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No. 170

Senate

The Senate met at 1 p.m. and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

PRAYER

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

Let us pray.

Mighty God, have mercy upon us because of Your unfailing love. Because of Your great compassion let us feel Your presence today on Capitol Hill. As we gather with so much work left undone, guide our lawmakers with Your wisdom. Lord, show them the right thing to do and give them the courage to do it. Be their shelter in the midst of the storm, regardless of how high the waters rise. When they feel exhausted, remind them of the great sufficiency of Your grace. Look with favor on our Nation and save us from self-inflicted wounds.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 30, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a

Senator from the State of Colorado, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. BENNET thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, there will be an hour of debate on the Galante nomination. At 2 p.m. there will be two rollcall votes on confirmation of the nominations of William Baer to be an Assistant Attorney General and Carol Galante to be an Assistant Secretary for HUD.

Following those votes, there will be a recess allowing for caucus meetings. The majority's meeting will begin at 3 o'clock today.

Would the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF CAROL J. GALANTE TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT

NOMINATION OF WILLIAM JOSEPH BAER TO BE AN ASSISTANT ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Carol J. Galante, of California, to be an Assistant Secretary of Housing and Urban Development, and William Joseph Baer, of Maryland, to be an Assistant Attorney General.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 60 minutes of debate equally divided in the usual form on the Galante nomination.

The Senator from California.

THE FISCAL CLIFF

Mrs. BOXER. Mr. President, as we stand here—or sit here—and watch what is happening, we know there are negotiations going on to avert at least part of the fiscal cliff. I want to say—I have said this privately, but I want to do it publicly—I hope our leaders can find a way out of this.

I watched the President speak today and I thought, as usual, he was very fair in what he said. What he basically said is it is the middle class that grows this economy. It is the middle class that needs to be lifted up. It is the middle class that cannot afford tax hikes. Those at the very top can do just a little bit more.

It is a very simple point. I hope, given that everyone says they are for the middle class—I know my colleagues on the other side of the aisle say that every day, that they agree with that—that finding this compromise will not be elusive but will come to pass.

I have been here for a while. My understanding is we have not met between Christmas and New Year's Day since 1962. So it does take a crisis of major proportions to make that happen. I think we are in a crisis right now, but it is a self-made one. It is a self-imposed one. It is similar to the crisis we had on the debt ceiling—self-imposed. It is not some, God forbid, exterior attack on our country which we

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



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could not prevent. It is not some, God forbid, plague or a terrible virus that is running across the land. To me it is something that is not that complicated.

As the President said, we have a series of tax cuts that are expiring. If we let them expire, it means there will be a huge tax increase, mostly hitting the middle class and the working poor. The upper incomes, the people in that category, have done so well that even they say they would have to talk to their accountant before they even knew there was any impact on their tax bill. So we can come together.

The President favored a limit which would be \$250,000, meaning that everyone who earns up to that would get a tax break. Everybody's income up to \$250,000 gets a tax break, everybody, 100 percent of the people. But those who are fortunate to have higher incomes would go back to the tax rates that prevailed when Bill Clinton was President.

Why the other side is horrified by that is perplexing to me. I look back at the Clinton era. I was here. That is a long time ago. I came to the Senate with Senator FEINSTEIN when Bill Clinton was President, and he faced similar issues in that we had a deficit that was getting out of control, a debt that was getting out of control. We needed to have growth. So he put forward a budget plan that invested in our people, invested in the infrastructure, invested in education, and at the same time said we can find cuts in other areas and we can raise taxes on those who are doing very well.

What happened with that fair and balanced approach? What happened was the greatest prosperity in modern history—23 million jobs, no more deficits, we got to a balanced budget. I remember saying to my husband: My goodness, what is going to happen? There will not be any more U.S. Government bonds because we are going to be out of the debt situation. We saw it on the horizon.

When George W. Bush became President, he decided to go back, backward on rates across-the-board, from the wealthiest to the middle to the poor, and he put two wars on a credit card and we are where we are.

To add to this history, we all know we are coming out of the worst recession since the Great Depression. It has been difficult. It was led by, unfortunately, some unscrupulous people on Wall Street who created a nightmare in the housing market. I remember saying to Treasury Secretary Paulson: Can you please explain the role of derivatives here and what happened and how we got into this crisis? He put his head in his hands and he said: Not now. I will talk to you later.

That is not very encouraging when the Secretary of the Treasury puts his head in his hands and says I can't explain it now.

We are coming out of this difficult time, and guess what. We are doing

much better. We had an election. It was pretty clear. People want to see us reach a balance.

As I stand here, I know there are negotiations going on in the rooms surrounding us. I wish for the best, I hope for the best, and I ask for the best. There is a word called "compromise." It doesn't mean you compromise your principles, but it means that you can compromise because that is what the American people want us to do. Yes; they do.

I wish to give an example. Say you were out hiking. Mr. President, in your State there are a lot of hikers. If you saw someone on a cliff, trapped, caught on a rope and you knew the only way to save the person was first to cut the rope—you are standing with someone else and you say: Cut the rope at the top. He says: Cut the rope at the bottom, and you stand there arguing; meanwhile, the man is struggling on this cliff: Get me down. Wouldn't it be smart to cut the rope in the middle and save the guy? You can argue later, should I have cut the rope at the top or the bottom—no, cut it in the middle, save the man.

