United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, WEDNESDAY, JANUARY 5, 2011 No. 1

Senate

The fifth day of January being the day prescribed by Public Law 111–289 for the meeting of the 1st Session of the 112th Congress, the Senate assembled in its Chamber at the Capitol and at 12:04 p.m. was called to order by the Vice President (Mr. BIDEN).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who has placed us here and gives us work to do at the opening of the 112th Congress, we pause to thank You for sustaining this Nation from generation to generation, in prosperity and in adversity. We praise You for this new year with its new horizons, fresh challenges, and high duties.

May the solemn induction of some of our lawmakers become the renewal of vows for all. Give our Senators the wisdom to exert their best efforts for the security of this land we love. In the words of the prophet Micah, may they do justly, love mercy, and walk humbly with You. Join them in heart, mind, and soul to build a better world.

Lord, guide by Your high wisdom the President, the Vice President, the Members of the Senate and the House of Representatives, that they may ever seek to know and do Your will.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The VICE PRESIDENT led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CERTIFICATES OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate one certificate of election to fulfill an unexpired term and the certificates of election for 34 Senators elected for 6-year terms beginning January 3, 2011. All certificates, the Chair is advised, are in the form suggested by the Senate or contain all essential requirements of the form suggested by the Senate. If there is no objection, the reading of the certificates will be waived and they will be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATE OF NEW HAMPSHIRE

Executive Department

To the President of the Senate of the United States:

This is to certify that on the second day of November, two thousand and ten Kelly Ayotte was duly chosen by the qualified electors of the State of New Hampshire to represent said State in the Senate of the United States for the term of six years beginning on the third day of January, two thousand and eleven.

Witness, His Excellency, Governor John H. Lynch and the Seal of State of New Hampshire hereto affixed at Concord, this seventeenth day of November, in the year of Our Lord two thousand and ten.

JOHN H. LYNCH,
Governor.

By the Governor, with advice of the Council:

WILLIAM M. GARDNER,
Secretary of State.

[State Seal Affixed]

STATE OF COLORADO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the Second day of November, 2010, Michael F. Bennet was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the Third day of January, 2011.

Witness: His Excellency our Governor Bill Ritter, Jr., and our seal hereto affixed at Denver, Colorado this Ninth day of December, in the year of our Lord 2010.

By the Governor:

BILL RITTER, Jr.,
Governor.
BERNIE BUESCHER,
Secretary of State.

[State Seal Affixed]

STATE OF CONNECTICUT

Executive Department

To the President of the Senate of the United States:

This is to Certify that on the second day of November, two thousand and ten Richard Blumenthal was duly chosen by the qualified electors of the State of Connecticut Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January two thousand and eleven.

Witness: Her Excellency our Governor; M. Jodi Rell and our seal hereto affixed at Hartford, this twenty-fourth day of November, in the year of our Lord two thousand ten.

M. JODI RELL,
Governor.
SUSAN BYSIEWICZ,
Secretary of the State.

[State Seal Affixed]

STATE OF MISSOURI

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Roy Blunt was duly chosen by the qualified electors of the State of Missouri a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His Excellency our Governor Jeremiah W. (Jay) Nixon, and our seal hereto affixed at the City of Jefferson this 1st day of December, in the year of our Lord 2010.

By the Governor:

JEREMIAH W. (JAY) NIXON,
Governor.
ROBIN CARNAHAN,
Secretary of State.

[State Seal Affixed]

STATE OF ARKANSAS

To the President of the Senate of the United States:

Know Ye, That Whereas, It appears that John Boozman was duly elected to the U.S. Senate, in and for the State of Arkansas at an election held on the second day of November, Two Thousand Ten.

Therefore, I, Mike Beebe, Governor of the State of Arkansas in the name and by authority of the people of the State of Arkansas, vested in me by the Constitution and the laws of said State do hereby certify that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

John Boozman was duly chosen by the qualified electors of the State of Arkansas to the office of U.S. Senate in and for the State of Arkansas for the term of six years, beginning on the 3rd of January, 2011.

Witness: His excellency our governor Mike Beebe, and our seal hereto affixed at Little Rock, Arkansas this 3rd day of December, in the year of our Lord 2010.

MIKE BEEBE,
Governor.
CHARLIE DANIELS,
Secretary of State.

[State Seal Affixed]

STATE OF CALIFORNIA

Executive Department

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Barbara Boxer was duly chosen by the qualified electors of the State of California as a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

In witness whereof I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 15th day of December, 2010.

ARNOLD SCHWARZENEGGER,
Governor of California.

Attest:

DEBRA BOWEN,
Secretary of State.

[State Seal Affixed]

STATE OF NORTH CAROLINA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Richard Burr was duly chosen by the qualified electors of the State of North Carolina, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

In Witness Whereof, I have hereunto signed my name and caused to be affixed the Great Seal of the State, at the Capital City of Raleigh, this the 8th day of December, 2010.

BEVERLY EAVES PERDUE,
Governor.
ELAINE F. MARSHALL,
Secretary of State.

[State Seal Affixed]

STATE OF INDIANA

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

Be it known by these presents:

Whereas, according to certified statements submitted by the Circuit Court Clerks of the several counties to the Election Division of the Office of the Secretary of State of Indiana, and based upon the tabulation of those statements performed by the Election Division, the canvass prepared by the Election Division states that at the General Election conducted on the second day of November, 2010, the electors chose Dan Coats to serve the People of the State of Indiana as United States Senator from Indiana

Now therefore, in the name of and by the authority of the State of Indiana, I certify the following in accordance with Title 2 United States Code Section 1:

To the President of the Senate of the United States:

This is to certify that on the second day of November 2010, Dan Coats was duly chosen by the qualified electors of the State of Indiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our Governor Mitchell E. Daniels, Jr, and our seal hereto affixed at Indianapolis, this the twenty-second day of November, in the year, 2010,

By the Governor:

M. E. DANIELS, Jr.,
Governor.

Attest:

TODD ROKITA,
Secretary of State.

[State Seal Affixed]

STATE OF OKLAHOMA

Office of the Secretary of State

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Tom Coburn was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning of the 3d day of January, 2011.

Witness: His excellency our Governor Brad Henry, and our seal hereto affixed at Oklahoma City, Oklahoma this 18th day of November, in the year of our Lord 2010.

By the Governor:

BRAD HENRY,
Governor.
M. SUSAN SAVAGE,
Secretary of State.

[State Seal Affixed]

STATE OF IDAHO

Office of the Secretary of State

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Mike Crapo was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning of the 3d day of January, 2011.

Witness: His excellency our Governor C.L. ''Butch'' Otter, and our seal hereto affixed at Oklahoma City, Oklahoma this 17th day of November, in the year of our Lord 2010.

By the Governor:

C.L. ''BUTCH'' OTTER,
Governor.
BEN YSURSA,
Secretary of State.

[State Seal Affixed]

STATE OF SOUTH CAROLINA

By His Excellency

The Governor and Commander-In-Chief in and Over the State Aforesaid

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the Second Day of November, 2010, A.D. James W. DeMint was duly chosen by the qualified electors of the State of South Carolina, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the Third Day of January 2011.

Witness: His Excellency our Governor, Mark Sanford, and our Seal hereto affixed at Columbia, South Carolina this Seventeenth Day of November, in the Year of Our Lord, 2010.

MARK SANFORD,
Governor.
MARK HAMMOND,
Secretary of State.

[State Seal Affixed]

STATE OF NEW YORK

Executive Chamber

To the President of the United States:

This is to certify that on the second day of November, two thousand ten, Kirsten Gillibrand was duly chosen by the qualified electors of the State of New York a Senator for the unexpired term ending at noon on the third day of January, 2013, to fill the vacancy in the representation of such State in the Senate of the United States caused by the resignation of Hillary Rodham Clinton upon her appointment as Secretary of State.

Witness: His excellency our Governor David A. Paterson and our seal hereto affixed at Albany, New York this seventeenth day of December in the year two thousand ten.

By the Governor:

DAVID A. PATERSON,
Governor.
RUTH NOEMI COLON,
Secretary of State.

[State Seal Affixed]

STATE OF IOWA

Executive Department

In The Name and By The Authority of The State of Iowa

CERTIFICATE OF ELECTION TO THE SENATE OF THE UNITED STATES FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November 2010, Chuck Grassley was duly chosen by the qualified electors of the State of Iowa a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January 2011.

Witness: His excellency our Governor Chester J. Culver, and our seal hereto affixed at Des Moines this 29th day of November, in the year of our Lord two thousand ten.

CHESTER J. CULVER,
Governor of Iowa.

Attest:

MICHAEL A. MAURO,
Secretary of State.

[State Seal Affixed]

STATE OF NORTH DAKOTA

Secretary of State

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November 2010, John Hoeven was duly chosen by the qualified electors of the State of North Dakota to represent North Dakota in the Senate of the United States for the term of six years, beginning on the 3rd day of January 2011.

In witness whereof, we have set our hands at the Capitol City of Bismarck this 16th day of November 2010, and affixed the Great Seal of the State of North Dakota.

JOHN HOEVEN,
Govenor.
ALVIN A. JAEGER,
Secretary of State.
PENNY MILLER,
State Canvassing Board.

[State Seal Affixed]

STATE OF HAWAII

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the second day of November, 2010, Daniel K. Inouye was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United

States for the term of six years, beginning at noon on the 3rd day of January, 2011.

Witness, Her excellency our governor, Linda Lingle, and our seal hereto affixed at Honolulu this 22nd day of November, in the year of our Lord 2010.

By the governor:

LINDA LINGLE,
Governor.
SCOTT T. NAGO,
Chief Election Officer.

[State Seal Affixed]

STATE OF GEORGIA

By his Excellency Sonny Perdue, Governor of said state

To the honorable Johnny Isakson Greetings:

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Johnny Isakson was duly chosen by the qualified electors of the State of Georgia, a Senator from said State to represent said State in the Senate by the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our Governor Sonny Perdue, and the Great Seal of the State of Georgia hereto affixed at the Capitol, in the city of Atlanta, the ninth day of November, in the year of our Lord Two Thousand and Ten.

By the Governor,

SONNY PERDUE,
Governor.
BRIAN P. KEMP,
Secretary of State.

[State Seal Affixed]

STATE OF WISCONSIN

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to certify that on the 2nd of November, 2010, Ron Johnson was duly chosen by the qualified electors of the State of Wisconsin a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our governor Jim Doyle, and our seal hereto affixed at Madison this 2nd day of December 2010.

By the Governor:

JIM DOYLE,
Governor.
DOUGLAS LA FOLLETTE,
Secretary of State.

[State Seal Affixed]

STATE OF ILLINOIS

Executive Department

To the President of the Senate of the United States:

This is to Certify that on the Second day of November, Two Thousand and Ten, Mark Steven Kirk was duly chosen by the qualified electors of the State of Illinois a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, Two Thousand and Eleven.

Witness: His Excellency Our Governor, Pat Quinn, and our seal hereto affixed at the City of Springfield, Illinois, this Third day of December, in the year of our Lord Two Thousand and Ten.

By the Governor:

PAT QUINN,
Governor.
JESSE WHITE,
Secretary of State.

[State Seal Affixed]

STATE OF VERMONT

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Patrick Leahy was duly chosen by the qualified electors of the State of Vermont a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His Excellency our Governor, James H. Douglas, and our seal hereto affixed at Montpelier this 12th day of November, in the year of our Lord 2010.

JAMES H. DOUGLAS,
Governor.
DAVID M. CORIELL,
Secretary of Civil and Military Affairs.
DEBORAH L. MARKOWITZ,
Secretary of State.

[State Seal Affixed]

STATE OF UTAH

To the President of the Senate of the United States:

This is to certify that on the second day of November, 2010, Mike Lee was duly chosen by the qualified electors of the State of Utah a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January 2011.

Witness: His excellency our governor Gary R. Herbert, and our seal hereto affixed at Salt Lake city, this 22nd day of November, in the year of our Lord 2010.

GARY R. HERBERT,
Governor.
GREG BELL,
Lieutenant Governor.

[State Seal Affixed]

STATE OF ARIZONA

Department of State

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November 2010, John McCain was duly chosen by the qualified electors of the State of Arizona a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd Day of January 2011.

Witness: Her excellency the Governor of Arizona, and the Great Seal of the State of Arizona hereto affixed at the Capitol in Phoenix this 29th day of November 2010.

JANICE K. BREWER,
Governor.
KEN BENNETT,
Secretary of State.

[State Seal Affixed]

STATE OF MARYLAND

Executive Department

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Barbara A. Mikulski was duly chosen by the qualified electors of the State of Maryland a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 2011.

Witness: His excellency our governor Martin O'Malley, and our seal hereto affixed at Annapolis, Maryland this 7th day of December, in the year or our Lord 2010.

By the governor:

MARTIN O'MALLEY,
Governor.

Attest:

JOHN P. MCDONOUGH,
Secretary of State.

[State Seal Affixed]

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Jerry Moran was duly chosen by the qualified electors of the state of Kansas, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January 2011.

Witness: His excellency our governor Mark Parkinson, and our seal hereto affixed at Topeka, Kansas this 29th day of November, in the year of our Lord 2010.

By the governor:

MARK PARKINSON,
Governor.
CHRIS BIGGS,
Secretary of State.

[State Seal Affixed]

STATE OF ALASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Lisa Murkowski was duly chosen by the qualified electors of the state of Alaska a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our governor Sean R. Parnell, and our seal hereto affixed at Juneau this 30th day of December, in the year of our Lord 2010.

By the Governor:

SEAN R. PARNELL,
Governor.

By the Lieutenant Governor:

MEAD TREADWELL,
Lieutenant Governor.

[State Seal Affixed]

STATE OF WASHINGTON

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to Certify that at the General Election held in the State of Washington on the 2nd day of November, 2010, Patty Murray was duly chosen by the qualified electors of the State of Washington as United States Senator from the state of Washington to represent the state of Washington in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: Her excellency our Governor Christine Gregoire, and our seal hereto affixed at Olympia, Washington this 2nd day of December, 2010.

By the Governor:

CHRISTINE GREGOIRE,
Governor.

Attest:

SAM REED,
Secretary of State.

[State Seal Affixed]

COMMONWEALTH OF KENTUCKY

To all to Whom These Presents shall Come, Greeting:

Know Ye That Honorable Rand Paul having been duly certified, that on November 2, 2010 was duly chosen by the qualified electors of the Commonwealth of Kentucky a Senator from said state to represent said state in the Senate of the United States for the term of six years, beginning the 3rd day of January 2011.

I hereby invest the above named with full power and authority to execute and discharge the duties of the said office according to law. And to have and to hold the same, with all the rights and emoluments thereunto legally appertaining, for and during the term prescribed by law.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Commonwealth to be hereunto affixed. Done at Frankfort, the 23rd day of November in the year of our Lord two thousand and ten and in the 219th year of the Commonwealth,

By the Governor:

STEVEN L. BESHEAR,
Governor.
TREY GRAYSON,
Secretary of State.

[State Seal Affixed]

STATE OF OHIO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

U.S. Senator

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November 2010, Rob Portman was duly elected by the qualified electors of the State of Ohio as the Senator from said State in the Senate of the United States for the term of six years, beginning on the third day of January, 2011.

In testimony whereof, I have hereunto subscribed my name and caused the great seal of the State of the Ohio to be hereto affixed at Columbus, Ohio, this 7th day of December, in the year of our Lord 2010.

By the Governor:

TED STRICKLAND,
Governor.

Countersigned:

JENNIFER BRUNNER,
SECRETARY OF STATE.

[State Seal Affixed]

STATE OF NEVADA

Executive Department

CERTIFICATE OF ELECTION

United States Senate

This is to certify that at a general election held in the State of Nevada on Tuesday, the second day of November, two thousand ten Harry Reid was duly elected as a Member of the United States Senate, in and for the State of Nevada, for a term of six years from and after the third day in January, two thousand eleven;

Now, Therefore, I Jim Gibbons, Governor of the State of Nevada, by the authority vested in me by the Constitution and laws thereof, do hereby Commission him, the said Harry Reid as a Member of the United States Senate, for the State of Nevada, and authorize him to discharge the duties of said office according to law, and to hold and enjoy the same, together with all powers, privileges and emoluments thereunto appertaining.

In Testimony Thereof, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol at Carson City, Nevada on this 14th day of December, two thousand ten.

JIM GIBBONS,
Governor of the State of Nevada.
ROSS MILLER,
Secretary of State of Nevada.

[State Seal Affixed]

STATE OF FLORIDA

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Marco Rubio was duly chosen by the qualified electors of the State of Florida a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our governor, Charlie Crist, and our seal hereto affixed at Tallahassee, the Capital, this 29th day of November, in the year of our Lord 2010.

By the Governor:

CHARLIE CRIST,
Governor.
DAWN K. ROBERTS,
Interim Secretary of State.

[State Seal Affixed]

STATE OF NEW YORK

Executive Chamber

To the President of the United States:

This is to certify that on the second day of November, two thousand ten, Charles E. Schumer was duly chosen by the qualified electors of the State of New York a Senator from said State to represent the State in the Senate of the United States for the term of six years, beginning on the third day of January, two thousand eleven.

Witness: His excellency our Governor David A. Paterson and our seal hereto affixed at Albany, New York this seventeenth day of December in the year two thousand ten.

By the Governor:

DAVID A. PATERSON,
Governor.
RUTH NOEMI COLON,
Secretary of State.

[State Seal Affixed]

STATE OF ALABAMA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Richard C. Shelby was duly chosen by the qualified electors of the State of Alabama a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 3rd day of January, 2011.

Witness: His excellency our governor Bob Riley, and our seal hereto affixed at Montgomery this 22nd day of November, in the year of our Lord 2010.

By the Governor:

ROB RILEY,
Governor.
BETH CHAPMAN,
Secretary of State.

[State Seal Affixed]

STATE OF SOUTH DAKOTA

Office of the Secretary of State

CERTIFICATE OF ELECTION

This is to certify that on the second day of November, 2010, at the general election, John R. Thune was elected by the qualified voters of the State of South Dakota to the office of United States Senator for the term of six years, beginning on the third day of January, 2011.

In witness whereof, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this 22nd day of November, 2010.

M. MICHAEL ROUNDS,
Governor.

Attested by:

CHRIS NELSON,
Secretary of State.

[State Seal Affixed]

COMMONWEALTH OF PENNSYLVANIA

Governor's Office

To the President of the Senate of the United States:

This is to certify that on the second day of November, 2010, Pat Toomey was duly chosen by the qualified electors of the Commonwealth of Pennsylvania as a United States Senator to represent Pennsylvania in the Senate of the United States for a term of six years, beginning on the third day of January, 2011.

Witness: His excellency our Governor, Edward G. Rendell, and our seal hereto affixed at Harrisburg this ninth day of December, in the year of our Lord, 2010.

EDWARD G. RENDELL,
Governor.
BASIL L. MERENDA,
Secretary of the Commonwealth.

[State Seal Affixed]

STATE OF LOUISIANA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, David Vitter was duly chosen by the qualified electors of the State of Louisiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2011.

Witness: His Excellency our Governor, Bobby Jindal, and our seal hereto affixed at Baton Rouge, Louisiana this 12th day of November, in the year of our Lord, 2010.

By the Governor:

BOBBY JINDAL,
Governor.
TOM SCHEDLER,
Secretary of State.

[State Seal Affixed]

STATE OF OREGON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 2nd day of November, 2010, Ron Wyden was duly chosen by the qualified electors of the State of Oregon, a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 2011.

Witness: His excellency our Governor, Theodore Kulongoski, and our seal hereto affixed at Salem, Oregon, this 2nd day of December, 2010.

By the Governor:

THEODORE KULONGOSKI,
Governor.
KATE BROWN,
Secretary of State.

[State Seal Affixed]

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senators to be sworn in will now present themselves to the desk in groups of four as their names are called in alphabetical order, the Chair will administer the oath of office.

The clerk will read the names of the first group.

The legislative clerk (Kathleen Alvarez Tritak) called the names of Ms. AYOTTE of New Hampshire, Mr. BENNET of Colorado, Mr. BLUMENTHAL of Connecticut, and Mr. BLUNT of Missouri.

These Senators, escorted by Mrs. SHAHEEN, Mr. UDALL of Colorado, Mr. DODD, Mr. LIEBERMAN, Mr. BOND, and Mrs. MCCASKILL, respectively, advanced to the desk of the Vice President; the oath prescribed by law was

administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. BOOZMAN of Arkansas, Mrs. BOXER of California, Mr. BURR of North Carolina, and Mr. COATS of Indiana.

These Senators, escorted by Mr. PRYOR, Mr. REID, Mrs. HAGAN, Mr. Faircloth, Mrs. Dole, Mr. Broyhill, Mr. LUGAR, and Mr. Quayle, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. COBURN of Oklahoma, Mr. CRAPO of Idaho, Mr. DEMINT of South Carolina, and Mrs. GILLIBRAND of New York.

These Senators, escorted by Mr. INHOFE, Mr. RISCH, Mr. GRAHAM, and Mr. SCHUMER, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. GRASSLEY, Mr. HOEVEN, Mr. INOUYE, and Mr. ISAKSON.

These Senators, escorted by Mr. HARKIN, Mr. CONRAD, Mr. ANDREWS, Mr. AKAKA, and Mr. CHAMBLISS, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. JOHNSON of Wisconsin, Mr. KIRK, Mr. LEAHY, and Mr. LEE.

These Senators, escorted by Mr. KOHL, Mr. Kasten.., Mr. DURBIN, Mr. INOUYE, and Mr. HATCH, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. MCCAIN, Ms. MIKULSKI, Mr. MORAN, and Ms. MURKOWSKI.

These Senators, escorted by Mr. KYL, Mr. CARDIN, Mr. SARBANES, Mr. BROWNBACK, Mr. ROBERTS, Ms. MURKOWSKI, and Mrs. Dole, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mrs. MURRAY, Mr. PAUL, Mr. PORTMAN, and Mr. REID.

These Senators, escorted by Ms. CANTWELL, Mr. MCCONNELL, Mr. BROWN of Ohio, and Mr. Laxalt, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next four Senators.

The legislative clerk called the names of Mr. RUBIO, Mr. SCHUMER, Mr. SHELBY, and Mr. THUNE.

These Senators, escorted by Mr. Martinez, Mr. NELSON of Florida, Mrs. GILLIBRAND, Mr. SESSIONS, and Mr. JOHNSON of South Dakota, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next three Senators.

The legislative clerk called the names of Mr. TOOMEY, Mr. VITTER, and Mr. WYDEN.

These Senators, escorted by Mr. CASEY, Ms. LANDRIEU, and Mr. MERKLEY, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

(Applause, Senators rising.)

The VICE PRESIDENT. The majority leader.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1 Leg.]

Akaka	Gillibrand	Moran
Alexander	Graham	Murkowski
Ayotte	Grassley	Murray
Barrasso	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Bennet	Hatch	Paul
Bingaman	Hoeven	Portman
Blumenthal	Inhofe	Pryor
Blunt	Inouye	Reed
Boozman	Isakson	Reid
Boxer	Johanns	Risch
Brown (OH)	Johnson (WI)	Roberts
Burr	Johnson (SD)	Rockefeller
Cantwell	Kirk	Rubio
Cardin	Klobuchar	Schumer
Carper	Kohl	Sessions
Casey	Kyl	Shaheen
Chambliss	Landrieu	Shelby
Coats	Lautenberg	Snowe
Coburn	Leahy	Stabenow
Collins	Lee	Tester
Conrad	Lieberman	Thune
Coons	Lugar	Toomey
Corker	Manchin	Udall (CO)
Cornyn	McCain	Udall NM)
Crapo	McCaskill	Vitter
DeMint	McConnell	Warner
Durbin	Menendez	Webb
Enzi	Merkley	Wicker
Franken	Mikulski	Wyden

The VICE PRESIDENT. A quorum is present.

LIST OF SENATORS BY STATE

ALABAMA

Richard C. Shelby and Jeff Sessions

ALASKA

Lisa Murkowski and Mark Begich

ARIZONA

John McCain and Jon Kyl

ARKANSAS

Mark L. Pryor and John Boozman

CALIFORNIA

Dianne Feinstein and Barbara Boxer

COLORADO

Mark Udall and Michael F. Bennet

CONNECTICUT

Joseph I. Lieberman and Richard Blumenthal

DELAWARE

Thomas R. Carper and Christopher A. Coons

FLORIDA

Bill Nelson and Marco Rubio

GEORGIA

Saxby Chambliss and Johnny Isakson

HAWAII

Daniel K. Inouye and Daniel K. Akaka

IDAHO

Mike Crapo and James E. Risch

ILLINOIS

Richard J. Durbin and Mark Kirk

INDIANA

Richard G. Lugar and Dan Coats

IOWA

Tom Harkin and Chuck Grassley

KANSAS

Pat Roberts and Jerry Moran

KENTUCKY

Mitch McConnell and Rand Paul

LOUISIANA

Mary L. Landrieu and David Vitter

MAINE

Olympia J. Snowe and Susan M. Collins

MARYLAND

Barbara A. Mikulski and Benjamin L. Cardin

MASSACHUSETTS

John F. Kerry and Scott P. Brown

MICHIGAN

Carl Levin and Debbie Stabenow

MINNESOTA

Amy Klobuchar and Al Franken

MISSISSIPPI

Thad Cochran and Roger F. Wicker

MISSOURI

Claire McCaskill and Roy Blunt

MONTANA

Max Baucus and Jon Tester

NEBRASKA

Ben Nelson and Mike Johanns

NEVADA

Harry Reid and John Ensign

NEW HAMPSHIRE

Jeanne Shaheen and Kelly Ayotte

NEW JERSEY

Frank R. Lautenberg and Robert Menendez

NEW MEXICO

Jeff Bingaman and Tom Udall

NEW YORK

Charles E. Schumer and Kirsten E. Gillibrand

NORTH CAROLINA

Richard Burr and Kay R. Hagan

NORTH DAKOTA

Kent Conrad and John Hoeven

OHIO

Sherrod Brown and Rob Portman

OKLAHOMA

James M. Inhofe and Tom Coburn

OREGON

Ron Wyden and Jeff Merkley

PENNSYLVANIA

Robert P. Casey, Jr., and Pat Toomey

RHODE ISLAND

Jack Reed and Sheldon Whitehouse

SOUTH CAROLINA

Lindsey Graham and Jim DeMint

SOUTH DAKOTA

Tim Johnson and John Thune

TENNESSEE

Lamar Alexander and Bob Corker

TEXAS

Kay Bailey Hutchison and John Cornyn

UTAH

Orrin G. Hatch and Mike Lee

VERMONT

Patrick J. Leahy and Bernard Sanders

VIRGINIA

Jim Webb and Mark Warner

WASHINGTON

Patty Murray and Maria Cantwell

WEST VIRGINIA

John D. Rockefeller, IV, and Joe Manchin, III

WISCONSIN

Herb Kohl and Ron Johnson

WYOMING

Michael B. Enzi and John Barrasso

RECOGNITION OF THE MAJORITY LEADER

The VICE PRESIDENT. The majority leader is recognized.

INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. REID. Mr. President, I have a resolution at the desk. I ask it now be considered.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 1) informing the President of the United States that a quorum of each House is assembled.

The VICE PRESIDENT. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 1) reads as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Mr. REID. I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Pursuant to S. Res. 1, the Chair appoints the Senator from Nevada, Mr. REID, and the Senator from Kentucky, Mr. MCCONNELL, as a committee to join the committee on the part of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and the Congress is ready to receive any communication that he may be pleased to make.

INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. REID. Mr. President, I have another resolution at the desk. I ask it be considered.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 2) informing the House of Representatives that a quorum of the Senate is assembled.

The VICE PRESIDENT. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 2) reads as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

Mr. REID. Mr. President, I move to reconsider that vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIXING THE HOUR OF DAILY MEETING OF THE SENATE

Mr. REID. Mr. President, I have a resolution at the desk and ask it be reported.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 3) fixing the hour of daily meeting of the Senate.

The VICE PRESIDENT. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 3) read as follows:

S. RES. 3

Resolved, That the daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HONORING SENATOR MIKULSKI AS SHE BECOMES THE LONGEST SERVING FEMALE SENATOR

Mr. REID. Mr. President, I have another resolution at desk. I ask it be now considered.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 4) honoring Senator BARBARA MIKULSKI for becoming the longest serving female Senator in history.

(Applause, Senators rising.)

The VICE PRESIDENT. Without objection, the resolution is approved and the preamble is agreed to.

The resolution (S. Res. 4) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 4

Whereas the Honorable Barbara Mikulski has had a long and distinguished career as a United States Senator from the State of Maryland;

Whereas Senator Mikulski was first elected to the United States Congress as a member of the House of Representatives in 1976, where she served until winning election to the Senate in 1986;

Whereas Senator Mikulski is the first woman to be elected to statewide office in Maryland;

Whereas in the 103rd Congress, Senator Mikulski was the first woman to be elected Assistant Senate Democratic Floor Leader;

Whereas Senator Mikulski was the first woman in the Senate Democratic Leadership, serving as Secretary of the Senate Democratic Conference in the 104th through the 108th Congresses;

Whereas in 1997, Senator Mikulski became the most senior woman serving in the Senate;

Whereas Senator Mikulski is the first woman to serve on the Appropriations Committee of the Senate and the first woman to chair the Appropriations Committee's Subcommittee on Commerce, Justice, Science, and Related Agencies;

Whereas Senator Mikulski has not only had a path breaking career, but has won the admiration and respect of colleagues on both sides of the aisle for her hard work, passionate and effective advocacy, commitment to social and economic justice, and willingness to serve as a mentor and role model to other senators; and

Whereas Senator Mikulski has now surpassed the record of former Senator Margaret Chase Smith as the longest serving female Senator in the history of the United States: Now, therefore, be it

Resolved, That the Senate recognizes and honors Senator Barbara Mikulski for becoming the longest-serving female Senator in history.

Mr. REID. I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I now ask unanimous consent the following Senators be recognized to speak on this resolution and Senator MIKULSKI's historic milestone—I would note for Senators, we will be in a period of morning business when we complete the business of today—REID of Nevada for 2 minutes, MCCONNELL for 2 minutes, CARDIN for 2 minutes, SNOWE for 2 minutes, and MIKULSKI for 3 minutes. I ask unanimous consent.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. REID. Mr. President, I came to the Senate in January 1987, in the same class as BARBARA MIKULSKI. Every sixth January since, including today, BARBARA MIKULSKI and I have been sworn in together. Taking that oath is humbling and meaningful for every Senator, but it is a little more meaningful this time around for Senator MIKULSKI, for Maryland, and for our country. She is now the longest serving woman Senator in our Nation's history.

She has had a pathbreaking career, and that is an understatement. She was the first woman to serve in the Senate Democratic leadership when we elected her our caucus secretary and she was the first woman ever to serve on the Senate Appropriations Committee.

The woman whose record she breaks was a significant Senator in her own right. Margaret Chase Smith of Maine was the first woman to be elected to both the House and the Senate.

I know Senator MIKULSKI very well. She is my friend and my confidant. I know that more than any records, she is most proud of what she has done with that time, time she has dedicated to tireless, passionate, and effective advocacy for those who need a voice or even a hand.

She is as committed to social and economic justice as any Senator who has ever served in this great Chamber and she has won the admiration and respect of her colleagues, both Democrats and Republican, especially those for whom she has given her time and her advice as a mentor and a role model.

Alongside all her records and accomplishments, I will always admire the way she led us in one of our darkest days. As evening fell on Washington, DC, for the first time after the Twin Towers fell in New York, hundreds of Members of Congress, from the House and the Senate, walked outside to the steps of the Capitol. We joined hands. Then, in a moment of silence, Senator MIKULSKI suggested we all sing ''God Bless America.'' We did. I will never forget that moment.

I will always remember a speech this good woman gave more than two decades ago. Senator MIKULSKI, Senator John Glenn, and I went on a trip to Poland, back when it was behind the Communist Iron Curtain. John Glenn, who, of course, was an international celebrity in addition to being a Senator, captivated the crowd. We were in a basement, meeting with some dissidents. Knowing Senator MIKULSKI is of Polish descent, I asked if she could speak next, after Senator Glenn. I thought she would say a few words about her heritage. I have heard a lot of speeches in my life, but none has ever moved me more than the speech BARBARA MIKULSKI gave in that basement in Warsaw, Poland.

Congratulations to my friend, Senator BARBARA MIKULSKI, and the State of Maryland for returning such a strong public servant to the Senate on their behalf.

The VICE PRESIDENT. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I, too, rise to honor our colleague, the senior Senator from Maryland, on becoming the longest serving female Senator in the history of the Senate. In achieving this milestone, BARBARA passes Margaret Chase Smith, as the majority leader indicated, who served the people of Maine from 1949 to 1973. As was indicated, she is also only the second woman to be elected to both the Senate and the House.

When first elected to the Senate in 1986, BARBARA was only the 16th woman to ever serve. Today, there are more female Senators than that in the 112th Congress alone.

BARBARA has served as a role model and mentor to many of them, and I know they are grateful for it. She has been a champion of the space program, scientific research, welfare reform, major transportation, homeland security, and environmental issues in Maryland.

I think BARBARA would be the first to tell you that becoming the longest serving female Senator wasn't easy. Like all streaks, including that of another Marylander Cal Ripken, there are a lot of bumps in the road. But she has made it through it all and we are happy to share in this milestone with her today.

I wish to recognize BARBARA not only for her accomplishment as the longest serving female in the Senate history but also for all of her many accomplishments as a Senator and for the pioneering model she has been to so many women in her distinguished career. Again, congratulations, Senator MIKULSKI.

The VICE PRESIDENT. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, Marylanders take pride in their Hall of Famers, from Cal Ripkin, our ''Iron Man,'' to Brooks Robinson with the Golden Gloves, to Johnny Unitas with the Golden Arm, to Frank Robinson, who was an All-Star in both the American and National Leagues. Now we add to that list our own Senator BARBARA MIKULSKI, the longest serving woman Senator in Senate history.

Marylanders are proud of Senator BARB not because of her length of service but for what she has done as a Senator and throughout her entire career. If you ask any Marylander what they think about Senator MIKULSKI, they will start off by saying: She is a fighter. Then they will say: We are glad she is on our side.

She is an effective fighter for the people. From protecting neighborhoods from an unwanted highway to keeping jobs in Maryland from being shipped overseas, there is no more effective fighter than Senator BARBARA MIKULSKI.

She has protected our national security from her position on the Intelligence Committee, she has strengthened the U.S. Space Program in her position on the Appropriations Committee, she provided equity in health care from the HELP Committee, and she stands up for our Federal workers, advancing gender equity issues, and the list goes on and on and on.

She has taken her social worker background, her political training from ward politics in east Baltimore, and her hard work ethic from her parents and her own common sense to be the voice for working families in the Halls of the Senate.

On a personal note, I thank my friend for always being there for me, working together as a team for the people of Maryland. On behalf of my two granddaughters, my daughter, my wife, and all Americans, thank you, Senator MIKULSKI, for living the American dream and making that dream a reality for so many Americans.

The VICE PRESIDENT. The Senator from Maine.

Ms. SNOWE. Mr. President, there are certain occasions in the life of our Nation and this esteemed institution that are so steeped in history they remain indelibly etched in our minds and upon our hearts. This is one of those iconic moments as we share in recognizing Senator MIKULSKI's venerable achievement with her colleagues, her family, loved ones, friends, constituents, staff, and indeed the Nation.

This is also a special day of pride most especially for those of us who are

women Senators for whom Senator MIKULSKI has been a role model and mentor as well as coleading numerous efforts with Senator HUTCHISON, our senior Republican woman, to foster camaraderie among all of us.

Having been privileged to know Senator MIKULSKI for more than 30 years, beginning with our mutual service in the House of Representatives, I cannot conceive of anyone I would rather witness overtaking such a sacrosanct milestone than the senior Senator from Maryland, a beloved, vigorous champion of the people of her State and unquestionably the women of America.

Indisputably, for both of her Maine colleagues, Senator COLLINS and me, the landmark occasion we are commemorating is all the more personal and poignant given we are both colleagues and dear friends of Senator MIKULSKI and also direct inheritors and beneficiaries of Senator Margaret Chase Smith's groundbreaking service. It is in that light that I am deeply privileged today to stand at the very desk she once graced, and having sat across her desk when I first met her in Washington years ago, to also pay tribute to Senator Smith by wearing her pin given to me by a very good friend from Maine, Susan Longley, one of the actual pins in which Senator Smith would famously place the trademark rose she wore daily on the floor of the Senate.

Indeed, there are numerous similarities between Senator Margaret Chase Smith and Senator MIKULSKI that transcend longevity. They both live the ideals of hard work and earning their own way in life. Senator MIKULSKI, the proud descendent of Polish immigrants, worked in her parents' grocery store during her formative years in Baltimore, and years later, after she graduated from college, acquired a master's degree and pursued the noble calling of social work.

Senator Smith was a textile worker, telephone operator, newspaper woman, teacher, and an office manager. The point is, neither started at the top, but they most certainly arrived there. Senator Smith rose from the humblest beginnings to represent Maine in the House of Representatives and the Senate for more than 32 distinguished years with unequalled courage, civility, compassion, and integrity. She was a visionary of endless firsts, but, undoubtedly, Senator Smith will best be remembered for the moment during her only second year in the Senate, with truly uncommon courage and principled independence, she telegraphed the truth about McCarthyism during the Red Scare of the 1950s with her renowned ''Declaration of Conscience'' speech on the Senate floor. In 15 minutes she had done what 94 of her colleagues, male colleagues I might add, had not dared to do, and in so doing slayed a giant of demagoguery prompting American financier Bernard Baruch to say: Had a man made that speech, he would have become the next President of the United States.

Yet even as Senator Smith was a political pioneer, she never deliberately set out to establish some sort of precedent for women. Rather, what her life proved is that gender was not the key factor in public service but dedication and energy, confidence, ability, and sheer guts were. If those foundational qualities do not also encapsulate the essence of the public service of Senator BARBARA MIKULSKI, then I do not know what does.

It is, therefore, all the more appropriate and fitting that of anyone it would be a person of Senator MIKULSKI's legislative stature who would exceed Senator Smith's length of service in the Senate.

As if this benchmark established today were not enough, on March 17, 2012, we will all be back on the floor of the Senate because Senator MIKULSKI will become the longest serving female Member in the history of the Congress, House or Senate. She probably did not even have a chance to think about that one.

Moreover, like Senator Smith, Senator BARBARA MIKULSKI has always brought an unyielding tenacity, a cornerstone of her fighting spirit and character, that has time and again been reflected in her legislative fight on behalf of the people she represents. This will not be a news flash to my colleagues or even those, our new colleagues, who will soon discover that taking no for an answer is simply not in Senator MIKULSKI's vocabulary nor her DNA. As she has often said, she is not ''caffeine free.'' And nowhere have I witnessed that ardent focus and commitment more intensely than in Senator MIKULSKI's signature battle for equity in women's health research, one that Congresswoman Pat Schroeder and I were waging from the House side as well.

We all set aside our partisan labels at a time when, incredibly, women and minorities were systematically excluded from clinical medical trials at the National Institutes of Health, trials that often made the difference between life and death.

At a pivotal juncture, Senator MIKULSKI tackled this travesty head on and launched a key panel of stakeholders, as she can do, to explore the shocking discriminatory treatment which further galvanized national attention, and, in the end, we produced watershed policy changes that to this day are resulting in lifesaving medical discoveries for America's women.

Ultimately, what we are celebrating today are two legislative juggernauts who have defined the standard of principled public service by exemplifying a special bond of trust that should exist between the governing and the governed. They have seen problems confronting their constituencies and the Nation and left no stone unturned to solve them. They recognized injustice and acted boldly to quell it. They have given a voice to the voiceless, power to the powerless, and they were always at one with those they represent because they never ever forgot their roots.

That is why, as Senators from the State of Maine, where Senator Margaret Chase Smith's legacy has been forever enshrined, Senator COLLINS and I are profoundly honored to share in this rarified moment as Senator MIKULSKI assumes the historic mantle of longest serving woman in the Senate. Indeed, it bodes well for the venerable institution of this Senate and our great Nation to have the senior Senator from Maryland to be at the vanguard of our ranks.

Congratulations.

Mr. LEAHY. Mr. President, the Senate boasts many persuasive voices, but there are few stronger than that of Senator BARBARA MIKULSKI. To call her a trailblazer does not do justice to her long and storied career in Congress, representing the people of Maryland and advancing women's rights, civil rights, and justice for all Americans. This week, she becomes the Senate's longest serving woman Senator in U.S. history.

First elected to the House of Representatives in 1976, and to the Senate in 1986, Senator MIKULSKI has served the people of Maryland with honor and distinction. In Congress, she has remained committed to her roots in public service, which began as a social worker in Baltimore, helping at-risk children and helping seniors. After 5 years on the Baltimore City Council, Marylanders in the State's third congressional district sent Senator MIKULSKI to Congress, where she has continued her hard work and tireless advocacy for women and families.

Atop her list of priorities has been giving voice to issues concerning women's health. She worked to establish the National Institutes of Health Office of Women's Health and to implement standards to ensure that all women have access to quality mammography. She fought to expand access to maternity care. Most recently, through Senator MIKULSKI's leadership, the historic Affordable Care Act included strong antidiscrimination provisions to ensure that being a woman is no longer a preexisting condition.

In early 2009, Senator MIKULSKI further proved she is, in fact, a force to be reckoned with, when her tireless efforts to advance the Lilly Ledbetter Fair Pay Act resulted in that legislation being one of the first laws to be signed by President Obama. Since the Supreme Court's 2007 decision in Ledbetter v. Goodyear Tire, Senator MIKULSKI worked relentlessly to restore congressional intent and reverse the Court's decision to give employers blanket immunity for their discriminatory pay practices. The Ledbetter Fair Pay Act restored victims' ability to file suit for pay discrimination, and was an important step forward in ensuring that all workers receive equal pay for equal work.

I have been honored to work with Senator MIKULSKI in her capacity as

chairwoman of the Senate Appropriations Subcommittee on Commerce, Justice and Science, where she has championed important programs to support state and local law enforcement, crime victims, and critical support programs for victims of domestic violence. I share her commitment to investing in the men and women who are charged with keeping our communities safe, and providing important support to victims of violence.

There is no question that Senator MIKULSKI is a leader in the Senate. As the dean of the Women of the Senate, she serves as a mentor to other women Senators who join the Chamber. She is a dedicated public servant, a strong voice for women, a consensus builder. She has said she is ''first and foremost the Senator from Maryland and the Senator for Maryland.'' For more than three decades, many of us have been proud to call her a friend.

I join with many others in congratulating Senator MIKULSKI on this historic achievement.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. FEINSTEIN. Mr. President, I rise to congratulate my friend and colleague, BARBARA MIKULSKI, who is now the longest-serving woman in the history of the U.S. Senate.

BARBARA has been a forceful advocate for the people of her beloved Maryland and a role model for women everywhere—beginning with her election to the Baltimore City Council in 1971, to her election to the House of Representatives in 1976, to her election to the Senate in 1986.

BARBARA is a pace-setter in the fight for equality for women. When I first ran for the Senate in 1992, BARBARA reached out to me to offer her support, for which I am grateful, and she welcomed me when I joined the Senate.

BARBARA is indomitable, not only in the fight for equality for women but in the broader fight for human rights for all mankind. I am proud to have worked alongside BARBARA in opposing tyranny in Burma, in pushing to restrict cluster munitions that pose a grave threat to innocent people around the world, and in pushing to free Burmese democratic leader Aung San Suu Kyi.

And I am proud to work with her on the Senate Select Committee on Intelligence, which I chair, where I know I can count on BARBARA to do the hard work required to oversee America's intelligence agencies and keep America safe.

Any discussion of BARBARA would be incomplete without acknowledgment of her effort to improve bipartisanship in the Senate—something sorely needed right now—an effort aided by her monthly bipartisan dinners for women Senators.

These dinners bring us together and make the Senate a more hospitable place for women. But they are more than that. These dinners are a way to forge relationships and friendships that transcend party lines. These gatherings have created a community of interests among Senators of divergent backgrounds and political views. I think that is a very big contribution.

So I want to salute you, BARBARA. I am proud to call you colleague and friend. And I look forward to working with you for many more years to come.•

Mrs. BOXER. Mr. President, I rise today to pay tribute to my colleague and friend, Senator BARBARA MIKULSKI.

Earlier today, when Senator MIKULSKI took the oath in this Chamber to serve, protect, and defend the U.S. Constitution, she became the longest serving woman in the history of the Senate.

Senator MIKULSKI is no stranger to making history, and today she has made history once again.

When Senator MIKULSKI was first sworn in as a Senator in 1987, she was the first Democratic woman Senator elected in her own right. And, along with Senator Kassebaum, she was one of only two women in the Senate at the time.

Today, 17 women were sworn in on the Senate floor and I know many of us might not be here today without Senator MIKULSKI's support and encouragement. She truly is the dean of the women in the Senate.

Senator MIKULSKI and I became very close friends when I joined the House of Representatives in 1983. She was always someone I respected because she was always focused on making life better for the middle- and working-class people she serves.

When I first thought about running for the Senate, Senator MIKULSKI was the first person I went to see, and she gave such sage advice. She said ''You'll love it here in the Senate because you have an ability to help the people you serve.'' Senator MIKULSKI told me it would be the toughest thing and the best thing I would ever do.

I give Senator MIKULSKI such credit. That is the role she has played with so many women Senators from both sides of the aisle. She regularly brings the women of the Senate—together Republicans and Democrats—for a friendly dinner.

One of Senator MIKULSKI's wonderful gifts is her humor. When she and I served together in the House, women were unable to use the main facilities of the House gym. Along with Geraldine Ferraro, OLYMPIA SNOWE, Barbara Kennelly and others, we worked together to ''integrate'' the House gym.

At the House gym, a friend would lead us in exercises. One time, she said to us: ''OK everyone, hands on your hips.'' Senator MIKULSKI retorted, ''If I had hips, I wouldn't be here.''

That is so typical of her style—warm, funny and to the point. It brought us all together.

And it is one reason why this daughter of east Baltimore has been such an inspiration to millions of women across our country.

Senator MIKULSKI is an accomplished legislator and leader who knows how to get the job done.

She has long fought to protect the health and well-being of women and their families.

Not only did she support the historic health care reform legislation that is making sure every American has access to quality, affordable insurance, but Senator MIKULSKI fought to make the legislation stronger for women. I was proud to stand with her to pass an amendment that guarantees women will have access to the preventive care they need such as screenings for breast, ovarian and cervical cancer.

Senator MIKULSKI championed the Mammography Quality Standards Act, which requires mammography facilities across the Nation to meet uniform quality standards. This law has saved lives by improving preventive care that can lead to early diagnosis and treatment of breast cancer.

When we saw how little health science and research addressed women's health, Senator MIKULSKI and I helped lead the fight for health equity. We helped create the National Institutes of Health Office of Women's Health to study women's needs and health issues.

Senator MIKULSKI believes everyone should be fairly paid for a hard day's work. We stood together as vocal advocates for the Lilly Ledbetter Fair Pay Act—a historic bill by Senator Kennedy that is now the law of the land.

And, as a member of the Appropriations Committee, Senator MIKULSKI has fought for critical funding to clean up and protect Maryland's treasured Chesapeake Bay.

Senator MIKULSKI's tenacity is undeniable. Several years ago, she was mugged one evening outside her home in Baltimore. A man pushed her to the ground and grabbed her purse.

Even though she is only 4 feet 11 inches, Senator MIKULSKI fought back and defended herself.

Yes, Senator MIKULSKI stands up for herself and stands up for the people of Maryland. She has fought hard for change and equal rights. As she likes to say, there are times when you need to ''(s)quare your shoulders, suit up, put on your lipstick and get ready for battle.''

Senator MIKULSKI has always been out in front. She has used her role as the senior woman in the Senate to focus on issues that matter to her constituents. Her power lies in her ability to organize people. That is one reason she is so beloved by her colleagues—we love it when she brings us together on issues.

I stand today to honor my good friend, a trailblazer and a mentor, Senator MIKULSKI.

Mr. WARNER. Mr. President, it is a great honor to join in recognizing and celebrating my colleague, the senior Senator from Maryland. Senator BARBARA MIKULSKI became the longest serving woman Senator in our Nation's

history today when she completed the oath to begin her fifth term in the Senate. Indeed, this is not the first time Senator MIKULSKI's name will be etched in history for her groundbreaking service: she was the first woman elected to statewide office in Maryland and the first female Democrat to serve in both Chambers of Congress.

During her 24 years in the Senate, she has won the admiration of her colleagues for her resolve, hard work and dedication to her constituents. It is an honor to call Senator MIKULSKI a friend. As representatives of neighboring States, we have often had the opportunity to work together on issues of regional importance. I can never thank her enough for her commitment to NASA-Wallops, one of many examples in this regard.

Today marks a special milestone in the Senate's history. I join my colleagues in commending Senator MIKULSKI, not only for her enormous service to this body and to our country but as someone who has been a tireless advocate for her home State of Maryland.

Mr. LEVIN. Mr. President, I want to add my voice to the many others heaping deserved praise onto Senator BARBARA MIKULSKI, who sets a record today as the longest serving woman in the history of the U.S. Senate.

Tough but compassionate, an effective advocate for Maryland and for the national interest, Senator MIKULSKI has achieved more than just longevity. She has been an energetic and effective advocate for the interests of children, a staunch ally of seniors, a defender of services for our veterans, and a supporter of efforts to involve all Americans in solving our Nation's problems through service and voluntarism. Her support of education and scientific research promises benefits that will last long after we all have departed the Senate.

I have been a proud partner with her on making commonsense changes to our Nation's immigration system. She also has been a strong advocate for Federal programs that promote manufacturing, such as the Commerce Department's Manufacturing Extension Program and the Technology Innovation Program.

Senator MIKULSKI is rightly seen as a mentor and leader of women who come to the Senate. The successes of the many female Senators who have been the beneficiaries of her guidance stand as a testament to the power of her example.

Senator MIKULSKI has admirably brought the lessons of her early career as a social worker to her work in the Senate, understanding that real families with real problems are looking to us for solutions.

The people of Maryland and of this Nation are fortunate to have the benefit of her service. I am proud to call her a colleague and a friend. I congratulate her on her accomplishment and I await the many more achievements I know are to come.

Ms. COLLINS. Mr. President, it is a great pleasure to offer my heartfelt congratulations to Senator BARBARA MIKULSKI on becoming the longest-serving woman in Senate history. While this is a milestone to celebrate, the true cause for celebration is not just Senator MIKULSKI's decades of service to this chamber, but her lifetime of service to her beloved Baltimore, her state of Maryland, and our Nation.

This occasion has a special meaning for Sen. SNOWE and me. As she begins her 25th year in the Senate, Senator MIKULSKI now surpasses my personal role model in public service, Senator Margaret Chase Smith. Just as the Great Lady from Maine inspired Sen. SNOWE and me as well as countless other young women of my generation to serve, Senator MIKULSKI inspires the young women of today.

As a new Senator in 1997, I was one of those tutored by Senator MIKULSKI. She taught me the ropes of the appropriations process and instituted regular bipartisan dinners for the women of the Senate.

It has been a privilege to work with Senator MIKULSKI for 14 years. During that time, I have come to know her as a fighter, a trailblazer, and as a dear friend. She is committed to the people of her state and of America.

Senator MIKULSKI is, above all, a hard worker. Growing up in East Baltimore, she learned the value of hard work at her family's grocery store. Her commitment to making a difference in her neighborhood led her to become a social worker, helping at-risk children and the elderly.

Her activism and understanding of community needs led to her first successful run for public office, the Baltimore City Council in 1971. Five years later, she came to Washington as a member of Congress, representing Maryland's 3rd District.

After 10 years of service in the House, she was elected to the Senate in 1986. In so doing, she became the first Democratic Senator elected in her own right. The people of Maryland wisely returned her to office in 1992, 1998, 2004, and again in 2010.

Senator MIKULSKI's longevity is only the preface to her story of exceptional accomplishment. She has fought for increased access to higher education and for improved health care for our seniors. I am proud to have fought at her side on those issues, as well as for increased Alzheimer's research, improved women's health care, and enhanced educational opportunities for nurses.

Working with her on the Appropriations Committee, I have witnessed firsthand how seriously she takes her responsibility to the American taxpayers.

Throughout her life in public service, Senator MIKULSKI has lived by one guiding principle: her obligation is to help our people meet the needs of today as she helps our Nation prepare for the challenges of tomorrow. It is an honor to congratulate the Great Lady from Maryland for her many years of service, and to wish her many more.

