about rule changes together. But that is not what he is suggesting he is going to do. He says he is going to break the rules to change the rules and employ the nuclear option.

That is not a negotiation with the minority over rules changes. What we ought to be doing is talking to each other about what adjustments in the rules we could advocate together, and not one party with a majority today—that might be in the minority 2 years from now—breaking the rules to change the rules for some kind of misguided short-term advantage. That is the problem.

So I would be happy to talk to the majority leader about these issues, but I vigorously oppose—and I know Senator Byrd would vigorously oppose—breaking the rules to change the rules. He was very clear about that in 2010. I know he would object to it.

I hope somehow this nuclear option can be avoided. It seems to me to be an absolutely unnecessary distraction away from much larger issues confronting the future of our Nation.

Mr. REID. Mr. President, Senator Byrd served in the House of Representatives and the Senate for almost 60 years. He gave lots of speeches. I have quoted what he said. I will quote again part of what he said.

> The Constitution in Article I, Section 5 says that, Each House may determine the Rules of its Proceedings.
>
> Now we are at the beginning of the Congress. This Congress is not obliged to be bound by the dead hand of the past.

So this debate is not going to be solved by the deceased. It is going to be solved by us. We are in the Senate today and the Senate has not been working. No matter how many times the Republican leader says he likes how things are today, it doesn't make it so that the majority of the Senate likes how it is today. The facts are the facts. We can't make them up. The Senate is not working, and we need to do something to fix it.

I close, then, as I began. I would be happy to work with Leader MCCONNELL about rules changes. I have made clear what we seek. I await his suggestions. As I repeat again what I said earlier, a man who has served with distinction in the Senate, JEFF BINGAMAN—quite a legal scholar, having been attorney general before he came here—asked: Why are we asking for such modest changes? So if the Republican leader has some ideas as to what he thinks should be done, I will come to his office. We can do it privately or publicly. I am happy to work with him. As I indicated, that is how I used to do things when I tried cases. This is the same, just that we have a bigger jury.

Mr. President, 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. KYL. 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.

RESERVATION OF LEADER TIME

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

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the following hour is equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half.

The Senator from Arizona is recognized.

RULES CHANGES

Mr. KYL. Mr. President, I would like to continue the conversation that our two leaders were engaged in earlier and also on yesterday. This is going to be a very important issue for the Senate.

To put it into perspective for the American people, let me just say that a rules change in the Senate is not a small or an inconsequential matter. It is even more important if it is attempted to be done without going through the normal process of changing the rules, which requires a two-thirds majority. This is important because the Senate has always considered itself a continuing body. It does not end and then begin again as the House of Representatives does because the House has an election every 2 years. In this body, Members are elected for 6-year terms. As a result, every 2 years we have some turnover in the body, but two-thirds of the body has already been here and continues forward.

So the rules of the Senate have always been continuing rules of the continuing body, amendable by a two-thirds majority of the body. To suggest a nuclear option by which a mere majority of the body can amend the rules is itself a violation of the rules. It is an assertion of power. But as the old saying goes: Might does not make right. And the fact that the majority may have the power to overrule a ruling of the Chair, thus establishing a new precedent and a new rule of the Senate, does not make it right. That is why it hasn't been done.

In point of fact, there was a time a few years ago, as has been discussed, when some members of the Senate Republican majority were considering the use of the same parliamentary tactic to ensure a vote on nominees for the U.S. Supreme Court and also for the Court of Appeals. The feeling was that the Democratic minority had filibustered over and over and over and had prevented votes, I think, on Miguel Estrada, who was being nominated for the DC Circuit Court of Appeals. I think he was filibustered seven separate times.

The Republican leadership was investigating the possibility of ensuring that we could get a vote. The only way that seemed possible was to assert this power of overruling the Parliamentarian's ruling through the Chair and thus establishing by 51 votes—or a mere majority—a new rule of the Senate.

That was deemed to be such a change that it was called the nuclear option because it hadn't been done, and we could say that it was comparable to the use of a nuclear weapon in a war. It was such a game-changing proposition, to say the least, that Members on both sides of the aisle got together in what they called the Gang of 14. I think almost everyone in this body is glad that cooler heads prevailed; that those 14 Members decided they would reach an agreement amongst themselves that would make it impossible for either the Democratic Party to automatically filibuster nominees or for the Republican Party to have this right to change the rules just because they had 51 votes. Therefore, they reached the compromise which, for judicial nominees, was that there would be no filibuster except in extraordinary circumstances.

Both sides deemed that a sufficient way of resolving the issue that came before us at that time. Everybody stood down. The war did not occur. The nuclear weapon was not used, and that was for the best of the country and certainly for the best of the Senate. We avoided a crisis and, certainly, there would have been a crisis. I can't imagine that my friends on the Democratic side of the aisle would not have reacted very badly to the use of that nuclear option had it been done by the Republican majority.

Well, today the shoe is on the other foot. The Democratic majority now has reason to believe that it would like to move forward with more alacrity on legislation. Therefore, it believes that by this same nuclear option procedure it should change the rules so that the ability to filibuster at the beginning of the consideration of the bill is eliminated.

The Republican minority naturally has said: Wait a minute. That is wrong for two reasons. First of all, just as you accused us of doing, you are changing the rules without going through the rules process change. This is your own version of the nuclear option. If it was wrong then, it is still wrong now. And most of us agreed after the fact that it was wrong then. But, secondly, what you would do, if you eliminate the requirement for cloture and a cloture vote if there is an objection to a unanimous consent request to take up the bill or motion to proceed to a bill, what you are doing is putting all of the power into the hands of the majority leader—in this case, the Democratic leader—to decide whether there will be any amendments at all from the Republican side or even from the Democratic side. The only leverage that the minority has to ensure that it will be able to offer amendments is to negotiate with the majority leader and ensure that right exists. And the only leverage it has is to deny cloture on the

motion to proceed in order to instigate that negotiation. It is political leverage. Let's call it by its true name. But without that political leverage, that check and balance, the majority leader in the Senate takes a very giant step toward becoming exactly what the Speaker of the House is, in effect, a dictator.

