wealthy and well-connected while attacking the programs for working families. That is unacceptable, and I and others will rise on this floor and point it out time and time again, that using that simple ruse by saying only the appropriations bills on the table but not the tax bill is unacceptable.

I am going to tell you that it must not be that we make our kids' education more expensive by diminishing Pell grants, that we make our parents' health care more expensive by obliterating Medicare as we know it, that we impoverish the future of this Nation by not investing in our infrastructure, while continuing to defend the programs that were developed for the best off, the wealthy, and the well-connected over the last 25 years and saying those are off the table. They must be on the table. We must fight for an America that works for working Americans.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I ask unanimous consent that I be permitted to speak as if in morning business.

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

## PALESTINE

Ms. COLLINS. Madam President, last night, the Senate unanimously approved S. Res. 185, a resolution I introduced with my colleague from Maryland, Senator CARDIN. Our resolution sends a clear message to the Palestinian Authority that any effort to seek unilateral recognition at the United Nations will have serious consequences for future American aid to the Palestinians.

The United States provides nearly $550 million each year in bilateral assistance to the Palestinians. This aid is not an entitlement, particularly at a time when we have an unsustainable debt of some $14 trillion. Rather, this aid is predicated on a good-faith commitment from the Palestinians to the peace process.

By unanimously passing our resolution last evening, the Senate has sent an unmistakable message that efforts by the Palestinians to seek independent statehood outside of direct negotiations with Israel do not reflect good-faith actions toward peace.

Negotiations have been a fundamental principle of the peace process. It was in September of 1993 when Yasser Arafat committed to Israeli Prime Minister Rabin that outstanding issues would be resolved through negotiations. This principle has also underpinned the Oslo Accords, the Road Map for Peace, and other Middle East peace efforts.

We want to see a true and lasting peace between two states—a democratic Jewish State of Israel and a viable democratic Palestinian State. Since 2002, it has been the policy of our country to support a two-state solution to the Palestinian-Israeli conflict, but the road to peace is through negotiations, not by subverting them and making a unilateral case before the United Nations.

Unfortunately, the United Nations has a well-documented record of being hijacked to chastise Israel, one of America's closest allies. In total, the United States, under Presidents of both political parties, has been forced to veto 11 different U.N. Security Council resolutions regarding the Palestinian-Israeli conflict.

I am pleased to note that the current U.S. Ambassador to the U.N., Susan Rice, has vetoed the latest U.N. resolution regarding settlements, which, like Palestinian statehood, is the key issue in the peace process. The resolution passed by the Senate urges the President to maintain this strong position and to announce his unwavering intent to veto any resolution that is not the result of direct negotiations between Israel and the Palestinians.

I wish to thank Senator CARDIN for working with me in drafting this resolution. When Senator CARDIN and I first discussed introducing this measure, the Palestinian Authority had not yet agreed to establish a unity government with Hamas—a truly disastrous decision. That action has made it all that much more critical that the Senate be firmly on record that aid to the Palestinians is now in jeopardy. If Hamas continues to reject negotiations or peace with Israel, we must suspend this assistance.

During his address before a joint session of Congress in March, Israeli Prime Minister Benjamin Netanyahu succinctly described the heart of the matter. He said:

> This conflict has never been about the establishment of a Palestinian state. It has always been about the existence of the Jewish state.

We must remember those words.

We must also never forget that Hamas is responsible for the deaths of more than 500 innocent civilians, including two dozen American citizens. It has been designated by our government as a foreign terrorist organization and a specially designated terrorist organization.

Secretary of State Hillary Clinton has made it clear that the United States will not fund a Palestinian Government that includes Hamas unless and until Hamas renounces violence, recognizes Israel, and agrees to abide by the previous obligation of the Palestinian Authority. I urge the administration to suspend aid until such time as Hamas demonstrates a clear commitment to following these principles.

Madam President, let me also thank the chairman and ranking member of the Foreign Relations Committee, Senator KERRY and Senator LUGAR, for discharging this resolution so that it could be considered and passed by the full Senate before our Fourth of July recess. The passage of this resolution could not have been more timely.

According to press reports, the Palestinian delegation has made the rounds with nearly a dozen delegations in New York this week to build support for their bid to have a United Nations-recognized state. Palestinian Ambassadors from around the world are meeting in July to discuss their plans in Madrid. They have been instructed to cancel vacations because of the importance of this coming period.

I submit that if the Palestinians were only willing to invest as much energy into the peace process with Israel as they have into this ill-advised rush to the United Nations, we could see the beginnings of a genuine and lasting peace in the region. I do not know if the Palestinians will have the support among the 192 members of the U.N. General Assembly. However, the Palestinians must understand that the cost of seeking such a vote will seriously jeopardize U.S. financial assistance and that is evident from the 88 Members of the Senate who cosponsored the important resolution that was unanimously passed last evening.

Madam President, I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 5:30 p.m.

Thereupon, the Senate, at 4:46 p.m., recessed until 5:30 p.m., and reassembled when called to order by the Presiding Officer (Mr. WHITEHOUSE).

## PROVIDING FOR EXPEDITED CONSIDERATION OF CERTAIN NOMINATIONS—Continued

The PRESIDING OFFICER. In my capacity as a Senator from the State of Rhode Island, I suggest the absence of a quorum.

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. Without objection, it is so ordered.

### AMENDMENT NO. 522

Mr. HARKIN. Mr. President, because of the heavy fires that are blazing in New Mexico, our colleague Senator UDALL cannot be here because he is out there dealing with forest fires. He has an amendment he has filed to S. Res. 116, the bill now before us in the Senate, and on his behalf, I will be calling it up. It is amendment No. 522, and I want to take a couple of minutes to explain the amendment.

Mr. President, basically the amendment is very simple, and I will read it in its entirety:

> The second undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:
>
> 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 or 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 to the exclusion of all other business until disposed of.

And this is already rule XXII. Here is the part that Senator UDALL would amend:

On a nomination to an Executive Branch position requiring the advise and consent of the Senate, the necessary affirmative vote shall be a majority of the Senators duly chosen and sworn.

So the Udall amendment, of which I am a proud cosponsor, would basically say on executive branch nominations that come before the Senate that when debate is brought to a close there would not need to be 60 votes. You could have an affirmative 51 votes and that measure would pass, that nomination would be passed by the Senate. So, therefore, we would not need the supermajority of 60 votes to pass a nominee.

Again, it comes as no surprise to Members of the Senate that Senator UDALL and I have worked together to try to reform the rules to reduce to an absolute minimum, if not get rid of entirely, the filibuster. Well, it is obvious we never accomplished that, but it seems to me as we are changing the rules here on changing the policy on how we are going to deal with nominees—and I think this is long overdue—this is the proper time to address this point, that on a nomination to an executive branch, it ought to be 51 votes, not 60 votes. So that is what the amendment does. It basically says on a nomination that it only requires 51 votes to pass the nomination and not 60 votes.

What is the pending business? Is it Coburn amendment 521?

The PRESIDING OFFICER. The pending question is the Coburn amendment.

