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RAISING THE BAR FOR CONGRESS: REFORM PROPOSALS FOR THE 21ST CENTURY

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MARCH 14, 2012

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RAISING THE BAR FOR CONGRESS: REFORM PROPOSALS FOR THE 21ST CENTURY

WEDNESDAY, MARCH 14, 2012

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Pryor, Collins, Coburn, Brown, and Johnson.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. The hearing will come to order. Good morning. And before we proceed, I know Senator Brown would like to be recognized to make a brief statement.

Senator BROWN. Thank you, Mr. Chairman. I would just note I am running the Veterans Committee's hearing over in the Russell Building. I am going to go and do that for a little bit, and I will be back, but I just wanted to just let you know that. And now that my spot is reserved, I appreciate it.

Chairman LIEBERMAN. Excellent. Thank you.

Senator BROWN. Thank you.

Chairman LIEBERMAN. Thanks. Thanks to everybody who is here for this hearing this morning.

As you know, we are going to discuss ways this morning to break the present gridlock in Congress and get this institution back to what it was created to do, which is to work productively for our country.

I know that for some people the very decision to hold this hearing was controversial. They have asked us why we would do it. And my response was a question back: Why wouldn't we want to hold this hearing? Why would anyone feel, based on the record, that Congress is fulfilling its responsibilities to the American people? Why wouldn't we want to open the conversation, particularly on the broad series of proposals made by a relatively new citizen-grassroots, good-government group called No Labels?

I know that the particular legislative proposal—the one part of the No Labels reform program that is legislative has been referred to this Committee—the No Budget, No Pay proposal, is controversial. But it, too, in many ways expresses and frames the public mood toward Congress today.

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Somebody said to me this proposal is like a legislative scream—it is. And it is a scream—whether Members of Congress agree with it or not—that has to be heard and responded to.

The fact is that, as everybody knows, the public's estimation of Congress is at historic lows, and there is ample reason why that is so. Congress is just not fulfilling some of the basic responsibilities that the Constitution gives us, including, of course, the responsibility to propose, to debate, and to adopt in a timely manner a budget for our country. Let me give you some examples of why we are here.

It has been more than 3 years since Congress has passed a budget on time and more than a decade since Congress has done so in the manner prescribed by the rules, with all of its appropriations bills being separately considered and passed.

Nominations to judicial and executive positions are often held up for months for political reasons by procedural maneuvers, and then when those nominations come to the floor, they pass by overwhelming bipartisan majorities. But in the meantime, important parts of our Executive and Judicial Branches of government have gone without the leadership that they need to function on the people's behalf.

On Monday of this week, in the midst of what has been called a judicial emergency, which is to say that there are great backlogs of cases in many Federal courts because there are not enough sitting judges, the Majority Leader of the Senate filed procedural motions on the nominations of 17 judges which have been held up, even though they came out of the Judiciary Committee with bipartisan support.

And then last summer, as we all know, we came perilously close to defaulting on our Nation's fiscal obligations as the debt ceiling fight dragged on and on to a critical deadline. Default would not only have left us unable to pay our debt, but would have also forced a government shutdown.

Standard & Poor's concisely summed up the situation when it announced it was dropping our Nation's long-time AAA credit rating to AA-plus, and Standard & Poor's said, "The downgrade reflects our view that the effectiveness, stability, and predictability of American policymaking and political institutions have weakened at a time of ongoing fiscal and economic challenges." That is a classic financial community understatement, but it is surely the sad truth.

Today we are going to consider those possible reforms that No Labels and others have put forward, and as we consider them, I think we also need to focus on the prevailing political and congressional mentality that considers "compromise" a dirty word and makes legislative gridlock practically inevitable.

Partisanship and ideology have been a part of American democracy since our beginning, but our forefathers did not let their competing partisan loyalties and often quite strongly held competing views prevent them from reaching the kind of compromises that were so central to the formation of our country and to the progress that we have achieved since then. In fact, the House and the Senate are themselves the result of the Great Compromise, which is the erroneous name for it—the correct name is, of course, the "Connecticut Compromise." [Laughter.]

Because it was authored by two of my home State's delegates to the Constitutional Convention, Roger Sherman and Oliver Ellsworth, as a way to balance the interests of the large-population States and the small-population States. It was one of the very reasons why the Constitution was adopted and how the government was able to proceed.

Among the very first legislative issues that Congress had to confront was how to fund the Federal Government and how to pay off our Revolutionary War debt. Sound familiar? Factions quickly lined up behind two of the great giants of the day, Thomas Jefferson and Alexander Hamilton, but both of those men and their followers were able to work through their differences and reach a compromise agreement that put our Nation on a sound financial footing that both funded the Federal Government and paid down the debt.

And in modern times, which seem far from where we are now, Congress has been able to put together bipartisan majorities to pass a lot of landmark legislation and in doing so overcame serious differences—I am thinking here, for instance, of the creation of Social Security or the Civil Rights Acts of the 1960s. They took on historic challenges and transformed our Nation in ways that are everlasting.

Compromise in all these cases meant not an abandonment of principle, but a willingness by all involved to settle for less than 100 percent of what each had originally sought.

Today, while the enormous challenges our Nation faces continue, the spirit of compromise is largely gone. Today members who honestly seek to understand and accommodate views from the other side of the aisle are not often embraced warmly by their own parties. In fact, too often they are punished.

We have a national debt today approaching $16 trillion and 13 million of our fellow Americans remain unemployed. Our Nation's computer networks, on which so much of our economic prosperity and national defense depend, are under attack from rival nations, terrorists, and organized criminal syndicates. Iran seeks a nuclear weapon. Syrian President Bashar al-Assad is massacring his own people, and our mission in Afghanistan is foundering.

We need a Congress that can vigorously debate these and the many other great challenges we face, find compromise, and then come together for the good of the Nation. And that is why I think the proposals that we are going to hear today really offer us the hope of getting America's legislative train back on track.

We are going to hear not only testimony from colleagues Senator Dean Heller and Congressman Jim Cooper on the No Budget, No Pay proposal, but Senator Johnny Isakson is here to testify about the biennial budget proposal, which is a response to that. And then on the second panel, we will have some outside experts, independent thinkers who will comment on the range of proposals before us.

I have spent a lot of time going back to the early Americans because I think we need their wisdom and also the model that they set by their actions. President Washington, in his first address to a joint session of the House and Senate on April 30, 1789, after he was sworn in, closed with a prayer asking that "the benign parent

of the human race" bestow his blessing on the House and Senate so that they might deliberate in "perfect tranquility" with "enlarged views" and "temperate consultations."

It seems like a long time ago. However, history shows in the decades and centuries since then that Congress has at times reached Washington's level and realized his vision, and when it has done so, it has been at its best. Now more than ever, Congress needs to put partisanship and ideological rigidity aside and put the needs of our great country first. We need to talk to each other, as Washington said, "in temperate language" so that we might not only enlarge our views but bring needed tranquility to the national dialogue as well—and, incidentally, provide results to the people of America who have been good enough to give us the privilege of serving here.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

With enormous problems facing our country and Congress having little to show by way of accomplishments, our witnesses today are shining a spotlight on how Congress could accomplish more and bicker less.

A recent analysis by the *Washington Times* reveals that last year marked the least productive session of Congress in more than 60 years. Whether one examines hours of debate, the amount of conference reports produced, or the number of votes taken, the data validate the instinctive frustration that many Americans feel about the lack of accomplishments in Washington.

Like many of our witnesses, I have always believed that bipartisanship and compromise are the key to tackling the major problems confronting our Nation, whether it is a poor economy, high gasoline prices, or the $15 trillion debt.

Unfortunately, however, that seems out of fashion today. Sitting down with those on the opposite side of an issue, figuring out what matters most to each side, negotiating in good faith, and attempting to reach a solution are actions that are too often vilified by the partisans on each side of the aisle. Perhaps that is why the American people are so angry with incumbents and why the public's perception of Congress is so dismal.

And who can blame the public for their frustration? Today we are marking 1,050 days since the Senate has passed a budget. The Majority Leader has made the stunning statement that he does not intend to take up the President's budget—or any other budget, for that matter—which is a troubling abdication of the Senate's responsibility under the law.

The Congressional Budget and Impoundment Control Act of 1974, a law written by one of my predecessors, Senator Ed Muskie from Maine, requires Congress to adopt an annual budget resolution, and that budget is critical to controlling spending through binding caps and is essential if we are to rein in our ruinous debt that is now virtually the size of the entire economy.

So I certainly understand the desire to hold Congress' feet to the fire. Some of the proposals discussed here today could help while

others may not be as effective. I believe that there are several worthwhile reform options that we should and must consider.

First, let us take up each and every one of the appropriations bills on time prior to the start of the fiscal year and allow each bill to be debated, amended, and considered on its own merits. That would help restore the public's confidence, lead to more carefully considered bills, and restore the Senate tradition of free and open debate. This bad habit of combining all or most of the funding bills into one gargantuan package produces thousands of pages and little time for Members to scrutinize the fine print and trillions of dollars in spending.

Second, we need a better understanding of the programs we fund and how they are working or not working. That requires more rigorous and more frequent oversight, and that is why I am proud to be a cosponsor of Senator Isakson's bill that would establish a budget for 2 years rather than one. This is the approach that is used by the State of Maine and many other States. Such a schedule would free Congress to devote the off year to conducting oversight together in a bipartisan way on the programs and agencies we fund, regardless of which party is in charge of the Executive Branch. More systemic due diligence could produce more bipartisan consensus about needed reforms, program eliminations, and spending reductions, or even spending increases for some worthwhile programs. I am grateful that our colleague, Senator Isakson, is here today to discuss his biennial budgeting bill.

Third, I want to acknowledge Senator Coburn's leadership in offering legislation aimed at identifying redundancy and overlap in Federal programs. Without better information, Congress will continue to create scores of new programs every year, adding to the thousands that already exist. America cannot afford any further delay in creating the transparency that would help us prevent duplication and overlap.

There is another proposal that we are considering today from the No Labels organization that would require Members to go without pay unless we pass a budget and all of the regular appropriations bills prior to the October 1 deadline. Our esteemed colleagues Senator Heller and Congressman Cooper are presenting this intriguing option. Of course, I think it is important to acknowledge that the power to negotiate a budget through a committee and bring it up for a vote on the Senate floor is not equally shared by all Members, no matter how forcefully those of us who are not in leadership may advocate for a budget.

My point is that my own determination to pass a budget is motivated by doing what is best, by doing what is right, for the people of Maine and for the citizens of this Nation. But I do not control the Senate agenda.

What might be more effective? Changing the rules to require that a budget be passed before a single funding bill could be considered and passing Senator Isakson's biennial budget bill are two worthwhile options that would make a difference.

As Americans tighten their belts in these troubled times, they have less tolerance for a profligate, partisan Congress that avoids the most basic discipline of developing a budget, and that must change.

Finally, let me very briefly touch on another proposal put forth by No Labels. It aims to improve congressional civility by calling for no negative campaigning against fellow incumbents. I am a firm believer in what I refer to as "the Chafee rule." When I was a freshman Senator in 1997, Senator John Chafee of Rhode Island advised me never to campaign against those with whom I serve. "Campaign for your Republican colleagues," he said. "Go into States with open seats. But do not campaign against your Democratic colleagues. It will poison your relationships with them and make it far more difficult for you to work with them."

That was great advice, and it is advice that I have always followed. But, nevertheless, the Chafee rule, to which I adhere, is distinct from a ban on saying unpleasant or uncomfortable things about the actions of our colleagues. What would such a ban have meant in June 1950 when Senator Margaret Chase Smith, a freshman Senator, took to the floor of the Senate and spoke out against Senator Joseph McCarthy, who was sitting just two rows behind her? She denounced his actions as an assault on the right to criticize, to hold unpopular beliefs, to protest, and to have independent thought. And she did that not only on the Senate floor but elsewhere.

So I think we have to be careful to make sure that we strike the right balance. I strongly support efforts to bring more civility to Congress. I believe, however, that despite rules or bans or pledges, Members have always been and will always be restrained primarily by their own decency and their commitment to the voters, their country, and our Constitution, and by the American people demanding more civility in Congress.

I look forward to a discussion of these issues today, and thank you, Mr. Chairman, for holding this important hearing.

Chairman LIEBERMAN. Thanks very much, Senator Collins, for that excellent statement. Of course, I agree with you on the whole idea that Members of Congress should not campaign against colleagues of the other party. In our case, we have taken that even one step further. Though we are of different parties, we have campaigned for each other. And that is not the reason why we work so well together, and I think this Committee has been productive, but it sure does not hurt.

We will go now to our first panel. I do want to say for the record, unfortunately, the Senate will begin voting on matters at 11:30. That means I can stay at least close to 11:45. If we are not fully done, I will try to come back. But there will be three votes then on the highway bill.

So let us proceed with Senator Isakson, and we call in order of seniority. I notice the No Labels provision does not inherently call for an end to the seniority system, so we can call you without guilt first, Senator Isakson.

TESTIMONY OF HON. JOHNNY ISAKSON,[1] A U.S. SENATOR FROM THE STATE OF GEORGIA

Senator ISAKSON. Well, thank you very much, Chairman Lieberman, and thank you, Senator Collins. You both are examples of

[1] The prepared statement of Senator Isakson appears in the Appendix on page 38.

what these people here today want out of our Congress, and that is good people dedicated to solving problems and reaching across party lines to work together. And I commend you on holding this hearing today. I commend Representative Cooper and my colleague Senator Heller for their engagement in this important issue. And I take personal privilege to acknowledge the presence of Lisa Borders, an outstanding elected and civic leader of the City of Atlanta for whom I have the greatest admiration and appreciation for what she has done for so many years in our city.

I would like to ask unanimous consent that my printed statement be included in the record.

Chairman LIEBERMAN. Without objection, so ordered.

Senator ISAKSON. I do that because I want to talk to you very personally and very sincerely and not reading from a piece of paper, which I will put over here.

George Washington engaged the benign parent to come to the House and Senate and allow them to debate in civil discord so they could come up with decisions that made sense for the country. We now suffer from benign neglect in the Congress of the United States of America. We neglect the most important responsibilities that we have, and we suffer because of that.

Senator Johnson, who sits to your right and my left, ran a business very successfully for years, a lot more successfully, I am sure, than mine. But I ran a business for years, and in my business, every September we began having all of our branch offices, all 28 of them, submit a budget. We had a retreat in November where we thrashed out the budget. We set our goals for sales in the future, determined how much revenue would come in because of those sales. And then we budgeted our expenditures accordingly, and we kicked off the next year knowing what we expected to earn, what we were going to spend out of that, and how much of a bottom line the company was going to have to reinvest in the company. And we spent that next year constantly tweaking that budget based on circumstances. We had a system that forced us to do the right thing.

The Congress of the United States needs a system to force it to do the right thing. Twenty of the 50 States have biennial budgets, and I am very honored that Jeanne Shaheen, the former governor of New Hampshire, a fellow Member of the Senate and a Democrat, joined me in this legislation, along with 32 other Members of the Senate, in a bipartisan bill promoting the biennial budget. And what it portends is this: Instead of budgeting and appropriating every year—or in this case as we are doing now—you set up a system where in the first year of a new Congress you do a 2-year budget and a 2-year appropriations act. The odd-numbered year is the first year and the even-numbered year is the second year. The biennial appropriation then allows you to do oversight of that spending in the even-numbered year, which just happens to be the year you are running for re-election if you are in the House, or every three elections you are running for in the Senate. So instead of campaigning on the bacon you are bringing home from the budget process, you are talking about the savings you are finding and efficiencies through oversight.

There is a trash bin somewhere in Washington, DC, or a recycling bin, where all the Congressional Budget Office (CBO) reports

and all the inspector general (IG) reports go and are thrown away. We call for investigations every year in efficiency. We call on agencies to examine themselves. We have hearings on them. There is one hearing, no follow-up, it goes in the trash bin, and we go back to a process of arguing politically over whether we should budget at all.

So my proposal is very simple. It is not an original idea. It is not mine. It is the original idea of 20 of our most fiscally sound States. It is based on my experience as a businessman. It is based on the practical knowledge that everybody in this room understands. Every American family in our recession has had to sit around their kitchen table prioritizing their expenditures and living within their means. It is time the government that they elect did the exact same thing. And I would submit to you the Biennial Budget and Appropriations Act is the way to do that.

Last, I find it interesting that 3 years ago Congress passed a biennial budget and a biennial appropriations act. We did it when we were almost on the doorstep of a government shutdown. We knew we had all these veterans coming home from Iraq and Afghanistan, and we did a 2-year appropriation for the Veterans Administration to have the continuity of funding to take care of the soldiers that had risked their lives or even died for us. If it was that serious for that occasion, it is that serious now for the entire government. It is a way to systematically appropriate and budget, plan and have accountability, and in the end have a more efficient government that responds to what the American people want sitting around our kitchen table debating our priorities and living within our means.

I thank the both of you for the time to testify today.

Chairman LIEBERMAN. Senator Isakson, thanks very much for that statement. I was thinking as you were talking, I think if there is one thing on which Members of the Senate on a nonpartisan basis, it is that you carry within yourself the civility and temperament that Washington hoped for in Members of the Senate.

I know you have a busy schedule, so whenever you want to leave, we will understand.

Senator ISAKSON. If we are not going to do questions, I will leave because I have to co-chair a hearing for another committee.

Chairman LIEBERMAN. Go right ahead. Thank you.

Senator ISAKSON. Thank you very much.

Chairman LIEBERMAN. Next we go to Senator Dean Heller from the State of Nevada. Welcome.

TESTIMONY OF HON. DEAN HELLER,[1] A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HELLER. Mr. Chairman, thank you. Thanks for the introduction.

I sent a letter to you and Ranking Member Collins last September, to encourage this Committee to look at this legislation. And I appreciate the opportunity and thank you for the opportunity to talk about No Budget, No Pay, something obviously supported by myself, a Republican; my colleague here to my left, Congressman Cooper, a Democrat; and the No Labels community, a bipar-

[1] The prepared statement of Senator Heller appears in the Appendix on page 39.

tisan group that is looking for ways to change the direction of Washington.

I want to start out by talking about the State of Nevada that is currently enduring the highest unemployment rate in the country. In fact, Nevada has led the Nation in unemployment for more than 2 years. And as I travel the State, I hear from individuals who are laboring to make ends meet—families who stay up late working on their budget around the kitchen table.

But in Washington, DC, it is business as usual. Our Nation's capital remains a pain-free zone. Congress continually kicks the can down the road, leaving tough fiscal decisions for future congresses, future administrations, and, of course, future generations.

Our failure to budget is one major example. President Obama's most recent State of the Union address marked 1,000 days since the U.S. Senate passed a binding budget resolution. Since Congress last passed a budget, the Federal Government has spent $9.4 trillion, adding $4.1 trillion to the debt. In fiscal year 2011 alone, Washington spent $3.6 trillion. Compare that to the last time the budget was balanced, when $1.8 trillion was spent.

I was particularly concerned by the tone set for the 2013 fiscal year, as Senate leadership announced there would not be a regular budget process before the President even submitted his budget.

As the budget has been ignored, the regular appropriations process has broken down. Huge omnibus spending measures and continuing resolutions have replaced the regular appropriations process. This regular appropriations process is a means through which Congress should be engaged in rigorous oversight of Federal spending, and Congress has proven delinquent in its duties through a dysfunctional addiction to short-term, shortsighted funding measures.

Members of Congress are willfully refusing to put our Nation on a path to long-term fiscal responsibility. As long as this is the case, Americans will continue to be frustrated and angry with Washington's inability to produce real results.

In light of these facts, is it really any mystery why Congress is currently experiencing its worst approval ratings in history?

I crafted the No Budget, No Pay Act to force Congress to face reality and take responsibility for running this country. This legislation requires that the U.S. Senate and House of Representatives pass a budget and all appropriations bills by the beginning of each fiscal year. Failure to do so would result in the loss of pay until Congress takes its job seriously. If Congress does not complete its constitutional duties, then Members should not be paid.

This concept resonates with the American people. I know because I asked Nevadans during a series of telephone town hall meetings last year whether they supported a bill that would withhold Members of Congress' pay if they failed to pass a budget. I include Nevadans of all political persuasions—including Independents, Democrats, and Republicans. More than 4,000 Nevadans participated in this poll, and 84 percent of them supported the No Budget, No Pay concept.

I doubt Nevada is alone in this sentiment. Members of the Committee, I submit that if 84 percent of Americans across the political

spectrum agree on something, Congress needs to stop what it is doing and pay attention.

If we spent more time talking about what the American people agree on, I guarantee you that Congress would produce better results. More importantly, we would actually implement policies that would encourage the economic growth we need to ensure that workers can have good jobs to provide for their families.

I have had some people tell me that No Budget, No Pay is just a talking point. But it is not to me, and it is not to the bipartisan cosponsors who have joined this effort. No Budget, No Pay would hold Congress accountable to the American people. It reflects the principle that an honest day's work will result in an honest day's pay.

Too many in Congress have come to expect an honest day's pay whether or not they have actually accomplished the work of the people. Members of Congress are indeed out of touch with the American people if they believe they should be rewarded for a job poorly done or one not done at all.

I have heard some of my colleagues scoff at the timeline established by this legislation. But Congress has been able to accomplish its regular budget and appropriations processes before the start of new fiscal years in recent history. It happened under President Clinton and a Republican Congress. And it happened under President Reagan with a Democratic Congress in 1988. There are a handful of other examples—not as many as there should be—but the fact remains that these deadlines have been met before, and now is the time to start meeting those deadlines again.

While the No Budget, No Pay Act will not solve every problem in Washington, I sincerely believe that it would help restore regular order in the budget and the appropriations processes. These essential functions of Congress are vital to fiscal responsibility and keeping our Nation's fiscal house in order. We cannot hope to make progress in this Congress or this country until we take our constitutional responsibilities seriously.

My hope is that the No Budget, No Pay Act will be adopted as part of a broader effort to change the way Congress does business and restore the confidence of the American people in their government.

So, Chairman Lieberman and Senator Collins, thank you for holding this important hearing, and I deeply appreciate the Committee's time and look forward to continuing this important discussion in the future. Thanks.

Chairman LIEBERMAN. Thank you, Senator Heller. We are holding the hearing because we believe that the proposal you have made with Congressman Cooper and others deserves attention because it does express a public view, and it hopefully will lead to some kind of action to deal with the total breakdown of the budget process hopefully in this session of Congress.

Senator HELLER. Mr. Chairman, thank you.

Chairman LIEBERMAN. Thank you.

Congressman Cooper from Tennessee, welcome to the other side of the Capitol. You are always welcome here. It is good to see you this morning.

TESTIMONY OF HON. JIM COOPER,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. COOPER. Thank you, Chairman Lieberman and Senator Collins. I appreciate your holding this hearing, and I also appreciate the attendance of Senators Coburn, Pryor, and Johnson. I appreciate your taking time to be here.

As everyone knows, about 90 percent of the public disapproves of the way that Congress has been acting. Unfortunately, too few of our colleagues are listening to that discontent, and too few are focusing on ways to fix the broken branch of government.

I have been working on this for many years—I had a book out in 2006—and trying to do my best to improve this institution, which I dearly love. But we have to realize that this year we have a rare chance to make some of these good reform ideas reality.

I think this hearing is important because this is the first formal institutional recognition that I have seen that Congress knows it is sick. The question is: Will Congress be able to heal itself?

We do not know the answer to this question. First of all, a reform has to be able for Congress to swallow. If a reform is palatable but not strong enough to cure, it will not do any good.