Now, I use that term in a very kind sense because the Speakers of the House under whom I served as a Member of the House of Representatives, and certainly the current Speaker of the House, are fine people who care a lot about the institution of the House of Representatives and, in some cases, care for some degree of minority rights. But they all have one thing in common: They run the House. If they decide, through the Rules Committee, there aren't going to be any amendments offered by the other side, there aren't any amendments offered. Frequently the minority is in the position of complaining about the fact that the Speaker, through the Rules Committee, denies them the right to offer amendments or controls which amendments they can offer, controls the time.

So if you are a Member of the House of Representatives and you want to offer an amendment, you can't automatically do that, as has been the case in the Senate. You have to go to the Rules Committee—which is handpicked by the Speaker—and you have to ask them for permission to offer an amendment and how long you will have to talk about that amendment and the wording of the amendment and all of the other conditions that the Rules Committee establishes for debate of the matter on the floor of the House of Representatives.

When the Constitution was originally written, the Founders' idea was that we would have two different legislative bodies that would provide a check and a balance on each other. One would represent the immediate passions of the people, the House of Representatives, the people's body. If the people were emotionally invested in a particular issue, the House was elected, and they would hurry up and pass that legislation. They could do it with a majority because the power of the Speaker was able to run over any minority rights. The minority wouldn't be able to get in the way.

But when it came to the Senate the idea was, slow it down, think it over. Let's make sure we want to do this. That is why we have the 6-year terms, the continuing body, and the minority rights to offer amendments.

That right to offer amendments is perhaps the most important way in which the Senate is distinguished from other legislative bodies around the world and from the House of Representatives because it does guarantee minority rights. And not just party minority.

If you are a member of the majority party from a State that has a very distinct and serious interest in a bill, the majority leader can simply say: I don't want to consider your amendment. You are out of luck under this proposal, whether you are a member of the minority or the majority.

It is not just minority rights in the sense of political minority, but also, let's say, you are from a small State rather than a big State, and there is a bill on the floor that helps the big States, and you want to offer amendments from a little State. It will be up to the majority leader to decide whether you can even offer that amendment if this rule change is adopted. So there are two very important reasons the Senate should be very careful about proceeding down this path. That is what the Republican leader has been talking about the last couple of days here on the floor.

It is important for the Senate to reflect in a longer view not only the views of the majority—political or otherwise—but also those who might have some disagreement with the majority, the theory being that the majority isn't always 100 percent right. In any event, people around the country have a right to be represented through their Senator to get their points of view argued and discussed and perhaps considered for a vote here in the Senate. That has always been the way it is. It is a tradition that has served this country well. To eliminate that with this so-called rules change would do great disservice to the American people, to the legislative process, to our Constitution, and to the great ability of this body to perform its function in the way that has been deemed so important for over 200 years now.

There is a reason this is called the greatest deliberative body in the history of mankind—because we deliberate. We think about things. We debate them. We have all kinds of points of view offered or potentially offered through the amendment process, and if that is denied, this will no longer be the body it has always been.

People before us have cautioned both Democratic and Republican majorities not to take advantage of their sheer majority, Democratic and Republican leaders. In fact, there is a very interesting new book out by I believe the former chief of staff of the great Democratic leader George Mitchell—I think joined in by a Parliamentarian at a time when Republicans were in control, so it is a bipartisan-written book—that talks about the necessity of maintaining the rules the way they are and not using this nuclear option to change the rule, denying minority rights. It is a book worth reading, and it is a book I commend to my colleagues before we embark on what might be a very fateful step in this body.

Let me make a couple of other points. Under Senate rule V—not to be too in the weeds on this, but I think it is important for us to actually know what we are talking about here. Here is the Senate rule speaking to the amendment process. I am quoting now:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

And then Senate rule XXII says that to end debate on a motion to amend or change the Senate rules:

> . . . the necessary affirmative vote shall be two-thirds of the Senators present and voting.

What I said earlier, that it takes a two-thirds vote to change the rules of the Senate, is very clear in our rules. They are continuing rules. So the notion that somehow this can be done with just a 51-vote majority is explicitly rejected by the rules themselves. As I said, when this issue has previously been raised, we have been very careful not to use the mere power of the majority to change the rules but have abided by the requirement of our own rules to do it according to those rules with a two-thirds majority.

I spoke before about the rights of the political minority. I think it is worth noting again that each Senator represents a lot of people in a separate State, two of us per State. Our constituents deserve the right to be heard in this body. It is one of the great opportunities that as a matter of comity we have always accorded to each other. We are courteous to each other on the floor because we understand it is the best way for all of us to be heard. If a colleague wishes to raise a matter while I am speaking and says, ''Will you just give me 2 minutes so that I can raise this matter on the floor, and then I will be done,'' of course we grant that request because we understand how important it is for our constituents to be represented, to have a voice. If another Senator needs to raise a point on behalf of the voters in his State, we acknowledge that as necessary and important.

That is why we think it is virtually sacred that all Senators should have the right to represent their people, their State. No State should be disenfranchised, whether it voted Democratic or it voted Republican. There are a lot of Democrats and Republicans in every State and a lot of folks who do not belong to either party. They need a voice in the Senate, and each of us represents those people. It is not right that the voice of some Senators, and therefore their constituents, be silenced because of, in effect, a power grab here through what has been referred to as the nuclear option.

As my leader Senator MCCONNELL noted yesterday, what is potentially being proposed here would undermine the very purpose of the Senate as the one place in our system where minority views, whether they are a political minority or any other kind of minority, and opinions have always been respected and in most cases incorporated into law. That would be lost to the U.S. Senate.

Here is what the late Senator Robert Byrd, who all acknowledge was an expert on the Constitution and the Senate rules, once said:

The Senate is the only place in government where the rights of a numerical minority are so protected. The Senate is a forum of the states where, regardless of size or population, all states have an equal voice. . . .

The Presiding Officer and I can appreciate that because we don't come from one of the bigger States.