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 522.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. UDALL of New Mexico, for himself and Mr. HARKIN, proposes an amendment numbered 522.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish a majority vote threshold for proceeding to nominations)

At the end of the resolution, insert the following:

**SEC. _____. ESTABLISHING MAJORITY VOTE THRESHOLD FOR PROCEEDING TO NOMINATIONS.**

The second undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

''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 to the exclusion of all other business until disposed of. On a nomination to an Executive Branch position requiring the advise and consent of the Senate, the necessary affirmative vote shall be a majority of the Senators duly chosen and sworn.''.

Mr. HARKIN. Basically, again, what it repeats on nominations to the executive branch is it would not require 60 votes but only 51 votes of the Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I make a point of order that the amendment offered by the Senator from Iowa is not relevant.

The PRESIDING OFFICER. The Chair sustains the point of order. The amendment falls.

Mr. ALEXANDER. Thank you, Mr. President. This situation recalls the debate we had at the beginning of the year when a number of Senators felt as though we needed to make the Senate a more effective institution, which is always a noble goal, but we had some differences of opinion about how to do that. One group of Senators, including Senator UDALL, Senator HARKIN, and others, renewed the effort to basically say the Senate would be a majoritarian body which would decide questions with 51 votes. To most Americans, that sounds like the normal order of business, and it is. We grow up in the first, second, and third grades selecting the class president. If someone gets a majority of the votes, that person wins. But in the Senate, over its history, we have had a different process because the Senate serves a different function.

The House is a majoritarian institution. If a party wins a majority in the House, a freight train rolls through the House and the bill is passed and sent to the Senate. The Senate, throughout its history, has been the saucer into which the tea is poured to cool it a little bit. In other words, it takes a little more deliberation here to pass something. That can be very frustrating. It can slow things down, but the process was designed that way. Otherwise, there wouldn't be any need for two different bodies.

So we have one body which can change with every election every 2 years and pass something such as the health care law by a majority vote. Let's take another example: Ending the secret ballot in union elections, which the House of Representatives, under Democratic control, did pass. But it didn't pass the Senate, because in the Senate, there are rules in which we need 60 votes to pass most important pieces of legislation. The shoe is on the other foot too. If the Republican House of Representatives were to pass, let's say, a tort reform bill that our Democratic friends didn't like, we would have a hard time passing it over here. It would take 60 votes, and that would mean that we 47 Senate Republicans, even if we were all for it, would have to persuade 13 or 14 of our Democratic friends to join us.

The theory of the Senate is that it forces consensus. It doesn't always work that way, but that is the idea. We have had a pretty good example of it with the legislation we have been debating over the last few days. We have a coalition of Democrats and Republicans who agreed we needed to change the Senate nominations process and we had the support of both the Democratic and Republican leaders. Because of this coalition we were able to move the bill to the floor without the cloture motion. We were able to allow any relevant amendment to come to the floor. We were able to pass a bill earlier today and it looks as though we are going to be able to pass a resolution this evening that will complete our work. The bill this morning got 79 votes. I hope the resolution this afternoon gets at least that many votes. That is the way the Senate should work.

I am glad the amendment offered by the Senator from Iowa, on behalf of Senator UDALL, is out of order and not relevant to this discussion. Even if it were relevant, I think it would be the wrong step for us to take. I think it is better to have a Senate that forces consensus by requiring 60 votes on big issues. That avoids what Alexis de Tocqueville called the tyranny of the majority in his book ''Democracy in America.'' He saw two great threats to the new American democracy at that time; one was Russia, as he said, and he turned out to be prescient on that. The other one was the possibility of the tyranny of the majority—that the majority would get control and simply run over minority rights. That cannot be done in the Senate because there have to be 60 votes on big issues for the issues to pass. That means when one sets out to pass most pieces of legislation, if one wants to do it in a purely partisan way, one is not likely to succeed. If one wants to do it in a way that gets a result, one is going to have to form a coalition of Republicans and Democrats, as we have here with these nominations reforms.

This discussion by Senator UDALL, Senator HARKIN, and others wasn't for naught because it initiated a debate that ended up with some changes in Senate procedures which we think are for the better. One of these changes was the abolition of secret holds, which some Senators in this body, including Senator WYDEN and Senator GRASSLEY, have been advocating for years—more than a decade. That was done. The discussions earlier this year with Senator HARKIN and Senator UDALL resulted in

the legislation we passed earlier today, which helps the Senate exercise its constitutional duty to advice and consent by doing a better job of deciding which nominations do not deserve advice and consent. So we eliminated the requirement for advice and consent on 169 positions of the 1,400 that now require Senate confirmation. Most of those were part-time advisory boards. We didn't need those to be confirmed.

We eliminated nearly 3,000 advice-and-consent requirements on public health officers and the NOAA Officer Corps. They are very valuable Federal employees, but we were confirming them in groups of 300 nominees at times. No Senator knew whom he or she was confirming, and that trivializes the whole constitutional duty of advice and consent, which is in the Constitution of the United States in article II, section 2.

Another reform we are making and will proceed with is reducing the phenomenon of innocent until nominated. I have spoken about this several times on the floor. It is a situation whereby we take an unsuspecting citizen of the United States that the President recruits to a position in the government. Then that person begins to go through this gauntlet of complicated forms that have built up over the years. It first started with the executive branch, where a person is asked to fill out every place they have lived since they were 17 years of age and define income three different ways. And by the time they get to the Senate committee whose job it is to investigate and confirm that person and they fill out all their forms, the person is bound to make some mistake. Then they are hauled up in front of the Committee with the spotlights on them and they have told a lie inadvertently.

I mentioned earlier today the former Senate majority leader, Howard Baker, who was voted most admired Senator by Democrats and Republicans. He had to spend $250,000 of his own money on lawyers when President Bush nominated him to be the Ambassador to Japan—absolutely ridiculous. Republicans and Democrats who have served in personnel offices and Chiefs of Staff to the last several Presidents all have said this practice of innocent until nominated is a great disservice to the American Government.

I see Senator SCHUMER on the floor. He and I will be meeting with the White House personnel director as soon as this legislation is approved by the House and signed by the President. We hope the working group that will be set up under the legislation will produce what we call a smart form, so that if the President asks a citizen to serve their government, that person can fill out a single form for most questions. Then, the various offices of the executive branch that need the information can get the same information. When the nomination is sent to the Senate, perhaps even we can take some of that information and use the same form to get it for us. It doesn't interfere with the separation of powers. The executive can do whatever it wishes to do. We in the Senate can do whatever we wish to do.

We have made some progress as a result of those discussions earlier in the year. It is modest progress, but I think any time we eliminate confirmation for 169 positions out of 1,400, any time we expedite about 270 more, any time we stop the practice of confirming box loads of nominees without even knowing who is in there, then we have done something to avoid the trivialization of our constitutional duty to advice and consent. If we can make a further step with avoiding the innocent until nominated phenomenon, the work Senator HARKIN, Senator UDALL, and others have done will have made some progress. The work of Senators HARKIN, UDALL and other will have made progress even though we didn't adopt their rule to turn the Senate into a majoritarian institution.

I appreciate the spirit with which Senator HARKIN offered the amendment. He and Senator UDALL worked on the amendment. I think they helped reduce some steps which will help make the Senate a more effective institution. We still have a ways to go and we will continue to work on those things.

