the solution to our problems, it is our problem. It is what got us into this mess in the first place.

For my colleagues who are still wedded to the idea that tax increases are preferable to spending cuts, I recommend reading a recent study by Harvard Economist Alberto Alesina. Given the fiscal shape of many countries, Professor Alesina studied the impact of spending and tax policies put in place to address fiscal imbalances.

His research concluded that “fiscal adjustments based upon spending cuts are much less costly in terms of output losses than tax based ones. In particular, spending-based adjustments have been associated with mild and short-lived recessions, in many cases with no recession at all. Instead, tax-based adjustments have been followed by prolonged and deep recessions.”

This research paper comes on the heels of a paper he released in 2009. This paper similarly found that policies favoring spending cuts over tax increases are more likely to reduce the deficit.

In the words of Professor Alesina, fiscal adjustments “based upon spending cuts and no tax increases are more likely to reduce deficits and debt over Gross Domestic Product ratios than those based upon tax increases.”

These studies confirm what through sheer common sense Winston Churchill knew more than a half century ago, “for a nation to try and tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle.”

In the coming weeks, I hope to work with my colleagues and the President to reach a bipartisan agreement to help put our country back on sound fiscal footing. However, as I said in the beginning, it can't be just one side of the aisle that is expected to come to the table. My colleagues on the other side must be willing to put real reforms to address entitlements and our out of control spending on the table.

I ask unanimous consent the list to which I referred be printed in the RECORD.

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

1. Alberto Alesina, Carlo Favero, and Francesco Giavazzi. “The Output Effect of Fiscal Consolidations.” National Bureau of Economic Research.

2. Michael Keane and Richard Rogerson. 2012. “Micro and Macro Labor Supply Elasticities: A Reassessment of Conventional Wisdom.” *Journal of Economic Literature*.

3. Michael Keane. 2011. “Labor Supply and Taxes: A Survey,” *Journal of Economic Literature*.

4. Christina D. Romer and David H. Romer. 2010. “The Macroeconomic Effects of Tax Changes: Estimates Based on a New Measure of Fiscal Shocks,” *American Economic Review*.

5. Robert Barro and Charles Redlick. 2010. “Macroeconomic Effects from Government Purchases and Taxes,” *Mercatus Working Paper*.

6. Andreas Bergh and Martin Karlsson. 2010. “Government Size and Growth: Accounting for Economic Freedom and Globalization,” *Public Choice*.

7. Andrew Mountford and Harold Uhlig. 2009. “What Are the Effects of Fiscal Policy Shocks?” *Journal of Applied Econometrics*.

8. Alberto Alesina and Silvia Ardagna. 2009. “Large Changes in Fiscal Policy: Taxes vs. Spending,” *NBER Working Paper*.

9. Jens Arnold. 2008. “Do Tax Structures Affect Aggregate Economic Growth? Empirical Evidence From a Panel of OECD Countries.” *Organisation for Economic Co-operation and Development Working Paper*.

10. Lee Ohanian, Andrea Raffo, and Richard Rogerson. 2008. “Long-term Charges in Labor Supply and Taxes: Evidence from OECD Countries, 1956–2004,” *Journal of Monetary Economics*.

11. Diego Romero-Ávila and Rolf Strauch. 2008. “Public Finances and Long-Term Growth in Europe: Evidence from a Panel Data Analysis,” *European Journal of Political Economy*.

12. Donald Bruce and Tami Gurley. 2005. “Taxes and Entrepreneurial Activity: An Empirical Investigation Using Longitudinal Tax Return Data.” *Small Business Administration Office of Advocacy*.

13. Edward Prescott. 2004. “Why Do Americans Work So Much More Than Europeans?” *Federal Reserve Bank of Minneapolis Quarterly Review*.

14. Steven J. Davis and Magnus Henrekson. 2004. “Tax Effects on Work Activity, Industry Mix and Shadow Economy Size: Evidence from Rich-Country Comparisons,” *National Bureau of Economic Research*.

15. William M. Gentry and R. Glenn Hubbard. 2004. “Success Taxes, Entrepreneurial Entry, and Innovation,” *National Bureau of Economic Research*.

16. Emanuela Cardia, Norma Kozhaya, and Francisco J. Ruge-Murcia. 2003. “Distortionary Taxation and Labor Supply,” *Journal of Money, Credit, and Banking*.

17. Olivier Blanchard and Roberto Perotti. 2002. “An Empirical Characterization of the Dynamic Effects of Changes in Government Spending and Taxes on Output,” *Quarterly Journal of Economics*.

18. Fabio Padovano and Emma Galli. 2002. “Comparing the Growth Effects of Marginal vs. Average Tax Rates and Progressivity,” *European Journal of Political Economy*.

19. Fabio Padovano and Emma Galli. 2001. “Tax Rates and Economic Growth in the OECD Countries (1950–1990),” *Economic Inquiry*.

20. Robert Carroll, Douglas Holtz-Eakin, Mark Rider and Harvey S. Rosen. 1998. “Entrepreneurs, Income Taxes, and Investment,” *National Bureau of Economic Research*.

21. Eric Engen and Jonathan Skinner. 1996. “Taxation and Economic Growth,” *National Tax Journal*.

22. Nada Elissa. 1995. “Taxation and Labor Supply of Married Women: The Tax Reform Act of 1986 as a Natural Experiment,” *National Bureau of Economic Research*.

Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that on Monday, November 26, it be in order for Senator SESSIONS or his designee to be recognized in order to raise a Budget Act point of order against the Reid for Tester amendment No. 2875 and that it be in order for Senator REID or his designee to make a motion to waive the point of order; further, that at 5:30 p.m. on Monday, November 26, the Senate proceed to vote on the motion to waive, if raised; that if the motion to waive is successful, the Reid amendments Nos. 2876, 2877, 2878, and 2879 be withdrawn en bloc; the Reid for Tester substitute amendment No. 2875 be agreed to; that no further amendments or motions be in order prior to a vote on passage of S. 3525, as amended, with no intervening action or debate; and that if the motion to waive is not successful, Senator HARRY REID be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### DEFENSE AUTHORIZATION

Mr. REID. Madam President, we have had a number of individuals come to the floor over the last several months and say they want to move to the Defense authorization bill. So yesterday I said: Fine, let's move to it. What Senator LEVIN and Senator MCCAIN said they wanted are relevant amendments. I said: Fine, we will do it. But my friends can't take “yes” for an answer. So we will come back after a recess for Thanksgiving and look at it again, and maybe by then they will take “yes” for an answer.

