

2 percent of the men who come as refugees from Syria or Iraq are of military age. The Department of Homeland Security has verified that not one of the 1,800 Syrian refugees already admitted to the United States has a single confirmed tie to terrorism, but in spite of all the facts, Republicans would focus their attention on refugees and ignore the problem we have with gun violence in America.

Republicans would have Americans believe Syrian refugees are the pre-eminent threat to our national security, and meanwhile the Republican Congress is doing nothing to curb our Nation's gun violence. It is a sad commentary on Republicans that they are more concerned about keeping Syrian refugees out of America than they are about keeping guns out of the hands of terrorists, those who are mentally ill, and those who are criminals.

#### PARIS CLIMATE CHANGE CONFERENCE

Mr. REID. Madam President, as we speak, in faraway Paris, France, 194 countries are gathering to negotiate an international agreement to address climate change. Fortunately for the world, President Obama is committed to doing something about that climate change.

I send all my appreciation, my accolades to the French people for going ahead with this extremely important conference and not letting those terrible acts that occurred stop them from doing so. Because of President Obama's leadership, the United States is taking on a more prominent role in rolling back dangerous carbon emissions, not only from our country but from China, India, Brazil, and other major sources of climate-changing pollution.

Before the conference in Paris even started, more than 170 countries representing over 90 percent of global carbon emissions made concrete pledges to reduce carbon pollution. Climate change is among the most serious problems we face today. What does the Pentagon say? What do all the security agencies say is the most serious problem facing America today? Climate change. We are beginning to endure the devastating consequences of rising sea levels, extreme weather, and drought across America and all over the world.

No country acting alone can halt climate change, but through American leadership and international cooperation, we can protect our air and climate for our children and their children. I commend President Obama for his work domestically and internationally to address this issue.

#### FINISHING THE SENATE'S WORK

Mr. REID. Madam President, this year is quickly drawing to a close, as I mentioned earlier. That means the Senate has precious few days left to finish vitally important legislative matters, and it is not a small list. Be-

fore we leave this year, we need to address funding to prevent a government shutdown, a surface transportation bill, the elementary and secondary education conference report, important expiring tax provisions, including those for the middle class, not just for the big corporations, and a growing backlog of nominations, particularly those involving national security positions.

Each of these matters I just mentioned is essential. We have to get them done, and we don't have a lot of time to do it. There is certainly no time for demagoguery and political distractions such as repealing Obama Care or defunding Planned Parenthood that have been the hallmarks of the Republican Congress. Instead, I hope my Republican colleagues will work with Democrats to accomplish all of the Senate's work in a timely fashion.

Madam President, Senator MCCONNELL and I have finished our remarks. What now is the business of the day?

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to finish my remarks.

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

#### PUERTO RICO

Mr. HATCH. Madam President, I rise to speak on Puerto Rico's financial and economic challenges.

The Government of Puerto Rico tells us the territory has more than \$73 billion in debt that is, to use their words, "not payable." On top of that, Puerto Rico has tens of billions of dollars in unfunded pension liabilities and very few assets to back up its pension promises. The economy in Puerto Rico has persistently registered double-digit unemployment rates, staggeringly low labor force participation rates and a bloated public sector and there are growing strains on Puerto Rico's health care system, some of which reflected the way the so-called Affordable Care Act was written to treat Puerto Rico and other territories, some of which reflects differing treatment between Puerto Rico, where residents do not pay Federal personal income taxes, and States where residents are included in the Federal personal income tax system. In short, there is very little good economic news coming from Puerto Rico these days. As a result, we are seeing an ongoing debate

about what the Federal Government can or should do in order to help the American citizens residing in Puerto Rico.

To me, this debate boils down to four relatively simple questions: Question No. 1, should the Federal Government allow Puerto Rico access to chapter 9 of the Bankruptcy Code or to even broader debt resolution tools; question No. 2, will providing fresh tax incentives to Puerto Rico help boost the island's economy by creating jobs and stimulating growth; question No. 3, should Congress increase Federal resources to help ease Puerto Rico's strained health care system; and question No. 4, should we take steps to exempt Puerto Rico from burdensome Federal regulations—including labor, transportation, and energy regulations—that may be contributing to the territory's ongoing economic struggles?

