

Republicans have opposed our plan to pay for this legislation with a tiny surtax on a tiny fraction of America's highest earners. The tax would only apply to the second or third or fourth million the wealthiest Americans make. But Republicans say the richest of the rich in our country—even those who make millions every year—shouldn't contribute more to get our economy back on track. They call our plan, time after time, a tax on job creators—and I say so-called job creators—because every shred of evidence contradicts this red herring.

For example, there have been many outlets, but I will concentrate on one: National Public Radio went looking for one of these fictitious millionaire job creators. A reporter reached out to business groups, the antitax lobby, and Republicans in Congress hoping to interview one of these millionaires. Days ticked by with no luck. Many of our job creators are similar to unicorns; they are impossible to find and don't exist. That is because only a tiny fraction of people making more than \$1 million—probably less than 1 percent—are actually small business owners, and only a tiny fraction of that tiny fraction is a traditional job creator. Most of these businesses are hedge fund managers or wealthy lawyers. They don't do much hiring and they don't need more tax breaks.

One reporter looked for millionaire job creators hiding on Facebook. This time they found a few, and they actually supported our plan. These people on Facebook actually supported our plan to ask the richest of the rich to pitch in to improve the economy for all Americans. This is what Jason Burger, owner of a contracting company that is hiring like crazy, said:

It's only fair that I put back into the system. That is the entire reason for my success.

Mr. Burger may be a millionaire, but he is not one in a million. The majority of people who make more than \$1 million a year say they would gladly contribute more to improve the economy.

It is often said that what is good for business is good for America. I hope my Republican colleagues will remember, as Mr. Burger does, what is good for America is also good for business.

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#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

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#### MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT

Mr. McCONNELL. Mr. President, later this week Senators will have an opportunity to do three big things with a single vote.

By voting for the Middle Class Tax Relief and Job Creation Act that will soon come over from the House, Sen-

ators will be able to extend the temporary tax relief working Americans continue to need nearly 3 years into this administration, prevent more job losses in the middle of a jobs crisis by blocking a new regulation on U.S. manufacturers, and facilitate the creation of tens of thousands of new jobs through the construction of the Keystone XL Pipeline. One vote, three accomplishments. That is to say nothing of the other things the bill would do such as the doc fix and unemployment insurance.

My suggestion is that once this legislation comes over from the House, we pass it without delay. Based on the merits of the bill, it should be a strong bipartisan vote. Nothing could be more bipartisan right now than preventing job loss or facilitating the creation of new private sector jobs.

The President has said job creation is his top priority. Here is a bill that helps him achieve it without a dime of taxpayer money. The President says he wants to extend the payroll tax extension. Here is a bill that does it. The President says he wants unemployment insurance extended. This bill does that. The President says he wants the two parties to compromise. This is it. There is no reason this legislation shouldn't have the President's enthusiastic support.

The only reason—the only reason—for Democrats to oppose this job-creating bill would be to gain some political advantage at a time when every one of them says job creation is a top priority.

Here is what the junior Senator from West Virginia, a Democrat, had to say just today about the pipeline measure contained in the House bill:

I'm for the Keystone Pipeline. All the trade unions, everyone's for it. It creates thousands of jobs.

I couldn't say it better.

The House actually had a stand-alone vote on the Keystone XL back in July. Forty-seven House Democrats voted for it. I would suggest to my friends on the other side that they join with us and close out the year on a bipartisan note.

The Middle Class Tax Relief and Job Creation Act was written to appeal to both parties, and I have yet to hear anyone on the other side offer a single good reason for opposing it. So far, the only reason Democrats have given for opposing this bill is that they would rather extend the payroll tax cut on its own without adding language about a pipeline that many of them say they support anyway. So evidently they would vote for both these things separately but not together. That makes absolutely no sense.

Look, you are either for this pipeline project and the jobs that would come with it or you are not. If you are for it, there is no reason to oppose it just because it is not offered as a stand-alone measure. That doesn't make any sense.

It is time to stop the posturing. Here is a bill that contains top priorities from both sides. Let's take it up and

pass it without any more theatrics. Let's pass this job-creating bill and give Americans the certainty and the jobs they deserve.

I yield the floor.

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#### RESERVATION OF LEADER TIME

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

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#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

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

The legislative 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.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

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#### USE OF THE FILIBUSTER

Mr. DURBIN. Mr. President, last week, the highlight of the Senate was two Republican filibusters. Those are efforts by the Republicans to demand 60 votes for the Senate to take action. It used to be rare. In fact, it was so rare that Jimmy Stewart made a movie about it: "Mr. Smith Goes to Washington." My colleagues may remember it. It wasn't this Chamber, but it looked a lot like it, and Jimmy Stewart was at a desk in the back row because he was a freshman Senator and he literally spoke until he dropped, physically, but he won the argument, won the day—a great triumph in Washington. He used the filibuster effectively to stop what he thought was a greedy move, a selfish move by his colleagues.