Senator Byrd goes on:

Without the protection of unlimited debate, small States like West Virginia might be trampled. Extended deliberation and debate—when employed judiciously—protect every Senator, and the interests of their constituency, and are essential to the protection of the liberties of a free people.

He was specifically speaking to the point I made there: to ''the interests of their constituency.'' It is not a Senator's right that we are arguing about here; we are the voice of the people we represent. It is our constituents' rights that would be denied by this process. They deserve a voice. They have been guaranteed a voice through us, the temporary stewards of their voice. To deny that voice, especially through the procedure that has been suggested here, as the late Senator Byrd said, would be a denial of something essential to the protection of the liberties of a free people.

The current Democratic leader was one of the staunchest defenders of the Senate's protection of minority rights for all of the reasons I mentioned. He spoke eloquently about this on earlier occasions. He believes and he has said that he is frustrated by the process that he sees not working as quickly as he would like to see it work and, as a result, has apparently changed his mind as to the process for changing the rules as well as the rules themselves. But I think the whole question of the filibuster needs to be properly understood here as really meaning different things to different people. It is essentially a tool that brings the Senate to the center because it requires compromise. It requires people to get together and talk.

As I said, the right the minority has to filibuster the motion to proceed is to say: Mr. Leader, unless you are willing to guarantee us that we can have some amendments on this bill and that we get to pick our own amendments, then we are going to force you to get 60 votes lined up in order to proceed to the bill. That is the only leverage we have. So you are not really filibustering. You are not trying to talk the bill to death. You don't have any intention of taking a lot of time. You just want to be heard. You want to have your amendment up. A lot of times we say it will take just 10 minutes a side to debate it and have a vote, but if the majority leader can say, ''Nope, you are not going to be able to do that,'' then he can say Republicans have engaged in a filibuster when all it is is an objection to his motion to proceed without having the right to offer any amendments. So it is an important tool but not the way most people think of it—to delay and to talk things to death. That is not what has happened here. In most cases, the majority leader has filed a cloture motion on a Friday and we voted on it on Monday, so no time of the Senate has been taken in the intermediate time period.

I know there is a narrative that the Senate has not been able to get anything done during the past couple of years, but it is not because of some unprecedented use of the filibuster. As I said, have you seen Members down here talking hours on end about a particular issue or all through the night or whatever? No, you have not seen that. That was kind of done in a bygone era, when Strom Thurmond was here and some others, but it has not been done.

We have not done a budget in 3 years. That has been a sore point among a lot of people. You cannot filibuster the budget. So is the reason we have not done a budget because there has been a filibuster? Absolutely not, because the rules don't permit a filibuster of the budget.

There are a lot of misconceptions here. I hope my colleagues will take a deep breath, step back. Those who came from the House of Representatives, as I did, remember what it was like when you were in the minority in the House. Essentially you had no rights. Is that the way you want it to be here? Because someday you are going to be a minority in the Senate. This body will change majorities.

In any event, whether we are talking political majorities or not, as I mentioned with respect to the Presiding Officer from the same State as the late Robert Byrd, his State did not always have the power to be heard because it is a small State, as is mine. So it doesn't matter whether you are Republican or Democratic, your constituents have a right to be heard. Our current Senate rules protect that right on behalf of our constituents, and I believe it would be a grave error for the current Members of this body or those who take office next year to conclude that because they have been frustrated sometimes in what they wanted to accomplish, it is worth it to just brush the minority aside and say: Because I couldn't get everything I wanted, I was frustrated with your desire to offer amendments, I am going to take that right away from you by changing this rule in this way.

I think it would be regretted later in time. I think the reaction would be the same as occurred with regard to the so-called Gang of 14 when this nuclear option was considered several years ago. I think most people in this body now say they were wise people who brought us back from the brink of this precipice. Had we gone over that, this body would not be the same as it is today and we probably would be regretting that decision greatly.

I urge my colleagues, who I know in good faith are frustrated at their inability to do exactly what they want to do because they are in the majority, to just stop and reflect on the damage this would do to this institution, how they would feel if they were in the minority. Members of my party are going to be pretty hard to convince we should go back to the rule the way it is today if the rule is changed to our disadvantage. That is really starting a nuclear war—from a parliamentary point of view, I mean. It is not a good idea for anybody, least of all for the American people.

I urge my colleagues who are considering this to be open to alternatives, have an open mind, be willing to think this through, talk it through, to have a congenial debate on the floor about the possibilities, and eventually, I suspect, as has happened so many times in this great body, reasonable positions have prevailed—maybe after a lot of unreasonable ones were proposed, but generally we have come to the right conclusions. We have done so because we respect each other's rights. That has produced the best legislation in the 230 years of our country's history.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from New York.

Mr. SCHUMER. Mr. President, first I wish to thank my colleague from Arizona for not just his remarks during the last few minutes but for his service here. I think everyone on our side knows the Senator from Arizona has strongly felt views, many times different than many of ours, but that they are sincere, they are heartfelt, they are honorable, and that they are not ''political,'' and I very much appreciate that.

Let me say a few things, though, about these rules changes. The overwhelming fact that hovers over this Chamber is that it is broken. Nobody disagrees with that. The Senate is broken. This great, wonderful institution that has had such a legendary history—perhaps the greatest legislative body the world has ever seen—is dysfunctional. None of us disputes that. We have to start from there. How do we change it so it is no longer dysfunctional?

My colleague the Republican leader says, Well, it is personalities or it is character or whatever. That explanation doesn't wash. The amount of good character in this body is probably no different—no more, no less—than the amount of good character in previous Senates that were far more functional. I would argue that good character is pretty high. By and large, we respect our colleagues as individuals and as Senators on both sides of the aisle and across the aisle. So it is an easy way out to say, Change character. I guess when one says ''change character,'' they mean change their character. The bottom line is that the Senate is broken and we cannot maintain the status quo.

I wish to quote my great colleague from Michigan Senator STABENOW—I hope she won't mind—from a meeting we had this morning. She talked about a constituent she had who said, When are you going to change the rules? The constituent said, You sound like somebody who has suffered from spousal

abuse and keeps suffering from it and suffering from it and suffering from it and says they can't change it. Of course that person can change it and of course we can change things.

