

Johnson	Perdue	Shelby
Jones	Portman	Sullivan
Kennedy	Risch	Thune
Lankford	Roberts	Tillis
Lee	Rounds	Toomey
McConnell	Rubio	Wicker
Moran	Sasse	Young
Murkowski	Scott	

NAYS—47

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Heitkamp	Sanders
Booker	Hirono	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	McCaskill	Van Hollen
Donnelly	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Gillibrand	Murray	Wyden
Harris	Nelson	

NOT VOTING—6

Feinstein	Heller	Kyl
Hatch	Isakson	Paul

(Mr. BOOZMAN assumed the chair.)

(Mrs. CAPITO assumed the chair.)

(Ms. MURKOWSKI assumed the chair.)

The VICE PRESIDENT. On this vote, the yeas are 47, the nays are 47. The Senate being equally divided, the Vice President votes in the affirmative, and the motion is agreed to.

CHILD PROTECTION
IMPROVEMENTS ACT OF 2017

The Chair lays before the Senate the following message from the House:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 695), entitled "An Act to amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.", with an amendment.

The VICE PRESIDENT. The majority leader.

Mr. MCCONNELL. Mr. Vice President and colleagues, here where we are. It is now clear there are enough votes to proceed to the pending legislation on government funding, disaster relief, and border security.

Within the Republican conference, there is strong support for the President's reasonable request for more resources to tackle the urgent situation at our southern border. Republicans support the House-passed bill, which includes additional border security funding. We are also, however, eager to complete the remaining appropriations bills that the Senate has already passed.

However, obviously, since any eventual solution requires 60 votes here in the Senate, it has been clear from the beginning that two things are necessary: support from enough Senate Democrats to pass the proposal at 60 and a Presidential signature.

As a result, the Senate has voted to proceed to legislation before us in order to preserve maximum flexibility for a productive conversation to continue between the White House and our Democratic colleagues. I hope Senate Democrats will work with the White House on an agreement that can pass both Houses of Congress and receive the President's signature.

Colleagues, when an agreement is reached, it will receive a vote here on the Senate floor.

MOTION TO CONCUR

Mr. MCCONNELL. Mr. President, I move to concur in the House amendment to the Senate amendment to the House amendment to the Senate amendment to H.R. 695.

The VICE PRESIDENT. The motion is pending.

The Democratic leader.

Mr. SCHUMER. Mr. President, as we said to President Trump a week ago, his wall does not have 60 votes here in the Senate, let alone 50 votes. That much is now clear.

The Democrats have offered three proposals to keep the government open, including a proposal offered by Leader MCCONNELL that passed the Senate unanimously only a few days ago. We are willing to continue discussions on those proposals with the leader, the President, the Speaker of the House, and the leader of the House. All five are necessary to get something done.

I yield the floor.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the two leaders for what they have done today.

Even though I know some people who are tuning in may not understand what just happened, the understanding that has been reached—and I thank Senator FLAKE and Senator JONES and others—is that we are not voting on anything else in this Chamber relative to this issue until a global agreement has been reached between the President and these two leaders and the leader of the House. There will not be test votes, and there is not going to be a tabling vote. The Vice President has been over here with his members, negotiating already.

What this does, I think, is to push this ahead to a negotiation that will yield a result, and we will do the best we can to keep from shutting down the government, or if it does shut down, it will shut down very briefly.

I thank the two leaders for agreeing to go forward in this manner. It allows us to move forward in a positive way, yet keeps the negotiations alive. Only a bill can pass this Chamber now that has all of their agreement.

The VICE PRESIDENT. The Senator from Arizona.

Mr. FLAKE. Mr. President, I thank the two leaders of this agreement, the Senator from Tennessee, the Senator from Alabama—Mr. JONES—and others who have worked to ensure that the next vote we will have in this Chamber

will be on an agreement as Senator CORKER said—not a test vote, not a cloture vote.

What I wanted to do with not proceeding is to demonstrate that not all Republicans would be for the House bill either. There is no path forward for the House bill. The only path forward is to a bill that has an agreement between the President and both Houses of Congress. The next time we vote, it will be on the agreement. It will not be another test vote.

I yield the floor.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that following my remarks, the Senator from Delaware, Mr. COONS, be recognized.