Mr. SHELBY. Mr. President, I rise to honor a distinguished colleague, Senator BARBARA MIKULSKI, who is celebrating a major milestone—today becoming the longest serving female in Senate history.

Elected to the House in 1976 and the Senate in 1986, Senator MIKULSKI is the first woman to win statewide office in Maryland, the first female Democrat to serve in both the House and the Senate, and the first female Democrat elected to the Senate in her own right.

As one of the most effective Senators, Senator MIKULSKI used her experience as a social worker and activist to ardently work on behalf of her constituents giving them a strong voice in the U.S. Senate. A leader in the Senate she has successfully fought for a variety of issues ranging from women's rights to protecting our law enforcement.

Throughout our 8 years of serving together in the House and 24 years in the Senate, Senator MIKULSKI and I have worked on many issues together. We have a strong bipartisan relationship that is reflected in the numerous accomplishments we have achieved working together as the chair and ranking member on the CJS appropriations subcommittee. I have always appreciated Senator MIKULSKI's candor, sense of humor, and willingness to cross party lines to work in the best interest of our Nation.

Mr. President, I congratulate Senator MIKULSKI on reaching this historic milestone today. I am honored to call Senator BARBARA MIKULSKI my colleague but prouder to call her my friend.

Mrs. GILLIBRAND. Mr. President, I rise today to join my colleagues in honoring the Senator from Maryland, BARBARA MIKULSKI—the longest serving woman in the history of the U.S. Senate.

It has been an honor to serve with Senator MIKULSKI in my 2 years in this body. She quickly became a dear friend and a valuable mentor—just as she has been for all of her other female colleagues as the dean of the women Senators.

It wasn't until 1932 that Hattie Caraway became the first woman ever elected to the U.S. Senate. And it wasn't until a half century later—1986—that against all odds, BARBARA MIKULSKI became the first Democratic woman ever elected to the Senate in her own right.

Now the longest serving woman in this Chamber's entire history, Senator MIKULSKI is showing just what is possible when you ignore conventional wisdom, never stop fighting for what is right and just, and honor our commitment to the families that elect us every single day.

One of her hallmark battles has been the fight for equal pay for equal work for women. This is not only an issue of

justice, but an economic imperative. Even today, for every dollar a man makes, a woman makes just 78 cents—a disparity that is even worse for women of color. Latino women make just 53 cents, and African-American women make just 62 cents for every dollar a man makes. I know Senator MIKULSKI won't give up until we correct this outrageous injustice.

She also fought to strengthen our laws against domestic violence, and open up access to health screenings and treatment that can save lives. And, she led the fight against insurance companies that made being a woman a pre-existing condition.

Senator MIKULSKI has always fought to protect women's health and a woman's right to choose. Last year, I was proud to stand with her to defeat the dangerous Stupak amendment that would have denied lifesaving reproductive care for the women of this country—a victory we would not have won without Senator MIKULSKI.

In the words of Eleanor Roosevelt, ''the battle for the individual rights of women is one of long standing, and none of us should countenance anything which undermines it.''

It is that spirit—never backing down in the face of injustice—Senator MIKULSKI is one of the strongest voices we have for women in this country and women around the world.

And every single day she's paving the way for more women in leading roles in America. There still may only be 17 women serving in the Senate today, but with her leadership and her strong voice, Senator MIKULSKI is showing the young women and young girls of this country that women's voices matter and are needed in the public debate.

Whether it is here on Capitol Hill or in State capitols around the country or heading small business or the boardrooms of major companies, Senator MIKULSKI is helping to inspire the next generation of women leaders by showing that our voices solve problems and lead to change.

Each of us owe her a debt of gratitude for her vision and pioneering spirit.

Thank you, Senator MIKULSKI, and congratulations on your historic achievement. It is an honor to work with you, and I hope to serve with you for many years to come.

Mrs. MCCASKILL. Mr. President, I rise today to recognize Senator BARBARA MIKULSKI for her trailblazing career in the U.S. Senate. As we begin the 112th Congress today, Senator MIKULSKI will begin her fifth consecutive Senate term making her the longest serving female Senator in American history. She joins legendary Maine Senator Margaret Chase Smith in the history books today. This accomplishment is a testament to her dedication to the State and the people of Maryland, and a commitment to serve which I aim to emulate with my constituents in Missouri. She is, quite simply, a remarkable, dedicated, focused and perseverant woman and these attributes have led to this wonderful moment in her continued service.

Starting out as a social worker in Baltimore, and later becoming a member of the Baltimore city council, Senator MIKULSKI went on to become a U.S. Representative for the Third Congressional District of Maryland for 10 years. In 1986, she was elected to the U.S. Senate where she has served ever since.

BARBARA MIKULSKI has continuously broken barriers for women and made history in her over 40 years as an elected official. And yet, in this 112th Congress, even as we mark this historic moment for women in the Senate, Senator MIKULSKI carries on her career in such a way that sets aside the pomp and circumstance of making history and instead remains focused on the most basic, pure and selfless form of public service.

In closing, although Senator MIKULSKI's tenure in the Senate as a woman is an important milestone, I believe that it will ultimately be the Senator's leadership fighting for women, children, seniors and veterans which will be her lasting legacy in Congress. I have had the fortunate opportunity to work with Senator MIKULSKI on some of this historic legislation for women and families, including the Lily Ledbetter Fair Pay Restoration Act to protect against pay discrimination, and the TRICARE Dependent Coverage Extension Act which expanded health insurance for military families.

I want to congratulate Senator MIKULSKI on her pioneering career in civil service and on making history in the U.S. Senate today; I am humbled to be working on historic legislation alongside my colleague from Maryland.

Mr. ROCKEFELLER. Mr. President, I want to join my colleagues in congratulating Senator BARBARA A. MIKULSKI as she becomes the longest serving female Senator in American history.

Senator MIKULSKI and I began our Senate careers in the 1980s, and it has been my privilege to serve with her. We have worked together on many, many issues, including 975 bills. Two hundred eighty-five of those bills passed the Senate and 184 were signed into law, including the Lilly Ledbetter Fair Pay Act of 2009 in the last Congress. I am proud of our combined accomplishments and to call her my colleague and friend.

It is a great honor to serve with Senator MIKULSKI. Senator MIKULSKI and I have more in common than some know. My life-changing experience with the VISTA program in the 1960s fueled my commitment to public service in much the same way Senator MIKULSKI's experience as a social worker in Baltimore fueled hers. Our early experiences remain the foundation of our shared commitment to quality health care for all people. Senator MIKULSKI and I have worked tirelessly together to expand access to cancer screenings and increase funding for medical research, including Alzheimer's disease. I was proud to stand with Senator MIKULSKI last year to pass historic health care reform. Her commitment to opening doors for all members of our society is to be commended.

Even though she stands at 4′11″ and I at 6′7″, we have stood eye-to-eye in supporting our veterans. And, we had many opportunities for collaboration as she was working on the Appropriations Committee and I chaired the Veterans' Affairs Committee. It is easy to work with someone like Senator MIKULSKI who is so committed to her values and the people she represents.

The first female senator, Rebecca Latimer Felton of Georgia, only held office for 1 day in 1922, having been appointed by Governor Thomas Hardwick upon the death of Senator Thomas Watson. During her first and last Senate address, she said ''When the women of the country come in and sit with you, though there may be but a very few in the next few years, I pledge that you will get ability, you will get integrity of purpose, you will get exalted patriotism, and you will get unstinted usefulness.'' Rebecca Felton's words forecast Senator MIKULSKI. There is no question that she has brought all of these skills and attributes, and much more, to the U.S. Senate over these last 24 years.

In some ways it is hard to believe Senator MIKULSKI is now the Senate's longest serving female Senator. She does a great job, and I understand she takes on the additional role of mentor to many new female Senators. I am thankful for that contribution which surely strengthens our entire Senate.

The people of Maryland made a wise choice in reelecting this remarkable Senator. I look forward to celebrating her next milestone in just over 2 years when she will become the longest serving female Member in the history of Congress.

Mrs. MURRAY. Mr. President, I rise to recognize and congratulate my good friend from Maryland, Senator BARBARA MIKULSKI, on today becoming the longest serving female Senator in the history of the Senate. This is an achievement that takes courage and passion and commitment, three things all of us who know her so well know she has in abundance.

Even more important than honoring my friend on the length of her service today, I believe it is important to recognize what she has done with that service. The senior Senator from Maryland, over her 24 years, has established herself as a trailblazer, a legislator, a leader, and, above all, a fighter for her people and her State. But to me and to all the other women Senators who have followed in her footsteps, she is simply a mentor. She is the Senator who has offered us guidance, taught us to be fearless, and who has set a standard for all women Senators to follow.

From the first time I ever spoke to Senator MIKULSKI, one thing was clear.

She didn't run for the Senate to be one woman Senator. She ran to be one of many. I first came to the Senate in 1992, the so-called year of the woman. I can remember a lot of the press that year being about how our incoming class of four women Senators would open the door to changes in the culture of the Senate. But when I got here, I quickly realized that door had not only already been opened, it had been broken down by Senator MIKULSKI. She was the first female Democrat to serve on the Senate Appropriations Committee, and she was also the very first one to take all the new women Senators under her wing. Senator MIKULSKI realized back then there was no rule book for women in the Senate. So she took it upon herself to help guide the way. She drew on her own experiences to make the transition for all of us easier. She organized seminars, taught us about working together, taught us about the legislative process and the rules on the floor and the many more subtle rules off the floor. In short, she showed us the ropes, and she has been doing it ever since.

But her work doesn't end with helping women Senators get their foot in the door. I don't know if it is because she was a social worker before she came to Washington, but one thing Senator MIKULSKI knows is that relationships matter. That is why she has worked to make sure that once women Senators get here, we are working together on both sides of the aisle. It is why she brings Republican and Democratic women together for dinners, so we can find common ground and help solve problems. While Senator MIKULSKI knows it is important and courageous to be the first, she also understands the first ones have to be responsible and successful so others can and will follow. It is because she has done her job so well that other women have been able to follow in her footsteps, and she has done her job well.

Senator MIKULSKI is here today as the longest serving woman Senator not by accident or by happenstance. She is here because she earned it, because the people of her State know she is an indispensable champion for their causes, because she works across party lines, because she delivers results and because, as she has said to us so many times, she is always ready to square her shoulders, put on her lipstick, and suit up for the people who need it most.

Whether it is leading the fight for the very first bill President Obama signed into law that guarantees women cannot be paid less than men for doing the same job or fighting for seniors who rely on Social Security or delivering investments for firefighters, police officers, and first responders or standing up for all those in Maryland who depend on her State's environmental resources for their livelihood, there are few others I want in my corner like her and there are few others who work as hard as she does to give a voice to those who would not otherwise have it.

Since Senator MIKULSKI was elected in 1986, she has helped guide the way for 22 more women Senators. Today there are 17. But she will also be the first one to tell us we are not yet where we need to be, that more women need to serve in this body. That is why she has built a team of women Senators behind her that continues to grow—every generation, every election, every year.

Today, Senator MIKULSKI makes history by serving longer than any other woman. But I know many years from now women will have achieved a larger, more representative role in this body than we now have, Senator MIKULSKI will be at the very top of the list of people to thank, the person who not only cut the path but who went back and guided so many of us down it. Thanks to her, one day the remarkable accomplishment we are celebrating today may no longer be such a remarkable thing for a woman to achieve; it will be commonplace. That will be her true and lasting legacy.

Mrs. HAGAN. Mr. President, I am honored to join my colleagues in honoring my mentor and dear friend, Senator BARBARA MIKULSKI, on becoming the longest serving woman in the history of the Senate. For more than 24 trailblazing years, Senator MIKULSKI has been one of the Senate's fiercest advocates for women, families, and for the people of Maryland who have now elected her to the Senate for five consecutive terms. Before she arrived in Washington in 1977 as the Representative from the Third District of Maryland, Senator MIKULSKI already had a distinguished career in public service, working in Baltimore as a social worker, then a community activist, and as a city council member. When she was first sworn in as a Member of the House of Representatives, she was one of just 18 female Members. When she entered the Senate 10 years later as the first Democratic woman Senator elected in her own right, she was one of just two women in this upper Chamber. But while those numbers have intimidated most, they only motivated and emboldened Senator MIKULSKI. She soon impressed her colleagues, as she continues to do today, with her work ethic, determination, keen understanding of issues, humor, and her commitment to her constituents.

She has broken many barriers in her career. She was the first woman ever elected statewide in Maryland, the first to chair an appropriations subcommittee, and the first woman to serve in the Democratic leadership. If we are no longer surprised today when we see women in power in Washington, it is only because we had pioneers such as BARBARA MIKULSKI. As she recently told CNN: ''I might be the first, but I don't want to be the last.''

There are now 17 women serving in the Senate, and Senator MIKULSKI, the dean of the women, is our leader and our champion. I was both humbled and honored to have her escort me when I was sworn in as a Senator 2 years ago. That was just the beginning of her ongoing mentorship. Although the Senate can often be bogged down by partisanship, I appreciate that Senator MIKULSKI encourages and creates an environment of teamwork, respect, and friendship. But while we today mark her place in history as a woman Senator, she is widely regarded as one of the most respected, accomplished, and effective public servants in all of Congress. To use Senator MIKULSKI's own words, she showed it is not about gender, it is about agenda.

She is one of the Senate's strongest advocates for science and technology and the importance of investing in innovation to spur our economy. In fact, earlier this year, I was watching a 3D movie about the Hubble telescope at the Smithsonian with my daughter, a scientist, and there was Senator MIKULSKI featured in the movie for her role in preserving the telescope's budget, a feat she calls one of her proudest accomplishments.

She also wrote the Spousal Anti-Impoverishment Act, which protects seniors across our country from going bankrupt while paying for a spouse's nursing home care.

She shepherded through the Lilly Ledbetter Act, which helps to ensure that no matter your gender, your race, your national origin, religion, age, or disability, you will receive equal pay for equal work.

She fought tenaciously for her important amendment to health care reform legislation ensuring that a comprehensive list of women's preventive services, such as screenings for breast and cervical cancer, would be covered with no added out-of-pocket expenses.

I thank Senator MIKULSKI for her mentorship, her leadership, and her fierce belief in the empowerment of women in our communities and in public office. I congratulate her on this tremendous accomplishment, and I join my colleagues in looking forward to many more years of her distinguished service.

Mr. SCHUMER. Mr. President, I want to say a few words about my dear friend, dear colleague, someone I so admire—Senator BARBARA MIKULSKI—on her remarkable accomplishments. Today, she took the oath of office, the Senator from Maryland, and made history as few others can make. Senator MIKULSKI has long been affectionately known here in the Senate as the dean of the women. Now she is officially the longest serving female Senator in the history of this great Nation.

This distinction adds to the considerable respect and admiration I already have for Senator MIKULSKI and who she is and what she does. BARB, like me, came from a decidedly middle-class beginning. We often talk about her dad, Willie, who owned a grocery store in east Baltimore, and my grandfather and dad—Jake and Abe—who were exterminators. They were similar because they were people of the community. BARB would tell me that people

would come in during difficult times—they had lost their job—and Willie would say, pay me when you can. It wasn't quite the same with my family, but my grandfather and then father, like him, felt people who had roaches or rats crawling through their little houses and apartments, when they couldn't pay, shouldn't have that service cut off for them.

So we were both infused with that great upwardly mobile, middle-class, help your neighbor, be part of a neighborhood, be part of a community feeling. BARB started her career as a social worker and made a name for herself when she led the fight to stop a highway project from destroying a historic section of her community. That is what launched her into politics. Like our best politicians, she came from the community. She didn't decide to be a politician, she came from the community, took on a fight, and saw how she could make government a friend to the people. So she went from the Baltimore City Council to the House of Representatives, and then, of course, to this august Chamber.

Throughout that time, she has never lost sight of from where she came. She has fought tirelessly and effectively to protect Maryland's seniors, ensuring they have access to an affordable, healthy, and happy environment. She has been a leading advocate of medical research, securing billions in funding for cutting-edge research into things as diverse as breast cancer and Alzheimer's. She has helped countless women and veterans get the health care they need, and the list goes on and on.

Let me say one other thing. As somebody who believes that we have to focus on the middle class, talk to the middle class, and have middle-class feelings and values infused in our bones, no other Senator does that as well as Senator MIKULSKI because it is who she is and because—being the essentially humble and modest person she is—she has never lost sight of where she has come from.

So Senator BARB—as her constituents know her—you are beloved here as much as you are beloved in your home State of Maryland. Your sense of humor, your tenacity, your work ethic, your love of community, and your mother's crab cake recipe are unrivaled.

It is an honor to serve alongside such an accomplished woman. Senator MIKULSKI, congratulations again. You are a great Senator and a great friend.

The VICE PRESIDENT. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank my colleagues for their very warm words. Today, when I walked down the aisle, escorted by my esteemed partner, BEN CARDIN, my former and beloved colleague, Senator Paul Sarbanes—when I walked down that aisle, I walked into the history books.

I never set out to do that and, for me, it is a great honor to join Margaret Chase Smith in the history books. As Senator SNOWE has said, and also Senator COLLINS on a number of occasions, Margaret Chase Smith and I share many things in common. Today they wear the rose, but those two outstanding Senators from Maine also wear the values of Maine and the values of Margaret Chase Smith: a strong belief in constituent service, staying close to the people, focusing on jobs for the State, being a strong supporter of innovation, and a fearless, unrelenting streak of independence. I hope I am like her. I know they bear that same set of characteristics.

For me, it is not how long I serve but how well I serve. Service for me is about being connected, connected to my constituents, staying close to them so they do not fall between the cracks, meeting their day-to-day needs and also looking at the long-range needs of the Nation.

Nobody comes here by themselves. Later on today I will thank my friends and supporters. But I want to thank the wonderful people who shaped me, the wonderful nuns who taught me, the school Sisters of Notre Dame and the Sisters of Mercy who taught me about leadership, who taught me about service, who taught me about my faith in Matthew 5, the Beatitude that said hunger and thirst after justice.

But today as I stand here, I also think about my mother and father. I am filled with great emotion. I wish my mother and father were here today. They worked so hard for my sisters and I to have an education. But though they are not here with me today in the Senate gallery, I know they are in my heart. I want them to know they are with me when I fight for what we believed in.

My father ran a small grocery store. Everybody loved my father and mother. They were known for honesty and integrity. When my father opened the grocery store every morning, he would say: Good morning. Can I help you? And that is the kind of values I bring to the Senate.

Our family came from Poland. When my great-grandmother arrived in this country she had little money in her pocket, but she had a big dream in her heart. That dream was the American dream where through hard work, hard work and dedication, you could make something of yourself. You could own a home, you could have a job, you could get an education for your family. She did not even have the right to vote, and in this great country of ours, in three generations, I joined the Senate. She knew about hard work in terms of economic opportunity. She did not think too much about the Constitution, but I do—particularly that first amendment.

I got into politics fighting a highway. In other countries they put dissidents in jail. In the United States of America, because of the first amendment, they put you in the United States Senate. God bless America.

When I came to the Senate, though I was all by myself, I said I was never alone because of the wonderful way the men have treated me. The history of the women in the Senate is short—I might add, 4-foot-11 short. But everything we have done we have been able to work on together.

I fought for seniors to try to pass, and passed, the Spousal Impoverishment Act to make sure the very cruel rules of our government did not force people into bankruptcy when they had to turn to a nursing home. I worked to pass the Lilly Ledbetter bill to give equal pay for equal work; our wonderful work on women's health, where we broke barriers in terms of research. We know we have saved lives because of what we have done in research in our preventive health amendment, and for young people in national service.

I have also fought for Maryland—whether it is cleaning up the bay or fighting for jobs in the Port of Baltimore, whether it is looking out for the Goddard Space Agency or doubling the funding at the National Institutes of Health. For me, again, it is all about service. I am fighting for a stronger economy and a safer America. For me it is not about the past, it is about the future. Though I break one record today, I want to work with all of you on both sides of the aisle to break other records.

Let's break that high record of unemployment in our country. Let's break that record of low graduation rates in our high schools. Let's break the record of the longest war in American history and bring our troops home as safely as we can. I want to build a strong economy.

I am going to work to build a strong economy, an innovation economy so we are able to move ahead. Today when I took my oath, I pledged that I want to help America be great again with a renewed self-confidence and achievement. I want us to be a global leader in this innovation economy. I want to help America be excellent again so we not only win Nobel Prizes—and I want us to win lots of them—but win international markets and win lots of them. I want to promote a sense of community where we look out for each other and for our community and where the people of the United States know they have a government on their side.

I will close with a quote from George Bernard Shaw.

> I am convinced that my life belongs to the whole community; and as long as I live, it is my privilege to do for it whatever I can, for the harder I work, the more I live.
>
> I rejoice in life for its own sake. Life is no brief candle to me. It is a sort of splendid torch which I got hold of for a moment, and I want to make it burn as brightly as possible before turning it over to future generations.

Someday in the future, someone else will break this record. Let's work together to break those other records.

Thanks for everything. God bless America.

(Applause, Senators rising.)

The VICE PRESIDENT. The majority leader.

ELECTING GARY B. MYRICK AS THE SECRETARY FOR THE MAJORITY

Mr. REID. Mr. President, I have a resolution at the desk, and I ask that it now be considered.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 5) electing Gary B. Myrick, of Virginia, as Secretary of the Majority of the Senate.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The resolution (S. Res. 5) reads as follows:

S. RES. 5

Resolved, That Gary B. Myrick of Virginia be, and he is hereby, elected Secretary for the Majority of the Senate.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF SENATE LEGAL COUNSEL

The VICE PRESIDENT. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, appoints Morgan J. Frankel as Senate legal counsel for a term of service to expire at the end of the 113th Congress.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 6) to make effective appointment of Senate Legal Counsel.

The VICE PRESIDENT. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 6) reads as follows:

S. RES. 6

That the appointment of Morgan J. Frankel of the District of Columbia to be Senate Legal Counsel, made by the President pro tempore this day, shall become effective as of January 7, 2011, and the term of service of the appointee shall expire at the end of the One Hundred Thirteenth Congress.

APPOINTMENT OF DEPUTY SENATE LEGAL COUNSEL

The VICE PRESIDENT. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, appoints Patricia Mack Bryan as deputy Senate legal counsel for a term of service to expire at the end of the 113th Congress.

Mr. REID. Mr. President, it is my understanding that the President pro tempore will now assume the presidency of the Senate.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 7) to make effective appointment of Deputy Senate Legal Counsel.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 7) reads as follows:

S. RES. 7

That the appointment of Patricia Mack Bryan of Virginia to be Deputy Senate Legal Counsel, made by the President pro tempore this day, shall become effective as of January 3, 2011, and the term of service of the appointee shall expire at the end of the One Hundred Thirteenth Congress.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENTS

Mr. REID. Mr. President, I send to the desk en bloc 12 unanimous-consent requests, and I ask for their consideration en bloc, that the requests be agreed to en bloc, that the motions to reconsider the adoption of these requests be laid upon the table, and that they appear separately in the RECORD.

Before the Chair rules, I would like to point out that these requests are routine and are done at the beginning of each new Congress. They entail issues such as authority for the Ethics Committee to meet and other such matters.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, the Ethics Committee be authorized to meet during the session of the Senate.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10 minute duration, the warning signal be sounded at the beginning of the last 7½ minutes.

Mr. President, I ask unanimous consent that during the 112th Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

Mr. President, I ask unanimous consent that the majority and minority leaders may daily have up to 10 minutes each on each calendar day following the prayer and disposition of the reading of, or the approval of, the Journal.

Mr. President, I ask unanimous consent that the Parliamentarian of the House of Representatives and his four assistants be given the privileges of the floor during the 112th Congress.

Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

Mr. President, I ask unanimous consent that the Committee on Appropriations be authorized during the 112th Congress to file reports during adjournments or recesses of the Senate on appropriations bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposed amendments shall be printed.

Mr. President, I ask unanimous consent that, for the duration of the 112th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and joint resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate is authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions and concurrent resolutions—messages from the House of Representatives, that they be appropriately referred and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, Senators be allowed to leave at the desk with the journal clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant-at-Arms be instructed to rotate staff members as space allows.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

Mr. President, I ask unanimous consent that for the duration of the 112th Congress, Senators may be allowed to bring to the desk bills, joint resolutions, concurrent resolutions and simple resolutions, for referral to appropriate committees.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WORKING GROUP—LOWER LEVEL EXECUTIVE NOMINATIONS

Mr. REID. One of the issues we must reform is the confirmation process in the Senate. I have heard from a number of Senators on both sides of the aisle who think we should address this.

Clearly, all Presidents are entitled to choose well-qualified individuals to

serve in their administration. In the vast majority of instances, the individuals nominated by the President are not controversial, but many have faced delays before assuming their positions. These delays mean critical decision-makers are not in place. And, the delays make it harder to find qualified people—many great nominees simply cannot wait around for months as the stress and uncertainty affects their families and careers. We need to do better in the 112th Congress. According to the Congressional Research Service, the Senate has a constitutional duty to exercise ''advice and consent'' on more than 1,215 executive branch nominees. That is a large number. Is my friend from Kentucky aware of that the Senate confirms more than 1,215 executive branch nominees?

Mr. MCCONNELL. I am aware that the number of presidential appointees has grown substantially. According to the bipartisan Commission on Public Service report from 2003, President Kennedy took office in 1960 with only 286 positions to fill by Presidential appointment. Many of those required Senate confirmation. About 40 years later, President George W. Bush faced a total of 3,361 Presidential appointment slots to fill. I am sure the current President faced a similar number of appointments.

Mr. REID. I remember the Public Service Commission well and its Chairman Paul Volcker. We may need a new working group in the Senate to examine the confirmation process and ways to improve, streamline, and in some cases perhaps eliminate the confirmation process for lower level nominees. I would like to propose a new working group on executive nominations headed by Chairman SCHUMER and Ranking Member ALEXANDER of the Rules Committee. We will develop the details of this effort in the coming weeks, but I think a Senate level working group is a good place to start. And I would also recommend that Senators SCHUMER and ALEXANDER work on this effort in conjunction with Senators LIEBERMAN and COLLINS. The Homeland Security and Government Affairs Committee has held hearings on the confirmation process in the past, and Senators LIEBERMAN and COLLINS have been engaged in this issue for some time. They can bring a valuable perspective here.

Mr. MCCONNELL. I agree the Senate should establish a working group to examine this issue. Surely, Senators LIEBERMAN and COLLINS have bipartisan respect and should be a part of any such group on executive nominations. Senators ALEXANDER and SCHUMER are good choices to spearhead this effort. I look forward to working with the majority leader and my colleagues in the coming weeks as we finalize this proposal.

FIRST DAY FOR INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

Mr. REID. Mr. President, I ask unanimous consent that the first day for the introduction of bills and joint resolutions in the 112th Congress be Tuesday, January 25, 2011.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT OR RECESS OF THE HOUSE AND SENATE

Mr. REID. I have a concurrent resolution at the desk. I ask the clerk to report the same.

The PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 1) providing for a conditional recess or adjournment of the Senate and adjournment of the House of Representatives.

The PRESIDENT pro tempore. The concurrent resolution is considered and agreed to.

The concurrent resolution (S. Con. Res. 1) was agreed to, as follows:

S. CON. RES. 1

Resolved, by the Senate of the United States (the House of Representatives concurring), That (a) when the Senate adjourns or recesses on any day from Wednesday, January 5, 2011, through Monday, January 10, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned or recessed until 10 a.m. on Tuesday, January 25, 2011, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and

(b) when the House adjourns on the legislative day of Wednesday, January 12, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, January 18, 2011, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; and when the House adjourns on any legislative day from Wednesday, January 26, 2011, through Friday, January 28, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 8, 2011, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 2. (a) The Majority Leader of the Senate, or his designee, after consultation with the Minority Leader of the Senate, or his designee, shall notify the Members of the Senate to reassemble at such place and time as he may designate if, in his opinion, the public interest shall warrant it.

(b) After reassembling pursuant to subsection (a), when the Senate recesses or adjourns on a motion offered pursuant to this subsection by its Majority Leader or his designee, the Senate shall again stand recessed or adjourned pursuant to the first section of this concurrent resolution.

SEC. 3. The Speaker or his designee, after consultation with the Minority Leader of the House, shall notify Members of the House to reassemble at such place and time as he may designate if, in his opinion, the public interest shall warrant it.

Mr. REID. Mr. President, I move to reconsider that vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE PROCEDURE

Mr. REID. Mr. President, happy new year to you. And happy new year to all my colleagues, those returning to the Senate and those taking office today for the first time.

I am honored, humbled, and will forever be grateful that the people of Nevada have entrusted me with another term as a Senator. I will continue working hard to create jobs for the people of my State and our country and get our country back on track. I am also grateful for the continued support and confidence of my caucus, which has given me the honor of serving as its leader. Neither title—Senator nor majority leader—is a responsibility I take lightly or for granted.

They say you can never step in the same river twice; new water flows in replacing the old and continually renewing the river. The Senate is the same. This body never stops changing. Every 2 years—occasionally more frequently—new Senators take their seats in this Chamber. They join the Senate family in this ever-evolving team of 100 tasked with moving the country forward. Our fundamental responsibilities and traditions anchor us in that river. Our respect and reverence for the people we serve and this institution never wavers or changes.

According to academics, pundits, and Congress watchers, the 111th Congress was the most productive in American history. But many challenges and opportunities still lie ahead for this new Congress that starts today. We have to do even more to help middle-class families, to create jobs, to hasten our energy independence, to improve our children's education, and to fix our broken immigration system. We also have to make sure the Senate can operate in a way that allows the people's elected legislators to legislate.

We will soon debate some reforms to Senate procedure, reforms proposed not for the sake of change itself or for partisan gain but because the current system has been abused and abused gratuitously. The filibuster in particular has been abused and in truly unprecedented fashion. There are strong passions on both sides of this debate on this issue. There are nearly as many opinions about what to do about these abuses as there are Senators. But let's start the conversation with some facts.

There were about as many filibusters in the last two Congresses as there were in the first six and a half decades the cloture rules existed. There were nearly as many filibusters in just the last 2 years as there were in the 1920s, 1930s, 1940s, 1950s, 1960s, and half of the 1970s, all combined. In the entire 19th century, the Senate saw fewer than 12 filibusters. Now we see that many in a single month. Many of these recent filibusters were terribly unproductive. Many of them prevented us from even holding debate on a bill, let alone an up-or-down vote. After we wasted hour after hour, day after day, sometimes weeks, many of those bills passed and

many of those nominations were confirmed overwhelmingly and sometimes unanimously.

I have been forced to use my right as majority leader to fill what we call the amendment tree more than I would have liked to, but it has been for a simple reason. Rather than offer amendments to improve legislation or compromise for the greater good, as Members of this body have done for generations, the current minority has offered amendments simply to waste time, delay us from proceeding to a bill or for scoring political points. The American people love government, but they don't like too much politics in government.

Finally, these rules are central to the Senate, but they are not sacrosanct. Senate procedures and rules have changed since the Senate was founded at the beginning of this country when necessary and after serious consideration. Those decisions have never been made without great deliberation, and no future change should be made any differently.

The recent abuses we have seen have hurt the Senate and hurt our country. They have hurt our economic recovery, and they hurt middle-class families. They hurt the institutions that lead and shape America because they keep public servants and judges from these posts for no reason other than partisanship. Even Chief Justice Roberts criticized the Senate a few days ago for how few judges we confirmed and how slowly we do even the few we confirm. His criticism and concern are well founded. I hope all my colleagues consider the Chief Justice's warning and what it means for the pursuit of justice.

Here is the bottom line: We may not agree yet on how to fix the problem, but no one can credibly claim problems don't exist. No one who has watched this body operate since the current minority took office can say it functions just fine. That wouldn't be true. It would be dishonest. No one can deny that the filibuster has been used for purely political reasons, reasons far beyond those for which this protection was invented and intended.

I say through the Chair to my distinguished Republican counterpart, my friend, Senator MCCONNELL, in the coming days, let's come together to find a solution. That is why we are here. I say to the 16 new Senators, we need to do some things to correct some of the things that have taken place. The Senate must solve problems, not create them. I am going to work to the best of my ability with my friend, the Senator from Kentucky, to work this out, to work out a compromise.

The last time Congress convened without Senator Robert Byrd as a Member, Harry Truman was President of the United States and 42 of our 100 Senators had not even been born. No one knew the Constitution better than Robert Byrd, and no one revered it more. He taught many of us many things. Among them, he taught me to carry the Constitution with me every day.

I do that, Mr. President. I always have this copy of our founding document in my pocket, signed by Senator Byrd, one of the most fervent defenders of the Constitution. He has given me two of them. The first one wore out, but I have it in my desk in Searchlight. I have such fondness looking at what Senator Byrd wrote in it. As we all know, in his later years he had a benign tremor, and he shook a little bit when he wrote. But he wrote this, and I will always, always remember Senator Byrd, that fervent defender of this Constitution.

He loved the Constitution. This coal miner's son loved the Constitution. Just like everyone in America, whether you are a coal miner's son or an academic's son, we all should love this Constitution, not just because of what is written in it but how those words were written and how it all came together.

Senator Byrd knew our Constitution was created through compromise. At a moment of particular partisan strife, 15 years ago Senator Byrd came to this floor and said the following:

> I hope that we will all take a look at ourselves on both sides of this aisle and understand also that we must work together in harmony and with mutual respect for one another. This very charter of government—

Talking about the Constitution—

> under which we live was created in a spirit of compromise and mutual concession. And it is only in that spirit that a continuance of this charter of government can be prolonged and sustained.

That is what he said.

Our friends in the House have decided to begin their daily business by reading the Constitution. In these first few minutes of the new Senate session, I think we should reflect on Senator Byrd's wise reminder of this Constitution's history. Like the Constitution, the agreement that established two separate and different Houses in the legislative branch was itself a compromise.

Mr. President, it is written to be the Great Compromise that allowed us to have a Constitution. As much as ever before, our two branches need to find common ground if we are going to be productive for the people we serve and serve together.

In that same speech a decade and a half ago, Senator Byrd reminded us that ''the welfare of the country is more dear than the mere victory of [a political] party.'' I think we would do well to heed those words as we debate and decide how to best serve the Nation and its people in this new year.

Senators come and go. Majorities and minorities rotate like a rolling wheel, and records of service are written and rewritten. The only constant in this great democracy is change—a change we never anticipate. Sometimes we do, but most often we do not. Sixteen Senators who were here just a few days ago have moved on, and 16 new ones now take their seats. Laws that govern this Nation and the rules that govern this body continually evolve carefully and by necessity.

But the most important change we can make in the 112th Congress is to work better and more closely as teammates, not as opponents; as partners, not as partisans; to fulfill our constitutional responsibility to pursue a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Republican leader is recognized.

OPENING THE 112TH CONGRESS

Mr. MCCONNELL. Mr. President, first, I would like to take a moment to welcome back all of my colleagues and particularly the 13 new Republican Senators whom we officially swore in just a few moments ago.

Americans are looking for creative, principled leaders. I am confident this impressive class of new Republicans will not disappoint.

I would also like to welcome my good friend, the majority leader. At a time when some people think the two parties in Washington cannot even agree on the weather, I will note that Senator REID and I get along just fine. I expect it will stay that way, and I look forward to working with him again throughout this Congress.

The biggest changes today are, of course, happening across the dome, and I would like to welcome the many new Republican Members of Congress who have come to Washington to change the way things are done around here. In this, they will be led by a very talented and determined Ohioan, whom I now have the great honor of referring to as Speaker BOEHNER. I congratulate Speaker BOEHNER and the new Republican majority in the House, and I wish them great success in achieving the kinds of reforms and policies the last election was all about.

Americans want lawmakers to cut Washington spending, tackle the debt, rein in the government, and to help create the right conditions for private sector job growth. They also want us to reform the way laws are made. They are looking to Republicans to provide an alternative to the kind of lawmaking we have seen too much of around here in the past few years—a vision that disregards the views of the public in favor of an elite few, a vision that tells people they can look at legislation after it is passed, that Washington knows best. In short, Americans are looking for an entirely different approach.

The new Republican majority in the House has shown every sign that they have heard the public on all of this, and Senate Republicans join them in their efforts, conscious of the limitations and the opportunities that our minority status and the President's veto pen involve. We will press the majority to do the things the American people clearly want us to do, and we will insist in every possible way that the voices of our constituents are heard, realizing at the same time that the best solutions are forged through consensus not through confrontation.

Fortunately, the Senate was designed as a place where consensus could and would be reached. Look through modern history. The Social Security Act of 1935 was approved by all but six Members of the Senate. The Medicare and Medicaid Acts of 1965 were approved by all but 21. And all but eight Senators voted for the Americans with Disabilities Act 21 years ago this year.

The lesson is clear: Americans believe on issues of this importance, one party should not be allowed to force its will on anyone else. Thanks to the Senate, it rarely has.

That is why a recent proposal to change the Senate's rules by some on the other side is such a bad idea. For 2 years, Americans have been telling us they are tired of being shut out of the legislative process. They want to be heard. The response they are now getting from some on the other side instead is a proposal to change the Senate rules so they can continue to do exactly what they want with fewer Members than before. Instead of changing their behavior in response to the last election, they want to change the rules.

Well, I would suggest this is precisely the kind of approach a supermajority standard is meant to prevent. It exists—it exists—to preserve the Senate's role as the one place where the voices of all of the people will, in the end, be heard. As a result, it has helped ensure that most major agreements enjoy the broad support of the public and the stability that comes with it.

Regrettably, the current majority has too often lost sight of this important truth. Since assuming control of the Senate in 2007, it has sought to erode the traditional rights of the minority, and, by extension, the rights of our constituents. The nonpartisan Congressional Research Service has looked into the way the current majority has run the Senate. Its conclusions are revealing.

Here are just a few: The current majority has denied the minority the right to amend legislation a record 44 times or more often than the last six majorities combined. It has moved to shut down debate the same day measures are considered nearly three times more often, on average, than the previous six majorities. And its unprecedented denial of the rights of the minority to debate and amend on the floor is compounded by its practice of regularly bypassing Senate committees. All too often the majority has chosen to write bills behind closed doors, depriving Americans of yet another opportunity to have a say in the legislative process. The current majority has set the record here as well, bypassing committees 43 times or double the previous average.

Now, the goal of all of this, of course, is to pass the most partisan legislation possible while at the same time avoiding difficult votes. To listen to the leaders of the Democratic Party over the past several months, they have had some success at it. The President, the former Speaker, and the majority leader have all described the past Congress as the most successful in memory. Yet the most vocal elements of their party remain frustrated. They say the Senate is broken, even though the same people are describing it as the most successful in memory.

Why? Their primary complaints appear to be these: The stimulus passed, but it was not big enough; the health care bill passed, but it did not include the government plan; the Senate extended unemployment benefits and cut payroll taxes but was blocked from raising taxes on small business owners in the process.

In other words, the majority may have been able to achieve most of what it wanted, but because it did not achieve everything it wanted some are not happy. They are not happy that those Americans who have a different view of things actually had a say in how some of the legislation they have passed over the past 2 years turned out.

The impulse to change the rules is, in some ways, understandable. No one likes to take difficult votes, but that is nothing new. As the majority whip often says: ''If you don't like fighting fires, then don't become a fireman.'' If you don't like casting votes, don't come to the Senate.

Some have also suggested that one's view of the filibuster depends on where one sits. It is true that when I was in the majority, I opposed filibustering judicial nominees. But I opposed doing so when I was in the minority as well. I opposed doing so regardless of who was in the White House. In short, I was against expanding the use of the filibuster into an area in which it traditionally had not been used, period.

One can agree with that view or not, but it is one thing to disagree with expanding the use of the filibuster into nontraditional areas, regardless of who is President and who is in the minority, it is another thing altogether to be in favor of expanding it when one is in the minority, and then turn around and urge its elimination when one is in the majority.

When it comes to preserving the right to extended debate on legislation, Republicans have been entirely consistent. What is being considered is unprecedented. No Senate majority has ever—I am going to say this twice—no Senate majority has ever changed the rules except by following those rules; that is, with the participation and the agreement of the minority.

I am going to say it one more time. No Senate majority has ever changed the rules except by following those rules; that is, with the participation and the agreement of the minority. But it also promises to frustrate those who would approve it.

First, it is stating the obvious, that anything that passes in the Senate with a narrower majority than 60 is going nowhere—absolutely nowhere—in the newly Republican House. So any short-term gain ends halfway across the dome. Second, a change in the rules aimed at benefitting the Democrats today could just as easily be used to benefit Republicans tomorrow. Do our friends across the aisle want to create a situation where 2 or 4 or 6 years from now they suddenly find themselves completely powerless to prevent Republicans from overturning legislation they themselves have worked so hard to enact, particularly over the last 2 years?

But the larger point is this: The Founders crafted the Senate to be different. They crafted it to be a deliberate, thoughtful place. Changing the rules in the way that has been proposed would unalterably change the Senate itself. It will no longer be the place where the whole country is heard and has the ability to have its say, a place that encourages consensus and broad agreement. In short, it would make this place even less like the place Americans want it to be.

So it is my hope that our friends on the other side will put aside their plans, respect the rules of the Senate and, more importantly, the voice of the people those rules are meant to protect. Then we can get about the business the people sent us here to do.

Today is a day to renew our purpose and our commitment to bipartisanship, not to double down on a partisan approach that has too often marred lawmaking in Washington over the past 2 years. It is a day to look ahead to what we can achieve together, prompted by the urgings of an electorate that has made its views very clear, and united by a love for this institution and this Nation. The problems we face are enormous—once-in-a-generation challenges that will require vision, hard work, and a commitment to work together to reach consensus, and the Senate is the place for that. At its best, it is a workshop where the Nation's most difficult challenges are faced squarely and addressed with civility and goodwill. At a time like our own, when 1 in 10 working Americans is looking for a job and can't find one, when the national debt threatens the American dream itself, when the solvency of the social safety net is threatened, we must come together. We must find a way to forget the petty skirmishes of the past and forge a new, more hopeful path. We must be motivated by a determination to seek solutions, not mere partisan advantage.

Americans are looking for Republicans to address the problems we face, but Republicans cannot solve them alone. The problems are too big, too demanding for one party, and we will never succeed in solving them if we retreat to our corners until another election comes around. If our predecessors had done that, they would have never solved anything at all, and this institution would have lost its relevance a long time ago. But they didn't, and neither can we.

The men who established this place have left us the right tools for the job. It is my hope that in the weeks and months ahead, we will use them to renew the promise that inspired them and that continues to inspire Americans even in difficult times. That promise is the American dream. It is what unites everyone in this Chamber. Preserving it must be our common task.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business and that there be 30 minutes for tributes regarding Senator MIKULSKI's milestone; that upon conclusion of MIKULSKI-related remarks, there be 45 minutes for Senator HARKIN; that upon the conclusion of Senator HARKIN's remarks, the Republican leader or his designee control the next 35 minutes; further, that following that time controlled by the Republican leader, Senators be permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

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

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

COMMENDING SENATOR MIKULSKI

Mr. HARKIN. Mr. President, I wish to make some remarks regarding my dear friend and seatmate on the Appropriations Committee and a member of my Health, Education, Labor, and Pensions Committee.

I join with the entire Senate family in saluting my good friend, the distinguished senior Senator from Maryland, on becoming the longest serving woman in the history of the Senate. This is truly a remarkable milestone.

I note that Cal Ripken, the former star of Senator MIKULSKI's hometown Baltimore Orioles, became known as the ''Iron Man'' for going 16 consecutive years without missing a game. Now perhaps Senator MIKULSKI has earned the title of ''Iron Woman'' for going 24 consecutive years in this body without ever deviating from her role as a fierce advocate for Marylanders and for working people across our country.

I hasten to add that the measure of a Senator is not how many years he or she serves in the body but what he or she accomplishes during those years. That is where Senator MIKULSKI has truly distinguished herself over the last quarter of a century.

I especially salute her activism and leadership on the Committee on Health, Education, Labor and Pensions, formerly chaired, of course, by Senator Kennedy and which I am now privileged to chair. She has been a leading champion of Pell grants and for expanding access to higher education for students of modest means. Of course, as has been stated, she has been the Senate's leading voice on women's health issues, fighting to ensure women are included in clinical trials and medical research at the National Institutes of Health, and securing access to breast and cervical cancer screenings for women without health insurance.

Senator MIKULSKI took the lead in writing the sections of the new health reform law that focus on improving the quality of care. At every turn in the drafting of that historic legislation, she fought to ensure that the unique health needs of women were fully recognized and accommodated.

As chair of the Subcommittee on Retirement and Aging, Senator MIKULSKI has been an outspoken advocate for seniors, focusing especially on combating elder abuse and neglect. I know she is especially proud of authoring the Spousal Anti-Impoverishment Act, which keeps seniors from going bankrupt while paying for a spouse's nursing home care. I might also add, no one has been a more fierce supporter and defender of the right for people to have an attorney through the legal aid system in America. She has fought very hard to make sure we strengthened the National Legal Services Corporation and to make sure it receives adequate funding so people who have no money aren't barred from the courthouse door.

We admire the work of BARBARA MIKULSKI not as a female Senator per se but as one of 100 Senators. On this day we also recognize that she was the first woman elected to the Senate whose husband or father did not serve in high office. We salute her as the proud dean among Senate women who has gone to extraordinary lengths for so many years to mentor and guide newly elected women Senators of both parties.

I join my colleagues in congratulating Senator MIKULSKI as our longest serving female Senator and wishing her many more years of accomplishment and service in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today to add my voice to those of my colleagues as we commemorate an extraordinary milestone for a remarkable woman. Today, Senator BARBARA MIKULSKI becomes the longest serving woman Senator.

For anyone who has had the privilege of working with or for Senator MIKULSKI, this milestone comes as no surprise. She is a devoted public servant and a dogged advocate for her constituents. She has spent the vast majority of her life in public service as a social worker, as a member of the Baltimore City Council, then as a Member of the House of Representatives, and finally as a Senator. With each step, her constituency got larger and she worked even harder to fight for the people of Maryland.

Senator MIKULSKI is no stranger to celebrating firsts or milestones. She was the first Democratic woman to be elected to the Senate in her own right without succeeding a spouse or a father. She was also the first woman to serve on the Senate Appropriations Committee.

It is also worth reflecting on how far we have come in the 24 years since Senator MIKULSKI was first elected. She was one of only two women in the Senate in 1987. In the next Senate, as in the last Senate, we are now up to 17 female Senators, meaning that they can no longer call us ''Sweet 16.''

As the dean of women Senators, Senator MIKULSKI has always been ready to help women who are thinking about running for the Senate and then help newly arrived women Senators when they get here. Her wise counsel is absolutely invaluable. Senator MIKULSKI has always reached across the aisle to bring women Senators together. As she puts it: ''Women in the Senate understand issues not just on the macro level, but on the macaroni and cheese level.''

Two years ago around this time, I went to the Senate floor with several of my women colleagues to speak about the importance of passing the Lilly Ledbetter Fair Pay Act. Senator MIKULSKI had championed the bill for years. I remember Senator MIKULSKI bringing us all together and I will always remember her words. She would say:

> To the women of America: Suit up, square your shoulders, put your lipstick on. We're ready for a revolution.

Senator MIKULSKI has always been a master of words and quips. She did it again, and we passed that bill.

On that issue, as on so many others, the cause that Senator MIKULSKI championed was victorious due in large part to her tremendous work ethic and her devoted advocacy.

Senator MIKULSKI, today we salute you for suiting up and squaring your shoulders for 24 years and counting, and we look forward to so many more.

I see my great colleague Senator STABENOW from the State of Michigan is here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I am so pleased to be here today. I appreciate the words of the great Senator from Minnesota. I am very pleased to rise with colleagues on both sides of the aisle to pay tribute to somebody who is much more than a colleague—someone who is also a mentor and a great friend, the Senator from Maryland, BARBARA MIKULSKI.

Today, as we all know, she became the longest serving woman Member of the Senate in the history of our Nation. I have a 3-year-old granddaughter Lilly who will be able to read now in the history books about not only her grandmother but the woman who holds this record, Senator BARBARA MIKULSKI, and all she has done and all she means to each of us, particularly as a role model for my granddaughter and other young children, other young women who will be coming after all of us.

She is here today because she is bold and fearless and determined, as we all know. In 1986, when she first ran for the Senate, she looked for inspiration from her own great-grandmother who came to the United States from Poland with no money and no job. But her great-grandmother knew the importance of hard work and she built a life for her family here, a new beginning, and in so doing opened the door for future generations. I know today she is looking down from a special place with tremendous pride.

When Senator MIKULSKI won that election, becoming the first Democratic woman to win a Senate seat in her own right, she carried on her great-grandmother's legacy—opening doors for future generations of women to follow in her footsteps. Thanks to that, there are more women serving in the Senate today than have ever served in the entire history of our great country. When Senator MIKULSKI was elected in 1986, from the moment she arrived in this august body, she has been a tireless champion of working families in Maryland and across the country. I am proud to have partnered with her on so many important efforts to make sure we are building things in America again and supporting the people who have built the great middle class of this country by their hard work.

She grew up working in her parents' grocery store and understands the struggles of working families who want nothing more than to create a better life for their children and their grandchildren.

She got her start in politics fighting to save the Fells Point neighborhood in Baltimore, stopping a proposed highway that would have divided a neighborhood and destroyed that community. Today, because of Senator MIKULSKI, Fells Point is a thriving residential and commercial community. She has continued from that day, every day, fighting for neighborhoods and families and standing for the men and women who work hard every day to make a better life for themselves and their families.

When BARBARA first arrived in the Senate, she was one of only two women Senators, as we know. Before then, women were appointed to the worst committees, were locked out of the ''old boys' club'' and didn't have much of a voice. But she changed all that.

She got appointed to the powerful Appropriations Committee—the first Democratic woman to do so, giving the women of America a voice, for the first time, on how we set our priorities for the investments of our country. More importantly, she learned how to build coalitions, to work with colleagues on both sides of the aisle, and get things done for the people who sent her here to work for them.

Today, as dean of the women Senators, BARBARA continues that leadership. Thanks to her, the women of the Senate get together—both Democrats and Republicans—for fellowship and friendship on a regular basis. Now, following in her footsteps, there are woman Members on every single committee in the Senate. That is important to the operation of our country's business.

Her example shows us all the importance of hard work, determination, and courage.

I congratulate my friend, Senator BARBARA MIKULSKI, today on her great accomplishment and, most importantly, on a distinguished record of public service on behalf of the people of Maryland and our country. I thank her for all she has done for me personally and for all the other women in the Senate—the ones who have already followed in her footsteps and the many who are still to come.

This is an exciting day for the history books—as some of us like to say, it is another step in ''herstory''—BARBARA's story—which is a special one for our country.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

Mr. HARKIN. Mr. President, parliamentary inquiry: Under the unanimous consent agreement, there was a period of 30 minutes for tributes to Senator MIKULSKI. Is there any of that time remaining?

The PRESIDING OFFICER. Time has been consumed.

Mr. HARKIN. If I am not mistaken, under the unanimous consent agreement, I was deemed to have 45 minutes.

The PRESIDING OFFICER. That is correct.

FILIBUSTER RULE

Mr. HARKIN. Mr. President, I have a resolution for myself, Senator DURBIN, Senator MIKULSKI, and Senator SHAHEEN, which I send to the desk and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 8) amending the Standing Rules of the Senate to provide for cloture to be invoked with less than three-fifths majority after additional debate.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I had a good discussion with the Senator from Iowa. This is a longstanding proposal of his. He has thoughtfully considered it. Even though I admire him, I do not admire the proposal.

What we would like to do is let the Senator from Iowa make his proposal. I will listen, and when he has made the proposal, I will ask him to yield me a few minutes and we may have a little discussion back and forth on the merits of the proposal. With that in mind, I object.

The PRESIDING OFFICER. Objection having been heard, the resolution will go over under the rules.

Mr. HARKIN. Mr. President, I am sorry my good friend from Tennessee had to object, but I understand. We are going to engage for some time now on the Senate floor in a discussion on the filibuster, something that has been around a long time but which, in the last several years, few years—I would not say ''several''—in the last 20, 30 years, has gotten to the point where it has paralyzed the Senate and has paralyzed the country.

I intend to make some remarks for a while. I appreciate my friend from Tennessee and also my friend from Kansas who is here. I hope we can engage in a nice colloquy and a discussion about this in a back-and-forth way. I look forward to doing that. I do wish to take some time to at least lay out my case, as I did 15 years ago—I am sorry, 16 years ago. On January 4, 1995, I submitted this same resolution. I was a member of the minority party in the Senate for the first time in 8 years. When I first came to the Senate, the Republicans were in charge and then the Democrats got in charge and then the Republicans got in charge and then the Democrats got in charge and then the Republicans got in charge and then the Democrats got in charge. Since I have been here, since 1985, five times the Senate has changed hands.