If we are going to move to these bills and have amendments offered—that is what they want, and that is what I said they could do, so I don't fully understand the problem. But I am not filing cloture on a motion to proceed. I am not going to do that. It is an important bill. But I want the record to be very clear. I am not the cause. We are not the cause of this Defense authorization bill not being brought to the floor. I have agreed to do it, as I was requested to do by both Senator LEVIN and Senator MCCAIN.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

#### SUPERSTORM SANDY

Mr. MENENDEZ. Madam President, I rise to celebrate the people of New Jersey, many of whom lost everything in Superstorm Sandy but who came through one of the most devastating storms in our State's history battered but not broken.

The storm struck New Jersey with extraordinary force. It was the entry point of Superstorm Sandy, and the surge came quickly, destroying whole

communities, taking homes from their foundations, changing the topography of the coastline, devastating some of the most densely populated communities in the country, taking lives and taking property, leaving New Jerseyans without power but not powerless, without the personal possessions accumulated over a lifetime but with their families and their memories intact. Their memories are the foundation upon which New Jerseyans are recovering and rebuilding their lives and their communities. They are rebuilding with the help of FEMA and other Federal agencies, including the American Red Cross and countless volunteers from around the country, State and local officials, working overtime to help. New Jersey will come back stronger and better, and we are more determined than ever to rebuild and restore our communities to where they were.

The people of New Jersey withstood the unbridled power of nature—the power of nature strengthened by man-made climate change—to create an unprecedented storm and unprecedented damage. I wish to share with my colleagues some of the photos showing the devastation and why New Jersey needs a strong Federal partner if we hope to rebuild.

As my colleagues can see, Sandy mixed all forms of transportation with a force we haven't seen in many years. This is a shipping container and a large pleasure boat tossed onto the Morgan rail bridge on the North Jersey coastline along with tons of debris. The photo shows the container from the shipping lines and the boat on a bridge that obviously was a rail bridge.

You can see, we have a lot of work to do with scenes like this up and down the coast.

In this photograph, you can see the kind of damage that our rail lines have suffered—heaved from the railroad beds and buckled. This again is along the north Jersey coastline, which had miles of track damaged just like this, as shown in this photograph, and in need of millions of dollars in repairs.

In fact, 40 percent of the Nation's transit riders from Washington to Boston had their service interrupted. Dozens and dozens of New Jersey Transit's locomotives and rail cars were damaged by flooding. So today I am proud to announce that we expedited \$25 million in transportation funding to help ease that situation.

But some commuters into New York, for example, from my home State of New Jersey are still suffering 4-hour commutes, with rail service only about half of what it normally is, largely because there still is not enough power for all the trains.

In the meantime, New Jersey has added subsidized ferry service to make up the difference, with the Federal Department of Transportation providing over 300 buses to help serve those new ferry lines, including one out of Liberty State Park.

Here is another photograph of the extraordinary power of Sandy's surge that lifted boats on to a rail bridge along the north Jersey coastline. Amazingly, through the hard work of New Jersey Transit workers, this devastated rail line might be able to resume limited service by the end of this week.

But this line, like many other commuter lines in New Jersey, will need much more extensive work to get service levels back to normal and to make more permanent repairs to ensure long-term reliability.

But beyond the transportation damage, it is important to remember that some lost everything in the storm and some lost their lives. Our thoughts and prayers go out to all the families who lost loved ones to Super Sandy.

I toured some of the worst hit areas with President Obama and Governor Christie and spoke to New Jerseyans who suffered extraordinary loss and were hit the hardest.

Some of these photos I am about to show now I took myself. They may not be the best photographs and I may not be the best photographer, but they show a small part of the overall destruction my State has suffered.

You can see in this photograph from the Coast Guard plane I was aboard some of the destruction at Sandy Hook, NJ. These homes are deeply under water, many of them rendered impossible to return to for a significant period of time. There are other homes I will show you where people cannot return to what was their home.

This is a photograph of the flooding in the Mantoloking area north of Seaside Heights that submerged cars and caused millions of dollars of damage and thousands to be displaced from their homes. This bridge actually collapsed at the end there, leaving this whole section in difficulty in terms of exit off the barrier islands.

I took the next two photographs while touring northern New Jersey. I have shown most of the pictures from the shore area, which took the hardest hit, because that was the entry point largely for Superstorm Sandy, but it was not just along the shore. Here is an example of the type of flooding that took place in Hoboken, NJ. On the night of the storm, this flooding was just beginning, and it only got worse, so much so that it took the National Guard to rescue residents from their homes, days—days—after the storm. It filled the streets with overflow from sewage plants. Gasoline was reeking in the air—a danger to the health and well-being of residents. And it made the damage even worse than anyone had imagined possible.

The next photograph I took is of Observer Highway. This is a major thoroughfare between two significant parts of the metropolitan area, between the city of Hoboken and the city of Jersey City, the second largest city in our State. I cannot remember ever seeing the area so expansively under water, and I hope to never see it again.

All of these cars were floating, some of them crashing into each other, rendered largely useless, and, of course, stopping a major thoroughfare for days in terms of anybody being able to get through.

And if the images do not give you a sense of the destruction and the loss families have suffered, then this next photograph encapsulates the power of the storm to take away all that people had worked for all of their lives. It is in the faces of the people I met.

Here in Pleasantville, NJ, which is right outside Atlantic City along a section there, the mayor of Pleasantville took me to meet a series of residents whose homes had been ripped apart.

In this picture, I am standing outside of the person's home, almost as if it were a dollhouse, looking in. I would love to have said that it was only this poor gentleman, but it was an entire community where homes had been ripped apart and you could see into their homes. It shows the nature of, the breadth and scope of, the devastation.

It is not that this gentleman lost a shingle, it is that he lost the whole side of his home, now exposed to the elements and, of course, everything ripped apart.

The other aspect about this picture, in addition to the incredible destruction, is the resiliency. When I went to share my sentiments and my concern with this gentleman, he asked me: How are you doing, Senator? I said: Well, sir, what is more important is, how are you doing? He said: I'm doing fine. I'm here, I'm alive, and I still have part of my home.

So sometimes when we think about how difficult our lives might be at any given moment, I think about this gentleman and the extraordinary resiliency he has had in the midst of probably one of the most difficult times in his life. And there are so many other New Jerseyans whom I met like that.

