America is a generous and caring country. We can and we will find a way—a fair and just way—to give you a chance to be part of our Nation's future. If you or someone you know is feeling hopeless because of the failure of the DREAM Act to pass in the Senate, there are people available to help and talk to you. You can call the National Suicide Prevention Lifeline. The number is 1–800–273–TALK. That is 1–800–273–8255.

Today, my thoughts and prayers are with Joaquin Luna's family. I send them my sympathy and condolences and assure them I will honor his memory by continuing to fight for all of the young people in America who are just like Joaquin.

I never dreamed 10 years ago when I introduced the DREAM Act that I would be standing on this floor 10 years later with that bill still not enacted into law. Time and again, we have had a majority vote in the Senate stopped by a Republican filibuster. Time and again, we have brought this issue to the floor and argued the cases of young people just like Joaquin Luna. We are only asking that they be given a chance to earn their way to legal status. That is it. They have to graduate high school. They cannot have any serious criminal issues. They have to be willing to either serve 2 years in the military or graduate from college. Those requirements say that they have to be people who are determined to make America a better place.

We just had a debate going on now about bringing in talented people from all over the world to work in the United States. Think about that. We are going to bend the immigration laws so that more talented graduates from other countries can come to our country and help build it into a better nation, creating more jobs and opportunity. At the same time as that is being proposed, we are saying to tens of thousands like Joaquin Luna: There is no place for you in America because your parents brought you here when you were a child, and therefore you are forever banished from being part of America's future. That is a cruel outcome and one we should not accept as Americans. This is a great and caring nation. It is a nation of immigrants.

Madam President, 100 years ago, in 1911, a ship arrived in Baltimore, MD. A woman walked down the stairs, two little children by her side and a baby in her arms. She did not speak a word of English. She came from Lithuania. She was bringing her children to America and trying to find out how to get from Baltimore, MD, to East St. Louis, IL, where my grandfather lived. He was there waiting for her, had a job and a place they could call home. I do not know how she possibly made it, but she did. That baby in her arms, that 2-year-old infant, was my mother. I am a first-generation American. I have the honor of serving in this Senate. I do not know if my mom was legal or not legal. Later in life, after she was married and had two children, she became a naturalized citizen. Upstairs in my office, her naturalization certificate is right behind my desk as a reminder about who I am.

That is my story. That is the story of many families in America. It is the story of America. If we cannot open our arms and our hearts to those who will come here and work hard to make this a stronger nation, we will have lost one of the core elements of America's strength and America's future. We are great in our diversity. We are great in the fact that so many people are willing to work hard to come to this Nation and make it a better place to live.

Sadly, Joaquin Luna will not be part of America's future, but I hope his story will inspire others to step up and speak up for those who are promoting the DREAM Act. I want to bring this to the floor again. I want to pass it. I want to make sure that the hopelessness and despair that many young people feel is replaced by the hopeful belief that if they continue to work hard in their lives and continue to be dedicated to America, they can make this a better and stronger nation.

In honor and memory of Joaquin Luna, I ask my colleagues to reconsider their position and join us in passing the DREAM Act.

EXTENDING THE PAYROLL TAX DEDUCTION

Mr. DURBIN. Madam President, there was a question raised this morning by the Republican leader about where we stand in the closing 2 weeks before the holiday recess. We have a lot of important issues left. One of the most important is the payroll tax cut. Here is what it means. If you have a job in Illinois, an average job in Illinois that pays about $50,000 a year, currently you have a break on your payroll taxes that are collected of about 2 percent. So what that means for those families is that they have an additional $100 a month to spend.

For some Members of the Senate and the House of Representatives, $100 a month might not make much of a difference, but for a lot of families struggling from paycheck to paycheck, $100 can make a big difference. When gasoline prices go through the roof, you can fill the gas tank in your car or pickup truck and make it to work. You might have a little extra money left for a utility bill when the natural gas prices and oil prices go up during the course of a cold winter. You might be able to afford some Christmas gifts for your kids, maybe even some clothes for them to go to school, a warm jacket for cold weather. So $125 dollars is important.

If we do not act, and act before we leave at Christmas, as of January 1 that payroll tax will go up 2 percent on working Americans, and they will have less money to spend. As they spend less money, our economy struggles. When they buy things, goods and services, it creates more economic activity in businesses small and large and creates profitability and jobs—job opportunities we desperately need with our high unemployment.