I note that at the beginning of that Congress in 1995, the Republicans outnumbered Democrats 53 to 47, the same majority-minority ratio that exists today, just on the other side. Even though I was opposed to the then-majority party's agenda, I submitted the

same basic resolution to change the Senate rules regarding the filibuster.

My plan would have ensured ample debate and deliberation. The stated purpose of a filibuster is to have debate and deliberation. But it would also have allowed a bill or nominee to receive a ''yes'' or ''no'' vote. Unfortunately, my proposal did not pass. It received 19 votes. My cosponsors were Senator LIEBERMAN, Senator Pell, and Senator Robb of Virginia.

I submitted my bill—and if you care to go back and read that debate, it is the January 4, 1995, CONGRESSIONAL RECORD in the Senate. I saw an escalating arms race, where each side ratcheted up the use of the filibuster. That is what I called it then.

Sadly, in the intervening years, my prediction has been fulfilled. The sad reality is that today, because of the indiscriminate use of the filibuster, the ability of our government to legislate and to address problems is severely jeopardized. Sixteen years after I first submitted my proposal, it is even more apparent that for our government to properly function, we must reform and curb the use of the filibuster.

The filibuster was once an extraordinary tool used in the rarest of circumstances. When many people think of the filibuster, many times it brings to mind the classic film of ''Mr. Smith Goes to Washington.'' It is ironic that in 1939, the year Frank Capra filmed ''Mr. Smith,'' there were zero filibusters in the Senate. From 1917 across the entire 19th century—for 100 years—there were 23 filibusters in 100 years. Indeed, through 1879, there were only four. From 1917, when the Senate first adopted rules to end the filibuster, until 1969, there were fewer than 50—less than 1 filibuster a year. Unfortunately, since then, the number has skyrocketed.

The current concerns I raise are not new. The problem has become far more serious. In 1982, my good friend and colleague, Senator Dale Bumpers of Arkansas, said this about the filibuster: ''Unless we recognize that things are out of control and procedures have to be changed, we'll never be an effective legislative body again.'' That was 1982.

During the 2 years of that Congress, there were 31 filibusters as measured by the number of cloture motions filed. In 1985, former Senator Thomas Eagleton of Missouri remarked:

> The Senate is now in the state of incipient anarchy. The filibuster, once used, by and large, as an occasional exercise in civil rights matters, has now become a routine frolic in almost all matters. Whereas our rules were devised to guarantee full and free debate, they now guarantee unbridled chaos.

That was 1985, my first year here. But during that Congress there were 40 filibusters.

Again, I wish to refer to the number of filibusters as a visual aid to see what has happened.

As we go back to 88th, 89th, 90th, and on up, we can see the number of filibusters escalating from less than 10 a year—4 or 5—up to almost 140, 139. In 1994, former Republican Senator Charles Mathias of Maryland said:

> Today, filibusters are far less visible but far more frequent. The filibuster has become an epidemic,—

An epidemic. That is former Republican Senator Charles Mathias—

> used whenever a coalition can find 41 votes to oppose legislation. The distinction between voting against legislation and blocking a vote between opposing and obstructing has nearly disappeared.

That was Senator Mathias of Maryland.

During that Congress, again right before I first submitted legislation to modify the filibuster, there were 80 filibusters that year. If I may quote myself, 1 year after Senator Mathias made his statement about the filibuster, this is what I said in 1995:

> It is used, Mr. President, as blackmail, for one Senator to get his or her way on something they could not rightfully win through the normal process. I am not accusing any one party of this. It happens on both sides of the aisle.

I said that in 1995. Quoting myself from the RECORD:

> Mr. President, I believe each Senator needs to give up a little of our pride, a little of our prerogatives, and a little of our power for the good of this Senate and the good of this country. I think the voters of this country were turned off by the constant bickering, the arguing back and forth that goes on in this Senate Chamber, the gridlock that ensued here, the pointing of fingers of blame. Sometimes in the fog of debate, like the fog of war, it is hard to determine who is responsible for slowing something down. It is like shifting sand. People hide behind the filibuster. I think it is time to let the voters know that we have heard their message in the last election.

I said this in 1995.

They did not send us here to bicker and to argue and to point fingers. They want us to get things done to address the concerns facing this country. They want us to reform this place. They want this place to operate a little better, a little more openly, and a little more decisively.

I said that when the Republicans were in charge.

With all those filibusters, it was not until the 110th and 111th Congress that the true scope of the filibuster abuse would truly be realized. In the 110th Congress, there were an astonishing 139 motions to end filibusters. In the 111th, there were 136—275 filibusters in just 4 years.

The fact is, in successive Congresses, Democrats and Republicans have made the filibuster an everyday weapon of obstruction, not as a way to ensure debate and deliberation but as a way of obstruction. I say both sides have done it. I said that in 1995. I predicted an escalating arms race. I said: If we do not do something about it, it is going to get worse—and, unfortunately, it has.

On almost a daily basis, one Senator is able to use just the threat of a filibuster to stop bills from coming to the floor for debate and amendment. In the past Congress, we started seeing the minority filibuster bills they did not even object to solely in order to slow down unrelated measures they did oppose. The result is a legislative process that is simply overwhelmed, squeezing out the ability to do important, relatively noncontroversial legislation.

It is no accident that Norm Ornstein, the esteemed congressional scholar, wrote an article, titled ''Our Broken Senate,'' in which he wrote that ''the expanded use of formal rules on Capitol Hill is unprecedented and is bringing the government to its knees.''

Just the other day, I received a petition signed by nearly 300 top historians, legal scholars, and political scientists urging Senators ''to restore majority rule to the United States Senate.'' I ask unanimous consent to have this petition printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 4, 2011.

''We, the undersigned, American historians, political scientists, and legal scholars, call upon our senators to restore majority rule to the United States Senate by revising the rules that now require the concurrence of 60 members before legislation can be brought to the floor for debate and restoring majority vote for the passage of bills.

Joyce Appleby, UCLA, retired; Katy Harriger, Wake Forest University; Senator Gary Hart, University of Colorado, Denver; Sanford Levinson, University of Texas Law School; Lawrence Lessig, Harvard Law School; Peter Onuf, University of Virginia; Jack Rakove, Stanford University; David RePass, University of Connecticut, retired; John K. White, Catholic University; Richard D. Lamm, Gov. of Colorado, 1975–1987; Coit D. Blacker, Stanford University; James Gelvin, UCLA; H. Robert Baker, Georgia State University; Darryl Holter, University of Southern California; Robert Rapetto, Yale University; David Orr, Oberlin College; Manuel J.R. Montoya, University of New Mexico; Kathleen M. Beatty, University of Colorado, Denver; Morton T. Tenzer, University of Connecticut; David S. Tannenhaus, University of Nevada, Las Vegas.

Robert H. Abzug, University of Texas, Austin; David H. Hall, Harvard University; Carrie Menkel-Meadow, Georgetown Law School, University of California, Irvine; Carla Gardina Pestana, Miami University, Ohio; Michael Zucker, University of Notre Dame; Thomas A. Foster, De Paul University; John Kukla, Richmond, Virginia; Corey Robin, Brooklyn College and City University of New York Graduate Center; David Thelen, University of Indiana; T.H. Breen, Northwestern University; Jonathan D. Varat, UCLA Law School; Michael Koppedge, University of Notre Dame; Michael Johnson, Johns Hopkins University; Toby L. Ditz, Johns Hopkins University; Teofilo Ruiz, UCLA; Laurel Ulrich, Harvard University; Pauline Maier, Massachusetts Institute of Technology; Anne Lombard, California State University, San Marcos; Gabrielle M. Spiegel, Johns Hopkins University.

Robert A. Hill, UCLA; Buie Seawell, University of Denver; Edward Countryman, Southern Methodist University; Sara Berry, Johns Hopkins University; Thomas Bender, New York University; David Hollinger, University of California, Berkeley; Franklin W. Knight, Johns Hopkins University; Lucia Stanton, Monticello; Alan Trachtenberg, Yale University; Warren M. Billings, University of New Orleans; James Drake, Metropolitan State College of Denver; M. Gregory

Kendrick, UCLA; Benjamin H. Johnson, Southern Methodist University; Kenneth Karst, UCLA Law School; Robert Johnson, University of Illinois, Chicago; Thomas S. Hines, UCLA; Herbert Sloan, Barnard College, Columbia University; Alexis McCrossen, Southern Methodist University; Ira Berlin, University of Maryland; Fred G. Notehelfer, UCLA, emeritus.

Gerald L. Weinberg, University of North Carolina; Richard M. Pious, Barnard College, Columbia University; Thomas J. Knock, Southern Methodist University; Michelle Nickerson, University of Texas, Dallas; John Chavez, Southern Methodist University; Gabriel Piterberg, UCLA; John P. Kaminski, University of Wisconsin, Madison; Graham A. Peck, Saint Xavier University; Jonathan Gross, De Paul University; Jean R. Sunderland, Lehigh University; Dennis D. Cornell, Southern Methodist University; James M. Banner, Washington DC; David D. Leon, Howard University; Jeremy Adams, Southern Methodist University; Fred M. Woodward, Lawrence, Kansas; Hal S. Barron, Harvey Mudd College; Glenna Mathews, independent scholar; Carol Karsen, University of Michigan; David DuFault, San Diego State University, retired; Jess Stoddard, San Diego State University, retired.

Philip Flemion, San Diego State University, retired; Gregg Herken, University of California, Merced; Karl Inderfurth, Center for Strategic and International Studies; Natalie Zemon Davis, Princeton University, emeritus; Edward A. Alpers, UCLA; John Snetsinger, California Polytechnic State University, San Luis Obispo; Kenneth T. Jackson, Columbia University; Margaret Jacob, UCLA; Simone Weil David, University of Toronto; Margaret Hunt, Amherst College; Charles Capper, Boston University; Ellen Carol DuBois, UCLA; Olivier Zunz, University of Virginia; John R. Chavez, Southern Methodist University; Joanne Ferraro, San Diego State University; Mary F. Corey, UCLA; Joseph Kett, University of Virginia; Ralph E. Luker, Morehouse College, retired; Gregory L. Kaster, Gustavus Adolphus College.

Michael Kazin, Georgetown University; Jeremy Young, Indiana University; James Brewer Stewart, Macalestar College; Mary Beth Norton, Cornell University; Steven Conn, Ohio State University; John Carson, University of Michigan; Ruth Perry, Massachusetts Institute of Technology; Akhil Reed Amar, Yale Law School; Peter Reill, UCLA; Robert E. Bieder, Indiana University; Robert E. Mutch, Washington, D.C.; Edwin G. Burrows, Brooklyn College; Jeffrey K. Tulis, University of Texas, Austin; Fredrika J. Teute, Omohundre Institute of Early American History and Culture; Francis H. Stites, San Diego State University; Albert O'Brien, San Diego State University; John H. Coatsworth, Columbia University; Jack M. Balkin, Yale Law School; Christopher Bates, California Polytechnic State University, Pomona.

Iryne Black, Newport Beach, California; Timothy Black, Newport Beach, California; Walter LaFeber, Cornell University; Maeva Marcus, George Washington University Law School; Isaac Kramnick, Cornell University; Michael Meranze, UCLA; Ross Frank, University of California, San Diego; Ron Hayduk, Queens College; Lucas A. Powe, Jr., University Texas Law School; Paul Finkelman, Albany Law School; Stanley N. Katz, Princeton University; Susan Strasser, University of Delaware; Claudrena Harold, University of Virginia; Pauline Maier, Massachusetts Institute of Technology; Jeremy I. Adelman, Princeton University; Ann Heiney, Newport Beach, California; Anthony Grafton, Princeton University; Charles S. Maier, Harvard University; James Kloppenberg, Harvard University; Trace B. Strong, University of California, San Diego.

Jeffrey C. Isaac, Indiana University; Jay Driskell, Hood College; Nancy Fraser, New School for Social Research; Ellen Schrecker, Yeshiva University; Stephen W. Feldman, University of Wyoming; Frances Fox Piven, City University of New York; Alyson M. Cole, Queens College, CUNY Graduate Center; Thomas Dunim, Amherst College; Joshua Freeman, Queens College, CUNY Graduate Center; Hendrik Hartog, Princeton University; Rick Perlstein, Chicago; Thomas Geoghegen, Desprese, Schwartz & Geoghegen; John Majewski, University of California, Santa Barbara; Anne Norton, University of Pennsylvania; Eric Alterman, Brooklyn College, CUNY; Maximillian E. Novak, UCLA, emeritus; Rogers M. Smith, University of Pennsylvania; Andrew Sabl, UCLA; Carol W. Lewis, University of Connecticut.

Kate Wittenstein, Gustavus Adolphus College; Ruth Anne Baumgartner, Fairfield University and Central Connecticut State University; Ronald Walters, Johns Hopkins University; Charles Venator, University of Connecticut; John R. Wallack, Hunter College and CUNY Graduate Center; Herbert Kaufman, formerly Yale University; Ed Edelman, former Los Angeles County Supervisor; Peter Truowitz, University of Texas, Austin; Ruth Bloch, UCLA; Catherine Allgor, University of California, Riverside; David L. Richards, University of Connecticut; Naomi Merzey, Georgetown University Law Center; Philip Green, New School for Social Research; Robert Westman, University of California, San Diego; Nancy Unger, Santa Clara University; Joseph Lowndes, University of Oregon; Michael Holt, University of Virginia; Neil Sapper, Armarillo College, retired; Alan Lessoff, Illinois State University; Peter Kingstron, University of Connecticut.

David Gerber, University of Buffalo, SUNY; Philip Rubio, North Carolina Arts and Technology University; Philip Nord, Indiana University; Aziz Rana, Cornell Law School; John R. Bowman, Queens College and CUNY Graduate Center; Todd Gitlin, Columbia University; Sandra Moats, University of Wisconsin, Parkside; James M. McPherson, Princeton University; Jason Frank, Cornell University; Charles Pastel, San Francisco State University; Jill Lepore, Harvard University; Jane Kamensky, Brandeis University; Alejandro E. Camacho, University of California, Irvine Law School; Donald Kennedy, president emeritus, Stanford University; Paul Seaver, Stanford University; Geoffrey Symcox, UCLA; Leslie E. Gerwin, Princeton University; Richard H. Kohn, University of North Carolina; Michael D. Wilson, Vanguard University of Southern California; Karl Manheim, Loyola Law School.

Berry M. Sax, Department of Defense Administrative Judge retired; David Montgomery, Yale University; Michael Holt, University of Virginia; Lisa Jacobson, University of California, Santa Barbara; Walter Giger, Jr., University of Hartford; Julie Novkov, University of Albany, SUNY; Denis Z. Davidson; Adolph Grundman, Metropolitan State College of Denver; Brian Balogh, University of Virginia; John A. Mears, Southern Methodist University; Bennett Ramberg, Los Angeles; Shanti Singham, Williams College; Steve Hochstadt, Illinois College; Charles Tandy, Ria University Institute for Advanced Study; Nancy F. Cotton, Harvard University; Jon Butler, Yale University; Eric Thomas, Jacksonville University; Elaine Tyler May, University of Minnesota; Jonathan McLeod, San Diego Mesa Community College; Thomas Zoumaras, Truman State University.

Michelle Mart, Pennsylvania State University, Berks; Mitch Kachun, Western Michigan State University; Bill Chafe, Duke University; Walter Nugent, University of Notre Dame; Lizabeth Cohen, Harvard University; Judith Smith, University of Massachusetts, Boston; Gary Gerstle, Vanderbilt University; Elizabethy Cohgen, Syracuse University; Allen W. Trelease, University of North Carolina, Greensboro; Tera W. Hunter, Princeton University; James H. Merrell, Vassar College; Peter Novick, University of Chicago; Craig Steven Wilder, Massachusetts Institute of Technology; Seth L. Schein, University of California, Davis; Jenna Gibbs, Florida International University; Michael Latham, Fordham University; Michael Green, College of Southern Nevada; Martin Kaplan, University of Southern California; Valerie Matsumoto, UCLA; Sanford M. Jacoby, UCLA.

Alexander Saxton, UCLA emeritus; Thomas J. Sugrue, University of Pennsylvania; Thomas S. Hines, UCLA; Albion M. Urdank, UCLA; James Grossman, University of Chicago; Lynn Hunt, UCLA; Ron Pagnucco, College of St. Benedict, St. John's University; David Konig, Washington University at St. Louis; Brenda Stevenson, UCLA; Linn Shapiro, Washington, DC; Peter Loewenberg, UCLA; Christian McMillen, University of Virginia; Estelle B. Freedman, Stanford University; Daniel Howe, UCLA; Ann C. McGinley, University of Nevada, Las Vegas; Mary La France, University of Nevada, Las Vegas; Christopher Blakesley, University of Nevada, Las Vegas; Thomas B. McAffee, University of Nevada, Las Vegas; Robert Brenner, UCLA; Gail Cline, University of Nevada. Las Vegas; George Rabinowitz, University of North Carolina, Chapel Hill.

Norton Wise, UCLA; Patricia Bonomi, New York University; Jon Wiener, University of California, Irvine; Paul Finkelman, Albany Law School; Joseph Miller, University of Virginia; James MacGregor Burns, Williams College; Susan Dunn, Williams College; Lori Anne Ferrell, Claremont Graduate University; David Warren Sabean, UCLA; Isabel V. Hull, Cornell University; Edward Ayers, Richmond University; Tom Donnelly, Harvard Law School; Donald Kersey, San Jose State University; Peter H. Wood, Duke University; Joseph Scott Miller, Lewis and Clark Law School; Jonathan Lurie, Rutgers University; Maxine N. Lurie, Rutgers University; Elizabeth Fenn, Duke University; Richard Worthington, Pomona College.

Richard Olsen Harvey, Mudd College; Thomas Zoumaras, Truman State University; Anne K. Nelson, American University; Peter Kuznick, American University; Howard M. Wasserman, Florida International University; Diane Mazur, University of Florida Levin College of Law; David K. Robinson, Truman State University; John Wintterle, San Jose State University; William Marotti, UCLA; Peter Brandon Bayer, University of Nevada, Las Vegas; Stephen Aron, UCLA; Ediberto Roman, Florida International State University; Mellisa Stockdale, University of Oklahoma; David W. Levy, University of Oklahoma; Elyssa Faison, University of Oklahoma; Robert Savage, Florida International University Law School; Ronald Steel, University of Southern California, retired; Robert Dawidoff, Claremont Graduate University; Judith S. Lewis, University of Oklahoma.

Steve Raphael, University of California, Berkeley; Robert Garwin, Chula Vista, California; Ann Caylor, Ranchos de Taos, New Mexico; Thomas McClendon, Southwestern University; Kim Lane Scheppele, Princeton University; Ira Chernus, University of Colorado, Boulder; Mark Cammack, Southwestern Law School; Myra Rich, University of Colorado, Denver; Tim Borstelmann, University of Nebraska, Lincoln; Sara Evans, University of Minnesota, retired; Gowri

Ramachandran, Southwestern Law School; Vicki Ruiz, University of California, Irvine; Fay A. Yarbrough, University of Oklahoma; Harry Watson, University of North Carolina, Chapel Hill; Pamela W. Laird, University of Colorado, Denver; Gloria Main, University of Colorado, Boulder, emerita; Thomas R. Clark, California Assembly Judiciary Committee; Joshua Goode, Claremont Graduate University; Marjorie Cohn, Thomas Jefferson Law School.

Mr. HARKIN. Mr. President, last month, our former colleagues, Gary Hart, a Democrat, and Chuck Hagel, a Republican, published an essay in Time magazine calling on us to ''restore democracy to the U.S. Senate'' by reforming the filibuster. In their words, the abuse of the filibuster ''is no way to govern a great democracy.''

I ask unanimous consent to have that essay printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Time, Dec. 21, 2010]

RESTORING DEMOCRACY TO THE U.S. SENATE

(By Chuck Hagel and Gary Hart)

Few principles are as central to democracy and the ideals of the American Republic as majority rule. Though James Madison and his colleagues in The Federalist acknowledged the necessity of protecting the rights of minorities, the course of our nation was to be determined by the will of the majority. No other system consistent with democracy would prove workable.

There is nothing in the United States Constitution that permits a minority to frustrate the will of the majority.

Yet in the early 21st century, the will of the majority of Americans, expressed on a daily basis by our elected representatives in Congress, is consistently thwarted by a minority in the United States Senate. This minority resorts to the Senate rule requiring a three-fifths vote—60 votes—to close (invoke cloture on) debate.

Article One, Section five, of the U.S. Constitution provides that ''Each house [of Congress] may determine the rules of its proceedings. . .'' Based upon Thomas Jefferson's notion that the Senate was to be the saucer in which controversies cooled, Senators have, from the beginning, been at liberty to express their views at such length as they wish. (Jefferson, it should be noted, was the author of the Manual of Parliamentary Procedures for the Use of the Senate of the United States in 1801.) But the Senate has always recognized that even the principle of unlimited speech has its conditions based upon comity and common sense.

Yet today the Senate conducts its business, or not, under the constant threat of a filibuster. Important legislative measures having to do with the vital interests of our nation and the rights of our citizens will not even be introduced if a minority of Senate members refuse to permit them to be considered. Thus, a rule to protect debate is systematically used to prevent debate. Even worse, secret ''holds'' by individual Senators prevent confirmation of federal judges and administration officials.

Though the Senate filibuster rose to prominence during civil rights debates in the 1950s and '60s, it ran its course and the majority prevailed. Today, it is commonplace and a matter of course for such a lock-step minority systematically to prevent consideration of the clear majority will.

The Constitution prevails over congressional rules. Can it be seriously argued that the Senate could adopt a rule that individual Senators could only vote on every other bill or that they could only vote on trade issues, for example, in the fourth year of their term?

Rules of the Senate cannot trump the obvious intention of the Founding Fathers that legislation passed by majorities of both houses, except for the explicit exceptions for ratification of treaties, becomes the law of the land. This is not a partisan question; today the filibuster, real or threatened, dominates virtually every significant issue confronting the Senate and our nation. The law of political payback will ensure that today's Senate majority, once it becomes the minority, will exact its revenge on today's opposition minority party.

Examples of recent abuse of the cloture rule include the 53 to 36 Senate vote to end tax cuts for the wealthy. Regardless, the measure, like so many others (including an earlier attempt to repeal the military's ''Don't Ask, Don't Tell'' policy), failed under the threat of a filibuster. These and other examples are clear violations of the fundamental principle of majority rule.

This is no way to govern a great democracy, not to say also a democracy seeking to democratize other nations.

We believe the abuse of the cloture rule ending debate is a violation of fundamental Constitutional principles. Should a judicial test of this notion occur, it will at the least prove which of the current Supreme Court Justices are, or are not, true ''originalists.'' Resolutions have been introduced in the Senate to alter the cloture rule and permit majority rule, while continuing to protect the rights of individual Senators.

In the interest of the nation and the U.S. Constitution, the Senate must once again become a democratic institution.

Mr. HARKIN. Mr. President, editorialists from across the country have recognized the filibuster must end. The Concord Monitor of New Hampshire called on the Senate to ''Remove the Senate filibuster roadblock,'' noting, ''The filibuster rule has rendered the Senate dysfunctional and harmed the nation's ability to deal with pressing issues.''

The Los Angeles Times said '' . . . both parties should be willing to eliminate such anti-democratic practices as the filibuster. . . .''

Editorials throughout the country have called for reform of the filibuster. I ask unanimous consent to have printed in the RECORD these editorials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Concord Monitor, Dec. 17, 2010]

REMOVE THE SENATE FILIBUSTER ROADBLOCK

(By Anonymous)

On Jan. 5, 2011, the first day of the first session of the 112th Congress, Iowa Sen. Tom Harkin and other Democrats promise to hold a historic vote to change the Senate's 60-vote cloture rule. The vote to end the filibusters that have made the Senate a place where needed legislation and presidential appointments go to die could be the first of Senator-elect Kelly Ayotte's career. How she votes will be telling.

A super-majority voting requirement makes sense in rare circumstances, ratifying a treaty for example or overriding a presidential veto. But the filibuster rule is not in the Constitution; it's an artifact that may have worked once but has broken and jammed the Senate. When used judiciously, as it was throughout most of its history, the filibuster rule safeguards the rights of the minority. But when abused, as it has been by Senate Republicans who have called for 87 such votes to end debate so far this year, it creates a tyranny of the minority.

There are divisions in both parties on the issue, in part because there are dangers for both parties. Republicans are currently filibustering to stop any and all legislation—and will not vote to end debate until they succeed in winning tax breaks for the nation's wealthiest citizens. Change the filibuster rule—one proposal calls for a simple majority vote—and Republicans will not so easily be able to block legislation supported by the next session's 53-Democrat majority. But if Republicans take the Senate in 2012—and especially if there's also Republican in the White House—Democrats could sorely regret their loss of the ability to filibuster.

When, in his capacity as president of the Senate, Vice President Joe Biden calls for the Senate to write the rules governing the next session, Harkin and others believe that they will have at least 51 votes. Some of them may come from Republicans. The filibuster rule has rendered the Senate dysfunctional and harmed the nation's ability to deal with pressing issues. Ayotte should vote to change the filibuster rule, so the Senate can once again be an effective legislative body worthy of respect.

[From the Los Angeles Times, Dec. 28, 2010]

A NUCLEAR SENATE

The U.S. Senate, once proudly known as the world's greatest deliberative body, has in recent years degenerated into something else: The place where legislation goes to die. It earned that distinction after Democrats won a majority in 2006 and Republicans took unprecedented advantage of long-standing Senate rules allowing the minority to block progress.

There's a good chance Democrats won't hold the majority much longer, however. That's why both parties should be willing to eliminate such anti-democratic practices as the filibuster and the placing of secret holds on legislation. And an opportunity to do so, which only comes along once every two years, is about to arrive.

The filibuster originated in 1806, when the Senate eliminated a rule that had allowed the chamber to end debate by majority vote; in effect, that meant a senator or group of senators could delay progress by simply talking incessantly. But that hardly ever happened in the 19th century. It wasn't until 1917 that the Senate decided to limit these stemwinders by imposing a rule that debate could be ended by a supermajority vote. Since then there have been some other rule changes altering the vote threshold, along with frequent arguments about whether the Senate should go back to its original rule allowing debate to be ended with a simple majority vote. We think it should.

Under the current system, senators don't even have to stand up and speak until they're hoarse in order to filibuster a bill; a party leader just has to refuse to allow a bill to be brought up by unanimous consent, forcing supporters to find 60 votes in favor of a motion to end debate. Southern Democrats were the first to seriously misuse this tactic during the civil rights era, but Republicans have perfected such abuse in the last three years. According to the good-government advocacy group Common Cause, which once defended the filibuster rule but now aims to eliminate it, 8% of major legislation was affected by threatened or actual filibusters in the 1960s, compared with 70% since 2006. The result is gridlock, which will only get worse now that the balance of partisan power is close to even.

Secret holds are another serious problem. They allow senators to anonymously block bills or confirmations of presidential nominees from reaching the floor for an unlimited time span, making naked obstructionism politically safe. It's largely thanks to such holds that more than one in 10 federal judgeships remain vacant and federal departments still lack key staff two years into the Obama administration. Abuse of holds has become endemic in recent years, sometimes allowing a single senator to take the entire chamber hostage by placing holds on important legislation until backers agree to support that senator's pet project.

The Constitution gives each chamber the power to choose the rules governing its procedures at the beginning of the two-year congressional session, slated this year for Jan. 5. So why doesn't the majority simply do away with the filibuster rule, or amend it? Because changing a long-standing rule requires a two-thirds vote, an impossibly high hurdle. Yet that supermajority rule may be invalid, as argued by then-Vice President Richard Nixon in 1957: ''The right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress,'' he wrote. This is the basis of the so-called nuclear option (or as supporters prefer to call it, the ''constitutional option'').

Sen. Tom Udall (D–N.M.) is leading a push to reform the filibuster rules on Jan. 5, a fight joined by assorted good-government groups and labor unions. Last week, all the returning Senate Democrats sent a letter to Majority Leader Harry Reid (D-Nev.) expressing frustration with the filibuster and urging a change to the rules, though they weren't specific about solutions (and it's unlikely many would favor eliminating the filibuster entirely—most seem to support weaker reforms such as a lowering of the 60-vote threshold). In order to change the rules by a simple majority vote, they would also need the backing of Vice President Joe Biden, because as president of the Senate, the vice president has traditionally ruled when constitutional questions about procedures are raised.

Biden hasn't taken a position, and not a single Republican has joined the effort. The apparent partisan split seems odd given that it was Republicans who most recently brought up the nuclear option when they were in the majority in 2005 and Democrats were blocking President Bush's judicial nominees, but a form of amnesia often sets in when a party is in the minority. For conservatives, opposition is all the more shortsighted given that twice as many Democratic-held seats are up for reelection in 2012 as Republican seats.

Partisan fears about losing a cherished power have prevented the Senate from going nuclear for decades, but abuses of the filibuster and anonymous holds have never been so rampant. The resulting dysfunction is a big part of the reason Congress' approval rating has fallen to 13%, the lowest in the history of the Gallup Poll. The chamber has a chance to save itself from itself on Jan. 5, and it should take it.

Mr. HARKIN. Mr. President, 275 filibusters in 4 years is not just a cold statistic; it represents the minority blocking measures that sometimes—not all the time but sometimes—enjoy broad support among the American people. Just in the last Congress, the filibuster was used to kill many bills that enjoyed majority and often bipartisan support. Need I mention the DREAM Act? It had broad bipartisan support and big support among the American people. There was the DISCLOSE Act, which polls showed that over 80 percent of the American people supported. We had a majority vote here for it, but we didn't have a supermajority. So it is no surprise that Americans are fed up and angry with their Federal Government. In too many critical areas, people see a legislature that is simply unable to respond effectively to the most urgent challenges of our time.

Make no mistake, the problem goes beyond the sheer number of filibusters. This once-rare tactic is now used or threatened to be used on virtually every measure and nominee, even those who may enjoy near universal support. In the past Congress, for nearly 8 months, the minority filibustered confirmation of Martha Johnson as Administrator of the General Services Administration—certainly a relatively noncontroversial position. She was ultimately confirmed 96 to 0. So what was that filibuster all about? And for nearly 5 months, the minority filibustered confirmation of Barbara Keenan to the Fourth Circuit Court of Appeals. She was ultimately confirmed 99 to 0.

What was that filibuster all about?

Again, to quote Norm Ornstein:

> The Senate has taken the term ''deliberative'' to a new level, slowing not just contentious legislation but also bills that have overwhelming support.

Secondly, the filibuster has increasingly been used to prevent consideration of bills and nominees. Rather than to serve to ensure the representation of minority views and to foster debate and deliberation, by filibustering motions to proceed, the minority has been allowed to prevent debate and prevent deliberation. The filibuster has been used to defeat bills and nominees without their ever receiving a discussion here on the floor of the Senate. In other words, the Senate, which was formerly renowned as the world's greatest deliberative body, has now become the world's greatest nondeliberative body. We can't even debate important national issues.

That is why I fully support the commonsense proposals to reform the filibuster and restore the Senate to a body in which issues can be fully debated and deliberated. I support eliminating the filibuster on the motion to proceed, and I believe those who are filibustering a bill or a nominee should be required to come to the floor, hold the floor, and make their case to their colleagues and the American people. Senators should not be able to hide behind a curtain of secret holds. The reality is, however, because of the filibuster, the minority has unchecked veto power in this body.

Now, I want to make it clear, when I say ''the minority,'' I am not talking about the Republicans; I am talking about the minority. It may be the Democrats or it may be the Republicans. As I said, five times it has changed since I have been—since 1985. When I say ''the minority,'' I mean the minority; I don't mean a political party.

This is what James Madison noted when rejecting a supermajority requirement to pass legislation:

> . . . it would no longer be the majority that would rule, the power would be transferred to the minority.

Unfortunately, Madison's prediction has come true. We are the only Democratic body that I know of in the world where the minority, not the majority, controls. In today's Senate, American democracy is turned on its head. The minority rules; the majority is blocked. The majority has responsibility and accountability but lacks the power to govern. The minority has power but lacks accountability and responsibility. This means the minority can block bills that would improve the economy, create jobs, and turn around and blame the majority for not fixing the economy. The minority can block popular legislation and then accuse the majority of being ineffective.

I repeat, when I say ''the minority,'' I am not saying Republicans or Democrats; I am saying the minority, whoever it may happen to be. Both parties have abused the filibuster in the past, and both will, absent real reform, abuse the filibuster in the future. Although Republicans are currently in the minority, there is no question that control of this body will change, as it periodically does.

The fact is, reform is urgently needed. That is why I am reintroducing my proposal which would permit a decreasing majority of Senators over a period of days to invoke cloture on a given matter. Under my proposal, a determined minority could slow down any bill. Senators would have ample time to make their arguments and attempt to persuade the public and a majority of their colleagues. This protects the rights of the minority to full and vigorous debate and deliberation, maintaining the hallmark of the Senate. But at the end of ample debate, the majority should be allowed to act. There should be an up-or-down vote on legislation or a nominee. As former Senator Henry Cabot Lodge, a Republican, stated many years ago, ''To vote without debating is perilous, but to debate and never vote is imbecile.''

My plan has another advantage. The fact is that right now, the minority has no incentive to compromise. Not only do they know they have the power to block legislation, but they can go out and campaign on the message that the majority can't get anything done. In contrast, if the minority knows that at the end of a period of time a bill or nominee will be subject to majority vote, they will be more willing to come to the table and negotiate seriously. Likewise, the majority would want to compromise because they want to save time. There is nothing more valuable to the majority party in the Senate than time.

So under my proposal, on the first cloture vote, you would need 60 votes.

If you don't get 60 votes, you would have another vote in 3 days and you would need 57 votes; in 3 more days, 54 votes; 3 more days, 51 votes. So the majority would finally act, but you would chew up almost 2 weeks of time. So on the first vote, let's say 53 Senators voted for cloture. Well, the minority would know that in several days or maybe in a couple weeks' time, 53 Senators will get cloture. The minority then would go to the majority and say: Look, we can drag this out for a couple of weeks, chew up all your time, but we have some things we would like to have considered. The majority—and I say there is nothing more important to the majority than time here—not wanting to spend a couple weeks on a bill, on a cloture or a filibuster, would say: OK, maybe we can make an agreement. We will collapse the timeframe, the minority gets some of the things they want, and the majority is able then to have a vote. So I see my proposal as a means of encouraging compromise. Right now, there is no reason to compromise for the minority.

Again, I am not talking about Republicans or Democrats; I say ''the minority'' because they know they can absolutely block it.

I have changed my resolution since I introduced it in 1995, and I have changed it because Republicans have said and I heard the minority leader say earlier that they have done this because Democrats in the majority—the majority this time—have employed procedural matters to deprive the Republicans of the right to offer amendments. Well, I am very sympathetic to this argument. That is why I included in this resolution a guaranteed right to offer germane amendments to the minority, filed in advance of the cloture vote so everyone would know what was coming. Again, the minority should have the right to offer some amendments that are germane to the bill. No matter who the majority is, both parties are concerned about amendments from the minority. Perhaps you have a bill dealing with housing and someone wants to offer an amendment dealing with abortion. Well, there may be a time and place for that but not on that bill. So that is why I say it should be germane to the bill. If the minority has ideas to improve the bill, strike something from the bill, that would be germane to that bill.

I have heard it said—and I heard it on the radio this morning driving in—that this is something like a power grab by a Democratic Senator reacting to recent elections in which my party lost numerous seats. Well, I want to make clear that the reforms I advocate are not about one party or one agenda gaining an unfair advantage; it is about the Senate as an institution operating more fairly, effectively, and democratically. Again, I wish to point out that I first offered this in 1995 when I was in the minority. So to use the legal term, I come here with clean hands. The truth is, with Republicans controlling the House, any final legislation will need to be bipartisan with or without the filibuster.

So I don't see reform of the filibuster as a Democratic or Republican issue. Indeed, it was former Republican majority leader Senator Frist who, when he nearly shut this body down over the use of filibusters on a handful of judges, said:

> This filibuster is nothing less than a formula for tyranny by the minority.

That was in 2004, Senator Frist, the Republican majority leader at that time.

Well, as I said, one of the problems here was this was done in the middle of a term. See, I think the Senate ought to be able to set its rules at the beginning, on the first legislative day, which we are in now and which will extend for some time. The Senate ought to be able to set its rules at the beginning of a Congress. You can't go changing the rules every month, but you should be able to set the rules at the beginning of a Congress so that you know for 2 years what the rules are that you are operating under.

So it is time for the arms race to end. That is what this is—it is an arms race. I daresay that if we don't do anything about this, if the Republicans take control of the Senate, as they think they will in 2 years, well, Democrats are going to do the same thing to them. Guarantee it. Guarantee it. The Republicans did—what did I say?—136 filibusters—139? Bet your bottom dollar, if we don't change the rules, Democrats will match them. You wait and see.

Well, a lot of people sometimes say: Well, HARKIN, what you are advocating is the Senate would become like the House. I ask my friends and any Senator on either side of the aisle, since when did the Senate become defined by rule XXII, which is the filibuster? Why does that define the Senate? I thought the Senate was defined by the fact that you get two Senators from every State—two Senators from North Dakota, two Senators from California, two Senators from New York, two Senators from Iowa. I thought the Senate was defined by the fact that we have unlimited debate. When a Senator gets the floor, you can't take it away from him. We operate under unanimous consent. The power of one single Senator would remain. But in the Senate, what do we do? We do treaties, we do nominations, we sit in judgment on impeachments. The Senate is not like the House. And just because we don't have the filibuster as we have known it for the last 94 years does not mean the Senate becomes like the House. Eliminating the filibuster will not change the basic nature of the Senate. So I say to those who say the Senate would be like the House if we did away with this filibuster, would they also suggest that the Senate of Henry Clay or Daniel Webster or Lyndon Johnson or Everett Dirksen was the same as the House of Representatives? I don't think so.

The fact is, what was never intended was that a supermajority of 60 votes would be needed to enact virtually any piece of legislation or for any nominee. In fact, the Framers of the Constitution were very clear about where a supermajority is required. There were only five in the original Constitution: ratification of a treaty, override of a veto, votes of impeachment, passage of a constitutional amendment, and expulsion of a Member. If they wanted to have supermajorities, they would have said so. But it is not in the Constitution. The filibuster is not in the Constitution.

The first Senate expressly included a rule permitting the majority to end debate and bring a measure to a vote by moving the previous question. I repeat: The first Senate—the first Senate—had a rule that permitted the majority to end debate. Alexander Hamilton explained that a supermajority requirement would mean a small minority could ''destroy the energy of government.''

Hamilton said that the government would be subject to the ''caprice or artifices of an insignificant, turbulent or corrupt junta.'' Those are Hamilton's words.

Moreover, reform of filibuster rules stands squarely within the tradition of updating Senate rules as needed to foster an effective government that can respond to the challenges of the day. The Senate has adopted rules that forbid the filibuster in certain cases, such as the War Powers Act and the budget. Imagine that. What should be more debatable than the budget? But our rules do not permit a filibuster of the budget. So we passed rules here limiting the filibuster.

Since 1917, we have passed four significant reforms concerning the filibuster. The fact is, as Senator TOM UDALL has powerfully made clear, article I, section 5, clause 2 of the Constitution specifies that ''each House may determine the rules of its proceedings.''

As Senator Robert Byrd, who was opposed to filibuster reform—he and I had a great debate back in 1995 on this—as he emphasized, and he said this—Senator Byrd: ''At any time that 51 Senators are determined to change the rule . . . that rule can be changed.''

I am reading here from what Senator Byrd said. He said at that time:

> The Constitution in article I, section 5 says that each House shall determine the rules of its proceedings. Now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past.

''The dead hand.''

I listened to the minority leader when he said we have—the majority has never changed rules except by following those rules. The rules set down by a Congress a long time ago, by a Senate a long time ago, said that in order to change the rules, you need a two-thirds vote of the Senate. I submit that is unconstitutional. I submit that this Congress, this Senate, on this first legislative day, does not have to abide

by that. What if, in some Senate, one party got 90 Senators one time, and they adopted a rule that said that from here on out, you have to have 90 votes in order to change the rules, here are the rules, and they set up rules that pretty much made it impossible for the minority to ever become the majority? Would that be constitutional? I don't think so.

Senator Byrd said we are not obliged to be bound by the dead hand of the past. The first Senate, Senator Byrd said, which met in 1789, approved 19 rules by majority vote. Those rules have been changed from time to time. So the Members of the Senate who met in 1789 and approved that first body of rules did not for one moment think or believe or pretend that all succeeding Senates would be bound by that Senate.

Here is the essence of what Senator Byrd said:

> It is my belief—which has been supported by rulings of Vice Presidents of both parties and by votes of the Senate—in essence upholding the power and right of a majority of the Senate to change the rules of the Senate at the beginning of a new Congress.

I would say Senator Byrd has not been alone in his views or tactics. The constitutional option has been endorsed by three Vice Presidents and three times by the Senate itself. Why was it not used? Because Senators then reached a compromise, and therefore we never had the constitutional option. But that does not mean we cannot use that. The Constitution is very clear. I think three votes of the Senate and three former Vice Presidents have made clear in their rulings that at the beginning of a Congress, we can set the rules.

Chief Justice John Marshall once said:

> Any enduring Constitution must be able to respond to the various crises of human affairs.

I said many times that I don't believe we can be a 21st-century superpower bound by archaic rules of the 19th century. We have to have a responsive government, responding to the challenges of our time.

I am not afraid. I say to my friends on the Republican side, I am not afraid. What the minority leader said—he said that at some time the Republicans might be in charge, and they might want to undo what the Democrats did, and the Democrats better be careful. That was in his op-ed piece in the Post this morning. I am not afraid of democracy. I am not afraid of the votes of the people. If the people vote to put certain conservatives in power, then they ought to have the right to govern. They ought to have the right to respond to the people of this country. The minority—I would be in the minority at that time—I think the minority ought to have the right to be heard, we ought to have the right to debate, we ought to have the right to amend, but we should not have the right to totally obstruct. I am not afraid.

People say that the tea party in the House—they are going to do all this stuff. I am sorry, I am not afraid. The people voted. There ought to be things that happen because people vote a certain way. No wonder so many people are frustrated. They vote, they think things are going to happen, they don't happen, and they say: A pox on both your Houses.

So, yes, I don't know why we should be so afraid of each other. Why should I be afraid that the Republicans are going to institute legislation I don't like? They have in the past, and our country has endured. I would say there are times when the Democrats have passed legislation Republicans did not like and our country has endured. So I just do not like this fear, that we have to be afraid that somehow the majority is going to do things.

What we want to make sure of is that the rights of the minority are guaranteed—the right to be heard, the right of the minority to offer amendments. But I don't think it ought to be the right of the minority to obstruct, and I don't think it ought to be the right of the minority to demand that their views be implemented. That is the right of the majority.

I close where I began, and I thank my friends for this indulgence. I believe the bedrock of the principle of our Constitution, our Founders, was majority rule with respect for minority rights. But I say this, and I have said it many times. It is kind of the dirty little secret of the Senate. And here is the dirty little secret: The power of an individual Senator comes not by what he can do but by what he can stop. That is the dirty little secret of the Senate. One Senator can stop something, can block it. I say that each Senator—each of us needs to give up a little of our privilege, give up a little of our power, give up a little of our prerogatives for the greater good of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Iowa for his consistency over the years with his proposal. I wonder if I can make a few remarks on his proposal, and if he has time, if he is still here, maybe I will pose a question to him. I see the Senator from Kansas is also here. He spent a lot of time on the Rules Committee on this subject. He is one of our most forceful speakers on the matter, and I would defer to him, and then I know there are other Senators—the Senator from Oregon, the Senator from New Mexico—who have some proposals to offer. There may be other Senators on the Republican side who come to the floor.

First, I ask unanimous consent to have printed in the RECORD an address I made yesterday at the Heritage Foundation entitled ''The Filibuster: Democracy's finest show . . . the right to talk your head off.''

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

(See exhibit 1.)

Mr. ALEXANDER. I borrowed those words from H.V. Kaltenborn and ''Mr. Smith Goes to Washington.''

I am a little amused by the suggestion the Senator from Iowa made and others made that somehow the Senate has been paralyzed for the last couple of years. Most of the people I know are concerned about what the Senate did do, not what it did not do. It is hard to say you are paralyzed when you pass a $1 trillion stimulus bill, health care law, financial regulation law, et cetera, et cetera.

As far as the claim that Republicans are holding things up goes, I have a few comments. We did not have a budget last year. Most households have to have budgets. The Senate ought to have one. Why didn't we have a budget? It wasn't the Republicans holding it up. As the Senator from Iowa said, under our rules, it only takes 51 votes to pass a budget. During the last couple of years, the Democrats had 59 or 60 votes. So the reason we did not have a budget is because the Democrats did not want to pass a budget, or at least that they did not pass a budget. It had nothing to do with the Senate being ''broken.''

The Senator from Iowa made this Rules proposal in 1995. He has made some modifications in his proposal but basically this is the same as he offered in 1995. I remember those days pretty well. It was right after the so-called Gingrich revolution, in 1994. Republicans took control of the Senate and of the House of Representatives. The Senator from Iowa made his proposal to diminish the effectiveness of a filibuster. What did the Republicans do? The Republicans, had the most to gain—at least temporarily—from being able to get their agenda through the Senate. But every single one opposed the proposal. Every single Republican Senator in 1995 said: No, we may love our agenda, but we do not want to change the Senate. We don't want to jeopardize the Senate as a forum for forcing consensus and protecting minority rights and letting the voices of all of the people be heard on the Senate floor.

Not only the Republican Senators in 1995 had that opinion. Here are some things that were said mostly in 2005 by Democratic leaders. There were some Republicans who had the same idea the Senator from Iowa has about diminishing the effectiveness of the filibuster. In this case, they wanted to diminish the use of filibusters on judicial nominations. There was great consternation because Democrats decided to filibuster President Bush's judges. I didn't like that either. This is what has been said by Democrats.

Senator Robert Byrd in his last testimony before the Rules Committee:

> We must never, ever, ever, ever tear down the only wall, the necessary fence, that this Nation has against the excesses of the Executive Branch.

What is that necessary fence? That necessary fence is anchored in the filibuster.

Senator SCHUMER of New York in 2005:

The checks and balances which have been at the core of this Republic are about to be evaporated.

This was in response to the Republicans who were trying to diminish the effectiveness of the filibuster in 2005. ''The checks and balances'' Senator SCHUMER said, ''which say that if you get 51 percent of the vote, you don't get your way 100 percent of the time.''

Former Senator Hillary Clinton:

You've got majority rule. Then you've got the Senate over here where people can slow things down, where they can debate, where they have something called the filibuster. You know, it seems like it's a little less than efficient. Well, that's right, it is. And deliberately designed to be so.

Senator Dodd more recently:

I'm totally opposed to the idea of changing the filibuster rules. I think that's foolish, in my view.

Senator Byrd:

That's why we have a Senate, to amend and debate freely.

Senator Dodd:

I can understand the temptation to change the rules that make the Senate so unique and simultaneously so terribly frustrating. But whether such temptation is motivated by a noble desire to speed up the legislative process or by pure political expediency, I believe such changes would be unwise . . .

Therefore, to my fellow Senators who never served a day in the minority, I urge you to pause in your enthusiasm to change Senate rules.

Just two more.

Senator REID, who was then the Democratic leader but the minority leader, said in 2005:

The filibuster is far from a ''procedural gimmick.'' It's part of the fabric of this institution that we call the Senate. For 200 years we've had the right to extend the debate. It's not procedural gimmick. Some in this chamber want to throw out 214 years of Senate history in the quest for absolute power. They want to do away with Mr. Smith, as depicted in that great movie, being able to come to Washington. They want to do away with the filibuster. They think they're wiser than our Founding Fathers. I doubt that's true.

Then there was one other Senator who spoke and who said this, the Senator from Illinois, Senator Obama:

Then if the majority chooses to end the filibuster, if they choose to change the rules and put an end to the Democratic debate, then the fighting and the bitterness and the gridlock will only get worse.

I think the last 2 years in the Senate have been an aberration. We have had no incentive for the majority to take the ideas of the minority because the majority had these huge majorities, nearly 60 votes here, and a Democratic President.

So when Senator CORKER, my colleague from Tennessee, began to work on the financial regulation bill, there came a time in the process where the Democrats said: Well, you know, we like CORKER, and he has got some good ideas, but we do not need his vote to pass this bill. We have got the votes. We won the election. We will write the bill.

So the Senate has had no consensus. Instead, we had a Democratic financial regulation bill. We had a Democratic health care bill. We had a mostly Democratic stimulus bill. We might have had one or two Republicans vote for it.

For the last 2 years, we have not had any experience in working across party lines. What the filibuster does is say, you are not going to pass anything in the Senate unless at least some Republicans and some Democrats agree. You will not pass anything unless you get a consensus.

Then that will change behavior, and people say, okay, let's bring a No Child Left Behind bill to the floor. But it has got to have the support of Senator ENZI and Senator HARKIN or it is not going anywhere, because it has got to have 60 votes to move forward. What is the advantage of that? The advantage of that is the comparison of the Civil Rights bill in 1964, and the health care law of 2009.

In 1964, after a bitter fight led by Senator Russell of Georgia, the Civil Rights bill passed the Senate, overcoming a filibuster. The bill was written in the Republican leader's office. It was not just sent over there in the middle of the night during Christmas, it was written in his office. You had President Johnson, a Democrat, and Senator Dirksen saying, this is good for the country. A lot of people hated the bill. And some people thought it did not go far enough.

What did Senator Russell do, who had fought that bill for his whole term here? He went home to Georgia and said, I did everything I could to stop it, but it is the law, and we must obey it. So not only does the Senate need a consensus to get a better bill, we need a bill that the country will accept.

Compare that to the health care law in 2009. A lot of good intentions went into the health care law. I know that. Senator HARKIN was in the middle of that, but the fact of the matter was that it was a Democratic bill. It was rammed through Christmas Eve in the middle of the night. We barely had a chance to look at the bill, and it passed with a solely partisan vote.

And what happened? Instead of everybody going home and saying, it is the law of the land, we support it, an instant movement was created to repeal it and replace it. I hope we will not do what Senator HARKIN suggests. I think his proposal will create a situation where the majority says: well, we are going to hang you, but we will hang you in 3 days instead of tonight. They will narrow it down until they can pass a measure with 51 votes.

So if the Republican House of Representatives passes a bill to repeal the health care law, then you know Senate Republicans would pass it, too, if we have got 51 votes. Or if the Democratic House, as they did last year, passes a bill to repeal the ballot in secret elections then the Democrats over here will pass it, too, if they have 51 votes. But when a consensus is required, if bills such as that come from the House to the Senate, we in the Senate say, whoa, let's think this over. We do not pass it. We do not pass it unless we have some kind of consensus.

That does not mean all the Republicans and all of the Democrats must always agree. We had almost all of the Republicans and some of the Democrats on the tax agreement that was passed in December. On the New START treaty, we had almost all of the Democrats and some of the Republicans support it. But in each case, at least you had substantial consensus from both parties, and I think the country respects and appreciates that.

I think the Framers knew what they were doing when they created a majoritarian House, in other words, the freight train that can run through whatever the result of election is. And when they created a different kind of Senate. A different kind of Senate that Senator Byrd eloquently has said has been one where we can say, you are not going to pass anything unless we do it together. That is called consensus. That is called cooperation. I think the American people would be greatly relieved.

My question I wish to pose through the Chair to Senator HARKIN is, what is a filibuster? Senator SANDERS was on the floor for several hours on the tax debate last month. He spoke for 8 or 9 hours. I guess that is a filibuster in the traditional sense. But I think the kind of filibuster the Senator from Iowa is counting is this: let's say Senator REID brings a health care bill to the floor, and I rush over to offer an amendment to the health care bill, and Senator REID says: Sorry, I am going to cut off your amendment. Then I object. Senator REID calls what I tried to do a filibuster.

If we are just talking and amending and debating, that is not a filibuster. It is not a filibuster until the majority leader cuts off debate and amendments. So what the Democrats are counting as filibusters is the number of times they have cut us off from doing what we are supposed to do, which is, amend and debate.