That is a pretty simplistic example of where we are. But I have the privilege of knowing we can get it done when we work together. I was so proud to bring to this Senate a highway bill, a transportation bill. Millions of jobs were at stake. Our States were worried they would stop getting their highway funds. We would have had to stop road projects in the middle. We would not have had State funding for transit. But you know what happened. Senator INHOFE and I sat in a room. You could not find two more divergent people in their thinking, he a conservative Republican and I a progressive Democrat. We sat in a room and he said I want this, this, and this. I said I want that, that, and that. Then we said let's make a deal. Let's meet in the middle. We did it—much to everyone's surprise—and that bill passed the Senate.

When it got to the House, it got stuck. So Senator INHOFE and I and Senator REID went over to meet with JOHN BOEHNER and Chairman MICA and we all agreed we would get it done. Neither side got everything they wanted. Anyone who takes that position, in my opinion, is not putting country first. I don't care whether they are Republican, Democrat or anything else.

We are not, each of us, going to get everything we want, Lord knows. There is a lot I could do if I had a wand and could make it happen. But everybody has a different view of exactly how to go forward. I think we are being tested.

I know it is tough going. I know if we do not get a deal, it does not stop there; we will keep on working. But there is no reason on this beautiful, God's green Earth why we cannot get a deal. If everyone is sincere and saying they want the middle class to be protected, we can get a deal. President Obama says \$250,000 is the line. Maybe

I think \$350,000 is the line; maybe someone else, \$500,000; maybe someone else, \$150,000. We can meet somewhere and cut that rope somewhere in the middle and save this country from the uncertainty that plagues us right now.

In the olden days—when I say "olden," it is a long time ago—I was a stockbroker. I was an economics major and a stockbroker on Wall Street. The thing Wall Street and investors cannot take is uncertainty. If they know taxes are going up, they will refigure things. If they know taxes are going down, they will refigure things. If they know taxes are staying the same, they will figure it out. But right now they are frozen because they do not know. Families are also, in many ways, frozen. They do not know whether they have to budget so they will have \$2,000 less next year. They do not know whether it will be \$4,000. They don't know if it is ever going to change. The uncertainty is the fault of leaders who cannot get together. I think it is critical that we get a deal, and I hope it is in the next couple of hours.

I believe it was a reporter who asked me: What is the difference if it is done now or 5 days from now?

I said the difference is this uncertainty, this pall, and an unneeded escalating crisis.

Then someone might say: Well, we don't have to do it now. We will do it on January 4. Well, we don't have to do it on January 4; we will get it done on the 10th.

We need to get it done. America wants us to get it done.

The President has shown that he is willing to be flexible. He has come out with some ideas that I have to swallow—very hard—to accept. I know personally how strongly he feels that \$250,000 should be where we draw the line when we allow tax breaks, but he was willing to offer \$400,000. He was willing to look at changing some of our programs. It is very tough for him to do that, but he is willing to do that even though he ran on his program and won by millions of votes on his program.

So if the President can be flexible and say: OK, I will step back from everything I really want to do and move in the direction of the Republicans, then the Republicans need to move in our direction. I think we are going to be judged by whether we are going to be stuck in the mud because we just don't have the courage to change or whether we step forward at this moment. I think it should be this moment.

If we cannot get it done, I certainly hope we will have an up-or-down vote on the President's plan, which I feel was very fair. The President offered a plan. Do I like everything about it? Absolutely not. But he showed he is willing to take those steps. I would hate to think our colleagues would filibuster that and demand a 60-vote threshold as we go over this cliff.

The American people are hanging from the cliff, and we can let them

down very gently today and solve this problem. If all we do is stand and stay in our corners, I am very fearful the message is that we don't know how to meet each other halfway, and that is not a good thing. Voters are going to turn on those people who stand in their corners and don't move. That is not the role of legislators.

I will close with this. We have a different form of government than they have in Europe. This is not a parliamentary system. In a parliamentary system, one government rules everything, one party rules everything. They have the Prime Minister, the equivalent of the Speaker, and the leader all in one party, and then they don't compromise. They put their agenda there and get their program through. If there is a lack of confidence, the people can change parties. The next party then comes in and does what it wants. That is not what we do here.

Sometimes I wish it were the form of government we had because at least there would be some action and we would know what to expect. We would not have this uncertainty because each party has its dreams, its hopes, its plans, and they would have a chance to get those policies through. We don't have that here. We have to meet each other halfway because the House is run by the Republicans, and it will be next year. The Senate is run by the Democrats, but it is not a supermajority. We have to deal with our colleagues. The President is a Democrat. We have to work together. That is the name of the game.

If I can work with JIM INHOFE on the highway bill and DEBBIE STABENOW can work with PAT ROBERTS on the farm bill—and there are other examples I could give. For instance, Senator FEINSTEIN worked with her Republican counterpart. I could give many examples on the Appropriations Committee. We know we can do this. We just have to take a deep breath and put our egos aside for this country's sake and make those compromises that allow us to still stand tall. I am only 5 feet, so that's hard, but you get the point.

We can do this, and we should do it now. If we don't do it now, we should vote on the President's plan because the people of this country deserve better than to be left hanging on a cliff. They don't deserve that. It is not right.

Thank you very much.

I yield the floor, and I note the absence of a quorum. I ask that the time be equally divided between the two sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

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

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

Mr. ISAKSON. Happy New Year, Mr. President.