That is the movies. What is real life? Real life is when a Republican Senator says: I declare a filibuster and I will see you later; I am going out to dinner.

That is how it works around here. If we had a few more Jimmy Stewart moments on the floor, where those who are pushing for a filibuster—an exceptional, extraordinary 60-vote margin—had to actually stay on the floor and argue their point, I think they would go away. That is because 9 times out of 10, 19 out of 20, maybe even more, it turns out there is no solid basis for what they are doing.

What they did last week with their filibusters was to stop a woman from

being appointed to the circuit court in the District of Columbia. Her name is Caitlin Halligan. She is from New York. She is an extraordinary person who has argued many cases before the Supreme Court. I do not have her résumé in front of me, but I spoke to her nomination last week. She was found unanimously well-qualified by the American Bar Association, and yet she was filibustered by the Republicans, and we could only come up with one Republican vote to support us—only one. All the rest said: The filibuster continues.

To put that in historic perspective, a few years ago we had a big confrontation in the Senate, before the Acting President pro tempore was elected to the Senate, so I do not implicate him in any way. But before the Acting President pro tempore was elected, there was an argument about whether you should filibuster nominees.

Well, a group of 14, a bipartisan group, said: only under extraordinary circumstances. Last week, with the filibuster of this nominee, they completely forgot that—except for one, Senator MURKOWSKI of Alaska. She remembered that promise, and she kept it. She joined us in voting to break the filibuster. It was not enough. That nominee fell by the wayside.

It was not enough, though. One filibuster a week is not enough for the other side. They came up later in the week with another one—that seems to be the sum and substance of their strategy in the Senate—and this filibuster was of Richard Cordray. Richard Cordray is a former attorney general of the State of Ohio. He is now working at the Consumer Financial Protection Bureau, and the President wants him to be the Director.

What is this bureau? Created by the Dodd-Frank financial reform bill, it will put in place for the first time in the history of the United States an agency of government focused on making certain families and consumers know what they are signing when they get into financial transactions, and to stop those who are exploiting Americans and American families. The Consumer Financial Protection Bureau. We have a ton of agencies that work with the financial institutions. Some of them are good, close friends of those institutions. This would be the one agency of government on the side of consumers.

I know a little bit about it because I heard a speech once from Elizabeth Warren. Elizabeth Warren, a Harvard law professor, one of the most articulate spokespersons for consumer rights in America—and the watchdog on the bailout funds Congress gave to the banks. She gave a speech once and said: We ought to have one agency that says to the American people, here are the tricks and traps you might find in a mortgage or a credit card agreement, and here are some things we should not allow under the laws of America.

I liked it so much, I went up to her afterward and said: I wish to introduce

the bill. She and I worked on it. We introduced it. I put the first bill in. It gained support and popularity to the point where, when we came to the floor with the Dodd-Frank bill, Senator Chris Dodd took my idea and, I will say, improved it dramatically—he did a great job—and included it in financial reform.

My hope—the hope of many people—was that Elizabeth Warren, the person who conceived this idea, would head this agency. She was stopped cold. The banking interests and financial institutions in America said not only no, but heck no, we are not going to allow her to be the head of this agency.

She worked at it, trying to get it up and running, get the right people in place, and eventually went on, and I will not talk here about what her next effort will be. You can read about it anywhere in the papers. But she was the inspiration for this, and Richard Cordray was by her side, as they put this agency together.

The banks hate the Consumer Financial Protection Bureau like the devil hates Holy Water. The idea there would actually be an independent agency looking over their transactions and their legal instruments and informing the American people when they have stepped over the line is something they find unacceptable.

Let me tell you about another person working over at the Consumer Financial Protection Bureau. Her name is Holly Petraeus. If her name rings a bell, it should. Her husband, General Petraeus, has probably been in the forefront of keeping America safe since 9/11 more than any other individual, serving both Republican and Democratic administrations. He has risked his life serving his country overseas. He is completely committed to our men and women in the military, and he is currently head of the CIA. His wife is cut from the same cloth. She believes in the military in her heart and soul, and she has worked at the Consumer Financial Protection Bureau to stop predatory lenders who are taking advantage of military families. That is the kind of work that can be done and is being done there. But they do not have a Director. They do not have a leader.

