

trying to deal with immigration, the labor issue might be a constraining factor in the ultimate growth of this economy, and we need to deal with that. For different reasons, both sides believe we need to be investing in infrastructure. I will remind my colleagues in this body that it was just in 2011 when this government threw \$1 trillion into our economy. I would debate the benefit of that particular investment because it was not thrown at those stimulative issues that would grow the economy.

Today, America deals with a new world. The world situation has never been more dangerous. The best thing we can do for our military and for our people is to get this economy moving again and create a level playing field around the world to help our trade situation. That is what the President is trying to do right now—to create a more level playing field so as to grow our economy, fix our budget process, and deal with the spending issues that we have here at home.

I am excited to be a part of the Joint Select Committee on Budget Process Reform, which is charged with changing the way we fund the Federal Government every year. I am hopeful that will lead to a new budget process that will allow us to avoid the continuing resolutions and the omnibuses by which five or six people get in a room and decide how to spend \$1 trillion. The tax changes alone will not dig us out of this debt crisis. We knew that this was the first step in getting it going, and I am delighted with the impact that it is having on our economy today.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FLAKE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS

Mr. PERDUE. Mr. President, I ask unanimous consent that the Senate stand in recess until 5:30 p.m. today.

There being no objection, the Senate, at 4:21 p.m., recessed until 5:33 p.m. and reassembled when called to order by the Presiding Officer (Mr. RUBIO).

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY BUREAU OF CONSUMER FINANCIAL PROTECTION—Continued

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. SCHATZ. Mr. President, I am here to give some brief remarks about what we are on right now, which is a Congressional Review Act vehicle to reconsider agency guidance. There is nothing that sounds more arcane and wonky than that.

The issue at hand has to do with disparate treatment of people when they go in to get a car. There is plenty of evidence that Black and Brown people are taken advantage of and treated more poorly in the credit context than White people. So the CFPB went to collect data and to require that people be treated fairly.

I will be voting against this CRA vehicle, but I actually think there is a bigger, broader, more concerning issue. I am going to try to work with the Parliamentarian's office and with the leadership of both parties to try to address it. Although it is arcane, it is very worrisome for the Senate itself.

The Congressional Review Act passed in 1996. The idea was straightforward: All rules have to have some authority beyond the desire for the agency to want to promulgate rules. It is subject to review by the Congress. In other words, if you don't like what an agency is doing, now there is a pathway called privileged, which allows the Congress to go ahead and overturn that rule. In the Senate, it is especially important because it is not subject to a 60-vote threshold. This is a big deal. This allows Congress to say any time there is a rule made: We are going to overturn it with a bare majority threshold. That was the will of the Congress, and that is Federal law.

Here is how the statute works. The rule gets submitted to GAO and Congress, and then a clock starts and a bunch of statutory triggers go. I dug into this over the last 10 weeks. Suffice it to say it is very complicated. There is a strict timeline, and there are 60 legislative days to take action. And because we are the legislative branch of the Federal Government, legislative days are not actual days; it ends up taking four times that long.

The important part is that there is a process that is prescribed for that, and there is a timeframe that is prescribed for that. That is the authority the Congress gave itself in 1996. That authority is very clear about two things:

First, it is meant to apply to rules, which are binding, and it is meant to have legal force. The CRA gives the Congress a way to weigh in when an agency's interpretation of the law conflicts with the legislative intentions.

Second, it only applies to rules that were recently promulgated. In other words, they specifically envisioned that a clock would run. The rule gets submitted to Congress, the clock runs, and if the Congress likes the rule or if there is not sufficient will to overturn the rule, then the rule stands. If the Congress doesn't like the rule, then a Member can introduce a CRA resolution of disapproval, and we act on it.

This is why what is happening right now is totally nuts. What is happening right now is not what we have normally done with CRAs. What is happening right now is that we are submitting agency guidance—not a rule but agency guidance—which has no legal force, to the same procedures as the

rules under the Congressional Review Act. The guidance in question is implementing guidance for a statute that is 50 years old. The guidance came out 5 years ago. The law that it is implementing is 50 years old. It is a piece of guidance. It is literally interpretation of an existing law for the public. And now we are going to overturn the interpretation of an existing law from an executive agency. We are not overturning a rulemaking.

When you go through the rulemaking process in the executive branch, it takes anywhere from 12 to 36 months. There is a rigorous process. It is sort of quasi-judicial, and you have to really check all the boxes and do it right. Otherwise, you get sued under the Administrative Procedure Act. None of that happened. This was just guidance.

So now, if the Parliamentarian and the GAO and everyone else decides that the CRA applies to guidance, then the time limits on CRA don't matter at all, and the interpretation of this statute is rendered absurd.

I will point out that this is not the most well-crafted Federal law on the books. It is very difficult to interpret this Federal law, so I sympathize with the Parliamentarian and GAO and the leadership of both parties, who are trying to make sense of a statute that is unclear in some places. But when a statute is unclear, you are supposed to interpret the statute in a way that the statute functions. Right now, what we are doing is we are rendering the statute essentially absurd because if it is a rule, you have a strict time limit. If it is guidance—and I am not sure, if it is guidance, why that wouldn't also apply to an agency circular or an executive memorandum for the Under Secretary. All of this could be subject to tens of thousands of pieces of guidance and rules and views, and whatever is considered policymaking could be subjected to a Congressional Review Act action. I think that is completely bananas.

We are going down a path where Congress can take an administrative action that has been done in the last 22 years and subject it to the CRA, and you will not need 60 votes. This is bad for our institution. I can't stress that enough. I understand that this is not the kind of thing that people across the country are going to be deeply passionate about and march on the streets about and be motivated to vote on, but we are in the Senate, and we have an obligation to safeguard the way this institution operates.

I am deeply afraid that if we subject every piece of administration guidance—and remember, the door swings both ways in Washington. We will have a Democratic Senate. Who knows when, but we will have a Democratic Senate and we will have a Democratic House, and we can scour everything that every Republican administration has done since 1996 pursuant to any law made at any time in our American history and subject it to a majority vote.