Mr. President, I rise to speak about the nominee for Commissioner of FHA, Carol Galante. I opposed her nomination earlier in the year because of some concerns about what the FHA may or may not do; however, I had no concern whatsoever about her qualifications or ability. She is coming up in the second vote today, and I want to put on the record my wholehearted support for the Senate reaching the 60 votes necessary to confirm her appointment, and I want to explain why.

There are some people in the Chamber who justifiably have concerns about the FHA, its liability on insurance and the fact that it is bearing so much of the burden on housing finance. But that is not the FHA's fault, that is the fault of Dodd-Frank. The restrictions on lenders would have forced FHA to be the lender of last resort—or most resort—for most American people. That is something we in the Senate have the ability to fix, but we should not punish a talented, experienced, well-qualified, and highly recognized individual who knows housing, both multi and single family, from being Commissioner of the FHA.

So I rise to say to any Member that if they have a problem with the FHA, don't take it out on Ms. Galante. Look at what happened after the passage of Dodd-Frank and the fact that the FHA had to take on the burden because there was no other alternative in housing finance. What we need to do, rather than defeating good nominees for office, is give those nominees the kinds of underpinnings where the laws allow capital to flow to the mortgage market through various and numerous entities so the whole burden doesn't have to be borne by the FHA and the U.S. Government.

I rise with pleasure to say I will vote in favor of Carol Galante as Commissioner of the FHA.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise to speak behind the distinguished Senator from Georgia. He has more experience in the housing market than any Senator in the Senate and always speaks with eloquence and balance. I would like to second what he said.

I spent a lot of time with the nominee, Carol Galante. She is technically very proficient. Over the past 2 weeks she has put in place reforms that are very strong. It is just a start. I know a lot more needs to happen at FHA, but she has put in place some very significant reforms.

I know we have been losing billions of dollars at FHA—and I think seniors have been taking advantage of it—on something called a full-draw fixed-rate reverse mortgage. The advertisements for that have been on TV. The FHA has been losing its shirt over that program. She ended that program—or will end it by the end of January—on her own,

along with doing some other things relative to debt-to-income. That is one example of why I think she is technically very proficient.

I know there are Members of this body today who may work against her because they are very dissatisfied with what has been happening at FHA. Candidly, much of that is due to us. We need to pass some legislation to deal with FHA, and we have been resistant to do that. I know JOHNNY ISAKSON, DAVID VITTER, and others in our body have been pushing for us to address that. I know the Presiding Officer serves on the Banking Committee with me, and we know reforms need to take place.

Here is what I would say. The main reason FHA is in the problem it is in is due to loans that were made back in 2006, 2007, 2008, and the beginning of 2009. What is happening is that the losses from those loans are just now kicking in. There is no question that FHA has some issues relative to their economic value, but there have been five increases in rates at FHA recently to try to get it back to where it needs to be.

So what I would say to my friends on this side of the aisle is that if we think the FHA can get better by not having a Commissioner, I find that to be kind of strange. She has been the Acting Commissioner since David Stevens left. It seems to me we would be much better having somebody in that position who is actually accountable and able to bring permanent staff with her. They know the issues that are going to need to be dealt with at FHA.

Again, I think I have spent about as much time with her as anybody in this body. I know Senator ISAKSON has done the same. I find her to be very technically proficient. Over the last few weeks I have seen her do some bold things relative to the debt-to-income ratio with some of the FHA participants. We need to do something about the loan amounts at FHA. They are at 729 now. At some point, they probably need to drop down once we get the rest of the market working in the fashion it should be.

I wholeheartedly support her in this position. There is a lot of work that needs to take place at the FHA. I think she is somebody who has the ability to carry that out. The biggest issue with FHA right now is this body and the folks down the hallway. We need to pass legislation to deal with overall housing finance. I know Senator ISAKSON from Georgia is going to be very involved with that. I hope to be involved, and my guess is the Presiding Officer is going to be involved as well.

My sense is that we need to have someone who is running the FHA to help it to work better. I hope my colleagues on this side of the aisle—hopefully many of them—will join in giving her strong support today and work closely with her to help the FHA to be the kind of place it ought to be. I agree with the Senator from Georgia in that

it should not have the market share it has today, but a big part of that has to do with our inaction in this body and our inability to thus far deal with GSE.

I hope many Members will join in supporting Carol Galante.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California

Mrs. BOXER. Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. Thirteen minutes for the majority.

Mrs. BOXER. Will the Presiding Officer let me know when I have talked for 4 minutes.

The ACTING PRESIDENT pro tempore. The chair will let the Senator know.

Mrs. BOXER. Mr. President, I wish to thank Senator CORKER for his remarks and join in with his support for Carol Galante. She has a long and distinguished career of building and promoting affordable housing, and she is very well qualified.

She began her career as a housing coordinator for the city of Santa Barbara, rising to become the city's housing and redevelopment manager. I want to point out that Santa Barbara is a magnificent part of my State. I have a beautiful State. At the time, they didn't have much in the way of moderate-income housing, and that was part of the very important work she did.

She moved on to Eden Housing, a nonprofit affordable-housing developer, where she developed over 400 homes as a project manager. She eventually took over as executive director.