Today we have seen a number of proposals that attempt to address these and other questions, although, in my opinion, many of them do so in very awkward ways. I want to take time today to address each of these four major questions in turn and hopefully shed some light on what we have to consider as we try to address the growing crisis in Puerto Rico.

So far, the majority of these discussions among policymakers with regard to Puerto Rico have focused on question No. 1, allowing access to chapter 9 bankruptcy relief. As we all know, chapter 9 applies specifically to financially distressed municipalities that are seeking protection from creditors as they develop and negotiate plans to adjust their debts. Puerto Rico is not currently eligible for chapter 9 bankruptcy, meaning that granting them access to this type of relief will require a legislative change to the Bankruptcy Code, which may come with its own set of problems. Some proponents of the bankruptcy solutions for Puerto Rico have argued that the clear language preventing the island from accessing chapter 9 reflects some sort of drafting error. They argue further that once Puerto Rico is eligible for chapter 9 protections, it should apply to debts already incurred.

Now, whether the exclusion for Puerto Rico from chapter 9 was intentional—and I don't believe it was—we should keep in mind that there are potential rule-of-law issues at stake when we talk about legislative action to retroactively alter the terms of debt contracts. Puerto Rico's creditors entered into their contracts with the various existing risks priced into the agreements in the form of interest rates and other terms. If the island had been eligible for chapter 9 bankruptcy prior to entering into those agreements, creditors would have formed different expectations, likely leading to different terms, including differing interest rates that could have reshaped the demand for Puerto Rico bonds. This is not rocket science. This is finance 101.

We should be cautious about any legislative action that would alter the terms of existing contracts. At the very least, we should consider what impact extending chapter 9 to existing Puerto Rico obligations would have on credit transactions moving forward, given that parties set credit agreements based upon the laws they expect to apply. If parties believe there is a real possibility that Congress might retroactively change those laws in the future, they are likely to seek different terms or reevaluate a contract's potential worth. Even so, it is not at all clear that our amending chapter 9 to allow access for Puerto Rico will solve the debt problems of Puerto Rico.

Officials from the Obama administration have argued that chapter 9 would only cover about 30 percent of Puerto Rico's outstanding obligations and, as a result, even broader debt restructuring authority is necessary. Therefore, those in Congress with proposed solutions that center only on chapter 9 bankruptcy are apparently not aware of the administration's position. However, the other nonbankruptcy proposals we have seen—which would allow Puerto Rico to handle its debt on its own—are also lacking. For example, we have seen proposals to allow the Federal Reserve to purchase debt issued by Puerto Rico and to authorize the Treasury to guarantee bonds issued by the Government of Puerto Rico or any of its instrumentalities. Of course, this approach would run the risk of setting very bad precedents for future insolvent entities and is fraught with moral hazard.

Ultimately, those pushing to restructure Puerto Rico's debt as the sole solution tend to want to simply blame the problems on the creditors, using loose terms like "hedge funds" or "vulture funds." For these people, punishing the creditors is their desired focus, not because it is a viable solution but because, at the end of the day, an opportunity for populist rhetoric is itself a valuable commodity heading into a contentious election cycle.

While that approach may help some around here appeal to their political base, it does precious little to help the people of Puerto Rico and ignores the fact that a number of the creditors are middle-class investors and retirees from virtually every U.S. State and territory—from Utah to New York, to Puerto Rico itself.

Ultimately, whatever case can be made for restructuring authority for Puerto Rico's debt, there may not be an urgent need for that authority to be granted right away. This is evidenced by the fact that despite several months of debate surrounding the issues, Puerto Rico has only recently begun negotiating with some of its creditors. I would hope that if the need for relief is in fact dire, the Government of Puerto Rico will waste no time in negotiating and working toward private solutions. If there is no urgency on that front, it would be hard to argue that there is an

urgent need for Congress to consider proposals relating to chapter 9 bankruptcy or broader restructuring authority. That is question No. 1.