The VICE PRESIDENT. Is there objection?

Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I thank Senator CORKER, Senator FLAKE, and the leaders, Senator MCCONNELL and Senator SCHUMER, for their discussions. I thank the Vice President for his presence here today.

In my own view, government shutdowns ought not to be a part of budget negotiations any more than chemical weapons should be a part of warfare. We were elected to make the government run for taxpayers, not to shut it down. My hope is that this will put us on a path toward a result and will recognize the President's desire for increased border security, which we support and many Democrats support, and we can finish our appropriations process.

What I would like to do now is to say a few words about what was described in a very famous movie in which Jimmy Stewart played, "Mr. Smith Goes to Washington," as democracy's finest show—the right to talk your head off in the legislative filibuster. Let someone say, "Well, Senator Alexander, you just announced you are not going to run for reelection in 2 years, so you are going to change your tune," I am not changing my tune.

The remarks I made in 2011 at the Heritage Foundation about the tradition of the legislative filibuster—perhaps the best known part of the U.S. Senate—can be found at <https://www.alexander.senate.gov/public/index.cfm/speeches/floorstatements?ID=23BE8F64-7708-4E5D-86AD-F1F8C7EE6F30>.

You can also find Senator SUSAN COLLINS' letter regarding the legislative filibuster on April 7, 2017, at <https://www.collins.senate.gov/newsroom/senators-collins-coons-lead-effort-preserve-60-vote-threshold-legislation>.

I would like to tell a story, Mr. Vice President.

In 1978, a young Utah Senator came here. He was conservative. He didn't know what he could not do, so he took on the Democratic establishment on its most important issue. ORRIN HATCH was the Senator. He is our longest serving Republican Senator, and he is

retiring this year. What he decided to do was to challenge the Democratic leadership that wanted to pass organized labor's major objective of the time. It was something that would have changed the relationship between employers and employees for years to come.

Now, at that time in 1978, there was a Democratic President, Jimmy Carter. There were 62 Democrat Senators—more than enough to pass a bill. There were 292 House Members. So, if ORRIN HATCH had not been new and young and if he had known more about what he had been doing, he probably wouldn't have even tried this, but he did try it.

He won. He offered 1,200 amendments. Senator Byrd, who was the distinguished majority leader of the Senate, tried six times to cut off debate—we call that cloture here in the Senate—and he didn't get 60 votes. Six different times, he tried to cut that off. The end result was that the minority view—the Republican view at that time—prevailed against a Democratic President, a Democratic House, and a Democratic Senate. That happened before.

It happened in the 1960s. Everett Dirksen was the Republican leader of the U.S. Senate, sitting right over there. He had even fewer Republican Senators. When ORRIN HATCH did his work in 1978, there were 38 Republican Senators, and Dirksen had fewer than that. Lyndon Johnson and George Meany and the American labor movement decided that they wanted, in effect, to make it illegal for any State to have a right-to-work law. That is what they wanted to do, and they thought they could do it except that the legislative filibuster was in place. At that time, it took 67 votes. Everett Dirksen toured the country, and he was able to defeat a measure that was supported by overwhelming Democratic majorities.

Now, why do I tell those stories? It is because the shoe is on the other foot right now. The Republicans are in charge.

We hear many people, including the President say: Get rid of the filibuster. Get rid of the legislative majority. Let's do it our way.

We should not do that. We have never done that in the U.S. Senate. The Senate has always been different.

One Senator said to me a few minutes ago that it is the whole reason he came to the Senate from the House. It was so that every time the majority got an idea, it wouldn't be like a freight train running through the Senate. One of the major purposes of the legislative filibuster is to protect the minority in this country.

A young Frenchman wandered through America in the 1830s. His name was Alexis de Tocqueville. He wrote a book, entitled "Democracy in America," that is, maybe, the best book on democracy in America that has ever been written. It was very perceptive. He said that he saw, looking ahead, two potential problems for the American democracy. One, he said, was Rus-

sia. That was prescient. The other, he said, was the tyranny of the majority. Alexis de Tocqueville said in the 1830s that one of the great problems for our country might be the tyranny of the majority, and it is the U.S. Senate that is a bulwark to prevent the tyranny of the majority in the American democracy. It has been from the beginning, and it is today.