Congress is its own doctor. Neither the Supreme Court nor the President can save us. We are our own physician here. Now, if we do not act, I am confident that the public will.

When you ask Democratic and Republican leaders how to fix the institution, their answer is always the same: "Elect more Democrats" or "Elect more Republicans." I wish the answer were that simple. Unfortunately, neither political party has been doing a good job. Neither party is willing to compromise for the good of the Nation. Both parties, as we all know, pander to the base and do all they can to blame the other. Meanwhile the Nation suffers.

My favorite nonpartisan group, No Labels, has offered a package of 12 reforms, and I am going to speak on the No Budget, No Pay reform, but a number of these reforms deserve attention, and I appreciate this Committee taking out time to focus on these.

My colleague, Senator Isakson, mentioned biennial budgeting, as did Senator Collins. I think that is a great idea. I support it. But I am worried that without the No Budget, No Pay Act, instead of Congress missing its annual deadline, it would just miss its deadline every other year. We still need an enforcement mechanism.

As we all know, Congress has missed so many budget and appropriations deadlines now that really no one takes them seriously. We have run government too long by continuing resolution instead of annual appropriations. We have run government almost on a month-to-month, sometimes a week-by-week basis. That is no way to run a superpower. That is inexcusable.

Essentially, we have lost "one Nation, under God, indivisible," and we have gained "one nation, yet again, interrupted." I am afraid that our start/stop government is giving everybody whiplash. America is the victim. And Congress is simply not able to get away with this reckless driving anymore.

We heard the warning last summer from Standard & Poor's when they downgraded our credit rating for the first time in his-

[1] The prepared statement of Mr. Cooper appears in the Appendix on page 42.

tory, and they warned us it is not just due to our budget deficits, it is due to our political bickering. The ratings outlook is still negative, and we could face yet another downgrade unless we behave quickly.

Mr. Chairman, I wish that we could legislate civility and wisdom in this body. Unfortunately, as you know, that is impossible. But we can, at a minimum, force ourselves to meet our most basic financial deadlines. That is what No Budget, No Pay is all about, and we have to admit, most congressional activity is difficult to measure. But our duty to meet key financial deadlines is clear, achievable, and enforceable.

The idea of deadlines to me came from a constituent in Nashville, Tennessee. He was completely fed up with Congress and asked me why Congress was so shameless in repeatedly missing our deadlines. He wondered why the members of the public had to pay their taxes on time when we do not pay the Nation's bills on time. I did not have a good answer for the gentleman. Congress must come up with a good answer this year.

No principle is more basic to American values than no work, no pay. The saying in Tennessee, often mentioned by a beloved former governor of ours, is, "If you don't want to work, you ought not to hire out." People get it. And it is time that Congress gets it, because the public expects Congress to lead by example. If we shirk our duties, we should not get paid. No budget, no pay. No appropriations bills, no pay.

Now, it is obvious that the No Budget, No Pay Act is not popular with all of our colleagues, although we do have a growing list of several dozen co-sponsors in the House. Some concerns about the bill are certainly legitimate, but most of our colleagues are simply running out of excuses for why Congress is chronically late and irresponsible

In a normal year, we have to admit, reform efforts like the No Budget, No Pay Act would not have a chance of becoming law. It would have a zero chance of passage. But I think this year is different. Instead of business as usual winning as usual, I think that the public is so tired of our blame games, we are going to act. Congress has not been this unpopular since polling was invented.

I am confident that those of us who revere Congress as an institution love it enough to tell it the truth, even when that truth is painful to hear. I am confident that in this election year, many of our colleagues will see that the real choice is between reform or defeat, and I think they will choose reform.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Congressman Cooper, for that statement. I thank both of you. I know, again, you have very busy schedules.

We have a second panel which will testify on No Budget, No Pay, also on the broader No Labels platform of proposals, and we will have questions for them. But thanks for your leadership, thanks for your statements, thanks for your time. We wish you a good day.

Now we will call the second panel: Tom Davis, co-founder of No Labels and currently the Director of Federal Government Affairs at Deloitte and Touche; William A. Galston, co-founder, No Labels, and senior fellow, Governance Studies at the Brookings Institution;

and Donald Wolfensberger, Director of the Congress Project at the Woodrow Wilson International Center for Scholars.

I thank all of you for being here. We will give our Members a moment to depart from the room.

Congressman Davis, apparently the rules of seniority go even after you leave Congress, even though Bill Galston looks so much older than you. [Laughter.]

Congressman, it is great to welcome you back. It was a real pleasure to work with you when you were here, and I appreciate very much your continuing interest in matters of public policy, including particularly through the No Labels group.

TESTIMONY OF HON. THOMAS M. DAVIS,[1] CO-FOUNDER, NO LABELS; DIRECTOR, FEDERAL GOVERNMENT AFFAIRS, DELOITTE AND TOUCHE LLP

Mr. DAVIS. Well, thank you, Chairman Lieberman. Senator Collins, thank you for being here. We worked together on a number of issues when I was in the House, and it is good to see Senator Coburn and Senator Johnson here as well.

I really appreciate the opportunity to be here today, and I ask that my entire statement be part of the record.

Chairman LIEBERMAN. Without objection.

Mr. DAVIS. And I am happy to be part of the discussion today.

First of all, I want to start by congratulating this Committee on several reform accomplishments that you have already completed. Last June, S. 679, sponsored by the two of you, cleared the Senate floor. Your bill took about 300 positions that currently require Senate confirmation, and either took confirmation away or expedited the procedures, allowing presidential appointees to be able to get to their places on time and start work. And I am going to talk a little bit more about that, but you have already moved on this.

Second, you have worked to establish a working group to simplify the paperwork requirements for Federal appointees so that the vetting process can proceed more expeditiously and these appointments can get into place quicker, particularly with new administrations.

And finally, and I think most importantly, you have established a bipartisan mantra for this Committee, something you do not see throughout the Congress. The two of you working together, in your seating, you have set, I think, a tone for Members working together. Those are the kinds of things I think the public wants to see, and so you are doing your part already to bring this about. This is not a Committee where you walk in with a red jersey or a blue jersey, and as I said, even your seating shows that.

But you are bucking some macro trends that we see growing politically that tend to heighten and reward partisanship and brinkmanship and punish compromise. We have seen just from the *National Journal's* ratings an ideological sorting of the parties now where the most liberal Republican votes more conservative than the most conservative Democrat, and this is reinforced in the House by the way Congressional Districts are drawn. Now it is generally either a blue district or a red district.

[1] The prepared statement of Mr. Davis appears in the Appendix on page 46.

In 2010, you had the largest midterm turnover since 1938, and yet as you approached election day, less than a quarter of the House seats were really in play. That means most Members look to their primaries as their major race, and primaries do not reward bipartisanship. They tend to punish bipartisanship. They tend to reward ideology.

Also reinforcing this is the fact that news media models now crop up and just thrive on polarization. Their financial models call for this kind of thing. We call it "cognitive dissonance" in psychology. And on the Internet, with no filters, you are getting the same kind of polarization.

Finally, I would just add, on a macro trend, the way campaigns are financed today. Parties have been starved for dollars and soft dollars have been taken away from parties. This money has moved elsewhere into the political sphere, and not to centering groups like political parties but out to interest groups, which tend to be much more ideological.

So these are macro trends that have affected the way Congress does its business, and you are trying to deal here with changing some rules. The end result of all this is we are turning into a parliamentary electoral system, as Congressman Cooper noted, in a balance-of-powers government. And it has not become a very good fit. It is an electoral model that our Founders rejected, but it is just what has evolved.

So I want to address just three issues today that I think would add to the discussion.

The first is that today presidential appointments are routinely held up for oftentimes trivial and unrelated reasons. Presidential appointees become collateral damage as part of larger issues. Advise and Consent is often turned into Delay and Obstruct, and this has discouraged qualified people from entering government service and people getting to government service on time, particularly for new administrations.

Our solution is pretty simple. Presidential nominations in the Executive Branch would receive up-or-down votes within 90 days. It could still be 60 votes. You could keep that threshold. But at least they would get some certainty, and not left dangling out there after they have severed their business ties, given up their stock options to wait in turn to try to enter government service.

The second proposal deals with the filibuster. No one wants to do away with the filibuster, but maybe just making the filibuster a filibuster would help. In the first 50 years of the filibuster, when a two-thirds vote was required, it was used only 35 times, and that was when, as I said, two-thirds was needed to invoke cloture. In the last 2 years alone—and this has been with both parties—it was used over 100 times, and Senators do not even have to show up on the floor now to explain themselves. They just signal their intent to filibuster, and it effectively stalls legislation. The upshot is that even routine legislation has to clear 60 votes, and constant filibustering also gums up the Senate calendar.

Look, I recognize that the filibuster is a powerful tool and empowers the minority to force consensus on complex issues. But the No Labels filibuster fix and what I suggest today, if Senators want to filibuster, just show up. Go through it. Make them stand up and

talk through that time. Do not just file a vote. They can go through this, and I think that would be a discouraging factor.

And, finally, another idea that as Washington debates finds, we often deal with different facts. What we want to put forward is that every year our nonpartisan leaders, like the Comptroller General, would come up before Congress and deliver a televised address, where we could at least agree on the facts. Today so often in the political sphere, we are not even reading from the same set of facts. Everybody has their own facts. Being able to do that to a joint session, televised, would set, I think, a groundwork where, despite our philosophical disagreements and partisan disagreements, we would at least be reading off the same set of facts.

So, again, I appreciate being part of the discussion today, and thank you both for holding this hearing.

Chairman LIEBERMAN. Thank you, Congressman Davis. Thanks for those three very thoughtful proposals, which really ought to be adopted.

I take liberties with Mr. Galston because I have known him so long, and without belaboring the point, I have great respect for him, but also because he spent his formative years in Connecticut, he brings to the table the spirit of Roger Sherman and Oliver Ellsworth.

Mr. GALSTON. And other more roguish characters.

Chairman LIEBERMAN. I was leaving that out. [Laughter.]

If anybody in the room is interested, see me later. Welcome Mr. Galston.

TESTIMONY OF WILLIAM A. GALSTON,[1] CO-FOUNDER, NO LABELS; SENIOR FELLOW, GOVERNANCE STUDIES, THE BROOKINGS INSTITUTION

Mr. GALSTON. Chairman Lieberman, Senator Collins, and Members of the Committee, I am William Galston, a senior fellow in Governance Studies at Brookings and one of the co-founders of No Labels. I want to join the other witnesses in thanking you for holding this hearing, and on a more personal note, I am honored by this invitation and am grateful for this opportunity to present my views on congressional reform. I will summarize my written remarks, but I would respectfully submit them, along with supplementary materials, for the record.

Chairman LIEBERMAN. Without objection, so ordered.

Mr. GALSTON. I begin with a brief description of No Labels. We are a classic American grassroots organization—Democrats, Republicans, and Independents united in the determination to make our country better. We began 15 months ago with a meeting that 1,000 citizens representing all 50 States attended at their own expense. Since then, our membership has grown to nearly half a million. We have bipartisan teams of citizen leaders in every State and in all 435 congressional districts.

Our mission can be stated in a single sentence: We want to help move our country from the old politics of point scoring toward a new politics of problem solving. And I know that this goal is widely

[1] The prepared statement of Mr. Galston with attachments appears in the Appendix on page 50.

shared in this room by the Members of the Committee, and we are grateful for that.

A number of No Labels members are here today. As I think you can see, they are not carrying torches and pitchforks. They are worried but not angry, disappointed but still hopeful. They want a government that makes progress on the country's real problems. They are not from Washington—and they are here to help. [Laughter.]

No Labels is a movement that meets a distinctive moment in our Nation's history. Political scientists have confirmed what pundits, elected officials, and citizens have long suspected: Our party system is more divided than it used to be; indeed, to judge by voting patterns, more deeply divided than at any time since the 1890s. This has had consequences for the ability of government at every level—but especially at the national level—to reach agreement even on routine matters, let alone on the challenges that require our system to break new ground.

Robust debate on fundamentals is, of course, the life blood of a healthy democracy, but not if that debate yields mostly gridlock and recriminations. In the eyes of most citizens, regrettably, that is what has happened.

Now, while some citizens may have lost confidence in the Members of Congress as individuals, No Labels has not. We believe that our Senators and Representatives came to Washington to promote the common defense and general welfare and that they are as frustrated as anybody by the obstacles that they have encountered. In our view, our elected representatives are public-spirited individuals trapped in an increasingly obsolete and dysfunctional system of congressional rules and procedures designed for a very different era. The correct response, No Labels believes, is to fix the system.

Just last week, one of your colleagues, Senator Olympia Snowe, stunned the political world by announcing that she would not seek a fourth term. She described a Senate that was no longer capable of finding common ground, and in an op-ed in the *Washington Post,* she said:

"I do not believe that, in the near term, the Senate can correct itself from within. It is by nature a political entity and, therefore, there must be a benefit to working across the aisle." That benefit can come, she believes, only if the American people raise their voices and demonstrate their desire for a less polarized, more problem-solving brand of politics. And that is precisely what No Labels seeks to do.

Our focus this year, as you know, is congressional reform. Our 12-item agenda is summarized in the booklet, "Make Congress Work." Its title expresses the judgment that an overwhelming majority of the American people has reached. These 12 recommendations collectively address three central elements of congressional dysfunction: Hyper-polarization, gridlock, and, as has already been noted, the dwindling of productive discourse across party lines.

Now, it is fair to ask: If congressional polarization reflects divisions in the country, how can procedural reforms make a difference? And here is the answer: Although the American people themselves are more divided than they used to be, they are much less divided than are the political parties that purport to represent

them. This helps explain why so many citizens feel unrepresented and left out, and it suggests that by allowing their sentiments to find fuller expression, procedural reforms could help reduce polarization.

Our Founding Fathers established a representative system. They did not believe in government by plebiscite, and neither does No Labels. Nonetheless, the sentiments of the people are hardly irrelevant. An independent poll we commissioned after shaping our congressional reform agenda found that every one of the 12 items enjoys super-majority support. The least popular proposal is supported by 74 percent of the people; the most popular, which happens to be No Budget, No Pay, by 88 percent. These finding suggest that there is a large untapped demand for congressional reforms—especially when the people can understand them and believe that they would make a difference.

In short, we are at one of those junctures in American history when good government and good politics coincide. For your sake and for the country's, we urge you to seize this moment—by moving to a markup for the No Budget, No Pay Act and by giving serious attention to a broader range of congressional reforms.

Thank you very much for your attention.

Chairman LIEBERMAN. Thanks very much, Mr. Galston, for a characteristically thoughtful statement, and I look forward to the question-and-answer period.

The final witness on this panel is Don Wolfensberger, who is a widely respected expert on Congress and our government, and comes to us today as Director of the Congress Project at the Woodrow Wilson International Center for Scholars. Thanks for being here, and please proceed.

TESTIMONY OF DONALD R. WOLFENSBERGER,[1] DIRECTOR, CONGRESS PROJECT, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Mr. WOLFENSBERGER. Thank you, Chairman Lieberman. And thank you Senator Collins—by the way, best wishes on your engagement.

It is a pleasure to be here today, and Members of the Committee, to see you, and to testify on what is wrong with Congress and what might be done to improve its performance and its image.

I have been involved in congressional reform efforts for nearly a half-century now—I was just adding up, about 43 years, 28 on the Hill, 15 down at the Wilson Center—both working directly on reform efforts and studying the Congress and writing about it. And one of the observations I bring to the table as a result of all this work that I have done is that no matter how much Congress tries to reform itself, it eventually finds itself back in the same trough of public disfavor.

Very rarely does Congress enjoy overwhelming public support or confidence. It is a very convenient whipping post for all manner of national problems, some things it is responsible for, some things it is not. And I indicate in my testimony that while I do not think that there is a silver bullet that will magically transform the insti-

[1] The prepared statement of Mr. Wolfensberger appears in the Appendix on page 53.

tution, I, nevertheless, think that going through a reform process periodically is good for the institution. As I mention in my statement, it is like the proverbial 2-by-4 upside the head of a mule. It gets Members' attention and forces them to consider behaving better institutionally and working harder to achieve some constructive things for the Nation.

And I warn against making any bold, brash, ill-considered reforms because they can have very adverse consequences for the institution. They would make things worse. The Germans have a word for this: "schlimmbesserung"—an improvement that makes things worse. We call it "a reform that goes bad."

I have provided 10 guiding objectives for use in shaping any reforms and 10 things to avoid. Among the things that you should want are ending gridlock, ending bitter partisanship and incivility, strengthening the Legislative Branch vis-a-vis the Executive Branch, better balancing committee powers with party leadership powers, addressing real problems and not just politically appealing issues, enhancing Congress' oversight role, and better informing the people about the activities of their government.

I will not repeat the 10 things that I tell you to avoid. Many of these are mirror images of the 10 positive objectives, but I will mention just two: First of all, do not punish the Congress for its failings; and, second, do not diminish further the public's respect for Congress by belittling it. How many Members of Congress do we know that run for Congress by running against it and then, when they get here, wonder why the people are down on it?

Finally, I would mention four things that I think can help improve things in some of the areas that we are concerned with.

First and foremost, restore the regular order in committees and on the floor. You do not need a whole new set of rules. Just adhere to those that exist, and I think you will go a long way to restoring comity, deliberation, and fairness.

Second, restore conference committees between the House and Senate, and thereby eliminate what I call "leadership ping-pong matches"—that is, batting amendments back and forth between the Houses. Let committees and their members do this work. Leadership is not good at it. They have neither the time, the inclination, nor the expertise to be good legislators.

Third, focus on doing your principal job right, and to this I commend No Labels and Mr. Galston for bringing this to people's attention, and that is, managing the purse strings. Here I think leadership should lead in making sure that budget resolutions and appropriations bills are all passed on time.

I recommend in my testimony going with a biennial budget resolution with binding 2-year spending ceilings that would be spun off into law, similar to what we had last year with the Budget Control Act, while retaining the annual appropriations process as a means to maintain control and scrutiny of the Executive Branch.

Finally, I recommend disentangling campaigning from the legislative process. The perpetual campaign is polluting what was once a culture of lawmaking. I particularly single out in my statement leadership political action commitees (PACs) as driving too many important decisions within the Congress, such as how committee and subcommittee chairs are chosen in the House. You must find

ways to de-escalate what I call "the money chase" in Congress and turn that money machine under the dome back into a lawmaking machine.

I will be happy to elaborate on any of these or any of the other proposals that have been brought up today, and with that, I thank you again for your attention and for inviting me here.

Chairman LIEBERMAN. Thank you very much for your testimony.

We will go to questions from the Committee Members, and let us do 6-minute rounds so we make sure everybody gets an opportunity.

I have been over this document, "Make Congress Work." I think it is really an excellent document, and I want to note for the record what Mr. Galston has said. This No Labels group, in my opinion, is a genuinely grassroots movement. It is obviously started by leaders; otherwise, it would not take shape. But the growth that it has shown over the relatively short time it has been in existence is another message to us. And I think this is a series of very constructive proposals.

I would guess, most Members of Congress would say, "That is a good idea." Some of them, a couple, would probably have a hard time going beyond, "That is a good idea," such as not campaigning against colleagues from another party, because both party committees pressure Members to campaign against colleagues, which is a terrible and destructive idea. But I want to begin my questioning by going right to No Budget, No Pay because that is—as you have indicated in the polling you have done—the most popular of the 12 No Labels proposals. You will not be surprised to hear, not as a result of a socially scientific poll but an informal random poll of Members of Congress, it is the least popular of the 12 proposals among Members of Congress.

But to be fair about it, I want to ask you—and, in fact, people have said to me, "I cannot believe you are holding a hearing on this." Well, as I said before, I view it as a legislative scream, which I mean it is a shout for attention. And to use Mr. Wolfensberger's metaphor, a classic one, it is a 2-by-4 to get attention, in this case, may I say, not only of the recalcitrant mule but of the recalcitrant elephant as well.

But let me ask this question, and these are the critical questions, that is, the questions that are negative. So it makes you feel good if Members of Congress do not get paid unless they adopt a budget, but is that really the problem? Isn't the problem, to some extent—all of you and we have said—this decline in bipartisanship, increase in ideological rigidity, the kind of macro issues Congressman Davis talked about? Or isn't the problem the budget process, which clearly does not work? So why adopt No Budget, No Pay? Maybe I will start with you, Mr. Galston, and then go to Mr. Davis.

Mr. GALSTON. Well, let me begin by stating the problem as I see it. In 1974, the Congress adopted a very good Budget Act, and I am not surprised to hear that it had a Maine provenance. We would be in a much better place if the Congress of the United States were able to adhere to the terms of that Act. It not only prescribes a series of steps, as everybody knows; it also prescribes a timetable.

It has been more than 15 years, since 1996, that the Congress of the United States actually complied with that timetable. And you have heard a description, which I am sure is very familiar to all of you, as to what usually ensues to replace that timetable—an endless series of continuing resolutions, stop-and-go budgeting, etc.

Speaking for a minute as a political scientist, it is hard for me to resist the conclusion that the incentives pulling against complying with the 1974 act are a lot stronger than the incentives pulling in favor of complying with the Act. And that leads to a classic Madisonian question: If men, and even women, are not angels, how do you arrange institutions and procedures to make it more likely that compliance with rules and institutional norms will, in fact, come to pass?

We have put forward the No Budget, No Pay Act as one way, we believe a powerful tool, for changing the incentives that individual Members feel and the institution as a whole feels. We would not be disappointed if men and women of good will on both sides of the aisle who are not in the leadership felt impelled to put more pressure on their leadership than they now do in order to induce a more reasonable agenda and a more timely agenda for the fulfillment of what Mr. Wolfensberger quite properly called "the most basic function of our government."

But let me make it clear. We are not here to end a conversation. We are here to begin a conversation. If there is a better way of doing this, the citizens of the United States are eager to hear it. But let me tell you what they are not eager to hear. They are not eager to hear that some cultural transformation of this institution, a new spirit of good will and comity, will break out all by itself. I think people are beyond believing that that is going to happen.

Chairman LIEBERMAN. Well said.

Mr. Davis, let me ask you to focus on the other criticism of the No Budget, No Pay Act, which I am sure you have heard, simplistically speaking, it imposes a system of collective guilt, and people in Congress who are wealthier could get along without pay, people who are not will suffer from it; the ones who suffer from it may not be the cause of the problem, or at least not fully.

Mr. DAVIS. It would probably have more effect in the House where the Members are not as wealthy as in the Senate, if you look at the facts. [Laughter.]

Chairman LIEBERMAN. I am so glad I gave you the opportunity to say that. [Laughter.]

Mr. DAVIS. But I am in the private sector now, so I can take a different view.

Just a couple things. What people want are results. It has been back in 1996 the last time that we passed the budgets on time, and that was following two government shutdowns in 1995. So there was at that point an incentive. Just keeping the lights on through continuing resolutions (CRs) means innovation does not start. Middle-level managers are afraid to do anything until they know what their budget is going to be for the year. And the year before last, it was May before we received the appropriations done for an October 1 start time.

What people want are results, and I agree with Mr. Galston, if you can find a better way to do it, do it. But this is untenable.

Chairman LIEBERMAN. Thanks. My time is up. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

I want to take up the challenge of a better way to accomplish the goal. I mentioned two in my opening statement. A third is an idea that actually the bipartisan Gang of Six came up with, and I am going to propose to you a variation of it, and that is, to empower a small group of bipartisan Senators to force consideration of the budget under the rules. A budget resolution could be introduced by at least three Senators from each side of the aisle, and we could change the process so that it would automatically be put on the calendar for floor consideration if the Budget Committee fails to report a budget by April 1, 2012.