So last week we brought Richard Cordray's nomination to the floor. It has been here for a long time. No one—no one—has argued this man is not extremely well qualified for the job. He is. The vote came up, and there was another Republican filibuster. He fell by the wayside—just what the banks want. They want to make certain this Bureau does not have a leader and cannot use its resources effectively. They are doing everything they can to cripple it.

Well, Mr. President, if that were the end of the story—two bad filibusters last week—hold on to your hats because here we come again. This week we are going to have Ambassador Mari Aponte, President Obama's choice to

represent our Nation as U.S. Ambassador to El Salvador, before the Senate.

We know Ambassador Aponte is more than qualified for this assignment because she is already performing that job with distinction. President Obama appointed her by recess appointment nearly a year ago.

Let me tell you about two of the things she has achieved in a year as our chief diplomat in El Salvador.

First, she persuaded El Salvador to send troops to assist the NATO training mission in Afghanistan in August. This is the first time—the first time—any Latin American country has put troops on the ground in Afghanistan in support of American troops.

This represents a significant achievement for El Salvador. Twenty years ago, the people of El Salvador were struggling in the midst of a bloody civil war. Today, they are strong enough and stable enough to help others around the world in Afghanistan establish their own stable democracy.

Ambassador Aponte has proven to be very effective advocating for U.S. interests in Latin America—a region immediately on our doorstep and with which we have many strategic interests.

Ambassador Aponte has helped to advance America's security interests in Latin America by expertly negotiating an agreement with El Salvador to open a new jointly funded electronic monitoring center to fight transnational crime.

What are we talking about here? Drug dealing and terrorism. Such gang and narcotics-related crime impacts both our nations, Central America, and the world. This skilled diplomat is able to work now, as a recess appointment by President Obama, to ensure that El Salvador remains a strong ally in the fight against these dangers.

She has already proven herself to be an accomplished diplomat in a short period of time. She has a long history of public service and experience in both the private and nonprofit sectors.

One of America's greatest strengths is that we are a diverse nation. Ambassador Aponte helps demonstrate that strength to the world. She is one of the few Puerto Rican Ambassadors serving our Nation.

But despite everything I have said to you, her nomination has been met with unjustified resistance on the Republican side of the aisle.

In 1998, Ambassador Aponte was appointed by then-President Clinton to be Ambassador to the Dominican Republic. She withdrew her nomination, in 1998—13 years ago—after a Miami newspaper reported allegations that a former naturalized Cuban-American boyfriend from the early 1990s was actually a Cuban intelligence agent who was trying to recruit her.

The FBI looked into the matter. They investigated it. Aponte cooperated completely, and she also severed all her ties with this individual. She

was never the subject of any FBI investigation or ever accused of any wrongdoing.

Despite her full cooperation with the Federal Bureau of Investigation, ultimately the FBI found no evidence to support the allegations against her—none.

When President Obama looked at Ambassador Aponte's record of public service, he nominated her to serve as America's Ambassador to El Salvador in 2009. Once again, the critics raised the same allegations about her former relationship, even though they had been thoroughly investigated and dismissed and discredited by the Federal Bureau of Investigation.

Senator DEMINT of South Carolina objected to her nomination. He was the only Senator objecting. So this time around, the chairman of the Foreign Relations Committee, Senator JOHN KERRY of Massachusetts, along with Senator MENENDEZ, our only Hispanic Senator on the Democratic side, from the State of New Jersey, made an unprecedented move. They said to Senator DEMINT of South Carolina: We will allow you to personally review the FBI files on Ambassador Aponte.

So Senator DEMINT appeared to raise a new objection to Aponte at that point. And listen to this one: This objection—new one—by Senator DEMINT stems from an editorial the Ambassador wrote in a popular El Salvadoran newspaper in June about Lesbian, Gay, Bisexual, and Transgender Pride Month. The article was entitled “For the elimination of prejudices wherever they exist.” Her op-ed disavowed violence and hatred against individuals based on their sexual orientation, urging education and understanding. Those are hardly radical ideas. Most Members of the Senate—at least, let's say, many Members of the Senate—have given speeches along these lines.

Well, the Senator from South Carolina calls this op-ed provocative and argues that it is disrespectful of El Salvador's culture and that it inflamed tensions with an important ally. There is no evidence to support what he said—none.

To the contrary, El Salvador itself had already taken—before she published this editorial—steps toward more equal rights with the passage of Decree 56 in May 2010. That law prohibits all forms of discrimination by the Government of El Salvador based on sexual orientation—just what the Ambassador had asked for in her editorial.