Now, some of our Republican friends and conservative friends and sometimes our Presidents say: Well, let's get rid of it. We might think about the fact that we Republicans, we conservatives, are usually the ones in the minority. We are usually the ones needing protection. Since World War II—nearly 70 years—Democrats have had complete control of the U.S. Government—they have had the Senate, they have had the House, they have had the Presidency—for 22 years, and Republicans have had it for 8 years. Democrats have had control 22 years, and we, 8 years. So democracy's finest hour—the right to talk your head off, the opportunity for extended debate—has benefited our side, Democrats could say, more than their side. So why should we be the ones who are trying to change it? In fact, we weren't.

In 1995, after the big Republican sweep—you know, we have these. One of us is in charge, and then the people get tired of us, and they put the other ones in charge. So in 1995, after the big Republican sweep, Republicans were in charge of the Senate, and a Democratic Senator said: Let's get rid of the legislative filibuster—at least change it. Every single Republican, even while the Republicans were completely in charge of the Senate, voted no.

The essence of the Senate is the right to extended debate, the right to talk our heads off, America's finest hour, and then we will vote when we think we are ready to stop debate. It used to be 67; now it is 60.

For a long time, there wasn't any limit on it; it just went on forever. President Wilson got mad about it a century ago, and so the Senate said: OK, we will debate until 67 of us think we should stop. Then we changed that, and now it is 60.

Some of the most eloquent defenses of the legislative filibuster came from the late Senator Byrd. I remember hearing his last speech he made in the Rules Committee where he said that the legislative filibuster is the necessary fence against the excesses of the popular will, the excesses of the Executive. It was the necessary fence, he said, and we should keep it.

This fractured Nation needs a consensus-building institution, and requiring 60 votes to pass major legislation is the discipline that forces us to come together.

I saw the Senator from Washington, Mrs. MURRAY, on the floor a little earlier. We worked on the legislation to fix No Child Left Behind. That wasn't easy to do. Everybody has an opinion about kindergarten through the 12th

grade. We are all experts on education. Yet we worked and we worked and we worked, and finally we probably got 85 votes for that. You know what. We made some big changes, but people accepted it. It is a lasting solution. Teachers at 100,000 public schools don't have to worry about our ziggling and zagging and changing Federal education policy for the next several years because we talked about it until we came to a conclusion about it and accepted it.

An example of the other way to do it is ObamaCare. Eight years ago, Democrats had the majority, so all the Democrats voted for it, and all the Republicans voted against it. What has happened? We have been trying to repeal it ever since it passed. It is just a constant state of agitation and a stalemate of debate.

The tradition has been different for nominations, and sometimes people get confused about that. The legislative filibuster is one thing; nominations are another thing. Until recently, they have always been decided by a majority vote. Now, they could have been decided by 60 votes, but they weren't—at least ever since a century ago.

I am not interested at this time in assigning blame to Democrats or to Republicans for what has happened on nominations, but the fact is that even though a Senator could have required 60 votes, there never has been a Cabinet member who was required to be confirmed by more than 51 votes. There never has been a Federal district judge who had to get 60 votes to be confirmed, and there never had been a Supreme Court Justice, with the exception of Justice Fortas.

I see the majority leader, and I would be glad to suspend.

Mr. MCCONNELL. I expect my friend from Tennessee is going to make this point in a moment, but if ever there were a stressful moment for the tradition that even though it was possible to filibuster the Executive Calendar, it was not done, would my friend agree that it would have to be the Clarence Thomas nomination for the Supreme Court?

Mr. ALEXANDER. Madam President, I would agree with that. And we could get into a lively dispute among us about who shot John and who scratched whose back and whose fault it all is, whether the Democrats, who in 2003 began for the first time to require 60 votes for circuit judges, or the Republicans, who stopped a couple of President Obama's judges, are at fault. The fact is, I believe—I know for a fact that most of us believe we should keep the legislative filibuster.

How do I know that? Because Senator COLLINS, who is presiding at the moment, and Senator COONS, who will speak following my remarks, offered into the RECORD on April 7, 2017, a letter from 29 Republicans and 32 Democrats that said: We are mindful of the unique role the Senate plays in the legislative process. We are steadfastly

committed to ensuring this great American institution continues to serve as the world's greatest deliberative body. Therefore, we are asking you to join us in opposing any effort to curtail the existing rights and prerogatives of Senators to engage in full, robust, and extended debate as we consider legislation before this body in the future.