It is like being invited to sing on the Grand Ole Opry, and getting there and you are not allowed to sing. The people of Tennessee do not expect me to come up here and sit on a log just because the distinguished majority leader says he does not want my amendments. What was traditional in the Senate is that Senators could offer amendments and debate, at almost any time, on almost any bill. In the days of Senator Byrd and Senator Baker, they would have 300 amendments filed. They would start voting. So some Senators would say, well, it is Thursday, don't we go home? The Leaders would say no, we are going to vote, unless you want to

give up your amendment. Instead of doing that, we did not vote on one Friday in the Senate this past year, and a lot of Senators on both sides of the aisle do not want to vote on controversial issues. If we look for consensus, if we were willing to vote on controversial issues, and if we ended the 3-day work week, if the majority thinks the minority is abusing the filibuster, they can confront it. They can sit over there and they can say to us, okay, Senator ALEXANDER, 60 of us are ready to cut this off. We are ready to get on to a vote. So you have got 7 hours that you can speak, then you have got to get 23 other Senators to take the other hours. If you stop talking, we are going to put the question to a vote, and we have got some motions we can make about your being dilatory. In other words, we can make life miserable for you, because we are going to do this all night long.

Senator Byrd said in his last testimony: The rules exist today to confront a filibuster.

So my question to the Senator from Iowa which I would pose through the Chair is: What is a filibuster? Is a filibuster when I come down to the floor to amend the health care bill, and the majority leader says, sorry, I am going to use my powers to cut it off? You cannot amend the bill. And then he files cloture.

That is what he calls a filibuster, I think. What I call it is cutting off my right to amend, right to debate, right to do my job.

EXHIBIT 1

THE FILIBUSTER: ''DEMOCRACY'S FINEST SHOW . . . THE RIGHT TO TALK YOUR HEAD OFF''

(Address by Senator Lamar Alexander, Heritage Foundation, Jan. 4, 2011)

Voters who turned out in November are going to be pretty disappointed when they learn the first thing some Democrats want to do is cut off the right of the people they elected to make their voices heard on the floor of the U.S. Senate.

In the November elections, voters showed that they remember the passage of the health care law on Christmas Eve, 2009: midnight sessions, voting in the midst of a snow storm, back room deals, little time to read, amend or debate the bill, passage by a straight party line vote.

It was how it was done as much as what was done that angered the American people. Minority voices were silenced. Those who didn't like it were told, ''You can read it after you pass it.'' The majority's attitude was, ''We won the election. We'll write the bill. We don't need your votes.''

And of course the result was a law that a majority of voters consider to be an historic mistake and the beginning of an immediate effort to repeal and replace it.

Voters remembered all this in November, but only 6 weeks later Democratic senators seemed to have forgotten it. I say this because on December 18, every returning Democratic senator sent Senator Reid a letter asking him to ''take steps to bring [Republican] abuses of our rules to an end.''

When the United States Senate convenes tomorrow, some have threatened to try to change the rules so it would be easier to do with every piece of legislation what they did with the health care bill: ram it through on a partisan vote, with little debate, amendment, or committee consideration, and without listening to minority voices.

The brazenness of this proposed action is that Democrats are proposing to use the very tactics that in the past almost every Democratic leader has denounced, including President Obama and Vice President Biden, who has said that it is ''a naked power grab'' and destructive of the Senate as a protector of minority rights.

The Democratic proposal would allow the Senate to change its rules with only 51 votes, ending the historical practice of allowing any senator at any time to offer any amendment until sixty senators decide it is time to end debate.

As Investor's Business Daily wrote, ''The Senate Majority Leader has a plan to deal with Republican electoral success. When you lose the game, you simply change the rules. When you only have 53 votes, you lower the bar to 51.'' This is called election nullification.

Now there is no doubt the Senate has been reduced to a shadow of itself as the world's greatest deliberative body, a place which, as Sen. Arlen Specter said in his farewell address, has been distinctive because of ''the ability of any Senator to offer virtually any amendment at any time.''

But the demise of the Senate is not because Republicans seek to filibuster. The real obstructionists have been the Democratic majority which, for an unprecedented number of times, used their majority advantage to limit debate, not to allow amendments and to bypass the normal committee consideration of legislation.

To be specific, according to the Congressional Research Service:

1. the majority leader has used his power to cut off all amendments and debate 44 times—more than the last six majority leaders combined;

2. the majority leader has moved to shut down debate the same day measures are considered (same-day cloture) nearly three times more, on average, than the last six majority leaders;

3. the majority leader has set the record for bypassing the committee process bringing a measure directly to the floor 43 times during the 110th and 111th Congresses.

Let's be clear what we mean when we say the word ''filibuster.'' Let's say the majority leader brings up the health care bill. I go down to the floor to offer an amendment and speak on it. The majority leader says ''no'' and cuts off my amendment. I object. He calls what I tried to do a filibuster. I call what he did cutting off my right to speak and amend which is what I was elected to do. So the problem is not a record number of filibusters; the problem is a record number of attempts to cut off amendments and debate so that minority voices across America cannot be heard on the floor of the Senate.

So the real ''party of no'' is the majority party that has been saying ''no'' to debate, and ''no'' to voting on amendments that minority members believe improve legislation and express the voices of the people they represent. In fact, the reason the majority leader can claim there have been so many filibusters is because he actually is counting as filibusters the number of times he filed cloture—or moved to cut off debate.

Instead of this power grab, as the new Congress begins, the goal should be to restore the Senate to its historic role where the voices of the people can be heard, rather than silenced, where their ideas can be offered as amendments, rather than suppressed, and where those amendments can be debated and voted upon rather than cut off.

To accomplish this, the Senate needs to change its behavior, not to change its rules. The majority and minority leaders have been in discussion on steps that might help accomplish this. I would like to discuss this afternoon why it is essential to our country that cooler heads prevail tomorrow when the Senate convenes.

One good example Democrats might follow is the one established by Republicans who gained control of both the Senate and House of Representatives in 1995. On the first day of the new Republican majority, Sen. Harkin proposed a rule change diluting the filibuster. Every single Republican senator voted against the change even though supporting it clearly would have provided at least a temporary advantage to the Republican agenda.

Here is why Republicans who were in the majority then, and Democrats who are in the majority today, should reject a similar rules change:

First, the proposal diminishes the rights of the minority. In his classic Democracy in America, Alexis de Tocqueville wrote that one of his two greatest fears for our young democracy was the ''tyranny of the majority,'' the possibility that a runaway majority might trample minority voices.

Second, diluting the right to debate and vote on amendments deprives the nation of a valuable forum for achieving consensus on difficult issues. The founders knew what they were doing when they created two very different houses in Congress. Senators have six-year terms, one-third elected every two years. The Senate operates largely by unanimous consent. There is the opportunity, unparalleled in any other legislative body in the world, to debate and amend until a consensus finally is reached. This procedure takes longer, but it usually produces a better result—and a result the country is more likely to accept. For example, after the Civil Rights Act of 1964 was enacted, by a bipartisan majority over a filibuster led by Sen. Russell of Georgia, Sen. Russell went home to Georgia and said that, though he had fought the legislation with everything he had, ''As long as it is there, it must be obeyed.'' Compare that to the instant repeal effort that was the result of jamming the health care law through in a partisan vote.

Third, such a brazen power grab by Democrats this year will surely guarantee a similar action by Republicans in two years if Republicans gain control of the Senate as many believe is likely to happen. We have seen this happen with Senate consideration of judges. Democrats began the practice of filibustering President Bush's judges even though they were well-qualified; now Democrats are unhappy because many Republicans regard that as a precedent and have threatened to do the same to President Obama's nominees. Those who want to create a freight train running through the Senate today, as it does in the House, might think about whether they will want that freight train in two years if it is the Tea Party Express.

Finally, it is hard to see what partisan advantage Democrats gain from destroying the Senate as a forum for consensus and protection of minority rights since any legislation they jam through without bipartisan support will undoubtedly die in the Republican-controlled House during the next two years.

* * *

The reform the Senate needs is a change in its behavior, not a change in its rules. I have talked with many senators, on both sides of the aisle, and I believe most of us want the same thing: a Senate where most bills are considered by committee, come to the floor as a result of bipartisan cooperation, are debated and amended and then voted upon.

It was not so long ago that this was the standard operating procedure. I have seen the Senate off and on for more than forty years, from the days in 1967 when I came to the Senate as Sen. Howard Baker's legislative assistant. That was when each senator

had only one legislative assistant. I came back to help Sen. Baker set up his leadership office in 1977 and watched the way that Sen. Baker and Sen. Byrd led the Senate from 1977 to 1985, when Democrats were in the majority for the first four years and Republicans were the second four years.

Then, most pieces of legislation that came to the floor had started in committee. Then that legislation was open for amendment. There might be 300 amendments filed and, after a while, the majority would ask for unanimous consent to cut off amendments. Then voting would begin. And voting would continue.

The leaders would work to persuade senators to limit their amendments but that didn't always work. So the leaders kept the Senate in session during the evening, during Fridays, and even into the weekend. Senators got their amendments considered and the legislation was fully vetted, debated and finally passed or voted down.

Sen. Byrd knew the rules. I recall that when Republicans won the majority in 1981, Sen. Baker went to see Sen. Byrd and said, ''Bob I know you know the rules better than I ever will. I'll make a deal with you. You don't surprise me and I won't surprise you.''

Sen. Byrd said, ''Let me think about it.''

And the next day Sen. Byrd said yes and the two leaders managed the Senate effectively together for eight years.

What would it take to restore today's Senate to the Senate of the Baker-Byrd era?

Well, we have the answer from the master of the Senate rules himself, Sen. Byrd, who in his last appearance before the Rules Committee on May 19, 2010 said: ''Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the malady [abuse of the filibuster]. Most recently, Senate Majority Leader Reid announced that the Senate would stay in session around-the-clock and take all procedural steps necessary to bring financial reform legislation before the Senate. As preparations were made and cots rolled out, a deal was struck within hours and the threat of filibuster was withdrawn. . . . I also know that current Senate Rules provide the means to break a filibuster.''

Sen. Byrd also went on to argue strenuously in that last speech that ''our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights. Senators,'' he said, ''have understood this since the Senate first convened.''

Sen. Byrd then went on: ''In his notes of the Constitutional Convention on June 26, 1787, James Madison recorded that the ends to be served by the Senate were 'first, to protect the people against their rulers, secondly, to protect the people against the transient impressions into which they themselves might be led. . . They themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils.' That fence,'' Sen. Byrd said in that last appearance, ''was the United States Senate. The right to filibuster anchors this necessary fence. But it is not a right intended to be abused.''

''There are many suggestions as to what we should do. I know what we must not do. We must never, ever, ever, ever tear down the only wall—the necessary fence—this nation has against the excess of the Executive Branch and the resultant haste and tyranny of the majority.''

What would it take to restore the years of Sens. Baker and Byrd, when most bills that came to the floor were first considered in committee, when more amendments were considered, debated and voted upon?

1. Recognize that there has to be bipartisan cooperation and consensus on important issues. The day of ''we won the election, we jam the bill through'' will have to be over. Sen. Baker would not bring a bill to the floor when Republicans were in the majority unless it had the support of the ranking Democratic committee member.

2. Recognize that senators are going to have to vote. This may sound ridiculous to say to an outsider, but every Senate insider knows that a major reason why the majority cuts off amendments and debate is because Democratic members don't want to vote on controversial issues. That's like volunteering to be on the Grand Ole Opry but then claiming you don't want to sing. We should say, if you don't want to vote, then don't run for the Senate.

3. Finally, according to Sen. Byrd, it will be the end of the three-day work week. The Senate convenes on most Mondays for a so-called bed-check vote at 5:30. The Senate during 2010 did not vote on one single Friday. It is not possible either for the minority to have the opportunity to offer, debate and vote on amendments or for the majority to forcefully confront a filibuster if every senator knows there will never be a vote on Friday.

There are some other steps that can be taken to help the Senate function better without impairing minority rights.

One bipartisan suggestion has been to end the practice of secret holds. It seems reasonable to expect a senator who intends to hold up a bill or a nomination to allow his colleagues and the world know who he or she is so that the merits of the hold can be evaluated and debated.

Second, there is a crying need to make it easier for any President to staff his government with key officials within a reasonable period of time. One reason for the current delay is the President's own fault, taking an inordinately long time to vet his nominees. Another is a shared responsibility: the maze of conflicting forms, FBI investigations, IRS audits, ethics requirements and financial disclosures required both by the Senate and the President of nominees. I spoke on the Senate floor on this, titling my speech ''Innocent until Nominated.'' The third obstacle is the excessive number of executive branch appointments requiring Senate confirmation. There have been bipartisan efforts to reduce these obstacles. With the support the majority and minority leaders, we might achieve some success.

Of course, even if all of these efforts succeed there still will be delayed nominations, bills that are killed before they come to the floor and amendments that never see the light of day. But this is nothing new. I can well remember when Sen. Metzenbaum of Ohio put a secret hold on my nomination when President George H.W. Bush appointed me education secretary. He held up my nomination for three months, never really saying why.

I asked Sen. Rudman of New Hampshire what I could do about Sen. Metzenbaum, and he said, ''Nothing.'' And then he told me how President Ford had appointed him to the Federal Communications Commission when he, Rudman, was Attorney General of New Hampshire. The Democratic senator from New Hampshire filibustered Rudman's appointment until Rudman finally asked the president to withdraw his name.

''Is that the end of the story?'' I asked Rudman.

''No,'' he said. ''I ran against the [so-and-so] and won, and that's how I got into the Senate.''

During his time here Sen. Metzenbaum would sit at a desk at the front of the Senate and hold up almost every bill going through until its sponsor obtained his approval. Sen. Allen of Alabama did the same before Metzenbaum. And Sen. John Williams of Delaware during the 1960's was on the floor regularly objecting to federal spending when I first came here forty years ago.

* * *

I have done my best to make the argument that the Senate and the country will be served best if cooler heads prevail and Democrats don't make their power grab tomorrow to make the Senate like the House, to permit them to do with any legislation what they did with the health care law. I have said that to do so will destroy minority rights, destroy the essential forum for consensus that the Senate now provides for difficult issues, and surely guarantee that Republicans will try to do the same to Democrats in two years. More than that, it is hard to see how Democrats can gain any partisan advantage from this destruction of the Senate and invitation for retribution since any bill they force through the Senate in a purely partisan way during the next two years will surely be stopped by the Republican-controlled House of Representatives.

But I am not the most persuasive voice against the wisdom of tomorrow's proposed action. Other voices are. And I have collected some of them, mostly Democratic leaders who wisely argued against changing the institution of the Senate in a way that would deprive minority voices in America of their right to be heard:

From Mr. Smith Goes to Washington

Jimmy Stewart: Wild horses aren't going to drag me off this floor until those people have heard everything I've got to say, even if it takes all winter.

Reporter: H.V. Kaltenborn speaking, half of official Washington is here to see democracy's finest show. The filibuster—the right to talk your head off.

Sen. Robert Byrd's final appearance in the Senate Rules Committee

SENATOR ROBERT BYRD: We must never, ever, ever, ever, tear down the only wall, the necessary fence, that this nation has against the excesses of the Executive Branch.

SEN. CHUCK SCHUMER: The checks and balances which have been at the core of this Republic are about to be evaporated. The checks and balances which say that if you get 51% of the vote, you don't get your way 100% of the time.

FORMER SEN. CLINTON: You've got majority rule. Then you've got the Senate over here where people can slow things down where they can debate where they have something called the filibuster. You know it seems like it's a little less than efficient, well that's right, it is. And deliberately designed to be so.

SEN. DODD: I'm totally opposed to the idea of changing the filibuster rules. I think that's foolish in my view.

SEN. BYRD: That's why we have a Senate, is to amend and debate freely.

SEN. ALEXANDER: The whole idea of the Senate is not to have majority rule. It's to force consensus. It's to force there to be a group of Senators on either side who have to respect one another's views so they work together and produce 60 votes on important issues.

SEN. DODD: I can understand the temptation to change the rules that make the Senate so unique and simultaneously so terribly frustrating. But whether such temptation is motivated by a noble desire to speed up the legislative process or by pure political expediency, I believe such changes would be unwise.

SEN. ROBERTS: The Senate is the only place in government where the rights of a

numerical minority are so protected. A minority can be right, and minority views can certainly improve legislation

SEN. ALEXANDER: The American people know that it's not just the voices of the Senator from Kansas or the Senator from Iowa that are suppressed when the Majority Leader cuts off the right to debate, and the right to amend. It's the voices that we hear across this country, who want to be heard on the Senate floor.

SEN. GREGG: You just can't have good governance if you don't have discussion and different ideas brought forward.

SEN. DODD: Therefore to my fellow Senators, who have never served a day in the minority, I urge you to pause in your enthusiasm to change Senate rules.

SEN. REID: The Filibuster is far from A 'Procedural Gimmick.' It's part of the fabric of this institution that we call the Senate. For 200 years we've had the right to extend the debate. It's not procedural gimmick. Some in this chamber want to throw out 214 years of Senate history in the quest for absolute power. They want to do away with Mr. Smith, as depicted in that great movie, being able to come to Washington. They want to do away with the filibuster. They think they're wiser than our Founding Fathers, I doubt that's true.

FORMER SEN. OBAMA: Then if the Majority chooses to end the filibuster, if they choose to change the rules and put an end to Democratic debate, then the fighting and the bitterness and the gridlock will only get worse.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I will respond to my friend from Tennessee who makes cogent arguments, as he always does. He is a good friend of mine, and we have worked together on a lot of things. I hope this is the beginning of some colloquies we can have here. I do want to indulge and let other Senators have their say because they were so kind to let me have my say too. But I intend to be here as long as anybody wants to say anything or to engage in some colloquies here on the Senate floor.

I say to my friend from Tennessee, that as I listened to him, and I did very carefully, there are a couple of things I want to point out in terms of this idea of a filibuster and being able to amend things. My friend referred many times to the health care bill. I do not know if my friend said this, but I have heard it said that we wrote it behind closed doors and all of that kind of stuff.

Let me point out that when it came to our committee, the HELP Committee, we had 13 days of markup, 54 hours. We allowed any amendment to be offered. The Senator is a member of that committee. We allowed any Senator on our committee to offer any amendment. We adopted 161 Republican amendments, either through some votes, which they won, or through just adopting the amendments. Then after that, after all of that, all Republicans voted no. That is fine. There are a lot of times I know in the past when I have had an amendment on a bill which I thought improved it, but overall I did not like the bill, and I voted against it. I think that is the right of the minority. But then to obstruct it and to try to obstruct it to keep it from even being enacted I do not think is right. So I would say to my friend that I do not think the health care bill is a good example.

I say to my friend, he quoted someone, I think maybe it may have been Senator REID, saying, do people think they are wiser than our Founding Fathers. Please show me where our Founding Fathers ever set up a system where the Senate could have unlimited debate? They never did that. It is not in the Constitution.

As I pointed out, the first Senate actually had the motion, the previous question, to cut off debate. And they did not set up a majoritarian House. Article I section 5, I say to my friend from Tennessee, article I, section 5 is very clear. Each House sets up its rules. If the new majority in the House wanted to, they could set up rules to be like the Senate. They could do that. They could set up rules however they wanted, as long as they were constitutional. I suppose someone could take it to court to see if it was constitutional. But they do not have to operate under those rules. We do not have to operate under these rules. The Constitution gives us the right to change those rules.

Our Founding Fathers never set up this system, by the way, never. There is no mention of it anywhere in the Constitution. They did not set up a majoritarian House, they set up article I, section 5, which said each House can set up its own rules. But then in the Constitution, they outlined certain prerogatives. The Senate has certain prerogatives, the House has certain prerogatives, such as, for example, all bills of revenue have to originate in the House, not in the Senate. Treaties are done by the Senate, not by the House. But they never set up any kind of majoritarian type of thing.

I say to my friend, on the filibuster, I think there is a reason for a filibuster. I think there ought to be filibusters. I think there ought to be times when the minority can slow down things in order to get their views heard, or in order for them to be able to offer amendments, to make the bill better, in their views. That is the right of the minority.

I do not think it is the right of any minority—I say minority. When I say that, I am not talking about Republicans. I am saying any minority here. I do not think it is the right of any minority here to say, if I do not get my way, I am going stop everything. That is kind of what I see happening around here. If I do not get my way, one Senator can stop things.

I point out one other bill, I say to my friend from Tennessee, that I thought was a great bipartisan bill. We worked hard on it in our committee. The Senator from Tennessee was instrumental. That was the food safety bill. We reported it out of our committee a year ago in November, unanimous vote. Everyone voted for it, Republicans and Democrats on our committee. We got it out. But there were some things in the bill that Senators not on our committee, and maybe one Senator on our committee, did not like. So we had to work through the ensuing months to get everybody onboard and to work it out, which is fine. I have no problems with that. That is the legislative process. I have patience. As my friend from Kansas knows, I have a lot of patience working on farm bills. They take time.

But we worked it all out. And yet one Senator, one Senator who really disagreed with it, was able to hold it up from coming on the floor. We finally got it on the floor, but it took almost a year. One Senator was able to do that.

So I say, one Senator should be able to have the right to offer amendments, to be heard, but not to stop everything. I guess that is what I come down to, I say to my friend from Tennessee, that there ought to be a—I think there is a reason and a good reason for the Senate to be that saucer that cools things down, the story about Jefferson and Washington. But it should be at some point in time where the majority has not only the authority but the power to act after a due consideration and a due period of time.

I believe, I say to my friend in all sincerity, that will promote more compromise than the present system. You may disagree, but I feel that would. I am not trying to take away compromise. I believe in compromise. I believe in working things out. As chairman of the Agriculture Committee for two farm bills, we worked things out. I am sure there were things in the farm bill that the Senator from Kansas did not like, and there were things in there that I did not like, even though I was chairman. But you work these things out. You compromise and you get things done. So I believe in that spirit of compromise. But I think what we have here now—and that escalating arms race—is doing away with that spirit of compromise and working things out and moving things. That is why I think we have to change the rules.

I do not know if I adequately responded to my friend from Tennessee, but these were my thoughts at the end. I am looking forward to other comments from other Senators and engaging in our colloquies. I promise I will not take so long.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank my colleagues for their pertinent remarks.

The Senator from Iowa said in the past he had entered into a colloquy with colleagues on our side of the aisle where they wandered over into each other's pastures. I am going to put down this microphone for a moment and speak from here in a gesture of bipartisanship on how we can improve the Senate.

I know we have heard a lot of talk about Robert C. Byrd, a beloved individual. I know the Presiding Officer

was very close to the former Senator. The last time Bob Byrd spoke publicly was in the rules committee, when he rose to the occasion in a very passionate way. The chairman, of course, CHUCK SCHUMER, the Senator from New York, with great deference recognized Senator Byrd. We were all on the edge of our chairs. The Senator from Tennessee has already gone over what Senator Byrd said at that time and previously. But I remember when I first came to the Senate, it was required that we go to school, so to speak, and Senator Byrd talked to all of the freshmen at that particular time.

The keeper of the institutional flame was the tag I put on Senator Byrd. My wife Franki and I became very close friends of the Senator. At any rate, he recounted the story attributed to Jefferson and Washington, he would tell every incoming class about the role of the people's House and perhaps what happened, when they put the coffee pot on in regards to legislation, that the coffee was so hot it would boil over, and it was the Senate's duty to act as the saucer, as folks did back in West Virginia in the earlier days, or Kansas or Iowa or Tennessee or Texas, that they would pour the coffee out in the saucer and let it cool off a little bit so they could put their biscuit in it and actually eat it, and then the legislation would pass.

The problem is, sometimes on our side maybe we want tea, maybe we want to start over. I think the Senator from Tennessee basically hit the nail on the head with the massive three. If we are going to talk about getting things done or not getting things done, there are three massive things that have happened with regard to legislation. I say ''massive'' because they were so overreaching, so overwhelming, we are now just learning what their implications are. The massive three are financial regulatory reform, the health care act, and the stimulus.

Now the health care act, I have a personal feeling about that in that I had 11 amendments, all on rationing.

By the way, the Senate never confirmed the nomination of Dr. Donald Berwick, the head of CMS, the Center for Medicare and Medicaid Services. We planned to ask a lot of questions to the doctor because of statements he made in the past. Obviously, that confirmation did not happen. He was a recess appointment. That is something I think we ought to deal with as well.

Now, the health care act, it was 12:30 in the morning in the Finance Committee. I had several amendments, all on rationing. Finally, we got to the last two. I said: Why don't we consider them en bloc? I had about a minute or two to explain each amendment. They were voted down automatically on a party-line vote. By the time we got to 12:30 or 1 o'clock and my amendments, I noticed Senator SCHUMER was in the room so I stuck on one of his amendments along with mine. It was defeated on a party-line vote. Then I let Senator SCHUMER know that we had defeated his amendment as well. He wasn't too happy with that.

I just showed that the process has broken down to the point that even in committee, if you had two amendments, if you had five, if you had one, you were simply ignored. Then the health care act came to the floor and worked its way. I think the Senator from Tennessee brought up the ''Grand Ole Opry.'' I saw it as making a bill behind closed doors. That is a famous country western song. We didn't like that process at all.

I finally had only one other recourse and that was to go to the reconciliation process, which I knew was not going to be successful, but I had several amendments, all were defeated. My main concerns about the health care bill were not allowed, as far as I was concerned, on the floor of the Senate, and that has happened a lot.

Now we are seeing an effort to repeal the health care act and also an effort to try to fix it, if we possibly can. I am not as upset about that as some people are because I think we could get the proper kind of debate, but the debate must proceed in regular order and under the standing rules of the Senate as a continuing body.

I am not going to go into the quotes by Senator Byrd. That has already been done by Senator ALEXANDER. But I would like to quote Senator Dodd in his valedictory speech.

> The history of this young democracy, the Framers decided, should not be written solely in the hand of the majority.

This isn't about the filibuster. That is the most important statement he made.

> What will determine whether this institution works or not is whether each of the 100 Senators can work together.

How can we do that? Here is a classic example. Right before Christmas, there were several bills the majority wanted to pass without allowing the minority and the American people the right to debate or amend them. So the tree was filled, and that is the parliamentary language to say: I am sorry, we are going to cut off debate. In the first three years and four months of this majority, the use of filling the tree went up over 300 percent compared to the average for the previous 22 years. Ninety-eight times in the 110th Congress, cloture was filed the moment the question was raised on the floor. A debate was not even allowed to take place. So on one hand you can talk about filibusters; the other hand is filling the tree, or not allowing Members to offer amendments, and same day clotures.

The Senator from Tennessee offered the classic example. Let's go back to a few days ago, right before Christmas. The DREAM Act was a House bill. I know the Senate leadership wanted to pass it. It never had a legislative hearing in the House, never had a markup in the House. The Senate version of the DREAM Act had not had a markup since 2003. In sum, the DREAM Act, a controversial measure with very passionate beliefs on both sides of the aisle and within the parties as well had not had an amendment offered to it in either House of Congress either in committees or on the floor.

Some may believe the DREAM Act is perfect or certainly is the best bill possible and would not need any amendments to improve it. But, obviously, our constituents don't feel that way. It is a very controversial bill. Instead of addressing their concerns, the majority shut down debate and amendments and in the process shut down the rights of Americans to be heard. As a result, the minority refused to end debate and, obviously, there was a filibuster. It would be interesting to know, of the times that bills have been filibustered, what was being filibustered.

Contrast this with the approach taken on the 9/11 bill which the majority sought to pass just a few days later. The goal of providing help to the victims of 9/11 is one Members of both parties share, but Senate Republicans noted that the particular version of the bill Senate Democrats supported was problematic in regards to how much money we were spending and certainly would need improvement.

So we insisted on having our concerns addressed. Most of them were addressed with a revised bill on which we did provide input. That bill passed the Senate by unanimous consent, and even the proponents of the original legislation would admit that the final bill is a better one and now enjoys broader support due to the minority's input.

What I think the majority needs to do is involve the minority like it did on the 9/11 bill, not shut us out, not shut us down as it did on the DREAM Act and other acts.

If that happened, if we did not fill the tree, I think possibly 75 percent, 80 percent of the filibusters would go away. There are some who would like to filibuster anything, I know. But it gets back to what the Senator asked: Why are we here? It is important to pass legislation. But it is equally important to prevent bad legislation from passing or, if you have an alternative you would like to offer, to at least have the ability to do so.

In the last 2 years that process has simply broken down. Why can't we work together? That is what Senator Dodd said. He asked whether each of the 100 Senators can work together. That was on the question of filibusters.

We can stop this business of secret holds. It seems to me we could have a timely pace on nominations. It seems to me we could certainly end these recess appointments where people who should be confirmed have to go through the confirmation process instead of all of a sudden parachuting somebody in who is controversial and now we have over 100,000 regulations pouring out of the Department of HHS. Health care providers throughout the Nation—in Iowa, Tennessee, Kansas—are wondering what on Earth is happening.

When I go home, I don't get the question of why a bill didn't pass. I get the question: What on Earth are you guys doing back there passing all the legislation with all the regulatory stuff that I have to put up with, taxes I have to pay, et cetera, et cetera?

As a matter of fact, when they pose that question, I say: I am not a you guy; I am an us guy. Then we have a debate, but it is a debate that should have taken place on the floor of the Senate instead of on the plains of Kansas. Unfortunately, because of the majority, we were not able to have that debate here, on the floor.

The question I have for the distinguished Senator from Iowa—and I appreciate his reference to our work in previous farm bills. We were able to work it out. Sometimes it was very contentious, and sometimes the farm bill would come to the floor, and it would take a week and a half. Then we would have an appropriations bill, and then the appropriators would think they could rewrite the farm bill and take another week and a half. But we worked through it. Nobody filled the tree and said: I am sorry, you can't have that amendment.

I am making a speech instead of asking the question. I apologize for that.

I am in agreement on secret holds. I think there should be timely pace on nominations. I do think we should go through the regular confirmation process.

But I do feel exactly as the Senator from Tennessee has put out, that once you get on this business of ending the filibuster or going down on the number of requisite votes, you are on a slippery slope, and then you are into the tyranny of the majority, and that is not what the Senate is all about.

I will stop at this point and ask the Senator from Iowa if he has any comments.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Iowa.

Mr. HARKIN. Madam President, I thank my friend from Kansas. I think he makes some good points.

I would say to my friend, I think we ought to go through processes in our committees to have hearings on nominees to flush out things such as that. So to that extent, the Senator from Kansas is right. We should not have, especially if there is any controversy at all—I suppose some of them are noncontroversial—but if there is some controversy out there, yes, I think the committees ought to have the responsibility to bring them forward. Let the committees question them. We did that in our HELP Committee, I say to my friend from Kansas. I am trying to remember the person we had—oh, a lot of controversy about Craig Becker, I think, who was going to the NLRB.

Mr. ROBERTS. If the Senator will yield, I think the Senator is exactly right. I am on the HELP Committee, as the Senator may recall, and I was trying to get one amendment to say that we would prohibit the use of rationing to achieve cost containment, and it involved several of the commissions that have been in the bill. I regret that bill sort of sat somewhere and collected dust. We never got a score. I thought it was, quite frankly, a better bill than the one in the Finance Committee.

I say to the Senator, you recognized me, and I had an opportunity to offer some amendments. At least there was some debate. And I think it was a much more bipartisan effort. So I give the chairman——

Mr. HARKIN. If it was out of our committee, obviously it was a better bill than coming out of the Finance Committee. But I say to my friend, again, that——

Mr. ROBERTS. Senator CORNYN wants to be heard, so I am going to be quiet and listen to you.

Mr. HARKIN. I thought there were some things we should talk about. I say to my friend, in listening to my friend from Kansas say this, it occurred to me that certain of his amendments were allowed. The Senator was allowed to debate them and offer them, but they were not adopted. It seems to me, as I have said before, the right of the minority ought to be to offer amendments, to have them considered, to have them voted on, but it does not mean it is the right of the minority to win every time on those amendments.

I say to my friend, on that financial services bill, I had an amendment too and I could not get it in. I was on the majority side, and they would not let me offer one either. So both sides have some legitimate points.

I also say to my friend from Kansas, and others, we can get into this tit for tat, who started it. I think we have to kind of quit that. I could come back and say: Well, yes, in the last 2 years, the tree was filled 44 times. In this last session, 44 times the tree was filled, but there were 136 filibusters. Why wouldn't there be 44 filibusters? Why were there 136? We can get into that tit for tat, who did what to whom. I wish to forget about all that. We could go back, probably, to the 18th century—tit for tat, who did what to whom at some point in time.

I ask my friend from Kansas, who has been here a long time—we served together in the House; my friend was chairman of the Agriculture Committee in the House. We have done a lot of legislation together—does my friend from Kansas feel the Senate is operating today in the best possible way? Does my friend from Kansas believe there could be some things done to make the Senate operate a little bit more openly and fairly with rights for the minority to be protected but without letting the minority—and I do not mean Republicans when I say ''minority,'' I mean whoever happens to be in the minority—to keep the minority from obstructing things? Does my friend feel there could be some changes made?

Mr. ROBERTS. I will answer the question, no. I do not think we are doing the job we could do, and we should do better, and I stand ready to work with all concerned to see if we can do that.

But my time is up, and I am going to cease here and allow the Senator from Texas to be recognized.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, may I inquire how much more time there is on our side?

The PRESIDING OFFICER. Three-and-a-half minutes.

Mr. CORNYN. Madam President, I am going to ask unanimous consent, with the indulgence of my colleagues, to allow me to speak for up to 10 minutes. I probably will speak about 5 minutes or so, unless I get particularly wound up, which could take 10 minutes. But I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair.

Madam President, I think we are playing with fire when we talk about amending the Senate rules. All of us have been here for different periods of time. I have been here for 8 years, which actually sounds like a long time, but in the life of the Senate is not very long at all in an institution that has existed for more than 200 years.

I have been here when our side was in the majority. As a matter of fact, we had the White House, we had both Houses of Congress. And I have been here when we have had President Obama in the White House and Democrats controlling both Houses of Congress. I can tell you, unequivocally, it is a whole lot more fun to be here when you are in the majority.

But there are certain temptations that the majority has which I think are exacerbated when, for example, during most of the last 2 years, one party or the other has the ability in the Senate to basically pass legislation by essentially a party-line vote; in other words, as I recall on that morning at 7 a.m. on Christmas Eve a year ago, when the vote on the health care bill came up where all 60 Democrats voted for the bill and no Republicans voted for the bill.

My point being: The temptation is, when you have such a large majority—60 or more—there is a huge temptation in both parties—not just the Democrats; Republicans, I am sure, would be tempted as well—to try to go it alone. Thus, I think it detracts from what is one of the great strengths of this institution, which is that this institution's rules force consensus, and unless there is consensus, things do not happen. We are, thus, the saucer that cools the tea from the cup, and all the various analogies we have heard.

But the important thing is not how this affects us as individual Senators. This is not just an abstract discussion about the rules. This is about what is in the best interests of a country of

more than 300 million people. I would submit any time one party or the other is not only tempted but yields to that temptation to go it alone to try to push legislation through without achieving that consensus, I think it hurts the institution and I think it provokes a backlash, much as we saw on November 2. Because the American people understand that checks and balances are important.

When we do not have checks and balances, either through the self-restraint of the majority or through recognizing the rights of the minority to offer amendments, to have debates, to contribute to legislation, then the American people are going to fix that by changing the balance of power, as they did on November 2.

Here again, I do not want to be misunderstood as making a partisan argument. I think Republicans would be just as tempted as Democrats to do the same thing. But I think that is where we have to show self-restraint and where, if we do not show self-restraint, then the American people will change the balance of power and establish those checks and balances.

Here again, I think for most people who are listening—if there is anyone listening out there on C–SPAN or elsewhere to this debate—this should not be about us. This should not be about the arcana of these rules. This should be about the rights of the American people to get legislation that affects all 300-plus million of us debated, amended, in a way to try to achieve that consensus and, thus, achieves broad support by the American people. Because anytime, again, we yield to the temptation to go it alone to do things on a partisan basis, it will ultimately provoke the kind of backlash we have seen over the health care bill, to mention one example.

This is not a small thing. I have the honor of representing 25 million people in the Senate, and this is not just about my rights as an individual Senator or even the minority's rights, this is about their right—their right to be heard through an adequate time for debate, their right to have an opportunity to change or amend legislation, and then to have a chance to have it voted on.

I understand the frustration of our colleagues when the majority leader, due to his right of prior recognition, can get the floor. He can put something on the Senate calendar that has not gone through a committee markup and that sort of due process and fair opportunity for amendment and participation; and then again, if he has 60 votes on his side to be able to push it through, then deny us any opportunity to offer amendments, much less to have a fulsome debate on these important issues.

I think our country suffers from that. I think the American people suffer when we are denied on their behalf an opportunity to have a fulsome debate and to offer amendments.

I do not doubt the good faith of our colleagues who are offering some of these propositions. There are even some of them that I find somewhat attractive. The idea of secret holds, for example—if there ever was a time for that, that time is long past gone. I know we are not going to agree on everything. But we ought to at least have an opportunity for everyone to be heard, and for individual Senators' rights to be respected, not because they are Senators but because they represent a large segment of the American people, and it is their rights that are impinged when the majority leader, for whatever reason, decides to deny a Senator a right to offer an amendment and a right to have a fulsome debate on the amendment in the interest of getting legislation passed.

Although Senator REID said this morning the 111th Congress has to go down in history as being one of the most productive Congresses, at the same time, he complained about Republicans filibustering legislation. There seems to be kind of an inherent contradiction there. But I suggest the explanation for that is the fact that our friends on the other side have had such a large supermajority, they have been able to muster the 60 votes and to go it alone. Again, I think that is yielding to a temptation that everyone would understand, and the American people have now since corrected that as a result of the November 2 election.

I would suggest, in closing, to all of our friends on both sides of the aisle, again, I recognize the sincerity of those who have offered these proposals, but I would suggest there is not a malfunction, or should I say the rules themselves are not broken, but the rules contemplate that the rules will not be abused. I think the temptation to abuse those rules by going it alone is understandable but something that needs to be avoided. I think because of the election now—since we are more evenly divided so nobody will be able to get to 60 votes unless there is a bipartisan consensus, to the extent that 60 votes are needed—that the American people have sort of fixed the problem some of our colleagues have perceived.

I thank the Chair.

Mr. HARKIN. Madam President, will the Senator yield for a question?

Mr. CORNYN. I am happy to yield for a question.

Mr. HARKIN. I thank my friend from Texas. Again, he and I have worked together on some legislation in the past too. He is a thoughtful Senator and a good legislator.

I ask my friend from Texas this: In listening to him, I almost have the feeling that my friend from Texas is saying we ought to have a supermajority to pass anything, that we should have 60 votes in order to pass anything.

I ask my friend, is that what my friend really means or implies, that everything should have 60 votes before it can go through here? Is that what my friend is suggesting?

Mr. CORNYN. I appreciate the question from my friend, the Senator from Iowa. That is not what I am suggesting. But I do think we need to have a process which allows for an opportunity for amendments and debate. And if we do not have a process requiring a threshold of 60 votes, the temptation is going to be, again, for the majority leader to deny the opportunity for amendments, constrict time allowed for an amendment, for debate, by filing cloture, and we are going to see things shooting through here that have not had an adequate opportunity for deliberation.

This institution has famously been called the world's greatest deliberative body, but I daresay we have not demonstrated that in recent memory. And, again, I think, as the Senator from Tennessee and others have observed, this is not a problem with the rules. This is the way the rules have actually been implemented. I think we have learned an important lesson from this and one I hope will help us respect the rights of all Senators, whether they be in the majority or the minority, to offer amendments and to debate these amendments not because they are about our rights but because they are about the rights, for example, of the 25 million people I represent. They have the right to be heard. They have a right to have any suggestions or improvements to legislation be considered. That is all I am saying.

Mr. HARKIN. Madam President, if my friend will yield further, again, in my resolution there is a guarantee that the minority has the right to offer amendments—absolute guarantee. As I said, that is something I have urged since 1995. I am very sympathetic to the argument that people are cut out from offering amendments. I know because that has happened to me by the majority at times. So I believe there ought to be rights for the minority. I always hasten to add when I say ''minority'' I am not saying Republicans, I am saying the minority. It may be us pretty soon. It goes back and forth, as my friends knows. There ought to be the right for the minority to offer amendments and to have their voice heard and to, as the Senator says, represent the people of our States adequately.

But I ask my friend again, what happens when we have one or two or three or four Senators who don't want to see a bill passed in any form—some bill, just take any bill—that maybe has been worked on by both Republicans and Democrats, has broad bipartisan support maybe to the tune of even 70 or so Senators, but there is one or two or three Senators who don't want it to pass anyway, and they are able to gridlock the place under rule XXII. I know the Senator talked about exercising self-restraint, and I say that is fine. But what if we had that situation where we have two or three Senators saying: I don't care how many Senators are on it I don't want it to move. And

they invoke their rights under rule XXII. How do we get over that hurdle?

Mr. CORNYN. Madam President, I would say to my friend the people who came before us thought achieving consensus was good, not unanimity, perhaps recognizing it is impossible to get 100 Senators to agree. So I would say to my friend I sometimes am as frustrated as he is when one or two or three or four Senators say: We are going to force this to a cloture vote because we are just not going to agree. I think that is frustrating to all of us, depending on which foot the shoe is on.

But I would say that is a small price to pay, that frustration, to insist on assuring the rights of the minority—again, not because of an individual Senator because we aren't all that important. It is the rights of our constituents whom we represent that are so important, and it is so important we get it right because there is nobody else after we get through who gets to vote. It becomes the law of the land, and unless it is unconstitutional not even the Supreme Court of the United States can set it aside. So it is very important we get it right. I am just saying that we take the time necessary, and I think that is what the rules are designed to provide for.

Mr. HARKIN. Madam President, if the Senator would indulge me for one more moment, so it is not the position of my friend from Texas that everything needs 60 votes in which to move in the Senate; is that correct?

Mr. CORNYN. Madam President, there are a long list of bills that pass on a regular basis by unanimous consent, and it is like—we are almost focused on the exception rather than the rule. There are many times—a lot of times; I can't quantify it—where legislation will pass by unanimous consent because it has gone through the committees, people have had an opportunity to offer amendments, both sides have had an opportunity to contribute to it, and then it passes without objection. Again, I can't quantify that, but the ones we seem to be focused on are the ones that seem to be more or less the exception to the rule where there are genuine disagreements, when there is a need to have a more fulsome debate and the opportunity for amendments.

So I think the current rules serve the interests of our constituents and the American people well.

I thank the Chair and I thank my colleague.

The PRESIDING OFFICER. The Senator from Oregon.

ORDER OF PROCEDURE

Mr. WYDEN. Madam President, Senator UDALL and Senator MERKLEY have waited at great length to make their remarks. I wish to propound a unanimous consent at this time. At this point, Senator UDALL would be the next speaker. There would be a Republican who would speak next. I am very hopeful it will be Senator GRASSLEY because he and I have been partners for almost 14 years in this effort to force the Senate to do public business in public and get rid of these secret holds. So after Senator UDALL, there would be Senator GRASSLEY. After Senator GRASSLEY, there would be my friend and colleague Senator MERKLEY who would speak. At that time there would be a Republican who would be next in the queue to speak.

So my unanimous consent request at that point is—I would like to be able, for up to 30 minutes, to have the bipartisan sponsors of the effort to get rid of secret holds once and for all, including the distinguished Presiding Officer, to have up to 30 minutes for a colloquy on this bipartisan effort to eliminate secret holds.

The PRESIDING OFFICER. Are there any time limits on the UC motion for any Senators other than the 30 minutes designated for the cosponsors of the secret hold legislation?

The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, in addition to his UC, we have myself for 15 minutes, Senator MERKLEY for 15 minutes, and I believe Senator WYDEN has asked for 30, and then to accommodate the Republicans, our UC would say if there is a Republican seeking recognition that we alternate between the two sides and they be under the same time limitations as listed above. So Senator ALEXANDER can see I would speak for 15, and then he would have a block for 15, and then Senator MERKLEY, and then it would be 30 for Senator WYDEN.

Mr. WYDEN. Then, after Senator MERKLEY, there would be another Republican who would be in a position to speak for 15 minutes, and at that point under the unanimous consent request we would be able to discuss this bipartisan effort to eliminate secret holds for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Madam President, I wonder if the Senator would mind a slight modification to that. One of the things I thought we were kind of getting into today were colloquies wherein we could ask a question and have a response in a reasonable manner. I would ask to modify the unanimous consent request to say that any colloquies entered into—questions propounded to a Senator through the Chair—not be detracted from the time allotted to that Senator.

Mr. WYDEN. I am very open to that. I think it is an excellent suggestion.

Mr. UDALL of New Mexico. I very much agree with that. I have been sitting here following the debate, and I think Senator ALEXANDER, among others, has propounded some very good questions. I actually have another question I was going to ask on top of his question of what is a filibuster. So I am looking forward to that portion of it. Senator HARKIN, thank you very much for that.

Mr. WYDEN. Madam President, I think Senator HARKIN has made an excellent suggestion. Unless Senator ALEXANDER or anyone on the other side has a problem with that, let's modify the unanimous consent request I have made to incorporate Senator HARKIN's suggestion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico.

AMENDING SENATE RULES

Mr. UDALL of New Mexico. Madam President, I submit on behalf of myself and Senators HARKIN, MERKLEY, DURBIN, KLOBUCHAR, BROWN, BEGICH, BLUMENTHAL, GILLIBRAND, SHAHEEN, BOXER, TESTER, CARDIN, MIKULSKI, WARNER, and MANCHIN a resolution to amend rule VIII and rule XXII of the Standing Rules of the Senate, and I ask unanimous consent to proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Madam President, reserving the right to object, I have had a number of discussions with the Senator from New Mexico and the Senator from Oregon. I respect their proposals and will have more to say about them, but I think since they have waited such a long time to make their presentations I will merely state my objection now and have more to say later. So I object.

The PRESIDING OFFICER. The objection having been heard, the resolution will go over under the rule.

Mr. UDALL of New Mexico. Madam President, let me just inquire through the Parliamentarian, it is my understanding that by objecting to this resolution being immediately considered now, the result is the resolution will go over under the rule, allowing it to be available to be brought up at a future time. Is that understanding correct?

The PRESIDING OFFICER. That is correct.

Mr. UDALL of New Mexico. Thank you very much.

Madam President, I rise today to introduce the resolution I just mentioned. I have worked very hard with all of my colleagues, including my two colleagues from Iowa and Oregon, Senators HARKIN and MERKLEY, to reform the rules of this unique and prestigious body. I do so after coming to the floor last January—January 25, in fact, now almost 1 year ago—to issue a warning, a warning because of partisan rancor and the Senate's own incapacitating rules, that this body was failing to represent the best interests of the American people. The unprecedented abuse of the filibuster, of secret holds, and of other procedural tactics routinely prevent the Senate from getting its work done. It prevents us from doing the job the American people sent us here to do.

Since that day in January things haven't gotten better. In fact, I would

say they have gotten worse—much worse. Here in the Senate open and honest debate has been replaced with secret backroom deals and partisan gridlock. Up-or-down votes on important issues have been unreasonably delayed and blocked entirely at the whim of a single Senator. Last year, for example, one committee had almost every piece of legislation held up by holds from one Senator.

The Senate is broken. In the Congress that just ended, because of rampant and growing obstruction, not a single appropriations bill was passed. There wasn't a budget bill. Only one authorization bill was approved, and that was only done at the very last minute. More than 400 bills on a variety of important issues were sent over from the House. Not a single one was acted upon. Key judicial nominations and executive appointments continue to languish.

The American people are fed up with it. They are fed up with us, and I don't blame them. We need to bring the workings of the Senate out of the shadows and restore its accountability. That begins with addressing our own dysfunction, specifically the source of that dysfunction—the Senate rules.

Last year the Senate Rules Committee took a hard look at how our rules have become so abused and how this Chamber no longer functions as our Founders intended. I applaud Chairman SCHUMER and his excellent staff for devoting so much time to this important issue. I thank Senator ALEXANDER and Senator ROBERTS. We have some very good Republican colleagues on the committee, and we have had some good exchanges. They know we had six hearings and heard from some of the most respected experts in the field.

But these hearings demonstrated that the rules are not broken for one party, or for only the majority. Today the Democrats lament the abuse of the filibuster and the Republicans complain they are not allowed to offer amendments to legislation. Five years ago, those roles were reversed. Rather than continue on this destructive path, we should adopt rules that allow a majority to act while protecting the minority's right to be heard. Whichever party is in the majority, they must be able to do the people's business.

I think that is what Senator HARKIN spoke so persuasively to in his comments on the filibuster—that the majority has to be able to govern. The way the filibuster is being used the minority thwarts the majority's ability to govern.

At a hearing in September, I testified before the committee about my procedural plan for amending the Senate's rules—the constitutional option. Unlike the specific changes to the rules proposed by other Senators and experts, my proposal is to make the Senate of each Congress accountable for all of our rules. This is what the Constitution provides for, and it is what our Founders intended.

Rule XXII is the most obvious example of the need for reform. Last amended in 1975, rule XXII demonstrates what happens when the Members of the current Senate have no ability to amend the rules adopted long ago—rules that get abused.

I have said this before, but it bears repeating. Of the 100 Members of the Senate, only two of us have had the opportunity to vote on the cloture requirement in rule XXII—Senators INOUYE and LEAHY.

So if 98 of us haven't voted on the rule, what is the effect? Well, the effect is that we are not held accountable when the rule gets abused, and with a requirement of 67 votes for any rules change that is a whole lot of power without restraint.

But we can change this. We can restore accountability to the Senate. Many of my colleagues, as well as constitutional scholars, agree with me that a simple majority of the Senate can end debate—that is the first step—and adopt its rules at the beginning of a new Congress.

Critics of my position argue that the rules can only be changed in accordance with the current rules, and that rule XXII requires two-thirds of Senators present and voting to agree to end debate on a change to the Senate rules.

Since this rule was first adopted in 1917, members of both parties have rejected this argument on many occasions.

In fact, advisory rulings by Vice Presidents Nixon, Humphrey, and Rockefeller, sitting as President of the Senate, have stated that a Senate, at the beginning of a Congress, is not bound by the cloture requirement imposed by a previous Senate. They went on to say that each new Senate may end debate on a proposal to adopt or amend the standing rules by a majority vote. That bears repeating—by a majority vote—cloture and amendment, majority vote.

Even in today's more partisan environment I hope my colleagues will extend to us the same courtesy, and our constitutional rights will be protected as we continue to debate the various rules reform proposals at the beginning of this Congress.

In 2005, Senator HATCH—someone who understands constitutional issues perhaps better than any other Member of this Chamber—wrote the following:

> The compelling conclusion is that, before the Senate readopts Rule XXII by acquiescence, a simple majority can invoke cloture and adopt a rules change. This is the basis for Vice President Nixon's advisory opinion in 1957. As he outlined, the Senate's right to determine its procedural rules derives from the Constitution itself and, therefore, ''cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress.'' So it is clear that the Senate, at the beginning of a new Congress, can invoke cloture and amend its rules by a simple majority.

That was Senator HATCH's quote. As Senator ALEXANDER and Senator CORKER know, he was for many years chairman of the Judiciary Committee, and I think that is a very powerful quote.

This is the basis for introducing our resolution today, just as reformers have done at the beginning of Congresses in the 1950s, 1960s, and 1970s, and it is why I am here on the floor on the first day—to make clear I am not acquiescing to the rule XXII adopted by the Senate over 35 years ago. That Senate tried to tie the hands of all future Senates by leaving the requirement in rule XXII for two-thirds of the Senate to vote to end a filibuster on a rules change. But this is not what our Founders intended.

Article I, section 5 of the Constitution clearly states that ''each House may determine the Rules of its Proceedings.'' There is no requirement for a supermajority to adopt our rules, and the Constitution makes it very clear when a supermajority is required to act. Therefore, any rule that prevents a majority in future Senates from being able to change or amend rules adopted in the past is unconstitutional.

The fact that we are bound by a supermajority requirement that was first established 93 years ago also violates the common law principle that one legislature cannot bind its successors.

This principle goes back hundreds of years and has been upheld by the Supreme Court on numerous occasions. This is not a radical concept. The constitutional option has a history dating back to 1917, and it has been a catalyst for bipartisan rules reform several times since then. The constitutional option is our chance to fix rules that are being abused—rules that have encouraged obstruction like none ever seen before in this Chamber.

Amending our rules will not, as some have contended, make the Senate no different than the House. While many conservatives claim that the Democrats are trying to abolish the filibuster, our resolution maintains the rule but addresses its abuse. But, more importantly, the filibuster was never part of the original Senate. The Founders made this body distinct from the House in many ways, but the filibuster is not one of them.