In other words, instead of putting up with the dysfunctional process we have now, which is completely dependent on the Budget Committee acting and the leadership acting, why not empower a bipartisan group—so six Senators, three from each side of the aisle—to be empowered to bring forth a budget resolution if the leadership fails to do so and make it a privilege motion? I mean, there are all sorts of ways to ensure its consideration. It seems to me that would accomplish the goal of either forcing the Budget Committee and the leadership to act, or you have this alternative budget on the floor and it has to be bipartisan.

So I would like each of you to quickly comment on that idea so I can get to a second one also.

Mr. DAVIS. How would it work in the House? The House is a different animal and, as you know, much more partisan in terms of the way it operates on that. I just throw that out. So the Senate may be handled, but we have tried super committees and other things. They have not seemed to be able to work.

What is clear is the current system is not working, Senator Collins, so that is my comment. It may work, something different, where you can have some independently empowered Members. But let us just look at these macro trends, bucking your party on this, and it takes, I think, some Members who have some courage to do that.

Senator COLLINS. Mr. Galston.

Mr. GALSTON. Off the top of my head, it sounds like one promising way of promoting timely consideration of the budget resolution. That leaves the problem of the 12 appropriations bills to be dealt with, and the inability of Congress to complete those before the beginning of the next fiscal year is perhaps the more fundamental problem that the No Budget, No Pay Act addresses.

Senator COLLINS. Mr. Wolfensberger.

Mr. WOLFENSBERGER. Yes, I am not as familiar with the Senate as the House, though I know that a few people can get a lot done over here in the Senate, and I think it is still a matter, though, of finding a way to work with leadership to try and get something on the floor. I agree with you that it is very frustrating.

If I could go back to the question, though, on No Budget, No Pay, I think it is a great 2-by-4, but I disagree with it. And I do so because I think it goes against the first of my no-no's on what you should be doing in congressional reform, and that is, this humiliates, it demeans, it diminishes the Congress. It makes it sound as if Congress is not working because it has not completed all of its

work on time. The fact is Congress is still working very hard at a lot of things, not just trying to get the budget process finished but other things as well. And so I think to dock Members' pay—because the leaders on appropriations or the party have not been able to move things forward in a timely way is very unfair.

But let us assume that it is, in effect, No Budget, No Pay. I will give you three scenarios which would really be bad.

First of all, let us say that you have no budget resolution this year. Senator Harry Reid does not want one. The House may well adopt one. Let us say the House does. Let us say that all 12 appropriations bills are still enacted. They can go forward on May 15, even if you do not have a budget resolution. Let us say they are all enacted by September 1. If Senator Reid sticks by his guns, you are going to dock every Member's pay for the rest of this year because they have not gotten a budget resolution.

Scenario two, let us say a budget resolution is adopted by April 15. Let us say by September 30, the last three appropriations bills are sent to the President, the other nine have already been signed into law, and the President vetoes those. For every day then that the Congress does not get a new set of bills up, it is going to be docked its pay because the President has vetoed the bills.

Last, the House passes a budget resolution by April 15. It passes all 12 appropriations bills before the August recess, but only three bills clear the Senate. The House has passed all of them, and they are signed by the President, the three bills. But the House is going to be punished for having done its work even though the Senate has not been able to get the other nine bills to the President on time.

So those are, I think, practical ways in which you are going to have some difficulty with this proposal. I do think that it is great that the issue has been raised. I think there are ways, though, to get the leadership in the appropriations committees to do a much better job, both on budget resolutions and on appropriations.

Senator COLLINS. Thank you. I would point out that the House did pass a budget resolution. The problem has been much more on the Senate side, which is why I think the proposal I advanced might work.

My time has expired, so I am not going to be able to go on to my other questions. Let me just say one sentence, and that is, No. 8 on the No Labels list calls on Members to take no pledge but the Oath of Office and the Pledge of Allegiance. I happen to follow that rule. I am one of very few Republicans who did not sign the Grover Norquist pledge, for example. But I have to say I think that raises real First Amendment questions, and that is something I am going to submit for the record.[1]

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Collins. Senator Brown.

OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman. I appreciate you adjusting a little bit. I am actually the Ranking Member on the Vet-

[1] The witnesses' responses to Senator Collins questions for the Record appear in the Appendix on page 93–97.

erans' Affairs Committee. I will be leaving right after this. But I did want to come and participate. I know there are folks here from Massachusetts, so thank you for taking the time to come.

I know, Mr. Galston, we met and I enjoyed our meeting very much. I will just convey some of the things that I conveyed to you. I want a budget. I have been asking for it since I got here. I have only been here about 2 years now, and you are talking to two of the most bipartisan Senators in the entire Senate. I vote with my party 54 percent of the time. And, Congressman, you said we need a better way to do it. Sure, the better way to do it is just to read the bills, understand them, see how they affect your State, your country, your debt, and your deficit, and you vote regardless of party, regardless of special interest, as we do. And I encourage my party and Members of the opposite party to do the same thing. I mean, that is the easy answer, to just step back and be Americans first and do what is important, because we are in trouble right now and we need to work together.

The things that we have done, Mr. Wolfensberger, I appreciate your referencing that, we are working. Three of us have spent 600 hours trying to save the post office, and so we are trying to do things in a truly bipartisan manner. And this Committee is evidence of that bipartisanship and the fact that we do that on a daily basis.

I do appreciate your efforts, some of the things you are working on, and I have been doing since I got in my elective office. So I am glad that you are moving forward with that.

I had a question for the Congressman and for Mr. Galston, if I could. As you know, since I came to Washington, as I said, I look at every bill and I vote yes or no on the merits. I do not care if it is the bill of a Democrat or Republican, from North, South, East, or West, it really does not matter. If we all just had the courage of our convictions rather than following the leader of our party, think how much we could do. Isn't that the meaning of No Labels? Isn't that what you are trying to convey as the stuff that Senator Collins and I and others are trying to do up here?

Mr. DAVIS. Senator, that is exactly what No Labels referred to, is you park your party. Elections are for elections, and after the elections, act like grownups and work together to try to solve the country's problems.

I was fortunate to be from a very swing district where I was not punished in a primary when I went against my party, and you are from a State where you probably get the same thing. But a lot of these Members, as I noted in my opening remarks, are from very safe seats and their races are their primary. And we have seen in some recent elections where Members who buck the party get held accountable. So the incentives are get through your primary elections and keep that red shirt or blue shirt on. And that is a macro problem, reinforced by the media and the way campaigns are financed that make it harder.

Senator BROWN. Do you have any comments at all, Mr. Galston, on that? Isn't that the intent of what you are trying to do?

Mr. GALSTON. I do not think that any member of No Labels, including the two who happen to be seated at this podium, could summarize it any better. That is absolutely what we intend to do.

Senator BROWN. Great. Well, thank you.

Mr. Wolfensberger, I agree that the gridlock in Congress is, as I have said, disgusting at times, that is my phraseology. As someone who has worked on several major bipartisan congressional reforms, most recently the insider trading bill, my bill that passed 96–3. I encouraged the Majority Leader to do just that, and we have been waiting for those types of good government initiatives to hopefully partially re-establish trust with the American people.

What do you think the biggest hindrance is in bringing the parties together? And what created bipartisanship in the past? And what can be done to restore it now, do you think?

Mr. WOLFENSBERGER. That is something I am still studying quite a bit. [Laughter.]

Senator BROWN. I think we all are.

Mr. WOLFENSBERGER. But, no, the turn to a more partisan Congress, I trace it back really to the late 1960s, mid-1970s, when there was a great deal of criticisms that the parties stood for nothing. Political scientists were part of this, too. The parties should stand for something. And now we have gotten to the point where they are standing at either pole and not really talking to each other or getting together on much. So perhaps they stand for too much and do not really act on enough. I do not know.

But how you get back is the thing that I have been trying to wrestle with, is how you re-establish more of a bipartisan atmosphere on things where the parties should be able to find common ground. I cannot believe that we cannot find common ground on a highway bill, on an education bill, or on an energy bill. There have to be ways that they can get together on things where there is not a clear ideological thing but there is something called "the good of the country" that overrides any considerations of party or ideology. But it is a work in progress for me.

Senator BROWN. It is interesting. I believe you are right on that. I mean, the hire-a-hero veterans bill, the 3-percent withholding, the most recent insider trading bill, things that I spearheaded and we are pushing through, essentially passed 100–0. I agree. We can find that common ground. And I am a little bit concerned also about the nomination process, the advice and consent that I take great interest in and I consider it one of the most important duties that I have.

This would be to Congressman Davis. Can you explain any other ideas you have to make that process go a bit more smoothly?

Mr. DAVIS. The nomination process? Again, I think if you set a limit on these where they get an up-or-down vote after a given period of time; 90 days is what we suggest for vetting. I think you could still require 60 votes, but at least at that point you get a vote. Many of these nominations are just dangling out there.

Senator BROWN. Yes, well, I know Senators Lieberman and Collins have actually spearheaded——

Mr. DAVIS. Exactly.

Senator BROWN. And I think many of us are up here were cosponsors, and it would eliminate a lot of those. Part of the problem is actually just the process itself, how it starts. You have so many different agencies. The applications are different. They do not have enough investigators to investigate the backgrounds and do the

background checks. We have actually pushed for legislation to allow for a certain amount of appointees to actually not be in that same category. I think that is a great first step, and I want to commend Senator Collins and the Chairman for doing that.

I am listening. Like I said, I think I am trying to lead by example, and I think that is really the key. We just need to do our jobs.

I have to get back downstairs, Mr. Chairman, but I will try to come back. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Brown, for coming back. Senator Johnson.

OPENING STATEMENT OF SENATOR JOHNSON

Senator JOHNSON. Thank you, Mr. Chairman, for holding this hearing. It is an important one, and I guess I bring a slightly different perspective to the table here. I did not run for the U.S. Senate because I wanted to be a U.S. Senator. I ran because we are bankrupting this Nation, and to respectfully disagree, I think the American people want results, but also what they want is some fiscal discipline here. They also realize that we are bankrupting this Nation.

My background is in manufacturing, and you have a problem, you have to identify the root cause. If you have an engine leaking oil, I mean, you can keep adding oil. But you are better off changing the gasket. And our problem is not that Congress has not done too much. Our problem is Congress has done way too much with very little thought on how we are going to pay for it.

A number of people have mentioned our Founding Fathers. I think America has really forgotten what our Founding Fathers knew, that, sure, we needed government, but that, by and large, government was something to fear because they understood that as government grew, our freedoms receded.

And so they set about to try and set up a system of government to limit the growth of government, and to me that is the root cause. The root cause of what is ailing this Nation, the root cause of what is bankrupting this Nation, is the size, the scope, all the rules, all the regulations, all the intrusion into our lives, and the resulting costs to government.

One of your reforms is filibuster reform. I have a graph here.[1] It was interesting. When I came here, I started reading about the history of the filibuster and, of course, somebody mentioned that initially when it was instituted to bring cloture to debate, it was a two-thirds limit. And so I asked, it would be interesting to graph. As we made it easier for government to grow, what happened to government? Well, it went from 2 percent, 2 cents of every dollar filtering through government. And now we are up to about 24.5 percent of gross domestic product (GDP), and we are on a trajectory to hit almost 35 percent by the year 2035. So we have made it easier for government to grow, particularly in 1975 when we lowered that filibuster threshold to only three-fifths.

Now, it took 30-some years for one party to gain that super-majority control, and what happened? We went from about 20 percent

[1] The graph submitted by Senator Johnson appears in the Appendix on page 57.

of GDP of government to about 24 in 2009, and, again, you can see the trajectory.

Do you agree with that root cause, that it is the size of government, first and foremost, that is more important than if are we getting along here in Congress?

Mr. DAVIS. Senator, I will start. As a former House Member, I think we are an airplane flying into a mountain, and you want to steer it here or there, but it is unsustainable borrowing 40 cents on the dollar. I agree with you.

Senator JOHNSON. Would it be better off if we actually instituted some real fiscal controls here? I have always thought this was a two-step process. What would be wrong with a constitutional amendment to limit the size of government to a certain percentage of GDP? Wouldn't that provide the fiscal control the American people are really looking for? What would be wrong with that?

Mr. DAVIS. We have tried that. When Senator Coburn and I were in the House, we passed constitutional amendments on balanced budgets and the like, and they could get through the House, but they could never get through over in this body.

Senator JOHNSON. How about if we put everything on budget? In the 1960s, about 68 percent of every budget dollar was appropriated. It was subject to some level of control. Last year, only 38 percent was actually appropriated, and in 10 years that will only be 25 percent. So 75 percent of our budget in 10 years will be totally off budget, not appropriated, out of control. How about if we put everything on budget? Why don't you propose that? And, oh, by the way, when we put the entitlements back on budget, why don't we put a requirement for a 75-year solvency requirement for those entitlements? Mr. Galston, would that be a good idea?

Mr. GALSTON. No Labels has chosen to begin with process reforms. Let me put on a different hat that I also wear. I am a member of a clandestine, bipartisan fiscal sustainability conspiracy that includes representatives from far right to considerably to the left of me. We actually put out a proposal called "Taking Back Our Fiscal Future," which tried to create a 5-year budget for those portions of the budget that you are referring to that are not now part of the annual budget process.

When Alice Rivlin was here a few weeks ago to testify before Congress, she made exactly the same point, that when the 1974 act was adopted, the percentage of the budget represented by discretionary spending and, therefore, the annual appropriations process was much more than 50 percent, now it is way less than 50 percent, that is a serious problem. And in another venue, I would be happy to discuss it in as much length as you have time for.

Senator JOHNSON. Let us talk about process control. From my standpoint, I am new here, never been involved in politics. I come from a business background with accounting. We do need a good process because in the manufacturing process, if you do not have a good process, you have an awful product, and that is our problem.

Everything here in Washington is additive. What is a new piece of legislation? Let us slap it on the books here. Let us do it quick. How about if we institutionalized a process of subtraction? How about a sunset committee? That is one of the things I am working on, a joint sunset committee whose only mandate is to look at the

Federal Government, let us take a look at the laws, rules, and regulations that do more harm than good, and let us remove those. Let us start figuring out a way we can reduce government's intrusion in our lives. What would you think about that proposal?

Mr. GALSTON. It is sometimes said that the only true example of immortality is a Federal program, and there is clearly a problem that a lot of obsolete programs that were good for their time but are good no longer linger out of habit or because they have gathered some political barnacles that encrust them. And so my personal view is that we ought to think much more aggressively about sunsetting and sunset procedures than we do.

Senator JOHNSON. I would love to work with your group on that type of proposal. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Johnson. Those were good exchanges.

Senator Pryor, and then finally Senator Coburn.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Thank you, Mr. Chairman, and thank you for having this hearing. My understanding is that not all of our colleagues were encouraging you to have this hearing, but I am glad that the two of you decided to have it.

I think there is some good news here, and that is the idea there is nothing wrong with Washington that we cannot fix. It is just a matter of political will. And one thing I appreciate about No Labels is you are putting ideas out there for us to talk about, to think outside the box, to think about doing things differently, and maybe to build national consensus on getting the political will necessary to get some good reforms done here in the Congress.

But, really, there are lots of different ways to do it. You could do it by rule changes. You could do it by changing laws. You could just do it by changing the way we commit to each other that we are going to do our business here.

But on the budget itself, let me say this: One of the things that I have been working on, Mr. Chairman, is to actually go back to the Budget Reform Act of 1974, and since I have been here for 9 years, it has never really worked exactly the way it is supposed to work. Maybe one year out of those nine, I think we have actually followed that law to the letter. And it is time for us to look at that. That law is now 40 years old, and we ought to look at it and figure out a better, more workable, more realistic way to budget. And that means change. And there are a lot of folks who resist change, but I do think that we should put that on the table as well.

One idea that I like actually comes from Arkansas, and we have been doing biennial budgets there, which I know you all support. Actually, the people just a year or two ago voted to go back to an annual session so we do not have to do biennial budgets anymore. So we are trying that for a while. I always thought the biennial budget worked pretty well, and I am certainly open to looking at that on the Federal level.

But one of the things we do in Arkansas is balance the budget every year. Unlike most States, we do not have a balanced budget provision in the Constitution. We have a law, and it is the Revenue Stabilization Act, and what we do is at the end of the legislative

session, the legislature prioritizes. They work with the governor, but they prioritize the spending into three different categories, and basically you connect your spending to your revenues. If it is not coming in, you do not spend it. It is a very simple way to do it. There is a formula. They now have been doing it there for 40 or 50 years. It works great. But, again, that gets back to political will.

I guess that theoretically if Arkansas wanted to, they could go into deficit spending, but they do not. We are one of the few States that actually had a fairly hefty budget surplus during the recession, and we actually cut taxes. We actually cut our sales tax on food during that same time.

So it really does come down to leadership and will, but you have to have the right systems in place to get it all done.

I mentioned the Arkansas approach because I think it is something we should consider as we are looking at new ways to budget. We ought to consider good ideas from the private sector, from States, and wherever else the ideas come from. Let us put them on the table and talk about them and see if we can get those done.

With regard to the No Budget, No Pay Act, I love the conversation that we are having about this. Mr. Davis and Mr. Galston, I would like to hear from you about the response that you are receiving around the country. I know that the No Labels group has done some op-eds, and you all have been on some talk shows, and you have been promoting this idea around the country.

What are you hearing from the country? Is it an unqualified "Amen," or do people actually have other constructive suggestions that go along with this? Mr. Davis, would you want to answer that?

Mr. DAVIS. I think Mr. Galston noted it. It polls very well. It is almost a two-fer for the voters. You get a budget on time, and you get a shot at Congress. But it just shows the frustration at this point at Washington's inability to get anything meaningful done and just kicking the can down the road, whether it is budget, whether it is energy policy, whatever, and the mounting deficits just keep going up, and it does not appear anybody wants to do anything of a controversial issue. So I think it is really reflected in that.

There may be other ways to get to that end, but I think there is just a frustration that they do not see any outcomes coming out of Washington.

Mr. GALSTON. It is an interesting question, Senator Pryor, whether we are promoting this to the country or the country is promoting this to us. I think it is at least as much the latter as it the former. I can tell you, when I speak, the response is instant and electric. I can barely get to my second sentence.

But let me say something else, and I will refer back to my opening testimony. I am not here to demean anybody, and the folks in back of me are not here to demean anybody. They are here to help, to lend their voices to the creation of a system of rules that will actually help the Congress and the country work better and get the people's business done. And if I thought that anything in this proposal or any of the other 11 proposals were demeaning, I would not be sitting here defending it, which gives me an opportunity to make one more point.

I do not think that anything in this package takes away anybody's First Amendment rights. I think that some of the pieces of this package are designed to the question of how we ought to exercise our First Amendment rights, which is a different proposition. You can have the right to do something and it would still be wrong to do it.

Senator PRYOR. Thank you. Mr. Chairman, thank you, and I look forward to continuing the conversation.

Chairman LIEBERMAN. Thanks, Senator Pryor. Senator Coburn.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Thank you, Mr. Chairman and Senator Collins, for having this hearing. Thank you all for testifying.

I have to tell you, I very much agree with No Budget, No Pay. I would split it between the Senate and the House because I think the House is more inclined to do that and get it done on time. And I think where 2-by-4 is needed really is in the Senate. No matter who is running the House, what we have seen is because they have a Rules Committee, they actually get it done.

The other thing I would note, you all mentioned earlier about nominations. According to the Congressional Research Service, the problem in the Senate with nominations was not a filibuster on the floor. The problem is they did not go through the committees, and that is a report I would direct you to do, because what that says is leadership is not demanding committees get their work done.

I guess I would make a couple of points and then ask a couple of questions.

I do not think it is all process. I think what is sorely lacking in Washington is leadership. This country is facing the largest catastrophe it has ever faced. It is going to come much sooner than everybody thinks. It is going to be much more painful that anyone can imagine, and not anything we are doing is addressing that problem right now. And that is leadership. That is ignoring the real world, and embracing the next election is far more important to our country than what is about to happen to us.

And, actually, the best thing that could happen to us is for the Congress to say, "Here are the problems in front of us. We are going to fix this this year and all go home and send somebody else up here."

I have my own views. I am a vast supporter of term limits. I think it is the kind of thing that limits your ability to think in a partisan manner and causes you to act more in a constructive manner for the country. I think it is helpful. When we talk about bucking a party, what is happening in our country is we are bucking the Constitution. And when you take one for your team instead of taking one for the American people, you have failed already, and that is failed leadership.

The questions I have for you go along the line of what Senator Johnson said. Mr. Wolfensberger's testimony said follow regular order. What would the Senate look like today if we actually followed regular order instead of manipulating everything—and I am not talking about here, I am talking about both sides of the aisle—to create an advantage in the next election? What happens if we actually followed regular order? Since I left the House, we used to

have an open amendment process on appropriations. I actually used that to filibuster in the House for the first time in its history, put 172 amendments up on an agricultural appropriation bill. But I was allowed to do that because the House's history was you have an open amendment process.

We do not have an open process because we have converted everything to the next election. We are always going to fix what is wrong with our country after the next election, and that is a lack of leadership. That is a failure of leadership both for us individually and our party leaders in the Senate. It is a failure. And the American people are anxious and upset about it, and rightly so.

But here is my question. Let us make every change that No Labels wants to make. How do you take this culture of careerism out of the mix that will not, in fact, negate the very things that you are recommending? Mr. Galston, do you want to go first?

Mr. GALSTON. Senator, I have no good answer to your question. Let me start by saying that. I will say this, and I would say this even if I were not in this chamber addressing you: If there were more committees in the Congress like this Committee, we would not be having this discussion. And if there were more Senators who were willing to do what you did on the Simpson-Bowles Commission, we would not be having this discussion.

Senator COBURN. Well, that right there is the point. It matters who is here.

Mr. GALSTON. I could not agree more.

Senator COBURN. It matters who is here. It is not just process.

Mr. DAVIS. Senator, the voters bear some responsibility, too, in terms of who they are sending and what they are paying attention to at this point.

Senator COBURN. Sure, but what we do is allow gerrymandering in this country where the Congressman picks his district rather than the district pick their Congressman.

Mr. DAVIS. Well, you have looked at what they have done in California where you not only have——

Senator COBURN. I am very supportive of what they have done in California.

Mr. DAVIS. And the runoff election provisions where it is between the top two, and that brings a different segment in, and you will see political behavior change with that. Instead of focusing on a narrow segment of the electorate, you talk to everybody, and that changes everybody's perspective in terms of how they do it.

Mr. WOLFENSBERGER. Yes, I think your point is very well taken. You mentioned the culture of careerism. I call it the "culture of the perpetual campaign," and that is closely linked. If you ask Members to look long term, what is long term for most Members of Congress? The next election. It is not what might be best in terms of really getting the debt down, deficits down, or anything else, and I think that is the big problem. How do you get that leadership that you want? I am not a term limit supporter, but I do think the voters bear some responsibility for paying some attention and turning out people that do not exercise the will to get things done.

I do not think process is the solution. Rudy Penner used to say when he was CBO Director, or thereafter, talking about the deficits, "The process is not the problem. The problem is the problem."

It is a matter of will. It is a matter of leadership. And I think that is something to keep in mind. How you get there, I am not sure. Maybe term limits ultimately will come back as a big issue. I do not know.