I met a young woman in Hoboken whose entire basement apartment was flooded—totally gone. She lost everything she had worked for in her young professional life. In the midst of that tragedy for her, she was at a shelter, running the shelter, helping everybody else who had been displaced—some not as badly as her, not thinking about her tomorrow, but thinking about her fellow citizens in Hoboken, NJ.

I met some poor families who were not badly affected by the storm who opened their homes and their kitchen tables to individuals who were their neighbors who were hurt very badly. And even though they did not have a lot to put around the kitchen table, they were sharing what they had.

I saw citizens risk their own lives to save their neighbors' lives in the rushing water and heard their accounts. So I saw the better angels of people in the midst of a storm.

The fact is, despite the damage and displacement, the human suffering and loss of property, possessions, personal photographs and family memories, the people of New Jersey held together.

Neighbors came together to help one another. As much as they were shaken and mourned their own loss, they worked together to help each other, to save each other, to begin the recovery, to get New Jersey back on its feet, and Federal, State, and local governments were there to help.

The Federal response was quick, and it was effective, but there is still so much more that we need to do, and still more that we can do to help those families who are still without shelter, still without a place to return to, to call home, and without a clear picture of what the future holds.

The storm was unprecedented in the breadth of its devastation. While our shoreline was hard hit, that does not begin to describe the full impact. Some of our Nation's most densely populated communities were also hit very hard, requiring one of the biggest rescue and recovery efforts we have seen. A response that size, obviously, takes time, but we acted quickly and will continue to do what needs to be done.

After surveying Sandy's damage with President Obama and Governor Christie on October 31, Senator LAUTENBERG and I called for increased support from the Federal Government to deal with the cost of response efforts.

In a letter to the President, we asked that the Federal share for disaster response be increased from the standard 75 percent to a much higher possibly 100 percent because of the devastating impact of what meteorologists have called a perfect storm.

The President initially issued a disaster declaration for eight New Jersey counties and, along with Senator LAUTENBERG, we requested additional counties be included, and they were.

Before walking with the President and the Governor through Brigantine, NJ, I had an opportunity to tour the destruction in Pleasantville, Hoboken, Jersey City, and communities in Bergen County. What I saw was unlike anything I had ever seen in my lifetime in those communities.

I am very grateful that the President came to New Jersey with the full force of the Federal Government to see and to respond firsthand to the devastation the hurricane left in its wake.

I have proudly lived in New Jersey all of my life, and seeing the Garden State in ruin is heartbreaking. The shore of my youth is gone. Much of it lies in the ocean for the ages. But it made me realize that, in times of tragedy, in times of storms like Sandy, we need government at all levels to come together, all of us rolling up our sleeves to help our neighbors recover and rebuild and reclaim their lives. We need to make certain that we secure all of the resources necessary to help New Jersey, and every community affected by this horrible storm, to rebuild and emerge stronger than before.

Since the storm, I have requested emergency funding for New Jersey's transportation network—highways, rail lines, ports, and airports—that was devastated by the storm.

I asked the President and Secretary LaHood for emergency funds to repair highways and bridges and to expedite assistance to all impacted modes of transportation.

I called on the President to dispatch emergency fuel and power supplies to New Jersey to ease the fuel shortage and to keep emergency vehicles running in the immediate aftermath of the storm.

To ensure critical infrastructure—water treatment and sanitation facilities—we received the help of the Army Corps of Engineers to have these facilities remain operable.

The Federal Government also responded with \$10 million in emergency funding, with some of those critical transportation needs, freed up 2 million gallons of fuel from the Northeast Oil Reserve, and the EPA took action that rerouted this fuel to New Jersey when it needed it the most.

The Federal response also included a grant for New Jersey to hire 1,000 workers to help communities clean up from the storm.

But, despite all of that, many families in my State are still suffering. They have lost much, and many are displaced, some permanently, from their homes. That is why I have called for the immediate suspension of foreclosures and evictions for all New Jersey homeowners who faced financial difficulties before the storm and now are suffering additional difficulties in the wake of it; and for swift action to expand emergency mortgage payment relief to all New Jersey homeowners who have lost income as a result of Hurricane Sandy.

That is why we must work to give them certainty of what the Federal Government will do to help them rebuild their lives so they can make critical decisions as to their futures.

What I take away from this experience is the fact that we are all in this together, one community, each of us dependent on the other—each of us working to rebuild and recover for the benefit of all of us in New Jersey, but I believe all of us in the country.

That is what community is all about. It is the heart of our motto: *E Pluribus Unum*; From Many, One. We have just gone through an election at the heart of which we debated the role of government in our lives. I would submit we need to focus on what government does to rebuild the spirit of community that we have seen in action in the aftermath of this devastating storm.

Americans across the country were riveted by the stories of the immediate aftermath of the storm—the pictures of communities under water, homes moved blocks down the road, homes and trains blocking Federal highways, hospitals closed, gas lines miles long, people waiting hours for fuel to run generators and keep their homes heated, weeks of fuel rationing, and no transit or Amtrak service for the entire region for people to get to work or visit their families.

Without a doubt, those have been trying times for New Jersey. But now, just because those scenes may no longer be showing in living rooms across the country does not mean that the recovery is over.

Thousands of families are still displaced from their homes and will be for months to come.

Transit lines are still out. Community infrastructure still has to be rebuilt. Now is not the time for the Federal Government to walk away. It is more crucial now than ever for the Federal Government to help devastated communities rebuild, help families get the assistance they need to repair their homes, and put their lives back together.

I for one will not rest until the rebuilding is done. This is one country, the United States of America. That is why, when there was destruction in New Orleans with Katrina, in Florida, in Joplin, or crop destruction in the Midwest, I came along with other colleagues to support those communities. I viewed it as my time to stand with my fellow Americans in distress.

Now it is time for my fellow Americans to stand with New Jersey. New Jersey has been battered, but we are not broken. We are stronger and more united in our efforts to work together to recover, rebuild, and recommit ourselves to uniting around our common concerns and shared values rather than divided by our differences. That is the lesson we learned. And together we will rebuild and the Garden State will bloom once again.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### OVERSIGHT ON ENERGY DRINKS

Mr. DURBIN. Mr. President, over the past few years we have seen a dramatic increase in the sale of energy drinks in America. Energy drinks are now common fixtures in grocery stores, vending machines, gas stations, convenience stores, and everywhere we turn. They target young people with flashy ads and names such as Monster and Rock Star and with claims to increase attention stamina and even to help with weight loss. According to one study, 30 to 50 percent of adolescents, teenagers, consume energy drinks.