So here we are today on the first day of a new Congress offering a resolution to reform the Senate's rules. We don't intend to force a vote today; in fact, we hope that we can return from the break and spend some time on the floor debating our resolution, considering amendments to make it better, and debating other resolutions. This should not be a partisan exercise. I think almost every one of us who have spoken today have said that. We know both sides have abused the rules, and now it is time for us to work together to fix them.

But we believe the Senate of the 112th Congress has two paths from which to choose. There is the first path: We do nothing and just hope the spirit of bipartisanship and deliberation returns—the truth is we have been

on this path for a while now, and I think the results are pretty clear—or we can take a second path: We can take a good, hard look at our rules, how they incentivize obstructionism, how they inhibit rather than promote debate, and how they prevent bipartisan cooperation, and then we should implement commonsense reforms to meet these challenges, reforms that will restore the uniquely deliberative nature of this body, while also allowing it to function more efficiently.

I contend that we not only should but have a duty to choose the second path. We owe it to the American people and to the future of this institution we all serve.

The reform resolution we introduce today is our attempt at the second path. It contains five reforms that should garner broad, bipartisan support—if we can act for the good of the country and not the good of our parties.

The first two provisions in our resolution address the debate on motions to proceed and secret holds. These are not new issues. Making the motion to proceed nondebatable or limiting debate on such a motion has had bipartisan support for decades and is often mentioned as a way to end the abuse of holds.

I was privileged to be here for Senator Byrd's final Rules Committee hearing, where he stated:

> I have proposed a variety of improvements to Senate rules to achieve a more sensible balance, allowing the majority to function while still protecting minority rights. For example, I have supported eliminating debate on the motion to proceed to a matter . . . or limiting debate to a reasonable time on such motions.

In January, 1979, Senator Byrd—then-majority leader—took to the Senate floor and said unlimited debate on a motion to proceed ''makes the majority leader and the majority party the subject of the minority, subject to the control and the will of the minority.''

Despite the moderate change that Senator Byrd proposed—limiting debate on a motion to proceed to 30 minutes—it did not have the necessary 67 votes to overcome a filibuster.

At the time, Senator Byrd argued that a new Senate should not be bound by that rule, stating:

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

The PRESIDING OFFICER. The Senator's time has expired.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent for another 2 minutes—also recognizing the Republican side has speakers—to wrap up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. UDALL of New Mexico. Madam President, efforts to reform the motion to proceed have continued since. In 1984, a bipartisan Study Group on Senate Practices and Procedures recommended placing a 2-hour limit on debate of a motion to proceed. That recommendation was ignored.

In 1993, Congress convened the Joint Committee on the Organization of Congress. That was a bipartisan, bicameral attempt to look at Congress and determine how it can be a better institution. My predecessor, Senator Domenici, was the co-vice chairman of that committee. He was a long-time Republican here, and he supported that.

The third provision in the resolution is included based on the comments of Republicans at last year's Rules Committee hearings. Each time Democrats complained about filibusters on motions to proceed, Republicans responded that it was their only recourse because the majority leader fills the amendment tree and prevents them from offering amendments. Our resolution provides a simple solution, guaranteeing the minority the right to offer amendments.

The fourth provision in the resolution, which Senator MERKLEY will cover extensively, is regarding the talking filibuster. We want to replace a silent filibuster with a talking filibuster.

Finally, our resolution reduces postcloture time on nominations from 30 hours to 1. Postcloture time is meant for debating and voting on amendments—something that is not possible on nominations.

Instead, the minority now requires the Senate use this time simply to prevent it from moving on to other business.

These reforms will not, as some have contended, make the Senate the same as the House. We understand, and respect, the Framers intent in structuring the Senate to be a uniquely deliberative body. Minority rights are a critical piece to its unique operations. Which is exactly why they remain protected in our reform resolution.

But the current rules have done away with any deliberation and we have instead become a uniquely dysfunctional body.

Our resolution will make actual debate a more common occurrence. It would bring our legislative process into the light, and hopefully, it would help restore the Senate's role as the ''world's greatest deliberative body.''

With that, I will sum up and say that reform is badly needed. We have a responsibility to the Constitution and to the American people to come together and fix the Senate. We were sent to Washington to tackle the Nation's problems. But we find that the biggest problem to tackle is Washington itself.

With that, I ask unanimous consent that an editorial on the filibuster that appeared in the Washington Post, and an op-ed piece in the New York Times by Walter Mondale be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 2, 2011]

REFORM AND THE FILIBUSTER

The new Senate will face one of its most momentous decisions in its opening hours on Wednesday: a vote on whether to change its rules to prohibit the widespread abuse of the filibuster. Americans are fed up with Washington gridlock. The Senate should seize the opportunity.

A filibuster—the catchall term for delaying or blocking a majority vote on a bill by lengthy debate or other procedures—remains a valuable tool for ensuring that a minority of senators cannot be steamrollered into silence. No one is talking about ending the practice.

Every returning Democratic senator, though, has signed a letter demanding an end to the almost automatic way the filibuster has been used in recent years. By simply raising an anonymous objection, senators can trigger a 60-vote supermajority for virtually every piece of legislation. The time has come to make senators work for their filibusters, and justify them to the public.

Critics will say that it is self-serving for Democrats to propose these reforms now, when they face a larger and more restive Republican minority. The facts of the growing procedural abuse are clearly on their side. In the last two Congressional terms, Republicans have brought 275 filibusters that Democrats have been forced to try to break. That is by far the highest number in Congressional history, and more than twice the amount in the previous two terms.

These filibusters are the reason there was no budget passed this year, and why as many as 125 nominees to executive branch positions and 48 judicial nominations were never brought to a vote. They have produced public policy that we strongly opposed, most recently preserving the tax cuts for the rich, but even bipartisan measures like the food safety bill are routinely filibustered and delayed.

The key is to find a way to ensure that any minority party—and the Democrats could find themselves there again—has leverage in the Senate without grinding every bill to an automatic halt. The most thoughtful proposal to do so was developed by Senator Jeff Merkley of Oregon, along with Tom Udall of New Mexico and a few other freshmen. It would make these major changes:

NO LAZY FILIBUSTERS

At least 10 senators would have to file a filibuster petition, and members would have to speak continuously on the floor to keep the filibuster going. To ensure the seriousness of the attempt, the requirements would grow each day: five senators would have to hold the floor for the first day, 10 the second day, etc. Those conducting the filibuster would thus have to make their case on camera. (A cloture vote of 60 senators would still be required to break the blockade.)

FEWER BITES OF THE APPLE

Republicans now routinely filibuster not only the final vote on a bill, but the initial motion to even debate it, as well as amendments and votes on conference committees. Breaking each of these filibusters adds days or weeks to every bill. The plan would limit filibusters to the actual passage of a bill.

MINORITY AMENDMENTS

HARRY REID, the majority leader, frequently prevents Republicans from offering amendments because he fears they will lead to more opportunities to filibuster. Republicans say they mount filibusters because they are precluded from offering amendments. This situation would be resolved by allowing a fixed number of amendments from each side on a bill, followed by a fixed amount of debate on each one.

Changing these rules could be done by a simple majority of senators, but only on the first day of the session. Republicans have said that ramming through such a measure would reduce what little comity remains in the chamber.

Nonetheless, the fear of such a vote has led Republican leaders to negotiate privately with Democrats in search of a compromise, possibly on amendments. Any plan that does not require filibustering senators to hold the floor and make their case to the public would fall short. The Senate has been crippled long enough.

[From the New York Times, Jan. 1, 2011]

RESOLVED: FIX THE FILIBUSTER

(By Walter F. Mondale)

MINNEAPOLIS, MN—We all have hopes for the New Year. Here's one of mine: filibuster reform. It was around this time 36 years ago—during a different recession—that I was part of a bipartisan effort to reform Senate Rule 22, the cloture rule. At the time, 67 votes were needed to cut off debate and thus end a filibuster, and nothing was getting done. After long negotiations, a compromise lowered to 6o the cloture vote requirement on legislation and nominations. We hoped this moderate change would preserve debate and deliberation while avoiding paralysis, and for a while it did.

But it's now clear that our reform was insufficient for today's more partisan, increasingly gridlocked Senate. In 2011, Senators should pull back the curtain on Senate obstruction and once again amend the filibuster rules.

Reducing the number of votes to end a filibuster, perhaps to 55, is one option. Requiring a filibustering senator to actually speak on the Senate floor for the duration of a filibuster would also help. So, too, would reforms that bring greater transparency—like eliminating the secret ''holds'' that allow senators to block debate anonymously.

Our country faces major challenges—budget deficits, high unemployment and two wars, to name just a few—and needs a functioning legislative branch to address these pressing issues. Certainly some significant legislation passed in the last two years, but too much else fell by the wayside. The Senate never even considered some appropriations and authorization bills, and failed to settle on a federal budget for all of next year. Votes on this sort of legislation used to be routine, but with the new frequency of the filibuster, a supermajority is needed to pass almost anything. As a result the Senate is arguably more dysfunctional than at any time in recent history.

People give lots of reasons for not reforming the filibuster. The minority often claims that it needs the filibuster to ensure that its voice is heard, even though the filibuster is now used to prevent debate from ever beginning. What really gets me, though, is when opponents to reform point to the provision left in Rule 22 after 1975 saying that the Senate cannot change any of its rules without a two-thirds supermajority to end debate.

This requirement cannot constrain any future Senate. A long-standing principle of common law holds that one legislature cannot bind its successors. If changing Senate rules really required a two-thirds supermajority, it would effectively prevent a simple majority of any Senate from ever amending its own rules, which would be unconstitutional. Article I, Section 5 of the Constitution states: ''Each House may determine the rules of its proceedings.'' The document is very explicit about the few instances where a supermajority vote is needed — and changing the Senate's procedural rules is not among them. In all other instances it must be assumed that the Constitution requires only a majority vote.

In other words, the fact that one Senate, decades ago, passed the two-thirds majority rule does not mean that all future Senates are bound by it. This year's new Senate could use this ''constitutional option'' to force a vote on any change to Senate rules, including Rule 22, and change them with a simple majority.

At the very opening of Congress in 1975, my colleagues and I announced our proposal to amend Rule 22, and threatened to force a majority vote to end a filibuster on the change if the minority tried to block it. In the end, we reached the 60-vote compromise, and never had to use the constitutional option after all. A similar strategy would likely work today.

Tom Udall, Democrat of New Mexico, has said that in a few days, at the beginning of the 112th Congress, he will call on the Senate to exercise its constitutional right to change its rules of procedure, including Rule 22, by a simple majority vote. I wholeheartedly support his effort and encourage both Democrats and Republicans to cooperate with him. The filibuster need not be eliminated, but it must no longer be so easy to use.

Mr. UDALL of New Mexico. I know my colleague, AMY KLOBUCHAR, is here. Senator Mondale was a distinguished former Vice President and leader in the Senate, and he wrote the very passionate piece in the New York Times that I have just had printed in the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, my colleagues and any of the public watching the debate today know there is a great partisan divide thus far. Senator WYDEN has already referred to the motion he and I are putting before the Senate. Senator WYDEN, a Democrat, and I, a Republican, are joined also by Senator MCCASKILL, who is the Presiding Officer now, as well as Senator COLLINS, in this effort. It is the only bipartisan issue before the Senate this particular day. I emphasize that because I think the public ought to know that not everything in the Senate is partisan.

Senator WYDEN and I have been chipping away at the informal, backroom process known as secret holds in the Senate. We have been working on this for well over 10 years. So it should not surprise anybody that we are back again at the start of another Congress, joined, as I said, by Senator MCCASKILL of Missouri, who was very helpful in our pushing this issue to the forefront at the end of the last Congress, and, as I said, I am pleased that we have Senator COLLINS onboard again.

There has been a lot of talk lately about the possibility of far-reaching reforms to how the Senate does business that have been hastily conceived and could shift the traditional balance between the rights of the majority and the rights of the minority parties.

In contrast, our resolution by Senator WYDEN and this Senator is neither of those two things. In other words, it does not shift any balance between the majority and the minority.

This resolution is well thought out, a bipartisan reform effort that has been the subject of two committee hearings and numerous careful revisions over several years. In no way does it alter the balance of power between the minority and majority parties, nor does it change any rights of any individual Senator. This is simply about transparency, and with transparency you get a great deal of accountability.

I wish to be very clear that I fully support the fundamental right of any individual Senator to withhold his consent when unanimous consent is requested. In the old days when Senators conducted much of their daily business from their desks on the Senate floor and were on the Senate floor for most of the day, it was quite a simple matter for any Senator at that time to stand up and say ''I object'' when necessary, if they really objected to a unanimous consent request, and that was it. That stopped it. Now, since most Senators spend most of their time off the Senate floor because of the obligation of committee hearings, the obligation of meeting with constituents, and a lot of other obligations we have, we now tend to rely upon our majority leader in the case of the Democrats or the minority leader in the case of the Republicans to protect our rights, privileges, and prerogatives as individual Senators by asking those leaders or their substitutes to object on our behalf.

Just as any Senator has the right to stand on the Senate floor and publicly say ''I object,'' it is perfectly legitimate to ask another Senator to object on our behalf if he cannot make it to the floor when unanimous consent is requested. By the same token, Senators have no inherent right to have others object on their behalf while at the same time keeping their identity secret, thus shielding their legislative actions from the public, because that is not transparency and it is obviously not being accountable.

What I object to is not the use of the word ''holds'' or the process of holding up something in the Senate, but I object to what is called secret holds. The adjective ''secret'' is what we are fighting. If a Senator has a legitimate reason to object to proceeding to a bill or a nominee, then he or she ought to have the guts to do so publicly.

A Senator may object because he does not agree to the substance of a bill and therefore cannot in good conscience grant consent or because the Senator has not had adequate opportunity to review the matter at hand. Regardless, we should have no fear of being held accountable by our constituents if we are acting in their interest, as we are elected to do. I have practiced publicly announcing my holds for many years, and it has not hurt one bit. In fact, some of the Senators who are most conscientious about protecting their prerogatives to review legislation before granting consent to its consideration or passage are also quite public about it.

In short, there is no legitimate reason for any Senator, if they place a hold, to have that hold be secret.

How does our proposal achieve transparency and the resultant accountability? In our proposed standing order, for the majority or minority leader to recognize a hold, the Senator placing the hold must get a statement in the RECORD within 1 session day and must give permission to their leader at the time they place the hold to object in their name, not in the name of the leader. Since the leader will automatically have permission to name the Senator on whose behalf they are objecting, there will no longer be any expectation or pressure on the leader to keep the hold secret.

Further, if a Senator objects to a unanimous consent request and does not name another Senator as having the objection, then the objecting Senator will be listed as having the hold. This will end entirely, once and for all, the situation where one Senator objects but is able to remain very coy about whether it is their own objection or some unnamed Senator. All objections will have to be owned up to.

Again, our proposal protects the rights of individual Senators to withhold their consent while ensuring transparency and public accountability. In Congress, as well as almost anyplace in the Federal Government—except maybe national security issues—the public's business always ought to be public and the people who are involved in the public's business ought to stand behind their actions. As I have repeatedly said, the Senate's business ought to be done more in the public than it is, and most of it is public, but this secret hold puts a mystery about things going on in Washington that hurts the credibility of the institution.

This principle of accountability and transparency is a principle that I think the vast majority, if not all, of Senators can get behind. I believe the time has come for this simple, commonsense reform.

I yield the floor. Under the UC, if it is permissible to retain the remainder of our time, I do that.

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

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Oregon.

Mr. MERKLEY. Madam President, the Senate is broken. During the course of my first 2 years in this body, there have been only a couple serious debates in this Chamber. The first one happened just a couple weeks ago, and that was an impeachment trial of a judge. The magic began because the cameras were turned off. Senators were not speaking to the camera; they were speaking to each other. Second, they were required to be on the floor, so they were required to listen to each other. After all the evidence had been presented, Senators started to engage back and forth about their interpretations of the evidence, about the standards that would constitute grounds for conviction. One would not have been able to tell who was a Republican or who was a Democrat. We had a real debate, but it took 2 years to have that first debate. Then we had a debate over the START treaty. That was a pretty good debate too. That also happened just a couple weeks ago. For the balance of 2 years, there has virtually never been a serious debate on this floor with Senators hearing each other out, listening to each other, considering the pros and cons, addressing each other's amendments.

That is a tremendously different Senate from the Senate I first witnessed when I came here as a young man, as an intern for Senator Hatfield in 1976. I was up in the staff section. I would come down to meet Senator Hatfield on a particular tax reform bill that had a series of amendments. I would brief him on the amendment that was being debated. He would come in, talk it over with folks, and vote. An hour later, there would be another vote, and an hour later, another vote, with debate in between, back and forth, with enormous respect and courtesy among the Members to the principle of the Senate being a body of deliberation, a body of debate. But today, that respect is gone. The most visible sign of the decrease in the mutual accord has been the abuse of the filibuster.

''Filibuster'' is a common term we use for a decision to oppose the termination of debate and oppose voting with a straight majority as envisioned in the Constitution. That starts from a principle of mutual respect, that is, as long as any individual has an opinion that bears on the issue at hand, that Senator should be able to express that opinion and we as a body should be able to hear it. Out of that would come a better policymaking process. Unfortunately, over time, that mutual respect has been yielded more and more as an instrument of obstruction because each time a Senator objects to a simple majority vote, under the rules they create a 1-week delay and a supermajority hurdle. If one objects 50 times a year, they have wiped out every single week of the year.

This chart gives some indication of how grossly the principle of mutual respect and debate has been corrupted and abused.

From 1900 through 1970, there was an average of a single use of the filibuster each year—an average of 1 per year over that 70-year period. In the 1970s, that climbed to an average of 16 per year; in the 1980s, an average of 21 per year; in the 1990s, an average of 36 per year; between 2000 and 2010, this last decade, 48 per year; and in the last 2 years I have served in the Senate, 68 per year—an average of 68 per year or roughly 135, 136 in that 2-year period. If each one of these absorbs 1 week of the Senate's time, one can see how this has been used to essentially run out the clock and obstruct the very dialog on which the Senate would like to pride itself.

There is a statement about the Senate: the world's greatest deliberative body. But today in the modern Senate, that incredible tribute to this Chamber has been turned into an exclamation of despair. Where did that deliberative body go—not only not the greatest deliberative body but virtually devoid of deliberation due to this abuse. We went from mutual respect to essentially mutual legislative destruction using this filibuster.

In 2010, this last year past, not a single appropriations bill passed. We have a huge backlog of nominations. Our role of advice and consent has been turned into obstruct and delay in terms of nominations for the executive branch and the judiciary. We have a constitutional responsibility to express our opinion, but this body, by using the filibuster, has prevented Senators from advising and consenting, either approving or disapproving these nominations. It certainly is terrible to have our responsibilities as a legislature damaged, but not only have we done that, we have proceeded to damage the executive branch and the legislative branch—quite an intrusion on the balance of powers envisioned in our Constitution. Then we have the hundreds of House bills that are collecting dust on the floor because they cannot get to this Chamber because of this abuse.

All of this needs to change. When I first came here in the 1970s, when there was a challenge in 1975, there was a huge debate, and it resulted in changing the level required to overcome the filibuster from 67 Senators to 60 Senators. Yet in 1973 and 1974, the 2 years that preceded, there was only an average of 22 filibusters a year, not 68. We have more than tripled the dysfunction that led to the last rules debate.

That is why we are here today—to find a path forward. There are so many who have been so instrumental in this debate. So many Members of the class of 2006, 2008, and now Members of 2010 are engaged in this effort. My hat goes off to Senator SCHUMER for leading the hearings in the Rules Committee and trying to find that balance between every Senator's right to be heard and our collective responsibility for the majority to legislate. Senator UDALL has done this enormous investigation of the constitutional process for amending the rules and so many others.

The first key part in the package of reforms a number of us—16, I believe, now have cosponsored this resolution—is the talking filibuster. The talking filibuster reform is essentially to make the filibuster what all Americans believe it is; that is, if you believe so strongly that this Chamber is headed in a direction that is misguided, you should be willing to come and take this floor and make your case to the American people.

Let's take a look at our image of that. Here we are: Jimmy Stewart

playing the role of Jefferson Smith, who comes to this Chamber where I now stand and says: I will take this floor to oppose the abuses that otherwise might go forward, and he held that floor until he collapsed.

That is what the American people believe a filibuster is all about. You want to make your case before the American people. But today we don't have a talking filibuster in the Senate. We have the silent filibuster.

Let's take a look at what that looks like. This is the way it works: A Senator takes their phone—maybe an old or modern phone—they call the cloakroom, and they say: I object to a majority vote, and then they go off to dinner. They do not take the floor with principle and conviction to say to the American people: Here is why I am delaying the Senate. Here is why I am going to hold this floor. This is not a situation we can allow to go forward and I am going to stand here and make my case and, American citizens, please join me and help me convince the other Senators in this room. That is the talking filibuster. But now we have the silent filibuster.

My good colleague from Tennessee spoke earlier, and he said: I would like to have the talk-your-head-off proposal. I am glad to hear him back the talking filibuster—the Jimmy Stewart filibuster. That is what this reform does. It says, when folks object to concluding debate, it is because they have something to say, and so we are going to require they come to the floor and say it. It is that simple. When nobody has anything left to say, then we will proceed with a majority vote. We don't change the number of Senators required one bit. It is still 60, which completely honors that principle established in 1975.

The second main proposal is the right to amend. A number of our colleagues on both sides of the aisle have been very concerned about the fact that issues come to this floor and you can only amend if you get unanimous consent to put an amendment forward, and that only works, largely, if there is a deal that has been worked out between the majority and the minority leaders. Some of my colleagues across the aisle say they are offended by their inability to amend.

I can assure my colleagues across the aisle that I am equally offended. I wanted desperately to be able to offer amendments to President Obama's tax package that came through here because I think we could have improved it, and I think we should have seen amendments from the other side. This is an issue of concern from both sides. This proposal addresses that and says there will be a guaranteed set of amendments that the minority leader can pick from among the minority members and a guaranteed set of amendments the majority leader can pick from among the majority members, but we get the process of amendments going.

If they want to have unanimous consent to increase that number to a higher level, get more for the minority or the majority side, that would be terrific, but at least they can't say no amendments. No leader can block the principle that each side has the opportunity to amend.

The third point is on nominations. Right now, we have this huge backlog. This resolution makes a modest change in nominations. It says the period following cloture will be reduced from 30 hours to 2 hours. We have already had the debate over the individual, let's have the vote. That is what that says. This means Senators will be less tempted to use the filibuster on nominations as an instrument to delay and obstruct the Senate. It is not a completely pure reform but a step forward in the right direction.

Our fourth is the ban on secret holds. Senator GRASSLEY has spoken to this, and Senator WYDEN will speak to it. Senator MCCASKILL has joined with them and others, and I believe at one time point there were as many as 70 Senators expressing in a letter their support to get rid of the secret hold. Anyone who wants to hold up legislation should have to stand on this floor and present their objection to this Chamber, to their colleagues, and to the American people.

When folks have to take a position on this floor, whether it be through the talking filibuster or through publicly announced holds, then the American public can weigh in. Then you are taking the business out of the back rooms and onto the floor of this Chamber and American citizens can say: You are a hero for your actions or you are a bum for what you are doing.

The fifth point is a clear path to debate. Right now, a lot of times we suffer through just getting to debate; that is, getting onto a bill to begin with or proceeding to a bill. There is probably no better example of the abuse of the filibuster—which was supposed to be mutual respect for debate—being used to prevent debate. So under this proposal, there would be 2 hours of debate over whether to proceed to a bill and then we would vote. We would either go to the bill or we would not. If Senators then want to filibuster on the bill, they can do it, but it would be a talking filibuster, where we are not in the back rooms, we are out here making our case.

These five concepts are not radical concepts. They are modest steps toward saying that in this incredibly partisan environment we now operate in, where so many press outlets are attacking on each side all the time and so on and so forth, we have to set ourselves on the path to taking ourselves out of that hyperpartisan atmosphere and start to restore the Senate as a place of dialog and debate. Perhaps these are modest steps but modest steps in the right direction, and that is an extremely important way to go. So I call on my colleagues on both sides of the aisle—colleagues who have said there should be amendments, colleagues who have spoken in favor, on both sides of the aisle, of the Jimmy Stewart model of holding this floor and having talking filibusters—to approve this. Let's use the start of this 2-year period to acknowledge that something is deeply wrong when, in a 2-year period, we have 135 or 138 filibusters eating up all the floor time and preventing modest bills from moving forward and keeping us on this path to gridlock. The Senate is broken. Let's fix it.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I have enjoyed this extensive opportunity to hear my colleagues on a very important subject about what the nature of the Senate will be. I am going to have about 10 minutes of remarks on the comments of Senators MERKLEY and UDALL, and then I will yield to Senator WYDEN, for his comments.

If I could say anything from deep down within me to my colleagues who are so exercised about this, it would be this: Before we change the rules, use the rules.

We talk about Senator Byrd a lot because he understood the rules so well. I have often told the story of when Senator Baker became the Republican majority leader in 1981. He went to see Senator Byrd, the Democratic leader, and said: Senator Byrd, I am suddenly the majority leader. I will never know the rules as well as you do, so I will make a deal with you. If you will not surprise me, I will not surprise you. Senator Byrd said: Let me think about it. The next morning he told Senator Baker he would do that.

The reason I mention those two Senators is because, before we get too mired down in our differences, let us think for a moment about what our goal ought to be. The goal for the Senate, to me, is to return the Senate to the way it operated during those 8 years when Senator Byrd and Senator Baker were the leaders of their parties. Four years Senator Byrd was the majority leader and 4 years Senator Baker was the majority leader.

I have talked to staff members, some of whom are still around. Senator MERKLEY's history goes back to Senator Hatfield in 1976, but I first came in 1967 as Senator Baker's legislative assistant, when there was only one legislative assistant per Senator. In 1977, I came back and spent 3 months with Senator Baker when he became the Republican leader, and I followed him pretty closely during the next 8 years.

Here is the way it worked back then.

The majority leader—whether it was Senator Byrd or Senator Baker—would bring a bill to the floor. He would get the bill to the floor because Senators knew they were going to get to debate and amend the bill. The Senator from Oregon is talking about no debates occurring today. Well, of course there are no debates, because when Republicans

come down here with amendments, the majority leader doesn't let us offer them. All those cloture motions he is talking about means the majority leader is cutting off my right to represent my people and offer an amendment in a debate. They are calling a filibuster a cutoff. It wouldn't be a filibuster if the majority leader weren't cutting off my right, which he has done more than the last six majority leaders combined.

But let's go back to what our goal should be. Senators Byrd or Baker would say: OK. The Energy bill or the education bill is up, everybody get their amendments in. They might get 300 amendments filed. At some point, the majority leader would say: I ask unanimous consent that the amendments be cut off. Of course, they would get that after a while because everybody had all the amendments in that they could think of.

You didn't go to the majority leader down on your knees and say: Mr. Majority Leader, may I please offer this amendment or that amendment. You just put your amendment out there, and then they started voting.

Then Senators Byrd and Baker did something else we don't do today, which is why I am talking about using the rules before we change the rules. They debated, they voted; they debated, they voted; they debated; they voted. Of course, 300 amendments are a lot of amendments to get through. So the leaders and the staff would say to the Senator from North Carolina or the Senator from Oregon: Are you sure you want 25 amendments? It is Wednesday night. No, 10 will be enough. On Thursday night they might say: Are you sure you want these five amendments? It is Thursday night. We are going to be here Friday, and we are going to finish this bill. We will be here Saturday if we have to be, and we will be here Sunday. You are going to get your amendments, and we are going to vote on it, but we are going to finish the bill. That is what the leaders did.

Sometimes there would be a piece of legislation that would come up where one side or the other wanted to kill it and so they would try to kill it. That's just like we would do today, if Democrats were to bring up a bill to abolish the secret ballot in union elections. We would do everything we could to kill it. If the House passes a bill and brings it over here to repeal the health care law, the Democrats are going to do everything they can to kill it. That is separate. But most of the time under the leadership of Senators Byrd and Baker, the bill came to the floor, there was bipartisan cooperation, and there were amendments.

Why was there bipartisan cooperation? Because the leaders knew that unless they had it, they wouldn't move an inch. Being good Senators, they wanted to do their jobs. In fact, Senator Baker would often tell his Republican chairmen: Don't even bring the bill to the floor unless the ranking member, the Democrat, is with you. So most of the time, you would have the Democrat and the Republican there together and they would allow amendments, would fight other amendments off, and they would get to a conclusion. There weren't so many filibusters because the majority leader wasn't cutting off the right to debate and calling it a filibuster. This is a word trick is what this is.

I have talked to a lot of my friends on the Democratic side and a lot of Republicans and I think we basically want the same thing. I think we want a Senate that works better. I think it is now a mere shadow of itself. I agree with Senator MERKLEY about that but not because of filibusters. It is because the majority leader is cutting off debate and calling it a filibuster.

The majority leader and the Republican leader I commend today because they have been talking about how we can do better. We all know that changing our behavior will be more lasting than changing the rules. I am glad Senators REID and MCCONNELL are working on this. They have asked Senator SCHUMER and me to work on it some more, and we are going to do that. We have had several meetings and we have another this afternoon and we will keep working. We will consider carefully these proposals or any others that come, and we will see if we can come to some agreement about how to move ahead.

My heartfelt plea is before we change the rules, let's use the rules. Going down through the list of reform suggestions:

The motion to proceed—that is a difficult one for many of us because if you are in the minority the motion to proceed is your weapon to require the majority to give you amendments.

Secret holds—Senator WYDEN tells me he and Senator GRASSLEY have been working on that for 15 years. They have Republican support and Democratic support for it. Maybe this is the time to deal with secret holds. I make my holds public. When I was nominated for the U.S. Education Secretary by President Bush, the Senator from Ohio held me up for 3 months and never said why. I went around to see the Senator Rudman from New Hampshire and asked him what to do. He said when he was nominated by President Ford to the Federal Communications Commission, the Senator from New Hampshire held him up. Finally Rudman withdrew his name and ran for the Senate against the Senator and beat him. That is how Senator Rudman got in the Senate. Secret holds is an area that has had a lot of work and bipartisan support.

The right to offer amendments—the problem I have with altering the current rules is that offering amendments is what we do. I went to see Johnny Cash one time in the 1980s, and I asked him a dumb question, I said: Johnny, how many nights are you on the road? He said: Oh, 200. I said: Why do you do that? He said: That is what I do. If you are on the Grand Ole Opry, you sing. If you are in the Senate, you offer amendments and you debate. That is what we do, that is what we are supposed to do. Yet we have not been allowed to do it.

Talking filibusters—if we are talking about the postcloture period, the problem with that is the majority has not used the rules. If I object to going forward with a bill, the majority, if they think I am abusing the rules, can say OK, Senator ALEXANDER, get down there on the floor because we are going to be here all night. And you can only get 7 hours and then you have to line up 23 other Senators to take 1 hour each, and if you stop talking we are going to put the question to a vote. If you do a number of certain other things we are going to make a dilatory motion. In other words, the majority can make it really hard for a Senator who objects.

Someone said one, two, three, or four Senators can hold this place up. They cannot hold it up. Because if you have 60 votes you can pass anything. If you have 60 votes you can pass anything and Senator Byrd said in his last testimony before the Rules Committee that you can confront a filibuster by using the rules.

The last two things we could do are, No. 1, we could stop complaining about voting. It happens on the Republican side and the Democratic side. If somebody offers an amendment that is controversial and everybody runs up to the leader and says we don't want to vote on that, then too bad. We are here to vote. That is why we are here so we should do that.

The third thing we can do, and Senator Byrd suggested this in his last testimony, is let's get rid of the 3-day work week. There is not enough time for all the Senators to offer their amendments and there is not enough time for the majority to confront the minority if they think the filibuster is being abused if we have a 3-day work week, and we never vote on Friday. We did not vote on Friday one time last year.

Let's use the rules. If you think we are holding something up improperly, confront that Senator. Run over him. You can do it. You have the power to do it if you have 60 votes. In this new Congress there will be plenty of opportunities there.

Finally I am going to take these five suggestions and work with Senator SCHUMER and work with my friends on the other side. They are very thoughtful. Senator UDALL spent a lot of time on this, Senator WYDEN and Senator GRASSLEY spent 15 years. Senator MERKLEY used to be a speaker. We have talked a number of times. I greatly respect his work in his State and the fact that he has seen the Senate for a long period of time. I am taking very seriously everything that is said here. I am just worried about turning the Senate into the House.

We have a majoritarian organization over there. They can repeal the health

care law or they can get rid of the secret ballot in union elections with a majority vote. If you turn this place into that, you just go bam, bam and it is done. The Senate is the place for us to say: Whoa, whoa, let's see if we can get a consensus before we do anything.

When we get a consensus we not only get a better bill, but usually, the country accepts it better. The American people like to see us cooperating. They like to see us coming up with a tax bill or treaty or civil rights bill or a health care bill or a financial regulation bill, where we all have something in it. They feel better about that product. It is the check and the balance that is the genius of our system.

Obviously we can do some things better around here. I am committed to trying. I thank my friends for the amount of time and effort they have given. I am going to take everything they have said very seriously and in the spirit they have offered it. But I hope a part of our solution is that we use the rules before we change the rules because this is the forum to protect minority rights, this is the forum to force a consensus, and we dare not lose that. We dare not lose that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of the bipartisan Wyden-Grassley-McCaskill-Collins resolution to end secret holds, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Madam President, reserving the right to object, as I said earlier, Senator WYDEN and Senator GRASSLEY and Senator MCCASKILL and others have worked on this, some of them for as long as 15 years. They have made significant progress in gaining bipartisan support. I am going to object but only for the reason that this is one of the items we will be discussing and working on over the next few weeks with the hope that perhaps we can get agreement over here and agreement over there. It has been mentioned by all of the speakers today. It is a very serious proposal. But because we do not want to resolve it today, I object.

The PRESIDING OFFICER. Objection having been heard, the resolution will go over under the rule.

The Senator from Oregon.

Mr. WYDEN. Madam President, before he leaves the floor, let me thank Senator ALEXANDER for the discussions he has had with me on this issue. Senator MCCONNELL has also spoken with me about this. I wish we were getting this done today, largely because this would give us a chance on the first day of the Senate's new session to send a message that once and for all we were deep-sixing secrecy, that we were saying public business ought to be done in public. I wish it were being done today but I understand completely the sentiments of the Senator from Tennessee and the fact that he is willing to work with me is something I appreciate.

As I have indicated, there are obviously significant differences between the parties about how to reform the rules of the Senate. What I hope will be done—certainly the very first day that the Senate comes back and is in a position to formally act, which appears to be January 24—is once and for all we would bring Democrats and Republicans together around an extraordinarily important change in the Senate procedures that Senator GRASSLEY and I have been trying to change for literally 15 years. Particularly with the energy and enthusiasm Senator MCCASKILL has brought to the cause, I think we are now on the cusp of being able to finally get this done.

It has been clear that if you walk up and down the Main Streets of this country, people do not know what a secret hold is. Probably a lot of people think it is a hair spray. The fact of the matter is there are practically more versions of secret holds in the Senate than there are in pro wrestling. But what a secret hold is really all about, it is one of the most extraordinary powers an individual Senator has here in the Senate and it can be exercised without any transparency and without any accountability whatsoever. What a secret hold is all about is one Senator can block the American people, the entire country, from learning about a piece of legislation that can involve billions of dollars, scores and scores of people, or a nomination with the ability to influence the lives of all Americans. One Senator can block that consideration without owning up to the fact that Senator is the one who is defying the public's right to know about how Senate business is blocked.

That is wrong. It is not about how Republicans see it, or Democrats see it, it is just common sense. Most people say, when you tell them that a Senator can block an enormously important piece of legislation or a nomination that affects millions of people and they can do it in secret, I can't believe you have those kinds of rules.

The fact is, that is the way the Senate operates. Suffice it to say it is getting worse. A few days ago, for example, Chief Justice Roberts said that the number of vacancies on our courts is creating a judicial emergency. Those are the words of Chief Justice Roberts.

At least 19 Federal judges have been approved by the Senate Judiciary Committee unanimously or near unanimously and never got a vote on the floor of the Senate. Not one Senator has publicly taken responsibility for worsening the judicial crisis that Chief Justice Roberts has been decrying over the last few days. Think about that. The Chief Justice of the United States during the Christmas holidays included in his annual report on the Judiciary that the delay in confirming federal judges is creating an emergency in the judicial system.

Chief Justice Roberts, in my view, is correct. I think we do have an emergency. We have been trying to get several judges in the State of Oregon approved, Senator MERKLEY and I have been working to get this done. But these nominees and others have been blocked and no Member of the Senate will publicly take responsibility for worsening this crisis that Chief Justice Roberts is appropriately so concerned about.

We have tried in the past with legislation to end secret holds. We actually got a law passed at one time to get rid of secret holds. We have tried with pledges from the leadership of both political parties. In every instance, the defenders of secrecy have found their way around the requirements and, in my view, the public interest.

I will make two points and then I want to allow Senator MCCASKILL to have a chance to address this issue. There are two points with respect to why this effort to end secret holds would be different. The first is that every hold here in the Senate, after the passage of this bipartisan resolution, would have a public owner. Every single hold would have a public owner. Second, there would be consequences. In the past, there have not been consequences for the individual who would object anonymously. In fact, the individual who would object would usually send someone else out to do their objecting for them and there would be complete anonymity for, essentially, all concerned because the person who would be objecting would be in effect saying this is not my doing, I am doing it for somebody else.

The heart of this bipartisan compromise is to make sure that every hold has a public owner and there would be consequences. There may be a Senator around here who becomes known as ''Senator Obstruction.'' Senator Obstruction is the one who is trying to block public business. Let him explain it to the American people.

I will have more to say about it in a little bit, and there is the possibility of other colleagues coming to speak. But Senator MCCASKILL has brought the kind of energy and passion to this that has made it possible for us to, as I say, be on the cusp of finally forcing, here in the Senate, public business to be done in public. I thank her for all her help and will allow her to take the time. She said she thought she might speak for around 10 minutes. Senator KLOBUCHAR, who has also been a great and passionate advocate of open government, will also speak, and for colleagues who have an interest we have 30 minutes of time.

I say to Senator MCCASKILL, with appreciation for all she has done, the time is hers.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Madam President, when I arrived in this Chamber 4 years ago at this time, I had no idea what the ways of the Senate were. I had an idea

that this was a place where people came to debate and to have a collegial relationship with fellow Senators across the aisle. There had been a lot of problems with ethical issues in the Capitol. So one of the first things that happened to the class of 2006 was S. 1, and S. 1 was a far-reaching ethics bill that included things such as no more free flights on corporate jets. It included new requirements in terms of gifts from lobbyists, and it also included a provision that I did not know at the time had been worked on by Senator WYDEN and Senator GRASSLEY for many years.

That provision said we were not going to have secret holds anymore. So imagine how great I felt on January 18, 2007, that we had done this comprehensive ethics bill that was going to clean up our act, and that we were not going to have secret holds. Well, I find it ironic that Senator ALEXANDER says: Well, just use the rules. Just use them.

Well, so when I started figuring out that the game around here in the last 18 months had developed into a game of secret holds, I asked my staff: Hey, did we not have something in S. 1 about secret holds? Not knowing really the relationship that language had to Senator WYDEN and Senator GRASSLEY.

So my staff pulled out the legislation and we looked at it. I said: Well, right here it says they cannot do it. So I began coming down to the floor and using the law.

I did exactly what Senator ALEXANDER recommended. I came down here and began making motion after motion, which under the language of that statute would seem to indicate all of the Senators supported—except for a handful—that once you made these motions people would have to come out of the shadows and claim their holds.

Well, that is when I discovered the people who voted for this, or a bunch of them, did not mean it. They did not mean it. It was window dressing. They were not sincere about ending secret holds because we discovered, when we started trying to use that language, some of the folks who voted for it were doing the old switcheroo. When they were called upon under the law to reveal their holds, they would just hand their hold off to someone else.

That is when I began getting frustrated with the games that were being played. I thank Senator WYDEN and Senator GRASSLEY and others who have worked on this, but I will tell you what is the most depressing thing I have heard today: that this is something that has been worked on for 15 years.

Now, seriously, think about that. We have allowed people to secretly hold nominations and the people's business, and there have been Members trying to clean it up for 15 years. We wonder why we are having trouble with our approval ratings.

Nothing is more hypocritical than all of the sanctimonious stuff I am hearing down the hall about the new era, no more business as usual, no more. We are going to have accountability and transparency. But yet we seem to be embroiled, down at this end of the hall, with not even being able to get beyond a secret hold. This should not be hard; this should be easy.

Now, some of the other provisions that are being debated today, I understand there is concern about the power of the minority in the Senate. I think those concerns have been addressed in the resolution that has been presented by Senator MERKLEY and Senator UDALL and Senator HARKIN from Iowa.

But if we cannot get 67 votes to end secret holds and amend the rules, how seriously can we take anybody who claims they want accountability and transparency in government? I mean, this is the hall of fame of hypocrisy. This is not just hypocrisy, it is the hall of fame. So that is why I think we have to get busy and get the secret hold provision done.

I would like to see us get all of these reforms done. I wanted to spend a second on what Senator ALEXANDER's suggestion was. His suggestion was to use the rules. Well, honestly, does he think the way to solve this problem is to force the majority to stay here all night, with staff, spending the taxpayers' money to force someone over and over again to say, ''I object''?

We cannot make the minority talk. So that means the majority, whether it is Democrats or Republicans, has to stay all night and call the question. They do not have to have—I mean, we could do live quorum calls, but that is what we need to do to make this place work? That is his suggestion, to force the people who are objecting and the staff and the people around here to stay here all night every night until someone breaks? That is a good idea?

I think that means someone has probably been around here too long. It does not sound like a good idea, that it is not a commonsense idea that we would be promoting on Main Street in Missouri. I think it makes more sense, if you are the minority and you want to block legislation that you own it. Just own it. Block it. That is what the Senate is about. The minority can continue to block legislation whether the Democrats are in the minority or the Republicans are in the minority. They can block all the legislation they want. They just have to own it. They have to be willing to say they are blocking this for the following reasons—because we think it is important—and let the people decide.

Same thing with holds. You want to hold something, hold it. But let the people decide whether you are being reasonable or whether you are—really what I was disgusted to learn is how many people were using secret holds. In fact, they brag about it. They are using secret holds to get something else. I am going to hold this nominee in this department because I want money for a community center in my town. If you do not give me money for a community center in my town, you cannot get the Deputy Secretary of the Interior through. I mean, I am making up this example, but this was actually going on. It is like you secretly hold something so that you can get them to give you something else. That is the essence of the backroom dealing that people are disgusted with. Own it. Be proud of it. Defend it. Debate it. But do not hide it. That is what this is all about.

I thank all of my colleagues who have worked on this. I just want to close with this comment: Bad habits have consequences, and if we do not take this opportunity to fix what is going on in the Senate—this is not the way the Senate has operated for hundreds of years. If we do not change this path, then we are going to be on this path forever. And if the minority now does not think that when the time comes they may not be in the minority anymore, if we do not think we have not learned from them—seriously?

This place is going to be dysfunctional as far as the eye can see because they will fill the tree and we will just block everything. Then they will block everything and we will fill the tree. This is going to go on forever until there are enough people around here who are willing to set aside the political maneuvering and do what is right for the future of deliberations in a body that we all want to be proud of. But right now we cannot be so proud of the way we operate.

I thank the Senator from Oregon and all of the Senators who have worked on this issue. I hope we can pull back from the brink because that is where we are. We are about ready to institutionalize a way of operating around here that is not something that any of us should be proud of.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. WYDEN. Madam President, I yield 5 minutes to the Senator from Minnesota.

Ms. KLOBUCHAR. I thank Senator WYDEN for his leadership.

Madam President, as we begin the 112th Congress, I first congratulate my colleagues on how we ended the 111th Congress. We had an incredibly productive lameduck session, ensuring that taxes were not raised on the middle class during an economic downturn, ratifying the START treaty, among other things. We worked together to solve problems. This was not always the case during the last Congress. But we ended on a high note.

As our work begins today anew, we all know there is still a great deal of work to be done. We have a lot of work ahead of us to ensure that American workers can find jobs, to get our private sector economy back on track, to find long-term solutions to our mounting deficit. Because of the urgent business that is in front of us, I am hopeful

that my fellow Senators and my colleagues across the aisle will agree that it is time for change, that it is not time for business as usual.

We have heard from so many of my colleagues who have been working on this issue—Senator UDALL from New Mexico, Senator MERKLEY, Senator HARKIN, Senator WYDEN, Senator MCCASKILL, and also Senator GRASSLEY, which is important work on the secret holds.

The elections on November 2 sent a message to every Member of Congress that the American people are not interested in partisan bickering or procedural backlogs or the gamesmanship and gridlock that prevents elected officials from doing their job. We were not hired by our constituents to hide behind outdated Senate rules as an excuse for not accomplishing things or not taking tough votes. That is just what the current Senate rules are allowing us to do.

I heard a lot from my friend from Tennessee about how we should use the current rules. But the problem I have is that too many people have been abusing the current rules. First, as Senator WYDEN, Senator MCCASKILL, Senator GRASSLEY have so eloquently stated, we have to permanently end the practice known as secret holds, which basically allows one or two Members of the Senate to prevent nominations or legislation from reaching the Senate floor without identifying themselves.

We thought we had this done, as Senator MCCASKILL pointed out, with the ethics bill we passed when we first came into this Chamber. But, unfortunately, once again, those rules were abused. There are some Senators who are playing games with the rules. They are following the letter but not the spirit of the reforms we adopted.

Look at the kind of secret holds we have seen, secret holds preventing the President from assembling the team he needs to run the executive branch. This summer, for example, secret holds were placed on two members of the Marine Mammal Commission for months. The Marine Mammal Commission—held secret in a hold while the Deepwater Horizon oilspill was continuing to play out in the gulf region.

A second example of what we have to get done is filibuster reform. It is a long-standing tradition in the Senate that one Senator can, if he or she chooses, hold the floor to explain objections to a bill. We think of Jimmy Stewart's character, Jefferson Smith, in ''Mr. Smith Goes to Washington,'' as a shining example of how individual conscience can matter because an individual can stay on the Senate floor to the point of exhaustion in order to stymie a corrupt piece of legislation.

Well, that is not how the filibuster works in practice today. Today, an individual Senator virtually has the power to prevent legislation from being considered by merely threatening a filibuster. At that point, the majority leader must file a cloture motion in order to move to that piece of legislation. This adds a great deal of time to an already crowded Senate calendar. This is not governing. This is not how we do the people's business. This is not how we come together to find practical solutions to our common problems.

Our current system is a far cry from Jimmy Stewart. That is why a group of us have been working to get some legislation passed to change the rules going forward. When you think about the history of the Senate—and I listened with great respect as my colleagues talked about the tradition and the importance of the rules of the Senate, about protecting the rules of the minority. None of these proposals will interfere with the rights of the minority to filibuster any piece of legislation.

But when you look at the history of the Senate, it is about tradition. As time goes forward, there have been changes to the Senate rules. Every few decades there are changes to the Senate rules. Look at my former colleague, Vice President Mondale, a great leader who made significant changes to the Senate rules.

This is all about transparency and accountability. I urge my colleagues to support this resolution.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE.) The Senator from Oregon.

Mr. WYDEN. Mr. President, I do not see any of our colleagues who want to speak on the bipartisan efforts to end secret holds, so let me make a couple of comments in wrapping up.

The first is, Senator GRASSLEY and I and others who have been at this for so long have been willing in the past to just put a statement in the CONGRESSIONAL RECORD when, in the handful of instances, we thought it was important to block a particular piece of legislation or a nomination. We felt it was important to be publicly accountable.

All we are asking is that principle of openness, transparency, and government in the sunshine apply to all Members of the Senate.

The fact is, secrecy has real consequences. I mentioned the fact that Chief Justice Roberts has been so concerned about the judicial emergency he has seen develop in the court system. I saw during the lameduck session, on a bipartisan bill Senator CORNYN and I spent many months on to combat sex trafficking, the consequences of a secret hold. When our bill passed the Senate, it went over to the House of Representatives, was passed in the House, and then came back to the Senate and was blocked secretly. And this was a bipartisan bill to allow us to strengthen the tools law enforcement would have in order to fight sex trafficking, to provide urgently needed shelters to sex trafficking victims. A bipartisan bill Senator CORNYN and I spent many months on did not become law during the lameduck session because of a secret hold.

A lot of Senators have seen exactly these kinds of problems with judges and U.S. attorney candidates. We had both from my home State, two judges who couldn't be considered because of a hold and we could not identify who was objecting, the same with the U.S. attorney nominee. These are the real consequences of secret holds.

The big winners in these secret holds are the lobbyists. The lobbyists benefit tremendously from secret holds. Practically every Senator has received requests from a lobbyist asking if the Senator would put a secret hold on a bill or a nomination in order to kill it without getting any public debate and without the lobbyist's fingerprints appearing anywhere. If you can get a Senator to go out and put an anonymous hold on a bill, you have then hit the lobbyist jackpot. No lobbyist can win more significantly than by getting a Senator to secretly object because the Senator is protected by the cloak of anonymity, but so is the lobbyist. With a secret hold, Senators can play both sides of the street. They can give a lobbyist a victory for their clients without alienating potential or future clients.

Given the number of instances where I have heard of lobbyists asking for secret holds, I wish to say that those who oppose our efforts to end secret holds are basically saying we ought to give lobbyists an extra tool, an extension of the tools they already have in order to advocate for their clients and defy public accountability.

We passed stricter ethics requirements with respect to lobbyists. But it looks to me to be the height of hypocrisy if the Senate adopts a variety of changes to curtail lobbying, as has been done in the past, and at the same time allows lobbyists to continue to benefit, as so many special interests have, from secret holds.

This is the opportunity, after a decade and a half, for the public to get a fair shake and for the public interest to come first. We have tried this in the past. We have tried this in the past with pledges and by passing a law and each time the supporters of secrecy found ways around it. But I think the public has caught on.

Suffice to say, there are going to be plenty of differences between Democrats and Republicans with respect to how to reform the rules of the Senate. What I think has come to light is, it doesn't pass the smell test to keep arguing that Senate business ought to be done in secret. The American people don't buy that anymore. They think this ought to be an open institution, a place where every Senator is held accountable.

This time it is going to be different. There are going to be public owners of any hold. There are going to be consequences for any Senator who tries to block a bill or a nomination in secret. This is going to be an important vote when we come back, a very important vote, and finally one that will require

that public business in the Senate be done in public.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 7 minutes.

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

(The remarks of Mrs. MURRAY and Mrs. HAGAN are printed in today's RECORD under ''Morning Business.'')

Mrs. HAGAN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. UDALL of New Mexico. Mr. President, with the process we are in right now—and we have had questions back and forth on this whole issue of Senate rules reform—I want to respond to Senator ALEXANDER because Senator ALEXANDER raised some questions, and some of those questions were not answered on our side. So I want to put in a couple responses here.

Senator ALEXANDER asked the question: What is a filibuster? He was asking our side. He was asking in this debate, what is a filibuster? Well, all of us know and we have heard in this debate what a true filibuster is. We saw a hero here on our side in terms of a true filibuster when it came to BERNIE SANDERS just a week or so ago, where he stood up for 8 hours to oppose a tax package on principle. He took the floor and he spoke and spoke passionately.

I say to Senator HARKIN, another example of a true filibuster is from a movie the American public knows the best, a Jimmy Stewart movie, ''Mr. Smith Goes to Washington.'' Senator MERKLEY earlier had some charts on that, and he showed Mr. Smith on the floor, surrounded by other Senators, where he spoke until he collapsed.

Then you have the old-time tales of the Southern Democrats when civil rights legislation was being pushed in the 1950s and 1960s, when a number of what you would say were Northern Senators were pushing an anti-lynching law because lynching was going on in the South. So they were trying to say you cannot do that, and Southern Senators would stand up—I think sometimes the record was in the range of 20 hours or 25 hours where they were completely exhausted from speaking on the floor.

So that is what the American public thinks about a filibuster.

Well, we know that is not what is happening here. I have been here for 2 years, and the only real filibuster I saw was the BERNIE SANDERS filibuster. I asked one of the historians, I think: When was the last one? And they said: Well, you would go back to 1992 and Alfonse D'Amato, where he took 12 hours to talk about an issue in New York that he was passionate about.

So when Senator ALEXANDER asked us, What is a filibuster, that is my description of what a filibuster is.