Senator COBURN. I would just put forth in a final statement the fact that we have the budget situation we are in today would be a sign that we get along way too well rather than do not get along well enough. Otherwise, we would have fixed the problem.

A final point. I agree with you also on the filibuster. If you are going to filibuster, you ought to be out there talking and have people who agree with you willing to carry out a filibuster rather than the threat of a filibuster.

Chairman LIEBERMAN. Thanks, Senator Coburn.

The votes have begun on the floor, so I think we are going to call this to a close. But I view it very much in the terms that I think you, Mr. Galston or Mr. Davis said. This is the beginning of a conversation. I think it has been a very thoughtful and constructive beginning, and if I may say so in praise of No Labels, I think that has been the tenor of the movement since it began.

People are really angry at the Federal Government, and we know why. We have all talked about it. And, therefore, a lot of the political reactions to government have been angry and negative. I understand it, but it does not really get us anywhere. In fact, one could say that in the last two national elections, the people of America have expressed either a combination of anger and hope for change in very different ways in 2008 and 2010, and I do not believe that either one of the results of those expressions at the voting booth has gotten the government where the people want it to be. Self-evidently, it has not because we are now in probably the most partisan session of Congress since I got here 24 years ago.

So I want to praise No Labels because No Labels really has been constructive and thoughtful in response to the crisis in American Government. And I would also say that in doing so you have given voice to the largest part of the population whose voice is not reflected well in our political system today. As some of you have said, there is disproportionate influence by the most ideologically intense groups in both political parties. Independents have trouble working their way through the political system—as I can tell you. [Laughter.]

But out there, there is this vast—I do not even want to be too descriptive, but it is a middle ground. It is a third force. And I think your numbers have grown so rapidly because you are giving voice to that force, and fortunately for the country you are doing it in a constructive way.

So let us consider this the beginning of a conversation. Since this is my last year in the Senate, I hope we can accelerate the conversation because I agree with you that we cannot just hope and pray for a miraculous, what might be called, "political awakening"—thinking of the religious awakenings that have occurred in American history—here in Congress. There is not just going to be some spontaneous cultural change. It has to be forced, and so I look forward to working with you and others to see how we might try to do that, hopefully in this session of Congress.

Senator Collins, do you want to add anything?

Senator COLLINS. Mr. Chairman, I just want to second your concluding comments and thank all of our witnesses today for appearing and for sharing their very thoughtful testimony. Thank you all.

Chairman LIEBERMAN. Thanks, Senator Collins.

As is normally the order here, we will keep the record of this hearing open for 15 days for any additional questions or statements that people want to submit for the record.

I thank everybody for being here, and with that, the hearing is adjourned.

[Whereupon, at 11:46, the Committee was adjourned.]

APPENDIX

United States Senate
Committee on Homeland Security and Governmental Affairs
Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement of Chairman Joseph Lieberman
"Raising the Bar for Congress: Reform Proposals for the 21st Century"
Homeland Security and Governmental Affairs Committee
March 14, 2012

The hearing will come to order. Good morning and thanks to everybody who's here for this hearing this morning. We're going to discuss ways to break the present gridlock in Congress and get this institution back to what it was created to do—work productively for our country.

I know that for some people, the very decision to hold this hearing was controversial. They've asked us why we would do it, and my response was a question back: Why wouldn't we want to hold this hearing? Why would anyone think that, based on its record, Congress is fulfilling its responsibilities to the American people? Why wouldn't we want to open the conversation, particularly based on the broad series of proposals made by a relatively new citizen, grassroots, good-government group called No Labels?

I know a particular legislative proposal - which is one part of the No Labels reform program and has been referred to the Committee - "No Budget No Pay" is controversial, but it also expresses and frames the public mood towards Congress today. Somebody said to me it's like a scream. It is. And it's a scream, whether you agree with it or not, that has to be heard and responded to.

The fact is that the public's estimation of Congress is at historic lows, and there's ample reason why that is so. Congress is just not fulfilling some of the basic responsibilities that the Constitution gives us, including the responsibility to propose, to debate, and to adopt in a timely manner a budget for our country.

Let me give you some examples of why we're here. It's been more than three years since Congress has passed a budget in time and more than a decade since Congress has done so in the manner prescribed by the rules, with all the appropriations bills being considered and passed.

Nominations to executive and judicial positions are often held up for months for political reasons by procedural maneuvers. Then when those nominations come to the floor, they're passed by an overwhelming majority. But in the meantime, important parts of our legislative and judicial branches of government have gone without the leadership they need to function on the people's behalf.

On Monday of this week, in the midst of what's been called a "judicial emergency" - which is to say there's been great backlogs of cases in federal courts because there aren't enough federal judges - the Majority Leader filed procedural motions on the nominations of 17 judges which have been held up even though they came out of the Judiciary Committee with bipartisan support.

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And then last summer we came perilously close to defaulting on our nation's fiscal obligations as the debate over the national debt dragged on and on to a critical deadline. Default would not only have left us unable to pay our debt, it would have also forced a government shutdown. Standards & Poor's concisely summed up the situation when it announced it was dropping our nation's longtime AAA credit rating to AA+. Standard & Poor's said, "the downgrade reflects our view that the effectiveness, stability and predictability of America's policymaking and political institutions have weakened in a time of ongoing fiscal and economic challenges."

That is classic financial community understatement, but it is surely the sad truth.

Today, we're going to consider those reforms that No Labels and others have put forward, and as we consider them, I think we also need to focus on the prevailing congressional and political mentality that considers 'compromise' a dirty word, and makes legislative gridlock practically inevitable.

Partisanship and ideology have been a part of American democracy since our beginning. But our forefathers did not let their competing partisan loyalties - and often quite strongly-held competing views - prevent them from reaching the kind of compromises that were so central to the formation of our country and the progress of our nation since them.

The House and Senate are themselves the result of the "Great Compromise," which we in Connecticut call the "Connecticut Compromise," because it was authored by two of my home state's delegates to the Constitutional Convention, Roger Sherman and Oliver Ellsworth, as a way to balance the interests of the large population states and small population states.

Among the very first legislative issues the first Congress had to confront was how to fund the federal government and how to pay off our Revolutionary War debt. Sound familiar?

Factions quickly lined up behind two of the giants of the day – Thomas Jefferson and Alexander Hamilton. But both of those men and their followers were able to work through their differences and reach a compromise agreement that put our nation on a sound financial footing that both funded the federal government and paid down the debt.

In modern times, Congress has been able to gather bipartisan majorities to pass landmark legislation and, in doing so, put aside a lot of differences. I'm thinking of programs like Social Security, Medicare, Medicaid and the great Civil Rights Acts of the 1960s. In doing so, Congress overcame serious differences, took on historic challenges, and transformed our nation in ways that are everlasting.

Compromise in all of these cases meant not an abandonment of principle, but a willingness by all involved to settle for less than 100 percent of what each originally sought.

Today, while the enormous challenges our nation faces continue, the spirit of compromise is largely gone. Today, Members who honestly seek to understand and accommodate views from the other side of the aisle are not often embraced warmly by their own parties. In fact, too often, they are punished.

We have a national debt approaching $16 trillion, and nearly 13 million of our fellow Americans remain unemployed. Our nation's computer networks – on which so much of our economic prosperity and national defense depend – are under attack from rival nations, terrorists, and organized criminal syndicates. Iran seeks a

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nuclear weapon, Syrian President Assad is massacring his own people, and our mission in Afghanistan is foundering.

We need a Congress that can vigorously debate these and the many other great challenges we face, find compromise, and then come together for the good of our nation. And that's why I think the proposals we will hear today really give us a chance to get America's legislative train back on track.

We're going to hear testimony not only from our colleagues Senator Heller and Representative Cooper on the No Budget No Pay proposal, but Senator Isakson is here to testify about the biennial budget proposal. On the second panel, we'll have some outside experts and independent thinkers commenting on the range of proposals before us.

I'll say, finally, that I've spent a lot of time going back to the early leaders of this country because I think we need their wisdom, and they set a model through their actions.

President George Washington in his first address to a joint session of the House and Senate closed with a prayer asking that the "benign Parent of the Human Race" bestow His blessing on the House and Senate so they might deliberate in "perfect tranquility" with "enlarged views," and "temperate consultations."

Seems like a long time ago.

History shows in the decades and centuries since then that Congress has been at its best when it realized Washington's vision. Now, more than ever, Congress needs to put the hyper-partisanship aside put the needs of our country first. We need to talk to each other in temperate language so that we might not only enlarge our views, but bring needed tranquility to the national dialogue, as well and results to the people of America who have been good enough to give us the privilege of serving here.

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United States Senate
Committee on Homeland Security and Governmental Affairs
Senator Susan M. Collins

Statement of Senator Susan M. Collins

"Raising the Bar for Congress: Reform Proposals for the 21st Century"

Committee on Homeland Security and Governmental Affairs
March 14, 2012

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With enormous problems facing our country and Congress having little to show by way of accomplishments, our witnesses today are right to turn a spotlight on how Congress can accomplish more and bicker less.

A recent analysis by *The Washington Times* reveals that last year marked the least productive session of Congress in more than 60 years. Whether one examines hours of debate, the amount of conference reports produced, or the number of votes taken, the data validate the instinctive frustration many feel about the lack of accomplishments of this Congress.

Like many of our witnesses, I have always believed that bipartisanship and compromise are key to tackling the major problems confronting our nation, whether it's a poor economy, high energy costs, or a $15 trillion debt. Unfortunately, that seems out of fashion today. Sitting down with those on the opposite side of an issue, figuring out what matters the most to each side, negotiating in good faith, and attempting to reach a solution are actions too often vilified by the partisans on both sides of the aisle.

Perhaps that is one reason the American people are so angry with incumbents and why the public's perception of Congress is so dismal.

And who can blame them for their frustration? Today, we are marking 1050 days since the Senate passed a budget. The Majority Leader has made the stunning statement that he doesn't intend to take up the President's budget, or any other budget, which is a troubling abdication of the Senate's responsibility under the law.

The Congressional Budget Act of 1974, a law written by one on my predecessors, Senator Edmund Muskie from Maine, requires Congress to adopt an annual budget resolution. The budget is critical to controlling spending through binding caps and is essential if we are to rein in a debt that now is virtually the size of our entire economy.

I understand the desire to hold Congress's feet to the fire. Some of the proposals discussed today could help, while others might not be effective. I believe there are several worthwhile reform options that we should consider.

First, let's take up appropriations bills on time prior to the start of the fiscal year and allow each bill to be debated, amended, and considered on its own merits. That would help restore public confidence, lead to more carefully considered legislation, and restore the Senate tradition of free and open debate.

This bad habit of combining all or most of the funding bills into one huge package produces thousands of pages and little time for Members to scrutinize the fine print and trillions in spending.

Second, we need a better understanding of the programs we fund and how they're working -- or not working.

That requires more rigorous and more frequent oversight. That's why I am a co-sponsor of Senator Isakson's bill that would establish a budget for two years rather than one, the approach used by Maine and many other states. Such a schedule would free Congress to devote the off-year to conducting oversight – together, in a bipartisan way – on the programs and agencies we fund, regardless of which party is in charge of the executive branch.

More systematic due diligence could produce more bipartisan consensus about needed reforms, program eliminations, and spending reductions – and even increases. I am grateful that my colleague Senator Isakson is here to discuss his biennial budgeting bill.

Third, I appreciate Senator Coburn's leadership in offering legislation aimed at identifying redundancy and overlap in federal programs. Without better information, Congress will continue to create scores of new programs every year, adding to the thousands that already exist. America can't afford any further delay in creating the transparency that would help us prevent duplication and overlap.

One proposal from the "No Labels" organization that will be discussed today would require Members to go without pay unless we pass a budget and all regular appropriation bills by the October 1 deadline. Our colleagues Senator Heller and Congressman Cooper are presenting this intriguing option. Of course, the power to negotiate a budget through committee and bring it up for a vote on the Senate floor is not equally shared by all Members, no matter how forcefully those of us not in the leadership may advocate for a budget.

My point is that my own determination to pass a budget is motivated by doing what is right for the people of Maine and this nation, but I don't control the Senate agenda.

What would be more effective? Changing the rules to require a budget to be passed before a single appropriations bill could be considered and passing Senator Isakson's biennial budget bill are two worthwhile options that would make a difference.

As Americans tighten their belts in these troubled times, they have less tolerance for a profligate, partisan Congress that avoids the most basic discipline of developing a budget.

Another reform proposal from "No Labels" aims to improve Congressional civility by calling for no negative campaigning against fellow incumbents. I am a firm believer in what I call the "Chafee Rule." When I was a freshman Senator in 1997, Senator John Chafee of Rhode Island advised me never to campaign against those with whom I served. Campaign for your Republican colleagues and go into states with open seats, he counseled, but do not campaign against your Democratic colleagues. It will poison your relationship with them. Great advice.

Nevertheless, the Chaffee Rule is distinct from a ban on saying unpleasant or uncomfortable things about the actions of our colleagues. What would such a ban have meant in June 1950? Then, Maine Senator Margaret Chase Smith, with Joseph McCarthy sitting two rows behind her, first identified and denounced the Wisconsin Senator's assault on the right to criticize; to hold unpopular beliefs; to protest; and to have independent thought. Would that be prohibited by the "No Labels" proposal?

Of course, I strongly support efforts to bring more civility to Congress and the potential improvement such civility could bring. Despite rules, bans, and pledges, however, I believe that Members have always been and will always be restrained primarily by their own decency and their commitment to their voters, their country, and our Constitution. I look forward to a discussion today of how we might make our institution work better.

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March 14, 2012

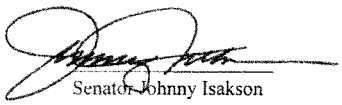
U.S. Senate Homeland Security & Government Affairs Committee
"Raising the Bar for Congress: Reform Proposals for the 21st Century"
Statement by Senator Johnny Isakson

Today's hearing represents an important step toward improving the reliability, efficiency and transparency with which Congress produces the federal budget. I commend Chairman Lieberman and Ranking Member Collins on holding this hearing and am grateful for their continued focus on fixing our broken budget process. I am further grateful to the witnesses who join the Committee today to share their unique federal budgetary insights and expertise.

Solving our long-term deficit problems will require tough choices in every area of the federal budget, but we will never be able to make those choices unless we change the way we do business in Washington, D.C. That is why I, along with Senator Jeanne Shaheen (D-NH), have joined together in proposing fundamental, commonsense reform to bring needed oversight and scrutiny to the federal budget process.

Our legislation would convert the federal budget process into a two-year, more thoughtful process, and would require Congress to conduct much-needed oversight. The *Biennial Budgeting and Appropriations Act* dedicates the first year of a Congress to appropriating federal dollars and devotes the second year to scrutinizing federal programs to determine if they are working and deserve continued funding.

As Members of Congress, we are entrusted with the responsibility of spending taxpayer dollars wisely. Our current budget and spending process makes it all too easy for waste and inefficiency to continue year after year or, even worse, to remain hidden. Switching to a biennial budgeting process would be a big step toward fiscal responsibility at a time when all of us agree we must focus more attention on the nation's bottom line.



Senator Johnny Isakson

Statement of Senator Dean Heller

Senate Committee on Homeland Security and Governmental Affairs
Raising the Bar for Congress: Reform proposals for the 21st Century
March 14, 2012

Thank you, Chairman Lieberman, for that generous introduction. Last September, I wrote to you and Ranking Member Collins to encourage this Committee to take a look at my legislation. I thank you both for this opportunity to talk about the No Budget, No Pay Act.

My home state of Nevada is currently enduring the highest unemployment rate in the country. In fact, Nevada has led the nation in unemployment for more than two years. As I travel the state, I hear from individuals who are laboring to make ends meet – families who stay up late working out a budget around their kitchen table.

But in Washington, D.C., it's business as usual. Our nation's capital remains a pain-free zone. Congress continually kicks the can down the road, leaving tough fiscal decisions for future Congresses, future Administrations, and the next generation.

Our failure to budget is one major example. President Obama's most recent State of the Union address marked one thousand days since the U.S. Senate passed a binding budget resolution. Since Congress last passed a budget, the federal government has spent $9.4 trillion, adding $4.1 trillion in debt. In fiscal year 2011 alone, Washington spent $3.6 trillion. Compare that to the last time the budget was balanced, when $1.8 trillion was spent.

I was particularly concerned by the tone set for the 2013 fiscal year, as Senate leadership announced there would not be a regular budget process before the President even submitted his budget.

As the budget has been ignored, the regular appropriations process has broken down. Huge omnibus spending measures and continuing resolutions have replaced the regular appropriations process. The regular appropriations process is a means through which Congress should be engaged in rigorous oversight of federal

spending, and Congress has proven delinquent in its duties through a dysfunctional addiction to short-term, short-sighted funding measures.

Members of Congress are willfully refusing to put our nation on a path to long-term fiscal responsibility. As long as this is the case, Americans will continue to be frustrated and angry with Washington's inability to produce real results.

In light of these facts, is it really any mystery why Congress is currently experiencing its worst approval ratings in history?

I crafted the No Budget, No Pay Act to force Congress to face reality and take responsibility for running this country. This legislation requires that the U.S. Senate and House of Representatives pass a budget and all appropriations bills by the beginning of each fiscal year. Failure to do so would result in the loss of pay until Congress takes its job seriously. If Congress does not complete its constitutional duties, then its Members should not be paid.

This concept resonates with the American people. I know because I asked Nevadans during a series of tele-town hall meetings last year whether they supported a bill that would withhold Members of Congress' pay if they failed to pass a budget. I include Nevadans of all political persuasions in these tele-town hall meetings – independents, Democrats, and Republicans. More than four thousand Nevadans participated in this poll, and 84 percent of them supported the No Budget, No Pay concept.

84 percent. I doubt Nevada is alone in this sentiment. Members of the Committee, I submit that if 84 percent of Americans across the political spectrum agree on something, Congress needs to stop what it's doing and pay attention.

If we spent more time talking about what the American people agree on, I guarantee you that Congress' would produce better results. More importantly, we would actually implement policies that would encourage the economic growth we need to ensure that workers can have good jobs to provide for their families.

I've had some people tell me that No Budget, No Pay is just a talking point. It isn't to me, and it isn't to the six bipartisan cosponsors who have joined this effort. No

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Budget, No Pay would hold Congress accountable to the American people. It reflects the principle that an honest day's work will result in an honest day's pay.

Too many in Congress have come to expect an honest day's pay whether or not they've actually accomplished the work of the people. Members of Congress are indeed out of touch with the American people if they believe they should be rewarded for a job poorly done, or not done at all.

I've heard some of my colleagues scoff at the timeline established by this legislation. But Congress has been able to accomplish its regular budget and appropriations processes before the start of a new fiscal year in recent history. It happened under President Clinton and a Republican Congress in 1996. It happened under President Reagan with a Democrat Congress in 1988. There are a handful of other examples – not as many as there should be – but the fact remains that these deadlines have been met before, and now is the time to start meeting those deadlines again.

While the No Budget, No Pay Act will not solve every problem in Washington, I sincerely believe it would help restore regular order in the budget and appropriations processes. These essential functions of Congress are vital to fiscal responsibility and keeping our nation's fiscal house in order. We cannot hope to make progress in this Congress or this country until we take our constitutional responsibilities seriously.

My hope is that No Budget, No Pay will be adopted as part of a broader effort to change the way Congress does business and restore the confidence of the American people in their government.

I thank you, Chairman Lieberman and Ranking Member Collins, for holding this important hearing. I deeply appreciate the Committee's time and look forward to continuing this important discussion today.

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Senate Homeland Security and Government Affairs Committee
Testimony of Rep. Jim Cooper
March 14, 2012

Thank you, Chairman Lieberman and Senator Collins, for holding this hearing on congressional reform.

As you know, almost 90% of Americans disapprove of the way Congress has been acting. Unfortunately, too few of our colleagues in Congress are listening and focusing their efforts on fixing the broken branch of government. I've been working on fundamental reforms in Congress for many years, including a book published in 2006 and a major speech at Harvard last year. I am delighted that we have a rare chance this year to turn reform ideas into reality.

This hearing is important because it's the first institutional indication that Congress knows it is sick.

Will Congress be able to heal itself? Our challenge is to find reforms that Congress will swallow. The best reforms won't work if Congress gags, but more palatable reforms must be strong enough to work. Congress is its own doctor; neither the President nor the Supreme Court can save us. If Congress won't reform itself, I am confident that voters will.

When you ask Democratic or Republican leaders how to improve Congress, they always say "elect more Democrats" or "elect more Republicans." I wish it were that simple. The truth is that neither party has been doing a good job. Neither party is willing to compromise for the good of the nation. Both political parties pander to the base and blame each other for policy failures. Meanwhile the nation suffers.

My favorite non-partisan group, No Labels, has offered a package of twelve congressional reforms that I think would dramatically improve Congress. The first of these reforms, and the one I will focus on today, is "No Budget, No Pay," of which Senator Heller and I are the lead sponsors. The bill numbers are S. 1981 and H.R. 3643.

No Budget, No Pay

Congress has missed so many budget and appropriations deadlines over the years that no one takes these deadlines seriously. For far too long, we have run government by continuing resolutions instead of annual appropriations. We often fund programs on a short-term basis, sometimes month-to-month or even week-to-week. Political standoffs have even led to complete government shutdowns. This is inexcusable. We no longer have "one nation, under God, indivisible," but "one nation, yet again, interrupted."

Our start/stop government is giving everyone whiplash. America is the injured victim. Congress used to be able to get away with it, but no more. For the first time in history, Standard & Poor's downgraded U.S. Treasury bonds last summer because of our budget deficits and political bickering. S&P's negative outlook on congressional management continues. We face further downgrades unless Congress begins acting responsibly.

Mr. Chairman, I wish we could legislate civility and wisdom in Congress. Unfortunately, that is impossible. But we can, at a minimum, force ourselves to meet our most basic fiscal obligations on a timely basis. That's what "No Budget, No Pay" is designed to do. Although most congressional activity is difficult to measure, our duty to meet key fiscal deadlines is clear, achievable, and enforceable.

The idea of deadlines with consequences came from a constituent of mine in Nashville, Tennessee. He was fed up with Congress and asked me why congressmen were so shameless in being late. I didn't have a good answer, but I seconded his questions. Why must the public pay taxes on time when Congress is so slow and erratic in paying bills? When is Congress going to take responsibility for its own misbehavior?

No principle is more basic to American values than "no work, no pay." In my state, a beloved former Governor used to say, "If you don't want to work, you ought not to hire out." This principle is clearly understood by everyone, young and old, in all fifty states. The public expects Congress to lead by example, to do its work, and do it on time. If we shirk our duties, we should not get paid. If we fail to do our jobs, we should not get paid. No budget, no pay. No appropriations bills, no pay.

It's obvious that "No Budget, No Pay" is unpopular with many members, although we do have a growing list of several dozen cosponsors. Some concerns about the bill are legitimate, but most of our colleagues are running out of excuses for being chronically late and irresponsible.

In a normal year, reform efforts like "No Budget, No Pay" would have zero chance of becoming law. Business-as-usual would prevail. This year, however, is different. The public is tired of our blame games. Congress hasn't been this unpopular since polling was invented. People are angry. Not only is No Labels strongly supporting the legislation with their national advocacy network, Citizens Against Government Waste is also supporting us, among others. Our cause is gaining momentum, even with our most stubborn colleagues.

I revere Congress as an institution. I love it enough to tell it the truth, even when it is difficult to hear. This election year, many of our colleagues will be choosing either reform or defeat; I am hoping that they will choose reform.