I see Senator SCHUMER is here. I compliment him for his work on this and in the way he has gone about it. He and I, working with the majority leader and the Republican leader, have created an environment for this bill that didn't require enforcement of a cloture motion. An environment that allowed all relevant amendments to come to the floor, that allowed all the debate Senators seemed to want and that passed the bill. We hope we are coming to a point where we can pass the resolution and take these steps to improve the effectiveness of the Senate.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that at 6:10 p.m., the Senate proceed to a vote in relation to the Coburn amendment No. 521; that all other provisions of the previous order with respect to the Coburn amendment remain in effect; that upon disposition of the Coburn amendment, the managers' amendment, which is at the desk, be agreed to; that following the disposition of the managers' amendment, the Senate proceed to vote on adoption of the resolution, as amended; that there be no other amendments and no other motions or points of order in order to the resolution other than budget points of order and the applicable motions to waive; further, that the motions to reconsider be considered made and laid upon the table; and that Mr. COBURN, the Senator from Oklahoma, be given 5 minutes to speak on his amendment just before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, if my colleague from Tennessee has yielded, I will read a brief statement about what we are voting on.

I encourage my colleagues to support S. Res. 116, which streamlines certain nominations through the Senate. Once again, I wish to thank my good friend and colleague, Senator ALEXANDER, for his hard work on this resolution and his insight into the nomination process. I am grateful he is the ranking member of the Rules Committee. I thank the chairman and ranking members of the Homeland Security Committee, Senators LIEBERMAN and COLLINS, for their steadfast dedication to the efforts to reform the way the Senate conducts business. Additionally, Leader REID and Republican Leader MCCONNELL gave their support in time to work through this package.

Earlier today, we passed the first piece of the nomination reform package, S. 679, which eliminates certain positions from Senate confirmation. It is our hope this package thaws out this institution. The resolution passed through our committee, the Rules Committee, unanimously back in May—this resolution did—and it is a bipartisan effort. Now we are considering the corresponding resolution which streamlines other nominations. For certain nominations, once received, they will be placed in a new category of the calendar. At that point, the chair will send out the questionnaire. Once he or she certifies it has been returned, the nomination will move to a second new category on the calendar. It will sit there for 10 days. If there are no objections, the nomination will then move directly to the Executive Calendar, with the presumption that these noncontroversial positions would be passed by unanimous consent.

At any time while the nomination is in either of these two categories, anyone can object, including the chair, and have that nomination referred back to the full committee, as with any other nominee. We hope this will clear the way for confirmation of these positions.

Additionally, this resolution will allow committees to turn their focus to issues that affect the American voter. Time spent on nomination hearings and markups can now be spent on other nominees or on other legislation to improve the condition, for instance, of our middle class. As I said earlier, we are in no way abdicating our advise and consent duties, we are enhancing them.

I strongly encourage my colleagues to vote for this resolution. I encourage them to vote against the amendment of our good friend from Oklahoma, Senator COBURN. With this resolution, the Senate and our committees can turn our attention to pressing issues that affect us all.

I yield the floor.

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

• Mr. UDALL of New Mexico. Mr. President, 6 months ago, I joined my colleagues and friends Senator MERKLEY of Oregon and Senator HARKIN of Iowa to push for fundamental reforms in how the Senate operates. The reason we did that was simple: the Senate was broken. The unprecedented abuse of the filibuster and of other procedural tactics was routinely preventing the Senate from getting its work done. It was preventing us from doing the job the American people sent us here to do.

Although the reform proposals we offered in January did not pass, I thought some good came out of the process. We passed resolutions to eliminate secret holds and the delaying tactic of forcing the reading of amendments. We also agreed to consider legislation in the future that would exempt many executive branch nominees from the Senate confirmation process. Legislation that we are considering on this floor today.

Although these were steps in the right direction, I believe there is still a long way to go before this body can function as our Founders intended. The unfortunate reality is that over the last six months, this already broken institution has become even more dysfunctional.

Let's consider what the Senate has accomplished this year. A Bloomberg article from last week notes that, ''just 18 measures have cleared Congress and become law this year, and only four of those originated in the Senate—including two that named courthouses.'' That is simply unacceptable. At a time when our country needs us to act, we do almost nothing.

A Washington Post article from June 9 discusses quorum calls in the Senate. It states:

> This year—even as Washington lurches closer to a debt crisis—the Senate has spent a historic amount of time performing this time-killing ritual. Quorum calls have taken up about a third of its time since January.

That is the equivalent of more than 17 8-hour days wasted in quorum calls. That article goes on to state that there have been just 87 rollcall votes as of June 9 compared to 205 in the same period in 2009.

I don't blame one party for these problems—both sides are at fault. While Republicans use delaying tactics to slow down the floor calendar, Democrats repeatedly try to avoid tough votes. It is no wonder Congress's approval ratings are at an all-time low. Instead of working to solve the major problems our country faces, we engage in partisan warfare for political gain.

The Senate confirmation process for executive branch nominees is a prime example of how our rules prevent this body from functioning as it was intended. This used to be a fairly straightforward process.

When I was a kid, my father served in the Congress and later as Secretary of the Interior under Presidents Kennedy and Johnson. Once I grew up and was elected to the Congress myself, I often talked with him about the differences between his era in Washington and mine.

One of my biggest frustrations was the Senate's inability to bring executive confirmations to an up-or-down vote. I told my dad, ''the President and Cabinet Secretaries don't have their team. How can they do the job the American people sent them here to do without a team to back them up?'' Do you know what he said to me? He said, ''TOM, I had virtually my whole team in place the first 2 weeks.'' Imagine today if the whole team for the Department of the Interior, or any other department, was confirmed in the first 2 weeks of the administration.

There have been many news articles about how the Senate has dragged its feet in confirming President Obama's team. A New York Times article from August 2009 stated that, ''Seven months into his presidency, fewer than half of his top appointees are in place advancing his agenda.''

A February 2010 Washington Post article found that ''46 of Obama's nominees have waited at least three months to be confirmed and nine have waited twice that long. . . . Obama's nominee to head the General Services Administration was confirmed only last week—by a 96–0 vote, no less—after a hold stalled her nomination for nine months.''

Perhaps what is most disturbing to me is that many nominees are held up purely because of their policy views, and not because they are unqualified. I believe that the president has a right to appoint people who share his policy views—it would be ridiculous to expect otherwise.

Unfortunately, many well-qualified nominees have been blocked because of their policy views, and not because of their qualifications.

A perfect example is Dawn Johnson, who was President Obama's nominee to head the Justice Department's Office of Legal Counsel. Johnson was a respected law professor and former top assistant in the Office of Legal Counsel in the Clinton administration. But Republican's cited her strong pro-choice views as grounds for blocking her nomination. After more than a year of her nomination being stalled in the Senate, she decided that she had had enough and withdrew from consideration.

Yesterday, more than 6 months after she was nominated, the Senate confirmed Virginia Seitz to head the Office of Legal Counsel. Sadly, she is the first Senate-confirmed head of OLC since 2004. For 7 years, we have not confirmed a nominee to this position because of partisan battles over the nominees' policy views. The last Senate-confirmed nominee, Jack Goldsmith, recently said that, ''It's important that there be a Senate-confirmed person at the head of the Office of Legal Counsel, both because it helps secure the independence of the office when it's making legal judgments and because it helps give the office more authority, both within the Justice Department and throughout the government.'' Yet we let it go 7 years without confirming a nominee to lead the office.