That is 61 Senators on record about the legislative filibuster. So one reason the legislative filibuster is going to stay is because there are not the votes to change it.

As I come to a conclusion, let me offer a better reason not to change it and a reason why we should change it if we consider it in the right way. We have rules in this body. In order to change a standing rule of the Senate, it takes at least 60 votes to get cloture. It has been proposed—and both sides have before—to use what we call the nuclear option, which is a parliamentary maneuver that allows the Senate to change a rule without getting 60 votes.

This is a country that prizes the rule of law. I have heard President Trump say that. I have heard President Obama say that. I have heard most of us say that. I would ask, if we don't follow our own rules, why would we expect the American people to follow the rules we write? We are the main rule-writing organization in the United States of America. We ought to follow our own rules.

When we didn't and used the so-called nuclear option in 2013, a Democratic Senator who is greatly respected, Senator Levin, said that "a Senate in which a majority can always change the rules is a Senate without any rules." A Senate in which the majority can always change the rules without following the rules is like a football game where the home team can say: If you gain 9 yards, that is a first down; or if they make a three-point shot and they need four, they count it as four. That is not the rule of law.

I make these remarks—and I hope the Senator from Delaware is still here and willing to stay—I make these remarks just to remind the country and to remind the Members of the Senate that 61 of us have already signed a letter saying that the legislative filibuster—the right to extended debate, the opportunity to talk your head off in defense of what you want, the ability of this body to function as a bulwark against the tyranny of the majority and, in this fractured country, as an institution that can produce a consensus that is lasting and accepted by most people—is the most valuable part of this body, and we ought not to trifle with it whether we are in the majority or in the minority, and we ought to make that clear.

If we ever do decide we want to talk about it and change it, we should follow the rules. We have rules. It takes at least 60 votes to change a standing rule.

I want to put a stop to this talk about breaking the rules to change the rules of the Senate. I will not vote to turn the Senate into a rule-breaking institution, and I hope that if that opportunity ever arises, my colleagues will vote the same way, as 61 of them did in the letter Senator COLLINS and Senator COONS signed.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Delaware.

Mr. COONS. Madam President, the remarks just concluded by my friend and colleague from Tennessee help make it clear why many of us do not look forward to his departure at the end of the upcoming Congress to the better vales of retirement. We are so grateful for the balance and the measured leadership of the Senator from Tennessee. He reminds us of the best of our history and what it is that the Senate has stood for and the role that we play in our constitutional order. I will simply briefly thank him for his remarks.

I thank the Presiding Officer for her hard work to make sure this letter was presented to the leaders of both caucuses with 61 signatures. We frankly could have gotten more, but in the press of the work of that day, April 7, 2017, we thought it important to get on the record, in signature, individual Senators saying that we are committed to not change the rules of the Senate on the Senate filibuster rules regarding legislation. I am committed to never voting to change the legislative filibuster.

I will simply conclude by saying to my friend, my colleague from Tennessee, that I think there is important work for us to do here to strengthen our role. A number of the retiring Members gave floor speeches in recent days where they talked about the ways in which this body—we do not listen to each other enough, we do not debate each other enough, and we do not work across the aisle enough. If we are to play the role the Founders intended, we must do more of that, not less.

The agreement just reached here that will allow us to negotiate in good faith towards a resolution of the impending shutdown—the fiscal standoff between the White House, the House, and the Senate—is exactly the kind of example I would like to point to where Members listen to each other and work out the kind of resolution that allows us to skip dozens of intervening test votes and move right to the resolution.

This body has a critical role to play. As my friend and colleague from Tennessee pointed out, rule of law is at the very foundation of our constitutional Republic. We are at a moment in our history where many question the stability of our commitment to the rule of law. Nobody will play a more important role in reassuring our markets, our communities, our society, and the world that democracy—the deliberative, respectful resolution of disputes, not through violence but through de-

bate and through votes by the elected representatives of our people—is the best system for the governance of societies on Earth. No better proof of that can be given than by this body conducting itself in the sort of disciplined, reasonable, appropriate way that the rules of the Senate allow for. Thus, I will not vote and I will suggest that the signature of the Presiding Officer also reinforces that she and many others here, on a bipartisan basis, will not vote to take the rash step of changing the rules of the Senate to turn us into the House and to remove the last bulwark, as my friend and colleague said, that ensures that we have the right to talk our heads off whenever we might so choose.