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Specific Objections:

Unconstitutional? Some people argue that our Constitution does not allow for congressional pay cuts. How convenient! That argument is true, but only until after the next election. The 27th Amendment reads, "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, *until an election of Representatives shall have intervened.*" In other words, "No Budget, No Pay" could not take effect until the next Congress is sworn in on January 3rd, 2013, when it would legally bind all House and Senate members.

Bad Timing? Some people claim that this is a terrible time for "No Budget, No Pay" because Congress is not operating under regular order but under the Budget Control Act of 2011. After all, Congress already has appropriations targets and faces major sequestration cuts in January, 2013.

The truth is that Congress will never think it's a good time for self-discipline. Congress will never admit that its budget problems are its own fault. There is plenty of time—a year and a half—for Congress to shape up for the next appropriations cycle, a process that should be concluded by October 1st, 2013. Pretending that we don't have a problem is not a cure; it's denial.

Remember, "No Budget, No Pay" is not that difficult a reform. It does not require more cuts, only that next year's Fiscal Year 2014 appropriations be completed on schedule. Failure to pass "No Budget, No Pay" this year means that Congress could remain undisciplined until the 2016 budget cycle. Will financial markets give us that much time? They enforce real deadlines; we should too.

Deadlines Never Work? Hello? Just look at how Congress behaves as it nears Christmas, or even its traditional August recess. Suddenly, Congress gets serious. Call a deadline a holiday and Congress will always be on time. Of course, "No Budget, No Pay" won't make October 1st a holiday, but a hammer.

Quick Compromise = Bad Compromise? There is no evidence that deals done later in the calendar year are better than those done earlier. Congressmen don't get smarter after September. Appropriators do need enough time to understand the issues, but Congress could easily front-load its schedule in order to have full hearings and debate. Today Congress barely meets in January or February, skips August entirely, takes every third or fourth week off throughout the year, and always takes full weeks surrounding lone federal holidays. As a matter of fact, the House is on recess this week for no good reason despite the dire budget pressure that we face.

Beyond Member Control? Many colleagues fear that their pay will be cut due to no fault of their own. That is a legitimate fear today, when some of our colleagues actually benefit from missing deadlines, either by accommodating their travel schedules, their favorite lobbyists, or their campaign advisors. But in a

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Congress in which everyone's interests are aligned, it is inconceivable that appropriators could resist being prompt. If they were late, they would catch hell from everyone, including their own spouses. "No Budget, No Pay" would light a fire under Congress.

California Proves It Doesn't Work? The fact that the California General Assembly lost two week's salary last year is not due to "No Budget, No Pay," but to the state's balanced budget requirement. The Assembly passed its budget on time but, because it was not balanced, the budget had to be redone. Congress has no such balanced budget requirement, yet still can't get its work done on time. The California law shows that deadlines work, and citizens overwhelmingly support their elected leaders adhering to those deadlines.

Cutting Pay Is Too Tough? Many members say that they cannot afford to miss even a single paycheck. Because "No Budget, No Pay" prevents any reimbursement for lost pay, they think that "No Budget, No Pay" is punitive. The irony is that congressional pay is virtually assured under "No Budget, No Pay" because it would align the interests of all members for the first time. If pay were cut, it is unlikely that the standoff would last more than a few hours or days. And even if Congress missed a month or two of pay, this is a milder sanction than getting fired, the punishment that folks back home face when they fail at work. Congressmen and women should be thankful for their privileged positions.

Conclusion

In conclusion, none of these objections to "No Budget, No Pay" is persuasive. They are excuses for continued misbehavior. Congress must be held accountable for its delays, otherwise the delays will increase. Congress should pass "No Budget, No Pay" this year, before endless congressional bickering does any more harm to our country.

Deadlines work. Congress should too.

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Testimony of the Honorable Tom Davis
Hearing on "Raising the Bar for Congress: Reform Proposals for the 21st Century"
U. S. Senate Committee on Homeland Security and Governmental Affairs
March 14, 2012

Chairman Lieberman, Ranking Member Collins, members of the committee:

Thank you for inviting me to present my views on congressional reform. My name is Tom Davis, and I know some of you on this committee well, having served for seven terms in the House, representing Virginia's 11th district. As Chairman of your companion committee in the House, for four years, I had the pleasure of working with many of you on a variety of issues.

When I left the House in 2008, I was concerned that rampant partisanship was turning Congress into a totally dysfunctional institution…that every year it was becoming harder to find agreement on issues large and small.

My concerns have only grown since I left Congress.

Considering the amount of partisan warfare that occurs here every day, the American people might be surprised to know that most of the people in Congress that I know dislike this nonsense just as much as they do.

Which leads to a pretty simple question: If members of Congress are so tired of the partisan dysfunction, why does nothing appear to change?

I believe that No Labels, the group I helped co-found 15 months ago, has an answer. In short, a big part of the problem is the institution itself.

The rules, the traditions and the procedures in the House and the Senate all conspire to harden partisan lines and discourage problem solving.

It's important to note that I'm not talking about the congressional rules and procedures enumerated in the Constitution. I'm talking about troubling norms that have developed in Congress over the past few decades. The good news then is that Congress has the power to change itself, and it can do so in fairly short order.

The *Make Congress Work!* action plan that No Labels released a few months ago is notable not only for the quality of the ideas, but also the simplicity. Only one of the 12 proposals – the No, Budget, No Pay provision that Sen. Heller and Rep. Cooper will be discussing today – requires a new law. All the others can be handled with simple rule changes, leadership decisions or even behavioral changes that can be adopted before the next Congress is seated in 2013.

I'd like to take this opportunity to discuss three *Make Congress Work!* proposals in particular.

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First, presidential appointments. When our Founders gave the Senate "Advise and Consent" power over presidential appointments, their intent was to encourage the President to appoint qualified people and to avoid conflicts of interest. Unfortunately, "Advise and Consent" has too often turned into "Delay and Obstruct". This has resulted in many qualified individuals from the private sector, having given up their stock options, severed their business ties and sold their investments, being left to dangle, not because of any failure on their part, but as collateral damage because a Senator wanted to exercise his or her opposition to some ancillary matter.

This has resulted in the unintended effect of discouraging qualified people from entering government service at high levels, essentially dumbing down the pool of talent available to operate complex government programs to reinvent and innovate systems that cry for competent leadership. There is no way to assess the net cost to taxpayers of this discouragement of government service, but it is if far from insignificant.

Today, key presidential appointments are routinely held up for trivial or unrelated reasons or to serve the narrow interests of a single senator.

In the past few years, the directorship of FEMA, key positions at the Treasury Department and the Federal Reserve and numerous federal judgeships have been left unfilled for reasons that have little or nothing to do with the quality of the nominees.

This is unacceptable. When we elect a president -- regardless of which party he or she is from – that person should be able to staff their administration with capable people who can implement their agenda. If the appointees are flawed or unqualified, the Senate has every right to reject them. But, holding them up just because doing so may leverage another issue is not fair to the nominee, nor fair to the Country.

The No Labels solution is simple. All presidential nominations should receive an up or down vote within 90 days of the nomination being received by the Senate. This time frame includes both committee and floor action. And if a nominee's name is not confirmed or rejected within 90 days, the nominee would be confirmed by default. The sixty vote threshold can be preserved, so that the minority rights are protected, but nominees and administrations would be guaranteed a vote and some closure to an often unending process.

The second proposal I want to discuss deals with the filibuster. For most of the Senate's history, filibusters were rare, and they required members to stand up for hours on end to make their case. Neither is true anymore.

In the first 50 years of the filibuster, it was used only 35 times and that was when a two-thirds majority was needed to invoke cloture. In the last two years alone, it was used over 100 times. And Senators don't even have to show up on the floor to explain themselves – just signaling their intent to filibuster effectively stalls legislation.

The upshot is that even routine legislation now must clear 60 votes. This is completely contrary to the original intent- that a supermajority should be required only in select circumstances including the passage of treaties, constitutional amendments and motions of impeachment.

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Constant filibustering also gums up the Senate calendar. Every filibuster kicks off a complex set of Senate procedures that effectively brings the institution to a stop for as long as a week and prevents other critical issues from being addressed.

I recognize that the filibuster is a powerful tool that empowers the minority to force consensus on complex issues. I also recognize that the Senate should not be a carbon copy of the House, a body where tyranny of the majority rules. The Senate is the saucer that cools the heat from the House's cup. But, let's face it. The saucer has turned into a thermos, bottling up appointments and legislation that even super majorities support, simply because the required floor time is not available and the disincentives to obstruct (i.e. taking the floor for an extended period) are not present.

So, here is the No Labels filibuster fix. If senators want to filibuster legislation, they should actually have to explain why in public. We propose a two-part solution. One, if senators want to halt action on a bill, they must take to the floor and hold it through sustained debate. And two, filibusters should no longer be allowed on motions to proceed. This step alone would cut the number of filibusters in half in one fell swoop.

Finally, I'd like to discuss an idea that I believe is critically important to dealing with our fiscal problems.

When leaders in Washington debate our finances, we routinely use different baselines, projections and assumptions, which often conveniently support whatever policy we are pushing at the moment. To quote an old Scottish writer, many Washington leaders "use statistics as a drunken man uses lampposts - for support rather than for illumination."

Members of Congress need to agree what's on our federal balance sheet before we can have any hope of stemming the tide of red ink.

That's why No Labels believes that every year, a nonpartisan leader, such as the comptroller general, should deliver a televised fiscal update in-person to a joint session of Congress. The president, vice president, all cabinet members, senators and congressmen would have to attend this fiscal update session. And everyone would have to take individual responsibility for the accuracy and completeness of the comptroller general's report by signing the report, just as CEOs are required to affirm the accuracy of their company's financial reporting.

Different opinions are the life blood of political bodies, but today's climate purports different sets of facts on the same issue, with no definitive authority, often altered to support a pre-existing opinion. This oftentimes results in debates turning into dueling talking points and opponents talking over each other.

Allowing members of both parties to at least agree to the same set of facts could open the opportunity to bring legislative discourse back to civility, respect and compromise.

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These are just three of the proposals in *Make Congress Work!,* and I hope you will give strong consideration to the entire action plan.

I would like to close by saying that these reforms aren't just essential to the health of our political system, but are essential to the health of our economy and our budget, which I know is a foremost priority of everyone on this committee.

Some of you might have read this month's *Harvard Business Review,* which argued that our dysfunctional political system is starting to have a profoundly negative impact on the American economy. Businesses have little confidence that Congress can tackle the serious challenges we are facing and over time that will reduce their willingness to invest and grow in America.

It doesn't need to be this way. Congress has many exceptional people, who want to solve America's problems. However, they operate under procedures that make it nearly impossible to get the job done.

Congress does have the power to fix itself, and I hope you will exercise that power without delay.

Thank you for your consideration.

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Testimony of William A. Galston
Hearing on "Raising the Bar for Congress: Reform Proposals for the 21st Century"
U. S. Senate Committee on Homeland Security and Governmental Affairs
March 14, 2012

Chairman Lieberman, Ranking Member Collins, members of the committee:

My name is William Galston. I am a senior fellow in Governance Studies at Brookings and one of the founders of No Labels. I am honored by your invitation and grateful for this opportunity to present my views on congressional reform.

I begin with a brief description of No Labels. We are a classic American grassroots organization—Democrats, Republicans, and Independents united in the determination to make our country better. We began fifteen months ago with a meeting that one thousand citizens representing all fifty states attended at their own expense. Since then, our membership has grown to nearly half a million. We have bipartisan teams of citizen leaders in every state and in all 435 congressional districts.

Our mission can be stated in a single sentence: *we want to help move our country from the old politics of point-scoring toward a new politics of problem-solving.*

A number of No Labels members are here today. As you can see, they are not carrying torches and pitchforks. They are worried but not angry, disappointed but still hopeful. They want a government that makes progress on the country's real problems. They are not from Washington—and they are here to help.

No Labels is a movement that meets a distinctive moment in our history. Political scientists have confirmed what pundits, elected officials and citizens have long suspected: our party system is more divided than it used to be; indeed, to judge by voting patterns, more deeply divided than at any time since the 1890s. This has had consequences for the ability of government at every level—but especially at the national level—to reach agreement even on routine matters, let alone on the challenges that require our system to break new ground.

Robust debate on fundamentals is the life-blood of a healthy democracy—but not if that debate yields gridlock and recriminations. In the eyes of most citizens, regrettably, that is what has happened. As I am sure you know, trust in the federal government is near an all-time low, and public approval of Congress is even lower.

While some citizens may have lost confidence in the members of Congress as individuals, No Labels has not. We believe that our senators and representatives came to Washington to promote the common defense and general welfare and that they are frustrated by the obstacles they have encountered. In our view, our elected representatives are public-spirited individuals trapped in an increasingly obsolete and dysfunctional system of congressional rules and procedures designed for a very different era. The correct response, No Labels believes, is to fix the system.

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Just last week, one of your colleagues, Sen. Olympia Snowe, stunned the political world by announcing that she would not seek a fourth term. She described a Senate that was no longer capable of finding common ground, and in an op-ed in the *Washington Post*, she said:

"I do not believe that, in the near term, the Senate can correct itself from within. It is by nature a political entity and, therefore, there must be a benefit to working across the aisle." That benefit can come, she believes, only if the American people raise their voices and demonstrate their desire for a less polarized, more problem-solving brand of politics.

That is precisely what No Labels seeks to do.

Our focus this year is congressional reform. Our twelve-item agenda is summarized in this booklet, "Make Congress Work." Its title expresses the judgment that an overwhelming majority of the American people has reached. It addresses three central elements of congressional dysfunction: hyper-polarization, gridlock, and the dwindling of productive discourse across party lines.

Now, it's fair to ask: If congressional polarization reflects divisions in the country, how can procedural reforms make a difference? Here's the answer: Although the American people are more divided than they used to be, they are less divided than are the political parties. This helps explain why so many citizens feel unrepresented and left out, and it suggests that by allowing their sentiments to find fuller expression, procedural reforms could help reduce polarization.

These reforms can also update obsolete procedures to take new evidence and changed circumstances into account. For example: not since 1996 has Congress completed work on its appropriations bills prior to the beginning of the new fiscal year. Whatever the reason, it is clear that the timetable of the 1974 Congressional Budget Act is not working as it was designed to. Our No Budget, No Pay proposal addresses this problem head-on. We can argue about whether it represents the best response. But if we do nothing, the problem will persist.

Some critics charge that our emphasis on rules with teeth is wrong in principle. Instead, they say, we should rely on our representatives' best judgment and on that of their constituents. While I understand and respect that point of view, the father of our Constitution did not agree with it. James Madison argued that rules without enforcement mechanisms were mere "parchment barriers," destined to fail. That's why we need what he called "auxiliary precautions"—that is, enforcement mechanisms. He was right two centuries ago. And he is still right today.

Our Founders established a representative system. They did not believe in government by plebiscite, and neither does No Labels. Nonetheless, the sentiments of the people are hardly irrelevant. An independent poll we commissioned after shaping our congressional reform agenda found that every item enjoys super-majority support. The least popular

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proposal is supported by 74 percent of the people; the most popular, by 88 percent. These finding suggest that there is a large untapped demand for congressional reforms—especially when the people can understand them and believe that they would make a difference.

In short, we are at one of those junctures in American history when good government and good politics coincide. For your sake and for the country's, we urge you to seize this moment—by moving to a mark-up for No Budget, No Pay and by giving serious attention to a broader range of congressional reforms.

Thank you very much, and I will try to address any questions you may have.

Statement of Donald R. Wolfensberger
Woodrow Wilson Center & Bipartisan Policy Center
Before the Senate Committee on Homeland Security & Governmental Affairs
Hearing on "Raising the Bar for Congress: Reform Proposals for the 21st Century"
Wednesday, March 14, 2012

Mr. Chairman and members of the Committee:

Thank you for the invitation to testify before you today on how to improve the institution of Congress to better equip it for the challenges of the Twenty-first Century. My name is Don Wolfensberger, and I am currently affiliated with both the Woodrow Wilson International Center for Scholars and the Bipartisan Policy Center. But the views I express here today are solely my own and not those of either institution.

I have been involved in congressional reform efforts for nearly a half-century now, dating back to my internship with my Congressman, John B. Anderson of Illinois in 1965. He had me monitor the hearings of the Joint Committee on the Organization of Congress, help prepare his testimony for that committee and a book chapter on his reform ideas. That book, titled "We Propose a Modern Congress," was published by the House Republican Conference's Task force on Congressional Reform and Minority Staffing. The joint committee's work, and that of the task force, culminated with the enactment of the Legislative Reorganization Act of 1970.

I joined Congressman Anderson's staff full time in January 1969, and continued to work on reform issues for him, mostly through his assignment on the Rules Committee. Our principal achievement during that period was the adoption of a bipartisan rules change providing for the televised coverage of House floor proceedings that began in early-1979. I subsequently served on the Rules Committee staff with Congressman Trent Lott, Congresswoman Lynn Martin, and Congressman Jerry Solomon, all of whom were interested in institutional reforms, ranging from budgeting and ethics, to committee jurisdictions and procedures, to inter-branch relations. It is perhaps fitting that the last major reform effort I worked on was with Mr. Solomon on the Joint Committee on the Organization of Congress in 1993-94—an effort that died in the House Rules Committee, but was subsequently resurrected by the new Republican majority in January 1995 and adopted on opening day of the 104th Congress.

I cite this brief history not as a matter of personal pride--though I am certainly proud of the Members I worked for and the efforts they put into these reform efforts--but rather as a matter of seasoned perspective—a cautionary tale, if you will. For in looking back on those years it seems that no matter how much Congress reformed itself to adapt to changing times and public pressures, the more it has seemed to slip backwards into more difficult times and circumstances for which no measure of change would seem adequate. Notwithstanding occasional bursts of reform and

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legislative productivity, Congress seems to be stuck in a perpetual state of popular disfavor because of perceived gridlock and partisan bickering. Today Congress's job approval rating hovers somewhere between 9 and 13 percent—the worst I've ever seen it. The people are reacting to an institution they see as unable to tackle even its most basic responsibilities.

Notwithstanding this ongoing public frustration with the political process and the corresponding frustration Members of Congress with the low regard in which they are held (at least collectively), I continue to have faith and optimism about the institution of Congress, and have not given up on trying to find ways to improve the situation. Somehow our experiment in representative democracy has lasted 223 years, despite much worse times than we are now experiencing. And somehow, I am convinced, we will last at least another two centuries because of, not in spite of, the Founders' brilliant design and the resilience of the American people.

Despite my skepticism that any particular reforms of Congress will restore the faith of the people in the institution or its ability to perform better, I nevertheless think the reform process serves the useful purpose of pointing the way for our political actors to live-up to their institutional responsibilities. Put another way, it serves as the proverbial two-by-four on the stubborn mule: it gets the attention of Members. At the same time, we should be wary of making brash, bold and ill-considered changes in Congress that could have the unintended consequences of further damaging, diminishing and demeaning it in the eyes of the people.

I have developed a list of ten guiding principles or objectives for use in shaping worthwhile reforms, and ten things that you should want to avoid. I think these can serve as useful templates against which you can measure individual reform proposals. What do you want to accomplish?

- End the gridlock;
- End the bitter partisanship and incivility;
- Restore public confidence in the institution by making it more responsive to national problems;
- Strengthen the legislative branch vis-à-vis the executive branch;
- Better balance committee and party leadership powers;
- Restore the regular order of fairness and deliberation;
- Make Congress more efficient and productive;
- Address problems that really matter versus those that only have a political purpose;
- Enhance Congress's oversight role; and
- Better inform the public about the activities of their government.

What should you avoid doing in any reform effort?

- Punish Congress for its failings;
- Diminish public respect for Congress by belittling it;
- Set unreasonable goals and standards to be judged by;
- Strengthen the powers of the presidency versus Congress;
- Lessen the ability of committees to deliberate;
- Make transparency the enemy of compromise;
- Establish unrealistic fiscal benchmarks;
- Increase access for special interests;
- Make leadership advancement dependent on fundraising prowess and success; and
- Restrict the rights of the minority party.

I don't come before you today with any silver bullets because I don't think there are such things that can magically transform such a human institution as Congress, with all its faults and foibles. There are, however, some small, incremental things that can be done to remind Members of their responsibilities and potential for contributing to the greater good of the institution and the Nation. First and foremost, restore the regular order. You don't need a whole new set of rules; you just need to better adhere to existing rules governing the legislative process in committees and in floor debates with the overarching goals of openness, fairness and deliberation.

Second, restore the use of conference committees. In recent years, conference committees have been used less frequently--replaced by what I call "leadership ping-pong" in which amendments are batted back and forth between the houses by party leaders. What this does is to keep out of the loop the relevant and knowledgeable committee actors who know the most about the legislation. Conference committees are far preferable because they not only serve foster serious discussions over the merits of differing House and Senate provisions in a bill, but they also bring Members of both parties and both bodies together in a unique bonding exercise to find common ground. Party leaders are not really all that great at legislating: they don't have the time, inclination or expertise to do a conscientious job of it. Let the committees of the two chambers get back to conferring and compromising over their differences.

Third, make the budget process work as intended by: (1) making sure the leadership places high priority on adopting a budget resolution on time; and (2) getting all the appropriations bills enacted before Oct. 1. This is a matter in which the party leaders must bring clear and forceful direction to bear. Managing the purse strings is Congress's "job one" under the Constitution; failing

that obligation is a major source of lost public confidence as well as of enormous confusion and disarray among the federal, state and local agencies that depend on a reliable funding stream to do their jobs properly.

I would recommend converting to a biennial budget resolution to be adopted in the first session of each Congress, while retaining an annual appropriations process to retain control and scrutiny over the executive. But I would enhance that by doing something similar to what was done in the Budget Control Act of 2011. I would spin off the discretionary spending levels in the final budget resolution for the next two years into a bill that, when enacted, would establish binding, biennial spending ceilings. In so doing, you would make the job of the appropriations committees much easier in the second session—perhaps even sparing you a lame duck session.

Finally, you must find a way to disentangle campaigning from the legislative process. We have slowly shifted over the last forty years from a culture of lawmaking in Congress to a culture of campaigning. It is often reflected in committee clashes and floor debates, as well as in Members' all-consuming, daily obsession with raising campaign funds for themselves and their party.