Let's talk about question No. 2, which deals with tax incentives to boost Puerto Rico's economy. On the tax front we have seen proposals in Congress to allow residents in Puerto Rico to claim the earned-income tax credit and the refundable portion of the child tax credit on the same basis as other U.S. taxpayers. Likewise, the Obama administration has indicated support for a similar approach, although they have not provided any real details as to what their proposal would look like.

Proposals such as these are problematic for a number of reasons. As I mentioned, the residents of Puerto Rico are exempt from the Federal personal income tax system, meaning that they do not pay any personal Federal income tax. Therefore, offering these refundable tax credits would not reduce their tax burden because you can't reduce a tax burden that is already zero. In other words, these tax credits would ultimately be cash payments offered directly to lower income residents of Puerto Rico. On top of that, the earned-income tax credit and the child tax credit are already rife with fraud and overpayments when they are offered to taxpayers who are required to file a return and can at least theoretically incur a tax burden at some future date if their income goes up. Extending these same credits to Puerto Rico could very well introduce a number of threats to the integrity and administration of our tax system.

Those who issue these types of proposals rarely have a solution to these inherent concerns. Moreover, we haven't seen any public information from congressional scorekeepers as to how much these proposals would cost. I also haven't heard any proponents of this approach offer so much as a hint about how they would plan to offset the costs or if they intend to offer any offset at all.

Long story short, most of the tax-related proposals to the Puerto Rico situation leave much to be desired. That is not to say we should not do anything in this area. There are quite likely tax incentives we could offer to better incentivize growth and labor force participation and perhaps investment in the Puerto Rican economy. I think it would be safe to say Republicans would be open to such a discussion. But to date, I haven't seen anything that resembles a serious solution that focuses on the Tax Code.

This brings us to question No. 3, dealing with health care policy, which has been the primary focus of a number of our colleagues when it comes to these issues. Here in Congress, we have seen some poorly constructed proposals that, when boiled down to their essence, would allocate more than \$30 billion from the general fund directly to Puerto Rico. Of course, that is not how

the proponents describe their ideas. Typically, these proposals are couched as changes to the way Puerto Rico's share of Federal health dollars is determined under existing programs. However, while the issues are admittedly complex, the result is fairly simple: Fiscal irresponsibility would be rewarded to the tune of tens of billions of dollars.

Now, don't get me wrong—we will very likely have to consider these ideas to alter the means by which we allocate Federal health funds to Puerto Rico. However, if we decide to go that route, it is essential that we move forward in a fiscally appropriate and responsible manner. To date, I have yet to hear any concrete thoughts from proponents in Congress or from our Federal health agencies about how this can be done. I have heard, however, that the so-called Affordable Care Act is the source of some of the health care-related problems faced by Puerto Rico. I will leave it to those who wrote that law and forced it through Congress on a partisan basis to explain why that is the case.

We now come to question No. 4, the possibility of providing Puerto Rico with relief from various Federal regulations. We have heard a number of ideas in this area, including reforms or exemptions from regulations governing labor markets, shipping, energy costs, and others. While I am inherently sympathetic to proposals to scale back Federal regulations, the issues here are very complex and would become very political in a hurry.

For example, while I haven't taken any straw polls, I think it is safe to say that many of my friends on the other side of the aisle would reflexively oppose any attempt to mitigate the application of Federal minimum wage regulations to Puerto Rico. This would be puzzling given that Congress has offered similar relief to other ailing U.S. territories in the relatively recent past. On top of that, the Krueger Report, which was commissioned by the Government of Puerto Rico along with a host of economic analysts across the political spectrum, argued that allowing Puerto Rico the flexibility to set minimum wages that differ from the Federal levels would have a positive economic impact and that the current minimum wage levels do not fit productivity conditions on the island. Still, even in the face of all this evidence and precedent, my guess is that many of my colleagues would take issue with this idea.

I would expect they would similarly reject out of hand any proposals to scale back environmental regulations and rules governing transportation even if it could be shown that their regulations were having a negative impact and contributing directly to Puerto Rico's fiscal and economic predicament. Unfortunately, Madam President, for a number of our colleagues here in Congress, commitment to ideology too often does not allow room to

admit when your policies are not working. While the situation in Puerto Rico isn't the first time we have seen that come up, I expect we will see that happening a lot if we get a chance to consider regulatory relief as a potential solution.