She later joined BRIDGE Housing as vice president, and in 1996 she took the helm of that organization as its president and chief executive. BRIDGE is the largest nonprofit developer of affordable-income and mixed-use developments in California. While she was there, Carol oversaw the creation of 13,000 affordable homes for more than 35,000 Californians and programs that helped one-fourth of their residents advance to home ownership because she knew that was the goal. Home ownership, even after all we have been through, is the dream, and she understands that.

So in 2009, President Obama appointed Carol as HUD's Deputy Assistant Secretary for multifamily housing programs where she oversaw a \$50 billion portfolio of affordable and market rate multifamily properties through FHA's multifamily insurance program. At a time when support for housing was desperately needed, she took a smaller staff and grew annual lending from \$2.5 billion to over \$10 billion.

Carol has served for a year now as Acting Commissioner for FHA where she has worked to weed out bad lenders, ensuring greater stability of the reverse mortgage program, and increasing counseling resources for borrowers. As we look over what happened in the housing sector, we know people

bought homes who shouldn't have bought homes, lenders took advantage of them, and everybody was in the mix in terms of why things went so sour.

Carol's accomplishments have been recognized through numerous honors, including inductions into the Hall of Fame for Bay Area business leaders in California. She has been recognized by California Home Building and the California Housing Consortium. So she gets support from everybody—from the builders, from the homeowners, from the renters.

Carol has the strong support of a broad coalition of housing advocates and lenders. I ask unanimous consent to have printed in the RECORD a letter from the Mortgage Bankers Association and a letter from what looks to be two or three dozen other housing organizations.

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

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

JULY 26, 2012.

Hon. HARRY REID,
*Majority Leader, U.S. Senate,
The Capitol, Washington, DC.*
Hon. MITCH MCCONNELL,
*Minority Leader, U.S. Senate,
The Capitol, Washington, DC.*

DEAR LEADERS REID AND MCCONNELL: The members of the Mortgage Bankers Association, the National Association of Home Builders, and the National Association of Realtors wish to offer our continued support of the nomination of Carol Galante to be Assistant Secretary for Housing and Federal Housing Administration (FHA) Commissioner at the U.S. Department of Housing and Urban Development (HUD).

FHA continues to play a critical role as the overall housing market struggles toward recovery. FHA is especially vital to homebuyers who may need a little "extra help" securing safe, decent, and affordable housing, focusing more on the needs of first-time, minority, and low- and moderate-income borrowers than any other national program. At present, approximately 77 percent of FHA-insured home purchase loans are made to first-time homebuyers, and 31 percent of these first-time homebuyers are minorities.

FHA has also played an important role in the financing of multifamily rental housing, which has enabled the construction and rehabilitation of needed affordable rental units, as private market sources of capital have not been available. Since FY2008, FHA's commitments in multifamily loans grew from \$2 billion to \$13 billion in FY2011. Because of its essential role in the current housing marketplace, FHA must have a seasoned leader to direct its mission at this crucial time in all geographic areas of the country.

Carol Galante will bring tremendous expertise and a deep commitment to strengthening FHA's program areas to the post of Commissioner. Her decades of work in affordable housing development and more recently, managing FHA's multifamily programs, give her a unique perspective on the issues facing our nation's housing and mortgage markets. This experience and practical understanding will serve her well in this new position.

Our organizations are eager to continue working with Ms. Galante in this capacity when she is confirmed, and we are pleased

that the Senate reached an agreement to consider her nomination next week. We hope that the full Senate will approve her nomination when it comes to a vote. Thank you in advance for your consideration of these views.

Sincerely,

MORTGAGE BANKERS
ASSOCIATION.
NATIONAL ASSOCIATION OF
HOME BUILDERS.
NATIONAL ASSOCIATION OF
REALTORS.

NOVEMBER 16, 2011.

Hon. TIM JOHNSON,
*Chairman, Committee on Banking, Housing &
Urban Affairs, U.S. Senate, Dirksen Build-
ing, Washington, DC.*

Hon. RICHARD SHELBY,
*Ranking Member, Committee on Banking, Hous-
ing & Urban Affairs, U.S. Senate, Dirksen
Building, Washington, DC.*

DEAR CHAIRMAN JOHNSON AND RANKING MEMBER SHELBY: The undersigned organizations strongly endorse the nomination of Carol J. Galante as Assistant Secretary for Housing/Federal Housing Commissioner. We believe her tenure as Acting Commissioner, Deputy Assistant Secretary for Multifamily Housing and her 31-year long private sector real estate experience has prepared her well to be the Assistant Secretary. We urge you to approve her nomination.

As Acting Commissioner, Ms. Galante already has had several impressive achievements. She spearheaded a major overhaul of the HUD Housing Counseling Program, including establishing the new Office of Housing Counseling. The changes to HUD's Housing Counseling Program will improve effectiveness, better target resources to maximize efficiency and ensure that HUD grant funds achieve maximum impact in the communities where they are invested.

She also prioritized a global review of the Home Equity Conversion Mortgage (HECM or reverse mortgage) program, including issuing guidance to the industry on the use of borrower financial assessments and analysis of other potential changes to ensure the long-term stability of this important program.

As the nation contends with the foreclosure crisis, Ms. Galante has ensured that taxpayers are protected from waste, fraud and abuse by holding lenders accountable for non-compliance with the Federal Housing Administration's (FHA) requirements. This included the November 1, 2011 suspension of Allied Home Mortgage Corporation and its President; the withdrawal of 11 lenders from FHA's program and the imposition of more than \$1.5 million in civil money penalties on non-compliant lenders.