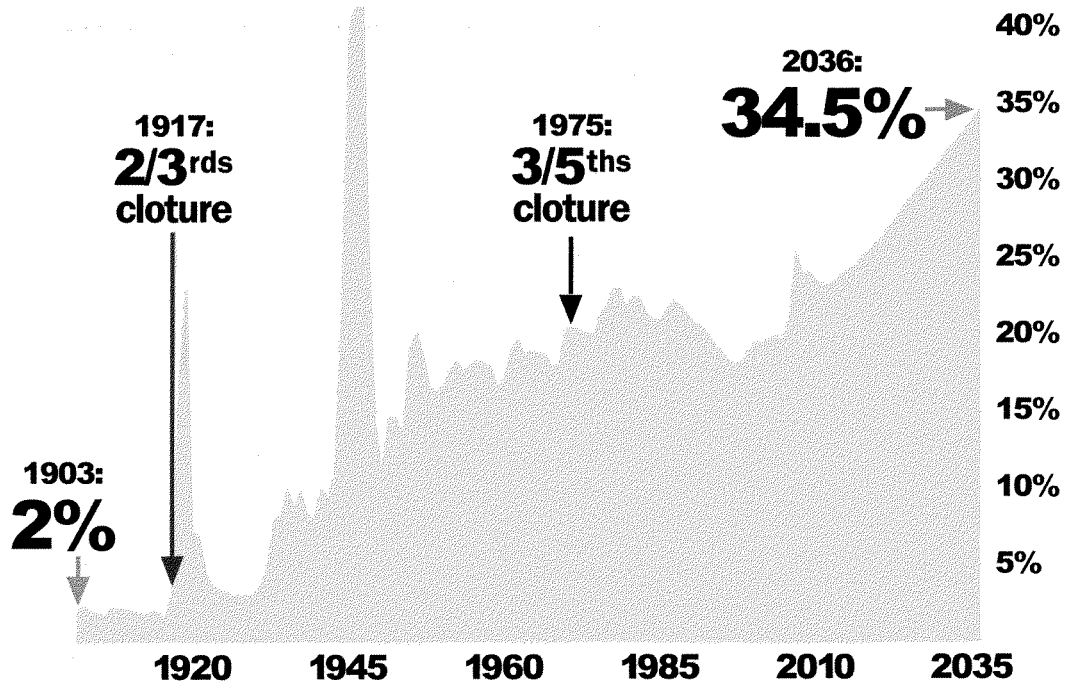
One former House Member told a public forum recently that the main reason Members vie for slots on certain committees today is for the campaign contributions they will be able to raise--not to make policy. "They're not really interested in legislating or the work of the committee," he said. That is a sad state of affairs, as are so-called leadership PACs that even freshmen Members are now encouraged to create. Choosing committee and subcommittee chairs in the House is sometimes based more on Members' fundraising abilities than on their expertise or seniority. And then, once they become chairs, they are assessed specified amounts by their campaign committees to contribute to party coffers.

All this has grossly contorted the nature of the institution from a lawmaking machine into a money machine. I don't have specific recommendations on how you reverse this trend. I suspect it can only be done by restraints placed in House and Senate rules. But, step back and consider just how all this looks from the outside, and I think you will agree: it looks downright ugly.

In conclusion, I am not terribly sanguine that Congress will embrace the steps needed to restore a culture of lawmaking. We may have to wait until one party or the other gains a solid working majority and no longer needs to campaign 24-7 under the Capitol Dome. I do think that if the low estate in which Congress is held by the public persists, the people themselves will find ways to change the institution for you.

Thank you.

FEDERAL SPENDING: % OF GDP



U.S. Treasury; Congressional Budget Office; Bureau of Economic Analysis

RON JOHNSON U.S. SENATE

Dr. William A. Galston
Co-Founder, No Labels
Senior Fellow, Brookings Institution

Supplement to Testimony Delivered at a Hearing before the Senate Homeland Security and Governmental Affairs Committee on March 14, 2012

During the hearing, a number of questions arose about the "No Budget, No Pay" proposal. Time constraints made it impossible to address these questions in the detail they deserved. Let me try to do so now.

Question One: Is there any reason to believe that No Budget, No Pay would actually promote the objective of timely budget resolutions and appropriations bills?

The state of California offers the most relevant evidence. In the years 2007-2010, California saw three of its most delinquent budgets in recent history. One budget agreement came a full 115 days after the official deadline, exacerbating public discontent. In November 2010, the voters passed Proposition 25, one provision of which required legislators to forfeit their pay and per diem allowance for every day after the deadline that a balanced budget (also required by law) was to have been passed the legislature.

Proposition 25 was put to the test during the next budget cycle, when the legislature actually sent a budget to the governor by June 15. The governor vetoed the legislature's budget on the grounds that it failed to meet the balanced budget test. The standoff was resolved by June 28, two days before the beginning of the new fiscal year.

While it is difficult to establish cause and effect in political life, few seasoned observers of the California scene believe that the impasse would have been broken so quickly in the absence of Proposition 25. And more than 80 percent of Californians approved, which is consistent with the No Labels survey showing 88 percent public support for No Budget, No Pay.

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Question Two: Is it the case, as some have suggested that the appropriations caps contained in the Budget Control Act of 2011 are the functional equivalent of a budget resolution and renders a FY2013 resolution superfluous?

Although the answer is not entirely clear, a reasonable case can be made that this is true for FY 2013. But this does not render No Budget, No Pay superfluous, for two reasons.

First, the BCA applies to FY 12 and FY13 federal budgets and the 12 appropriations for each of those fiscal years. At the earliest, No Budget, No Pay (if passed this year by Congress and signed into law) would take effect in February of 2013 and would apply to the FY14 budget and appropriations process. (This is because the 27th Amendment to the US Constitution requires that there be an intervening Congressional election before there can be a change in the terms of Congressional pay, which is what No Budget, No Pay provides.) The BCA does not however currently apply to the FY14 budget and appropriations process. As matters now stand, the federal law that would apply in FY14 is the Congressional Budget and Impoundment Control Act of 1974. That law requires a concurrent budget resolution and 12 appropriations bills. To be sure, Congress could move to supersede the 1974 law for the congressional budget and appropriations process for FY14, but as of now it has not done so.

The second reason that the BCA does not moot No Budget, No Pay is simpler: while the BCA may supersede the annual budget resolution, it has nothing to say about the actual appropriations bills, which would also be within the purview of No Budget, No Pay. Even if Congress "deems" the BCA to serve as the required budget resolution, its pay would still cease under No Budget, No Pay if it failed to pass the required appropriations bills on time.

Question Three: Doesn't No Budget, No Pay hold rank-and-file members of Congress responsible for the failure of their leaders to bring budget resolutions and appropriations bills forward in a timely fashion?

While it is true that not all members of the House and Senate (even members of the majority) have an equal ability to control the legislative agenda, it is also true that leaders are ultimately beholden to their members. Leaders cannot lead where their members refuse to follow. No Budget, No Pay will create added incentives for all members to put pressure on the majority and minority leadership to complete the required steps of the budget process on time.

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Question Four: Doesn't No Budget, No Pay hold members of Congress hostage to the president? Is it fair to deprive members of pay if the president vetoes some or all of their appropriations bills?

No, it wouldn't be fair, which is why No Budget, No Pay does nothing of the sort. On the contrary, the language of the proposed legislation makes it clear that members have discharged their obligations under law when they submit bills covering all appropriations for the full fiscal year to the president for his signature.

Question Five: Aren't there less draconian ways of promoting the objectives of No Budget, No Pay?

Members of Congress have proposed mechanisms to promote more timely completion of the annual budget resolution. For example, a bipartisan bill co-sponsored by Sen. Ben Cardin (D-MD) and Sen. Kelly Ayotte (R-NH) would amend the Congressional Budget and Impoundment Control Act of 1974 to make it out of order for either the House or Senate to consider any legislation after April 15 unless the concurrent resolution on the budget for the coming fiscal year has been adopted.

While bills along these lines can strengthen the drive for timely compliance with the CBA, they cannot fully replace No Budget, No Pay. To cite only one reason: Cardin-Ayotte addresses the budget resolution but not the appropriations bills. The failure to get appropriations bills done on time renders even a timely budget resolution something of a hollow victory.

Question Six: Isn't No Budget, No Pay demeaning to members of Congress?

If it is, so is the Constitution as a whole. The Framers understood that members of Congress (and indeed, of all branches) would act out of a complex mix of motives ranging from public-spiritedness to self-interest. In the famous words of James Madison in Federal No. 51, "What is government itself but the greatest of all reflections on human nature? . . . If angels were to govern men, neither external nor internal controls on government would be necessary." But these controls *are* necessary, Madison insisted. And he regarded "this policy of supplying, by opposite and rival interests, the defect [that is, the shortfall] of better motives" as the guiding principle of American constitutionalism. What Madison termed "auxiliary precautions" won't have any effect on public-spirited legislators, who are already doing the right things. But these institutions' devices will give the others incentives based on self-interest to serve the public good. And that is exactly what No Budget, No Pay is designed to do.

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March 14, 2012

Senator Joe Lieberman
Chairman
Senate Homeland Security and Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman,

I respectfully submit this supporting documentation for the record.

Sincerely,

Dr. William A. Galston
Co-Founder, No Labels

The Washington Post

A No Labels solution to Washington gridlock?

By William A. Galston and David Frum

The Washington Post

December 3, 2010

As President Obama and congressional leaders struggle to establish a working relationship, they should ponder the sentiments of the real - and very frustrated - American majority.

A Pew survey taken after the midterm election found that 55 percent of respondents wanted Republican leaders in Washington to "try as best they can to work with Barack Obama to accomplish things, even if it means disappointing some groups of Republican supporters." Sixty-two percent wanted Obama to work hard to cooperate with Republicans, even if it meant disappointing some of his supporters.

But what the people want and what they expect are very different. In Congress, the center has collapsed, and ideological overlap between the parties has vanished. Although 30 percent of grass-roots Republicans consider themselves moderate or liberal, and 60 percent of Democrats consider themselves moderate or conservative, their voices are muted in the nation's capital. As increasingly polarized media feed centrifugal forces, potential primary challengers stand ready to punish deviation from party orthodoxies. Only 22 percent of the Pew respondents thought that cooperation was likely to happen under these circumstances.

On Dec. 13, more than 1,000 citizens from the 50 states will convene in New York to change the odds. They are founding a movement - No Labels. Among them will be Democrats, Republicans and independents who are proud of their political affiliations and have no intention of abandoning them. A single concern brings them together: the hyper-polarization of our politics that thwarts an adult conversation about our common future. A single goal unites them: to expand the space within which citizens and elected officials can conduct that conversation without fear of social or political retribution.

Their movement rests on the belief that the real American majority wishes to reassert control over a political system mired in brain-dead partisanship. Those traveling to New York are going at their own expense. No Labels is gaining a thousand fans on Facebook each day. Citizens across the country are asking how they can get involved.

Will politicians listen? Here's why they should.

Our political system does not work if politicians treat the process as a war in which the overriding goal is to thwart the adversary. At a time of national economic emergency, when Americans are clamoring for positive action, our government is routinely paralyzed by petty politics. Through the summer, as the economy teetered between recovery and stagnation, the Federal Reserve lacked a quorum because a single Republican senator took it upon himself to block Obama's appointments. Republicans were only doing unto the Democrats as the Democrats had done unto them: In January 2008, as the country geared up for an epoch-making election, the Federal Election Commission lacked a quorum because one Democrat had put holds on President George W. Bush's nominees.

Nor does the political system work if politicians treat members of the other party as enemies to be destroyed. Labeling legitimate policy differences as "socialist" or "racist" undermines democratic discourse.

Over the next 12 months, No Labels plans to organize citizens' groups in every state and congressional district. Among other activities, these citizens will carefully monitor the conduct of their elected representatives. They will highlight those officials who reach across the aisle to help solve the country's problems and criticize those who do not. They will call out politicians whose rhetoric exacerbates those problems, and they will establish lines that no one should cross. Politicians, media personalities and opinion leaders who recklessly demonize their opponents should be on notice that they can no longer do so with impunity.

Here's why the political parties should take note: In another bipartisan post-election survey, fully 61 percent of independents - whose shifting preferences made much of the difference between the Democratic victory in 2006 and the Republican resurgence in 2010 - endorsed the proposition that "Governing is about compromise, and I want my elected officials to work with the other side to find common ground and pass legislation on important issues." Only 32 percent chose the contrary proposition that "Leadership is about taking principled stands, and I want my elected officials to stand up for what they believe in, even if it means that legislation on important issues does not pass." The majority of independents are calling for a new politics of problem-solving. Both political parties ignore this majority at their peril.

That's what No Labels is. Here's what it isn't: It is not a nascent third-party movement. It is not a stalking-horse for an independent candidacy. And it is not a front for anyone's agenda. In an act as old as America, citizens are coming together out of frustration and patriotism to give their country a better future. The challenge is enormous. But as Margaret Mead said, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has."

William A. Galston and David Frum are among the founders of No Labels. Galston was deputy assistant to President Bill Clinton for domestic policy from 1993 to 1995. Frum was a speechwriter and special assistant to President George W. Bush from 2001 to 2002.

Congress needs to stay in town to get the job done

By: William Galston

The Hill

July 6, 2011

During his press conference last Wednesday, in a moment of unvarnished exasperation, President Obama criticized Congress for what he regarded as its lackadaisical and dilatory work habits. Invoking the looming debt ceiling crisis, he said, "We've got to get this done. And if by the end of this week, we have not seen substantial progress, then I think members of Congress need to understand we are going to have to start to cancel things and stay here until we get it done."

Whether he knew it or not, the president was channeling the views of the American people. In a survey recently conducted by No Labels, a national citizens' movement of Democrats, Republicans, and Independents, 83 percent of the respondents thought that Congress should stay in session if it fails to address the fiscal crisis before its scheduled summer breaks.

The Senate seems to have gotten the message. On Thursday morning, it announced that it would cut short its Independence Day recess, return to Washington after July 4, and stay in session until the debt ceiling crisis is resolved.

The House has been slower to respond. Its members returned this week from an 11-day break, with another coming in mid-July. Amazingly, the House has only twelve work days on its calendar between now and August 2, and Speaker Boehner has given no indication that he plans to change the schedule.

He should, because we're playing with fire. As the president rightly said, if we fail to reach an agreement to raise the debt ceiling and the U.S. government cannot meet its obligations, the consequences for the economy would be "significant and unpredictable."

The people know that the stakes are high. In a survey released by No Labels, 92 percent of respondents are worried that the fiscal crisis will affect their personal finances, and 68 percent

fear that it could reduce their job security. No wonder 91 percent say it's important for our leaders to come together and find a solution right away.

The people have clear views about how to get the job done. 56 percent think that a compromise between the two sides would be best. By contrast, only 17 percent think that congressional Republicans have the best solution, and even fewer — 12 percent — favor the approach of the congressional Democrats.

The people's message is clear: get to work, approach the job in a spirit of compromise... and don't stop until you've reached a solution. During the next few weeks, we'll find out whether our elected officials have as much common sense as the people they claim to represent.

William A. Galston is a founding leader of No Labels and a senior fellow in governance studies at the Brookings Institution.

http://thehill.com/blogs/congress-blog/economy-a-budget/169799-congress-needs-to-stay-in-town-to-get-the-job-done

The Dallas Morning News

Editorial: Congress' inability to govern creates great risks

The Dallas Morning News

October 2, 2011

Most members of Congress were probably high achievers in school. But, as a group, they have a serious deadline problem. Congress' inability to get things done — and done on time — is creating grave risks for the country.

The nation teetered on the brink of default in early August because Democrats and Republicans couldn't agree on whether to raise the debt ceiling. At the last minute, they brokered a deal — but one that largely postponed the problem.

Just eight weeks later, Washington's procrastinating again. The Senate last week approved a stopgap spending bill that would keep the government open until mid-November. For a while, it looked as though even that wouldn't get done because of a battle over how to fund federal disaster relief.

This week, the House must consider that same bill. This newspaper strongly urges North Texas' representatives to approve it and not waste any more time.

Even in normal times, Congress has a hard time meeting deadlines. The nonpartisan No Labels group released a report last week showing that only twice in the last 25 years has Capitol Hill passed all its yearly spending bills on time.

But these aren't normal times. The failure to govern carries greater risks now. As the folks at No Labels put it, "Missed deadlines and petty arguments are unacceptable for elected officials tasked with pulling our nation out of an economic crisis."

We have a $14 trillion debt, a stalled economy and vanishing consumer confidence. And what is Washington doing? Arguing over how to pay for disaster relief and postponing spending bills.

The stakes are high for Congress in November. Not only must lawmakers finalize those appropriation bills for 2012, but the debt supercommittee must approve an additional $1.5 trillion in savings by Nov. 23. If the bipartisan group, created in August as part of the debt ceiling compromise, can't come to agreement, automatic cuts will be triggered across parts of the government.

Like all Americans, we expect robust debates. But leaders must do more than preen off talking points. They need to govern.

Former Defense Secretary Robert Gates, who served eight presidents over five decades, reminded an audience at the SMU Tate Lecture series last week how the nation once solved problems. We won the Cold War and met many other challenges because our leaders governed from the center. The extremes expressed themselves freely, but those in charge charted a middle ground that reflected fundamental American values.

That's not so today, which is why both parties need to put aside their absolutist tendencies and urgently search for common ground. Kicking problems down the road only harms America.

AT THE BRINK

The U.S. government has been brought to the edge of a shutdown three times this year:

April: Instead of approving funding for fiscal 2011 by Oct. 1, 2010, Congress waited until April 2011. (President Barack Obama and House Speaker John Boehner reached a deal 90 minutes before the deadline, which would have triggered a government shutdown.)

August: After months of wrangling over the debt ceiling, Congress fought until the last moment before authorizing the Treasury to borrow more money. (A deal was brokered just hours before the deadline.)

September: Congress failed to approve spending bills for the Oct. 1 start of fiscal 2012. Instead, the Senate approved a stopgap measure, which the House must pass this week, to keep the government open until Nov. 18.

Up next: In November, Congress must approve spending bills for the 2012 fiscal year, as well as come up with $1.5 trillion in debt savings

http://www.dallasnews.com/opinion/editorials/20111002-editorial-congress-inability-to-govern-creates-great-risks.ece

THE HILL

Fix the filibuster

By: Bill Galston

The Hill

December 12, 2011

George Washington once referred to the Senate as the "saucer that cools the tea" — his characterization of a body designed to temper the "hot" legislation passed in the House of Representatives. The framers saw the House as too accommodating of the people's whims, so they erected what James Madison called a "necessary fence" against the "fickleness and passion" that could influence it.

That's why the Senate minority enjoys much more power than its counterpart in the House. The chamber was intended to nurture the deliberative process and foster careful consideration of each bill. Thus, its minority has tools to ensure its voice is heard — the filibuster being chief among them. It's a framework that serves our nation well when it works, as it should. But when the minority abuses its power — as it has for much of the last decade — the Senate essentially becomes an obstacle through which very little can pass.

Today, the Senate isn't where the tea cools — it's where the tea freezes. Far too often, meaningful legislation that could move our country forward isn't even debated because both parties have gamed the system. Thanks in large part to an explosive uptick in ideologically driven filibusters, the people's voice has been drowned out of Congress and our "necessary fence" has become an impenetrable wall.

In the 111th Congress, cloture motions (the only procedure by which a filibuster can be broken) were filed 137 times, only two short of the record 139 filed during the 110th Congress. These figures more than double the 68 cloture motions filed during the 109th Congress. To add some historical context, only 18 cloture motions were filed during the entire 30-year period between the 73rd and 87th Congresses. Even as recently as the 101st Congress, cloture was only moved for 38 times.

The problem is that cloture requires 60 votes to be invoked. With filibusters increasing, virtually no substantial legislation passes the Senate absent a supermajority. This bottleneck is not what the founders intended.

Even more troubling than the number of recent filibusters is the way in which they are employed. Gone are the days when senators had to hold the floor to prevent a yea or nay vote (think of the 1939 film "Mr. Smith goes to Washington"). Today, senators block legislation via virtual filibusters that allow other business to be conducted while the filibuster remains operative. Filibusters have also been used as stalling techniques or even to prevent debate on legislation altogether — an act that strikes at the very heart of the Senate's supposed deliberative role.

Worst of all, filibusters have become the foremost mechanism by which partisan squabbling obstructs the policy process. As a result, we've seen fights over stimulus spending threaten unemployment benefits for millions of laid-off workers, and battles over gays in the military delay healthcare funds for 9/11 responders.

Because of all this, there is a movement afoot to reform filibuster rules and ensure that the people's will is appropriately reflected in the Senate. As one of the 12 reforms contained in its "Make Congress Work" campaign, a nonpartisan group called No Labels has proposed a measure that would end virtual filibusters, as well as those on motions to proceed to debate. With these reforms in place, a sole senator seeking to halt action on a bill could only do so by taking the floor and holding it through sustained debate. At the same time, senators would no longer be permitted to obstruct consideration of a bill on its merits.

Because filibusters are now commonly introduced to block both debate and votes on passage of bills, one can conclude that these reforms would curb the current filibuster binge by half (at least) — and at a time when we need it most. While some argue that filibuster abuse is a problem largely relegated to judicial and executive branch nominations, National Journal estimates that no fewer than eight "major pieces of legislation" were "entirely halted" by filibusters during the 110th Congress. A quick look at the headlines out of Washington this year is enough to see that the 112th Congress likely won't fare much better when it comes to tackling the significant issues affecting American lives.

The filibuster's deliberative purpose has been hijacked by partisan objectives and the time has come for reform. For despite our founders' fears about majority rule, our government simply doesn't work without it.

Galston, a No Labels co-founder, is a senior fellow in governance studies at the Brookings Institution.

http://thehill.com/opinion/op-ed/198919-fix-the-filibuster

A modest proposal to rein in congressional partisanship

By: Senator Joseph I. Lieberman (I-CT)

The Hill

December 14, 2011

Next month, I will visit the House chamber to hear the State of the Union Address as a sitting Senator for the last time. As an American, it has been an honor and privilege to the see the President's speech in person for the last 23 years. But I have often thought that perhaps it would be useful for Americans, if the President regularly appeared before Congress and responded to our questions.

A new non-partisan group called No Labels— together with thousands of supporters nationwide—is seeking now to provide Congress this opportunity. Under a proposal contained in the No Labels' "Make Congress Work" campaign, the House and Senate would issue rotating monthly invitations for the President to appear in the respective chamber to answer questions and engage members in discussion. Democrats and Republicans would take turns asking questions for the duration of the 90-minute, televised session. Only one issue would be covered per appearance. The President would be welcome to bring Cabinet members and other high-ranking officials to help to clarify the discussion when needed.

For someone who has spent nearly a quarter-century in the Senate, this sounds like a pretty good deal.

No Labels understands that the President is a President; not a Prime Minister. America doesn't operate under a parliamentary system. As such, the President is not considered a Party leader in the legislature and has no formal responsibility to report to it on a monthly basis. At the same time, however, we are all familiar with "Question Time" in the British House of Commons and other countries with similar legislative structures – and we are equally familiar with the potential for such events to devolve into partisan screaming matches that do little to advance consensus.

Given the current political mood in Congress, many might wonder why an American version of question time would be any different. How could this plan contribute to the goal of reducing

polarization, promoting constructive discussion and breaking the gridlock that has frozen our legislative process?

First, No Labels' proposal provides for a far more controlled environment. With time limits imposed on responses and strict rules designed to encourage civility, the event would look more like a presidential debate than a town hall. Televising the events would further assist in establishing the proper sense of decorum. As we have seen throughout American history, and again in recent years, vitriolic outbursts and insults launched on the floor ultimately harm those who hurl them far more than the targets.

Second, No Labels' proposal would nurture results by infusing transparency and accountability into the governing process. Right now, we place more emphasis on campaigning than governing. As a result, the American people focus more on what candidates promise to do next year and less on what those holding public office need to do next week. What we are left with is a framework that makes the people's voice too easy to ignore. No Labels' plan would help correct that imbalance by offering the public a real-time look at how their elected leaders plan to address urgent national priorities.

Finally, the very act of coming together in such a way would send a message to the vast majority of moderates – both here in the U.S. and indeed throughout the world – that our country takes the dangers of hyper-partisanship seriously and is willing to take steps to that will foster compromise.

Creating the time and space for regular, constructive discussions between Congress and the President is a small step. However, in the face of a pervasive culture of ideology that is crippling our government, even a modest step in the right direction could have a significant impact.