Decree 56 was signed 1 year before Ambassador Aponte wrote her article, 4 months before she was sworn in as Ambassador. The record is there.

El Salvador reaffirmed its national commitment to equality again last June when it joined the United States and more than 80 other nations in signing the declaration for the elimination of violence against the lesbian, gay, bisexual, and transgender community during the Human Rights Council of the United Nations.

Let me also note that Ambassador Aponte wrote that op-ed pursuant to cables from the State Department that went out to all ambassadors around the world, suggesting they write similar pieces or hold a related event. In fact, similar editorials to what Ambassador Aponte wrote were written and events were held at American embassies and posts all around the world.

Why is one Senator picking on this Ambassador? Quite simply, the nomination of a U.S. Ambassador to a strategically important ally such as El Salvador is no time for a political debate that has little or nothing to do with time-honored and accepted principles in the United States and around the world.

Ambassador Aponte deserves a vote in the Senate based on her work, her achievements, and her demonstrated ability to effectively advocate for the United States in El Salvador.

She has been thoroughly vetted by the FBI and the State Department, as is every nominee. She has passed two separate top secret security clearances. She has shown she is able to work with Salvadoran leaders and achieve way beyond what many believed could be achieved because of her skill.

We live in challenging times. Our ambassadors are the eyes and ears of America around the world. Some of the posts they serve in are very dangerous. Look at what Ambassador Robert Ford has been doing in Syria amid that country's upheaval. Blocking qualified and talented Americans from serving in El Salvador or any place in the world is not in America's best long-term interests.

During our recent Foreign Relations Committee markup, which the Acting President pro tempore attended, related to Ambassador Aponte's nomination, Chairman KERRY offered Senator DEMINT another opportunity to review all the materials we have regarding Ambassador Aponte. I hope he took advantage of that offer. Should he still oppose her nomination, I disagree with him, of course, but respect his rights in the Senate. He can register his vote along with the other Senators. But I certainly hope this critical and important nomination will not be unfairly held up and discredited with another filibuster. It is time for the Senate to move beyond filibusters, to work in an effort to try to solve our problems.

#### PAYROLL TAX CUT

Mr. DURBIN. Mr. President, there was a recent survey of how many families in America have an immediate member of the family who is serving in the military. The number is one of the lowest in history. It turns out the families who actually know someone or have someone serving in the military are a small percentage of this great Nation.

My family has a nephew serving in Afghanistan with the 10th Mountain Division. Not long ago, as a college stu-

dent, he worked as a doorman here in the Senate. But Michael is now serving overseas in Afghanistan. I think about him all the time. I send him boxes of things. I do not know if he will have any use for them or enjoy them, but it is my way of reminding him we do not forget him.

We have a big family, and I am sure he gets plenty of stuff. I know some of that must be a joy for him to receive. But more important than any material sent to him, I hope it is an expression of how we feel about him, about the sacrifice he is making, as so many others are making, thousands around the world, as we meet in the safety of this Senate Chamber.

We ask an awful lot of our men and women in uniform. We ask them to risk their lives for America. Many come back injured. Some do not return, having given that promise and that pledge. They make a sacrifice which many of us have never been asked to make.

I think about that in terms of the debate we enter into this week in the Senate. We are trying to turn this economy around because so many people are out of work. Businesses are struggling. The President put forward a jobs bill and has for months been pushing for its passage. We have considered a lot of parts of it.

One part relating to veterans we actually agreed on. It was a breakthrough. I am glad we did. But when it came to all of the others, the million who are out of work in America, there is still wide disagreement. We hope to finish this matter this week and head home for the holidays where we all want to be. But, unfortunately, we are embroiled in a political fight again. The fight is over something very basic. It is this: Should we ask the wealthiest in America to pay a little more in taxes so that we can provide a payroll tax cut for almost 160 million Americans? That is it.

What we hear from the other side of the aisle over and over again is, no; we cannot impose a new burden on the wealthiest in America. We cannot ask any more sacrifice from people who are already earning at least—at least—\$1 million a year. I thought about that. I thought about my nephew and so many like him who sacrifice every single day for this great Nation, and to think that we could not ask the wealthiest among us to pay a little more in taxes to help us get out of this recession and put America back to work.

Those two things, unfortunately, are in sharp contrast. I think it is time for us to pass this payroll tax cut. It is desperately needed. We need to maintain our unemployment insurance because we still have too many people out of work: four unemployed Americans for every available job. That is a fact. Things are getting better slowly but too slowly. In the meantime, these people are looking every single day for a job while they do their best to keep their families together, to keep their