What we are trying to do on this side is come up with some changes that will make the Senate flow better but, at the same time, preserve the essential character of the Senate. If we were to propose a rules change that would say we need 51 votes for everything, we would be no more, no less, than the House of Representatives. There are some on our side, frankly—I think my colleague from Iowa at one point—who have argued, Let's move the number down to 55. We are not doing that. The rules changes we are entertaining are done with preserving the character of the Senate and making sure an individual Senator's rights are protected and that the rights of the minority are protected and the place is not stampeded by majority votes. In the House, they can have a majority of one and still pretty much get their way. In the Senate that wouldn't happen, even if we had 55 or 58 or even 60 Senators with the changes we have proposed.

So let's look at them. There have been attempts to not change the rules but, rather, to sort of come to some degree of comity between the parties. I know because under Leader REID's direction, I was involved, and under Senator MCCONNELL's direction, Senator ALEXANDER was involved. Two years ago, when there was an attempt to do rules changes, it was particularly Senator ALEXANDER, for whom I have enormous respect in the same way I have respect for Senator KYL, who proposed that instead of changing the rules we try to work things out better. There is a basic rule here in the Senate which is that the majority gets to propose the agenda. That is an enormous privilege and an enormous advantage. We get to set the agenda in the committees and on the floor. But the minority has the right to offer amendments which either poke holes in what we have proposed or even talk about other subjects because we don't have a rule, as they do in the House, where just about everything has to be germane. So Senator ALEXANDER and I attempted to do that. We said, on the one hand Republicans will not block motions to proceed, and let us go forward and debate bills, and on the other hand we would allow a reasonable amount of amendments—germane and some not germane—to the bills that came up.

Well, obviously, it failed early on in the Senate. The basic gentleman's agreement didn't work. It is our view the agreement fell apart when our colleagues on the other side of the aisle said they will not allow the President's nominee for the CFPB, the Consumer Financial Protection Board, to move forward. She will now join us in the Senate and discuss rules changes, in one of the ways that history works in strange ways now. So we said we would allow some amendments. They said, No, we are not letting her come up, period. That was against the spirit, at least, of the agreement. I am sure if my colleague from Tennessee were here, he might have a different interpretation, but at least that is ours. But the overall point is the so-called gentleman's agreement fell apart early in the Senate, never to be resurrected.

It is our belief on our side that we should allow amendments from the other side, but they should not be abused. There should not be 50 of them. They should not talk about everything under the Sun. Yes, there can be some nongermane amendments—we understand what those are all about—but it shouldn't be a piling on. It is our view, frankly, that the goal of many of the other side was simply to obstruct whatever happened here, to show that the government didn't work, in hopes that there would be an electoral advantage to that argument and people would change the Senate majority. Well, it didn't happen. So now there is a new opportunity.

Our colleagues on the other side say the only reason we filibuster is because you guys fill the tree. Well, let's look at the numbers. In the last Senate—in this Senate up until now—there have been 19 tree fillings by Leader REID. There have been 110 cloture motions. That is 6 to 1, a little less than 6 to 1, more than 5 to 1, less than 6 to 1. So, clearly, the filibuster—the use of the motion to proceed to prevent us from getting on a bill unless it has 60 votes—has far exceeded the number of times the leader has filled the tree. It has been done on things that aren't even amendable, including judges, appointments. There couldn't be objections that we wouldn't allow amendments on those things. You can't amend: Let's have half the judge be nominated to the sixth circuit or let's have the Assistant Secretary of State only have these powers. That doesn't happen. So even on those things, there have been filibusters. We asked right now—I think there are about 20 judges pending—to move them. No, we are going to filibuster. Yesterday, a sportsmen's bill, which has a lot of dissension on our side and probably has more agreement on the other side than this side, was filibustered. This goes on and on and on.

So the rules changes we are proposing will not prevent the minority from exercising its rights, from being able to offer amendments, and, in fact, from filibustering. The goal here is simple: Use the filibuster sparingly, not 110 times in a session of Congress. Even in the days of the great southern barons and the civil rights debates where the people from the South regarded filibuster as their only weapon to stop something they strongly—in my opinion very wrongly—disagreed with, it was used a handful of times only on the major debates of the time. Now the filibuster is used for everything, including district court judges, offering small, minor amendments.

What we basically want to do, as some have proposed, led by the Senator from Oregon, Mr. MERKLEY, and the Senator from New Mexico, Mr. UDALL, is say, If a Member wants to have a filibuster, they have to talk; they can't just have one person get up and say ''I object'' and then we need 60 votes or the bill doesn't come up. What will that do? In my opinion, that restores the proper balance to the Senate. If a Member has to talk—not just one person but everybody who is against it—a Member is only going to be able to sustain that filibuster on major issues. No doubt the other side would have had the ability to sustain—even if we went 24 hours, 7 days a week—they would have enough passion and enough enthusiasm and enough bodies that they would filibuster the health care bill. Probably they would do the same on Supreme Court Justices, as would we if we were in the minority, if we vehemently disagreed with a proposal. But if a Member has to be on the floor and actually filibuster as opposed to just invoking the rules, they will use it sparingly because they cannot sustain it for every amendment or every minor bill or, frankly, for bills that have a large amount of support. We know there is a small number of our colleagues who are much more focused on offering their own amendments or stopping the whole Senate. We can name them from the other side of the aisle. But under this rule, they would have to get more support than just four or five people to do it over and over, and it wouldn't happen. So then the filibuster would be used as it should be. We are not saying no to filibustering. We are not suggesting going back to 51 and simple majority rule. It would be used on major issues where there is a real division and a lot of passion and strong feeling and conviction as opposed to simply trying to block everything and tie this place in a knot.

When filibusters would decline and there would be no motions to proceed that would be debatable, what would happen? I guarantee my colleagues on the other side of the aisle that more amendments would be allowed to be offered because we wouldn't be in this tit-for-tat situation. Would we have unlimited amendments? No. Would it be that every time we have a bill we have to debate a passion of a single Senator from a single State over and over and over? No. But would there be plenty of amendments and would the minority not being able to filibuster most bills have sort of high ground, whomever that minority is, that amendments should be offered? Absolutely.