I hope that my colleagues will join me in supporting this proposal.

http://thehill.com/blogs/congress-blog/politics/199337-a-modest-proposal-to-rein-in-congressional-partisanship%C2%A0

The Washington Times

Washington must face fiscal reality: Annual speech to Congress can move deficit facts to the front burner

By: David Walker

The Washington Times

December 16, 2011

There is a reason the comptroller general of the United States serves the longest term of appointment in government aside from certain judges, who have lifetime appointments. It's because the person who is responsible for heading the Government Accountability Office (GAO) plays an essential and nonpartisan role in assessing the federal government's performance and reporting on the government's financial condition and future outlook.

The GAO also acts as Congress' eyes and ears as it wields its constitutional power of the purse. Absent the resources it provides, Congress simply wouldn't be able to effectively oversee the performance, accountability and financial condition of federal government. Despite this tremendous responsibility, a vast majority of Americans can't tell you who the current comptroller general is. There's reason for that as well. After all, if Congress doesn't listen to this nonpartisan professional as much as it should, why should the public?

For much of the last decade, I served as comptroller general. In addition to performing my normal responsibilities, I also broke tradition and took on responsibility for serving as a voice for fiscal responsibility in Washington and throughout the country. I warned that America's "current fiscal policy is unsustainable over the long term." But time and again, those warnings, including those in the GAO's annual audit report on the federal government's financial statements, have gone unheeded by Congress, as the recent failure of the deficit supercommittee aptly demonstrates. It's as if Congress is satisfied with flying blind into a gathering fiscal storm in a mountainous area without effectively using the instruments at its disposal.

Fortunately, the nonpartisan organization No Labels is seeking to remind Congress that the annual audit report of the GAO on the U.S. government's financial statements deserves its undivided attention. Along with about 200,000-plus supporters nationwide, No Labels has put forth 12 reforms to "Make Congress Work." Among them is a measure that would bring the comptroller general before a joint session of Congress once a year to report on the true state of the nation's finances.

By invitation of congressional leaders, the comptroller general, either alone or in partnership with another nonpartisan, high-ranking government official (e.g., the chairman of the Federal Reserve or director of the Congressional Budget Office), would provide a fact-based and sobering analysis of our nation's financial condition and what is required to improve it. Importantly, the speakers' commitments to nonpartisanship (it's in their job descriptions) would help limit any political or ideological impact on their presentation. Equally important, these events would be televised to provide the American people with a transparent view of the nation's financial condition and increase public awareness of serious financial and other challenges Congress and the president need to confront.

It's true that joint sessions of Congress traditionally are reserved for the president and foreign heads of state, but there have been exceptions - Gen. Douglas MacArthur's 1951 farewell address being perhaps the most notable. America's finances have become so untenable that it's time to make another exception. To restore sanity to the budget process, we need to enhance the respect for and visibility of the officials and institutions on which Congress is supposed to rely to make the right decisions. Allowing those officials to borrow the bully pulpit will not be a cure-all, it certainly is a step in the right direction.

Too often over the last decade, various bipartisan fiscal reform efforts, including the supercommittee, have operated inside Washington and under a shroud. They have been largely invisible to the public, their results have not been effectively communicated to the public, and that makes them too easy for policymakers and the public to ignore. Each December, the federal government releases its financial statements to little fanfare and, predictably, GAO's urgent admonitions about our nation's deteriorating financial condition and fiscal outlook fall on deaf ears, both inside and outside Washington's Beltway.

Given our serious fiscal challenges and current partisan gridlock, for the time being at least, those warnings need to be amplified. What better way to do so than to spotlight them on the federal government's grandest stage?

David M. Walker, a No Labels co-founder, was U.S. comptroller general.

http://www.washingtontimes.com/news/2011/dec/16/washington-must-face-fiscal-reality/

The Washington Post

Column: No Labels gets congressional dysfunction right

By: Ezra Klein

The Washington Post

December 23, 2011

"No Labels." Even the name is annoying. For one thing, it's a label. There's no branding quite like anti-branding, which in this case is even perched atop a slogan: "Not left. Not right. Forward."

It reminds me of nothing so much as the cartoon character Kang's stump speech from "The Simpsons: Treehouse of Horror VII": "My fellow Americans. As a young boy, I dreamed of being a baseball, but tonight I say, we must move forward not backward, upward not forward, and always twirling, twirling, twirling toward freedom."

The problem, of course, is that Americans disagree about which direction is forward. Is it toward universal health care? Or away from it? Toward policies to curb climate change? Or away from them? Toward more rights for gay and lesbian couples? Or toward a constitutional amendment enshrining the primacy of traditional marriage?

Political reform groups like No Labels, Unity 08 and Americans Elect tend to buy into the most pernicious myth in politics: that the answers are easy and obvious, and that all the political system needs is a firmer commitment to common sense, bipartisanship or "the American people." These groups don't just deny the very real arguments that divide our politics, they take themselves out of the game of offering solutions. They leave everyone else to do the hard work while they collect accolades for offering a future beyond division and bickering and ugliness — and reality.

But last week, No Labels surprised me. They released an agenda that did the impossible: proposed a plausible path for moving in that most elusive direction — forward. They did it, unexpectedly, by refusing to suggest that they themselves knew which direction ultimately is forward.

The group's essential insight is that the American political system has stopped working for the left and the right — not to mention for the middle, wherever that may be. The basic architecture of the executive and legislative branches has remained unchanged since the country's founding. The rules that govern Congress have been updated more regularly, but the last major overhaul

was in 1975. Think of how much the country has changed since 1975. Think of how much the political parties have changed since 1975.

The 1970s, though a tumultuous time for the country, were still relatively irenic for the U.S. Congress. The Republican Party still included a large contingent of Northeastern liberals. The Democratic Party still had its Southern conservatives. The two parties, in other words, were ideologically diverse, and thus forced to work together.

A decade earlier, Medicare, a full government takeover of the health-insurance market for senior citizens, had cleared the Senate with a two-thirds majority and a substantial number of Republican votes. Not long after, Republican President Richard Nixon proposed a universal health-care law far to the left of anything President Barack Obama and the Democrats considered in 2009. Oh, and he signed the Clean Air Act, too.

The U.S. political system was built for consensus and, in that period, the country more or less had it. That's not to wipe the slate clean. There were bitter elections and Red baiting, along with Nixon's Southern strategy and angry clashes over Vietnam. But there were also numerous occasions when service to the nation's political institutions trumped partisanship. Republicans joined Democrats to censure one of their own, Joseph McCarthy, on the Senate floor. Democrat William Fulbright used the chairmanship of the Senate Foreign Relations Committee to oppose a Democratic president's handling of Vietnam. And Republicans joined Democrats in exposing Watergate crimes and reforming the campaign-finance system.

Politics did not stop. But in Congress, in particular, it calmed. Political scientists have developed models to test congressional polarization, and the '50s, '60s and '70s were notable for the moderation of the two parties.

The '80s, however, weren't. That's when party polarization accelerated. In the '90s, the rise was even faster. In the 1994 election, Republicans all but completed their sweep of the South, which dragged their party further to the right. Since 2000, polarization has only gotten worse.

American politics, in other words, has changed dramatically over the past 30 years. American political institutions have not. They're built for consensus in an age of extreme polarization. There were more filibusters in 2009 and 2010 than in the '50s, '60s and '70s combined. Congressional Republicans almost forced the United States to default on its debt in 1995 and 2011. That would have been inconceivable in the middle of the century.

Enter No Labels. Rather than confine themselves to wishful thinking about a third-party candidacy or endless scolding over partisanship, its members have come out with a robust agenda for congressional reform.

Some of the items on the agenda are symbolic at best. Holding bipartisan monthly meetings and seating Democrats and Republicans together in Congress isn't likely to usher in a new age of

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bipartisanship. Members of Congress are grown-ups responding to real pressures within their parties, and real demands from their most engaged constituents. They don't need more play dates with the other side. But you know what? More play dates with the other side aren't likely to hurt anything, either. So why not?

Some of the items on No Label's agenda would transform the workings of sclerotic and dysfunctional institutions. Nominations to executive or judicial positions, for instance, would get an up-or-down vote after 90 days. If the federal budget was late, members of Congress wouldn't get paid. Filibustering senators would actually have to do the Mr.-Smith- Goes-to-Washington thing and hold the floor of Congress by talking. No more filibustering without actually working for it. Oh, and filibusters could only be mounted against the passage of a bill — currently, the motion to move to debate is frequently filibustered, which means the filibuster is used to choke off debate rather than protect it.

When voters give power to one party or another, that party should be able to staff the government and enact enough of its policies for voters to be able to judge the results and hold the party accountable. That's the theory under which our political system works: Good outcomes are rewarded with election victories, and bad ones punished with defeat.

Right now, voters give power to a political party, that party gets obstructed, then voters hold them accountable for the results of obstruction on the floor of, in most cases, the U.S. Senate. Because most voters don't follow the ins-and-outs of congressional procedure, they simply assume that the majority is driving the decisions and blame them for whatever happens. Accountability, in other words, is breaking down.

That's bad for both parties, and it means that, ultimately, whether you think the nation would be better off going to the right or the left, neither party is able to move the country forward. No Labels, to their credit, has made a good start on a solution.

http://www.washingtonpost.com/blogs/ezra-klein/post/column-no-labels-gets-congressional-dysfunction-right/2011/08/25/gIQAQislDP_blog.html

BOSTON Herald

Leaders pass on pledges

By: Ron Shaich

The Boston Herald

December 26, 2011

Before they can begin work in Washington, D.C., newly elected members of Congress must swear to "support and defend the Constitution of the United States against all enemies, foreign and domestic ... bear true faith and allegiance to the same ... well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

That and allegiance to the flag of the United States of America and the republic for which it stands are the only pledges members of Congress or even the president should ever affirm.

But, unfortunately, since 1986 hundreds of men and women elected to serve in Congress have been persuaded to sign other single-interest pledges that conflict with the faithful discharge of their official duties. Today, for example, more than a majority of the House of Representatives — 238 members —and more than 41 senators have signed a pledge to oppose any increase in taxes.

Sadly, there are other pledges to protect Social Security and Medicare, the Cut, Cap and Balance pledge, the Republican Party's pledge to America, and many others including pledges involving energy policy based on climate change and abortion.

The so-called Taxpayer Protection Pledge of Americans for Tax Reform has become a major obstacle to the development of a balanced plan to reduce federal deficit spending. It's a primary reason Congress and the Obama administration had to surrender in August and appoint a 12-member Super Committee that in turn failed to agree on $1.2 trillion in deficit reductions.

No wonder, half the members of that committee were pledged not to do anything that would have the impact of raising taxes, thus preventing them from even considering all the options on the revenue-producing along with the cost-cutting side of the ledger.

Helping members and candidates reject the pressure to sign no-tax and other restrictive pledges is one of a dozen steps in a Make Congress Work agenda proposed by the congressional-reform organization No Labels (nolabels.org), to make Congress work. All the proposals to fix a broken Congress could be implemented almost immediately by Congress.

Of course, candidates for public office have the right to make and sign such a pledge before or after taking office. They don't give up their right to free speech when they become members of Congress.

But they have at least the moral obligation to maintain the intellectual integrity to consider all possibilities to solve the problems they will encounter. They are obligated to discuss their ideas and plans when campaigning for their constituents' support. But they should be careful to avoid pre-empting tomorrow's solutions because of today's circumstances.

Avoiding special-interest pledges could be considered and enforced by Congress as a standard of conduct for its members.

Members must realize they are tying their hands behind their backs, placing promising options out of reach as they struggle to solve one of the most pressing problems of our times — controlling federal budget deficits. They are delegating their decision-making responsibilities to single-issue special interests. They are subjecting themselves and their constituents to the whimsical interpretations and perspectives of anonymously funded special interests with one purpose in mind — their own.

In today's world, public officials need to have their hands, and minds, free to consider all the evidence, to evaluate all the options, to react swiftly, resourcefully and innovatively to emergencies, complex and unforeseen situations and circumstances. They can't do that in virtual handcuffs.

Ron Shaich, a No Labels co-founder, is the founder and executive chairman of Panera Bread Company.

http://bostonherald.com/news/opinion/op_ed/view/2011_1226leaders_pass_on_pledges

Time for up-or-down votes in Senate on appointees

By: Bill Galston and Mark McKinnon

The Hill

January 17, 2012

Earlier this month, President Obama used his recess-appointment power to install Richard Cordray as the head of the Consumer Financial Protection Bureau, and to place three members on the National Labor Relations Board.

It should not have come to this. The Senate is supposed to "advise and consent" on all presidential nominees. But in recent years, senators have made a mockery of the nomination process, refusing to vote on many presidential appointees and rejecting others for reasons that have nothing to do with their qualifications.

Despite howls of outrage from senators about abuses of presidential power and constitutional controversy among legal experts, one should not be shocked by what the president did. Faced with a new consumer bureau that had been leaderless for seven months and a labor board that didn't even have enough members to form a quorum, the president concluded that he had little choice.

We've been down this road many times before. As of late 2011, more than 200 presidentially appointed positions remained unfilled, reflecting the new normal that old Senate rules — combined with increased partisanship — make even the most routine confirmation vote a dogfight.

Although Republican senators were clearly the obstructionists in this case, the problem crosses party lines. During former President George W. Bush's administration, Democrats also embraced filibusters and legislative trickery to thwart the confirmation of his nominees.

Needless to say, an incredibly partisan nomination process — focused on exploiting loopholes in the Senate rulebook — was not what the Founders meant by "advise and consent." Writing in the Federalist Papers, Alexander Hamilton hoped that when reviewing presidential appointees, the

Senate would avoid conflicts of interest — and never reject a nominee "where there were not special and strong reasons for the refusal."

Hamilton's hopes have been dashed. In some cases, a minority of senators band together to filibuster consideration of a nominee. In others, a single senator exercising a "hold" can derail an appointment. In one notorious example from 2010, one senator placed an anonymous hold on more than 70 nominations in order to gain political leverage and secure more federal funding for his state.

These nomination fights are often portrayed in the media purely as power struggles between the president and the Senate. But they also leave key government agencies undermanned at a time when our nation faces significant challenges.

For example, the directorship of the Federal Emergency Management Agency (FEMA) was still unfilled five months into President Obama's administration. The sheer number of federal judgeships blocked has prompted legal reform groups to declare a "vacancy emergency" in our courts. And at Treasury — where many key officials remain unconfirmed — Secretary Timothy Geithner said that Senate obstruction is impeding the department's ability to monitor the financial system.

It seems that preventing the critical business of our government has become business as usual for Congress.

But there is a solution to this problem. No Labels — the group of Democrats, Republicans and independents that we co-founded to help make American government work — has recently released a proposal to fix the presidential nomination process.

The No Labels proposal is simple: All presidential nominations should be confirmed or rejected within 90 days of a nomination with all forms and background checks completed being received by the Senate. This time frame includes both committee and floor action. If a nominee's name is not put to an up-or-down vote within 90 days, the nominee would be confirmed by default.

The proposal doesn't require a new law. It simply requires a change of Senate rules, which can be adopted the day the 113th Congress convenes in January 2013.

The No Labels "Up-or-Down Vote on Presidential Appointments" proposal is just one of a dozen proposals featured in our Make Congress Work! action plan. These proposals — ranging from fixing the filibuster to withholding congressional pay if budgets aren't passed on time — can have an immediate, positive impact on solving America's national challenges.

Although the American people will be justifiably focused on the 2012 elections, these elections will be no panacea. If we don't fix the outdated rules, procedures and traditions that govern Congress and make it impossible for anything to get done, we'll be in for more polarization and gridlock when the next Congress is seated in 2013.

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The two of us might not agree on who should be representing us in Congress. But we're in total agreement that the place itself needs to be fixed, and the broken presidential nomination process is a great place to start.

Galston and McKinnon are co-founders of No Labels. Galston is a senior fellow in governance studies at the Brookings Institution. McKinnon served as senior adviser to former President George W. Bush.

http://thehill.com/opinion/op-ed/204705-time-for-up-or-down-votes-on-appointees

Bangor Daily News

No budget, no pay

By: Eliot Cutler

Bangor Daily News

February 7, 2012

When I was growing up in Bangor, I learned the value of hard work, the importance of community and the responsibility of public service.

These are simple, common sense values that many of our leaders in Washington seem to have forgotten. If you've got a job to do, you do it. If you have a deadline, you meet it. When people are depending on you, you do your absolute best not to let them down.

This past October, for the third year in a row, Congress did not abide by these simple values, beginning another fiscal year without a budget in place. In fact, it has been nearly 1,000 days since Congress passed a concurrent budget resolution. That's over three years without a clear fiscal plan to guide our nation into an increasingly difficult future.

It obviously isn't enough to just talk about the need for bipartisan cooperation. We've all done that until we're blue in the face, and they aren't listening. Clearly, Congress needs more meaningful incentives to do its job, set priorities and pass a budget on time.

OK. If they can't do their job, then they shouldn't be paid.

This basic concept is the foundation of the No Budget, No Pay Act introduced in the House of Representatives and Senate in December. The bill will go before the Senate Homeland Security and Government Affairs committee, on which Sen. Susan Collins is the senior Republican, on March 7.

The No Budget, No Pay Act is one of a dozen proposals by the citizen-based congressional reform organization, No Labels (NoLabels.org), which advocates for common sense solutions to make a gridlocked and hyperpartisan Congress work.

At a time of economic struggle, we need our government leaders — in both Washington and Augusta — to put aside partisan point scoring and focus on getting the job done.

Congress had a job to do, but didn't do it. Members had a deadline, but they didn't meet it. The nation is depending on them, but members of Congress let them down.

When I worked at the White House Office of Management and Budget, my colleagues and I knew we had to make tough decisions about where to spend and where to invest, when to cut and when to say no. In preparing the federal budget we made those tough choices, and in these tough economic times, Congress must begin to do the same.

It's time to let Congress know we are ready to hold them accountable to do their civic duty.

Sen. Collins is a member of the Homeland Security and Government Affairs committee and a leading voice on this issue. Please let her and Sen. Olympia Snowe and Rep. Chellie Pingree know that you support No Budget, No Pay (Rep. Mike Michaud is already a co-sponsor) and go to nolabels.org to ask them to support the measure and attend the hearing on March 14.

http://bangordailynews.com/2012/02/07/opinion/contributors/no-budget-no-pay/

THE PLAIN DEALER

No budget? No pay. According to two former U.S. senators, if Congress can't pass a spending bill, members shouldn't collect a paycheck

Senator Evan Bayh & Senator George Voinovich
February 26, 2012

While we were public servants, our constituents counted on us to represent them well in Washington. It was our job to deliver to the best of our abilities.

Unfortunately, both today and while we were in office, Congress has simply been unable to deliver on one of its most fundamental responsibilities -- passing, on time, the spending bills necessary to fund and run the government.

It has been more than 1,000 days since Congress last passed a budget on time, and well over a decade since it did so with all appropriations bills.

While in office, we were paid regardless of whether we passed a budget, let alone on time. We were paid whether or not we did our jobs, and this is simply not right. Citizens don't get paid if they can't do their jobs, and neither should Congress.

This is the basic concept behind the bipartisan No Budget, No Pay Act, which is to receive a hearing from the Senate Homeland Security and Governmental Affairs Committee on March 14.

No Budget, No Pay holds members of Congress accountable for doing their job on time. If Congress doesn't pass a budget and spending plan by Oct. 1, members will not be paid until all spending bills are completed and sent to the president.

The No Budget, No Pay Act is one of a dozen proposals designed to fix congressional dysfunction by No Labels (NoLabels.org), a group of Republicans, Democrats and independents dedicated to making American government work again.

As former governors of neighboring states, we were obligated to present and execute a budget. Both of us worked with our opposing party to ensure that this most basic function of government got done.

Unfortunately, our experiences in the Statehouse were not replicated in Washington. In two terms in the Senate, we saw both the very best and very worst Washington had to offer. While a number of senators worked in good faith across the aisle, it was akin to

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pushing a boulder up a mountain. Various interests rewarded allegiance to ideology and encouraged members to remain in their partisan corners.

Members struggle to accomplish anything in this system, and the failure of Congress to pass a budget has tangible, negative impacts across America. When spending bills aren't passed, Congress must either shut down the government or rely on temporary spending legislation. We watched these stopgap measures create uncertainty and inefficiency in the federal government, hurting agencies' ability to effectively plan for the future and costing taxpayers additional money.

Uncertainty in the budgeting process has lasting consequences. It affected our veterans when the Veterans Health Administration was forced to delay hundreds of millions of dollars in repairs to veterans' hospitals.

The lack of a binding budget affected the health and wellness of our society when the Food and Drug Administration was unable to hire and train enough people to perform safety inspections. And in 2011, the National Institutes of Health had to postpone grants for cutting-edge medical research.

Just this past year, budget uncertainty caused the Department of Defense to delay critical maintenance of Humvees and cancel research on next-generation weapons systems.

Budget uncertainty also fuels dysfunction when, instead of a binding budget, Congress must resort to enormous end-of-year omnibus spending bills to continue funding critical initiatives. Members are forced to vote for a veritable kitchen sink of unnecessary provisions in order to fund the necessary programs in the bill.

The persistent failure of Congress to pass a budget remains as unacceptable today as when we were in Congress. Our constituents sent us to Washington to do the work of the American people, and systemic gridlock has harmed the very people we were sent to represent.

The American people have sent a message, and it's time their public servants in Congress heard it. Only 9 percent approve of the job Congress is doing, while 88 percent support the No Budget, No Pay initiative, according to a recent No Labels poll.

To begin to truly change Washington, we need to pass the No Budget, No Pay Act into law. While the bill may not be a cure-all for congressional dysfunction, it's a good place to start. Call your senator or member of Congress. Raise this issue with anyone running for Congress this year. Let them know you support No Budget, No Pay and ask them to co-sponsor the bill.

George Voinovich is a former Republican senator and governor of Ohio. Evan Bayh is a former Democratic senator and governor of Indiana.

http://www.cleveland.com/opinion/index.ssf/2012/02/no_budget_no_pay_according_to.html

Fixing What's Wrong with U.S. Politics

By: David Moss, Massachusetts

March 2012

Are American politics broken? A recent survey of Harvard Business School alumni suggests that the answer may be yes, and that the troubled political environment could be among the most important threats to U.S. competitiveness. When asked about 17 elements of the business environment in a survey on U.S. competitiveness, 60% of alumni said the "effectiveness of the political system" was worse in the United States than in other advanced economies. Only the "complexity of the tax code," which received poor marks from 61% of those surveyed, was viewed more negatively.

What accounts for their concern? Research on the American political system shows that the Congress now is more divided than ever, pulled apart by two starkly different conceptions of government. Many in the media and in Congress complain that the nation's politics have become too ideological. Congressman Jeb Hensarling, for instance, the co-chair of the supercommittee set up to trim the budget deficit, has declared that "the committee did not succeed because we could not bridge the gap between two dramatically competing visions of the role government should play in a free society."

Yet despite much hand-wringing about the ideological divide, it's not clear that it is the true source of the breakdown. Look closely at U.S. history, and you'll see that deep philosophical differences aren't new and that some of the most ideologically charged periods produced important policy advances, often delivering the best ideas from both sides. In fact, America's economic success may be partly attributable to this best-of-both dynamic.

The real problem with American politics is the growing tendency among politicians to pursue victory above all else—to treat politics as war—which runs counter to basic democratic values and may be crippling Washington's ability to reach solutions that capture the smartest thinking of both camps. Revitalizing the nation's culture of democracy is essential. And because the economic stakes are so high, business leaders must play an important role in the process.