Sadly, as the sale of energy drinks has grown, so has the alarming evidence that these energy drinks pose a potential threat to our Nation's health. Yesterday, the New York Times featured an article that found that the Food and Drug Administration has received 13 adverse event reports for people who died—who died—after consuming 5-hour ENERGY drinks. Just

last month, news reports found that five people died—five—after consuming Monster Energy drinks.

This last May, I met the mother and family of 14-year-old Anais Fournier from Maryland. This lovely young teenager lost her life last December when she went into cardiac arrest—caused by caffeine toxicity—after she drank two—two—24-ounce Monster Energy drinks in less than 24 hours. Anais was an honor student. She was a good student and a great writer, and she used to watch movies with her mom.

An American Academy of Pediatrics study recommends adolescents consume no more than 100 milligrams of caffeine each day. Remember the number—100 milligrams a day. According to Consumer Reports, a 24-ounce can of Monster Energy drink contains 276 milligrams of caffeine, almost three times the amount this academy recommends as the limit an adolescent would consume in a day—276 milligrams in less than 24 hours. Anais Fournier consumed 552 milligrams of caffeine by drinking two Monster Energy drinks within 24 hours. That is the equivalent of drinking 16 12-ounce Coca-Cola sodas.

Mounting evidence shows that tragic stories such as the one involving Anais Fournier are becoming more common. A recent report by SAMHSA shows that energy drinks pose potentially serious health risks. Emergency room visits due to energy drinks have increased tenfold between 2005 and 2009—1,128 ER visits in 2005 to 13,114 emergency room visits in 2009 linked to energy drinks in America.

There are serious health concerns about ingesting high levels of caffeine in energy drinks and, I might also add, many added ingredients that are also stimulants and contain even additional caffeine that is added to the drinks. The Food and Drug Administration currently limits the level of caffeine in soda—the kind you would buy over the counter—to no more than 71 milligrams in a 12-ounce can. Remember the number for the 24-ounce can of Monster—276? That is almost four times the limit of what can be sold legally as a beverage regulated by the FDA in America.

Let me show this 5-hour ENERGY picture. I really don't have to show it. Everyone is pretty familiar with it because they are everywhere—literally everywhere. I watched on television last week when they were advertising promotions of 5-hour ENERGY drinks saying, in the commercials, that some of the sales would go to promote research for breast cancer. There is almost the suggestion there is something healthy about this product.

Well, let's talk about that for a moment. Compare that limit of 71 milligrams of caffeine in a 12-ounce can of soda or pop to the 215 to 242 milligrams of caffeine in the small 2-ounce bottle of 5-hour ENERGY or the 135 milligrams in a 12-ounce can of Monster Energy. Some energy drinks contain 300

milligrams of caffeine in a 12-ounce serving. As we all know, most energy drinks are not sold in 12-ounce cans. They are sold in 16-, 24-, and 32-ounce cans. Two 24-ounce Monster Energy drinks took the life of Anais Fournier.

These drinks, of course, contain more than caffeine. We don't know all the products included, but they include many other stimulants, such as guarana and ginseng. The FDA has the authority to regulate caffeine levels in beverages and to require beverage manufacturers, such as soda pop, to prove additives are safe. But most energy drinks, such as 5-hour ENERGY, avoid the FDA's regulation and oversight by marketing their products not as beverages but as dietary supplements.

We will not see it on the front of this little container. We have to flip it around and look down at the bottom, and in the tiniest lettering we see dietary supplement. Why? Because as a dietary supplement they are not regulated. They can sell what they like. And, unfortunately, they sell products that contain so much caffeine they are dangerous.

Now, my colleague, Senator BLUMENTHAL of Connecticut, who is on the Senate floor tonight, and I have sent the Food and Drug Administration letters three times calling on this agency to take action to ensure caffeine levels and ingredients in energy drinks are safe, particularly for kids. We have urged the agency to issue final guidance distinguishing beverages and liquid dietary substances to close the loopholes that allow some energy drinks to avoid FDA oversight. We have called on that agency to regulate energy drinks that have caffeine levels well above the 71 milligrams per 12-ounce threshold in soft drinks.

Today, Senator BLUMENTHAL and I asked FDA Commissioner Margaret Hamburg to personally meet with us after Thanksgiving to discuss the steps the FDA is taking to ensure the safety of energy drinks. Every other week we are seeing mounting evidence that energy drinks pose safety risks. We learn about young people hospitalized or seriously hurt after consuming what they are marketing as innocent little energy pick-me-ups.

We look forward to working with Commissioner Hamburg to discuss the Food and Drug Administration's strategy to protect our children and to protect everyone in America from these dietary supplements, whether it is 5-Hour Energy or the Monster Energy drink that led to the death of this 14-year-old girl in Maryland.

It has been many years since I came to this floor and argued about dietary supplements. We all know what is involved. I always preface my remarks by saying: When I got up this morning, I took my vitamin pill, and I took my fish oil pill. I believe I should have the right to do that. I don't know if it helps, but I think it does, and I shouldn't have to have a prescription to have a vitamin pill. Enough said.

But when it comes to dietary supplements that go beyond that type of supplement, things that include dramatic increases in caffeine, we have to take the next step.

I managed a few years ago to pass a law—over some objection—that requires the makers of dietary supplements to report adverse events. In other words, if people call from getting sick—or worse—from your product, you have to tell the FDA so we can gather this together and pick up any trends that are alarming or worrisome. Well, they have been doing it but not as vigilantly as they should, and the companies have not been reporting them as often as they should. But now we know, as I said at the outset of my remarks, that young people and others are dying from these energy drinks, 5-Hour Energy drinks and Monster Energy drinks. They died after they ingested these, and it has raised serious questions as to whether there was causation between them.

To find there were 13 adverse-event reports for people who died after consuming 5-Hour Energy drinks and 5 people who died after consuming these Monster Energy drinks—for goodness' sakes, these are for sale to kids across America. We wouldn't sell these kids alcohol over the counter without asking how old they were, whether they reached an age where they are eligible to buy alcohol products, but we are selling products that could be more lethal than alcohol to these young kids without the necessary oversight and supervision.