I yield to my friend and colleague, the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. JONES. Madam President, let me also thank my colleagues from Tennessee and Delaware.

I will tell you I wasn't here when that letter circulated; however, if you want to do an addendum, you have my permission to add my name to that letter because it is that important. I appreciate so much your comments.

I have been here almost 1 year now. What I have seen is, it is often so easy, in our polarized political climate we have, that when issues we have faced like today come up, people go to their corners and it is the proverbial line in the sand and everybody wants to talk at each other and not to each other.

So I appreciate very much Leader MCCONNELL and Leader SCHUMER, who worked with my colleagues Senator FLAKE and Senator CORKER in trying to make sure a motion to proceed is simply a motion to proceed to talk, to have those dialogues, so we can go about the business of government as we leave for the holidays at some point.

I believe what has happened here late this afternoon is an important step, and it is especially an important step going into the next Congress to tell folks who are coming in and those of us who are coming back that we want to make sure we were put here to get something done, not just retreat to our corners.

I thank everyone who was involved late this afternoon trying to make sure this agreement was reached. I am anxious for our leaders to proceed so we can go about the business of running this United States and that we can go into these holidays with the assurance we will come back to do things for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, when I conclude my comments, I am going to ask consent that I can allow Senator VAN HOLLEN to speak, and then I will speak after him for the purposes of a unanimous consent request.

There is no such thing as a good shutdown. I certainly was encouraged

to hear the progress we made about half an hour ago, when the majority leader and the Democratic leader talked about discussions that are taking place. We hope that later this evening we will have an agreement that can pass the Senate and the House and be signed by the President.

I want to make this clear. Any government shutdown is unacceptable. It costs the taxpayers money. It inconveniences the public, and it is certainly not fair to our Federal workforce. This particular shutdown would affect 800,000 of our employees, our Federal workforce. About half would be asked to work but would not get a paycheck, and about half would be furloughed without compensation.

I am very proud and Senator VAN HOLLEN is very proud of the Federal workforce that live in the State of Maryland, but my colleagues should recognize that 85 percent of the Federal employees live and work outside of the Washington, DC, area. This affects each one of our States and people who are working in each one of our States.

I also wish to point out that over 30 percent of the Federal workforce are veterans who have already served our country in uniform and are now serving their country as public servants in the Federal workforce.

Let me tell you what they are in for and the reason why we are going to be asking a unanimous consent request. Without legislation being enacted, the individuals who are going to be required to work will have to work without getting paid, and then when government restarts, they can get a paycheck for the work they have done. Those who are on furlough would never receive any funds, even though it was not their fault or responsibility that they couldn't work. Those who have leave time would lose that leave time as a result of the government shutdown.

The legislation for which we are going to ask consent in a few minutes would make it clear to these Federal workers that as soon as we can after a shutdown—again, I hope there is not a shutdown, but if we have a shutdown, as soon as the shutdown ends—the next available time, our Federal workforce would receive their compensation. So they know that at least they are going to get their salary when the government reopens and that anxiety can be removed, because right now they don't know if they are going to be able to get their compensation when the government shutdown ends. They recognize that we will do the fair way with their leave time so they don't lose their leave time.

When we have opened government in the past, when we have had shutdowns, as part of the reopening process, we have included this type of legislation. We don't know how long the shutdown would be, if we have a shutdown, which I hope we don't have, but it would be in all of our interests to tell our Federal workforce that we hope there is no

shutdown, but if there is, they will be paid at the first available time when the government reopens. That is the purpose of this legislation. I am pleased we have been able to clear it on both sides. I wish to first yield through the Chair to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. VAN HOLLEN. Madam President, I want to thank my colleague from Maryland, Senator CARDIN, for his leadership on this issue, among many others, and start by agreeing with him that, first and foremost, we should avoid a government shutdown. That is exactly what this Senate did on a bipartisan basis just a few days ago. We passed an agreement. None of us loved it, but we all recognized that it was a better alternative than shutting down the government. That, of course, went over to the House, and we know what happened to it there. I hope we will continue to work together to avoid a government shutdown.