Another recent example is the nomination of James Cole to be the Justice Department Deputy Attorney General. Cole first joined the department in 1979 as part of the Attorney General's Honors Program. He served there for 13 years—first as a trial attorney in the Criminal Division, and later as the Deputy Chief of the Division's Public Integrity Section, the office that handles investigation and prosecution of corruption cases against both Democratic and Republican elected and appointed officials at all levels of government.

Although Cole's record is exemplary, his nomination was blocked for over a year. Why? Because he believed it made sense to try some terrorism suspects in Federal courts, rather than military commissions. A view that I, and many legal scholars and constitutional experts, happen to share with Mr. Cole.

In May, 353 days after his selection, Democrats forced a cloture vote on Cole's nomination, but were unable to overcome the Republican filibuster. This was the first time in history that a Deputy Attorney General nominee was filibustered. Let's hope it's also the last.

After a few more weeks of negotiations, we were finally able to have an up or down vote yesterday on the Cole nomination, and he was confirmed 55–42. Because of the forest fires in my State, I unfortunately missed this vote, as did two of my Democratic colleagues. If we had all voted for Mr. Cole, he would have been confirmed overwhelmingly 58–42, with bipartisan support.

How does a nominee get stuck in the Senate confirmation process for over a year, only to be finally confirmed by a bipartisan majority? Simple—our confirmation process is broken.

I will mention one final example, although there are many more.

Just this month, Peter Diamond withdrew as President Obama's nominee to the Federal Reserve Board. Diamond's nomination was blocked because a small minority of senators questioned whether he was qualified and had enough experience in conducting monetary policy. I tend to believe that he was qualified, as he won the Nobel Prize in economics last year.

I give you all these examples because the bill we are considering today would not have affected these nominations in any way. While I appreciate the effort of the task force that produced this bill, it does nothing to prevent the abuse of the Senate rules in the confirmation process.

In order to have real change in the process, the Senate rules must be

amended. As such, I have filed an amendment that will restore the proper role of the Senate's advise and consent responsibility.

My amendment is very simple. It would make the cloture threshold on executive branch nominees a majority of Senators chosen and sworn—51 if all seats are filled. The result is exactly what our framers intended—if the president nominates someone, and a majority of the Senate approves, that person is confirmed. Our current rules lead to a much more perverse result. Now, if the president nominates someone and 59 Senators approve and 41 object, the nomination fails. How can we argue for this result?

My amendment only applies to executive branch nominees, so judicial nominees are still subject to a 60 vote cloture threshold. While I don't believe judicial nominees should be filibustered either, I know many of my colleagues are reluctant to give up the supermajority cloture requirement because judges are appointed for life.

I know some will ask me about what happens when we are in the minority and the president is a Republican—won't I want to be able to block an extreme nominee? The short answer is no. While I might want to block a nominee, I don't believe the Constitution gives me that right if a majority favors his or her confirmation.

If the American people elect a Republican president and the Republicans become the majority party in the Senate, I would expect some executive branch nominees that I disagree with on policy grounds. But I believe that we must afford the President a significant degree of deference to shape his Cabinet as he sees fit. If those nominees are qualified, I do not believe a minority of the Senate should be able to block them.

Many of my Republican colleagues have said the same thing in the past. When speaking on the floor about the nomination of Alberto Gonzales to be Attorney General, Senator KYL said that, ''When someone is qualified and has the confidence of the President . . . unless there is some highly disqualifying factor brought to our attention—[we] should accede to the President's request for his nomination and confirm the individual.'' Senator HATCH, a highly regarded constitutional scholar and former chairman of the Judiciary Committee, wrote in 2003:

> The advice and consent clause [of the Constitution] is clearly an up or down vote—a majority vote—on the floor of the Senate. The Founding Fathers knew what a supermajority vote was. . . . If they had wanted it to be a 60-vote margin . . . they would have said so.

Senator HATCH also said on the floor in 2007:

> Under the Constitution, the President has the primary appointment authority. We check that authority, but we may not hijack it. We may not use our role of advise and consent to undermine the President's authority.

I hope that we can agree that our confirmation process is broken and that we need significant reforms to restore the democratic process in this body. Many of us have said as much when we are in the majority and our president's nominees are being held hostage by a small minority.

It's time for us to put partisanship aside and amend our rules so that the President, regardless of his or her party affiliation, can get a team in place and govern. I'm proud today to join once again with Senator HARKIN and offer an amendment that will do just that. I strongly encourage my colleagues to support the amendment. The Senate is broken and the only way we are going to fix it—to make it work once again for the American people—is through substantive reform of the rules.

I ask that the news articles I mentioned be printed in the RECORD.

The information follows:

[From the Washington Post, June 9, 2011]

SENATE LEGISLATION MAY SLOW, BUT QUORUMS CONTINUE

(By David A. Fahrenthold)

In the U.S. Senate, this is what nothing sounds like.

''Mr. Akaka.''

At 9:36 a.m. on Thursday, a clerk with a practiced monotone read aloud the name of Sen. Daniel K. Akaka (D–Hawaii). The chamber was nearly deserted. The senator wasn't there. Not that she was really looking for him.

Instead, the clerk was beginning one of the Capitol's most arcane rituals: the slow-motion roll calls that the Senate uses to bide time.

These procedures, called ''quorum calls,'' usually serve no other purpose than to fill up empty minutes on the Senate floor. They are so boring, so quiet that C–SPAN adds in classical music: otherwise, viewers might think their TV was broken.

This year—even as Washington lurches closer to a debt crisis—the Senate has spent a historic amount of time performing this time-killing ritual. Quorum calls have taken up about a third of its time since January, according to C–SPAN statistics: more than 17 eight-hour days' worth of dead air.

On Thursday, the Senate was at it again. At least on ''Seinfeld,'' doing nothing came with a flunky bass line.

''It's not even gridlock. It's worse than that,'' said Allan Lichtman, a history professor at American University who once ran for the Senate himself as a Democrat. He said ''gridlock'' implies that somebody was at least trying to get legislation passed.

Instead, he said, this year ''they're not even trying to get something done.''

To an outsider, a quorum call looks like a serious—if dull—piece of congressional business. A clerk reads out senators' names slowly, sometimes waiting 10 minutes or more between them.

But it's usually a sham. The senators aren't coming. Nobody expects them to. The ritual is a reaction to what the chamber has become: a very fancy place that senators, often, are too busy to visit.

This is what happened: Decades ago, senators didn't have offices. They spent their days at their desks on the Senate floor. So clerks really needed to call the roll to see if a majority was ready for business.

Now, senators spend much of their time in committee rooms, offices and elsewhere. If no big vote is on the horizon, often nothing at all is happening on the Senate floor.

But Senate rules don't allow for nothing to happen. That would require a formal adjournment, which would mean lots of time-consuming parliamentary rigamarole.

Instead, the last senator to speak asks clerks to fill the time by calling the roll.

''It's just a matter of keeping the store lights on when the customers aren't there,'' said Donald A. Ritchie the Senate's official historian. The procedures are much less common in the House, where the rules allow for a pause in activity without a formal adjournment.

On Thursday morning, Sen. Orrin G. Hatch (R–Utah) finished talking about an airman who was killed in Afghanistan. He looked around, realized he was alone, and suggested a quorum call. ''Mr. Akaka,'' the clerk intoned.