Lastly, she oversaw the publication of two significant Mortgagee Letters that outline changes to FHA's requirements for lenders, making FHA programs work more effectively for FHA's lender partners.

Prior to becoming Acting Commissioner, she led the Multifamily Housing Division of FHA, with 1600 employees and 53 field offices. Ms. Galante was responsible for a \$50 billion portfolio of affordable and market rate multifamily properties through the FHA Multifamily Insurance Program, as well as the administration of the \$9 billion Project Based Rental Assistance Program and the 202/811 grant programs for elderly and disabled housing.

And before she began her federal service, she was President and Chief Executive of BRIDGE Housing, California's largest nonprofit housing development corporation, and its affiliate companies. This included overseeing a Property Management company, an economic development corporation, senior

services and land development. BRIDGE is widely known as a leading practitioner using the best private sector business practices and entrepreneurial ideas to build affordable homes and apartments in a wide variety of communities.

As the nation's housing market remains fragile, we need Ms. Galante's demonstrated experience at FHA to provide leadership on and practical solutions to America's housing challenges. We urge you to approve Ms. Galante to take on this challenge.

Sincerely,

Affordable Housing Tax Credit Coalition; Center for American Progress Action Fund; Center for Responsible Lending; Consortium for Citizens With Disabilities Housing Task Force; Corporation for Enterprise Development; Corporation for Supportive Housing; Council of Large Public Housing Authorities; Council of State Community Development Agencies; Enterprise Community Partners, Inc.; Habitat for Humanity; Housing Assistance Council; Housing Partnership Network; LeadingAge; Local Initiatives Support Corporation; Low Income Investment Fund; McCormack Baron Salazar; Mortgage Bankers Association.

National Affordable Housing Management Association; National Alliance on Mental Illness; National Alliance to End Homelessness; National Association of Affordable Housing Lenders; National Association of Housing & Redevelopment Officials; National Association of Local Housing Finance Agencies; National Community Reinvestment Coalition; National Community Stabilization Trust; National Housing & Rehabilitation Association; National Housing Conference; National Housing Trust; National Leased Housing Association; National Low Income Housing Coalition; Self-Help; Stewards of Affordable Housing for the Future; The Community Builders; Volunteers of America.

Mrs. BOXER. Mr. President, I wish to read from a letter the majority and minority leaders received from the Mortgage Bankers Association, the National Association of Homebuilders, and the National Association of Realtors. These are the businesspeople, and this is what they said about her:

Carol Galante will bring tremendous expertise and a deep commitment to strengthening FHA's programs . . . Her decades of work in affordable housing development and more recently, managing FHA's multifamily programs, give her a unique perspective on the issues facing our nation's housing and mortgage markets.

So here we have a person who understands the business side, and she understands the renters and the owners.

The ACTING PRESIDENT pro tempore. The Senator has used 4 minutes.

Mrs. BOXER. I ask for an additional 30 seconds, please.

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

Mrs. BOXER. So we have someone who understands the business side, the renter side, and the home ownership side.

I am very proud this woman is a Californian. I know there are lots of issues within FHA, and we all have to work on them, and we have heard that from Senator CORKER. But, my goodness, we want someone who can work with us. She is the perfect person.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

In a short while the Senate will vote on two nominees for service in the executive branch of our government. I rise today to speak in support of one of those two, which is William Baer, who has been nominated to serve as Assistant Attorney General managing the Antitrust Division of the U.S. Department of Justice.

I happen to have come to know Bill Baer personally because he practices law in a firm with a very good friend and neighbor of mine here in Washington, and in that regard I can certainly testify to the fact that he is an honorable, interesting, enjoyable person. But that alone doesn't qualify him to hold this high office. He has extraordinary experience. I would say he is very widely acknowledged as one of the best antitrust lawyers in our country. I would say this nomination is really a merit selection nomination. I will get to that in a minute.

Bill Baer graduated from Lawrence University and the School of Law at Stanford University. He has served with distinction throughout his career, earning accolades such as recognition as the Washington, DC, Antitrust Lawyer of the Year by Best Lawyers, as well as one of the decade's most influential lawyers by the National Law Journal.

He is currently head of the Antitrust Practice Group of a very distinguished firm based in Washington, Arnold & Porter, and there he draws on his 35 years of experience in civil and criminal investigation to manage that firm's work in the areas of antitrust litigation, international cartel investigations, and merger and acquisition reviews.

In an earlier chapter in his life, Bill Baer served over several periods at the Federal Trade Commission, rising from a trial attorney during his first term there in 1975 to serve as assistant to the chairman, then assistant general counsel, and between 1995 and 1999 as Director of the Bureau of Competition.

Here is the point I think really speaks to the fact that Bill Baer's nomination to head the Antitrust Division is nonpartisan and based on his extraordinary capabilities. His nomination has received a letter of support signed by 12 prior Assistant Attorneys General for the Antitrust Division of the Department of Justice who served between 1972 and 2011, and these include people who have led the Antitrust Division from President Nixon through Presidents of both political parties, to President Obama. His nomination has also received a letter of support signed by each chair of the Section of Antitrust Law of the American Bar Association—those who have served as chair of that section between 1977 and 2011. So 29 of the most distinguished practitioners of antitrust law from all around the country, all different political persuasions, have written in support of this nomination.