Now, we have taken a position with Senator BOB CASEY's bill here when it comes to the payroll tax cut that it is not unreasonable to ask that the wealthiest people in America, the top 0.2 percent in America, pay a little bit more in taxes so that we do not add to our deficit with this payroll tax cut.

There were times in the past, as the President noted yesterday, when the Republicans actually argued: You never have to pay for a payroll tax cut or a tax cut. Now they have taken a different position—it has to be paid for. Well, we do pay for it. We pay for it with a surtax on millionaires. Unfortunately, some Republicans opposed that.

Senator KYL said yesterday on the floor, in a statement relative to an exchange we had, that it is hard to say the rich are not paying taxes. I am not arguing that point. They are paying taxes. But, frankly, under our system of government, with a progressive tax system, those who are well off—Members of Congress and the Senate—those with high salaries should pay more than those who are struggling from paycheck to paycheck.

The people we are talking about, the top 1 percent wage earners in America, will have an average annual income in 2013 of $1.4 million a year—$1.4 million a year. By my calculation, that is a paycheck of $28,000 a week. To say that those people cannot afford to pay a little more in taxes is hard for most families to understand—it is hard for me to understand. The Bush tax cuts, incidentally, which the Republicans support making permanent have been very generous to those people. If the Bush tax cuts for the wealthiest Americans are extended, those in the top 1 percent, making more than $1.4 million a year, are going to see a tax cut in the year 2013 of $68,000—a tax cut at a time when we have Federal deficits and needs in our country to get beyond this recession.

These people in the top 1 percent control almost 25 percent of the income in America—1 percent of the population, more than 25 percent of the income. That is up from 12 percent just 25 years ago. They control 40 percent of all of the wealth in the United States. They are comfortable. In 1986, they only controlled 33 percent. In fact, we can say that in the last 25 years, the wealthy in America have become even more comfortable, and to ask them to make even a small sacrifice for the good of this Nation is not unreasonable.

Senator MCCONNELL came to the floor and suggested that what we are dealing with on the floor here is political showmanship. Well, last week we went beyond showmanship and we actually called a vote. We had a proposal—Senator CASEY's proposal—to reinstitute this payroll tax cut and pay

for it, as I mentioned, with a surtax on the wealthiest people in America. At the end of the day, out of 53 Democratic Senators, 50 voted yes, and 1 Republican Senator joined us. We had 51 votes in favor. It took 60 votes to pass, so it did not prevail.

Then Senator MCCONNELL had his chance. He brought to the floor the Republican alternative. They would extend the payroll tax cut by eliminating jobs—over 200,000 jobs in the Federal Government at a time when, frankly, we need more workers in veterans hospitals and we need more people working on medical research at the National Institutes of Health and we need more involved in law enforcement to keep America safe. But Senator MCCONNELL said that the way to pay any tax cut for working families is to eliminate Federal jobs. They called it for a vote. There are 47 Republican Senators on the floor. So how did the vote turn out when the Republicans called their proposal to extend the payroll tax cut? If I am not mistaken, only 20 Republican Senators voted for that proposal. In fact, Senator MCCONNELL was the only Member of the Senate Republican leadership who voted for the proposal.

So you have to ask, when it comes to the competition of ideas, who won that exchange? The answer is, no one won because at the end of the day we did not extend the payroll tax cut.

Back home in Chicago this last week, I had a press conference with a lady, a single mom, three kids, struggling with three jobs, with an annual income—combined income of less than $25,000 a year. I cannot imagine how she gets by. But she said that $50 more a month—that is what the payroll tax cuts means to her—would be significant—$50. That is how close so many people live to the edge.

It is time for us, in the closing days of the session before Christmas, to reach a bipartisan agreement to make sure the payroll tax cut is extended, to make sure the unemployment benefits that are needed so desperately by so many people out of work are there to help them and their families. The only way we can achieve that is in a bipartisan agreement. We now know that the notion of just cutting away at Federal jobs has been rejected soundly, even by the Republican side of the aisle. Let's come to a reasonable conclusion on how to pay for this in a manner that does not add to unemployment but adds more jobs to the American economy, something which most Americans agree should be our highest priority.