Those are the four main questions we face with regard to Puerto Rico. While they each come with their own sets of difficulties, those are the basic categories of solutions we have seen come to light so far. Of those four categories, two of them—the tax and the health care categories—are interrelated inasmuch as Members of Congress and administration officials have made them the focus of various ideas to help Puerto Rico improve its fiscal situation and perhaps its economy. While those putting the tax and health proposals forward have largely been silent about what our official scorekeepers—the CBO and the Joint Committee on Taxation—will say about the costs of their CTC ideas, I have done some of my colleagues' homework for them.

Adding up the refundable tax credits, including the EITC and the CTC, and health-related resource flows, including changes to Medicaid allocations, the overall cost looks to be well north of \$30 billion and likely around \$40 billion over the next 10 years. Those are hardly insignificant figures.

Questions of funding and resource allocation are always difficult, and they implicate a number of issues. It isn't as simple as just deciding to give more health funds to Puerto Rico or access to refundable tax credits because doing so would necessarily mean reduced funding for other Federal priorities or increased taxes or yet more Federal debt.

True enough, Puerto Rico's problems are multidimensional and complex, and I don't know anyone in Congress who is indifferent to the plight of these American citizens. Sadly, these facts don't make our unpleasant budget arithmetic any easier. If anything, they make it all the more complicated. In short, there are no easy answers.

That said, regardless of how we move forward, we need to have a clearer picture of what is going on in Puerto Rico. We need to have the fiscal facts regarding the island's indebtedness, funding levels, and needs. Yet, to date, we have not seen any recent audited financial statements from Puerto Rico, although we have asked for them. Instead, we are being asked to rely on statements and cash flow analysis commissioned by the Government of Puerto Rico. As of right now, finances in Puerto Rico remain extremely opaque and difficult to monitor. Congress should demand independent verification of the territory's finances before moving forward on any kind of relief package.

Moreover, while we are hearing horror stories of inadequate cash flow and a liquidity freeze in Puerto Rico, it is difficult to ascribe much urgency to the situation when we are still seeing

and reading about relatively large outlays for questionable expenses. Indeed, it is hard to believe an entity is in danger of running out of cash when it is paying for a broad public relations and lobbying campaign and when officials are talking about protecting hundreds of millions of dollars in year-end bonuses for government employees.

This brings us to yet another difficult question. I suppose you could call this question No. 5. What can we do to ensure that Puerto Rico changes its clearly unsustainable fiscal course? No matter what we do with regard to debt restructuring, tax policy, health care policy, or regulatory relief, the solution will ultimately be meaningless if we don't take steps to ensure that Puerto Rico doesn't simply continue on the fiscally irresponsible path that brought them to this mess in the first place. Even if every creditor gets a massive haircut and all the requested resources are channeled directly to the island, steps need to be taken to avoid getting into this situation again in the future.

For some time Puerto Rico has spent more than it takes in from revenues and receipts and has covered the difference with debt. The debt that has been issued has tapped out virtually every possible future receipt of the government, and basic budget arithmetic has caught up with this unsustainable fiscal recipe and has effectively shut Puerto Rico out of funding markets.

In short, Puerto Rico must move to policies that are fiscally sustainable. Madam President, that is not me trying to impose on Puerto Rico's sovereignty. That is not an agenda of "austerity" at work. It is just the simple budget arithmetic of the situation. Before we undertake any efforts to provide relief or assistance to Puerto Rico, we need to give this simple math its proper consideration and demand a workable plan for the future. I would like to see Puerto Rico submit such a plan, and that plan is going to have to include how they resolve the overwhelming burden of government down there when they have allowed it to grow out of control and become the employer of last resort.

For its part, the Obama administration has chosen to remain relatively vague on this somehow. In October, we saw a joint statement from Treasury, the Department of Health and Human Services, and the National Economic Council outlining a general plan which they called a "Roadmap for Congressional Action." This roadmap contained many of the same general proposals I have discussed today with regard to bankruptcy relief, tax credits, and health spending. Conspicuously absent were any proposals for regulatory relief for Puerto Rico. Also absent were any real cost estimates or proposed offsets, just some lipservice to the need to undertake these changes in a "fiscally responsible" way.