The bottom line: We cannot do nothing. There is too much at stake in our Nation to have the Senate paralyzed once again. The House is a partisan body. It passes a lot of things in a very partisan way. The Senate must still be the cooling saucer envisioned by the Founding Fathers, by George Washington and James Madison. There must

be the ability where the ''passions of the people'' cool in this government, and it resides in the Senate. The changes we have proposed continue that tradition but prevent—mitigate strongly against, if not totally prevent—paralysis, which is where we are right now.

Remember: 110 cloture motions. And that will happen again in the next session, the next Congress, in the Senate, if we don't do something to change it. The idea, once again, of just blaming this person or that person is not seeing the larger problem that needs change and correction. The proposals that I believe this side will make—and we haven't yet discussed them in our caucus—will return the Senate to the way it was envisioned by the Founding Fathers: a body where minority rights have much greater strength than the majority, but a body where bipartisan compromise is encouraged, not discouraged.

So to my colleague from Arizona I say: We are open to suggestions, but suggestions that say ''you just change your ways'' we would say back aren't going to reduce the gridlock. I believe Senator ALEXANDER and I and Senator MCCONNELL and Senator REID, when we proposed this gentlemen's compromise 2 years ago and didn't change the rules, all had the best of intentions, but it failed. We have our reason for why it failed and they may have another, but it is indisputable that it failed. We have to look at something new. I hope my colleagues on the other side of the aisle, if they don't agree with the proposals we are likely to make, will have their own suggestions but suggestions that go beyond just change the personalities, change the individuals, whatever.

In conclusion, this is a wonderful body. I have served in it for 14 years. I respect it, I revere it, and I still love, with all the dysfunction, coming to work Monday morning, which is a test for me in life. But our country has so many issues and so many problems and needs the Senate to lead and needs a Senate that is not paralyzed in gridlock. Without changing the rules, I fear we will have a repeat of the last 2 years, where each side blames the other and nothing gets done.

With that, I yield the floor. I know we have several colleagues on the Senate floor who want to speak.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I want to associate myself with the remarks of my colleague from the great State of New York, and I look forward to working with him and the entire Senate to find ways in which the Senate can continue to do the important work the public has asked us to do.

WIND ENERGY TAX CREDIT

Mr. President, I rise this morning again to speak to the importance of extending the production tax credit, otherwise known as the PTC, for wind energy. I wish to mention that the production tax credit has been used on many occasions to promote other kinds of energy development, including natural gas. The production tax credit for wind, particularly, is set to expire at the end of December and, as a result, thousands of hard-working middle-class families in Colorado and across our country who currently work in this important energy industry are at extreme risk of losing their jobs.

In fact, many of these workers have already been laid off as companies brace themselves for the expiration of the PTC. To put it in stark terms, the potentially bright future of a quintessentially American industry is uncertain unless we act as soon as possible.

I have come to the floor now some 22 times to discuss the wind energy industry, and when I do so I highlight the positive effects the PTC has had on one individual State. I have had the great opportunity and privilege of speaking about the wind energy industry in the Presiding Officer's State, the State of Montana, and today I want to take the opportunity to talk about the Wolverine State. Michigan is another remarkable illustration of how the PTC has revitalized manufacturing and created good-paying jobs while providing the State with clean energy.

We have seen improvement in the Nation's economy, but many families and businesses across our country are still struggling to make ends meet. This has been especially true in Michigan, a State that has one of the Nation's highest unemployment rates and a sluggish manufacturing base. This is all as a result of the tough economic times we have experienced over the last 4 years.

But if we look at Michigan, the wind industry saw an opportunity in Michigan. Michigan is known for its highly skilled workforce, and so the wind industry took root in Michigan, took advantage of this workforce, and now we see that in Michigan there is significant manufacturing of wind turbines occurring there. That has reinvigorated Michigan's industrial base, and it has aided in the recovery of the State's economy.

If we think about it, thousands of parts go into each car manufactured in Michigan, and wind turbines—from the towers to the cells to the blades—are no different. Someone told me recently that something in the order of 8,000 parts go into a wind turbine. So if we think about that, the skills of these hard-working Michigan workers translate into the development, the engineering, the construction, and the manufacturing required for wind turbines, which then in turn provides the State of Michigan and the local communities with thousands of new jobs and billions of dollars in investment.

We can see all the green circles on the map of Michigan I have in the Chamber that identify the places in which this manufacturing is occurring. This is in large part as a result of targeted Federal incentives, such as the production tax credit.

I would like to highlight further some of the many benefits of the wind energy industry in Michigan. There are at least 40 facilities that develop and produce various components for the wind energy industry, and that supports about 5,000 jobs. Furthermore, wind projects have contributed over $7 million in property tax payments to local governments; and that is money that helps fund schools, infrastructure, and other vital community services.

So the State is building the towers and the blades and the cells so that we can harvest the wind. Michigan is taking advantage of that opportunity as well. They are ramping up their deployment of this technology to harvest the wind because the wind energy manufacturing sector is located there. So it is a virtuous cycle, if you will.

In 2011, Michigan more than doubled its power production from wind energy, and it is on pace to increase its capacity by another 50 percent this year. That would include the completion of the State's largest wind farm, the Gratiot County Wind Project, which is located in the middle of the lower peninsula. This project itself not only created over 250 construction jobs and 15 permanent maintenance and operations jobs, it also doubled the tax base of the local schools. This has created a positive ripple effect on all these communities that has been noticeable and powerful.

Moreover, there are currently enough wind projects under construction in Michigan to nearly double the current wind power production in the State, with even more potential developments in the works. The point I am making is that the key is the production tax credit when it comes to these projects and, most importantly, the jobs they create.

There remains a vast untapped potential when it comes to wind energy in the State. In fact, the National Renewable Energy Lab estimates that Michigan has enough wind power potential to meet 160 percent of the State's current electricity needs. The extension, therefore, of the PTC is essential to the continued development of Michigan's wind resources, which will create good-paying American jobs, aid local communities, and build a clean energy economy.