The proposal that Senator CARDIN and I are putting forward is very simple. Federal employees should not be punished by the shutdown. They have nothing to do with the dysfunction that would cause a government shutdown, and they should not be the ones who have to bear the burden and the penalty of something totally beyond their control—a government shutdown. That is what this is about.

As Senator CARDIN indicated, often after shutdowns are over, the Congress and the White House do the right thing, and we provide retroactive compensation to Federal employees, but it is not guaranteed. It always could be changed. It might not happen. What we are trying to do is to make sure that as Federal employees watch the spectacle here on Capitol Hill and they are thinking about joining their families for Christmas or other things over the holidays, they don't have to have the uncertainty, if there is a government shutdown, about whether or not they are going to get a paycheck to pay all of the bills that will stack up over that period of time. Let's provide confidence and certainty upfront that Federal employees don't have to pay the penalty for dysfunction in Washington. That is what this bill does.

I want to stress that if we go into a shutdown, Federal employees—both those who are still working during the shutdown, as well as those who are furloughed—go without paychecks. They have bills to pay. They have mortgages. They have rent. They have all sort of costs that will pile up. No matter what, they will bear a burden from the dysfunction in a government shutdown, along with many other people in the country who will see a disruption of Federal Government operations. They will still bear an unfair burden.

I also want to thank our Republican colleagues for agreeing with this in a unanimous consent request. What we are doing today is to say to people, to

hard-working Federal employees: Rest assured that after that difficult period goes by, if there is a shutdown, you will be assured and you will have the certainty that you are going to be able to get your pay and make those payments to make sure that you don't fall further behind.

It is the least we can do at this moment. Let's hope we don't have to use this provision that we are passing in the Senate today, but it is an important insurance policy, an important security blanket as the hours tick by and we are not sure whether or not we will have an agreement by midnight this evening.

I want to thank our colleagues, and I want to yield back to the senior Senator from Maryland for the purposes of making the motion.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

MR. CARDIN. Madam President, I want to thank Senator VAN HOLLEN for his leadership on this issue and on so many issues that affect our Federal workforce. He has been a true champion. I want to underscore two points he made. One, the majority of our workforce depends on their paycheck in order to meet their monthly and weekly needs. If they do not get their paycheck on time, they run a real risk of being in default on meeting their family needs—whether it is a mortgage payment, food, or utility bills. They are at risk. They are at risk even though they will get a paycheck later. I just want to underscore the inconvenience and the danger.

A recent poll by AFGE indicated that 78 percent of their members have been impacted in this way during a government shutdown. So this is a large percentage of our Federal workforce.

The second thing I want to emphasize from Senator VAN HOLLEN's comments is the fact that we don't want to see a shutdown. Quite frankly, I would like to see appropriations bills done and not a CR, not a continuing resolution.

We did get some of the appropriations bills done on time; that is, October 1 for the fiscal year. But, unfortunately, 9 of the 15 Federal Departments and dozens of Agencies did not have an appropriations bill passed by October 1 and are in danger of running out of funds at midnight tonight. That is why it is important that, at least, we pass a continuing resolution in order to keep those Agencies functioning. It includes the Department of Commerce, NASA, the National Park Service, the Forest Service, the Department of Transportation, HUD, IRS staff—and I could mention many, many others.

So the purpose of the unanimous consent request that I will be making is to tell our Federal workforce that we are going to continue to fight to keep government functioning. We hope we can get it done in the next 5 hours, but if for any reason we miss that deadline and we have a government shutdown, by this action we are telling you that when we have appropriations restored,

you will be compensated during this period of time.

**FEDERAL EMPLOYEE FAIR
TREATMENT ACT OF 2017**

Mr. CARDIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 290, S. 2274.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk:

A bill (S. 2274) to provide for the compensation of Federal employees affected by lapses in appropriations.

There being no objection, the Senate proceeded to consider the bill.

Mr. CARDIN. Madam President, I further ask unanimous consent that the bill be considered read a third time and passed, and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 2274) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Employee Fair Treatment Act of 2017”.

SEC. 2. COMPENSATION FOR FEDERAL EMPLOYEES AFFECTED BY A LAPSE IN APPROPRIATIONS.