I have made inquiries to various agencies, including Treasury and HHS,

with little in the way of detailed response to many of these issues at stake here. It remains puzzling to me that in the midst of what some in the administration are calling a "humanitarian crisis," we are seeing very little engagement from our health agencies, particularly when so many have been arguing that the crisis stems in large part from the lack of health care funding in Puerto Rico.

It also seems that provisions of taxpayer-funded technical assistance—which I would think would be considered in any package aimed at Puerto Rico—may be rendered moot given that, as I understand it, Treasury officials are working to wedge such a system on the sidelines into appropriations vehicles. Needless to say, before Congress can even begin to consider a significant legislative package to address the situation in Puerto Rico, we need more information from the administration about what it is now doing and what it plans to do in the near future. Put simply, it would not be productive for Congress to move forward on a legislative vehicle costing billions of dollars, if not tens of billions of dollars, without knowing beforehand if that legislation contradicts or conforms to the plans of Federal agencies.

Long story short, Madam President, this will likely be a significant undertaking. There are a lot of ideas floating around. Some may work; others clearly will not. As the chairman of the Senate committee with jurisdiction over our Tax Code and most of the relevant health programs, I am more than willing to work with my colleagues on both sides of the aisle to find a bipartisan path forward. To accomplish that goal, we need everyone involved to be upfront and willing to work together. That goes for Members of Congress, the administration, and the Government of Puerto Rico. Everyone needs to come clean about the current state of affairs, the specific needs and amounts requested, the actual costs of any legislative or administrative proposal, and whether they want to offset costs or simply incur more Federal debt. Right now, too many people are willing to throw out demands and vague proposals—with the price tag as high as \$30 billion to \$40 billion—accompanied by a lot of political rhetoric. That is precisely what we do not need.

It would be very easy to play politics with this issue. My hope is that enough of us will be able to set that aside to allow Congress to do right by our fellow citizens in Puerto Rico. There are some who believe that crass politics may be playing a role here and that some would throw Puerto Rico to the dogs so that more and more people will immigrate to Florida for political purposes.

I hope that is not true. I can't believe that is true, but it has been stated. I hope we can come together as Democrats and Republicans to solve this problem. Puerto Rico is going to have

to help us to know what to do. I suspect the creditors are going to have to help us, too, or we are going to have to help them as well. I stand ready, willing, and able as chairman of the Finance Committee to solve these problems. But so far we haven't even received the right financial statements from Puerto Rico, and we can't move ahead without having clear-cut information that shows us what is going on, what the problems are, what we have to do, and how to do it.

I want to do whatever it takes to help Puerto Rico resolve these problems, and I would like to see Puerto Rico itself resolve them. It may take some help from us; it may take some help from creditors. I would like to see them sit down with creditors before we come up with some colossal Federal program that is going to basically hurt everybody. But I am open, and I sure as heck want to get this problem solved.

I like the people of Puerto Rico. I think they deserve better treatment than this. But they also got themselves into this problem by requiring too much of the central government and spending more and more all the time, with more and more central government employees that they don't need. That is a large part of this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Madam President, this Senator from Florida doesn't think it is true that Puerto Rico is having such economic chaos that the net result is that Puerto Ricans—who are American citizens—move to Florida. The fact is that some are moving to Florida, I would say to the distinguished Senator from Utah, because of the economic deprivation of the island.

It would seem to me, as someone who has looked at this issue and has been to the island and spoken to the leaders, that there is an essential element of fairness here. If the bankruptcy laws are allowed to apply to all States and municipalities, why would those bankruptcy laws not apply to Puerto Rico and its need to reorganize its finances as well?

Mr. HATCH. Will the Senator yield?

Mr. NELSON. I will. Let me make this statement.

There is another part of unfairness, and that is that Puerto Ricans are not being treated the same way under the Medicare and Medicaid laws as well. To this Senator from Florida, who is close to the Puerto Rican people, it does not seem to be the fair thing.

Regardless of what the issue is with regard to how they got into economic trouble, the fact is they are in economic trouble. The question is, How are we going to get them out of economic trouble?