Hatch left the floor. Minutes passed. It was so quiet that, when a page carried out a glass of water, the clink of the ice cubes could be heard up in the gallery. Tourists watched blank-faced. Ten minutes passed. Some of the visitors got up to leave.

After 12 minutes, Sen. Mark R. Warner (D–Va.) showed up. ''I ask that the proceedings of the quorum be dispensed with,'' he said. That's how quorum calls usually end: The next senator who wants to speak asks for a halt.

After Warner gave a brief speech on the value of federal workers, it happened again. ''Mr. Akaka,'' the clerk said. Twenty-one minutes of silence.

At a deli in the Senate's basement, it was clear this was wearing on people. One Capitol employee asked another: Where are you working today? ''Senate chamber,'' his buddy replied. ''Shoot myself in the head.''

These sham roll calls have been a feature of Senate debate for decades, but this year has been special: According to C–SPAN, the Senate has spent more than 32 percent of its time in quorum calls. That's more than in any comparable period dating to 1997.

The main reason seems to be the barebones agenda pursued by the Senate's Democratic leaders: There have been just 87 roll-call votes so far, compared with 205 in the same period during 2009. Senate Democrats have not even proposed an official budget; the strategy appears to be to shield vulnerable incumbents from controversial votes on spending.

''Why are we here?'' asked Sen. Tom Coburn (R–Okla.), a critic of the large number of quorum calls this year. ''The Senate is not operating the way it was designed, because politicians don't want to be on record.''

Democrats, on the other hand, say they haven't brought up much legislation because they think Republicans will just block it.

''You always hope it'll get better,'' said Jon Summers, a spokesman for Senate Majority Leader Harry M. Reid (D–Nev.).

It might. There is an upcoming deadline to lift the national debt ceiling, and that could produce major legislation later this summer.

But not yet. This year, in fact, C–SPAN worries that its library of classical background music has been over-used. It is trying to expand its options, within a set of strict conditions: The music must be ''calm and benign.'' No cannon-booming ''1812 Overture.'' No funeral marches.

And it must not imply any comment on the nothingness happening onscreen. The Capitol Hill newspaper Roll Call recently suggested Lady Gaga's ''Bad Romance.'' Non-starter.

C–SPAN has also started using a graphic showing tweets from members of Congress. It's a signal that lawmakers are doing something. Just not here.

[From Bloomberg, June 21, 2011]

SNAIL'S PACE IN U.S. SENATE POSES HURDLE TO EFFORT TO REDUCE DEFICIT

(By Laura Litvan and James Rowley)

Just 18 measures have cleared Congress and become law this year, and only four of those originated in the Senate—including two that named courthouses.

About one-third of the chamber's time has been taken up by inactive ''quorum calls.'' Debate on one small-business measure took a month, and a handful of languishing White House nominees withdrew their names because of delayed Senate action, including Nobel Laureate and Federal Reserve board pick Peter Diamond.

''It looks like the pace has slowed to a crawl,'' said former North Dakota Senator Byron Dorgan, a onetime Democratic leader who retired in January. ''Whether it's nominations or legislation, it seems there's very little effort by some to meet in the middle and compromise.''

The Senate was devised by the nation's founding fathers to move slowly. This year, its inaction is especially notable, and overcoming Senate dysfunction will be one of the final hurdles confronting lawmakers seeking a deal to lift the ceiling to avoid a default on more than $14 trillion in U.S. debt.

Beyond the debt limit, the chamber faces unfinished business on energy, immigration, transportation and education.

Senators offer various reasons for their chamber's slow pace, including increased partisanship, re-election politics, and the decline of centrists willing to compromise.

ALL IN PLAY

Each of those elements can play a role in slowing the legislative calendar. The major challenge facing this Senate is that all of them are in play.

Senator Mike Lee of Utah, a first-term Republican, said he's surprised to see the Senate spending so much time doing so little. ''It's what someone could perhaps call filler,'' he said. ''I'm not calling all of it that, but it's odd to me that given the enormity of what we're facing that we're not having more debate and discussion focused on the debt.''

He rejects the criticism of those who say Tea Party-backed freshmen—including himself—won't bend on policy and are the logjam's chief cause. ''Compromise has two sides,'' he said. ''If the Democrats'' idea of compromise is that we have to move and they don't, that's not going to work for me.''

GANG EFFORTS

In an effort to jumpstart legislation, some senators have formed small, bipartisan ''gangs,'' which tend to begin with vows to reach agreements and end in acrimony. The so-called ''Gang of Six,'' created to broker a deal on lifting the debt ceiling, stalled amid disagreements and has been superseded by the bipartisan group of Senate and House members working with Vice President Joe Biden.

Senator Bob Corker, a Tennessee Republican, said both parties bear blame for the Senate's inaction. He also said negotiations over deficit reduction and lifting the debt ceiling are taking ''all of the oxygen'' out of the air. ''Neither side of the aisle really wants there to be a robust debate, tough votes to be taken on where we go as a country,'' Corker said. ''Basically, we are cooling our heels.''

In 2010, the Senate's record included passage of a health-care overhaul, a rewrite of financial-services rules and a $60 billion measure funding the Iraq and Afghanistan wars.

This January, Senate Majority Leader Harry Reid, a Nevada Democrat, and Senate Minority Leader Mitch McConnell, a Kentucky Republican, heralded changes designed to speed Senate work and forge a bipartisan truce.

GENTLEMAN'S AGREEMENT

They hatched a ''gentleman's agreement'' to curb the minority party's use of the filibuster—endless debate—to block legislation. In exchange, Reid agreed to allow more debate on Republican amendments to bills. They also pushed through a measure to abolish the secret ''holds'' that allow a single senator to anonymously block a nominee.

Those moves, Republicans said, are being undermined by Reid's decision to embrace a timid agenda.

With the seats of 23 Democratic senators up for election next year, and only 10 Republicans, Reid has shielded Democrats from taking tough votes, said Senator Charles Grassley, an Iowa Republican. After criticizing a House-passed budget blueprint that included $6 trillion in spending cuts and a plan to privatize Medicare, Democrats never introduced their own plan, sparing their side criticism over fiscal choices and preventing Republicans from offering amendments that might be used against Democrats, he said.

IT'S IRRESPONSIBLE

''The less votes the Democrats cast, the less they can be challenged in the next election,'' Grassley said. ''It's no way to run a railroad and it's irresponsible not to do things that are more beefy.''

Democrats say such criticism is unfair. The Senate has approved a $34.6 billion measure for the Federal Aviation Administration, an overhaul of patent law and other measures that are awaiting House action. Republicans also continue to obstruct some legislation and slow action on others, said Jon Summers, a Reid spokesman.

The Senate ''is not functioning well, the way it should, obviously, when you've got threats of filibuster, preventing, slowing down or obstructing,'' said Senator Carl Levin, a Michigan Democrat.

The Reid-McConnell accord on filibusters had limits: It didn't address efforts to block legislation on a final vote and didn't end the ability of a single senator to hold up action.

PATRIOT ACT

That happened last month when freshman Senator Rand Paul, a Kentucky Republican, stalled renewal of the Patriot Act, which gives law enforcement powers for terrorism investigations, until Reid and McConnell agreed to allow him to introduce two amendments. Those amendments failed and the new version of the Patriot Act passed just hours before the old law expired.