I thank the Senator from Connecticut for joining me in this effort. We have to continue it. The New York Times yesterday made a report that I think puts us on notice. There is a lot more to be done.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I am very honored to stand with my distinguished colleague from Illinois on this vitally important issue. I thank him for his leadership, and I am very proud to work with him on a problem that really shows dramatically that neglect and disregard by government regulators and enforcers can have real-life consequences.

The FDA has, very simply, failed to address this issue, and I believe it has failed even to respond to the alarms Senator DURBIN and I have sounded on this issue.

Yesterday the New York Times featured an article reporting that the Food and Drug Administration received 13 adverse-event reports of fatalities following the consumption of 5-Hour Energy, which is a highly caffeinated energy shot. But this report is really only the latest of a series of reports that two popular energy drinks—Monster Energy and 5-Hour Energy—have been cited in deaths and injury. These drinks have been cited in reports of dozens of serious adverse

events such as heart attacks and convulsions. And these events are not the only concern that has been raised about energy drinks. I will cite a few.

A report by the Substance Abuse and Mental Health Services Administration found that the number of emergency room visits due to energy drinks increased tenfold between 2005 and 2009, from 1,128 to 13,114 visits.

More recently, a study of energy drinks by Consumer Reports found that some energy drinks contain high levels of caffeine—in some cases, twice as much as a cup of coffee.

The Consumer Reports study found that labels of many energy drinks completely failed to disclose how much caffeine is contained, and, even worse, 5 of the 16 drinks Consumer Reports studied contained more than 20 percent more caffeine than what was stated on the label.

These reports are profoundly and deeply troubling, and the FDA—the agency in charge of regulating the safety of these products—needs to determine whether energy drinks are safe and, if necessary, take action about their safety.

Senator DURBIN and I have written two letters—one on September 11, the other on October 26 of this year—calling on the agency to take action addressing the rising public health concerns around energy drinks and to protect consumers. Have we heard anything back? Nothing. No response.

In today's letter, we reiterate our request for the FDA to investigate the interactions between caffeine and stimulants in energy drinks, to assess the health risks associated with caffeine consumption by children and adolescents, and to finalize and issue guidance that clearly distinguishes liquid dietary supplements from beverages. This issue is as profoundly and deeply important as the combination of caffeine and alcohol, which Attorneys General addressed during the time I held that job in the State of Connecticut. Alcohol makers, to their credit, did the right thing and addressed it on their own. Here, the industry has failed in that obligation. The FDA has not just an opportunity but an obligation to address this issue.

I also believe the FDA has failed to consider the shifting trends in caffeine consumption more generally and broadly that is shown by the energy drink industry, particularly shifting trends in consumption among adolescents. The industry has marketed relentlessly and repeatedly, which accounts for that dramatic statistic Senator DURBIN cited that 30 to 50 percent of adolescents are known and reported to be using these drinks. Marketing and that trend have a clear connection. It is no accident that caffeine consumption and the consumption of these energy drinks is increasing.

But the FDA's determination of safe levels of caffeine seems to be based on what is safe for adult consumption, not adolescent. It does not consider con-

sumption patterns among young people or take into account safe levels of caffeine consumption among children. And these energy drinks are marketed to young people, including children. As an example, although the FDA states that adults can safely consume up to 400 milligrams of caffeine per day, the American Academy of Pediatrics recommends that adolescents consume no more than 100 milligrams per day—less than what is contained in one dose of an energy drink. And Consumer Reports recommends that children consume no more than 45 to 85 milligrams per day, depending on their weight.

I wish to associate myself with the very persuasive and compelling remarks made by Senator DURBIN today. Again, his leadership on this issue has been so valuable.

I would close by making this point. There is a lot of rhetoric that is purportedly based on principle and conviction that somehow government rules and consumer protections are a frivolous nuisance or a burden without a benefit or an unwarranted intrusion in the free market. The experience that was dramatically portrayed in the hearing of the Health, Education, Labor, and Pensions Committee today offers a tragic lesson on how compounding pharmacies and the failure of government regulators to act dispositively and promptly led to injuries and deaths across the country.

My colleague Senator ALEXANDER was present and very perceptively asked some of the most pointed questions this morning of the witnesses who came before us from the FDA and other government agencies, including the Massachusetts Board of Pharmacy. That lesson this morning ought to sound an alarm for us here because the New England compounding pharmacy in that instance was a known risk to both Federal and State regulators—the FDA and the Massachusetts Board of Pharmacy—and both failed to take effective action to protect the public.

The FDA in this instance has an obligation to protect the public and take action that will safeguard the health of our children and adolescents—the health of everyone—in light of the potential dangers posed by these energy drinks.

I close by again thanking my colleague from Illinois for being such a strong advocate of consumer interests and health in this area. I hope we will have a meeting soon, as we have requested, so that we can work together to make sure these products are labeled accurately and truthfully, marketed responsibly, and consumed safely.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

CHARACTER ATTACKS AGAINST AMBASSADOR  
SUSAN RICE

Mr. DURBIN. Mr. President, I wish to say a word about the tragedy that occurred in Benghazi, Libya, on September 11 where we lost a dedicated

ambassador and three other American lives. It was awful. It has been nearly a decade since we lost an ambassador in service to our country, and it is something we are looking at with a great deal of sadness and sorrow that these individuals who dedicated their lives to America were killed in the course of duty. But this has gone from a tragedy in Benghazi to a major political debate in America.

Part of it was explainable because it was in the closing days and weeks of a Presidential campaign when many times issues that don't reach national prominence become prominent because of the attention being paid to the candidates. And a lot has been said back and forth, and I have tried, as have other Members of Congress, to understand exactly what happened on September 11 in Benghazi. It is difficult because there wasn't a gathering of evidence immediately. Investigations were undertaken. It was chaotic at the scene that evening, and, sadly, many of the witnesses who could help us understand have disappeared into the night. But the effort has been undertaken to find out what occurred, to find out whether there was adequate protection for the Ambassador and his staff and, if not, what we should have done. I understand these tragedies require careful examination.

I was a Member of the U.S. House of Representatives when 235 U.S. marines died in a Marine Corps barracks bombing in Beirut, Lebanon. You bet we asked questions of the Reagan administration, as we should when we lose innocent American lives overseas as we did in Lebanon and as we did in Libya. What troubles me is the level the debate has reached. It has now reached a level of vilification and accusation which is unwarranted by the evidence.

This week we met in the Senate Foreign Relations Committee in a closed, classified setting and went through meticulously the timeline that led up to the death of the Ambassador and staff as well as what followed. It is being reported as it is being gathered, and there are additional reports that will be forthcoming.