So it is pretty simple. The production tax credit, the PTC, equals jobs, and we need to pass it and extend it as soon as possible.

How do we do that? Well, if we want that bright future to be realized, we need to work together and extend the wind PTC now. It is common sense. It has bipartisan support. It has bicameral support. We need to extend it now, as soon as possible. The PTC has not only aided in the growth and expansion of our manufacturing economies in States such as Michigan, but it has also shown us that America can

and, frankly, must outcompete China and the other countries that are trying to develop their own wind energy industry.

So let's come together. Let's find a path forward. Let's pass an extension of the wind PTC as soon as possible. The longer we wait, the longer we do not act, it puts the significant economic strides we have seen in States such as Michigan and all around the country at risk, and it substantially inhibits future job growth. We simply cannot afford to cede this promising new energy technology and energy future to countries such as China.

Mr. President, with that, I yield the floor.

Mr. LEVIN. Mr. President, I want to thank Senator UDALL for his work bringing attention to this important issue.

To me, this issue is simple: Alternative energy, including wind power, is not only a vital component of our environmental protection efforts, but to growing our economy and creating jobs for the middle class.

Michigan is the State that put the world on wheels. Through innovation and dedication, entrepreneurs, engineers, and Michigan workers combined their efforts not just to revolutionize transportation, but to create an explosion of manufacturing employment that helped create and sustain the American middle class.

Today, a new generation of Michigan innovators is harnessing the power of wind, the promise of biofuels, the power of advanced batteries. Earlier this year, I visited a wind farm in Breckenridge, MI, that is a marvel of technology, as far removed from the farmstead windmills of days past as a jet fighter is from the Wright Brothers' plane. That wind farm is a textbook example of how the advance of technology is helping Michigan's economy, enabling us not just to recover from the setbacks of the past, but to lead us into a brighter economic future.

Wind power is an important part of that advance. It is a rapidly growing sector of our State's electrical generating system. Wind-generating capacity more than doubled in 2011, and projects under construction or in the development pipeline could increase capacity tenfold or more. The more power we generate from wind, the more affordable, clean energy is available to our State and Nation.

Michigan also has an important role in building advanced wind-generation equipment, not just for our State, but for the United States and the world. Roughly 40 Michigan facilities are engaged in this business, many of them businesses that have turned expertise developed in the automotive industry to this new and growing field. Already wind is responsible for hundreds of good manufacturing jobs, and the potential is nearly as limitless as the wind itself.

That is why renewal of the production tax credit is so important. The PTC has been an important factor in helping this new industry grow. If it is allowed to expire at the end of the year, it would not only hamper efforts to generate more clean energy for Michigan homes and businesses, but also dampen the potential for new manufacturing jobs tied to wind power. That is not a good outcome for our environment, for Michigan families or for the American economy.

So again I thank Senator UDALL for his focus on this issue. I hope as we work to address the many pressing issues we must resolve before the end of the year, we can resolve this one as well, and maintain the momentum of clean energy to help our environment and our economy.

Ms. STABENOW. Mr. President, I thank my friend from Colorado, Senator UDALL, for speaking on this important issue, and for his constant advocacy of the wind production tax credit.

We have entrepreneurs right now in Michigan and all across the country who are working hard to invent our clean energy future.

I am thinking of companies like Ventower in Monroe, that just opened their 115,000-square-foot wind turbine tower manufacturing facility last year.

They have hired 150 people to build those huge wind towers that you see along the highway. These are good-paying jobs of the future.

Energetx Composites is another company in Michigan that used to manufacture luxury yachts. They took their experience with light-weight materials and now they are producing the blades for the wind turbines, and they have also hired workers in Michigan.

Astraeus Wind and Dowding Industries are doing the casting work and manufacturing the hubs that allow those blades to turn and produce energy. These are huge items—some as big as a house—and they need people to build them, and ship them, and that means jobs of the future in Michigan.

It also means a future that we can hand down with pride to our children and our grandchildren. It is a future with a strong middle class. It is a future where the American dream is alive and well.

We have been through tough times in Michigan, but wind power has been a bright spot. This year, we more than doubled our wind capacity in Michigan.

We now have more than 200 turbines running in places such as Gratiot, Huron, Misaukee, and Sanilac Counties.

We have another nearly 300 turbines coming online in the Thumb area—one of the areas of strongest growth in the State. And all of that development means thousands of jobs in Michigan that depend on wind energy technology.

But if Congress doesn't act by December 31, those businesses will see their taxes go up. To raise taxes on the innovative companies creating the jobs of the future? That doesn't make sense. That is why it is so critical that we extend the wind production tax credit.

At a time when our companies are competing with other countries over this technology, we cannot turn our backs on them.

China is spending millions of dollars every single day to beat us on clean energy. They are investing in companies, building plants, and making every effort to lead the world in this technology.

We are in a race, and we cannot afford to lose.

I urge my colleagues to pass an extension of the wind production tax credit.

The PRESIDING OFFICER. The senior Senator from Pennsylvania.

THE FISCAL CLIFF

Mr. CASEY. Mr. President, I rise this morning to spend a couple moments talking about the work we have to do between now and the end of the year. There are various ways to describe this, but it is usually described under the broad umbrella terminology called the fiscal cliff. Some debate the use of those words, but there is no question that we have very difficult decisions to make in the next couple of weeks.

My primary concern—and I think this is a concern that is widely shared in the Senate and across the country—is, What will all this mean for middle-income families? What will their tax rates be? What will their near-term economic security be? And what can they expect for their families and for the communities within which they live, especially at this time of year? A lot of families are not just preparing for the new year and what will happen, they are also trying to make decisions about spending, about holiday shopping, about investments, about priorities in which they have to invest in their own lives.

We know from some of the data, when it comes to debating what will happen to middle-income families and their tax rates, the positive side of extending those tax rates for middle-income families. We also know the downside of not getting that work done, not extending them.