Republican leaders are continuing to thwart a vote on former Edison International Chief Executive Officer John Bryson, Obama's choice for Commerce Department Secretary until the White House forwards pending trade deals for South Korea, Panama and Colombia. They also say they won't approve anyone to head a new Consumer Financial Protection Bureau, part of the financial overhaul, until the bureau's powers are restructured.

The stalemate is a relief to some, coming after Democratic passage of major initiatives in 2009 and 2010. ''If the legislature must be in session, be thankful when it doesn't do much,' said David Boaz, executive vice president of the Cato Institute in Washington, which promotes limited government.

David Rohde, a political scientist at Duke University in Durham, North Carolina, said Senate inaction is driven in part by the departure in recent elections of political moderates such as Republican Senator Lincoln Chafee of Rhode Island and Democratic Senator Evan Bayh of Indiana.

''The reason that the Senate has become more polarized is that less extreme members have been replaced by more extreme members,'' Rohde said.

The lack of Senate action poses risks for Democrats, said Alan Brinkley, a history professor at Columbia University in New York, because they aren't offering policy alternatives, he said.

''The difference between the two parties is that the Republicans have a program—an ambitious and controversial one,'' said Brinkley. ''The Democrats don't really have any goals as far as I can see, besides stopping the Republicans.''●

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I advise the senior Senator from New York that I will ask unanimous consent, if it is agreeable to him, that when I finish my few words, we go directly to the vote.

Mr. SCHUMER. In the agreement, the vote is to occur at 6:10 p.m.

Mr. COBURN. Fine. You do not want to move it up?

Mr. SCHUMER. No. We need it at 6:10 p.m. So if the Senator wants to speak beyond 5 minutes, that is OK with us.

Mr. COBURN. OK. Great. I will withdraw my unanimous consent request.

AMENDMENT NO. 521

Mr. President, this is a very straightforward amendment. The people who vote against this rule change, what they are going to be telling you is they do not want you to know what is going on in the Senate, and they do not want us to know what is going on in the Senate. Because all this rule does is make it a force of habit of the Senate that before we look at legislation, we ought to determine whether it duplicates what is already out there in the government, and we ought to determine if it is overlapping to other programs.

Had this amendment been in effect, a third of what we passed in the past would not have passed because we would then have seen—which we are ignorant of today—all the other programs that were available and out there that accomplished the same purpose for which we passed another new program.

In one of my committees last year colleagues offered amendments—well intentioned, with good motives—to accomplish a good purpose. But they lacked knowledge. What they did not know was—and both amendments were ultimately withdrawn when it was explained to them—that, in fact, we already had programs that did exactly the same thing.

So what we have is, we have over $200 billion worth of duplication now within the Federal Government. This is a simple, straightforward amendment that says before we consider things on the floor—it is less than 700 bills over 2 years—that the CRS would, in fact, tell us: Here is what you are doing, here is what the government is already doing in these areas, so we do not end up with duplication, so we do not end up with overlapping, and that we actually get results from what we are doing.

I remind my colleagues that we have, just in the last GAO report, multitudes of duplicative programs, and I will repeat them so people will know. I also would state, this is a bipartisan amendment in the spirit of what the Senator from New York and the Senator from Tennessee have done. This amendment has Senator UDALL, Senator MCCASKILL, Senator BURR, and Senator MCCAIN, as well as Senator COLLINS, Senator PAUL, and Senator SCOTT BROWN. So this is not a partisan move. This is a move about information and knowledge so we make informed decisions.

But for the record, what the GAO told us, less than 5 months ago, is that we have 101 programs across four different agencies for surface transportation. That is 101 sets of bureaucracies. Nobody has ever gone and said: Which ones work and which ones do not? Which ones do exactly the same thing versus what somebody else does?

We have 82 teacher programs for teacher quality across 10 different agencies, 9 of which are not in the Department of Education. We have 88 economic development programs spending $6.5 billion a year across 4 different agencies. We have 47 job training programs across 9 different agencies, and we are spending $18 billion a year, and the GAO said every one of them overlaps, with the exception of 3. Yet we have not had the first move in the Senate this year in spite of all of our problems economically to streamline, eliminate duplication, eliminate overlap, and put metrics on what we are doing.

Mr. President, I ask unanimous consent to have printed in the RECORD this list of duplicative programs identified by GAO.

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

DUPLICATIVE PROGRAMS IDENTIFIED BY GAO

| Purpose | Number of programs | Number of agencies | Cost |
|---|---|---|---|
| Surface Transportation | 101 | 4 | not provided |
| Teacher Quality | 82 | 10 | not provided |
| Economic Development | 88 | 4 | $6.5 billion |
| Transportation Provided for the Disadvantaged | 80 | 8 | $314 million |
| Financial Literacy | 56 | 21 | not provided |
| Employment and Training | 47 | 9 | not provided |
| Homeless Assistance | 21 | 7 | not provided |
| Food and Nutrition Assistance | 18 | 3 | $62.5 billion |
| Homeland Security grants | 17 | 1 | $2.7 billion |

Mr. COBURN. Again, I will state, if you are against this amendment, you are against eliminating the very cause of our problems in this country, which is duplication, redundancy, overlap, and you are against doing the proper oversight so we make informed decisions.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONGRATULATING THE UNIVERSITY OF SOUTH CAROLINA GAMECOCKS

Mr. GRAHAM. Mr. President, there is a lot going on in this world. We have a mountain of debt and wars and rumors of wars, and people are nervous throughout the country. But I thought I would take a few minutes of the time of the Senate to acknowledge something that is a very big deal where I come from.

The University of South Carolina has won back-to-back College World Series. They defeated the Florida Gators last night 5 to 2. Florida played a great series, and they left a lot of men on base. I am sure they are going to look at the tape and talk about next year how to get some runs in.

But Coach Tanner and the Gamecock team repeated. They were only the sixth team in NCAA history to do this, to win back-to-back titles. It was very rewarding and poetic.

The University of South Carolina won the last series in Rosenblatt Stadium. This was the first series to be held in the TD Ameritrade Park in Omaha, NE, in front of 26,000 people. They set a record for the NCAA with 16 consecutive post-season wins, 11 consecutive wins in the College World Series, dating back to the 2010 season. The pitching staff had a 1.31 ERA. The bullpen was 6–0. Great hitting. Great coaching. More than anything else, big hearts.

So to the Gamecock nation, congratulations on back-to-back titles. You make us all proud. And if you are watching Gamecock baseball, and you have a bad heart, you need to turn the channel because they win in the most dramatic fashion. They never give up. They believe in themselves.

Michael Roth, the winning pitcher of the last game, said: We don't have the most talented people at every position. But we play together with heart. We believe in each other.

Maybe the country could learn something from Gamecock baseball. If we all work together for a common purpose and put our differences aside, maybe we could achieve greatness too.

So congratulations to Coach Tanner for back-to-back titles. We are very proud of your team. Not only did you win two titles, you did it with style, grace, and dignity. You won with honor. I look forward to meeting the team when they come up to the White House. And I know Columbia is rocking tonight.

Congratulations to the Gamecocks. You won in fine style, and we are all proud of you.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on Coburn amendment No. 521.