Early next month we are expecting the Accountability Review Board of the Department of State to issue its report. We know, following that, other committees of jurisdiction—the Intelligence Committee, Foreign Relations Committee, and others—will certainly call in witnesses and ask questions, as they should, as they must.

What troubles me is that on the floor of the Senate during the course of this week, there have been accusations made of individuals that have gone far beyond anything the evidence could suggest.

We owe it to the cause of justice and to the lives that were lost to do this professionally and honestly, without political rancor. The President was right yesterday when he said of our U.N. Ambassador Susan Rice, she "has

done exemplary work. She has represented the United States and our interests in the United Nations with skill and professionalism, with toughness and grace." And "to go after the U.N. ambassador," he said, "who had nothing to do with Benghazi, and was simply making a presentation based on intelligence she had received, and to besmirch her reputation is outrageous."

I agree with him. We owe it to her and to everyone involved in every Federal agency to get the facts before us before we point a finger of blame. If there is blame, let us make certain it is apportioned to those who deserve it rather than to make wild charges against many others.

My good friend Senator JOHN MCCAIN—and he really is my friend; he and I debated on the floor many times—but he said something I want to quote from 2005, when there were criticisms of Condoleezza Rice who was being considered for the office of Secretary of State. He said, "So I wonder why we are starting this new Congress with a protracted debate about a foregone conclusion. . . . I can only conclude we are doing this for no other reason than lingering bitterness at the outcome of the elections. . . . We all have varying policy views, but the President, in my view, has a clear right to put in place the team he believed would serve him best."

I agree with Senator MCCAIN's statement. Let's get the facts together. Let us find out what truly occurred. Before we point the finger of blame on any person in our government, let's make certain we do so with the knowledge of the facts and the evidence that we can gather. We owe it to the Ambassador, his family, and all the others who were either injured or lost their lives in this occurrence.

I urge my colleagues to focus on the report due in December from the Accountability Review Board and to attend the hearings that will undoubtedly follow on this issue. We need a constructive discussion on how we can ensure that our brave diplomats can work effectively in some of the most dangerous parts of the world.

Susan Rice is a dedicated public servant who has tirelessly pursued the interests of the United States at the United Nations, ranging from sanctions on Iran to advancing the actual effort in the Security Council to oust former Libyan strongman Muammar Qaddafi. She deserves fair treatment, as everyone does in our government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I see the Senator from Louisiana. I know she expects to speak about 5:30. I want to say to her through the Chair I will be finished by then.

#### FUNGAL MENINGITIS

I see the Senator from Connecticut I believe is still here. I compliment him on his participation this morning in a hearing in which we both participated.

It was a sad hearing, really. It was about the fungal meningitis—the Senator from Minnesota was there as well—the fungal meningitis outbreak that in our State, Tennessee, has become a nightmare. It has claimed thirteen lives, 81 very ill in many cases, and a thousand others who worry they might become ill.

It became obvious as we went through the discussion that something, incredibly, slipped through the cracks. We have more than 60,000 what I would call drugstores, pharmacies in the country; maybe more than a thousand in Tennessee. Many of them are doing this pharmaceutical compounding. You go in and get a prescription filled. They might adjust the prescription, or an FDA-approved drug based upon your prescription. That is normal and necessary. Then over here on the other side are the big manufacturers of drugs. As the Senator from Connecticut has pointed out, they are regulated by the Food and Drug Administration.

But then there are these entities in the middle, and there was one in Massachusetts that was apparently masquerading as a compounding pharmacy—it was really a drug manufacturer, but it was not complying with the rules of a drug manufacturer. As a result, it provided tainted medicine all over the country. Had it not been for remarkable work by the Tennessee Public Health Department in conjunction with Vanderbilt University and the Centers for Disease Control, there could have been many more deaths and many more injuries.

We saw an example of government. We saw an incompetent State Board of Pharmacy in Massachusetts, a confused Food and Drug Administration, and we saw a textbook model of what ought to be done by the Centers for Disease Control and the Tennessee Department of Health.

I am committed to work with Senator HARKIN, the chairman of our committee, and other members of our committee throughout the rest of this year on this issue. I hope the Senator from Minnesota and I, and the Senator from Connecticut, and Senators BURR and ROBERTS, who have been working on this for some time, can begin the new year with a bipartisan bill that can put somebody on the flagpole for this so we can continue, when we go to the hospital or go to the pharmacy or outpatient clinic, to not worry about whether the medicines we are receiving are tainted or unsafe.

I thought it was an excellent hearing. I look forward to working on it. I have some ideas about a model for this regulation.

I found as Governor years ago, if you give a committee responsibility for getting something done they often end up pointing fingers at each other. If you put somebody on the flagpole, it often gets done because you will know what happened. I think that is why Admiral Rickover created such a good

system with nuclear submarines. We have never had a nuclear related death on a nuclear Navy submarine since the 1950s. I think I know why. It is because the Admiral interviewed every one of those captains of the submarines and the Navy made it clear to them if there was a problem with a nuclear reactor that went unfound or unfixed on their submarines their career was in deep trouble, and so we have never had any trouble.

#### WIND POWER

If I may move to another subject, there's been a lot of talk this week about the fiscal cliff. The President and Congressional leaders are meeting tomorrow, as they should, about how we can reduce our debt. That will require, in my judgment, reform of our entitlement programs. Saving our Medicare Program, for example. The average couple who is 65 years of age when they retire pays \$119,000 into the Medicare Program. They will take out \$357,000. That kind of program is not sustainable. For the next generation of older Americans there will not be a Medicare Program unless we work on that.

We need to work together to find a way to restrain entitlements, produce revenues if that is what is necessary, and come to a result. In the meantime we have to be saving money—42 cents out of every dollar we spend is borrowed—so that is what brings me to the floor today.

Supporters of wind power have used this week to proclaim it "Wind Week" in Washington, DC, launching an event to try to persuade us to extend one more time—this would be the eighth time—the Wind Production Tax Credit which, if we were to do so, just for 1 year, would cost another \$12.1 billion over 10 years.