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

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

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF CAITLIN HALLIGAN

Mr. GRASSLEY. Madam President, soon we will be taking up the nomination of Caitlin Halligan to the DC District Court. I oppose the nomination. This is why the nomination should not be confirmed.

Nominations to the DC Circuit deserve special scrutiny. The Court of Appeals, DC Circuit, hears cases affecting all Americans. This court frequently is the last stop for cases involving Federal statutes and regulations. Many view this court as second in importance only to our Supreme Court.

As we all know, judges who sit on the DC Circuit are frequently considered for the Supreme Court. So there is a lot at stake with any nominee appointed to the DC Circuit.

Ms. Halligan has an activist record. There are additional concerns regarding her judicial philosophy and her approach to interpreting the Constitution.

The second amendment, for instance, in 2003, Ms. Halligan gave a speech where she discussed her role in suing gun manufacturers for criminal acts committed with handguns.

At the time, Congress was debating the Protection of Lawful Commerce in Arms Act or, as most of us called it at the time, the gun liability bill. Those lawsuits, of course, were based on meritless legal theories and were specifically designed to drive gun manufacturers out of business.

As it turns out, while many of us were fighting in Congress to stop these nuisance lawsuits, Ms. Halligan was pursuing this precise type of litigation, based on the same bogus legal theories on behalf of the State of New York.

In New York v. Sturm, Ms. Halligan argued that gun manufacturers contributed to a public nuisance of illegal handguns in the State. Therefore, she argued that gun manufacturers should be liable for criminal conduct of third parties. The New York appellate court, however, explicitly rejected her theory. The court explained that it had ''never recognized [the] common law public nuisance cause of action'' that Ms. Halligan had advanced. Moreover, the court correctly concluded that ''the Legislative and Executive branches are better suited to address the societal problems concerning the already heavily regulated commercial activity at issue.''

While we were debating the gun liability bill, Ms. Halligan delivered a speech where she expressed her strong opposition to that legislation. She opposed it because it would stop the type of lawsuit she was pursuing. She said:

> If enacted, this would nullify lawsuits brought by nearly 30 cities and counties—including one filed by my office—as well as scores of lawsuits brought by individual victims or groups harmed by gun violence. . . . Such an action would likely cut off at the pass any attempt by States to find solutions—through the legal system or their own legislatures—that might reduce gun crime or promote greater responsibility among gun dealers.

Later in that same speech, she expressed her view of the law and legal system. She said:

> Courts are the special friend of liberty. Time and again, we have seen how the dynamics of our rule of law enables enviable social progress and mobility.

This statement is very troubling, especially as it relates to the nuisance lawsuit against gun manufacturers. Those lawsuits are a prime example of how activists on the far left try to use the courts to effect social policy changes they are somehow unable or unwilling to fight to achieve through the ballot box. That is why I believe those lawsuits represent not only bad policy but, more broadly, an activist approach to the law.

I am also concerned about Ms. Halligan's views on the war on terror and the detention of enemy combatants. This is especially troubling because Ms. Halligan is the nominee for the DC Circuit Court, where we know a lot of these issues are often heard.

In 2004, Ms. Halligan was a member of the New York City Bar Association that published a report entitled ''The Indefinite Detention of Enemy Combatants and National Security in the Context of the War on Terror.'' That report argued there were constitutional concerns with the detention of terrorists in military custody. It also argued vigorously against trying enemy combatants in military tribunals. Instead, it argued in favor of trying terrorists in civilian article III courts.

As I said, Ms. Halligan is listed as one of the authors of that report. But when it came to testifying at her hearing, Ms. Halligan tried to distance herself from that report. She testified she did not become aware of the report until 2010. In a followup letter after her hearing, Ms. Halligan did concede ''it is quite possible that [a draft of the report] was sent to me,'' but she could not recall reading the report.

I recognize memories fade over time. But as I assess her testimony, I think it is noteworthy that at least four other members of the committee abstained from the final report. Ms. Halligan did not.

I also point out that she coauthored an amicus brief before the Supreme Court in a 2009 case of Al-Marri v. Spagone. Ms. Halligan's brief in that case took a position similar to the 2004 report with respect to military detention of terrorists. In that case, she argued that the authorization for use of military force law did not authorize the seizure and indefinite military detention of a lawful permanent resident alien who conspired with al-Qaida to execute terror attacks on our country.

The fact that Ms. Halligan coauthored this brief, pro bono, suggests to