But what I think the real question is—and I would like Senator ALEXANDER, when he returns, to answer this—is, What impact has the threat of a filibuster had? What impact has the threat of a filibuster had? So people are probably asking: What are we talking about when we say ''the threat of a filibuster''? Well, actually we have been talking about it all day.

First of all, it is the secret holds. As our Presiding Officer, who sits on the Judiciary Committee, knows, they work very hard in the Judiciary Committee. They produce a bipartisan result on these judicial nominations. These judicial nominations come out. They are put on the calendar. Then months and months and months later some of them get up for a vote.

I do not know about the exact number, but my understanding is that we had to send back to the President a number of judicial nominations that had received bipartisan support from the committee. We finished our business in December, and we sent those nominations back, only to have to have the President send them back down again because it is a new Congress. We are going to have to have hearings all over. This is the kind of situation we are in. So that is one specific case of the threat of a filibuster. And we have these all the time.

One of the ones that is the most remarkable to me—and I am not going to pick out the Senator or the exact committee—but a number of us, as Senators, saw a stack of bills, a stack of legislation that had come out, on a bipartisan basis, from one of our committees that was very thick, and it was legislation from 2 years—2 years—of that committee legislating in a bipartisan way, and those Democrats and Republicans working together and doing the hard work, and one Senator—one Senator—held up all of that legislation this last Congress, held it up completely.

That is the threat of a filibuster. You may say: Well, how did that happen? What happens is, the legislation comes out of committee, and a Senator—whom we do not even know; a lot of us suspect after various things that have happened over time, but the Senator comes down and says, in a secret way to his leader: Well, if you bring any of those bills to the floor, I am going to filibuster.

That is what the threat of a filibuster is. But that is an agreement that none of us knows about. So the threat of a filibuster has had an enormous impact on this institution.

Let me describe a couple of other things.

I talked about judicial nominations. As to executive nominations, I come from the era when my father was Secretary of the Interior. I was a kid. I remember when he went into office. In visiting with him about that later, I said: We can't get executive people in place. They don't have their team. He said: TOM, I had my whole team in place the first 2 weeks. So you are talking about the whole team for the Department of the Interior in the first 2 weeks.

I remember the Washington Post did an extensive study of the first year of the Obama administration. So imagine: President Obama takes office. He goes through a year, and he only had 55 percent of his executive nominations in place. So he only had 55 percent of his team.

Those of us who believe in government, believe that government does good things out there, find that appalling because we believe if you put people in place, they will be responsive to citizens on the particular issues of those departments. So that is very important, I believe, getting executive nominations in place. So that is what the threat of a filibuster ends up doing.

I see my colleague from Mississippi, and I do not know whether he is going to step in for Mr. ALEXANDER and ask questions. We are in this questioning back and forth period. Senator HARKIN may want to say something on the question issue here too. What impact has the threat of a filibuster had?

We can hear the argument—Senator ALEXANDER has made this a number of times—look at all the great things you accomplished in the lameduck and look at all the great things you feel you accomplished in terms of health care, the stimulus package, and financial reform. But the reality is, in order to accomplish those in the constant filibuster we were in, we have basically destroyed our institution. As some of the more senior Senators here have told me, the Senate is kind of a shadow of itself.

What I do mean: ''We have destroyed the institution''? Well, it used to be that our big oversight function was to look over the money bills for the government, the appropriations bills. Guess what. Last year we did not do a single appropriations bill on the floor of the Senate. You do not have to go back very far when we used to bring all 12 of those bills to the floor, and we would have 2 or 3 days of lively debate. Every Senator could put in amendments.

Senator HARKIN knows because he is one of the cardinals, he is the chairman of one of these committees. It is a very helpful process, one for the agency to know that all Senators are overlooking that agency, and for a person in Senator HARKIN's position, as the chair of the committee, to know what the concern of the entire body is. But we have given that up. We do not do that anymore, and it is because of the constant filibuster and the threat of filibuster. So you have that situation.

I would think my friend from Mississippi, the Senator from Mississippi,

would be very concerned about this one: We did not do a budget last year. The one way we can impact—if you talk about fiscal responsibility, and you talk about keeping the government under control, and guiding it in the right direction, the one thing you want to do is a budget. You want to pass a budget and set some outlines there.

Well, we did not do a budget last year because we were in a constant filibuster, the threat of a filibuster. And the story goes on and on.

So I say to Senator HARKIN, we are in the question phase right now. I am going to yield the floor. I am sure there is time still on the other side. But I think the question is not, as Senator ALEXANDER raised it, What is a filibuster? The real question out there—for when Senator ALEXANDER returns—is, What impact has the threat of a filibuster had on this institution we love of the Senate?

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I hope the Senator from New Mexico will stay on the floor. I wish to engage in a colloquy with the Senator from New Mexico on the topic on which he just spoke.

I say to my friend from New Mexico, the Senator from Tennessee, as I understand, had propounded the question, what is a filibuster? The Senator from New Mexico has been very eloquent in responding to that, talking about the filibuster. But I think the better question is, what has a filibuster become, because as the Senator pointed out and as Senator MERKLEY pointed out, this whole image of someone standing on the floor and speaking until they drop such as Senator D'Amato or Senator Thurman back in the old days on the civil rights bills or even Senator SANDERS a few weeks ago, that is not really a filibuster any longer. So what has a filibuster become?

Let me go back again a little bit in history. In the 19th century, in the 1800s, the filibuster was used, if I am not mistaken, about 20 times during that whole 100 years. But it was used under a different set of circumstances. In the 1800s, a Senator or a Congressman was elected in November, but the session of Congress lasted until March. The Senators or Congressmen elected in November actually did not take their seats here until a year and a month later, in December of the following year. So sometimes, in this ''lameduck'' session that ended in March, people in the majority party—especially if they had lost the election—would try to ram through a lot of stuff. The minority party would speak until the session ended in March so that nothing would get done, and then they would pick it up in December when the new Senate and House would meet. So it was a means of stopping onerous legislation for a short period of time.

That was in the 19th century. We have a different situation now. So the filibuster is not used to speak now and to slow up one piece of legislation or to stop one piece of legislation; it is used to slow down everything. One case in point: We had before my committee last year a nominee by the name of Patricia Smith to be Solicitor General of the Department of Labor. We had our hearings, I say to my friend from Kansas who is not here right now. We had our hearings in committee. She answered questions, answered written questions. We reported her out of committee. We came here to the floor. We had to file cloture on Patricia Smith to be Solicitor of Labor, so we filed cloture. We got the 60 votes. But as we know, under postcloture you get 30 hours. Well, the minority forced us to use the 30 hours. Senator ENZI, our ranking member, came and spoke for 15 minutes and left, and I sat here for 30 hours and no one spoke. So for 29 hours and 45 minutes we sat here doing nothing, unable to do anything, on a nominee who had over 60 votes. At that time, the record will show, I kept asking: Why are we here?

Why are we using 30 hours of the Senate's time, when nobody is even speaking and we already have the 60 votes for Patricia Smith? That is an example of what the filibuster has become. It has become a tool in order to slow everything down.

For example, nominees. We had nominees who got through here on a 99-to-0 vote after being held up for 6 months. Well, what if, I ask, we have to file cloture on every nominee and then every nominee has a vote on cloture and then you have 30 more hours. If you did that on every nominee, I believe the majority leader said we would be here from January through August doing nothing every day of the week except nominations. How would we ever get anything else done?

The question is, What has the filibuster become? It has become a means whereby a few—this, I guess, would be the question I might propound to my friend from New Mexico or at least suggest that he might respond. Has not the filibuster or the threat of a filibuster become a tool by which one or two or three or four Senators can absolutely slow down or stop things from coming to the Senate? Has not the filibuster become a tool by which one Senator who publicly announces that his goal is total gridlock of the Senate—total gridlock—has not the filibuster then become the tool by which one Senator can impose gridlock on the Senate? Is that not what the filibuster has become?

Mr. UDALL of New Mexico. The Senator from Iowa makes an excellent point. I was here for his talk earlier, where the Senator led with the filibuster and laid it out and Senator ALEXANDER came back and asked these questions. I think the key question is the one the Senator just asked, which is: What has a filibuster become? The Senator seemed to be defending the old-fashioned filibuster that no longer exists. That is the situation we have.

Some of our friends on the other side—I hear them talk about this—are saying this is the filibuster of the past; it is a very pure thing and a wonderful thing. But it has been distorted, manipulated. The filibuster has been twisted in a way that it does exactly what the Senator is talking about—slowing everything down. It is an attempt, in a way, to defeat the majority from governing.

I think the Senator cited the Federalist Papers. One of the biggest dangers in a democracy is if you give the power to the minority to shut down the ability of the majority to govern. If you do that, you have rendered your democracy useless because then you get yourself into a situation, as the Senator from Iowa knows, where they can prevent the majority from doing anything and then run in a campaign and say: Well, they didn't do anything, which is kind of a hypocritical way to approach legislating.

One of the things that is remarkable to me—and I served over in the House of Representatives for 10 years and I know we don't have to take up every House bill the way it is written and we don't have to respond to every bill, but when you hear the fact that 400 House of Representatives bills in 2 years—the last session of Congress—were sent over here and we ended up—the younger Members of the Senate were interested in some of these bills. We looked into them. We found out that these were on veterans issues and many were good bills. We found out they had to do with small business, and they were good bills. We found out they had to do with building the economy and economic growth and those kinds of things and that they were good bills. But we didn't have the time to act upon them because the way the filibuster is being utilized is to defeat our ability to move forward.

The one other area I wish to mention—and I know this is something that concerns our friends on the other side—if you are talking about making government responsible, fiscally responsible, doing oversight over government—and they say they are going to do all this oversight in the House—one of the best ways to do oversight is in an authorization bill. As everybody knows, we have an authorization process, and we have an appropriations process. Well, apparently now, with the studies being done at the Center for American Research—and Senator HARKIN would know this more than others because he serves on the Appropriations Committee—a major part of our appropriations are unauthorized now. I think the figure I saw was close to 40 percent. So that means if these are unauthorized appropriations, it means the side of our Senate and the side of our Congress that deals with authorization, that is an oversight. You go in there in the authorization process and look at an agency and you say: How is this program functioning? Is this program effective, a good program, something that is working?

If the answers come back and you have evidence it is not working, you write in the authorization we are getting rid of that. If you don't do any authorizations at all and the authorization doesn't come to the Senate floor and all Senators don't have an opportunity to participate, then you are giving up that kind of essential oversight. I would think they would be for that. Guess how many authorizations we did last year. How many? We did one. We did it at the very last minute as we went out of town, and that was the Defense Department authorization. That was held up with a filibuster because it had don't ask, don't tell in the bill.

So here we are at war—we have two wars going on. As Chairman LEVIN said, a lot of the things in that bill were to help the military do a better job and help the fighters on the ground in these two wars and we weren't able to get them done at the start of the fiscal year and move forward. So we were able to get it done before we left. I was happy about that. How about intelligence and the huge agencies that run the health care programs and all those? We have not done that oversight.

To the Senator's question what has the filibuster become, it has become something pretty horrible in the history of the Senate. If we don't fix this, we are going to be in a bad way. The way to fix it is the constitutional option. That is the wonderful thing about where we are today.

Today, we are in the first legislative day of the beginning of the 112th Congress. What everybody has told us on that first legislative day is that we can have all these rules proposals. The Senator from Iowa has one and Senator MERKLEY and myself have one and Senator WYDEN. Guess what. If we round up 51 Senators—and they don't have to be only Democrats—who say, No. 1, here are rules changes we want to make with 51 Senators, we can cut off debate on those changes and 51 Senators—a majority—can vote those rules in, and we can fix the situation we have all been talking about here.

I think the Senator's question is the right one. The filibuster has become a procedural morass.

Mr. HARKIN. I thank my friend from New Mexico. I also thank him for his great leadership on the constitutional option. I am a cosponsor of his resolution, which he sent to the desk earlier today. He is right on target. The dead hand of the past cannot bind us. Every Congress, on the first legislative day—as Senator Byrd said himself in the past—has the authority, with 51 Senators, to set our rules—not two-thirds, just 51. We are on that first legislative day today.

I understand the leader will put us into recess so we will stay in the first legislative day when we come back. So we will be on this issue when we come back on January 25.

I wonder if I might explore a little bit with my friends who are here—and the Senator from Oregon has been a great leader in this effort. As a former speaker of the legislature in Oregon, he has lent a great deal of expertise to our thinking and in evolving how we modify our rules to make this place function a little better. I thank Senator MERKLEY for his leadership. A lot of what was in the measure that Senator UDALL sent to the desk earlier today is what Senator MERKLEY has devised. These are things we need to do.

I ask again to bring this up here for maybe a brief discussion, if I might. This is something Senator CORNYN and I got into a little bit earlier. He went on at length about building consensus; that we want to build consensus and have bills over here with a consensus. Well, I agree with that. You try to get as much consensus as possible. Obviously, if you can get 100 Senators, that is nice—or 80 or 70. It is always nice to get as many as possible. I ask my friends, isn't it sometimes true that legislation comes up that can be contentious, and you can open it—I think it ought to be opened in the committee process for amendments. I pointed to the health care bill that we had in our HELP Committee, and the occupant of the chair was so vitally involved with that. We had 54 hours and 13 days of open markup and open session. No Senator was denied the opportunity to offer any amendment on that bill—Republicans or Democrats. Senator Dodd was chairing at the time. We adopted 161 Republican amendments. Imagine that, over 13 days, 161 Republican amendments. As I said, nobody was cut off.

Yet at end of that, when we finally brought it up for a vote, not one Republican voted for it, even though they had a big hand in shaping it. So whenever I hear comments that ''we didn't have a hand in shaping the health care bill,'' I don't understand that. I know in the Finance Committee Senator BAUCUS bent over backward to make sure Senators on both sides could offer amendments and be a part of the process. I say, if they don't want to vote for it in the end, fine; that is their right and privilege. People can vote their conscience and on behalf of their constituents. But we weren't able to get a consensus on it.

So if you have a bill on which you can't get a consensus, does that mean we should stop? As I asked the Senator from Texas, does that mean every bill has to have 60 votes? Is that what we have become—no bill will pass here unless it has 60 votes or more? The Senator from Texas pointed out, correctly, that some bills pass here by unanimous consent. Fine. That is 100 votes. So do they mean we have to have a minimum of 60 to 100 votes in order for anything to pass? What happened to majority rules? What happened to the idea that you only need 51 percent? Isn't that sort of the basis of a democratic government?

Again, I ask my friends about this idea of consensus. Yes, we all want to get that. We all want as many Senators as possible on legislation, and we try hard to do that. But if that is not possible, does that mean that 53 or 54 or 55 or 56 Senators cannot then vote to pass a piece of legislation or an amendment?

I ask my friends, what about this idea of consensus? Have we come to where we have to have a supermajority? Is that the situation we are in now?

Mr. UDALL of New Mexico. The Senator from Iowa and my good friend, the Senator from Oregon, want to speak. The Senator mentioned—and I want to put this quote in the RECORD—the Senator from Texas, Mr. CORNYN, who came to the floor and talked today. One of the reasons I have a real belief that we might have some common ground is he was a judge before he came to the Senate. I think he was on the supreme court in the State of Texas. On this issue of the constitutional option, he wrote a law review article in the Harvard Journal of Law and Public Policy. The name of the article was ''Our Broken Judicial Confirmation Process and the Need for Filibuster Reform.''

Listen to this. This is Senator JOHN CORNYN of Texas:

> Just as one Congress cannot enact a law that a subsequent Congress could not amend by majority vote, one Senate cannot enact a rule that a subsequent Senate could not amend by majority vote. Such power, after all, would violate the general common law principle that one parliament cannot bind another.

He is basically driving home the point that we have the authority today, on the first day of the 112th Congress, the first legislative day, to pull together and take a hard look at the rules. The Senator from Iowa raised a very important issue on consensus. I am going to pass this off to Senator MERKLEY in this colloquy and let him answer that point. Maybe he may have another question.

I wish our friends on the other side of the aisle were here for this discussion. Senator ALEXANDER was here earlier. We had Senator WICKER. But nobody is here to answer the questions we are putting that way, but we are answering the ones this way.

Mr. HARKIN. Mr. President, hopefully, I say to my friend from New Mexico, when we come back on the 25th we will engage in more of this discussion.

I should yield the floor. I wanted to raise that question about consensus because it sounds so good, and we all love consensus. Of course we do. But sometimes we cannot get it. Does that mean then that the majority cannot act if they do not get consensus of over 60? Does that mean the majority simply cannot act?

Mr. President, I leave the question hanging and yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, continuing the conversation, my colleague from New Mexico pointed out the challenge with authorization bills. We

should add to that, during 2010, the Senate did not manage to pass a single appropriations bill. It is dysfunction on top of dysfunction. That is why we are here today.

I put back up the chart of Jimmy Stewart in the well because I think at the heart of this conversation is a notion that, yes, every Senator should be able to hold forth, to share their idea, to advocate that in which they believe, to persuade their colleagues, but not to simply lodge an objection and walk away and never present their case before the American people.

Our good colleague from Tennessee said he wanted to see—how did he put it?—something to the effect of a ''talking your heads off'' form of filibuster, and he referred to Jimmy Stewart.

There is a sense of commonality in our views that if one is going to vote to continue debate, then the debate should continue—it is that simple—so the citizens can see if you have a case to make that makes sense, and they can weigh in and help turn the tide in the direction of the Senator, or that you have no case to make and they want you to sit down and have the Senate get on with its business. That is simple.

There are many ideas for much more radical steps—steps in which we would proceed to say, yes, we will do something different. We will eliminate the filibuster. But that is not the proposal I am speaking to today. It is not the proposal to which many of us are speaking. We are saying, yes, you can keep speaking, but you have to speak. You cannot go on vacation. You cannot hide from the American people. You cannot object and hide. That is not in the tradition of the Senate.

There is a Wall Street Journal article that came out yesterday. I am not sure if it was an editorial or an op-ed, so I will not attribute it to anyone specifically. But it said there is no chance for filibuster reform to address the filibusters on legislation because the Democrats will not want to imperil their ability to obstruct the Republicans when the Republicans are in power someday.

Here we are, we are Democrats, and we are saying we are talking about rules that we have placed against the test of whether we can support these rules, whether in the majority or in the minority. The proposal we signed onto today—the five reforms we have laid out—we have run through the test of saying: Will this meet a fairness standard? Would this be fair if we were in the minority?

One of the proposals is to make sure the minority and the majority get to have amendments. That is a valuable protection for whichever party is in the minority.

Another piece of it is to say, yes, the filibuster can still be used. But you have to invest time and energy and make your case before the American people.

We have believed we can live with that in the minority. If we are going to obstruct the Senate, we are willing to take this floor. We are willing to make our case. But we are saying a Senator should not be able to obstruct and hide. They should not be able to engage in the silent, the secret filibuster but should have to have the talking filibuster.

I applaud my colleague from Iowa, my colleague from New Mexico, and my colleagues who are about to speak—Senator MARK UDALL from Colorado—and say we have a couple weeks now in America to have a debate on the dysfunction and brokenness of the Senate. We are asking the American public to engage, to call your Senators, to share your concerns about a Senate that cannot do authorizations, that has not done appropriations, that leaves hundreds of House bills on the floor, and that cannot fulfill its constitutional responsibility to advise and consent on nominations, thereby undermining our other two branches of government.

This has to be addressed. That is why we are here.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Oregon for his leadership. I want to rephrase my question that I left hanging when I yielded the floor the last time. I see our great friend from New York is here to speak. I will not take more than a minute or two. I want to rephrase the question.

I asked the question: What has the filibuster become? And I further asked a question about consensus. If you do not get a consensus—that is, over 60 people—to agree on something, should then the majority not have the right to act? I want to rephrase that question and put it this way: If consensus—meaning over 60 Senators—if over 60 Senators cannot agree on something, then should the minority have the absolute total veto power over what the majority is proposing? That is the essence of it. If you cannot get a consensus, should the minority have the total, absolute power to determine the outcome?

That is what has happened in the Senate. That is what has become of this filibuster. The end result has become the fact that 41 Senators—if you do not have 60 Senators or more—41 Senators decide what we do, what we vote on, what comes before this body. How does that square with the principle of democratic government and majority rule?

I leave that out there: Should we have and continue to have, if we cannot reach a consensus, should we continue to have veto power by the minority?

I also see the Senator from Colorado here to speak.

I also want to publicly thank the Senator from New York who I see is about ready to speak, the chairman of our Rules Committee. Senator SCHUMER has spent so many hours and so many days this past year on this issue of reforming the Senate rules. He was kind enough to let me testify before his committee and kind enough to actually let me sit with his committee to listen to others.

Senator SCHUMER has been in harness on this issue trying to get us to the point where we can have meaningful changes in the rules so that this place can function a little bit better and a little bit more democratically—with a small ''d,'' not democratically in terms of political affiliation.

I know in the next few weeks Senator SCHUMER is going to be very much involved as one on our leadership team, along with Senator REID and others, seeing what we can do to work things out so we can have a meaningful change in the rules.

Again, I am all for getting rid of secret holds, but that seems to be kind of a no-brainer. That would probably get close to 100 votes. But if that is all we are going to do, that is not a very meaningful change in the rules.

I submit that what Senator UDALL, Senator MERKLEY, and others have introduced, or I submitted myself going on for 15 years now, that is meaningful change in the rules. I know Senator SCHUMER is going to be very much involved in that discussion. I applaud him for his efforts and leadership. We will be back on January 25 to take up this cause again. I know I speak for my friend from Oregon that he is going to be here on the 25th, and my friend from New Mexico and everyone else. We are going to be here because we cannot let this go. We cannot permit the Senate to be so dysfunctional that we cannot respond to the urgent needs of America and our place in the world today. We cannot continue to go downhill as a country and cannot continue to let the Senate be a dumping ground and nothing ever gets done.

These rules need to be changed. We will be back on the 25th to do so. I thank my friend from Colorado for his indulgence.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that Senator SCHUMER be recognized after me for up to 15 minutes.

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

Mr. UDALL of Colorado. Mr. President, before I speak on the matter today, which the group of Senators today so eloquently and powerfully outlined for all of us, I want to acknowledge that the 111th Congress was one of the most productive in history. Legislation we passed will make real changes for American families who are struggling through a tough economy, as the Presiding Officer knows, and with rising health care costs. What we did also will make our military and Nation safe and stronger. We should be proud of the work we accomplished in the previous Congress.

But I have to also say that the last 2 years was a time of unprecedented obstruction and partisanship. If you do

not want to take my word for it, you do not have to go very far to listen to many impartial observers of the Congress who will tell you that it was exactly the case.

I rise today to add my voice to the growing number of Coloradans and Members of the Senate who are deeply concerned about the gridlock that at times has paralyzed our Chamber and prevented meaningful debate.

Many of us read with dismay an article by George Packer in the New Yorker magazine several months ago, which detailed examples of Senate dysfunction.

Americans from both political parties—and Independents as well—have asked whether the rules of the Senate are working to help solve these problems that face us. Some of my colleagues have understandably sought to change or eliminate the filibuster to make it easier to pass important legislation supported by a majority of Senators.

I come to this debate from a somewhat different perspective than my colleagues. I come to this debate with this guiding principle; that is, any attempt to limit the power of the minority by eliminating or weakening the ability to filibuster will simply lead to a further breakdown in what is already a fractured partisan relationship.

While I share much of the frustration expressed by many of our colleagues, I believe we must be thoughtful about how we approach changes to the Senate rules.

Several years ago, Minister Robert Fulghum had everyone using the phrase, ''everything I need to know I learned in kindergarten.'' His essays made the point that the simple rules we teach children about getting along, about being kind to one another, about cleaning up after ourselves apply throughout life.

On one level, you could boil down the debate we are engaging in this week and say what we need are rules that will help us get along better in the Senate's sandbox, and we need to talk with each other more and we need to listen even more than we talk. Why? Because the consequences, if we cannot find a way to work together, are extremely serious.

No problem we face is more troubling or urgent than our economic future. Our unemployment rate is still above 9 percent, and it is much higher in some regions of the country. Home foreclosures are still expected to rise. Even more troubling is this fact: Americans are less optimistic about their economic prospects than they were during the Great Depression. That is a very serious situation.

On top of those grim statistics, we face a massive budget deficit and a crippling debt that not only threaten our long-term economic stability but darken the horizon in a way that discourages investment and innovation that we need to spur American job creation today.

Moreover, our apparent inability to squarely address the problem in a partisan way is a signal to the American people—as if they need further proof—that their institutions of government are not working. And that, in my opinion, is as dangerous as any attack on our country.

Many have remarked that it is past time to have a serious discussion about how to turn our economic situation around. I have faith we can do that, but only if we are able to set aside the ideological differences that have sidetracked our politics, and frankly our policymaking, up to now.

We can't reach the level of bipartisan cooperation we need in this body if we prevent substantive debate and cut off the rights of the minority. But neither can we make necessary progress if Members of the Senate continue to be able to use technical loopholes and procedural gymnastics to hijack the Senate—literally—for days and, in some cases weeks at a time.

That is why today's debate—so ably led by colleagues from across the country—is more than just an esoteric debate about the Senate's rules. It is a critical turning point, and it is why today I am again introducing a resolution which I believe can help reduce the opportunity for gridlock while also encouraging both sides to work together on the most important issues we face in our Nation.

I developed this proposal after listening to and talking with experts on Senate procedure from both sides of the aisle, including the noted congressional scholar Norm Ornstein of the Conservative American Enterprise Institute.

In a nutshell, I propose that by eliminating unnecessary opportunities for delay—without making changes that would jam through legislation at the expense of the minority party—we can improve the way the Senate works and make it more effective and fairer for the American people.

If I might, I want to make a couple of comments on some of the specifics of what I am proposing, similar to what the Senators from Oregon, New Mexico, Iowa, and others have put on the table.

I would first level the playing fields between the majority and the minority on cloture votes and require Senators actually vote in opposition to the bill they are filibustering. Currently, cloture is invoked when three-fifths of the Chamber votes yes, so staying home is the same as voting no, and Members can simply threaten to filibuster and skip town with no recourse.

My proposal would require that Senators show up, debate, and actually vote against a bill if they are conducting a filibuster, by changing the rules to invoke cloture not on three-fifths of the Chamber but invoking cloture when three-fifths of those voting to end debate create an incentive to actually have a meaningful discussion. If Members don't show, the threshold is lowered accordingly—three-fifths of 90 is 54 votes to end debate, three-fifths of 80 is 48 votes to cut off a filibuster, and so on.

Second, I would reduce the number of votes required in debate on a single bill. The Senate rules now allow for a filibuster on a motion to proceed to a bill, a substitute amendment to a bill, final passage after we have already overcome a filibuster on the exact same text—and the list continues. There are three separate opportunities to filibuster before sending a bill to a conference committee. My proposal would eliminate all these opportunities to filibuster except for final passage.

Third, I would shorten the timeframe required to invoke cloture. I would propose we vote 24 hours after cloture is filed, instead of waiting 2 days, as is required today. I would also allow the 30 hours of postcloture debate to be split between the parties, to avoid needless delays. In total, we could shorten the time required for cloture by nearly 40 hours for a single cloture motion.

Fourth, I would end the requirement that amendments be read in their entirety if they have been made available on line at least 24 hours in advance.

Fifth, I would end the requirement that Senate committees seek consent to meet.

Sixth, after I propose that we change the rules to move more quickly on judicial nominations—allowing a final vote immediately after cloture is invoked on a nomination.

Finally, I would provide a way to call up an amendment when a majority leader has filled the amendment tree.

The Senate is famous for great debates and a free amendment process. But in recent years the process of presenting amendments has frequently been shut off by the majority party. So my proposal would, on a limited basis, give Senators the opportunity to present their amendments when they are otherwise being blocked from doing so.

The Senate has been called the world's greatest deliberative body. But what happens if we don't deliberate? I am afraid we risk turning the Senate into an extension of the 24-hour political spin cycle, which seeks to separate us rather than allowing us to work out solutions to the problems we face.

Every day, proud Americans come to our Capitol hoping to watch debates such as those of years past. Many are increasingly dismayed to see a small number of Senators, such as those here today, debating among themselves in an empty Chamber. We don't even require Senators to attend their own filibusters—no ''Mr. Smith Goes to Washington,'' no actual debate.

I want the Senate to work the way Americans envision it does—where Members discuss their differences, cooperate, vote on amendments, and improve legislation for the good of the country.

With that in mind, I hope our colleagues will join me to seize the opportunity we have before us. Let's work

together to improve the way the Senate operates. I want to extend my hand to the Republicans to ask for ideas in how we can improve the way the Senate operates. I want to work with anybody, as I think all my colleagues do, to solve these problems in front of us. We have a responsibility to work together to bring about the cooperation and the problem solving Americans expect and deserve.

Mr. President, I appreciate your attention, I appreciate the important work all my colleagues have undertaken, and I look forward to working with the 99 other Members of the Senate to make the Senate a Senate we know and love and believe is the greatest deliberative body in the world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I wish to talk a little about the issue we have been discussing, and first let me congratulate my colleagues who have been on the floor on this issue, particularly the Senator from New Mexico, Senator UDALL; the Senator from Oregon, Senator MERKLEY; the Senator from Colorado, also named UDALL; and the Senator from Iowa, Senator HARKIN; and many others who have participated in this debate. They have done a great job today.

The other thing I think I appreciated—and Senator HARKIN helped do this—is there was not just debate, there was actual discussion, even when we didn't agree. I thought it was pretty interesting watching on the TV in my office when Senator ROBERTS came and stood by a desk here on the Democratic side, a desk away from Senator HARKIN, and they didn't agree on the issues but they debated the issues. What a great first-step metaphor for the kind of debates we want to have here on the Senate floor. So this has been a very positive and hopefully prescient opening of the debate to change the rules because we all know that in the last Congress the Senate didn't function effectively and the time for change has come. I want to salute the leaders, as well as Senator KLOBUCHAR, Senator FRANKEN, Senator LAUTENBERG, and so many others, who have been so involved in our discussion and for the work they have done.

I also want to say to my colleagues this is not something that has just happened recently. This idea that all of a sudden this has popped up in the Senate is wrong. Last year, the Rules Committee—and I was urged by Senator UDALL to do this among the first days of the session 2 years ago, and I think we did a pretty extensive and good job—held six hearings that examined the history of the filibuster, trends in the use of the filibuster, secret holds, stalled nominations, and proposals for change. In those hearings, we heard from Senators from both parties who have valuable ideas about the need to reform the filibuster. Senators HARKIN, LAUTENBERG, WYDEN, GRASSLEY, UDALL, UDALL, MCCASKILL, GREGG, and BENNET all testified at the hearings. We also brought former Senators of both parties, scholars, and former Senate staff of both parties to come and testify.

In the first half of the 20th century, filibusters and filibuster threats were relatively rare events. That has been documented already, and our hearings documented it extensively. But since that time, the number has continued to dramatically increase. When you face an average of two cloture motions per week—which is what has happened currently—then we know there is a problem, and it is no mystery that the Senate has been labeled as ''dysfunctional.''

Between 1917 and 1971, there was an average of one cloture motion filed per year. In the 110th and 111th, we had more than 70 cloture motions. These cloture motion counts are a response to the filibuster, and it is distorting the way the Senate does business.

For the legislative branch, hundreds of bills passed by the House in the 111th Congress were not considered, even though they had passed the House by voice vote or with a majority of House Republicans voting yes. The Senate is supposed to be a cooling saucer, not an ice box.

In the executive branch and the judiciary, dozens of judicial appointments were delayed or blocked from floor consideration for months and months in the last Congress. Many of these were approved unanimously by both Democrats and Republicans in committee, yet sat on the Executive Calendar for months because of secret holds. This is dangerous at a time when we need a Federal Government using all its resources to fight terrorism, protect our country, and address our economic needs.

I salute Senators WYDEN, MCCASKILL, and GRASSLEY for focusing our attention on this issue. It is important to end anonymous or secret holds and shine some light on the kinds of long-term delays that can hold up a nomination or a bill for weeks or months or even longer.

Also, during the fiscal year 2010, half of all nondefense spending—$290 billion—was appropriated without legal authority because Congress hadn't reauthorized the programs. The unprecedented threat of a filibuster—not even the actual use of the filibuster—has prevented debate with such frequency that extended deliberation is a dying commodity. Make no mistake about it, the everyday threat of the filibuster does not ensure debate, it restricts it.

Reforming the rules in a thoughtful way would clear the way for more legislating, not less. Filibusters provide a minority of Senators a way to make their voices heard, but they should not provide a way for a minority of Senators or even a single Senator to grind the Senate to a halt regardless of whether they are Democrats, Republicans, or Independents.

Reform will engage the American people and reenergize this institution. This will not end the filibuster or cut off debate. On the contrary, it will pull back the curtain and show the American people what we actually believe and what our deliberations are really about.

There have been many ideas for reform presented by my colleagues that are worthy of discussion. The Senator from New Jersey, Mr. LAUTENBERG, testified before the Rules Committee about his plan, which he called the ''Mr. Smith Goes to Washington'' proposal. Senator MERKLEY, Senator UDALL, and others have developed their own versions of this important concept, which I call the talking filibuster. This talking filibuster idea would require filibustering Senators to keep speaking on the floor after cloture fails, to show clearly their wish to continue debate and to allow them to talk for as long as they wish.

Currently, the only evidence that a Senator is facing a filibuster is the vote on cloture. The Senate floor has evolved into a place where the majority assumes that each bill will be opposed and that little actual debate will occur on legislation. The rules require a vote of three-fifths of the Senators chosen and sworn to end debate on a matter or measure. The very question that is posed to the Senate in a cloture vote is, Is it the sense of the Senate that debate should be brought to a close? Those are the words. If it turns out that enough Senators answer that question: No, we want more debate, then those Senators should actually be required to debate. It is difficult to explain to the American people that the Senators who voted for additional debate are silent when then given that opportunity. If they want to debate, well, then let's debate.

One way we can guarantee fair and meaningful debate after Senators vote on cloture to continue debate—and cloture fails—the Senate remains on that measure and Senators must actually debate the bill. Senators may be recognized one after the other, as long as debate is continuous. If no more Senators seek to debate the issue, then the majority leader can move to close debate.

Obviously, there are technical things that have to be worked out—and we are working hard to do that—to make sure this proposal works and is viable. In the past, attempts at debate have been frustrated by quorum calls or unnecessary motions, all aimed at avoiding actual debate. If we change the rules to encourage extended debate after cloture fails, then the priority during this period will be to either debate the matter or move forward and not play parliamentary games. The American people deserve better of their elected officials than what the Senate has been giving them. Governing is not a game of charades.

The majority will not choose to waste floor time on a matter the minority is committed to stop. But will

the minority choose to filibuster every single piece of legislation if actual debate is required? I don't think so.

That would apply whether Republicans are in the majority or Democrats are in the majority.

In addition to the other worthy options proposed for reform, I think this proposal is strong because it allows the minority the same ability to debate and block legislation—so long as they actually debate. If there is no actual debate, there can be no filibuster, and the Senate can proceed to do its business for the American people.

I believe this modest proposal is one on which both Democrats and Republicans should agree. It could be a point of bipartisan agreement, and I will present it in the bipartisan negotiations happening over the next few weeks.

Of course there are other good-faith proposals that my colleagues have put forward. Many of them are thoughtful. Most all of them would represent meaningful change without altering in a too jarring way the rules of this institution. Nobody wants us to become the House of Representatives. Everyone understands that we should not rule simply by majority vote on every issue. However, we can pull the curtain back and make sure that when people say they want more debate, they debate.

In the next 2 weeks, we should look at these proposals—all of them. During the recess, we need to talk to each other, Democrats and Republicans, about genuine ways to reform this body, to restore the Senate to its traditional role as the world's greatest deliberative body, and to do so in a way that encourages full and open debate—both for the majority which proposes and for the minority which wishes to modify what the majority proposes.

I believe we owe it to the American people to reform the Senate so it functions in a way that best represents their interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, first, let me thank the Senator from New York for his very distinguished leadership of the Rules Committee and for the very open and thorough way in which he engaged that committee on these issues of addressing the filibuster and problems that have been caused by its current abuse on the Senate floor. Let me also thank Senators UDALL and MERKLEY, who worked so hard to organize this and who have put together what I think is a very good proposal.

At the outset of my remarks, I ask unanimous consent that I be added as a cosponsor to the rules resolution that is here, at this point.

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

Mr. WHITEHOUSE. The distinguished Senator from Oregon, Mr. MERKLEY, showed a photograph a little while ago of Jimmy Stewart in ''Mr. Smith Goes to Washington.'' That has become the sort of emblematic, signature demonstration of the American Senate filibuster.

There is a scene in that movie that I am sure the Senator is familiar with where a reporter is up in the galleries and is describing the action down here on the Senate floor, is describing Jimmy Stewart—the Senator he represents engaging in the filibuster. The reporter describes the filibuster as ''democracy's finest show . . . the right to talk your head off . . . the American privilege of free speech in its most dramatic form . . . one lone and single American holding the greatest floor in the land . . . bleary-eyed, voice gone.'' That is what we think of when we think of the traditional Senate filibuster. In those days, you stood up and you filibustered against a bill because you were opposed to it, because you hated it, because on principle you wanted to stand and fight against it. That was the old filibuster.

Now when this Chamber is engaged in a filibuster, how does the American public know? When they are watching this floor on C–SPAN and they are looking for a filibuster, they don't see democracy's finest show, they don't see anybody talking their head off, they don't see the American privilege of free speech in its most dramatic form. What they see is a droning, tedious quorum call as the parliamentary staff read off, one by one, the names of Senators who are not present, and this Chamber stands useless during that period. Why is that? Partly it is because when Jimmy Stewart was undertaking his filibuster, he was exercising the right of an individual Senator to take this floor and to hold it and to speak. What is different is that when it is filibuster by party rather than filibuster by one individual Senator, then there is a whole array of procedural mechanisms the minority party has to provoke the majority leader to file for cloture.

Cloture is the filing that allows the majority leader to bring debate to a conclusion and to limit amendments. When cloture is filed, then there is 30 hours mandatory for debate. What has happened here is that the 30 hours mandatory for debate has become the prize, has become the goal of the modern filibuster. That explains why we are no longer filibustering bills we are opposed to when we are in the minority. The minority actually filibusters bills their Members support. They filibuster nominees who get voted through unanimously when the vote is finally held.

What is the filibuster about? It is about forcing cloture and forcing those 30-hour increments of time to be burned up. If you are filibustering the bill itself and you are filibustering the motion to proceed, you have a dual filibuster, and if you are filibustering amendments, you can load on an awful lot of 30-hour periods to the Senate floor and you can prevent anything from being done in those 30-hour periods just by sitting back and doing nothing and objecting when the majority party tries to move to the vote. All it takes is one person waiting in the cloakroom for the minority to force that 30-hour period to run. If you stacked up dozens and dozens of 30-hour periods, what you do is you take up the entire time available to the Senate and you impede this institution in its ability to get its work done.

That is what we are doing right now. That is why I think it is so important that the changes we are recommending restore the Senate to the traditional filibuster. We do it in two ways. First of all, if these rule changes pass, you will not get to filibuster the motion to proceed to the bill and then get to filibuster all over again on the bill and double the filibuster. If you really care about the bill, if you are really opposed to the bill, if you really hate the bill, you can come and talk your head off, but you don't get to do it twice—once on a pure parliamentary measure. That will cut down some of the wasted time, some of these droning hours that you watch on C–SPAN with nothing happening in the Senate and the time being wasted, locked in the filibuster.

There is another rules change that I believe is important. The 30-hour period is called the period for debate. What this rule change would do is, when the debate stops, the 30-hour period stops. Whoever is presiding would simply note that there is no longer debate and would call the vote. You can still debate the whole 30 hours if you want to come here and debate, but when the talking stops, you vote. You are not in a position where you can commandeer 30 hours of Senate time, force the Senate into quorum calls, and defend against going to the vote with one lone Senator back in the cloakroom, able to come out and object whenever the majority tries to move the Senate to a vote and get the Senate back in its business again.

These are two simple repairs to the cloture rule that will make it less of a prize for the minority, that will prevent us from spending all these 30-hour increments droning away in 30-hour filibuster quorum calls, and put the Senate back to where it should be—the great chamber of debate where people actually have to come to the floor, say their piece, and when they are done, we go on to the next piece of work.

I commend everybody who has worked on this. I think it is a very valuable step we are taking. I don't think it is a change away from the traditions of the Senate; I see it as returning to the real traditions of the Senate, of real debate, not just wasting time for wasting time's sake but allowing the Senate to be productive while also allowing Members who have opposition to a bill to state it as forthrightly as they wish, to engage in, as the reporter said in ''Mr. Smith Goes to Washington,'' democracy's finest show, the right to talk your head off, the American privilege of free speech in its most dramatic form.

I thank all Senators present for entertaining my thoughts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. First, I wish to say I am so pleased to be with colleagues who are standing up for activity on behalf of the citizens, the constituents we represent, to get things done.

I doubt many of us would be happy with a report card we got in either high school or college or whatever education we got beyond that—I doubt we would be proud of any report card that resembles that which we have obtained in this facility, in this great house of debate, in this distinguished body of legislators, one of the most prominent—the most prominent—let me qualify that—legislative body across the world and the envy of so many who think the United States is still one great country.

We want to do the right thing. But here what has happened, we find ourselves in a morass of dilatory activities, things that do nothing but stop progress, and that is the mission we see. I congratulate my colleagues who have taken hold here to make sure we do whatever we can to change the facility.

I have here my picture of Jimmy Stewart, ''Mr. Smith.'' While I am not anxious to admit it, I do, I remember seeing the picture. We need not discuss the precise date, but it was some time ago when I saw this, and it left a vivid impression in my mind. But I cannot tell you what it was about, except that he was one trouper, that he stood on his feet, so many hours it is hard to understand how the body responded to the opportunity, trying to clean things up.

The date of the film was somewhere around the end of the 1930s, 1939, most likely. That was not the exact date, but in that vicinity. Even then, they were discussing what could be done to move things along and how the kind of effort he gave as Mr. Smith was required to honor the people, the responsibility he had to the people.

So we know what kind of report card the legislators here and in the House have gotten from the American people because they are sick and tired of seeing all this empty space, listening to words I could describe more in the vernacular as gobbledygook-gook, not understanding what is going on but knowing very well that nothing is happening that is benefiting them.

So when we see this low public opinion from Americans all across the country, it is because they do not believe we are getting things done that they sent us here for. Each one of us who has been elected, I do not care how popular or how remote, the fact is, you had to work hard to get elected and so proud—and I look today, as I saw person after person hold up their hand to take the oath. I have done it five times here and each time was a thrill. Even as I watched colleagues walk up there and heard their names called and saw them raise their hand, and to feel the pride they felt, I do not care Republican or Democrat, to feel the pride they felt, to be able to take this job on their hands, to get the support of the public in their States, enough to win an election, and then we show the public a lack of activity.

We have been through discussions, speeches made earlier, good ones, describing the number of times the filibuster has been used. If I might ask the majority whip, is it the record number of filibusters ever in the history of the Senate? The Senator from Illinois confirms that. Here we are, and the need has never been greater to get something done to let the American people know their government is there to help them through a crisis, to help them regain their jobs and regain their pride in themselves.

Make no mistake about it; the absence of progress in the Senate promotes bitterness and anger among the American people. Make no mistake; an empty Senate Chamber is no way to respond to the public's needs. All too often this is what happened because the minority now has simply been abusing Senate rules. They can do it. But it is an abuse of the process.

Last year we were locked in a constant struggle to help jobless Americans. Several times we attempted to bring legislation to the floor to extend unemployment benefits for millions of people who had no other source of income, who were in jeopardy of losing their homes and losing their opportunity to care for their families and being personally humiliated and disgraced about that and we could not get an agreement to pass an unemployment benefits bill until it was included with other legislation that had to pass.

Back in June, 59 Senators wanted to restore aid for those workers who had gone without income for weeks. Our colleagues on the other side of the aisle objected and delayed the vote, then left town for a week-long break. By the way, I keep on reminding those hearing me that this is under the disguise of a filibuster, a legal process that is permitted by the Senate rules to be engaged in when there is a disagreement about a piece of legislation or a process that has to take place.

We left more than 1 million Americans in limbo for several agonizing weeks. Our opponents said they were simply filibustering the bill. In other words, they wanted to talk more about the substance. But they did not want to talk about the substance. They did not want the public to hear the truth about their views. But they did not even want to talk on the floor. They just left the Senate empty and silent.

That is why I reintroduced my ''Mr. Smith'' bill. I brought this up initially last March. It is almost a year now since I brought Mr. Smith back to this Chamber. As we know, the legislation is named for Jimmy Stewart's character in the classic movie, ''Mr. Smith Goes to Washington.'' Frankly, we now look, the names are different, the mission is the same. There are those who want to make progress and those who want to do nothing more than delay progress.

As I said earlier, Mr. Smith wanted to make a point, spoke for 23 hours. These days, Senators simply object to the proceeding, walk away, and leave an empty Chamber behind. How are we supposed to create jobs in an empty Chamber? How are we supposed to increase educational opportunities in an empty Chamber? How are we supposed to help keep people in their homes in an empty Chamber?

The ''Mr. Smith'' Act will bring deliberations back to purportedly the world's greatest deliberative body. It will make lawmaking more transparent and Senators more accountable. Members of this body will no longer be able, if we pass this rule change, to be able to launch a filibuster and then skip town, leaving the Senate in a stalemate.

If you have the courage, stand and explain to the American people why you are objecting to things that can help the average family. This is still a recession. Yes, there are a lot of people at the top making lots and lots of money. We have seen it in the newspapers. We have seen the list of billionaires who make that much money in a single year. But we do not see the same pictures of people who are forlorn because they cannot help themselves, and they look to the government to be there with them.

I know from personal experience that my life changed radically when I got out of the Army and was afforded the GI bill. My father died after I enlisted. My mother was a 37-year-old widow. My father was sick for 13 months with cancer. At the time, there were not the products that make pain less acute or that provide more help for recovery. It was not there.

So we had not only the loss of a father—I had joined the Army. When I was 18 years old, I enlisted—we had bills and bankruptcy and life was miserable. The GI bill made the difference in my life. I was able to join two other people in my home city, friends of mine, in creating a company, three of us.

Now it employes 45,000 people. The company is called Automatic Data Processing, better known as ADP, because I got help when we desperately needed it, when my family and I could never think about my going to college. I wound up going to Columbia University, something so far out of sight I never dreamed it was possible. But it was there. There are times when people across the country say to our leadership: Please, give us a chance. Give us a chance to stay in our home. Give us a chance to educate my son and my daughter. They can learn. We do not have the money.

Make sure health care is available, that no matter what your condition of being is, you cannot be precluded from getting insurance. That is what is proposed in the health care bill that right now is in danger of being repealed, if the House takes the action as purported.

So what we are talking about, to summarize, is that we have to get busy and show the people across the country that this is not just a ring for showing how clever a speech can be or cute an idea might be, when all that is being done is stopping progress. Progress. They object to bills being even moved along so they can be considered—anything they can do to obstruct movement.

So we may be unable to bring Mr. Smith back, but we can write real accountability for filibusters and for the sake of a functioning democracy—more than a functioning democracy, a degree of dignity and hope for people who have been hurt by an unemployment record never before seen in the country, with the number of people out of work in the multiple millions, and they say: Mr. Senator, help us. Be there to help us now. We are not looking for charity. We are looking for a hand that will get us started, get this economy going. We owe it to them.

I say to those who want to obstruct it, be brave enough to stand and tell the people here or the people on television or those who read about what we are doing, tell them why it is you are objecting, and then we will restore a degree of confidence in those who serve here, those who work so hard to be elected, and those who can represent the people well.

But we cannot sit in silence, just wasting time. I hope we will come to our senses, make the changes in the rules that will stop the filibuster from being a disguise for inaction.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY.) The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise to speak to the issue which has been considered on the floor today by my colleagues. I thank, especially, the Senators from Utah, Oregon, and Colorado, as well as many others, for their leadership in discussing the procedures of the Senate.

When I went home over the break, I spent my time back in Illinois with my wife in my hometown of Springfield and a lot of time around the house and a lot of things had to be considered. I left the decisions of war and peace behind in Washington, DC, and went home to face the real decisions: Are we going to change our cable TV service? Are we paying too much for the Internet? Things that my wife finally put in front of me and said: We need some decisions here.

As I considered those weighty decisions, particularly when it came to cable television and what we would receive in Springfield, I could not help but reflect on the fact that, similar to many Americans, we like to have C–SPAN so we can follow the House and Senate.

You may know in West Virginia, as I know in Illinois, there are people who are obviously suffering from insomnia who watch C–SPAN all the time and find it very restful and sleep inducing.

If they watch the Senate, it is something else. It is not only sleep inducing because of so little activity on the floor of the Senate, it is, in fact, an unfair economic situation that someone is paying a cable TV bill for C–SPAN covering the Senate when we do so little. They ought to get a refund. Families across America are entitled to a refund if they tune in to C–SPAN, Senate version, and watch us day after weary day, with our delightful and talented staff people slowly reading the quorum call and names of the Senators. That is it. If you have watched C–SPAN in the Senate for the last several years, you will see that more often than not, a lot of people say to me: Senator, why is not anything going on in the Senate? When you talk in the Senate, why isn't anybody there? Basic questions an average person might ask. They reflect on what has happened to the Senate, and that is why we are here with this discussion this evening. I thank the Senators who have been involved, including Senator LAUTENBERG.

One of the things that surprised me when I first came to the Senate, I heard this was the world's most deliberative body. This was the place to come to debate the big issues. Today when there was a swearing in of the Senator from North Carolina, one of his predecessors was here, Senator Lauch Faircloth. He was the first Senator I faced off with on the floor over an issue when I was elected 14 years ago. It was an issue involving tobacco which I had been following pretty closely in my congressional career, and he was from the State of North Carolina where tobacco is a big issue. He didn't like my amendment, and he came to the floor. I was offering my first amendment. There was a lady who worked in the Senate named Lula Davis. I had served in the House for 14 years, but I didn't quite know the Senate procedures as well.

I said to her: How much time do I have?

She said: You have 1 hour.

I said: Is that equally divided?

She said: No, Senator, you have 1 hour.

House Members don't get an hour for anything. Five minutes is the usual course, 15 minutes if it is a great deal or if they want to stick around until midnight, they might get a special order for an hour.

Here I was with an hour on the Senate floor to debate my amendment. Senator Faircloth sat on the other side. I stumbled through it. I asked unanimous consent to allow the time to be equally divided between myself and Senator Faircloth so we could debate the amendment. I thought that was fairly reasonable. Senator Faircloth said: I object.

I was stunned. Clearly, here I am with my amendment being as fair as can be, and he is not interested in the debate.

I am not going to pick on him because he reflected the feelings of many Senators here: that they are here on the floor to give speeches, many of them written by very talented staff people, and then leave the floor and go off and do something else. There is very little debate on the floor of the Senate, real debate. I could count on one hand the times I have in 14 years engaged another colleague in an actual debate that went back and forth over the merits of an issue.

One of the things we are discussing tonight is what to do with the rules of the Senate so we engage in more debate—we need it—so that we have less time that is being wasted in the Senate, fewer hours that are being ticked off a clock to reach 30 hours or whatever it happens to be on a cloture motion, and more actual debate so Senators with differing points of view can state their points of view and debate them back and forth and other Senators can then listen, certainly the public can listen and those in the gallery and can decide who has the merits of the debate.

Debate isn't something we should shy away from. It is an important part of the Senate that we should value and that we should honor to make sure the rules create that opportunity.

The Presiding Officer from the State of Oregon has suggested, along with others, that we have more debate and more votes. I think we should. For a time there was this feeling that we had to protect Members of the Senate from controversial votes. That is behind a lot of the decisionmaking that has taken place and brought us to this moment in the history of the Senate.

Perhaps I have a different view of it. But having been on Capitol Hill for a long time in the House and the Senate, I have stacked up many controversial votes, tens of thousands of them. It will be fair game. For any political opponent ever running against me in the future, there is plenty to work with. I don't need to give them something new to beat me over the head with. I have plenty of votes in my past. I think I can defend them for the most part, and I am prepared to do so. I am not afraid of tomorrow's controversial vote. In fact, I think it is part of why we are here.

There was a man who served here many years ago from Oklahoma, Mike Synar of Muskogee. He was one of my closest friends. Synar was an unusual character in the House. He was one who, faced with the choice between taking an easy, noncontroversial way out or a controversial, confrontational approach, would always choose the confrontational approach. He would walk right into the wall of fire and welcome it because he thought it was part

of what he was elected to the House to do. He used to stand up in the caucuses of House Democrats when they would be whining and crying over the thought of facing a controversial vote and say to them: What is wrong with you people? If you don't want to fight fires, don't become a firefighter. If you don't want to cast controversial votes, don't run for the House of Representatives or, in this case, the Senate.