I just wanted to take this opportunity to say it is an honor to not just

thank the President for this nomination but to thank Bill Baer for being willing to leave a quite successful law practice to return to the service of our country in an area that is critically important to our free market economy in which he happens to be one of our Nation's foremost experts.

So I hope my colleagues will support the nomination of Bill Baer when it comes to a vote very soon this afternoon.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SHELBY. Mr. President, I wish to take a few minutes this afternoon to explain why I will be opposing the nomination of Carol Galante and why I encourage my colleagues on both sides of the aisle to do the same.

This nomination is not one of the many "go along to get along" nominations we do so often in the Senate; this is a nomination that will have a direct effect on our constituents' pocketbooks and it demands, I believe, our serious attention today.

Carol Galante has been the Acting Assistant Secretary and Federal Housing Commissioner at the Department of Housing and Urban Development since July 2011. Therefore, this nomination vote, in a sense, will serve as a referendum of sorts on the current management of the Federal Housing Administration.

Ms. Galante, in her role as Acting FHA Commissioner, has failed to take serious actions to shore up the solvency and prevent a taxpayer bailout of the Federal Housing Administration that we know as FHA.

The latest actuarial report shows that FHA has a negative economic value, and a taxpayer bailout is most likely. Despite these warnings, FHA waited until April 2012 to raise additional premiums, and Secretary Donovan, the Secretary of HUD, has testified to the Senate Banking Committee that it will wait until next year to increase premiums by a meager 10 basis points despite having statutory authority to do more to protect the taxpayers.

Ms. Galante has denied the true severity of the problems at the FHA. In a New York Times piece last year, Ms. Galante said: "[there] is no evidence or widespread prediction that home prices are going to decline to the kind of levels" that would require a bailout.

Really? Yet although some prices have risen slightly, the FHA's financial position continues to deteriorate. Several experts now conclude that a taxpayer bailout is simply a matter of time.

The 2012 actuarial report and the disastrous state of FHA's finances led the Washington Post editorial board to conclude:

Right now the critics are starting to look pretty prescient. . . . Affordable possession of one's own home is the American dream. Government support for excessive borrowing has turned into a national nightmare.

The FHA's capital reserve is still well below the level determined by Congress to be the bare minimum to cover FHA's future losses. Even though FHA narrowly avoided a bailout this year, dangers remain in the years ahead due to its over \$1 trillion exposure to risky loans and precarious economic conditions.

Most of the FHA's recent actions have only concealed these dangers. For example, instead of adequately raising insurance premiums over the life of the loan, FHA has increased upfront premiums to simply cover losses in the short term. Also, upfront premiums can be rolled into the mortgage principal balance, thereby decreasing equity for borrowers who, in most cases, have little equity to begin with. Increasing the upfront premiums could make FHA loans even riskier for both the borrower and the taxpayer who stands behind the mortgages.

I believe it is time to face the reality that the Federal Housing Administration is dangerously undercapitalized, and because of the lack of serious reform FHA teeters on the brink of a bailout, as I have said.

Andrew Kaplan, a New York University economics professor said:

They [the FHA] are doing very badly . . . there's no two ways about it. Over the next five years, there won't be enough of an economic recovery to fix FHA's finances. Not a chance.

A study by a Wharton professor estimates that an FHA bailout could cost between \$50 billion and \$100 billion and warned that only a "quick and substantial economic and housing market recovery" can avoid "substantial losses for the American taxpayer."

Data from the actuarial report shows that the serious delinquency rate for all FHA loans is 9.6 percent. The delinquency rates for loans originated in 2006, 2007, and 2008 are between 20 and 30 percent. Approximately 739,000 loans are seriously delinquent, an increase of over 100,000 loans from last year. If the borrowers of these delinquent loans all default on their mortgages, it would result in \$57 billion in claims to the FHA. We hope that would not happen.

The FHA's latest quarterly report shows capital resources of \$32 billion. It also states that cash flow from operations, which largely consists of premium revenues, covered only 80 percent of net claims last quarter.

The latest actuarial report in 2012 confirms that FHA's finances are dramatically worse than last year.

FHA's capital ratio has gone negative for the first time since 1991, and economic value is in excess of negative \$16 billion. Last year the report projected a \$9.4 billion value, representing a decline of \$24.9 billion.

FHA's delinquencies continue to rise and continued high loan limits keep FHA's role in the market very broad. The projected loss on outstanding business is at an all-time \$39 billion.

FHA is leveraged at 422:1—422:1—and has a sparse \$2.55 billion equity cushion

on its over \$1 trillion portfolio. Think about it. FHA has underestimated its loan losses every year for the past 3 years.

In addition, since the Treasury Department already has so-called permanent and indefinite authority to provide funding for the FHA, a bailout of the FHA could occur without, as the Presiding Officer knows, any congressional vote. This is not a vote today to determine whether we support the President. This is also not a vote to determine whether we can vote in a bipartisan manner. I think this is a vote to determine whether we support the American taxpayer.