A Long History of Rancor

Political campaigns in America have always been a contact sport. During the presidential election of 1800, for example, James Callender, one of Thomas Jefferson's agents, declared the incumbent president, John Adams, to be a "hideous hermaphroditical character, which has neither the force of a man, nor the gentleness and sensibility of a woman." Jefferson weathered similar attacks, including one on his religious beliefs, which described him as a person "who makes not even a profession of Christianity; who is without Sabbaths; without the sanctuary, and without so much as a decent external respect for the faith and worship of Christians."

Although the campaign of 1800 was unusually personal and bitter, extreme partisan attacks resurfaced regularly in elections. Entire books, such as David Mark's Going Dirty: The Art of Negative

Campaigning, have chronicled the no-holds-barred tactics that American politicians used in the past. Indeed, such accounts often make present-day campaigns appear tame by comparison.

What's different now has less to do with how America's politicians campaign than how they govern. Voting in Congress is the most polarized it has been in well over a hundred years. Although the voting patterns of members of the two political parties saw some overlap for much of the 20th century—moderate Republicans often voted to the left of the most conservative Democrats—the overlap has all but disappeared.

The political scientists Nolan McCarty, Keith T. Poole, and Howard Rosenthal uncovered this shift by tracking votes cast in Congress. They found that the mean ideological difference between the two parties started rising sharply around 1979 and is now at an all-time high in the House and close to that in the Senate. (See the exhibit "A Divided Congress.") The evidence is plain to see. Consider that the U.S. Congress passed the laws creating Social Security and Medicare with large bipartisan majorities in 1935 and 1965, respectively, but the Obama Administration's Patient Protection and Affordable Care Act of 2010 barely squeaked through, without a single Republican voting in favor of it.

Unfortunately, there is no consensus on what's driving this increased polarization. Analysts point to everything from the rising role of money in politics to partisan gerrymandering to changes in the way news is covered in the age of cable television and the internet. But whatever the case, it is probably useless to focus on any single cause at this stage because many factors are now at play, all reinforcing one another. The phenomenon seems to have taken on a life of its own, and it is threatening the nation's capacity to solve critical problems, from employment to energy to entitlements to education.

What makes this especially distressing is that the ideological divide over the government's role, seemingly so destructive today, has historically been one of the most constructive features of American political life.

Competition That Spurred Progress

The clash between competing philosophies of government is as old as America itself (it was already visible, for example, in the grand debates between Thomas Jefferson and Alexander Hamilton). There are two archetypal views. One rests on a deep skepticism about government, particularly the federal government—a sense that it is inefficient, invasive, and easily corrupted, and that its involvement in private activity is often corrosive. The other embodies a pragmatic faith in government's power to serve society—a conviction that it can be harnessed for good and that the public sector, however imperfect, can be deployed to solve problems that individuals and private corporations have trouble solving on their own.

While the rivalry between these two broad philosophies has been vigorous for centuries, it has often proved highly productive. Take the long-standing debate over whether government should be more or less active in the economy. In many cases, the answer policy makers arrived at was not more government or less, but both more and less, targeted in the right ways. In the 1840s, when the politicians most skeptical of government were pushing for fiscal retrenchment and balanced budget provisions in the wake of a financial crisis, those with greater confidence in government were demanding free public schooling, which amounted to a government takeover of primary education. In the end most American states put in place both balanced budget provisions and free public education.

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American history is full of such examples of constructive competition. Although Jefferson and Hamilton personified important elements of the two opposing philosophies, both served in the cabinet of President George Washington and were able to put aside their differences and broker deals when necessary, notably in managing the national debt when America's finances were still shaky. The philosophies often became intertwined in other policy issues—from early broadcast regulation, when the government nationalized the airwaves but left broadcasting almost entirely in private hands, to New Deal financial legislation, which regulated commercial banks with a heavy hand but exerted a relatively lighter touch over the rest of the financial system.

Perhaps the most remarkable example involves the struggle between protectionists and free traders. For much of its early history, the United States promoted the growth of its industries by instituting tariffs and other forms of protection. Unlike other developing countries, however, it usually reduced tariffs after its infant industries had matured. This helped prevent companies from becoming complacent and slow as a result of continued protection. The competition between rival philosophies—especially between the protectionists in the North and free traders in the South—made permanent protection impossible. The rough balance of power ensured a distinctive mix of policies over the long term: not moderate tariffs all the time, but high tariffs during early industrialization and low tariffs in later periods.

The Descent into Take-No-Prisoners Politics

However, the fierce competition between opposing views of government may now be degenerating into something toxic. Policy making in America is approaching all-out war, where victory is paramount, "compromise" is a dirty word, and virtually any issue or development can become a weapon for bludgeoning the other side.

The premium placed on ideological purity and the desire to win at any cost are dangerous trends—almost Leninist in their orientation, according to MIT's Stephen Van Evera, a distinguished political scientist. In 1924, Victor Chernov, a political rival of Vladimir Lenin, wrote in Foreign Affairs: "Politics to him meant strategy, pure and simple. Victory was the only commandment to observe; the will to rule and to carry through a political program without compromise, that was the only virtue; hesitation, that was the only crime." For Lenin, he continued, "politics is disguised war [and] the rules of war constitute its principles."

This absolutist approach to politics feels disturbingly familiar in America today. The fervor to win too often appears to trump everything else—including respect for opponents, the integrity of institutions, and even the health of the democracy itself. The idea of allowing each side to win part of its agenda is increasingly seen as tantamount to surrender in many quarters.

This dangerous turn in U.S. politics became particularly evident during the debt-ceiling crisis of July 2011, when the federal government came perilously close to defaulting on its obligations. Some politicians even suggested that a government default or shutdown would be less damaging than compromise. "It's an inconvenience, it would be frustrating to many, many people, and it's not a great thing," one Senate candidate warned just before being elected in 2010. "At the same time, it's not something that we can rule out. It may be absolutely necessary."

Though the crisis was resolved (for the short term) at the 11th hour, Standard & Poor's downgraded the U.S. credit rating from AAA to AA+ just days later. Voicing its sense of alarm over the "political brinksmanship of recent months," the ratings agency explained that "the downgrade reflects our view that the effectiveness, stability, and predictability of American policymaking and political institutions have weakened...." To Standard & Poor's and many others, American politics had radically changed.

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Standing Up for Democracy

It's impossible to know just yet if American politics have truly gone astray. Years from now people may marvel at how the U.S. political system, seemingly at war with itself, managed to carry the nation successfully through a most difficult period. But it's also possible that they will look back and wonder how the country allowed bad politics to undercut a mighty economy. It seems reasonable, therefore, to start looking for ways to strengthen the political system.

What's needed is something basic but demanding: a renewed sense of commitment to the health of the democracy—above party, economic interest, and ideology. That's critical because the competition between opposing views of government seems to prove most fruitful when it takes place in the context of such a shared commitment: Disagreements may be intense, but they are taken only so far—as in a family. Revitalizing America's culture of democracy is essential. Everyone has a role to play, but business leaders can take four steps to make a difference:

Speak out for democracy. CEOs should make it clear at every turn that a vibrant republic is the foundation of a strong economy, and that all Americans—including business leaders—must be careful not to let their zeal for winning overshadow their commitment to the integrity of the political process.

Clarify public priorities. CEOs should build a bipartisan council on public priorities. The goal should be not merely to split the difference between liberals and conservatives but to help each side articulate its highest priorities, with an eye toward facilitating the implementation of the best of both over time.

Invest in history. Business leaders should promote a deeper understanding of how American democracy functioned in the past. The effort could involve everything from funding new research on the history of American democracy to sponsoring educational television programs, lecture series, and book clubs.

Stand up for civics. Business leaders should urge public officials—and the public at large—to restore civics to its rightful place in the classroom. Data show that many schools fail to effectively teach the workings of U.S. democracy or the responsibilities that go with citizenship. Just as America cannot be globally competitive without a well-educated workforce, it cannot retain its economic edge without a well-educated electorate that is ready to meet the relentless challenges of democratic governance.

There's nothing wrong with competing views of government. They have served the United States well in the past. For the competition to prove constructive, however, Americans need to remind themselves that the nation's progress has been rooted in two great philosophies of government, not one. Putting the health of the democracy first is the surest way to get the best of both.

http://hbr.org/2012/03/fixing-whats-wrong-with-us-politics/ar/1

Roll Call

Voinovich: In Defense of No Labels' 'No Budget, No Pay'

By George Voinovich

Roll Call

March 29, 2012

I was pleased that Norman Ornstein, one of America's foremost Congressional reform experts, gave credibility in his recent Roll Call article to most of No Labels' 12-point Make Congress Work! action plan. The goal of No Labels, a bipartisan group, is to get government back on track by adopting 12 simple reforms that would break the gridlock and hyperpartisanship in Congress.

For example, No Labels is proposing common-sense proposals such as filibuster reform, up-or-down votes for presidential appointments within 90 days and synchronizing the schedules of House and Senate Members so that they are actually in Washington, D.C., at the same time.

I was disappointed, however, that Ornstein gave short shrift to one of the recommendations: "no budget, no pay."

The proposal has attracted widespread support elsewhere. Nearly 50 respected Members of the House and Senate have co-sponsored the legislation, and the Senate Homeland Security and Governmental Affairs Committee recently held a hearing on the bill and the larger No Labels agenda.

I respect Ornstein greatly, and thus would like to address some of his concerns with the proposal.

To me, the argument that this bill would discourage people from running for Congress simply does not hold water. Members of Congress are paid $174,000 a year and receive generous retirement, medical, travel and other benefits. Can you imagine a person who is considering running for the House or Senate saying, "I'm not going to run because if I don't do my job, I won't get paid?"

Ornstein equates cutting lawmakers' pay with "perks" of the office. However, pay is more than simply a perk — it is an agreement for compensation between the public and its representatives for serving the country. This bill therefore presumes that we can expect some work performance from Members before they are paid in the same way we expect it from other public- and private-sector workers — teachers, plumbers, firefighters and others.

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Another concern Ornstein raises is that only so many Members of Congress have the power to bring a budget to the floor. Yes, that point is factually accurate, but it skips over a simple truth. Right now, there is not nearly enough of an incentive for Members of either side of the aisle to put pressure, public or private, on their leaders to bring to the floor a budget and appropriations bills that could attract bipartisan support and pass Congress.

When it comes to running the Senate and the House, majority and minority leaders need to listen to each Member in their respective chamber — whether rich or poor. They are elected by both rich and poor to those posts, and if they want to keep those posts, they will not want to put any Members in the position to lose their pay. Do you really believe that the leaders in each chamber will not be concerned about the livelihood of all Members when they take actions to pass the budget and 12 appropriations bills?

Additionally, one of the points of the legislation is to ensure that all Senators and House Members have "skin in the game" when it comes to the budget and appropriations bills being done on time. All Members should take an interest in this most fundamental role of Congress. "No budget, no pay" would incentivize more Members to get engaged to make the entire budget and appropriations process work again.

For years, many of us have decried that Congress did not carry out its No. 1 responsibility: to pass a budget and complete appropriations by Oct. 1, the beginning of the federal fiscal year. As a matter of fact, in 2009, I asked the Government Accountability Office to do a study on the negative effect of continuing resolutions. In the past 30 years, all but three fiscal years have seen CRs enacted at some point. I encourage Ornstein and everyone else to read the report.

As one of the findings from the GAO report suggests, "Agencies have experienced managing problems within the funding constraints and uncertainty of CRs and use methods within their available authorities. However, there is no easy way to avoid or completely mitigate the effects of CRs on agency operations."

To name one specific example out of many: In the past, the problems created by CRs led the Veterans Health Administration to delay hundreds of millions of dollars in repairs to veterans hospitals.

It's time to face the facts. There is no question that CRs contribute to waste, fraud and abuse and mismanagement of the federal government, and as a longtime Senate debt hawk, I believe our failure to pass a budget and appropriations bills has led to the fiscal crisis we are now experiencing. To change the outcomes, we need to change the incentives. That's why I strongly support No Labels and the "no budget, no pay" proposal. I encourage Norman Ornstein to do the same.

Republican George Voinovich served two terms in the Senate and two terms as governor of Ohio.

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March 27, 2012

Senator Joe Lieberman & Senator Susan Collins
Chairman & Ranking Member
Senate Homeland Security and Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman & Madam Ranking Member,

We would like to clear up a factual error from the hearing on March 14, 2012, "Raising the Bar for Congress: Reform Proposals for the 21st Century," which focused on S. 1981, the "No Budget, No Pay Act."

Specifically, we would like to correct an inaccurate statement made by Donald Wolfensberger of the Woodrow Wilson Center, a witness on the second panel. During the question and answer period following his panel's testimony, he offered three scenarios which, in his words, "would really be bad." With his second example, he proffered a situation in which the budget and all appropriations bills are passed on time by both houses and delivered to the president, but the president vetoes some of the bills. Under this set of circumstances, he implied, members' pay would be withheld.

This is simply incorrect. Under S. 1981, if Congress does its job by approving a concurrent resolution on the budget and "passing all the regular appropriations bills for the next fiscal year by October 1 of that fiscal year..." then pay will not be withheld. The bill does not provide for a scenario in which the president vetoes one or more of the bills, because the goal is simply to get Congress to meet its deadlines and do its job.

We respectfully request that this letter be made a part of the hearing record.

Thank you again for holding the hearing. As an organization, we continue to enjoy enormous positive feedback and remain grateful for the opportunity to publicly discuss these very important issues.

We look forward to working with both of you.

Sincerely,

(Digital Signature)

Bill Galston & Tom Davis
Co-Founders, No Labels

Post-Hearing Questions for the Record
Submitted to the Honorable Thomas M. Davis
From Senator Susan M. Collins

"Raising the Bar for Congress: Reform Proposals for the 21st Century"
March 14, 2012

1. One of the No Labels proposals calls on members of Congress to take no pledge but the Oath of Office and the Pledge of Allegiance. As I mentioned at the hearing, I happen to follow that rule. For example, I am one of very few Republicans who did not sign the Grover Norquist No-Tax pledge. Nonetheless, I believe the decision on whether to sign or not sign on to a pledge is an individual choice.

   a. Every campaign is inundated with requested pledges, but only a few obtain notoriety, such as Mr. Norquist's pledge. One criticism of the No Label proposal is that it appears to be motivated primarily by a dislike of certain pledges. How would you respond to such criticism?

   Response:

   Pledges are promises to voters to vote in a certain way. The pledge has proved to be a way candidates can identify themselves to voter blocs concerned about a given issue, that they will be an unyielding ally, and uncompromising friend and a reliable vote on a certain issue. Voters who believe strongly in a given issue can then, hopefully, rely on that candidate to champion their cause.

   On the service, this makes perfect sense. However, in a fast-changing world, a Balance of Powers government and in a political body where comity, cooperation, and compromise are lubricants essential to Legislative output, these pledges have led to gridlock, division and dysfunction.

   How long does a pledge last? Some purveyors of the pledge will say forever. In a fast paced Legislative environment what if two pledges conflict? What about changing circumstances?

   Over the past decade the proliferation of pledges has led to intense drawing of lines and legislative stand offs. When two conferees sit across the table and one has pledged never to cut entitlements, and another says I will never cut taxes (and both may have pledged to Balance the Budget), there is really not much to talk about. The most important pledge member's sign is to uphold the Constitution and the Oath of Office.

   Pledges that result in record deficits; gridlock and disrespect for the Institution have to be re-examined in light of new realities and changing circumstances. "My way or the Highway" is the essence of pledges on certain issues.

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Rather than target the Interest Groups that present these pledges to voters, we need politicians with the experience and judgment not to sign every paper put in front of them just because it gets them some short term votes.

b. Although this push to curb pledges may not in a strict legal sense violate the Constitution, it is arguably inconsistent with the spirit of the First Amendment's right to free speech and association. How would you respond to criticisms that this proposal impinges on the First Amendment, or the spirit of the First Amendment?

Response:

The push to curb pledges just offers a counter weight to the powerful push to sign pledges. The Constitution allows pledges (as it should). No Labels is an effort to educate voters that all of the pledge signing simply limits governments' ability to function adequately, and is in large part responsible for Congress's inability to address issues like immigration, energy policy and the deficit. Educating voters to not reward pledges, but to be suspicious of pledge signers, will hopefully translate into candidates realizing they will lose more votes than gain votes by signing them.

Ours is a political exercise, not an institutional innovation. I personally feel we need more leaders like the British Statesman Edmond Burke, who said to his constituents at Bristol:

> *"Certainly, gentleman, it ought to be the happiness and glory of a representative to live in strictest union, the closest correspondence and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs – above all, ever, and in all cases, to prefer their interest to his own.*
>
> *But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure, no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."*

Of course, Burke lost his next election. But I would ask, who remembers who defeated him? Burke's statesmanship has prevailed in history.

So, I asked my House colleagues who said on TARP, "I hope it passes, but I can't vote for it". Why are you here? Do you want to be remembered as someone who accomplished something for the country or someone who just got re-elected?

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Post-Hearing Questions for the Record
Submitted to Bill Galston
From Senator Susan M. Collins

"Raising the Bar for Congress: Reform Proposals for the 21st Century"
March 14, 2012

1. One of the No Labels proposals calls on members of Congress to take no pledge but the Oath of Office and the Pledge of Allegiance. As I mentioned at the hearing, I happen to follow that rule. For example, I am one of very few Republicans who did not sign the Grover Norquist No-Tax pledge. Nonetheless, I believe the decision on whether to sign or not sign on to a pledge is an individual choice.

   a. Every campaign is inundated with requested pledges, but only a few obtain notoriety, such as Mr. Norquist's pledge. One criticism of the No Labels proposal is that it appears to be motivated primarily by a dislike of certain pledges. How would you respond to such criticism?

      No Labels' "No Pledge but the Oath of Office" proposal is not targeted at any particular pledge or party. In fact, Republicans and Democrats are both asked to sign such pledges concerning a variety of issues. .

      For example, 238 House members have signed Mr. Norquist's pledge to never raise taxes. Another 110 members have signed a pledge to never cut any Social Security benefits. That's 80% of Congress refusing to even consider compromise on two of the biggest issues driving America's long-term budget deficits.

      Every pledge signed by a member of Congress represents one more issue where there will be no room for deliberation or cooperation. The cumulative effect of taking all these issues off the table is gridlock, which is one of the chief problems against which No Labels is fighting.

   b. Although this push to curb pledges may not in a strict legal sense violate the Constitution, it is arguably inconsistent with the spirit of the First Amendment's right to free speech and association. How would you respond to criticisms that this proposal impinges on the First Amendment, or the spirit of the First Amendment?

      The No Labels' "No Pledge but the Oath of Office" is actually very much in the spirit of the First Amendment. There is a crucial distinction between the rights we possess and the use we make of those rights. If candidates or elected officials want to bind themselves with pledges, that is their constitutional right, and there is nothing in our proposal that abridges it. We believe, however, that they should choose not to exercise their free speech right in that manner, because doing so is inconsistent with their responsibility to their constituents and with their constitutional responsibility to promote the general welfare. The purpose of our proposal is to persuade candidates and elected officials that they will best fulfill those duties by avoiding pledges. Efforts to persuade are not violations of the First Amendment, but rather examples of it.

Post-Hearing Questions for the Record
Submitted to Donald R. Wolfensberger
From Senator Susan M. Collins

"Raising the Bar for Congress: Reform Proposals for the 21st Century"
March 14, 2012

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Response by Donald R. Wolfensberger:

The No Labels organization has proposed that "Members should make no pledge but the pledge of allegiance and their formal oath of office." The noun, pledge is defined as "a binding promise or agreement to do or forbear;" and, as a verb, "to promise the performance of" something. Since the group has indicated the only reform proposal in its 12-point package ("Make Congress Work") that would require a change in law is the "no budget, no pay" proposal, one must assume the "no pledge" proposal will either be implemented by a voluntary agreement by Members not to make pledges, or by some form of binding rule of the House and Senate. [1]

If the former, it becomes a contradiction in terms or self-violating mechanism, since Members, or first-time candidates for Congress, would be asked to take a pledge not to take pledges (thereby violating the "no pledge" pledge). If the latter, it's hard to see how it might be enforced on first-time candidates for the House or Senate since House and Senate rules only apply to sitting Members. But, assuming either body might retroactively enforce its rules on a new Members once elected, how would it go about doing so? Or, for that matter, how would it go about enforcing the rule against incumbent Members? The only two examples of "perverse" pledges cited in the No Labels "Action Plan" are the "no tax" and no social security benefit cuts pledges. Does one charge a violation of the rule if a Member votes against a tax or social security benefit cut and that Member is on record as signing such a pledge? That presents the anomalous situation of a politician being charged with keeping a promise.

The question is raised as to whether the "no pledge" pledge violates the First Amendment of the Constitution which prohibits the government from enacting any law "abridging the freedom of speech." Under Article I, sec. 5, clause 2 of the Constitution, each house has the power to "determine the rules of its proceedings" and "punish is members for disorderly behavior," and the courts have generally steered clear of ruling on Congress's right to make and enforce its own rules. However, the Supreme Court has ruled, in *United States* v. *Ballin*, 144 U.S. 1, 5 (1892), that in exercising their rulemaking power under the Constitution, the houses of Congress may not "ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and result which is sought to be attained. But within those limitations all matters of method are open to the determination of the House...."

Applying that principle in *Christoffel* v. *United States* 338 U.S. 84 (1949), the Court reversed a perjury conviction against a witness before Congress, on grounds a quorum, as prescribed by the rules, was not present in the committee at the time the perjury was committed. It is clear that each house may prescribe limitations on the free speech of Members in order to preserve decorum and orderly proceedings without violating the first amendment, since each house may punish and even expel Members for disorderly behavior, however defined by the rules and precedents. It is doubtful, however, that the rules of decorum in debate, as limits on free speech, can extend to Members' conduct and speech outside committee and floor debates; and it is certainly doubtful that a rule of either body can extend to the ability of a Member/candidate to make promises to the voters—whether those promises are prompted by or designed to appease organized interest groups, i.e., constituencies. Such a rule, for instance, would presumably forbid a candidate for Congress from making any of the following pledges: "I promise to represent the people of this congressional district to the best of my ability;" "I promise not to use my official office for personal gain;" "I promise to act and vote in the Congress to protect the environment;" "I promise to protect the lives of the unborn:" or, alternatively, "I promise to protect the right of a woman to choose."

The fact is that candidates for office attempt to build coalitions among organized coalitions within their districts as well as among individual voters to maximize their vote and win election. To put any restraints on Members' ability to define themselves as candidates and where they stand on issues and how they will vote strikes at the very heart of democracy's main tenets of free political thought, expression, choice and action. The No Labels "No pledge" pledge is antithetical to those basic tenets. It certainly violates the spirit if not the letter of the First Amendment's guarantee of free speech and association.

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[1] "A No Labels Action Plan to Change the Rules and Fix What's Broken" indicates that "there are four different mechanisms to turn the No Labels 'Make Congress Work' Proposals Into Reality," and these are designated by Codes of Conduct [CC] that would "simply require members of Congress to individually change their behavior;" Leadership [L] that can "be imposed by House or Senate leadership;" Rules Change [RC] that would "require a change of House and Senate rules;" and, Bill [B] that "require a new law to be passed by the House and Senate. The "No Pledge" proposal carries the designation "CC" for code of conduct. However, this presents some confusion as both the House and Senate have a "Code of Official Conduct" which is also part of their rules (for the Senate, Rules XXXIV-XLII; for the House, Rule XXIII). While many of the provisions imply voluntary compliance, they are still enforceable through the House and Senate ethics committees if allegations are lodged of their violation.