Under the previous order, a two-thirds vote is required for adoption.

Mr. ALEXANDER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. UDALL) would vote ''nay.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 34, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—63

| | | |
|---|---|---|
| Alexander | Enzi | Moran |
| Ayotte | Graham | Murkowski |
| Barrasso | Grassley | Nelson (NE) |
| Begich | Hagan | Nelson (FL) |
| Bennet | Hatch | Paul |
| Blumenthal | Heller | Portman |
| Blunt | Hoeven | Pryor |
| Boozman | Hutchison | Risch |
| Brown (MA) | Isakson | Roberts |
| Burr | Johanns | Rubio |
| Carper | Johnson (WI) | Sessions |
| Casey | Kirk | Shaheen |
| Chambliss | Klobuchar | Shelby |
| Coats | Kyl | Snowe |
| Coburn | Lee | Stabenow |
| Cochran | Lugar | Tester |
| Collins | Manchin | Thune |
| Corker | McCain | Toomey |
| Cornyn | McCaskill | Udall (CO) |
| Crapo | McConnell | Vitter |
| DeMint | Merkley | Wicker |

NAYS—34

| | | |
|---|---|---|
| Akaka | Franken | Levin |
| Baucus | Gillibrand | Lieberman |
| Bingaman | Harkin | Menendez |
| Brown (OH) | Inouye | Mikulski |
| Cantwell | Johnson (SD) | Murray |
| Cardin | Kerry | Reed |
| Conrad | Kohl | Reid |
| Coons | Landrieu | Rockefeller |
| Durbin | Lautenberg | |
| Feinstein | Leahy | |

| | | |
|---|---|---|
| Sanders | Warner | Whitehouse |
| Schumer | Webb | Wyden |

NOT VOTING—3

| | | |
|---|---|---|
| Boxer | Inhofe | Udall (NM) |

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 34. Two-thirds of those voting not having voted in the affirmative, the amendment is rejected.

Under the previous order, the motion to reconsider is considered made and laid upon the table.

The clerk will report the managers' amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. ALEXANDER, Mr. LIEBERMAN, Ms. COLLINS, and Mr. CARPER, proposes an amendment numbered 523.

The amendment is as follows:

(Purpose: To add positions for expedited consideration and for other purposes)

On page 5, line 2, strike ''15 to 21'' and insert ''6''.

On page 6, after line 24, insert the following:

(31) Chief Financial Officer, from the following:

(A) Department of Agriculture.

(B) Department of Commerce.

(C) Department of Defense.

(D) Department of Education.

(E) Department of Energy.

(F) Department of Environmental Protection Agency.

(G) Department of Health and Human Services.

(H) Department of Homeland Security.

(I) Department of Housing and Urban Development.

(J) Department of the Interior.

(K) Department of Labor.

(L) National Aeronautics and Space Administration.

(M) Department of State.

(N) Department of Transportation.

(O) Department of the Treasury.

(P) Department of Veterans Affairs.

(32) Assistant Secretary for Financial Management of the Air Force.

(33) Assistant Secretary for Financial Management of the Army.

(34) Assistant Secretary for Financial Management of Navy.

(35) Controller, Office of Federal Financial Management, Office of Management and Budget.

(36) Assistant Secretaries or other officials whose primary responsibility is legislative affairs from the following:

(A) Department of Agriculture.

(B) Department of Energy.

(C) Department of Defense.

(D) Department of Housing and Urban Development.

(E) Department of Commerce.

(F) Department of Treasury.

(G) Department of State.

(H) Department of Health and Human Services.

(I) United States Agency for International Development.

(J) Department of Education.

(K) Department of Labor.

(L) Department of Justice.

(M) Department of Veterans Affairs.

(N) Department of Transportation.

(37) Commissioner, Rehabilitative Services Administration, Department of Education.

(38) Commissioner, Administration for Children, Youth, and Families, Department of Health and Human Services.

(39) Commissioner, Administration for Native Americans, Department of Health and Human Services.

(40) Federal Coordinator, Alaska Natural Gas Transportation Projects.

(41) Assistant Secretary for Administration, Department of Commerce.

On page 7, strike line 5 and insert the following:

**SEC. 4. COMMITTEE JUSTIFICATION FOR NEW EXECUTIVE POSITIONS.**

The report accompanying each bill or joint resolution of a public character reported by any committee shall contain an evaluation and justification made by such committee for the establishment in the measure being reported of any new position appointed by the President within an existing or new Federal entity.

**SEC. 5. EFFECTIVE DATE.**

The PRESIDING OFFICER. Under the previous order, amendment No. 523 is agreed to.

The question is now on agreeing to the resolution, as amended.

Mr. LIEBERMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. UDALL) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 8, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—89

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

NAYS—8

| | | |
|---|---|---|
| Crapo | Hatch | Paul |
| DeMint | Heller | Risch |
| Grassley | Lee | |

NOT VOTING—3

| | | |
|---|---|---|
| Boxer | Inhofe | Udall (NM) |

The resolution (S. Res. 116), as amended, was agreed to, as follows:

S. RES. 116

**SECTION 1. PROCEDURE FOR CONSIDERATION.**

(a) PRIVILEGED NOMINATIONS; INFORMATION REQUESTED.—Upon receipt by the Senate of a nomination described in section 2, the nomination shall—

(1) be placed on the Executive Calendar under the heading ''Privileged Nominations—Information Requested''; and

(2) remain on the Executive Calendar under such heading until the Executive Clerk receives a written certification from the Chairman of the committee of jurisdiction under subsection (b).

(b) QUESTIONNAIRES.—The Chairman of the committee of jurisdiction shall notify the Executive Clerk in writing when the appropriate biographical and financial questionnaires have been received from an individual nominated for a position described in section 2.

(c) PRIVILEGED NOMINATIONS; INFORMATION RECEIVED.—Upon receipt of the certification under subsection (b), the nomination shall—

(1) be placed on the Executive Calendar under the heading ''Privileged Nomination—Information Received'' and remain on the Executive Calendar under such heading for 10 session days; and

(2) after the expiration of the period referred to in paragraph (1), be placed on the ''Nominations'' section of the Executive Calendar.

(d) REFERRAL TO COMMITTEE OF JURISDICTION.—During the period when a nomination described in subsection (a) is listed under the ''Privileged Nomination—Information Requested'' section of the Executive Calendar described in section (a)(1) or the ''Privileged Nomination—Information Received'' section of the Executive Calendar described in section (c)(1)—

(1) any Senator may request on his or her own behalf, or on the behalf of any identified Senator that the nomination be referred to the appropriate committee of jurisdiction; and

(2) if a Senator makes a request described in paragraph (1), the nomination shall be referred to the appropriate committee of jurisdiction.

**SEC. 2. NOMINATIONS COVERED.**

The following nominations for the positions described (including total number of individuals to be appointed for the position) shall be considered under the provisions of this resolution:

(1) The Chairman and the Members of the Advisory Board for Cuba Broadcasting (9 Members including Chairman).

(2) The Chairman and the Members of the Corporation for National and Community Service (15 Members including Chairman).

(3) The Chairman and the Members of the Federal Retirement Thrift Investment Boards (5 Members including Chairman).

(4) The Members of the Internal Revenue Service Oversight Board (7 Members).