Section 1341 of title 31, United States Code, is amended—

(1) in subsection (a)(1), by striking “An officer” and inserting “Except as specified in this subchapter or any other provision of law, an officer”; and

(2) by adding at the end the following:

“(c)(1) In this subsection—

“(A) the term ‘covered lapse in appropriations’ means any lapse in appropriations that begins on or after December 22, 2017; and

“(B) the term ‘excepted employee’ means an excepted employee or an employee performing emergency work, as such terms are defined by the Office of Personnel Management.

“(2) Each Federal employee furloughed as a result of a covered lapse in appropriations shall be paid for the period of the lapse in appropriations, and each excepted employee who is required to perform work during a covered lapse in appropriations shall be paid for such work, at the employee’s standard rate of pay, at the earliest date possible after the lapse in appropriations ends, regardless of scheduled pay dates.

“(3) During a covered lapse in appropriations, each excepted employee who is required to perform work shall be entitled to use leave under chapter 63 of title 5, or any other applicable law governing the use of leave by the excepted employee, for which compensation shall be paid at the earliest date possible after the lapse in appropriations ends, regardless of scheduled pay dates.”

Mr. CARDIN. I yield the floor to Mr. VAN HOLLEN.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. VAN HOLLEN. Madam President, I thank my colleague from Maryland and the body and now urge the House of Representatives to take this

up immediately. This has now passed the U.S. Senate, and they now have an opportunity to pass this over in the House, and I would urge them to do it this evening or as soon as possible so that we can provide certainty and confidence to hard-working Federal employees.

Again, we want to avoid a shutdown, but we need to provide an insurance policy in the event that it does shut down.

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

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

**DIRECTING THE SECRETARY OF
THE SENATE TO MAKE A COR-
RECTION IN THE ENROLLMENT
OF THE BILL S. 3628**

Mr. MCCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 148, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 148) directing the Secretary of the Senate to make a correction in the enrollment of the bill S. 3628.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 148) was agreed to.

Mr. MCCONNELL. I suggest the absence of a quorum.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DAINES. Madam 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

Mr. DAINES. Madam President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

GUATEMALA

Mr. LEAHY. Madam President, like many Members of Congress who have

long supported efforts to help build an independent judiciary and reduce public corruption and impunity in Guatemala, I have observed a pattern of alarming actions by President Morales’s administration and his allies in Guatemala’s Congress to thwart these efforts.

In the latest development, earlier this week, the Guatemalan Ministry of Foreign Affairs withdrew the diplomatic immunity of 11 investigators and other personnel of the International Commission against Impunity in Guatemala, CICIG, and ordered them to leave the country. This followed an announcement by the Minister of Interior of the removal of another 15 high-ranking police officials from their posts.

Over the years, the United States has invested many tens of millions of dollars to support the national police, the attorney general’s office, and CICIG. These actions by the Morales’s administration directly undermine those investments and indicate that it cannot be trusted to keep its word and is not serious about upholding the rule of law.

Working jointly with the Attorney General’s Office, CICIG has investigated cases of public corruption and other serious crimes. It has helped to strengthen the investigative capabilities of the attorney general’s office and the police and promoted key criminal justice reforms. For this reason, CICIG, its commissioner, and the former attorney general have been the target of acts of intimidation and a smear campaign orchestrated by the Morales’s administration and its allies in the military and the media. These actions by the government threaten CICIG’s independence and its ability to function effectively. According to information I have received, the professionals whose diplomatic immunity and visas were revoked include investigators and lawyers involved in some of the most sensitive cases related to alleged corruption and illicit campaign financing by top government officials.

Other actions by Guatemalan authorities are equally disturbing. Since assuming office in January 2018, Minister of Interior Enrique Degenhart has, on multiple occasions, removed or relocated senior national police officers and detectives. Most of these officers had many years of experience in criminal investigations, counter-narcotics, and other specialized areas. Most were trained by the United States. Even worse, the Minister has reportedly appointed police officials with alleged links to the military and promoted officers without transparent, merit-based processes, undermining efforts to build a professional, transparent, and accountable police force. This threatens our ability to continue working with the police, which has in the past been infiltrated by organized crime, to combat narcotics trafficking, money laundering, and other transnational criminal activity.

In 2009, working with key Guatemalan law enforcement agencies,