I think the same is true today. Although some of my colleagues face tough election campaigns in tougher States than my home State of Illinois, the fact is, coming here and casting tough and even controversial votes is part of why we were elected and why the people expect us to come and face the music on difficult issues.

Bringing debate back to the floor, bringing more votes to the floor certainly is a move in the right direction.

I say to the Senators from New Mexico, Oregon, and others that their proposal that would allow germane amendments as part of the regular order of the Senate is a move in the right direction. That way the minority and majority get an opportunity to amend a bill. Can it be abused? It can. But making these germane and relevant amendments makes a difference. I can recall one colleague on the other side of the aisle who kept coming to the floor repeatedly, day after day and week after week, to offer the same amendment over and over, even when he was passing the amendment. Sometimes he would pass it; sometimes he wouldn't. But he couldn't help himself. He just had to keep offering it over and over. As he offered this amendment, it didn't enhance the bill. It didn't enhance the debate. It gave him a chance to put out a press release.

One can abuse that process. So making sure the amendments are limited to those that are relevant certainly is a reasonable thing to do.

Let me say a word about the 60-vote margin. The 60-vote margin, as former Vice President Mondale wrote in his guest column recently—I believe, in the Washington Post—was a compromise. In days gone by it took 67 votes to end a filibuster, to bring cloture. Then in the 1970s, Vice President Mondale, then a Senator, joined with others on a bipartisan basis and lowered that to 60 votes. But it was still a rare and unusual thing to do, to filibuster and need a cloture vote of 60 votes. Unfortunately, that 60-vote standard has been corrupted into a new standard for passage of legislation.

Allow me to give two examples. We considered a Wall Street reform bill. There were dozens of amendments offered. The Senator from Oregon had a controversial amendment and waited for days, maybe weeks, for a chance for his day on the floor of the Senate. After about 25 amendments had been offered and considered to the Wall Street reform bill with a standard of a majority vote, I had an amendment relative to interchange fees on debit cards, a controversial amendment. Credit card companies and big banks hated it.

At that point the announcement was made unilaterally, incidentally, the Durbin amendment will require 60 votes. Everything else had been a majority vote to that point. There was no way for me to challenge that. If I wanted my amendment to come to the floor, I had to accept a higher margin to pass it than all the other amendments that had preceded it.

Why? Because the threat of a filibuster was there, a filibuster against my amendment. That threat alone raised the margin and standard for that vote to 60. From the other side's point of view, many of whom opposed my amendment, it is a pretty easy thing to start a filibuster if you don't have to engage personally or make a personal commitment to it. They tossed it out as a standard. Sixty votes became the requirement. Fortunately for me, I had 64 votes and passed it.

The same is not true of another provision which means an awful lot to me, the DREAM Act. The DREAM Act is a reform of our immigration laws that is long overdue for children brought to the United States who are asking for a chance to become legal. They can do it through military service or by education, achieving at least 2 years of college. I have tried for 10 years to pass this measure and repeatedly have had majority support on the floor of the Senate. It has been ruled not enough. You need 60 if you are going to pass the DREAM Act. Just in the last 3 weeks, we had it considered again. It failed by not reaching 60 votes but had 55 votes. So the fact is, establishing this new 60-vote margin has become too commonplace for anything that anyone wants to brand as controversial that might require a filibuster. That has to change. Sixty-vote requirements should be rare in this body. They should be used sparingly, and they should not be applied on a daily basis to any amendment or bill that I or any other Senator at any given moment objects to.

Let me also say when it came to unemployment insurance, I had a little debate with the former Senator from Kentucky, Jim Bunning, now retired, and insisted that he stay on the floor as I repeatedly asked for unanimous consent to extend unemployment benefits. Some Republicans came to the floor and charged that was unfair to ask the Senator from Kentucky to stay on the floor so that he could object to my unanimous consent requests. I am sorry. There were millions of Americans who were not receiving unemployment benefits, and I think it is not unfair to say to the Senator who is objecting to those benefits: Stick around, miss that basketball game you want to see tonight, which he had announced on the floor. Stick around and suffer a little bit because you happen to believe that is the right thing to do.

Eventually, after a matter of days, unemployment benefits were extended. But the point I am getting to is that we have reached a point here that is way beyond the protection of the minority. It is the protection of what I consider to be an indolent approach to the Senate where we want the easiest way around things. We don't want to debate them. We don't want to vote on them. We don't want to face a majority vote that we might lose. So we have contrived a new set of standards, procedures, and rules that we are addressing today as part of this reform conversation.

Many times when Senators file a cloture motion or an objection that is noted by their side of the aisle and then the clock starts to run, the 30 hours, before there is a vote, many times those Senators leave. Before the Senator from Oregon arrived in this body there was one Senator who objected to our moving to a measure, forcing the Senate to stay in session until Saturday, when in the afternoon the time expired and a vote was called. The Senator who objected didn't show up. He wasn't there. We asked where he was. He had to go to a wedding. Really? The rest of us stayed here and waited for the vote that he demanded while he went off to a family social obligation. That is not right.

The good part of the rules changes that are being discussed now would require Senators like that Senator, if they believe the business of the Senate should stop or be delayed, to invest themselves personally in the conversation—to be here. Is that too much to ask? As the Senator from Pennsylvania once said: Earn it and own it. If you believe the business of the Senate should come to a halt for 30 hours, then for goodness' sake have at least the decency and the personal commitment to park yourself at your desk and argue your point of view. If you are too tired to do it or too distracted or can think of something better to do with your time, be my guest and walk through the doors and let the Senate proceed with its business. But if it is important enough for you to stop the business of the Senate, I happen to agree with those who are calling for rules reforms; we should have that change.

We should make those who are invested in it stay and invest their time, their personal commitment to that undertaking.

Finally, the nomination process has been corrupted to a point I don't even recognize. When Chief Justice Roberts chastises the Senate for all of the judicial vacancies in America, I know what he is talking about. In my home district of Illinois, the central district, in normal times there are four district court judges. Currently, we have three vacancies. One judge, Mike McCuskey, is running all over downstate Illinois from courthouse to courthouse to try to keep the criminal calendar going. I am afraid he has little or no time for the civil calendar because of three vacancies.

Two of those vacancies the President nominated judges to fill. The judges

were considered by the Senate Judiciary Committee, reported unanimously by the Senate Judiciary Committee to the Executive Calendar, and I literally begged the Republican side of the aisle and leadership to allow these two to come up for a voice vote since there was no controversy attached with them and a judicial emergency existed in that central Illinois district. They refused. They refused, despite repeated efforts.

I then went to the other side and said: All right, you must have Republican Senators facing the same thing in their States. I found Senator CORNYN of Texas, with exactly the same circumstance. I said: JOHN, you have a noncontroversial nominee. Let's team up together, make it bipartisan so there is no question that we are trying to do anything for a partisan advantage. He said: I am with you. It was not enough. The Republican leadership still objected to filling these vacancies when a judicial emergency existed, though I asked for it repeatedly. That to me is an abuse of the process. If either of those nominees had been controversial, if this was a situation where it was a new, extra judge, some question of whether it was needed, that is another story completely. But we need a nomination process where those who are not controversial are brought up and considered in a timely fashion.

I commend my colleagues because I think each and every one of them has added to this conversation—Senators WYDEN, GRASSLEY, and MCCASKILL, on a bipartisan basis, to do away with Senate holds. Senator UDALL of New Mexico, Senator HARKIN of Iowa, and Senator MERKLEY of Oregon, who is now presiding, I think have had an excellent proposal here of five different changes that would make this a more effective Senate. Senator LAUTENBERG, who spoke just moments ago, had his own proposal. Senator UDALL of Colorado and Senator HARKIN each have a proposal.

It is time for us to sit down on a bipartisan basis to protect the rights of the minority within the Senate, but to bring the Senate procedure into a more efficient and more effective way, not just so C–SPAN viewers are not shortchanged when they sign up for C–SPAN Senate and all they get is an occasional ''Akaka'' or some other name being listed in the quorum call, but actually hear the Senate working for its money.

We can do better. I know what is going to happen now. We are likely to recess for some period of time, and an opportunity presents itself for the leaders on both sides to come together. There is room for us to reach agreement. We can say to the minority: You are going to get your chance for amendments. You always want that. You are going to get it. And we can say to our side: You are going to face some votes on amendments, like it or not. That is part of why we are here. We can have some real debate. We can have an investment in the cloture process that means it is real and personal, and that those who believe in it are taking the time to make sure the Senate continues to function as a responsible part of our government.

Mr. President, at this point I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, let me first say to our majority whip, Mr. DURBIN of Illinois, that I very much appreciate his long-term effort in looking at rules. I know he signed on to several proposals today. I know he is on the one Senator MERKLEY and I are on, and he is also on the Harkin proposal.

The Senator was here back in those days, and he has seen how much the Senate has changed. So we really appreciate the Senator's contribution to this effort and the remarkable job he has done trying to lead us in these difficult times we are in. It must be tough for somebody like him, who came to a Senate and saw it change over time, and change in the wrong way and get hyperpartisan. I want to say that to the Senator.

I also want to say several of our speakers mentioned things, and I think it is very appropriate to put them in the RECORD because I think when people read the CONGRESSIONAL RECORD, and things are mentioned, it is important they be able to find them quickly.

So the first one is from George Packer, who is a writer with the New Yorker magazine. He wrote a piece called ''The Empty Chamber'' dated August 9, 2010. I commend to my colleagues that article. It was mentioned in the course of the debate and it is an excellent article. He is a very good writer.

Secondly, one of the big scholars on Congress—there are a couple of people out there who study Congress over and over and write books and articles and monitor what we are doing, and one of them is a gentleman by the name of Norm Ornstein. Norm wrote—this was also mentioned in the course of the debate by one of the Senators—and Norm wrote a piece in the New York Times called ''A Filibuster Fix.'' That was on August 27, 2010. I ask unanimous consent that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 27, 2010]

A FILIBUSTER FIX

(By Norman Ornstein)

WASHINGTON.—After months of debate, Senate Democrats this summer broke a Republican filibuster against a bill to extend unemployment benefits. But the Republicans insisted on applying a technicality in the Senate rules that allowed for 30 more hours of floor time after a successful vote to end debate. As a result, the bill—with its desperately needed and overdue benefits for more than 2 million unemployed Americans—was pointlessly delayed a few days more.

The Senate, once the place for slow and careful deliberation, has been overtaken by a culture of obstructionism. The filibuster, once rare, is now so common that it has inverted majority rule, allowing the minority party to block, or at least delay, whatever legislation it wants to oppose. Without reform, the filibuster threatens to bring the Senate to a halt.

It is easy to forget that the widespread use of the filibuster is a recent development. From the 1920s to the 1950s, the average was about one vote to end debate, also known as a cloture motion, a year; even in the 1960s, at the height of the civil rights debates, there were only about three a year.

The number of cloture motions jumped to three a month during the partisan battles of the 1990s. But it is the last decade that has seen the filibuster become a regular part of Senate life: there was about one cloture motion a week between 2000 and 2008, and in the current Congress there have been 117—more than two a week.

Even though there might be several motions for cloture for each filibuster, there clearly has been a remarkable increase in the use of what is meant to be the Congressional equivalent of a nuclear weapon.

Filibusters aren't just more numerous; they're more mundane, too. Consider an earlier bill to extend unemployment benefits, passed in late 2009. It faced two filibusters—despite bipartisan backing and its eventual passage by a 98–0 margin. A bill that should have zipped through in a few days took four weeks, including seven days of floor debate. Or take the nomination of Judge Barbara Milano Keenan to the United States Court of Appeals for the Fourth Circuit: she, too, faced a filibuster, even though she was later confirmed 99 to 0.

Part of the problem lies with today's partisan culture, in which blocking the other party takes priority over passing legislation or confirming candidates to key positions. And part of the problem lies with changes in Senate practices during the 1970s, which allowed the minority to filibuster a piece of legislation without holding up other items of business.

But the biggest factor is the nature of the filibuster itself. Senate rules put the onus on the majority for ending a debate, regardless of how frivolous the filibuster might be.

If the majority leader wants to end a debate, he or she firsi calls for unanimous consent for cloture, basically a voice vote from all the senators present in the chamber. But if even one member of the filibustering minority is present to object to the motion, the majority leader has to hold a roll call vote. If the majority leader can't round up the necessary 60 votes, the debate continues.

Getting at least 60 senators on the floor several times a week is no mean feat given travel schedules, illnesses and campaign obligations. The most recent debate over extending unemployment benefits, for example, took so long in part because the death of Senator Robert Byrd, a Democrat from West Virginia, left the majority with only 59 votes for cloture. The filibuster was brought to an end only after West Virginia's governor appointed a replacement.

True, the filibuster has its benefits: it gives the minority party the power to block hasty legislation and force a debate on what it considers matters of national significance. So how can the Senate reform the filibuster to preserve its usefulness but prevent its abuse?

For starters, the Senate could replace the majority's responsibility to end debate with the minority's responsibility to keep it going. It would work like this: for the first four weeks of debate, the Senate would operate under the old rules, in which the majority has to find enough senators to vote for

cloture. Once that time has elapsed, the debate would automatically end unless the minority could assemble 40 senators to continue it.

An even better step would be to return to the old ''Mr. Smith Goes to Washington'' model—in which a filibuster means that the Senate has to stop everything and debate around the clock—by allowing a motion requiring 40 votes to continue debate every three hours while the chamber is in continuous session. That way it is the minority that has to grab cots and mattresses and be prepared to take to the floor night and day to keep their filibuster alive.

Under such a rule, a sufficiently passionate minority could still preserve the Senate's traditions and force an extended debate on legislation. But frivolous and obstructionist misuse of the filibuster would be a thing of the past.

Mr. UDALL of New Mexico. Let me finally say to the Senator from Oregon, the Presiding Officer, that I very much appreciate his support both in working with me on the constitutional option and sorting out the details and making sure we have things right and also for his incredible work in terms of pulling together the talking filibuster part of this. I was here today when he showed his charts, and he took our five ideas and, in the most simple form so the American people could understand it, capsulized those in those five charts.

I have been telling my staff—and you need to do this by the end of the debate—we need to find a way to shrink those and put those in the RECORD also because here we are sitting on the floor and we have these charts and we need to somehow have those be a representation also.

So with that, I yield the floor.

RULES REFORM

Mr. BENNET. Mr. President, I rise today in support of reasonable efforts to reform the Senate Rules. The American people expect us to work together to find solutions to the problems of the day. Yet anyone watching this body can plainly see that a few Senate rules no longer work.

I believe we should all be cautious and fair about respecting Senate tradition. But blindly adhering to tradition when the American people need us to take a fresh look helps no one. The rules have been changed before, when they needed to be.

Anyone watching this place over the last 2 years will tell you that a few of the rules no longer serve us. They need to be reformed.

We have seen consensus bills, supported by 80 or 90 Senators, get held up for many months because of a single Senator's secret objections.

And we have moved well beyond the intended use of the filibuster for exceptional circumstances and to provide for extended debate. In fact, the filibuster has been so corrosive to this body that we rarely ever even have debate during filibusters. The average American turns on their TV and only sees endless live quorum calls.

The American people are counting on us to get past the tired partisan bickering. This is not about Democrats and Republicans. It has to be about the American people, what is in their interests. Whether one Senator secretly holding up a nominee's career for a year is in their interests. Whether promoting filibusters that stifle, rather than promote debate, is in their interests. Whether we have to waste valuable Senate calendar days watching time run in silence, on bills everyone knows are going to pass, because the rules require it, is in the American people's interests.

In my short time in the Senate, I have offered a number of reforms which would improve the ability of this body to function and help fix our broken politics.

I introduced a rules reform proposal and have testified before our Rules Committee to explain it to colleagues on the Committee. My proposal would eliminate the filibuster on motions to proceed, that are used to stifle, rather than promote debate. I am all for extended debate, yet filibustering motions to even proceed to measures has the result of actually preventing the Senate from even addressing the important issues of the day.

My resolution would also eliminate secret holds and place a time limit on all holds by individual Senators.

And it would require filibustering Senators to actually show up and vote in order to continue to block legislation. As it is now, if you want to obstruct Senate business, you can just go home. How does this promote debate? My commonsense proposal only requires you to stand up and be counted if you want to filibuster a bill or a nomination.

I don't have a monopoly on good ideas for reform. We have colleagues who have been here for many years with a lot to add to this discussion. And it is also healthy that so many new Members are introducing their own ideas. I am hopeful that we can achieve some consensus for the good of the country.

The PRESIDING OFFICER. The Senator from Mississippi.

RUSSIA

Mr. WICKER. Mr. President, I am speaking today on a very important international foreign policy issue. That will be the subject of my address today. I wanted to come down here the first day of this legislative session, this 112th Congress, and talk about the deteriorating situation with regard to oppression and the rule of law in Russia. I have come to this floor a number of times to share my concern on this subject. I wish to begin this Congress by once again expressing my deep concern for what we see happening just in the recent days in Russia.

I remember looking back in 1990 and 1991 at the hope we had, the optimism we in the West had as we watched the Iron Curtain fall, as we watched the wall tumble in Berlin, and we watched with hope that this would be a new day for people behind the Iron Curtain and a new opportunity for freedom and openness in that society. Unfortunately, year after year, month after month, we have seen since the fall of the Soviet Union a very regrettable and disturbing deterioration in the rule of law in Russia and a move back to the authoritarian rule of old we all remember so well. Recent events in Russia once again cause us to believe this problem is escalating and have caused me to come to the floor today on this subject.

Last month, the leadership of this Senate pushed through, I think in haste, the New START treaty with Russia. I had concerns over the treaty, and I ultimately voted against it. We had a lot more debate that needed to take place. We had dozens of amendments that went undebated and unconsidered and not voted upon by this body, and I regret that. I always thought nuclear arms policy and treaties with regard to our nuclear stockpile should be based on the security of the American people and that the primary issue should be what is in the best interests of the United States. What we saw a lot of in the debate last month was instead an emphasis on New START as the centerpiece of this administration's effort to reset relations with Russia. I certainly support the resetting of our relations with Russia, but I do not believe the New START treaty was the best way to advance this.

But it should concern all of us, it should concern everyone within the sound of my voice, regardless of how we voted on New START that within 2 weeks' time of this body approving the New START treaty, a Russian court issued a second spurious guilty verdict against Mikhail Khodorkovsky and Platon Lebedev. Almost simultaneously, authorities in Russia arrested prominent Russian opposition figure, former Deputy Prime Minister Boris Nemtsov. These events took place within days of each other.

What do these recent events mean? To me, they are two other examples of the way the current Russian leadership does not respect universal values such as the rule of law or freedom of expression and assembly. The Russian Government does not share our commitment to international norms or fostering modernization. Resetting U.S.-Russian relations will be exceedingly difficult while these differences persist.

During the last Congress, I spoke several times on the trial of Mikhail Khodorkovsky and Platon Lebedev. I concluded my most recent remarks by saying that I hoped Russia would choose the right path and somehow justice would prevail in that case. Sadly, it did not. A Russian court issued another politically motivated guilty verdict against these two Russian dissidents. This disturbing verdict reveals that the Russian judiciary lacks independence and that Russian authorities

can act above the law at will. This latest verdict was not only sad for Mikhail Khodorkovsky, Platon Lebedev, and their families, but also for all people, for all of us who seek a more open Russia based on the rule of law.

Prime Minister Vladimir Putin's comments on the case before the verdict was even issued were very troubling indeed. According to the Associated Press, Russia's Prime Minister said that the crimes of the former oil tycoon have been proven—he said this before the verdict was even issued—and that a ''thief should sit in jail.'' Mr. Putin said Khodorkovsky's present punishment is more liberal than the 150-year prison sentence handed down in the United States to financier Bernard Madoff.

Citing the years of advocacy and statements from global leaders, the very respected publication The Economist explained that Putin's comments were ''a humiliating slap in the face of all those foreign dignitaries . . . who had lobbied Dmitry Medvedev, Russia's president, to stop persecuting Mr. Khodorkovsky.'' I agree with the comments contained in the publication The Economist.

In a democracy, courts are independent and the executive branch acts as a separate branch of government with no say in final court decisions. Prime Minister Putin's statement demonstrates that this separation does not exist in Russia.

As if the Khodorkovsky verdict did not make it clear enough that opposition will not be tolerated in Russia, Russian authorities arrested opposition leader and former Deputy Prime Minister Boris Nemtsov on New Year's Eve. This took place during a reportedly peaceful antigovernment rally in Moscow. Approximately 70 others were also arrested. A Moscow court sentenced former Deputy Prime Minister Nemtsov to 50 days in jail for allegedly disobeying police. This arrest was a tremendous disappointment, but it certainly was not a surprise. The Russian Government had recently begun granting permission for semiregular protests. I use the term ''semiregular'' because it was granted only for the last day of months with 31 days.

I met with Mr. Nemtsov last March when he was here in Washington. He came to my office, and we had a very enlightening discussion about the future of Russia. I admired his dedication and commitment to promoting democracy in Russia, and I hope and pray for his safety during the remaining days in a Moscow jail cell.

Sadly, we have learned that not all those who opposed the Russian Government do, in fact, return from Russian jails. Sergei Magnitsky, who was a young Russian anticorruption lawyer employed by an American law firm in Moscow who blew the whistle on the largest tax rebate fraud in Russian history perpetrated by high-level Russian officials, is an example. Magnitsky was arrested shortly after he testified to authorities. He was held in detention for nearly a year without trial, under torturous conditions, and he died in an isolation cell on November 16, 2009, in Russia.

During the 111th Congress, I joined Senators CARDIN and MCCAIN in cosponsoring the Justice for Sergei Magnitsky Act, which would freeze assets and block visas to Russian individuals responsible for Mr. Magnitsky's unfortunate death. In this, the 112th Congress, I will continue to highlight the treatment of opposition figures in Russia and the regrettable erosion of the rule of law.

I urge President Obama and Secretary of State Clinton to make the treatment of opposition figures a central part of our efforts to reset relations with Russia. In order to make progress on other issues, Russia needs to prove it is truly committed to the rule of law and the human rights of all of its citizens, including those who disagree with the government. Without this, our efforts to find common ground on other issues of mutual concern will continue to be undermined.

Mr. President, I yield the floor.

REMEMBERING ELIZABETH RIDGWAY

Mr. DURBIN. Mr. President, I wish to say a few words about Elizabeth Ridgway, an Illinoisan, educator, and hard-working employee of the Library of Congress who recently passed away. Elizabeth died on December 23, 2010, at the young age of 41.

In her role leading the Library's Educational Outreach Division, Elizabeth advocated for America's teachers and worked to provide them with better and expanded resources. In this capacity, she was responsible for administering the Teaching with Primary Sources program. In 2005, I secured authorization language to establish Teaching with Primary Sources to share with students and teachers the educational treasures of the Library of Congress. Many Illinois educators and educational facilities have participated in this program since its inception and, under Elizabeth's guidance, have been instrumental in the expansion of the program.

The numerous programs she directed now reach tens of thousands of teachers nationwide, providing them with important classroom materials, workshops, online and graduate courses, mentoring and grants. Countless students across our nation are benefitting from the Library's collections as a result of Elizabeth's work.

Librarian of Congress James H. Billington said Elizabeth ''was a pioneering humanistic educator of the Internet Age.'' He continued, ''she was admired and beloved by colleagues at all levels of the Library—and by many local librarians and K–12 teachers all over America. . . . We will deeply miss her infectious enthusiasm and selfless dedication.''

I offer my deepest condolences to Elizabeth's family, colleagues, and friends. My thoughts are with all of you. Established by her family since her untimely passing, the Elizabeth Ridgway Education Fund at the Library will help continue her legacy. The lives that she has touched, and the teachers and students who her work has empowered, will be a lasting tribute to her life and her love of education. She inspired many with her dedication and leadership, and I have every confidence that others will continue the work Elizabeth loved so much.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, in the closing days of the 111th Congress, a brief flurry of activity led to the confirmation of 19 long-pending judicial nominations. Regrettably, the stalemate that had prevented the Senate from confirming a single nomination between September 13 and December 16 resumed when Senate Republicans denied action on 19 other well-qualified, consensus judicial nominations reported by the Senate Judiciary Committee. Ultimately, these nominations were returned to the President, including 15 nominations that received unanimous or near unanimous support in the committee. I suspect that when the President renominates these qualified individuals, they will be confirmed with overwhelming bipartisan support. The only question will be why we were unable to take action on them sooner.

In his ''Year-End Report on the Federal Judiciary,'' Chief Justice Roberts rightly called attention to the problem facing many overburdened district and circuit courts across the country. The rise in judicial vacancies, which topped 110 in 2010, and an increasing number of judicial emergencies is of great concern to all Americans who seek justice from our courts.

Unfortunately, the unprecedented obstruction of judicial nominations seen in the last Congress, and the dramatic departure from the Senate's longstanding tradition of regularly considering consensus, noncontroversial nominations, marked a new chapter in what Chief Justice Roberts calls the ''persistent problem'' of filling judicial vacancies. A New York Times editorial from January 4, 2011, refers to Senate Republicans' ''refusal to give prompt consideration to noncontroversial nominees'' a ''terrible precedent.'' I agree, and I will ask that the Times' editorial be printed in the RECORD.

Nearly all of the mere 60 district and circuit court nominations the Senate was allowed to consider last year were confirmed with the overwhelming, bipartisan support of the Senate. Yet nearly a third of these nominations—19—were held up for more than 100 days, only to be confirmed unanimously. As the Times editorializes, ''apart from partisan gamesmanship, there was no reason that Republicans

held up these nominations for months only to unanimously approve nearly all of them in the waning days of the lame duck session.'' Among these nominations was that of Kimberly Mueller, nominated to fill a vacancy in the Eastern District of California. Chief Justice Roberts cited this confirmation as one of the most sorely needed. Yet for more than 7 months, the Senate was prevented from considering the nomination to fill this vacancy. Judge Mueller's nomination was unanimously reported by the Judiciary Committee in May; her nomination was unanimously confirmed on December 16. No Senator objected to her qualifications, her record, or her fitness to serve. This sort of delay is the real crisis facing the Federal judiciary.

Lifetime appointments to the Federal bench should not be granted without due consideration. No Senator, Democrat or Republican, should simply rubberstamp the nominations of any President. In the first Congress of the Bush administration, the Democratic majority worked to confirm 100 judicial nominations, turning the page on the Republicans' pocket-filibusters of the 1990s. We proceeded with regular consideration of noncontroversial, consensus nominations, most of which received unanimous support in the Senate. We confirmed 20 nominations during the lameduck session in 2002, including two controversial circuit court nominations which were favorably reported by the Senate Judiciary Committee in the lameduck session. Senate Republicans' decision in December to object to consideration of 19 judicial nominations favorably reported by the Judiciary Committee—including 15 nominations with overwhelming bipartisan support—has established a new low with regard to judicial nominations. They set back the progress we have tried to make in confirming judges.

I suspect that President Obama will renominate these qualified individuals. I hope to work with the Judiciary Committee's new ranking Republican, Senator GRASSLEY, to promptly consider and report these nominations to the full Senate. I hope that Senator GRASSLEY will work with me to ensure the timely confirmation of these and other noncontroversial, consensus nominations, which will help reduce vacancies and address the judicial crisis.

The American people turn to our courts for justice. Likewise, the Senate must return to the time-honored traditions of the Senate, and work together to secure the confirmation of the President's judicial nominations. Judicial vacancies hinder the Federal judiciary's ability to fulfill its constitutional role. Working together, we can restore the judicial confirmation process.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times Article to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 3, 2011]

THE MISSING JUDGES

The annual report on the federal judiciary by the chief justice of the United States is not a place you would normally go for political agitation. But that is just what Chief Justice John Roberts Jr. offered by using a portion of his year-end review to deplore the ''acute difficulties'' created for the justice system by the Senate's slowness in approving President Obama's nominees for federal judgeships.

Justice Roberts is right to be concerned that mounting federal court vacancies are creating crushing caseloads in some jurisdictions and hampering courts' ability to fulfill their vital role. Given his office, we understand why he did not point a partisan finger in his report. But he diluted his message a bit by suggesting that blame for this undermining of the judicial branch rests evenly with both parties. The main culprit is an unprecedented level of Republican obstructionism.

Democrats sought to block a handful of President George W. Bush's controversial nominees for circuit court seats, but were open about stating their objections, and promptly allowed up or down votes on other nominees once approved by the Judiciary Committee.

In the last Congress, Republicans typically refused to publicly explain their opposition to individual nominees and their prolonged blockade of candidates who had cleared the committee either unanimously or with just a couple of negative votes. Between Congress's return from its August recess and the start of the lame duck session, Senate Republicans consented to vote on just a single judicial nomination.

Before adjourning, Senate Republicans allowed action on 19 well-qualified nominees—some of whom had been left in limbo for nearly a year after clearing the Judiciary Committee. That was welcome progress. But apart from partisan gamesmanship, there was no reason that Republicans held up these nominations for months only to unanimously approve nearly all of them in the waning days of the lame duck session.

Partisan obstruction was also the only plausible reason that Republicans declined to allow confirmation of 15 other nominees who were considered noncontroversial and were cleared by the committee after the November election. Those nominations have been returned to the president, ensuring further delays in filling seats when those individuals are renominated and a newly reconstituted Judiciary Committee must hold new hearings.

Four other nominees approved by the committee by a party-line vote were also denied Senate consideration. That list includes Goodwin Liu, a well-qualified law professor and legal scholar whose main problem for Republicans, it seems, is his potential to fill a future Supreme Court vacancy.

The dismal net result, laments Senator Patrick Leahy, the Judiciary Committee chairman, is that the Senate confirmed just 60 district and circuit court judges—the smallest number of judges for the first two years of a presidency in more than three decades.

The Republicans' refusal to give prompt consideration to noncontroversial nominees sets a terrible precedent. It gives Democrats something to consider as they weigh possible rules changes in the Senate to curb the autopilot filibusters and secret holds that mindlessly delay essential business, like the confirmation of federal judicial nominees.

MEDICARE

Mr. GRASSLEY. Mr. President, as we begin the 112th Congress I want to discuss one of my continuing concerns with the Medicare Program. For the last 10 years, I have served most recently as ranking member and previously as the chairman of the Senate Committee on Finance, which has jurisdiction over Medicare. During this time I have led efforts to reform the Medicare payment system and realign incentives in Medicare to promote higher quality and more efficient care. Today, I would like to address one of the flaws in the Medicare payment system: the inaccuracy of the Medicare geographic adjustment factors used for physician practice expense and the adverse impact they have on rural Medicare beneficiaries' access to care. This flaw has for many years resulted in unfairly low payments to high quality areas like my own home State of Iowa and many other rural States.

Medicare payment varies from one area to another based on the geographic adjustments known as the geographic practice cost indices or GPCIs. These geographic adjustments are intended to equalize physician payment by reflecting differences in physician's practice costs. But they do not accurately represent those costs in Iowa or other rural States. They have failed to do the job. They penalize rather than equalize Medicare reimbursement in rural States and discourage physicians from practicing in areas like New Mexico, Arkansas, Missouri, and Iowa because of their unfairly low Medicare rates. Iowa is widely recognized as providing some of the highest quality care in the country yet Iowa physicians receive some of the lowest Medicare reimbursement in the country due to these inequitable geographic disparities.

I introduced legislation to correct these unwarranted geographic payment disparities in the 110th Congress, the Medicare Physician Payment Equity Act of 2008. In the 111th Congress, I introduced the Medicare Rural Health Access Improvement Act of 2009. And when the Senate Finance Committee conducted its markup of health reform legislation in the fall of 2009, I offered an amendment to reform the practice expense geographic adjustment, PE GPCI, that has caused unduly low payments in rural areas due to the inaccurate data and methodology that is used. My amendment provided more equity and accuracy in calculating this adjustment, and it provided a national solution to the problem. It was accepted unanimously by the Senate Finance Committee, and it was included in the Senate health reform bill, the Patient Protection and Affordable Care Act, PPACA, that was enacted last year.

The goal of my amendment was to assure that the statutory mandate of the Social Security Act is met and that the most recent and relevant data is used for these geographic adjusters. The language of section 3102(b) is very

specific. It requires a transitional 2-year period of limited relief to reduce the impact of the current, inequitable practice expense formula in rural areas while a broader analysis of the methodology and evaluation of the data is conducted by the Department of Health and Human Services, HHS. The Secretary is mandated to limit the impact of the existing adjustments by reflecting only one-half of the geographic differences in employee wages and rents in the PE GPCI adjustment for 2010 and 2011 and to hold harmless those localities that would otherwise see a reduction as a result of this adjustment. Most importantly, the provision requires that a longer term solution be implemented in 2012, at which time the Secretary must make appropriate adjustments to the formula to ensure accurate geographic practice expense adjustments.

This 2-year transition in 2010 and 2011 was provided to allow time for a focused, in-depth study by the Centers for Medicare and Medicaid Services, CMS, on the data and methodology used to support a revised PE GPCI formula that would be implemented by January 1, 2012. However, to date CMS has failed to make any significant changes in the sources of the data or the methodology used in calculation of the practice expense adjustment. Although CMS has acknowledged its obligations for an additional study as called for by section 3102(b), they continue to claim that their ''analysis of the current methods of establishing PE GPCIs and [their] evaluation of data that fairly and reliably establish distinctions in the cost of operating a medical practice in the different fee schedule areas meet the statutory requirements'' of section 3102(b), Federal Register, November 29, 2010, Page 73254. I strongly disagree.

When the current Medicare payment system was established, Congress decided that geographic adjustments would be appropriate to equalize physician payment by reflecting differences in physicians' practice costs, and it established the geographic practice cost indices, GPCIs, for physician work, practice expenses, and malpractice premiums. Congress also mandated that HHS use the most recent data available relating to practice expenses in calculating the geographic adjustments for physician practice costs.

However, CMS has long relied upon proxy data sources that bear little to no relevance to actual practice costs, such as using Housing and Urban Development, HUD, apartment rental data to calculate physician office rent. This doesn't have any connection with the cost of office space, let alone a physician's office. Also, the current formula only counts employee wages in four occupations: nurses, clerical personnel and medical technicians but it should reflect employee wages more accurately by also taking into account physician assistants, office administrators, and other more highly compensated specialists commonly employed in practices today. The third category, of ''other'' expense, is considered to be a national market and not adjusted. It should include expenses like office furniture and information technology that cost the same, no matter where you live, but it doesn't. And the weights used by CMS in their methodology are outdated and fail to represent physician practice expenses accurately.

Unfortunately, the more accurate calculation of practice expense costs that was intended to be achieved by my amendment also has been jeopardized by a special interest provision that was added to PPACA behind the closed doors of the majority leader during the Senate floor consideration of health reform. It addresses geographic disparities in Medicare payment but it helps just 5 States at the expense of the other 45 States. It is what I call the ''Frontier Freeloader'' provision. It improves Medicare reimbursement in these frontier States by establishing floors for the hospital wage index and the physician practice expense GPCI. A frontier State is defined as one with 50 percent or more frontier counties, defined as counties with a population per square mile of less than six.

This special deal will ensure that higher payments go to just five rural States in 2011—North Dakota, South Dakota, Montana, Wyoming and Nevada—at the expense of every other State. But the Frontier Freeloader is even more egregious because Iowa and other States like Arkansas and New Mexico that don't benefit from this provision are paying for it! So, taxpayers in your State and mine all the other 45 States—will kick in to pay for this unfair $2 billion Frontier Freeloader carve-out for five States that ends up harming all the other rural States. And that is just the cost for the next few years. The frontier States deal does not sunset, and it is not time-limited. It will continue to benefit so-called ''frontier States'' forever while taxpayers in your State and mine continue to pay the bills. It's another example of how the lack of transparency and the deals made behind closed doors to garner votes last year led to bad policies. And it became law when the President signed the health care reform bill.

I introduced legislation to eliminate the inequitable frontier freeloader provision in the last Congress and to improve Medicare beneficiaries' access to care in all rural States. The Medicare Rural Health Care Equity Act of 2010 would have eliminated this special Medicare reimbursement rate for frontier States and provided additional funds from its repeal to improve reimbursement in all rural States. Iowa provides some of the highest quality care in the country but it does not meet the definition of a frontier State. Certainly Iowa should have been helped since Medicare reimbursement for hospitals and physicians is lower in Iowa than in most of these so-called ''frontier'' States. Medicare also pays much lower rates in other rural States, like Arkansas and New Mexico, but they don't benefit from the Frontier Freeloader because they don't meet the definition of a frontier State. We should improve physician payments for all rural States, not just a select few. And it's unfair to improve hospital payments for just a few States. My legislation would have eliminated those special payments for just five States, and I will be reintroducing that legislation again soon.

The Institute of Medicine, IOM, has been asked by HHS to evaluate the accuracy of the existing geographic adjustment factors and whether the current measures and data are representative of the costs. I have prepared a statement for consideration by the IOM committee charged with this review, the Committee on Geographic Adjustment Factors in the Medicare Program. I urge the IOM to address the inaccuracy of the current geographic adjusters used for physician practice expense, the methodology and data used in their calculation, and the adverse effect of the existing practice expense geographic adjustment factor on rural access to care. I also urge IOM to review the frontier States provision and provide HHS and Congress with recommendations on specific factors that could be used to determine physician practice costs in those States in lieu of the inequitable frontier States floor.

It is my hope that the IOM will carefully consider these comments as it proceeds with its review and develops recommendations and a report to be submitted to HHS and the Congress later this year. I ask unanimous consent that my statement to the IOM be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CHUCK GRASSLEY

(Institute of Medicine, Committee on Geographic Adjustment Factors in the Medicare Program, Jan 5, 2011)

As the senior senator from Iowa and the Ranking Member of the United States Senate Committee on Finance in recent years, I appreciate the opportunity to provide this statement to the Institute of Medicine (IOM) on a study that the IOM has undertaken at the request of the Secretary of the Department of Health and Human Services (HHS) regarding the accuracy of the geographic adjustment factors used for Medicare payment.

For the last ten years, I served either as Ranking Member or as the Chairman of the Senate Committee on Finance, which has jurisdiction over Medicare. During this time, I led congressional efforts to establish more accurate geographic adjusters for Medicare physician payment and to realign incentives in Medicare to promote higher quality and more efficient care. This IOM committee has been asked to evaluate the accuracy of the geographic adjustment factors and to provide their recommendations as to whether the current measures and data are representative of the costs. I would like to address the inaccuracy of the current Medicare geographic adjustment factors used for physician practice expense, the methodology and

data used in their calculation, and the adverse effect of the existing practice expense geographic adjustment factors on rural access to care. I offer these comments for consideration by the committee as it proceeds with its review and develops its recommendations and report to HHS and Congress later this year.

MEDICARE'S FLAWED GEOGRAPHIC ADJUSTMENT FACTORS

Medicare's payment system for physicians is flawed in many ways. One of those flaws is the unjustified geographic disparities in payment that has for many years given unfairly low payments to high quality areas like my home state of Iowa and other rural states. Geographic equity in Medicare payment has been a longstanding issue of major concern to me. The new health care reform law, the Patient Protection and Affordable Care Act (PPACA), includes a provision I authored that makes some much needed changes in the calculation of the geographic adjustment factors that is intended to provide more equitable payments to physicians in rural areas and to improve access to health care for Medicare beneficiaries in rural states.

Medicare payment differences from one area to another based on the geographic adjustments known as the Geographic Practice Cost Indices (GPCIs) are intended to equalize physician payment by reflecting differences in physician's practice costs but they do not accurately represent those costs in Iowa or other rural states. They have been a dismal failure, in fact. They discourage physicians from practicing in rural areas because they create unfairly low Medicare reimbursement rates.

I introduced legislation to correct these unwarranted geographic payment disparities in the 110th Congress, the Medicare Physician Payment Equity Act of 2008, as well as the Medicare Rural Health Access Improvement Act of 2009 in the 111th Congress. In the fall of 2009, I also offered an amendment in the Senate Finance Committee markup of health reform legislation to reform the practice expense geographic adjustment that has caused unduly low payments to physicians in rural areas due to the inaccurate data and methodology that is used.

My amendment was intended to provide more equity and accuracy in calculating this adjustment as well as to provide a national solution to the problems that have arisen from the current unwarranted disparities in Medicare payment due to these geographic adjustments. The amendment was accepted unanimously by the Senate Finance Committee during markup of Senate health reform legislation in September 2009. Section 3102(b) of the Patient Protection and Affordable Care Act (PPACA) that passed the Senate and became law is based on this amendment. It requires HHS to improve the accuracy of the Practice Expense Geographic Practice Cost Index (PE GPCI) data and methodology and to examine the feasibility of using actual data or reliable survey data on office rents and non-physician staff wages. These two PE GPCI inputs, which are the only inputs adjusted to reflect local costs, currently do not measure physician costs. Instead, they rely upon proxies. The current input adjustments are not credible because of their reliance on proxy data sources rather than actual physician practice costs. As a result, some physicians are paid more and others are paid significantly less for the very same service with the same time, effort, and expertise needed to furnish that service to a Medicare beneficiary.

I urge the committee to note the wide differences in physician payment under the GPCIs as currently constructed. At the beginning of calendar year 2010, before the transitional adjustments required by PPACA, a 38.894% difference in Medicare physician payment on average existed between the highest paid and the lowest-paid Medicare Part B payment locality (Alaska and Puerto Rico) for the same Medicare service. The PE GPCI disparity for this same period was even greater, ranging from 1.441 (San Francisco) for the highest to 0.694 for the lowest (Puerto Rico) and 0.821 for the second lowest (the rest of Missouri), with 1.0 being the average. The PE GPCI for Iowa was 0.870. This means that physicians in San Francisco received a PE GPCI adjustment that was 144 percent of the average, while Iowa physicians received an adjustment of just 87 percent.

Survey findings of the American Medical Association (AMA) and others challenge this significant range in payment disparity by showing little measurable distinction in physician practice expenses throughout the country. The AMA PPIS is based on actual physician data, rather than the proxy data upon which CMS relies. Geographic distinctions in physician practice expense payment in rural areas should be supported by accurate and reliable data and calculations. I urge the committee to address this discrepancy between credible surveys, based on real physician cost data, and the PE GPCI range established by CMS.

Section 3102(b) requires a transitional two-year period of limited relief to reduce the impact of the current, inequitable practice expense formula in rural areas while a broader analysis of the methodology and evaluation of the data is conducted by HHS. The Secretary is mandated to limit the impact of the existing adjustments by reflecting only one half of the geographic differences in employee wages and rents in the PE GPCI adjustment for 2010 and 2011 and to hold harmless those localities that would otherwise see a reduction as a result of this adjustment. The provision requires that a longer-term solution be implemented in 2012, at which time the Secretary must make appropriate adjustments to the formula to ensure accurate geographic practice expense adjustments. These statutory adjustments were intended to moderate the negative effects of the existing inaccurate GPCI disparities on low-paid Medicare regions while allowing time for a focused, in-depth study by the Centers for Medicare and Medicaid Services (CMS) on the inputs, weights, and data used in the PE GPCI to support a revised formula that would be implemented as of January 1, 2012.

Congress agreed at the inception of the current Medicare payment system that, to the extent physicians practicing in the various Medicare payment localities face higher or lower practice expense burdens, reasonable distinctions in Medicare payment would be appropriate, and it established the Geographic Practice Cost Indices (GPCIs) for physician work, practice expenses, and malpractice premiums to do so. To support the PE GPCI, Congress directed the Department of Health and Human Services to "use the most recent data available relating to practice expenses . . . in different fee schedule areas." (Social Security Act, Section 1848(e)(1)(D)). The statutory requirement makes it clear that there must be a nexus between data sources and actual physician practice expenses as represented by the inputs of the PE GPCI.

However, CMS has long relied upon proxy data sources that bear little to no relevance to actual practice costs. Furthermore, the weights used by CMS are outdated and fail to represent accurately the relativity in expenses in this dynamic and ever-changing field. It is my understanding that the PE GPCI, in particular, is currently supported by data that is neither relevant to physician practices nor credible to physicians. Physicians who serve the Medicare population must bear the burden of their true practice costs while the Medicare payment system upon which they rely fails to reflect those same practice expense costs fairly and accurately.

The goal of Section 3102(b) is to assure that the statutory mandate of the Social Security Act is met and that the most recent and relevant data is used for these geographic adjusters. The language of Section 3102(b) is very specific in its directions but so far CMS has failed to make significant changes in the methodology or data used in calculation of the PE GPCI. The final CMS CY 2011 Medicare physician payment rule sets forth the results of CMS' sixth 3–year GPCI review. Although CMS acknowledged its obligations for an additional PE GPCI study under Section 3102(b) of PPACA, they stated that their "analysis of the current methods of establishing PE GPCIs and [their] evaluation of data that fairly and reliably establish distinctions in the cost of operating a medical practice in the different fee schedule areas meet the statutory requirements" of Section 3102(b) (Federal Register, November 29, 2010, Page 73254).

The most recent CMS review and analysis does not provide a new analysis and evaluation of data but merely treads old ground, looking at the PE GPCI underlying data and its weights along the lines of what other studies have already examined. For example, CMS continues to rely, with little justification, on Housing and Urban Development (HUD) section 8 apartment rent data as a proxy for physician rent even though Section 3102(b) directs CMS to evaluate "the feasibility of using actual data or reliable survey data developed by medical organizations on the costs of operating a medical practice, including office rents and non-physician staff wages in different fee schedule areas." If no suitable nationwide data on rental rates for physician office space currently exist, the IOM should recommend other approaches for CMS to use in studying this issue to come up with more reliable data than HUD apartment rents.

CMS acknowledged in the final physician payment rule for CY 2011 that there is much ongoing analysis of the PE GPCI data that could form the basis of future GPCI changes. They stated that they would "review the complete findings and recommendations from the Institute of Medicine's study of geographic adjustment factors for physician payment" along with other HHS activities and continue to study the issues as required by Section 3102(b) (Federal Register, November 29, 2010, Page 73256). CMS will consider the GPCIs for CY 2012 again in the context of their annual physician fee schedule rulemaking beginning in CY 2011 based on information that is available then.

A significantly more comprehensive analysis and detailed evaluation should be conducted for the PE GPCI study mandated by Section 3102(b) than what has been detailed by CMS in its final CY 2011 Medicare physician payment rule. New studies, data, and other approaches must exist or be developed to facilitate reliability and accuracy in identifying actual physician practice expenses and setting weights among those expenses. That is why a two-year transition was provided: to ensure that CMS would have sufficient time to do additional studies, if needed, and come up with more meaningful data than, for example, continuing to use apartment rental data which bears no relation to the cost of a physician's office. I urge the committee to provide CMS with specific recommendations for more accurate methodology that could be used to determine the PE GPCIs and obtain more reliable actual or

survey data sources to be used in these calculations.

THE INEQUITABLE FRONTIER STATES PROVISION

Unfortunately, the more accurate calculation of practice expense costs that was intended to be achieved by Section 3102(b) has been jeopardized by a special interest provision that was added to PPACA behind closed doors during the Senate floor consideration of health reform. The ''frontier states'' provision addresses geographic disparities but helps just five states at the expense of the other 45. It improves Medicare reimbursement in the so-called frontier states by establishing a permanent 1.0 floor for the PE GPCI as well as for the hospital wage index, effective January 1, 2011. A frontier state is defined as one with 50 percent or more frontier counties, defined as counties with a population per square mile of less than six. The frontier states provision ensures that higher Medicare physician payments resulting from a higher PE GPCI adjustment go to just five states in 2011—Montana, Wyoming, North Dakota, South Dakota, and Nevada.

Iowa provides some of the highest quality care in the country but it does not meet the definition of a frontier state. Yet Medicare reimbursement for hospitals and physicians is lower in Iowa than in most of these so-called frontier states. Medicare also pays much lower rates in other rural states that do not meet the definition of a frontier state.

The frontier states provision is even more egregious because taxpayers in all 50 states will help pay the estimated $2 billion cost for a provision that benefits just five states. That amount is the Congressional Budget Office cost estimate of the frontier states provision for the next ten years. A practice expense floor for rural states may be warranted but it should not be an adjustment for just a few select states. This automatic pay increase for frontier state physicians could result in reduced access for Medicare beneficiaries in nearby rural states that do not have the 1.0 PE floor if physicians migrate to those rural areas where Medicare payment has been significantly increased.

Last spring I introduced legislation, the Medicare Rural Health Care Equity Act of 2010, to eliminate the special Medicare reimbursement rates for frontier states. It is imperative to reduce unwarranted geographic disparities and base physician practice expense costs on actual or reliable survey data, not by legislative fiat that improves physician payments for just a few states. Although legislative action would be required to make changes in this regard, I urge the IOM to review this situation and provide recommendations to HHS on whether specific factors should be considered to determine physician practice costs in frontier states if such a floor did not exist.

CONCLUSION

The practice expense geographic adjustment factor has a significant impact on the health care workforce in rural areas, because it plays a major role in the ability to recruit and retain physicians in rural areas who see more patients and work longer hours for correspondingly lower pay. This in turn can result in Medicare beneficiaries in rural areas having reduced access to physicians and other health care practitioners. Twenty percent of the population lives in rural America yet only nine percent of physicians practice there. Shortages of primary care and specialty physicians currently exist in many rural areas yet unwarranted geographic payment disparities make it difficult to improve access for rural Medicare beneficiaries and other patient populations.

The existing inaccurate geographic adjustments by CMS result in unwarranted and unduly low rural reimbursement rates. More current, relevant, and accurate data sources exist and should be used by CMS to make geographic adjustments to Medicare payments, especially in the area of physician practice expense. The current geographic disparities in payment are not based on actual or reliable data, and they put rural Medicare beneficiaries at risk. I urge the committee to recommend that CMS use actual practice cost data rather than the current inaccurate proxies to ensure that Medicare payment reflects true geographic differences in physician practice costs.

START TREATY

Mr. COBURN. Mr. President, the Constitution of the United States is an amazing document. Every day I appreciate the foresight of our Founding Fathers who knew that future Presidents, of any political philosophy, would seek to expand their power and try to impose their will over the legislative branch, the branch closest to the citizens of the United States.

For this reason they added an important clause in article 2, section 2 that says ''He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur;''

Negotiators for the Strategic Arms Reduction Treaty on both sides know the terms of our Constitution, which predates both the Russian Federation and the Soviet Union it replaced.

However, as the Senate considered the Strategic Arms Reduction Treaty, or the START treaty, supporters of the treaty seemed to say that the Senate should abandon its role of advice and just focus on consent. It was repeated many times that any change, no matter how minor or no matter how much it improved the treaty, would be considered a treaty-killer as further negotiation with Russia was inexplicably taken off the table as an option.

The reasonable amendments offered by Republican Senators were all rebuffed. The supporters of the treaty repeated many times how reasonable the amendments were but that the treaty was not the appropriate time to be debating such matters. Authors of amendments involving ensuring a robust missile defense, improving verification to prevent Russia from cheating, and merely mentioning the existence of tactical nuclear weapons were all told that another day is the best time to discuss those matters. However, one of the greatest threats to United States national security is the acquisition of a tactical nuclear weapon by a terrorist organization. Since Russia has a preponderance of the world's tactical nuclear weapons, how can it be that a treaty dealing with nuclear weapons control is not the time to discuss this issue?

Supporters of the START treaty say that after it is ratified the President will be able to go and negotiate further agreements with the Russians on matters important to the United States' interest such as the tactical nuclear weapons. However, both opponents and supporters of the treaty know that there is no intention of this administration to pursue follow-on nuclear agreements with the Russian Federation. There are several reasons for this. We now have no leverage with the Russian Federation since they have already gotten a treaty favorable to their interests. Further, we will be pressing the Russians on other issues impacting our national security such as sanctions on Iran. Supporters of the treaty believe that Russia will be more amenable to our requests when history shows that Russia will act in their interest and are not concerned with existential threats to our national security.

Finally, one of the purposes of any arms treaty is to clarify and inform signatories to the treaty about capabilities and intentions of each side. However, the new START treaty neither clarifies nor informs anyone about the United States' capability and intentions with regards to a national missile defense program. It is clear that the negotiators wanted to avoid this difficult topic knowing that Russia opposes the concept of the United States being able to defend itself from a rogue missile attack. However, by avoiding the topic completely, Russia is forced to consider the mixed messages of the Obama administration withdrawing missile defense capability from Poland and statements by administration officials and Congress calling for a robust four-phase missile defense program. The treaty as written can only cause further instability and confusion on the critical issue of missile defense between the United States and the Russian Federation. Clarifying amendments from Republican Senators regarding missile defense and the United States' intention to deploy technologies against all four phases of ballistic missile flight would have helped the treaty, not killed it. Instead, the lone statement on missile defense in the preamble of the treaty clearly implies that the United States should limit its missile defense in an attempt to limit the need for offensive missiles. The United States has no intention of doing so as it is a national security threat for us to ignore the dangers posed by North Korea and Iran in this area.