(5) The Members of the Board of the Millennium Challenge Corporation (4 Members).

(6) The Members of the National Council on the Arts (18 Members).

(7) The Members of the National Council for the Humanities (26 Members).

(8) The Members of the Board of Directors of the Overseas Private Investment Corporation (8 Members).

(9) The Members of the Peace Corps National Advisory Council (15 Members).

(10) The Chairman, Vice Chairman, and the Members of the Board of Directors for the United States Institute of Peace (12 Members including Chairman and Vice Chairman).

(11) The Members of the Board of Directors of the Federal Agricultural Mortgage Corporation (5 Members).

(12) The Members of the Board of Directors of the National Consumer Cooperative Bank (3 Members).

(13) The Members of the Board of Directors of the National Institute of Building Sciences (6 Members).

(14) The Members of the Board of Directors of the Securities Investor Protection Corporation (5 Members).

(15) The Members of the Board of Directors of the Metropolitan Washington Airport Authority (3 Members).

(16) The Members of the Saint Lawrence Seaway Development Corporation Advisory Board (5 Members).

(17) The Members of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (9 Members).

(18) The Members the Board of Trustees of the Federal Hospital Insurance Trust Fund (2 Members).

(19) The Members of the Board of Trustees of the Federal Old Age and Survivors Trust Fund and Disability Insurance Trust Fund (2 Members).

(20) The Members of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund (2 Members).

(21) The Members of the Social Security Advisory Board (3 Members).

(22) The Members of the Board of Directors of the African Development Foundation (7 Members).

(23) The Members of the Board of Directors of the Inter American Foundation (9 Members).

(24) The Commissioners of the United States Advisory Commission on Public Diplomacy (7 Members).

(25) The Members of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation (8 Members).

(26) The Members of the Board of Trustees of the Harry Truman Scholarship Foundation (8 Members).

(27) The Members of the Board of Trustees of the James Madison Memorial Fellowship Foundation (6 Members).

(28) The Members of the Board of Directors of the Legal Services Corporation (11 Members).

(29) The Members of the Foreign Claims Settlement Commission (2 Members).

(30) The Members of the Board of Directors of the State Justice Institute (11 Members).

(31) Chief Financial Officer, from the following:

(A) Department of Agriculture.

(B) Department of Commerce.

(C) Department of Defense.

(D) Department of Education.

(E) Department of Energy.

(F) Department of Environmental Protection Agency.

(G) Department of Health and Human Services.

(H) Department of Homeland Security.

(I) Department of Housing and Urban Development.

(J) Department of the Interior.

(K) Department of Labor.

(L) National Aeronautics and Space Administration.

(M) Department of State.

(N) Department of Transportation.

(O) Department of the Treasury.

(P) Department of Veterans Affairs.

(32) Assistant Secretary for Financial Management of the Air Force.

(33) Assistant Secretary for Financial Management of the Army.

(34) Assistant Secretary for Financial Management of Navy.

(35) Controller, Office of Federal Financial Management, Office of Management and Budget.

(36) Assistant Secretaries or other officials whose primary responsibility is legislative affairs from the following:

(A) Department of Agriculture.

(B) Department of Energy.

(C) Department of Defense.

(D) Department of Housing and Urban Development.

(E) Department of Commerce.

(F) Department of Treasury.

(G) Department of State.

(H) Department of Health and Human Services.

(I) United States Agency for International Development.

(J) Department of Education.

(K) Department of Labor.

(L) Department of Justice.

(M) Department of Veterans Affairs.

(N) Department of Transportation.

(37) Commissioner, Rehabilitative Services Administration, Department of Education.

(38) Commissioner, Administration for Children, Youth, and Families, Department of Health and Human Services.

(39) Commissioner, Administration for Native Americans, Department of Health and Human Services.

(40) Federal Coordinator, Alaska Natural Gas Transportation Projects.

(41) Assistant Secretary for Administration, Department of Commerce.

**SEC. 3. EXECUTIVE CALENDAR.**

The Secretary of the Senate shall create the appropriate sections on the Executive Calendar to reflect and effectuate the requirements of this resolution.

**SEC. 4. COMMITTEE JUSTIFICATION FOR NEW EXECUTIVE POSITIONS.**

The report accompanying each bill or joint resolution of a public character reported by any committee shall contain an evaluation and justification made by such committee for the establishment in the measure being reported of any new position appointed by the President within an existing or new Federal entity.

**SEC. 5. EFFECTIVE DATE.**

This resolution shall take effect 60 days after the date of adoption of this resolution.

Mr. KERRY. Mr. President, I want to reduce the amount of duplication and overlap in federal agencies and I am prepared to vote to eliminate duplicative programs. That is my responsibility as a Senator. However, I believe this must be done in a responsible manner and not passed off to a third party. I opposed the Coburn amendment because it would cause needless delay to the consideration of important legislation by the Senate. It would give additional power to the staff of the Congressional Research Service. It would increase Congressional spending when we are working to reduce our Federal budget deficit and our Federal debt.

The amendment would change the Standing Rules of the Senate to require the Congressional Research Service—CRS—to complete a study to examine the potential for duplicative programs for every bill that is passed out of committee before it is in order to be considered by the full Senate.

This amendment will not end duplication of government programs. But it will make it more difficult for the Senate to do the Nation's business. The Coburn amendment will allow any Senator to block floor consideration of a bill if the CRS assessment has not been completed. The amendment does not place any time limits on the CRS to make the assessment of whether the programs included in legislation are duplicative. The amendment does not define key terms such as ''program'' or ''initiative'' that are crucial to performing the assessment.

The amendment states that every bill that comes to the floor must contain a full evaluation and report by CRS. The CRS report must examine every potential Federal program that might overlap with the one proposed.

How long would CRS have to do such a report? I don't know because the amendment does not include time limits for the CRS to provide these reports. Therefore, CRS could block consideration of important legislation by simply not meeting its responsibilities.

We have always been very careful in making changes to the Standing Rules of the Senate. This proposal has not come before the Rules Committee in any way and thus has not been considered or vetted by the committee of jurisdiction. If we are serious about such a change, it should receive the appropriate review before being adopted.

The PRESIDING OFFICER. The Senator from Hawaii.

## MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business for debate only until 8 p.m., with Senators permitted to speak for up to 10 minutes each.

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

## FAIR SENTENCING ACT GUIDELINE AMENDMENT

Mr. DURBIN. Mr. President, the bipartisan United States Sentencing Commission was created by Congress to establish guidelines that are used by Federal judges when they sentence criminal defendants. Tomorrow, the Sentencing Commission will take an important vote. The Commission is considering whether to apply retroactively the sentencing guideline amendment implementing the Fair Sentencing Act of 2010. As the lead sponsor of the Fair Sentencing Act, I urge the Commission to apply this amendment retroactively.

Just last year, Democrats and Republicans joined together to pass the Fair Sentencing Act, bipartisan legislation that reduced the disparity between crack and powder cocaine sentencing.

For more than 20 years, we had a 100-to-1 crack-powder sentencing disparity. It took 100 times more powder cocaine than crack cocaine to trigger the same harsh mandatory minimum sentences. Simply possessing 5 grams of crack carried the same penalty as selling 500 grams of powder.

This disparity was one of the most significant causes of unequal incarceration rates between African Americans and Caucasians. The following statistic