I believe Ms. Galante has demonstrated her inability to identify the multitude of problems at the FHA, and I believe it is incumbent upon us, on behalf of the American people—the taxpayers—to reject this nomination and demand real reforms at FHA and a nominee who represents and appreciates the urgency of this situation and a willingness to address it.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, very briefly—I know the Senator from Ohio wants to make some comments—I very much enjoy working with the Senator from Alabama. He has been outstanding on the Banking Committee, and I agree with almost every criticism he has made regarding the FHA. As a matter of fact, we have stood together trying to cause the housing industry to work much better than it is for not just those trying to purchase homes but, obviously, the American taxpayers to whom he just alluded.

But I wish to also point out something that was just said. One of the main reasons the FHA is in the problem it is in is the loans that were made in 2006, 2007, and 2008—long before this nominee was there. I agree this nominee needs to be more aggressive in making changes, and I agree that, even more so, this Congress needs to be more aggressive in making changes.

I ask unanimous consent that a letter from the nominee to myself regarding reforms that are being implemented between now and January 1 be printed in the RECORD.

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

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, December 18, 2012.
Senator BOB CORKER,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR CORKER: Thank you for commitment to the health and stability of the Federal Housing Administration (FHA), as expressed most recently at the December 6, 2012 Senate Banking Committee and through your proposed amendment designed to strengthen and protect FHA's Mutual Mortgage Insurance Fund. Secretary Donovan and I share your concerns and I am committed to continuing to take aggressive action to rebuild the reserves of the Mutual Mortgage Insurance Fund, which have been

so negatively impacted by the legacy loans insured by FHA—particularly those from the 2007–2009 vintages.

As you know, the actions we have taken to date, including those recently announced in our Annual Report to Congress, are designed to increase recoveries from this legacy book, price risk appropriately on new loans, and begin to shrink FHA's presence in the market. You and I agree, however, that more can and should be done to correct fundamental structural problems in FHA's reverse mortgage program (the Home Equity Conversion Mortgage, or HECM, program), and to refine FHA's risk profile so that both FHA and borrowers are better able to weather the difficulties of any future downturn in the housing market and economy. We are also committed to measures that facilitate the return of private capital to the market. I appreciate your strong advocacy to ensure that FHA takes the actions needed to restore its financial health. I would like to address each of the four critical policies you raised and the immediate actions FHA is taking to address them:

1. Minimum Credit Score for New FHA Loans: FHA is finalizing a formal policy directive (Mortgagee Letter) that will require borrowers with credit scores below 620 to have a maximum total debt-to-income (DTI) ratio no greater than 43 percent in order for their loan applications to be approved through FHA's TOTAL Scorecard, a system used by lenders to score the quality of an FHA loan application. If a borrower's DTI exceeds 43 percent, lenders will be required to manually underwrite the loan, and to document compensating factors that qualify the borrower for FHA-insured financing, such as a larger down payment or a higher level of reserves. Our preliminary data indicate that this requirement would reduce claim rates by approximately 20 percent for borrowers with credit scores of 620 or below. I believe this policy change will significantly strengthen the extent to which FHA is protected from unwarranted risk and borrowers are offered loans that are sustainable for them.

2. Moratorium on the Full-draw HECM Reverse Mortgage: Through the HECM program, seniors have access to a number of different product options. However, in recent years, several structural problems have developed that have altered the usage of FHA's HECM products, changing the risks associated with the program. While declining home prices and greater longevity of seniors have yielded greater projected losses, another major contributor has been the lack of a secondary market for these loans. There are many explanations for the evolution of these complexities, but the end result has been an increase in risk to both FHA and borrowers that must be rectified immediately. As discussed in our Annual Report to Congress, FHA is preparing a policy directive that would result in the immediate cessation of the use of the Standard Fixed Rate HECM product. This product currently represents a large majority of the loans insured through the HECM program, with the Variable Rate Standard product and the HECM Saver products (Fixed Rate and Variable) representing the balance. The amount that can be drawn under the Saver product is substantially less than under the Standard program, and the upfront fees to the borrower are all but eliminated for Saver loans. Eliminating the use of the Fixed Rate Standard program is an immediate stop gap measure, and FHA will also commence rulemaking to make several other important changes, including establishing formal guidelines for conducting financial assessments of borrowers and the creation of set-asides for payment of taxes and insurance.

3. Scale Back of FHA Market Share: In June 2012, FHA began administratively pricing mortgage insurance premiums for large loans (loans above \$625,500) at a level 25 basis points higher than those with lower loan limits (150 bps compared to 125 bps). FHA, as mandated by Congress, is currently the only federal entity able to insure loans between \$625,500 and \$729,000. FHA is committed to taking steps to redirect this business to the private market where it has typically been served. With the premium increase we announced in November, these large loans will now be priced at the current statutory maximum for annual mortgage insurance premiums (155 bps). Further, FHA will implement a policy change that lowers the maximum loan-to-value ratio on loans above \$625,500 to 95% from 96.5%, or in other words, raising the down payment from 3.5% to 5% for these loans. The combination of a higher down payment and higher mortgage insurance premiums for these loans will continue our efforts to drive this business to the private market.