Because of these many reasons, I voted against the new Start treaty. While it did pass over my objections, I hope that future Senators will not use the debate we just held in this lame-duck session of Congress as precedent to abdicate their constitutional role for international agreements.

REMEMBERING SENATOR CHARLES SUMNER

• Mr. BROWN of Massachusetts. Mr. President, today I rise to celebrate the bicentennial, January 6, 2011, of the birth of U.S. Senator Charles Sumner, who so ably represented the Commonwealth of Massachusetts in this body

from 1851 until his death in 1874. While I am honored to serve the people of Massachusetts from the physical desk once occupied by Senator Sumner, I rise today in recognition of Charles Sumner's tireless and often solitary quest for racial equality, education reform, and social justice.

By all accounts, Senator Sumner was one of this body's greatest orators; Sumner didn't give speeches, he unleashed them. According to Henry Wadsworth Longfellow, Sumner delivered remarks ''like a cannoneer ramming down cartridges.'' The target of Sumner's verbal fusillade was almost always injustice, especially slavery and the men and institutions that sought to expand or perpetuate it. Yet, even among fellow mid-19th century abolitionists, Charles Sumner's views on racial equality were considered utopian. Years before the Emancipation Proclamation, Sumner called for the abolition of slavery. Decades before the 15th amendment declared that the ''right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude'' and nearly a century before the Voting Rights Act, Sumner insisted that all Black men should have the rights of citizenship.

Charles Sumner was not born into a powerful or wealthy Massachusetts family; his upbringing in Boston was at best modest. Yet his parents insisted that Charles receive the best education available, and he was fortunate enough to attend the acclaimed Boston Latin School, where he excelled and went on to receive degrees from Harvard College and Harvard Law School. Sumner spent his late twenties travelling through Europe and England, where his intellect and education impressed leading officials with whom he formed lasting relationships that proved invaluable to the Union years later when Sumner served on the Foreign Relations Committee.

In May of 1856, Sumner became the victim of one of the most unfortunate incidents in Senate history. Days after Sumner delivered a vitriolic speech against Kansas-Nebraska Act coauthor Andrew Pickens Butler, the South Carolina Senator's nephew, a Member of the House of Representatives, approached Sumner while he was sitting at his Senate desk and beat him unconscious with a metal tipped cane. The attack left Sumner gravely injured, and he did not return to the Senate for 3 years. Sumner's ''Crime Against Kansas'' speech, and the violent retribution for it, further eroded the already strained relations between representatives of free and slave States. In his day, Senator Charles Sumner was considered an extreme, a wild-eyed dreamer whose vision of a society free of institutional racism seemed as unachievable as it was radical. Today, 200 years after his birth, we are the heirs of Charles Sumner's vision. Dozens of streets, schools, and towns across our country bear the name of this outspoken Senator from Massachusetts.

Today, the issue of education reform looms large in our Nation's consciousness. Too many of our public school systems are failing our children. We would be wise to look at the legacy of Senator Sumner. He was one of his era's most vocal advocates for high-quality public schools and argued in the Massachusetts courts for the integration of the Commonwealth's schools. He based his argument on the—at the time—novel concept that the inferior schools to which many children were relegated had lasting effects on their development. In fact, a century later this very argument would underpin our Nation's most famous civil rights case. In 1954, a young Black girl named Linda Brown was prevented from enrolling in an all-White public school that was much closer to her home than the all-Black school she was forced to attend. Her father joined a class action suit against the city's school board, and the resulting case would forever transform American society. The city was Topeka, KS. The case was Brown v. Board of Education. Ironically, the school where she had been denied was known as the Sumner Elementary School. Peering down from somewhere on high, Senator Sumner must have been pleased that injustice was not allowed to stand in his name.

At the time of his death in 1874, Sumner was still agitating for school reform and Federal legislation to repeal all discriminatory laws against Blacks and the tens of thousands of Asians who had immigrated to America and helped build our transcontinental railroad system. The late Senator Robert C. Byrd, a noted historian of the Senate, once wrote, ''After Clay, Calhoun and Webster, no nineteenth-century senator stood higher on the political horizon than did Charles Sumner, nor did any garner more praise, condemnation and controversy than that eloquent Massachusetts senator.'' Today, I am proud to celebrate the bicentennial of Sumner's birth and his incredible service in the U.S. Senate.●

ADDITIONAL STATEMENTS

TRIBUTE TO DARRELL BELL

● Mr. BAUCUS. Mr. President, today I congratulate Darrell Bell for his recent appointment as the U.S. Marshal for the District of Montana. I was pleased to see my colleagues unanimously support the nomination of such an outstanding public servant, and I am confident he will serve the State of Montana admirably. As the former Deputy Chief of Police for the City of Billings—Montana's largest community—Darrell possesses the qualities necessary to successfully lead Montana's U.S Marshal's Office.

For the last three and a half decades, Darrell has served Montana's law enforcement community with passion and expertise. Since 2006, Darrell has served as a criminal investigator for the Montana Department of Justice, Gambling Control Division. Darrell served over 30 years with the Billings Police Department, including 5 years as the Deputy Chief of Police. Originally from Joliet, Darrell graduated from the Montana Law Enforcement Academy and began his career with the Billings Police Department as a patrolman in 1974. Working his way up the ranks, Darrell has served as a sergeant and then lieutenant of the Operations Division as well as captain for the Investigations, Training, and Support Services Division. Upon the request of the Billings city administrator in 2005, then-Deputy Chief of Police Bell stepped in to become the Interim Chief of Police. Darrell has served Montana and his community on the executive boards for High-Intensity Drug Trafficking Areas and the Montana Chiefs of Police.

I received an outpouring of support for Darrell when he was nominated. After reading just a couple of these outstanding letters, I knew that we had the right man for the job. Darrell's peers described him as the ''consummate professional,'' a ''first-class leader,'' and as a person who ''is not afraid to sit down face to face and debate an issue to find a resolution.'' One letter stated that he ''leads by example and many people find his enthusiasm and dedication both inspiring and motivating.'' Montana law enforcement is clearly in good hands.

Darrell has a proven track record of bringing folks together, and working with local, State, and Federal law enforcement officials to provide a safe environment for Montana's communities. Darrell's experience and leadership in law enforcement will truly be an asset for Montana's U.S. Marshal's Office. I again congratulate Darrell and his family, wife Dawn, son Brent, and daughter Lindsay on his appointment, and I applaud his continued service to the State of Montana.●

TRIBUTE TO GENERAL CARROL H. CHANDLER

● Mr. INHOFE. Mr. President, today I wish to recognize and pay tribute to GEN Carrol H. Chandler for over 36 years of exceptional service and dedication to the U.S. Air Force. He will be retiring from Active Duty on March 1, 2011.

He currently serves as the Vice Chief of Staff of the U.S. Air Force, Washington, DC. As Vice Chief, he presides over the Air Staff and serves as a member of the Joint Chiefs of Staff Requirements Oversight Council and Deputy Advisory Working Group. He assists the Chief of Staff with organizing, training, and equipping 680,000 Active-Duty, Guard, Reserve and civilian forces serving in the United States and overseas.

A command pilot with more than 3,900 flying hours in the F–15, F–16, and

T–38, GEN ''Howie'' Chandler has commanded a major command, a numbered air force, two fighter wings, a support group and a fighter squadron—a true testament to his exceptional airmanship, leadership, and judgment. His staff assignments include tours at Headquarters Pacific Air Forces, the Pentagon, Headquarters U.S. Pacific Command, Headquarters U.S. Military Training Mission in Saudi Arabia, and Headquarters Allied Air Forces Southern Europe.

General Chandler grew up in Carthage, MS. He entered the Air Force in 1974 after graduating from the U.S. Air Force Academy. Following graduation, he attended undergraduate pilot training at Laughlin AFB, TX. He excelled throughout his training and after earning his wings was selected to remain at Laughlin AFB to teach future pilots as a T–38 instructor pilot and flight examiner. He continued as an instructor pilot and assistant operations officers at Randolph Air Force Base, TX. Then, as a testament to Captain Chandler's achievements as a T–38 instructor pilot, he was selected to fly the Air Force's premier air superiority fighter, the F–15 Eagle. Stationed at Kadena Air Base, Japan with the 67th Tactical Fighter Squadron, he continued to shine in the air and on the ground as a squadron standardization officer, flight commander, and wing flight examiner. His prowess in the air earned him a selection to become the chief of Air-to-Air Tactics Branch at Headquarters Pacific Air Forces, Hickam Air Force Base, HI. His talents were quickly realized, and he was selected to become the aide-de-camp to the commander-in-chief of U.C. Pacific Command at Camp H.M. Smith, HI, and then the Air Force aide to the Chairman of the Joint Chiefs of Staff, the Pentagon, Washington, DC, positions for which only the elite are selected. Following his assignment at the Pentagon, he was once again stationed at Kadena, where he flourished at every position he held: assistant operations officer of the 44th Tactical Fighter Squadron, chief of standardization and evaluation, operations officer of the 67th Tactical Fighter Squadron, and commander of the 44th Fighter Squadron. Having demonstrated his impeccable leadership, he was selected to be the chief of the Operations Inspection Division at Headquarters Pacific Air Forces at Hickam Air Force Base, HI, and then he deployed to Riyadh, Saudi Arabia, as the chief of Air Force Division, U.S. Central Command Forward, from 1992 to 1994.

In 1994, Colonel Chandler was selected for back-to-back-to-back commands, commanding the 554th Support Group at Nellis Air Force Base, NV, the 33rd Fighter Wing at Eglin Air Force Base, FL, and the 56th Fighter Wing at Luke Air Force Base, AZ. Now, Brigadier General Chandler was selected to become the chief of headquarters staff followed by assistant chief of staff for operations, A–3 Division, of Headquarters Allied Air Forces Southern Europe, Naples, Italy. After being promoted, Major General Chandler returned to Washington, DC to become the director for expeditionary aerospace force implementation, followed by the director of operational plans, deputy chief of staff for air and space operations. Moving from the Pentagon to Langley Air Force Base, VA, he became the director of aerospace operations. General Chandler continued to demonstrate excellence and was selected for promotion to lieutenant general and selected to command Alaskan Command, Alaskan North American Aerospace Defense Command Region, 11th Air Force and Joint Task Force, Elmendorf Air Force Base, AK. Following this assignment, he returned to Washington, DC, to lead as the deputy chief of staff for operations, plans and requirements, Headquarters U.S. Air Force. general Chandler was selected for the rank of general and asked to return once again to the Pacific theater to command the Pacific Air Forces at Hickam Air Force Base, HI. Finally, he was selected to become the second highest ranking officer in the Air Force as the Vice Chief of Staff of the Air Force, where he has served for over a year.

Under General Chandler's leadership, the Air Force handled some of our most challenging issues, including the $40 billion KC–X acquisition program, creation of Air Force Cyber Command, force structure realignment, and creation of Air Force Global Strike Command. Finally, General Chandler led the drive for what I consider the Air Force's most pressing issue: recapitalization. Through General Chandler's leadership, the Air Force secured a budget of $1.7 billion for bomber and air-to-ground weapons, acquired $8.2 billion for fighter and munitions programs, and laid the foundation for $200 million in supplemental munitions funding. The leadership, insight, and dedication of General Chandler have been instrumental in building lasting and trusting relationships with the U.S. Congress, resulting in an overall increase in U.S. national security.

The breadth and depth of General Chandler's assignments and the professionalism with which he has carried them out reflect a keen intellect, an unwavering dedication to the Air Force mission, and an unrivaled grasp of national security policies developed through both personal experience and academic instruction. General Chandler earned a master's degree in management, attended the Executive Program for General Officers at the John F. Kennedy School of Government at Harvard, and the Navy Senior Leader Business Course at the University of North Carolina at Chapel Hill. While he has received many distinguished awards and decorations, it is General Chandler's commitment and sacrifice to this Nation that make him stand out among his peers.

I have the utmost trust in and respect for General Chandler, gained over the past several years through our personal interaction during numerous meetings and hearings, including the annual Altus Quail Breakfast and meetings of the U.S. Air Force Academy's board of visitors, which I have been honored to attend. I will miss his honesty and frankness, a trait that has served him, the Air Force, and this Nation well during his time as a senior Air Force leader.

On behalf of Congress and the United States of America, I thank General Chandler, his wife Eva-Marie, and their three children, Carl, Rose-Marie, and Thomas, for their commitment, sacrifice, and contribution to this great Nation. I congratulate General Chandler on the completion of an exemplary Active-Duty career and wish him and his family Godspeed in the next phase of his life.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE APPORTIONMENT POPULATION FOR EACH STATE AS OF APRIL 1, 2010, AND THE NUMBER OF REPRESENTATIVES TO WHICH EACH STATE WOULD BE ENTITLED—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Homeland Security and Governmental Affairs:

To the Congress of the United States:

Pursuant to title 2, United States Code, section 2a(a), I transmit herewith the statement showing the apportionment population for each State as of April 1, 2010, and the number of Representatives to which each State would be entitled.

BARACK OBAMA.

THE WHITE HOUSE, *January 5, 2011.*

MESSAGES FROM THE HOUSE SUBSEQUENT TO SINE DIE ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on December 23, 2010, subsequent to the sine die adjournment of the Senate, received a

message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 3903. An act to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosures.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mrs. LINCOLN).

Under authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that pursuant to section 491 of the High Education Act (20 U.S.C. 1098(c)), as amended, and the order of the House of January 6, 2009, the Speaker appoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a term of 4 years, upon the recommendation of the Majority Leader: Ms. Deborah Stanley of Bowie Maryland.

The message also announced that pursuant to section 205(a) of the Vietnam Education Foundation Act of 2000 (Public Law 106–554), and the order of the House of January 6, 2009, the Speaker appoints the following Member of the House of Representatives to the Board of Directors of the Vietnam Education Foundation, upon the recommendation of the Majority Leader: Ms. LORETTA SANCHEZ of California.

The message further announced that pursuant to section 106 of the Higher Education Opportunity Act (Public Law 110–315) and the order of the House of January 6, 2009, the Speaker appoints the following member of the House of Representatives to the National Advisory Committee on Institutional Quality and Integrity for a term of 6 years, upon the recommendation of the Majority Leader: Dr. George T. French of Fairfield, Alabama.

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on December 23, 2010, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 847. An act to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

H.R. 2142. An act to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

H.R. 2751. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

H.R. 5809. An act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

H.R. 5901. An act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.

H.R. 6517. An act to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

H.R. 6523. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. WEBB).

MESSAGE FROM THE HOUSE

At 4:23 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to H. Res. 1, resolving that Karen L. Haas of the State of Maryland, be, and is hereby, chosen Clerk of the House of Representatives, and that Wilson S. Livingood of the Commonwealth of Virginia, be, and is hereby, chosen Sergeant-at-Arms of the House of Representatives, and that Daniel J. Strodel of the District of Columbia, be, and is hereby, chosen Chief Administrative Officer of the House of Representatives, and that Father Daniel P. Coughlin of the State of Illinois, be, and is hereby, chosen Chaplain of the House of Representatives.

The message also announced that the House has agreed to H. Res. 2, resolving that the Senate be informed that a quorum of the House of Representatives has assembled, that JOHN A. BOEHNER, a Representative from the State of Ohio, has been elected Speaker, and Karen L. Haas, a citizen of the State of Maryland, has been elected Clerk of the House of Representatives of the One Hundred Twelfth Congress.

The message further announced that pursuant to House Resolution 3, the Speaker appoints the following Members of the House of Representatives to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and that Congress is ready to receive any communication that he may be pleased to make: Mr. CANTOR of Virginia and Ms. PELOSI of California.

MEASURES HELD OVER/UNDER RULE

The following resolutions were read, and held over, under the rule:

S. Res. 8. A resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate.

S. Res. 10. A resolution to improve the debate and consideration of legislative matters and nominations in the Senate.

S. Res. 11. A resolution to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

ENROLLED BILLS PRESENTED SUBSEQUENT TO SINE DIE ADJOURNMENT

The Secretary of the Senate reported that, subsequent to the sine die adjournment of the Senate, she had presented to the President of the United States the following enrolled bills:

On December 23, 2010:

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

On December 27, 2010:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 841. An act to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for means of alerting blind and other pedestrians of motor vehicle operation.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

S. 3036. An act to establish the National Alzheimer's Project.

S. 3243. An act to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the ''First Lieutenant Robert Wilson Collins Post Office Building''.

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

S. 3903. An act to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1. A communication from the Deputy to the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Designated Reserve Ratio'' (RIN3064–AD69) received during adjournment of the Senate in the Office of

the President of the Senate on January 4, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2. A communication from the Deputy to the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' (RIN3064–AD68) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–4. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to South Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–5. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Kingdom of the Netherlands; to the Committee on Banking, Housing, and Urban Affairs.

EC–6. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Notice of Prevention of Significant Deterioration Final Determination for Russell City Energy'' (FRL No. 9245–9) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–7. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading of Allowances Program'' (FRL No. 9246–3) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–8. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; Attainment Plan for Libby, MT PM2.5 Nonattainment Area and PM10 State Implementation Plan Revisions'' (FRL No. 9246–4) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–9. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Florida; Control of Large Municipal Waste Combustor (LMWC) Emissions From Existing Facilities'' (FRL No. 9246–6) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–10. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan'' (FRL No. 9245–3) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–11. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas-Emitting Sources in State Implementation Plans; Final Rule'' (FRL No. 9244–9) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–12. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program'' (FRL No. 9245–2) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–13. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Action to Ensure Authority to Implement Title V Permitting Programs under the Greenhouse Gas Tailoring Rule'' (FRL No. 9245-4) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–14. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Mississippi: Prevention of Significant Deterioration; Gas Tailoring Rule Revision'' (FRL No. 9244–4) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–15. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Alabama: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revision'' (FRL No. 9244–5) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–16. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Kentucky: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision'' (FRL No. 9244–6) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

EC–17. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure to Submit State Implementation Plan Revisions Required for Greenhouse Gases'' (FRL No. 9244–7) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID of Nevada (for himself and Mr. MCCONNELL):

S. Res. 1. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. REID of Nevada (for himself and Mr. MCCONNELL):

S. Res. 2. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

By Mr. REID of Nevada (for himself and Mr. MCCONNELL):

S. Res. 3. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

By Mr. REID of Nevada (for himself, Mr. MCCONNELL, Mr. CARDIN, Mr. AKAKA, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MANCHIN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Mr. MORAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PRYOR, Mr. REED of Rhode Island, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 4. A resolution honoring Senator Barbara Mikulski for becoming the longest-serving female Senator in history; considered and agreed to.

By Mr. REID of Nevada:

S. Res. 5. A resolution electing Gary B. Myrick, of Virginia, as Secretary for the Majority of the Senate; considered and agreed to.

By Mr. REID of Nevada (for himself and Mr. MCCONNELL):

S. Res. 6. A resolution to make effective appointment of Senate Legal Counsel; considered and agreed to.

By Mr. REID of Nevada (for himself and Mr. MCCONNELL):

S. Res. 7. A resolution to make effective appointment of Deputy Senate Legal Counsel; considered and agreed to.

By Mr. HARKIN (for himself, Mr. DURBIN, Ms. MIKULSKI, and Mrs. SHAHEEN):

S. Res. 8. A resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate; submitted and read.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. MENENDEZ):

S. Res. 9. A resolution to permit the Senate to avoid unnecessary delay and vote on matters for which floor debate has ceased; to the Committee on Rules and Administration.

By Mr. UDALL of New Mexico (for himself, Mr. HARKIN, Mr. MERKLEY, Mr. DURBIN, Ms. KLOBUCHAR, Mr. BROWN of Ohio, Mr. BEGICH, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Mrs. SHAHEEN, Mrs. BOXER, Mr. TESTER, Mr. CARDIN, Ms. MIKULSKI, Mr. WARNER, Mr. MANCHIN, Mr. COONS, Ms. STABENOW, Mrs. HAGAN, Mr. ROCKEFELLER, Mr. CASEY, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mr. FRANKEN, and Mr. UDALL of Colorado):

S. Res. 10. A resolution to improve the debate and consideration of legislative matters and nominations in the Senate; submitted and read.

By Mr. WYDEN (for himself, Mr. GRASSLEY, Mrs. MCCASKILL, Ms. COLLINS, Mrs. GILLIBRAND, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. DURBIN, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BINGAMAN, and Mr. MANCHIN):

S. Res. 11. A resolution to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter; submitted and read.

By Mr. UDALL of Colorado (for himself, Mr. DURBIN, and Mrs. SHAHEEN):

S. Res. 12. A resolution to amend the Standing Rules of the Senate to reform the filibuster rules to improve the daily process of the Senate; to the Committee on Rules and Administration.

By Mr. FRANKEN:

S. Res. 13. A bill to require a two-fifths threshold to sustain a filibuster; to the Committee on Rules and Administration.

By Mr. REID of Nevada:

S. Con. Res. 1. A concurrent resolution providing for a conditional recess or adjournment of the Senate and an adjournment of the House of Representatives; considered and agreed to.

By Mr. KERRY:

S. Con. Res. 2. A concurrent resolution authorizing the use of the rotunda of the Capitol for an event marking the 50th anniversary of the inaugural address of President John F. Kennedy; considered and agreed to.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 3—FIXING THE HOUR OF DAILY MEETING OF THE SENATE

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 3

Resolved, That the daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 4—HONORING SENATOR BARBARA MIKULSKI FOR BECOMING THE LONGEST-SERVING FEMALE SENATOR IN HISTORY

Mr. REID of Nevada (for himself, Mr. MCCONNELL, Mr. CARDIN, Mr. AKAKA, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, MR. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MANCHIN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Mr. MORAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PRYOR, Mr. REED of Rhode Island, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 4

Whereas the Honorable Barbara Mikulski has had a long and distinguished career as a United States Senator from the State of Maryland;

Whereas Senator Mikulski was first elected to the United States Congress as a member of the House of Representatives in 1976, where she served until winning election to the Senate in 1986;

Whereas Senator Mikulski is the first woman to be elected to statewide office in Maryland;

Whereas, in the 103rd Congress, Senator Mikulski was the first woman to be elected Assistant Senate Democratic Floor Leader;

Whereas Senator Mikulski was the first woman in the Senate Democratic Leadership, serving as Secretary of the Senate Democratic Conference in the 104th through the 108th Congresses;

Whereas in 1997, Senator Mikulski became the most senior woman serving in the Senate;

Whereas Senator Mikulski is the first woman to serve on the Appropriations Committee of the Senate and the first woman to chair the Appropriations Committee's Subcommittee on Commerce, Justice, Science, and Related Agencies;

Whereas Senator Mikulski has not only had a path breaking career, but has won the admiration and respect of colleagues on both sides of the aisle for her hard work, passionate and effective advocacy, commitment to social and economic justice, and willingness to serve as a mentor and role model to other senators; and

Whereas Senator Mikulski has now surpassed the record of former Senator Margaret Chase Smith as the longest serving female Senator in the history of the United States: Now, therefore, be it

Resolved, That the Senate recognizes and honors Senator Barbara Mikulski for becoming the longest-serving female Senator in history.

SENATE RESOLUTION 5—ELECTING GARY B. MYRICK, OF VIRGINIA, AS SECRETARY FOR THE MAJORITY OF THE SENATE

Mr. REID of Nevada submitted the following resolution; which was considered and agreed to:

S. RES. 5

Resolved, That Gary B. Myrick of Virginia be, and he is hereby, elected Secretary for the Majority of the Senate.

SENATE RESOLUTION 6—TO MAKE EFFECTIVE APPOINTMENT OF SENATE LEGAL COUNSEL

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 6

That the appointment of Morgan J. Frankel of the District of Columbia to be Senate Legal Counsel, made by the President pro tempore this day, shall become effective as of January 7, 2011, and the term of service of the appointee shall expire at the end of the One Hundred Thirteenth Congress.

SENATE RESOLUTION 7—TO MAKE EFFECTIVE APPOINTMENT OF DEPUTY SENATE LEGAL COUNSEL

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 7

That the appointment of Patricia Mack Bryan of Virginia to be Deputy Senate Legal Counsel, made by the President pro tempore this day, shall become effective as of January 3, 2011, and the term of service of the appointee shall expire at the end of the One Hundred Thirteenth Congress.

SENATE RESOLUTION 8—AMENDING THE STANDING RULES OF THE SENATE TO PROVIDE FOR CLOTURE TO BE INVOKED WITH LESS THAN A THREE-FIFTHS MAJORITY AFTER ADDITIONAL DEBATE

Mr. HARKIN (for himself, Mr. DURBIN, Ms. MIKULSKI, and Mrs. SHAHEEN) submitted the following resolution; which was submitted and read:

S. RES. 8

Resolved,

SECTION 1. SENATE CLOTURE MODIFICATION.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

''2. (a) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question: 'Is it the sense of the Senate that the debate shall be brought to a close?' And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business.

''Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

''After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The thirty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the majority and minority leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

''If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

''No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

''Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the majority or minority leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

''Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

''After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

''(b)(1) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent motions to bring debate to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent cloture motions on any measure, motion, or other matter pending before the Senate, except by unanimous consent, until the previous motion has been disposed of.

''(2) Such subsequent motions shall be made in the manner provided by, and subject to the provisions of, subparagraph (a), except that the affirmative vote required to bring to a close debate upon that measure, motion, or other matter, or unfinished business (other than a measure or motion to amend Senate rules) shall be reduced by three votes on the second such motion, and by three additional votes on each succeeding motion, until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn. The required vote shall then be an affirmative vote of a majority of the Senators duly chosen and sworn. The requirement of an affirmative vote of a majority of the Senators duly chosen and sworn shall not be further reduced upon any vote taken on any later motion made pursuant to this subparagraph with respect to that measure, motion, matter, or unfinished business.''.

SEC. 2. SPECIAL CONSIDERATION OF AMENDMENTS POSTCLOTURE.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end the following:

''After debate has concluded under this paragraph but prior to final disposition of the pending matter, the Majority Leader and the Minority Leader may each offer not to exceed 3 amendments identified as leadership amendments if they have been timely filed under this paragraph and are germane to the matter being amended. Debate on a leadership amendment shall be limited to 1 hour equally divided. A leadership amendment may not be divided.''.

SENATE RESOLUTION 9—TO PERMIT THE SENATE TO AVOID UNNECESSARY DELAY AND VOTE ON MATTERS FOR WHICH FLOOR DEBATE HAS CEASED

Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 9

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by—

(1) inserting after the second undesignated subparagraph the following:

''Following the filing of the cloture motion and prior to the cloture vote, as long as the matter on which cloture has been filed remains the pending matter—

''(1) there shall be no dilatory motion, including dilatory quorum calls, in order; and

''(2) if, at any time, no Senator seeks recognition on the floor, it shall be in order for the Majority Leader to put the question on cloture as long as any applicable filing deadline for first degree amendments has passed.''; and

(2) inserting after the fifth undesignated subparagraph (after the amendment by paragraph (1)) the following:

''If, at any time after cloture is invoked on an executive nomination or a motion to proceed, no Senator seeks recognition on the floor, it shall be in order for the Majority Leader to put the question on which cloture has been invoked.''.

SENATE RESOLUTION 10—TO IMPROVE THE DEBATE AND CONSIDERATION OF LEGISLATIVE MATTERS AND NOMINATIONS IN THE SENATE

Mr. UDALL of New Mexico (for himself, Mr. HARKIN, Mr. MERKLEY, Mr. DURBIN, Ms. KLOBUCHAR, Mr. BROWN of Ohio, Mr. BEGICH, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Mrs. SHAHEEN, Mrs. BOXER, Mr. TESTER, Mr. CARDIN, Ms. MIKULSKI, Mr. WARNER, Mr. MANCHIN, Mr. COONS, Ms. STABENOW, Mrs. HAGAN, Mr. ROCKEFELLER, Mr. CASEY, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mr. FRANKEN, and Mr. UDALL of Colorado) submitted the following resolution; which was submitted and read:

S. RES. 10

Resolved,

SECTION 1. DEBATE ON MOTIONS TO PROCEED.

Rule VIII of the Standing Rules of the Senate is amended by striking paragraph 2 and inserting the following:

''2. Debate on a motion to proceed to the consideration of any matter, and any debatable motion or appeal in connection therewith, shall be limited to not more than 2 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees except for a motion to go into executive session to consider a specified item of executive business and a motion to proceed to consider any privileged matter, which shall not be debatable.''.

SEC. 2. ELIMINATING SECRET HOLDS.

Rule VIII of the Standing Rules of the Senate is amended by inserting at the end the following:

''3. No Senator may object on behalf of another Senator without disclosing the name of that Senator.''.

SEC. 3. RIGHT TO OFFER AMENDMENTS.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end the following:

''After debate has concluded under this paragraph but prior to final disposition of the pending matter, the Majority Leader and the Minority Leader may each offer not to exceed 3 amendments identified as leadership amendments if they have been timely filed under this paragraph and are germane to the matter being amended. Debate on a leadership amendment shall be limited to 1 hour equally divided. A leadership amendment may not be divided.''.

SEC. 4. EXTENDED DEBATE.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended—

(1) by striking the second undesignated paragraph and inserting the following:

'' 'Is it the sense of the Senate that the debate shall be brought to a close?' And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then cloture has been invoked. If that question shall be decided in the negative the Senate shall enter a period of continuous debate on the measure, motion, or other matter pending before the Senate, or the unfinished business. A period of continuous debate shall continue as long as the subject of the cloture vote is the pending business. During a period of continuous debate, if a Senator seeks recognition to speak, that Senator shall be recognized and the Presiding Officer shall not entertain any motion or quorum calls. If during a period of continuous debate, no Senator seeks recognition, then the Presiding Officer shall note that the period of continuous debate has ended and cloture shall be considered invoked.''; and

(2) in the last undesignated paragraph by inserting ''or during a period of continuous debate'' after ''is invoked''.

SEC. 5. POST CLOTURE DEBATE ON NOMINATIONS.

The second undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end the following: ''If the matter on which cloture is invoked is a nomination, the period of time for debate shall be 2 hours.''.

SENATE RESOLUTION 11—TO ESTABLISH AS A STANDING ORDER OF THE SENATE THAT A SENATOR PUBLICLY DISCLOSE A NOTICE OF INTENT TO OBJECTING TO ANY MEASURE OR MATTER

Mr. WYDEN (for himself, Mr. GRASSLEY, Mrs. MCCASKILL, Ms. COLLINS, Mrs. GILLIBRAND, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. DURBIN, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BINGAMAN, and Mr. MANCHIN) submitted the following resolution; which was submitted and read:

S. RES. 11

Resolved,

SECTION 1. ELIMINATING SECRET SENATE HOLDS.

(a) IN GENERAL.—

(1) COVERED REQUEST.—This standing order shall apply to a notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request of a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator's name; and

(B) not later than 1 session day after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—To be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

''I, Senator _____, intend to object to _____, dated _____. I will submit a copy of this notice to the Legislative Clerk and the Congressional Record within 1 session day and I give my permission to the objecting Senator to object in my name.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date that the notice of intent to object is submitted.

(b) CALENDAR.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from the notice of intent to object to the applicable Calendar section entitled ''Notices of Intent to Object to Proceeding'' created by Public Law 110–81. Each section shall include the name of each Senator filing a notice under subsection (a)(2)(B), the measure or matter covered by the calendar to which the notice of intent to object relates, and the date the notice of intent to object was filed.

(c) REMOVAL.—A Senator may have a notice of intent to object relating to that Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

''I, Senator _____, do not object to _____, dated _____.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Congressional Record under this subsection.

(d) OBJECTING ON BEHALF OF A MEMBER.—If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2)(B) within 1 session day following an objection to a covered request by the leader or his or her designee on that Senator's behalf, the Legislative Clerk shall list the Senator who made the objection to the covered request in the applicable ''Notice of Intent to Object to Proceeding'' calendar section.

SENATE RESOLUTION 12—TO AMEND THE STANDING RULES OF THE SENATE TO REFORM THE FILIBUSTER RULES TO IMPROVE THE DAILY PROCESS OF THE SENATE

Mr. UDALL of Colorado (for himself, Mr. DURBIN, and Mrs. SHAHEEN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 12

Whereas the Senate has operated under the cloture rules for many decades;

Whereas there has been a marked increase in the use of the filibuster in recent years;

Whereas sweeping, monumental legislation affecting economic recovery, reform of the healthcare system, reform of the financial regulatory system, and many other initiatives all were enacted in the 111th Congress after overcoming filibusters;

Whereas both parties have used the filibuster to prevent the passage of controversial legislation and confirmation of qualified nominees;

Whereas the Senate rules regarding cloture serve the legitimate purpose of protecting the rights of the minority;

Whereas there are many areas where the rules of the Senate have been abused, and can make way for changes that will improve the daily process of the Senate; and

Whereas bipartisan cooperation can overcome nearly any obstacle in the United States Senate, changing the Senate rules must also be done with bipartisan cooperation: Now, therefore, be it

Resolved,

SECTION 1. CHANGING VOTE THRESHOLD TO PRESENT AND VOTING.

The second undesignated subparagraph of paragraph 2 of rule XXII of the Standing

Rules of the Senate is amended by striking ''duly chosen and sworn'' and inserting ''present and voting''.

SEC. 2. MOTIONS TO PROCEED.

Paragraph 2 of rule VIII of the Standing Rules of the Senate is amended to read as follows:

''2. Debate on a motion to proceed to the consideration of any matter, and any debatable motion or appeal in connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees except for—

''(1) a motion to proceed to a proposal to change the Standing Rules which shall be debatable; and

''(2) a motion to go into executive session to consider a specified item of executive business and a motion to proceed to consider any privileged matter which shall not be debatable.''.

SEC. 3. NO FILIBUSTER AFTER COMPLETE SUBSTITUTE IS AGREED TO.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end the following:

''If a complete substitute amendment for a measure is agreed to after consideration under cloture, the Senate shall proceed to a final disposition of the measure without intervening action or debate except one quorum call if requested.''.

SEC. 4. NO FILIBUSTER RELATED TO COMMITTEES ON CONFERENCE.

Rule XXVIII of the Standing Rules of the Senate is amended by inserting at the end the following:

''10.(a) Upon the majority leader making a motion to disagree with a House amendment or amendments or insist on a Senate amendment or amendments, request a conference with the House, or agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the chair be authorized to appoint conferees on the part of the Senate, debate on the motion, and any debatable motion or appeal in connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

''(b) A motion made by the majority leader pursuant to subparagraph (a) shall not be divisible and shall not be subject to amendment.''.

SEC. 5. TIME PRECLOTURE.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended—

(1) in the first subparagraph of paragraph 2, by striking ''one hour after the Senate meets on the following calendar day but one'' and inserting ''24 hours after the filing of the motion''; and

(2) in the third undesignated paragraph, by striking the second sentence and inserting ''Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk 12 hours following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least 1 hour prior to the beginning of the cloture vote if an amendment in the second degree.''.

SEC. 6. DIVISION OF TIME POSTCLOTURE.

The fourth undesignated subparagraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting ''(to be equally divided between the majority and the minority)'' after ''thirty hours of consideration''.

SEC. 7. ELIMINATING DEBATE TIME POSTCLOTURE ON NOMINATIONS.

The second undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end the following: ''If the matter on which cloture is invoked is a nomination, the Senate shall immediately proceed to vote on final disposition of the nomination upon invoking cloture on the nomination under this paragraph.''.

SEC. 8. ALLOWING COMMITTEES TO MEET WITHOUT CONSENT.

Paragraph 5 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) striking subparagraph (a); and

(2) redesignating subparagraphs (b) through (e) as subparagraphs (a) through (d), respectively.

SEC. 9. READING OF AMENDMENTS.

Paragraph 1 of rule XV of the Standing Rules of the Senate is amended by inserting at the end the following:

''(c) The reading of an amendment may be waived by a nondebatable motion if the amendment has been printed in the Congressional Record and available for at least 24 hours before the motion.''.

SEC. 10. ALLOWING AMENDMENTS WHEN AMENDMENTS PENDING BY A LIMITED MOTION.

Rule XV of the Standing Rules of the Senate is amended by adding at the end the following:

''6.(a) If an amendment is pending and except as provided in subparagraph (b), a nondebateable motion shall be in order to set aside any pending amendments in order to offer another germane amendment. No Senator shall offer more than 1 such motion in any calendar day and the Senate shall consider not more than 5 such motions in any calendar day.

''(b)(1) A nondebateable motion shall be in order to waive the requirement of germaneness under subparagraph (a).

''(2) A waiver motion under this subparagraph shall require three-fifths of the Senators duly chosen and sworn.

''(c) An affirmative vote of three-fifths of the Senators duly chosen and sworn shall be required to sustain an appeal of a ruling by the chair on a point of order raised under this paragraph.''.

SENATE RESOLUTION 13—A BILL TO REQUIRE A TWO-FIFTHS THRESHOLD TO SUSTAIN A FILIBUSTER

Mr. FRANKEN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 13

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

The second undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking ''And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn'' and inserting ''And if that question is decided in the affirmative and there are not negative votes by more than two-fifths of the Senators duly chosen and sworn''.

SENATE CONCURRENT RESOLUTION—PROVIDING FOR A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. REID of Nevada submitted the following concurrent resolution; which was considered and agrees to:

S. CON. RES. 1

Resolved, by the Senate of the United States (the House of Representatives concurring), (That (a) when the Senate adjourns or recesses on any day from Wednesday, January 5, 2011, through Monday, January 10, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned or recessed until 10 a.m. on Tuesday, January 25, 2011, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and

(b) when the House adjourns on the legislative day of Wednesday, January 12, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, January 18, 2011, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; and when the House adjourns on any legislative day from Wednesday, January 26, 2011, through Friday, January 28, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 8, 2011, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 2. (a) The Majority Leader of the Senate, or his designee, after consultation with the Minority Leader of the Senate, or his designee, shall notify the Members of the Senate to reassemble at such place and time as he may designate if, in his opinion, the public interest shall warrant it.

(b) After reassembling pursuant to subsection (a), when the Senate recesses or adjourns on a motion offered pursuant to this subsection by its Majority Leader or his designee, the Senate shall again stand recessed or adjourned pursuant to the first section of this concurrent resolution.

SEC. 3. The Speaker or his designee, after consultation with the Minority Leader of the House, shall notify Members of the House to reassemble at such place and time as he may designate if, in his opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 2—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR AN EVENT MARKING THE 50TH ANNIVERSARY OF THE INAUGURAL ADDRESS OF PRESIDENT JOHN F. KENNEDY

Mr. KERRY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 2

Whereas John Fitzgerald Kennedy was elected to the United States House of Representatives and served from January 3, 1947, to January 3, 1953, until he was elected by the Commonwealth of Massachusetts to the Senate where he served from January 3, 1953, to December 22, 1960;

Whereas on November 8, 1960, John Fitzgerald Kennedy was elected as the 35th President of the United States; and

Whereas on January 20, 1961, President Kennedy was sworn in as President of the United States and delivered his inaugural address at 12:51 p.m., a speech that served as a clarion call to service for the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL FOR AN EVENT HONORING PRESIDENT KENNEDY.

The rotunda of the United States Capitol is authorized to be used on January 20, 2011, for

a ceremony in honor of the 50th anniversary of the inaugural address of President John F. Kennedy. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

PRIVILEGES OF THE FLOOR

Mr. MERKLEY. Mr. President, I ask unanimous consent that Kayti Fan be granted the privilege of the floor for the remainder of today.

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

Mr. WICKER. Mr. President, I ask unanimous consent that Josh Davis, a legislative fellow on my staff, be granted privileges of the floor during the remainder of today's session.

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

NOTICE: REGISTRATION OF MASS MAILINGS

The filing date for 2010 fourth quarter Mass Mailings is Tuesday, January 25, 2011. If your office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 9 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

AUTHORIZING USE OF THE ROTUNDA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 2.

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

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 2) authorizing the use of the rotunda of the Capitol for an event marking the 50th anniversary of the inaugural address of President John F. Kennedy.

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

Mr. REID. Mr. President, we run through these resolutions, and sometimes don't understand the importance of what we do to individuals. I just read about a half an hour ago one of the nicest letters I have ever received from Caroline Kennedy regarding this. When I think of Ted Kennedy, when I came to the Senate he was somebody I could never believe I would be working with. As you come into my Capitol office, as you walk in the door, I have a letter that was sent to me by President Kennedy between the time he was elected and before he was inaugurated. Ted used to come in to my office and many times he would look at that letter from his brother. He said, ''And that's his real signature.'' It was a letter to me congratulating me on establishing the first Young Democrat Club at Utah State University. And then to have this wonderful letter from Caroline.

These things we do affect people and there is no better example than that nice letter I got from Caroline today regarding her father and saying thanks for doing this for my father.

I further ask that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to this measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 2) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 2

Whereas John Fitzgerald Kennedy was elected to the United States House of Representatives and served from January 3, 1947, to January 3, 1953, until he was elected by the Commonwealth of Massachusetts to the Senate where he served from January 3, 1953, to December 22, 1960;

Whereas on November 8, 1960, John Fitzgerald Kennedy was elected as the 35th President of the United States; and

Whereas on January 20, 1961, President Kennedy was sworn in as President of the United States and delivered his inaugural address at 12:51 p.m., a speech that served as a clarion call to service for the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL FOR AN EVENT HONORING PRESIDENT KENNEDY.

The rotunda of the United States Capitol is authorized to be used on January 20, 2011, for a ceremony in honor of the 50th anniversary of the inaugural address of President John F. Kennedy. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the chairman of the Select Committee on Intelligence, and pursuant to the provisions of Public Law 107–306, as amended by Public Law 111–259, announces the appointment of the following individuals to serve as members of the National Commission for Review of Research and Development Programs of the United States Intelligence Community: Gilman Louie of California and Troy Wade of Nevada.

BEGINNING THE 112TH CONGRESS

Mr. REID. Mr. President, this has been an exciting day, the beginning of the 112th Congress. It has been I think a historic day. The debate has been very good. The exchange between the Republican leader and I set the stage, I hope—at least that is what I believe—for the conversation that came later from Democrats and Republicans about how this place is going to run. I think that has been very constructive for the Senate and for the country.

ORDERS FOR TUESDAY, JANUARY 25, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess under the provisions of S. Con. Res. 1, until 10 a.m. on Tuesday, January 25; that following the prayer and the pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each; I finally ask that the Senate recess from 12:30 to 2:15 p.m. to allow for the weekly caucus meetings on that date.

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

PROGRAM

Mr. REID. Mr. President, rollcall votes are possible on Tuesday, January 25. Senators will be notified when votes are scheduled.

RECESS UNTIL TUESDAY, JANUARY 25, 2011, AT 10 A.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it recess under the previous order.

There being no objection, the Senate, at 7:33 p.m., recessed until Tuesday, January 25, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

JIMMIE V. REYNA, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HALDANE ROBERT MAYER, RETIRED.

VICTORIA FRANCES NOURSE, OF WISCONSIN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT, VICE TERENCE T. EVANS, RETIRED.

GOODWIN LIU, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE A NEW POSITION CREATED BY PUBLIC LAW 110–117, APPROVED JANUARY 7, 2008.

JAMES E. GRAVES, JR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE RHESA H. BARKSDALE, RETIRED.

CAITLIN JOAN HALLIGAN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE JOHN G. ROBERTS, JR., ELEVATED.

EDWARD CARROLL DUMONT, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE PAUL R. MICHEL, RETIRED.

BERNICE BOUIE DONALD, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE RONALD LEE GILMAN, RETIRED.

SUSAN L. CARNEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE BARRINGTON D. PARKER, RETIRED.

ARENDA L. WRIGHT ALLEN, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA, VICE JEROME B. FRIEDMAN, RETIRED.

ANTHONY J. BATTAGLIA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE M. JAMES LORENZ, RETIRED.

CATHY BISSOON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE THOMAS M. HARDIMAN, ELEVATED.

JAMES EMANUEL BOASBERG, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE THOMAS F. HOGAN, RETIRED.

VINCENT L. BRICCETTI, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE KIMBA M. WOOD, RETIRED.

LOUIS B. BUTLER, JR., OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WISCONSIN, VICE JOHN C. SHABAZ, RETIRED.

CLAIRE C. CECCHI, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY, VICE JOSEPH A. GREENAWAY, ELEVATED.

EDWARD MILTON CHEN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE MARTIN J. JENKINS, RESIGNED.

MAX OLIVER COGBURN, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA, VICE LACY H. THORNBURG, RETIRED.

MAE A. D'AGOSTINO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE FREDERICK J. SCULLIN, JR., RETIRED.

ROY BALE DALTON, JR., OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA, VICE HENRY LEE ADAMS, JR., RETIRED.

SARA LYNN DARROW, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS, VICE JOE B. MCDADE, RETIRED.

EDWARD J. DAVILA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE MARILYN HALL PATEL, RETIRED.

CHARLES BERNARD DAY, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE PETER J. MESSITTE, RETIRED.

MARCO A. HERNANDEZ, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON, VICE GARR M. KING, RETIRED.

PAUL KINLOCH HOLMES III, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS, VICE ROBERT T. DAWSON, RETIRED.

MARK RAYMOND HORNAK, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE DONETTA W. AMBROSE , RETIRED.

AMY BERMAN JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE GLADYS KESSLER, RETIRED.

RICHARD BROOKE JACKSON, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE PHILLIP S. FIGA, DECEASED.

STEVE C. JONES, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE ORINDA D. EVANS, RETIRED.

JOHN A. KRONSTADT, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE FLORENCE—MARIE COOPER, DECEASED.

ROBERT DAVID MARIANI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, VICE JAMES M. MUNLEY, RETIRED.

MARINA GARCIA MARMOLEJO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE SAMUEL B. KENT, RESIGNED .

JOHN J. MCCONNELL, JR., OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND, VICE ERNEST C. TORRES, RETIRED.

SUE E. MYERSCOUGH, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS, VICE JEANNE E. SCOTT, RESIGNED.

JOHN ANDREW ROSS, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI, VICE CHARLES A. SHAW, RETIRED.

ESTHER SALAS, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY, VICE KATHARINE SWEENEY HAYDEN, RETIRED.

DIANA SALDANA, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE GEORGE P. KAZEN, RETIRED.

JAMES E. SHADID, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS, VICE MICHAEL M. MIHM, RETIRED.

KEVIN HUNTER SHARP, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE, VICE ROBERT L. ECHOLS, RETIRED.

MICHAEL H. SIMON, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON, VICE ANCER L. HAGGERTY, RETIRED.

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE JACK T. CAMP, JR., RETIRED.

MICHAEL FRANCIS URBANSKI, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA, VICE NORMAN K. MOON, RETIRED.

KATHLEEN M. WILLIAMS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE DANIEL T.K. HURLEY, RETIRED.

DEPARTMENT OF JUSTICE

VIRGINIA A. SEITZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JACK LANDMAN GOLDSMITH III, RESIGNED.

ANDREW L. TRAVER, OF ILLINOIS, TO BE DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES. (NEW POSITION)

DENISE ELLEN O'DONNELL, OF NEW YORK, TO BE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE, VICE DOMINGO S. HERRAIZ, RESIGNED.

TIMOTHY J. FEIGHERY, OF NEW YORK, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2012, VICE MAURICIO J. TAMARGO, TERM EXPIRED.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

JAMES XAVIER DEMPSEY, OF CALIFORNIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2016. (NEW POSITION)

ELISEBETH COLLINS COOK, OF ILLINOIS, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2014. (NEW POSITION)

DEPARTMENT OF JUSTICE

JAMES MICHAEL COLE, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ATTORNEY GENERAL, VICE DAVID W. OGDEN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF DEFENSE

MICHAEL VICKERS, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE, VICE JAMES R. CLAPPER.

JO ANN ROONEY, OF MASSACHUSETTS, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS, VICE MICHAEL L. DOMINGUEZ.

FEDERAL RESERVE SYSTEM

PETER A. DIAMOND, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2000, VICE FREDERIC S. MISHKIN.

DEPARTMENT OF COMMERCE

KATHRYN D. SULLIVAN, OF OHIO, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE PHILLIP A. SINGERMAN.

MARINE MAMMAL COMMISSION

FRANCES M.D. GULLAND, OF CALIFORNIA, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2012, VICE VERA ALEXANDER, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

ANN D. BEGEMAN, OF VIRGINIA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2015, VICE CHARLES D. NOTTINGHAM, TERM EXPIRED.

DEPARTMENT OF ENERGY

PETER BRUCE LYONS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY), VICE WARREN F. MILLER, JR., RESIGNED.

DEPARTMENT OF THE INTERIOR

DANIEL M. ASHE, OF MARYLAND, TO BE DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE, VICE SAMUEL D. HAMILTON.

UNITED STATES TAX COURT

MAURICE B. FOLEY, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

JENNI RANE LECOMPTE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MICHELE A. DAVIS, RESIGNED.

DEPARTMENT OF STATE

KURT WALTER TONG, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL FOR THE ASIA-PACIFIC ECONOMIC COOPERATION (APEC) FORUM.

OVERSEAS PRIVATE INVESTMENT CORPORATION

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2013, VICE DIANNE I. MOSS, TERM EXPIRED.

DEPARTMENT OF STATE

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM.

DAVID BRUCE SHEAR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

DEPARTMENT OF VETERANS AFFAIRS

ALLISON A. HICKEY, OF VIRGINIA, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS, VICE PATRICK W. DUNNE, RESIGNED.

DEPARTMENT OF STATE

DANIEL L. SHIELDS III, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

PAMELA L. SPRATLEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ERIC G. POSTEL, OF WISCONSIN, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE JACQUELINE ELLEN SCHAFER, RESIGNED.

OVERSEAS PRIVATE INVESTMENT CORPORATION

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011, VICE C. WILLIAM SWANK, TERM EXPIRED.

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2014. (REAPPOINTMENT)

DEPARTMENT OF STATE

NILS MAARTEN PARIN DAULAIRE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES ON THE EXECUTIVE BOARD OF THE WORLD HEALTH ORGANIZATION, VICE JOXEL GARCIA.

SUE KATHRINE BROWN, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONTENEGRO.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MARTHA WAGNER WEINBERG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE HERMAN BELZ, TERM EXPIRED.

NATIONAL COUNCIL ON DISABILITY

CLYDE E. TERRY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013, VICE JOHN R. VAUGHN, RESIGNED.

DEPARTMENT OF LABOR

LEON RODRIGUEZ, OF MARYLAND, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, VICE PAUL DECAMP.

NATIONAL SCIENCE FOUNDATION

CORA B. MARRETT, OF WISCONSIN, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION, VICE KATHIE L. OLSEN.

NATIONAL COUNCIL ON DISABILITY

JANICE LEHRER-STEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013, VICE VICTORIA RAY CARLSON, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

KELVIN K. DROEGEMEIER, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2016. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PAULA BARKER DUFFY, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE HARVEY KLEHR, TERM EXPIRED.

AARON PAUL DWORKIN, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014, VICE KAREN LIAS WOLFF, TERM EXPIRED.

CATHY N. DAVIDSON, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE MARVIN BAILEY SCOTT, TERM EXPIRED.

CONSTANCE M. CARROLL, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE TAMAR JACOBY, TERM EXPIRED.

ALBERT J. BEVERIDGE III, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE JAMES DAVISON HUNTER, TERM EXPIRED.

NATIONAL MEDIATION BOARD

THOMAS M. BECK, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2013, VICE ELIZABETH DOUGHERTY, TERM EXPIRED.

NATIONAL LABOR RELATIONS BOARD

TERENCE FRANCIS FLYNN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2015, VICE PETER SCHAUMBER, TERM EXPIRED.

LAFE E. SOLOMON, OF MARYLAND, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD, VICE RONALD E. MEISBURG, RESIGNED.

OFFICE OF SPECIAL COUNSEL

CAROLYN N. LERNER, OF MARYLAND, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS, VICE SCOTT J. BLOCH, RESIGNED.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

STEPHANIE O'SULLIVAN, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE, VICE DAVID C. GOMPERT, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

STEVE L. MURO, OF CALIFORNIA, TO BE UNDER SECRETARY OF VETERANS AFFAIRS FOR MEMORIAL AFFAIRS, VICE WILLIAM F. TUERK, RESIGNED.