Of course, for purposes of a question, I yield to the distinguished Senator, my chairman of the Finance Committee.

Mr. HATCH. I appreciate my friend and colleague from Florida. I too un-

derstand that he understands a lot about this.

Look, bankruptcy laws do not apply. That doesn't mean we can't change that. I am not sure that is the way to do it. We are going to have to have some real information before we can move in that direction—which may be dangerous.

I do think it is incumbent upon the Puerto Rican leadership to provide us with audited financial statements, so we really know what the problems are, so we can then approach this in an intelligent, reasonable, healthy, loving way. I am for getting this problem solved, but I am not for just throwing money at it when we know their central government is completely bloated and that is what is causing some, if not most, of the problems. At least that is what we have been told.

I am happy to look at financials. I am happy to look at whatever suggestions are made. Not that I am that important, but we can move if we know what we are talking about. I am not about to move on the backs of the rest of the American taxpayers until they clean up the mess that is there, and they sit down with their creditors and see what they can work out. We ought to be encouraging them. I think their creditors want us to encourage them because they think it can be worked out—at least the one that I have spoken with.

So I commit to the distinguished Senator. He knows I don't make commitments unless I mean them. I am going to try to solve this problem. When I say "I," I mean our committee and our Congress is going to try to solve this problem. But let's do it in an intelligent way. Let's get all the facts, let's get some cooperation from Puerto Rico, and let's get the right financials so we know exactly what we can work with. If we can get all that, hopefully we can find some solutions here that will bring these folks into balance and give them a shot for the future.

Last, but not least, I agree with the distinguished Senator that they have not been treated fairly, and it is time for us to start treating them fairly.

I disagree with him that there are not people in Congress who would love to see more and more coming to Florida as Democrats. I am pretty sure that is the case, but that shouldn't be the case. We should be working on these problems and solving them.

I commit to the distinguished Senator from Florida who is a great Member of our committee that I will work with him, and we will see what we can do to solve these problems. But let's get some financials we can rely on before we go off on some deep end and miss the boat here.

Mr. NELSON. The Senator is certainly entitled to the information in order to make a reasonable judgment. This Senator is advocating fairness in the system.

There was a time that Puerto Rico was, in fact, included under the bank-

ruptcy laws. For whatever reason, a couple of decades ago the law was changed and they were treated differently; the same was true with Medicare and Medicaid payments. I think, regardless of what their financials show, Congress is going to have to take action. So when the Senator gets the information he wants, then I hope we can act forthwith because this is a problem that is with us at the moment. They are about to the point that they cannot make the payments on their debt obligations. So the day of reckoning is basically here.

#### BULK TELEPHONE METADATA COLLECTION PROGRAM

Mr. NELSON. Madam President, I came to the floor for a different reason. I want to speak about the National Security Agency and the bulk telephone metadata collection program that basically the new law took over, that there was reform of. Now, let me explain the old law and the new law that just took effect yesterday.

The old law had been in effect for—I don't know the exact number of years but something in excess of 5 and less than 8. The old law said that by going to the approved court that handles classified information—called the Foreign Intelligence Surveillance Act Court, known by its acronym FISA—that the government could ask for these records to come into the possession of the government by showing good cause as to why those records would be held. So it was pursuant to a court order.

What were the records to be held? These are business records of the telephone company. This is not the content of the telephone call; this is the business record that says that on such and such a day, at such a time, that telephone number such and such called telephone such and such. That is called metadata. That is it; there is no content.

For almost a decade, ever since we had the 9/11 attacks and we passed the PATRIOT Act to try to make it much more efficient for our National Security Agencies to protect us—those records, if the telephone company complied with the order, would be in the data-base. But it is not the content. It is only the business records stating what I just said: Number such and such called such and such.

Why was that important? Because when we suddenly got an indication that we had a terrorist that was going to strike either here or abroad and if that terrorist had a link to a number, we could see what calls that potential terrorist had made to what number and what numbers that number then called, and we could go down several different calls. It was through this that we were able to track down and prevent a number of terrorist acts, including in this country.

Earlier this year, along came the reform. The choice this Senator—who