I want to suggest a different name for this week. Let's call it the "Wind Down Wind Week." It is time to end a 20-year-old temporary subsidy that has already been renewed seven times. The reason is very simple. We can't afford it. The Joint Tax Committee says the 1-year extension will cost that \$12.1 billion—but it is not just a 1-year extension. The developers of wind power will get the tax credit for 10 years. That is a lot of money. It is one-third of the Tennessee State budget. It is 2 times what we spend each year on energy research. This money could be used to help reduce the debt instead of fund this subsidy. The cost \$12.1 billion is on top of the \$16 billion in Federal subsidies and grants already given to wind developers and their Wall Street backers between 2009 and 2013, according to the Joint Tax Committee and the United States Treasury.

How can we justify this? We hear a lot about big oil. What about big wind? Big wind received, according to the Energy Information Agency, an \$18.82 federal subsidy per megawatt hour—25 times per megawatt hour as all other forms of electricity production combined. Given our fiscal crisis we should

eliminate special tax breaks for big oil and big wind.

The big wind tax break was put in place in 1992. It was to be a temporary measure. It was intended to boost a new technology. Now, 20 years later, President Obama's respected Energy Secretary says wind is a mature technology. What do we have after 20 years and billions of dollars of subsidies? A puny amount of unreliable electricity. Our country uses nearly 25 percent of all the electricity in the world. Wind produces 3 percent of that. And of course it only produces electricity when the wind blows and it is not easy to store it. So it is of limited use in a country that needs huge amounts of low-cost, clean, reliable electricity. Relying on wind power is the energy equivalent of going to war in a sailboat when nuclear submarines are available.

The wind subsidy is so large that wind developers are now paying distributors to take their wind power, undercutting the baseload energy plants that are necessary to provide the reliable, low-cost electricity our country needs. On top of that, there are better ways to produce clean electricity, better ways than subsidizing a technology that destroys the environment in the name of saving the environment.

For example, it would take a row of 50-story wind turbines along the entire length of the Appalachian Trail from Georgia to Maine, 2,178 miles, to equal the energy production of 4 nuclear reactors. The best way to produce cheap, clean energy in the United States is to let the marketplace do it. Let the marketplace produce large amounts of clean, reliable energy for all businesses and households—not to just subsidize jobs for a technology that can stand on its own and produces only a small amount of unreliable electricity.

Let's use this week to celebrate. But let's celebrate the end of the temporary 20-year-old wind production tax credit and use the \$12.1 billion saved to reduce the Federal debt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

#### NATIONAL ADOPTION MONTH

Ms. LANDRIEU. Mr. President, I have come to the floor to speak briefly about a very exciting opportunity and occurrence that we celebrate and honor every November and that is the opportunity to adopt children. There are so many children—Mr. President, you know, not only in Minnesota but in my State, Louisiana—the Senator from Tennessee is here, in his State of Tennessee—children all over our country and the world who are in desperate need of a family to call their own. There are millions of parents and adults who want to be parents who are waiting and hoping for an opportunity to have a family of their own. So it would make sense for us to do the very best job we can to try to build the bridges to make these unions, these really extraordinary unions possible.

That is what November is about, a month we are getting ready for

Thanksgiving, in anticipation of Christmas and Hanukkah, some of the other holidays that occur around this time. As families gather, our hearts and minds automatically turn to family-related events. So the great coalition that tries to help educate and encourage people on the subject has chosen November as National Adoption Month. You might know—many people go home at night and turn on their televisions. There are any number of television series by Hallmark and Home for the Holidays—lots of networks and cable companies are joining in with the idea of promoting it because it is so right. It is so natural for every child to need and want a family.

I first want to say thank you to Senators who have joined me in this effort: Senator BLUMENTHAL, Senator GRASSLEY, Senator GRAHAM, Senator BLUNT, Senator JOHNSON, Senator LEVIN, Senator MURRAY, and Senator MORAN, have cosponsored this resolution recognizing and supporting the goals of National Adoption Month and in a variety of different ways, not only by passing this resolution, which we hope will be hotlined sometime in the very near future, to go through the Senate and the House, but by participating in a variety of different events at home and here in Washington to raise awareness and call attention to the needs of so many.

First of all, call attention and raise the awareness that there are in fact orphans in America, children whose parental rights have been terminated, or children who literally lost both parents and do not have an able or willing relative and are in great need of a family. The Presiding Officer knows these children as he has been very active in the issue of child welfare.

So we have several events throughout this month. One of them is National Adoption Day. That is going to take place this month, always the Saturday before Thanksgiving, where, happily, thousands of children—I think last year we had over 4,000, and since 2000, when it started, over 40,000 children have moved from foster care to a forever family on adoption day, which is quite a happy celebration. I have attended several of them myself with my local judges. There is nothing more exciting than a packed room of parents and grandparents and aunts and uncles and sometimes siblings waiting to receive these young children in some cases, and teenagers in some cases, and even young adults in some cases being adopted.

I like to say one is never too old to need a family. There are holidays that happen every year. With whom do we celebrate those? There are joys and setbacks in life that occur throughout every decade of a person's life. A person needs a family there with them. I am of the opinion that a person is never too old to be adopted. In fact, I have known individuals adopted in their twenties and thirties. I actually met a woman from California, as crazy

as this might sound, who was adopted in her forties because she was reunited with a woman who used to care for her when she was very young. She grew up in foster care, amazingly became very successful, but when they were reunited, they loved each other as they had 40 years earlier and decided to become a family. It is a bonding of love through adoption.

My husband Frank and I are proud to be the parents of extraordinary children who happen to be adopted. We built our family through adoption. My husband was adopted out of an orphanage from Ireland when he was 5 years old. He still remembers the day when the matron of this little Protestant home for children came up to him and said: Ernest—that was his name—pack your bags. Your mom and dad are here to take you home. He walked to the front of the orphanage and saw his adoptive mother and father, brother and sister, and the rest is history. He came to America, received an excellent education, and has gone on to be a wonderful citizen and, of course, a great father and a loving husband. I am so grateful for that opportunity for him.

I think about the millions of children in orphanages where no one ever knocks on their door to say your mother and father are here to take you home. No one ever comes to call for them. No one ever provides them an opportunity for loving arms and a comforting and safe place.

That is why we fight. That is why we debate. Happily, we never fight about this among ourselves because there is so much unity in the Senate and in this Congress about promoting adoption. It is one of the issues where there is virtually no partisan view.

I wish to thank my colleagues for joining me in the resolution. We want to recognize this day, the Saturday before Thanksgiving, as National Adoption Day. I thank the hundreds of cities and hundreds of organizations, hundreds of communities that are going to be celebrating National Adoption Day, where groups of children—sometimes dozens, sometimes hundreds of children—will, in fact, be adopted on National Adoption Day, and I thank those who started this day many years ago.