Just to give two examples, the Congressional Budget Office says extending the tax rates for the middle-class would boost gross domestic product by 1.3 percent and would increase jobs by 1.6 million. So those are two very positive impacts if we can get the agreement, which I think we can arrive at working with Democrats and Republicans to do this, to extend the tax rates for middle-income families. So GDP up by 1.3 percent if we get the work done to extend those middle-class tax cuts, and increasing the number of jobs by 1.6 million.

Another way to look at this is from the negative side of it as well, the consequences of not getting this work done to extend middle-income tax rates.

Mark Zandi, an economist who is widely quoted across the country and

by many of my colleagues in the Senate—I am not quoting, but this is a summary—says that the economic impact of ending these tax cuts, not getting an agreement, would reduce gross domestic product by $174 billion.

We do not want to do that. That would be a very bad result for everyone. So whether we read the CBO numbers or we talk to economists or read about their assessments or we talk to CEOs, they all agree we have to deal with both the tax rate question for middle-income families as well as making sure we are avoiding the across-the-board cuts, which I will get to in a moment.

So there is much to do to solve our year-end challenge, and we certainly have more challenges in 2013. But it is basically about getting our fiscal house in order. Part of that is spending cuts, part of that is getting more revenue, and, as well, even as we are getting our fiscal house in order, dealing with various tax challenges along the way.

We should point out that there has been a lot of progress made. I will just give two examples of that. We know when the national job numbers were announced in October, part of the reporting that was done by the Bureau of Labor Statistics was that we had an October number, but then we had a September and an August number that was revised upward, thank goodness. When we combine the August, September, and October job growth numbers, it means in those 3 months we created more than 500,000 jobs across the country. I should say the economy created 500,000 jobs. The exact number is about 511,000 jobs. So that is a measure of progress.

I was just looking at some housing assessments. We are releasing a report or a summary of some data this week in the Joint Economic Committee.

Just to give you two examples on housing progress: The number of privately owned housing units that were started last month increased by 31,000 units to 894,000 units at an annual rate. What that means is it is up about 3.6 percent. That is good news, maybe even better news because we want to get the assessment of people in the trenches. One bit of good news on housing is that confidence among homebuilders rose again in November. That will also be part of that report.

So it is an increase in jobs the last couple months, more economic growth, more progress, more momentum and good information or good news on housing. The problem is it is not good enough. We are not creating jobs fast enough. The pace of the recovery needs to accelerate. It is not moving fast enough for us to fully recover. I like to say and many have used this analogy: We have been in a ditch. We have been down in a pretty deep hole. We have been climbing out the last couple years, but we are not out yet fully. We will be out and have a full recovery when we see those job numbers increase.

So these decisions we make on tax policy, on the end-of-the-year agreements we have to reach, are vitally important to continue that progress, and, in fact, to move or accelerate the job growth numbers even faster.

As I mentioned before, part of this is not just about tax rates, it is also about reducing spending. Fortunately, there is a track record. Despite all the rancor and partisanship in Washington, there is also another story of bipartisan progress that was made over the last couple years by agreeing to spending cuts.

We agreed to a little less than $1 trillion of spending cuts over the next 10 years. So it shows we can come together. The main point I started with is on middle-income families. We need to give middle-class Americans certainty by the end of the year. Frankly, we should do it even before the end of the year. We should do it in the next couple days or weeks. We can do that by saying to our friends in the other body, the House of Representatives: Pass the bill we passed in the Senate which gives tax certainty, a continuation of tax breaks to 98 percent of taxpayers.

We should do that because it will provide some certainty for the end of the year and for going into next year. I have an additional point to make about that as it relates to the payroll tax cut. We came together last year, late 2011 into 2012, as we had done a year earlier, to cut the payroll tax, to reduce that tax so most workers, most families in this country would have about $1,000 extra to put in their pockets, more take-home pay that they could spend on their priorities and invest in the priorities of their own families, whether it is making a purchase for that family, whether it is paying for education, whether it is just getting from point A to point B, putting gas in the car. Whatever it is that family decides to use those extra dollars for, it has had an enormously positive impact—122 million households were positively impacted by that payroll tax cut.

What it means in terms of jobs—about 400,000 jobs created. So one of the reasons we can say we are making progress in developing some momentum behind the job creation numbers is because of the payroll tax cut that was put in place in 2012. We know the kind of progress we are making, the kind of certainty we want for middle-income families can be badly undermined if we do not get an agreement not only on tax rates but also on this across-the-board indiscriminate cut that would take place if we do not have a bipartisan agreement.

This is known by that fancy term ''sequester'' or the other term ''sequestration.'' What that means, and I am not sure many people heard that terminology before a year or two ago—but what that means is across-the-board cutting. Some people say: That sometimes makes sense. In my family, in my business or when we have to make a decision, sometimes we have to cut spending across the board.

Unfortunately, if we do not make cuts that help our economy grow, we will badly injure our ability to grow the economy in the near term and in the future. So we all agree cuts have to be made. The question is, How do we do that? Do we make cuts that are smart and that help us grow or do we make cuts that are indiscriminate, without any kind of a strategy behind them?

Fortunately, I think there is agreement that across-the-board cuts, whether they are defense cuts which will impact jobs or whether they are nondefense cuts which will also impact the economy, do not make a lot of sense. It does not make sense to say all cuts are equal; therefore, medical research should be cut in the same way an inefficient program should be cut. That does not make sense. I think most Americans understand that.

We have to get an agreement to avoid those automatic cuts. I think we can. I think Democrats and Republicans agree it would be the wrong approach to allow that to happen. I think we can get agreement on that. What we need is a balance. Just as when any family has to make a decision about their own budget or about their own spending priorities, they need a balance. Obviously, the balance is two parts; one is revenue and one is spending. So we need to get that balance in place. We also need, in order to achieve that kind of balance, Democrats and Republicans to be willing to work together—compromising, not getting everything you want but getting enough of an agreement that we can move the country forward.

Despite all the problems, I have a high degree of confidence we can get an agreement. Folks will come together and compromise. Part of that starts with putting in place an agreement, which is already one element to the compromise. That is not just voting on but having the agreement that says: Let's have certainty right now for middle-income families.