We want to remember November as the month. It began in 1995 under President Clinton and his then-First Lady Hillary Clinton, both of whom put such an emphasis on adoption. This is one of their initiatives that has gone on and on and has become bigger and bigger and we are excited about it.

Let me say for the record again that there are over 400,000 children in foster care in America today, and over 100,000 of them are, in fact, orphans. Their parents are either deceased or the parental rights were terminated. Many of these children have siblings who are still looking and hoping to be matched with families. The great thing people might not realize since our efforts of almost 15 years ago is that we have increased the number of adoptions in

America out of foster care from 14,000 children a year out of 100,000 15 years ago, and from 500,000 to 700,000 in foster care currently. We have reduced the number of children in foster care which overall is very good but, most importantly, we have substantially increased the number of children adopted from 14,000 to 50,000 a year. So we are moving in the right direction, but we will not rest until we have placed every child with a responsible and loving family to call their own forever.

The sad news—and I have to unfortunately have a little sad point of this speech—is that internationally the numbers are going in the wrong direction. America used to adopt about 20,000 children a year from around the world. We are the largest receiving country on Earth. Americans feel strongly, Americans of all races and backgrounds and religious affiliations feel strongly that children should be raised in families. Americans have such open hearts and room in their hearts and in their homes for children and through many of our faith-based organizations have stepped up to adopt. Unfortunately, policies within our own executive branch of government and decisions that are being made are constricting the number of children who are eligible for adoption or who are being adopted by Americans, and that number has fallen dramatically, unfortunately, from about 20,000 children down to 9,000 children. I am going to redouble my efforts every year to find the problem areas and identify them, whether something has to be changed legislatively or whether some additional funding can be found to increase efforts not just by the Federal Government but States and local governments and nonprofits. We are going to turn the corner and accelerate this situation.

Let me conclude by showing some wonderful examples of families who have stepped up. First, this is the Morrison family. Fran is from Louisiana. She has fostered over 22 children. She is a professional. This is what she does in her professional life. She has fostered 22 children. But these five she has adopted out of the dozens of children whom she has fostered. This one little baby, the latest one whom she adopted, has a very special need. He was shaken as an infant. He was born completely healthy, but because an adult lost their temper and didn't know what to do—adults sometimes may shake infants because they are angry, because children cry when they are hungry or they are cold or they are tired, and sometimes adults don't like to hear that crying. Sometimes babies get shaken or thrown against walls, and that is what happened to this little child. This child is seriously disabled but has now been adopted by Fran Morrison, and she says she has been blessed. The Lord led her to become a foster parent and then, just one step at a time, she became an adoptive mom. As we can see, she has her hands very full, but she has

a great heart and she, similar to so many other Americans, is trying to make a way for these children and give them a place.

The next family is the Roberts family. Former foster youth Marchelle Roberts was one of my interns in my office just last year, so this is such a personal and touching story. She was a former participant in our foster youth intern program. Her parent is Lisa Roberts from Camden, NJ. She is adopted. Marchelle is now 22 years old and is attending Temple University studying broadcast journalism. Besides Marchelle, her mother has adopted four other children out of foster care. What an extraordinary family, built by a mom who just had a great heart, had the will and the opportunity to adopt these four beautiful girls, and they are now a wonderful family, truly loving the children to help them succeed in a world they were born into that had a very sad beginning but a very happy ending.

The third family I wish to share with my colleagues is the Johnson family. This is Senator THUNE's 2012 Angel. The parents are Ryan and Amber Johnson from Sioux Falls, SD. Two boys were adopted out of foster care. They have one biological child, a little girl. These two little boys were adopted out of foster care. What a beautiful family and what a way to build a family. That is what I am saying; that I wish we could eliminate every barrier. There are cultural barriers. There are financial barriers. There are legal barriers. If we could just eliminate those barriers and let Americans do what they do best, which is to love children, we would be a lot better off. So this is a beautiful family from Sioux Falls, SD.

Our next family is the Duhon family. The parents, Troy and Tracy Duhon, are from New Orleans. I know this family well and I am very proud of them. Their little adopted child Annahstasia Grace was born in China last year. They have three biological children, but they traveled to China just last month to pick up this little baby girl. They have waited for her for quite some time. We are very grateful that the Chinese Government has been cooperative. China is placing more children domestically, which is good, because many years ago they didn't have any process for domestic adoption. Of course, with their one-child policy, there were literally millions of children in orphanages, many little girls because they weren't as valued as little boys. But now that is changing. China is doing more domestic adoptions, but there are still children who need to have loving parents and many of them are finding them in the United States.

Then, finally, the last family is Jake and Amy Glover from Hays, KS. They have four adopted children, three from Haiti and one from China. What a cute holiday card this is going to be for all their friends who will receive it. Since adopting three children from Haiti, the Glovers are committed to raising

awareness about the many daily challenges faced by the Haitians postearthquake. So not only did these individuals turn out to be great parents for these children, but they also—I know because I talk to so many of them—help these children understand and appreciate and respect the culture from which they came, and it builds awareness in America about the greatness of our whole planet. Of course, we are proud of America, but there are many other countries where these children come from, and I know the adoptive parents are very respectful of the sending countries.

So on behalf of the children who are still waiting, I hope people who have heard this can respond in some way. There are many opportunities for people to reach out to our national organizations, nonprofits, churches in communities, and people can always go to our Web site and we have some additional information about how to connect if people are thinking about how to adopt or people who want to support the work of adoption and preservation of families such as these.

Again, I urge my colleagues to pass S. Res. 595 as quickly as possible. I thank those colleagues who have joined with me in cosponsoring this. We wish everybody a great day on Saturday for National Adoption Day, and we look forward to the continued work to promote laws and policies that help every child find a forever family.

Thank you. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Ms. LANDRIEU. 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.

#### RECOGNIZING CAMPBELLSVILLE UNIVERSITY ATHLETICS

Mr. MCCONNELL. Mr. President, I rise today to salute Campbellsville University in Campbellsville, KY, for what is quite a long list of achievements they have received recently. Campbellsville athletics has taken the country by storm. Recently, four Campbellsville students won national championships in track and field, and the Campbellsville men's tennis team won a national championship. A school would be proud of having any one of these winning student-athletes as part of its number—for Campbellsville University to have them all is quite a feat.