Everyone agrees, with very limited exception, that we should extend tax rates—keep the tax rates the same for about 98 percent of the American people. There is broad agreement on that. Some on the other side do not want to have a conclusion to that because they want to have a debate about what happens to the wealthiest among us, the very top income earners, roughly about 2 percent of income earners.

But look, we have agreement on the other 98 percent. So what I would say is whatever it takes to give meaning or integrity to the vote we had in the Senate to get an agreement here but also encourage the House to vote to say: Let's give middle-income families the certainty they deserve, let's just say we are going to agree, Democrats and Republicans, that 98 percent of taxpayers across the country are going to have their tax rates continue.

Then we can have a big debate after that about what happens to the

wealthiest among us. I think it makes sense, at a time of high deficits and a debt problem that will confront us for years, that we have some part of that revenue come from the wealthiest among us. People across the aisle might disagree with that. We can have a big debate about that. But let's put in place, in law, the kind of certainty middle-income families should have. I think we can do that. So let's get in place an agreement for the 98 percent, and then we will have a big debate about the wealthiest 2 percent. Let's get in place tax rates that will allow us to do that.

I think a little history is instructive. We know that in the 1990s and the 2000s, we know there is, according to the data, no relationship between lower marginal rates for the wealthiest among us and faster accelerated economic growth. I emphasize no relationship because I think some have made the case.

Two examples. During the Clinton administration, to address the growing budget deficit at the time, which was not as severe as today, but it was a pretty substantial deficit, the top marginal tax rate was raised. It went up on the wealthiest individuals. The economy grew at the fastest rate in a generation and more than 22,000 jobs were added.

So that is what happened during President Clinton's two terms in office. During the following 8 years, the top marginal rate was lowered—not raised but lowered—for the wealthiest individuals. The economy never regained the strength of the previous decade, the 1990s. Job growth slowed and wages stagnated, leaving middle-income families especially vulnerable when the great recession began toward the end of 2007.

That is some of the history. That is part of the foundation or undergirding for the debate we are going to have on tax rates. This is not a lot of theory or a lot of maybes. We have data and information and kind of a track record trying it two different ways, the way we tried this under President Clinton and the way we tried it under the next administration. I think that is instructive.

Finally, I would say that for all the challenges we have, for all the disagreements we have, I think most people in the Senate, no matter who they are—Democrats, Republicans, Independents—whether they were running for office this year or not, all heard the same message. They all heard maybe two basic messages from people. At least that is what I heard in Pennsylvania, all across the State, for longer than 2012 but certainly most fervently with a sense of urgency this year.

Here is what I heard, a two-part message: Do something to create jobs or do more to create jobs, move the economy faster. No question, I heard that over and over. Soon thereafter, within seconds of saying that, families or taxpayers whom I ran into across the State would say to me: You have to work together with people in the other party to get this done.

You know why they say that. That is not some unreal expectation that the American people have of us. It makes a lot of sense. Because in every family out there, whether it is in Pennsylvania or across the country, in every business, small business or larger business, in every one of those circumstances, in a family or in a business, those individuals have had to sit down over the last couple years especially, work out differences, set priorities, set goals, reduce spending sometimes, make investments they knew they needed to make to grow their business or to create more economic certainty for their family.

They have had to do that. All they are saying to us is just take a lesson from the life of a lot of families in America. Sit down, set priorities, work on coming together, and get an agreement. I think we can do that. Despite all the differences, I think both parties understand the urgency of those questions, whether it is the tax rates, whether it is across-the-board spending cuts, which would be indiscriminate and harmful, whether it is what we do about individual programs, what we do in the near term to reduce deficit and debt.

We have to come together, as families have to come together, and make agreements with people whom we are sometimes disagreeing with or not getting along with every day of the week and make decisions that businesses have to make almost every day of the week or at least every month on their spending, on their priorities and on their investments.

I think we can do that. I know we have to do that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I ask unanimous consent that the Senate be in recess until 2:15 p.m.

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

Thereupon, the Senate, at 12:24 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013—MOTION TO PROCEED—Continued

Mr. WHITEHOUSE. 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. SCHUMER. 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. SCHUMER. Mr. President, I rise to discuss the state of the ongoing negotiations to avert the fiscal cliff.

So far there has been little progress reported at the negotiating table. Since the President's very productive meeting with the bipartisan leaders from the House and Senate on November 16, the subsequent staff talks have produced no breakthroughs. Republicans in the room are not yet acknowledging the need to let tax breaks for the very wealthiest Americans expire, nor are they offering the kind of reasonable reforms to entitlement programs that Democrats can be expected to support.

But despite this impasse, as Leader MCCONNELL described it on the floor yesterday, I am optimistic we can still get a deal by Christmas. I detect a great deal of progress being made beneath the surface. You only need to turn on television these past couple of days to observe the signs of this progress.

For nearly three decades, a rightwing Washington lobbyist has exerted a stranglehold on mainstream Republicans over the issue of taxes, threatening political retaliation against any lawmaker who dared to vote for any fiscal solution that asked the wealthy to pay their fair share. But in the 3 weeks since the election, one Republican after another has been rebuking this lobbyist for his uncompromising stance on taxes. Republicans in both the House and Senate are deciding they no longer want to be married to this pledge. Republicans are saying they want a divorce from Grover Norquist. That alone is a leading indicator that a fiscal deal is within reach. Both sides are still far apart and discussions over the next few weeks will be difficult. But with each new Republican disavowing Grover Norquist, the chance of a deal rises sharply.

First there was SAXBY CHAMBLISS, an honorable Member of this body and a charter member of the Gang of Six, who has spent the last 2 years trying to negotiate a bipartisan compromise in the best of faith. Senator CHAMBLISS is a signer of the Norquist pledge, but he went on TV—not somewhere else but down in Georgia—last week and bravely said:

> I care about my country more than I do about a 20-year-old pledge.

Then on ABC this past Sunday, LINDSEY GRAHAM said:

> The only pledge we should be making is to each other to avoid becoming Greece.

On the very same program, my friend from New York, Congressman PETE