4. Access to FHA Loans After a Foreclosure: Borrowers are able to access FHA-insured financing three years after they have experienced a foreclosure only if they have reestablished good credit and qualify for an FHA loan in accordance with the fully documented underwriting requirements for any FHA-insured mortgage origination. FHA is concerned that a few lenders are inappropriately advertising and soliciting borrowers with the false pretense that they can somehow “automatically” qualify after three years. First and foremost, FHA will step up its enforcement for FHA-approved lenders with regard to such advertising and remind them of their duty to fully underwrite loan applications in accordance with FHA guidelines. In addition, the credit score/DTI policy outlined above will be applicable to borrowers seeking to obtain FHA-insured financing following a foreclosure. Furthermore, FHA is committed to performing additional data analysis to determine if the original cause of a borrower’s foreclosure was due to a one-time economic event, such as the loss of employment that has since been regained, and whether that results in any different or better performance than other reasons for foreclosure. This effort may inform future policies in this area. Finally, as discussed in our Annual Report to Congress, FHA is also committed to structuring a new housing counseling initiative that would apply to a number of borrower classifications, including borrowers with previous foreclosures.

Senator, I deeply appreciate the advocacy, focus, and concern you bring to ensuring that the Mutual Mortgage Insurance Fund is restored to financial health as rapidly as possible. I share your sense of urgency about these matters, and I commit to you that I will move on these additional actions by January 31, 2013, and I have confirmed that the Administration will support these new policies. You have my word on this and I expect to be held accountable to perform.

Sincerely,

CAROL J. GALANTE,
*Acting Assistant Secretary for Housing—
Federal Housing Commissioner.*

Mr. CORKER. Again, I wish to thank the Senator from Alabama for his comments regarding FHA. I agree; a lot has to change. I just think we are much better having a Director there to try to make those changes happen than not.

With that, I yield the floor and see the Senator from Ohio in the Chamber.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Tennessee, who is a valued member of the Banking Committee. I thank him for his comments in support of Ms. Galante’s nomination, and I appreciate some of the criticisms Senator SHELBY offered. I wish to answer a couple of those but then move directly to Ms. Galante and concur in the support for Ms. Galante from Senator CORKER.

Two years ago, Senator BEGICH and I introduced an FHA reform bill which, unfortunately, because of people on the other side, has been blocked, for whatever reasons.

Two weeks ago, we tried to pass the FHA Emergency Fiscal Solvency Act—a commonsense reform measure that came out of the House of Representatives, sponsored by a Republican from Illinois, Congressman BIGGERT. She is the chair of the relevant House Financial Services Subcommittee. It passed the House on a suspension, 402 to 7—an unusual demonstration of bipartisanship in the House of Representatives.

Passing that bill would not have prevented action next Congress. Yet some of my colleagues again stand in the way of these taxpayer protections.

Let me turn to Ms. Galante and the reasons I am supporting her nomination.

As an Ohioan, I am inclined to support an Ohio Wesleyan graduate who is married to an Akron native. Obviously, more important than that, she has shown deep interest in the challenges facing the housing market in northeast Ohio, a place that has been devastated by a hollowing out of our manufacturing base and preyed upon by unscrupulous subprime lenders—for a period of more than a decade, I might add.

She has met with the Cuyahoga County Land Bank, the Cleveland Housing Network, city officials to hear about all the great work people are doing in northeast Ohio to rebuild the city’s housing market. Some of the most innovative ideas in the country have come out of Cleveland and the land bank and the housing network.

After I sat down with her and shared stories of big banks that were allowing FHA properties in Cincinnati to fall into decay, FHA updated its servicing rules to hold these banks accountable.

FHA has selected Cleveland, Akron, and Canton for its next round of note sales. This program allows for the sale of distressed and delinquent FHA mortgages to parties that will rehabilitate the loans in order to help stabilize these neighborhoods.

Because of her many years of experience in housing and real estate and her commitment to addressing the crucial issues facing today’s hardest hit cities—big cities and smaller cities alike—and what has happened to these housing markets, I urge a “yes” vote on the Galante nomination.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON of South Dakota. Mr. 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.

Mr. JOHNSON of South Dakota. Mr. President, I rise in support of the nomination of Ms. Carol J. Galante to be HUD Assistant Secretary for Housing and Federal Housing Commissioner.

Carol Galante currently serves in the position for which she has been nominated. Prior to her designation as the Acting FHA Commissioner, Ms. Galante served as the Deputy Assistant Secretary for Multifamily Housing Programs, overseeing HUD’s FHA multifamily portfolio as well as 1.6 million units of assisted housing.

The FHA is playing an important countercyclical role in the housing market, providing credit as private sources of capital have withdrawn. Much has been done by the administration and Congress to strengthen FHA’s underwriting and fiscal position in recent years. However, as we have seen in a recent report on the financial status of the FHA, the legacy of loans insured in prior years still pose a threat to the fund that must be managed. It is important that the FHA have a confirmed management team in place to continue oversight of these legacy loans. Ms. Galante is a highly qualified nominee, and I urge my colleagues to confirm her without delay.

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

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

The bill clerk proceeded to call the roll.

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

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

THE FISCAL CLIFF

Mr. MCCONNELL. Mr. President, my office submitted our latest offer to the majority leader last night at 7:10 p.m. and offered to work through the night to find common ground. The majority leader’s staff informed us they would be getting back to us this morning at 10 a.m., despite the obvious time crunch we all have. It is now 2 p.m. We have yet to receive a response to our good-faith offer. I am concerned about the lack of urgency here. I think we all know we are running out of time. There is far too much at stake for political gamesmanship. We need to protect the American families and businesses from this looming tax hike.

Everyone agrees action is necessary. In order to get things moving, I have just spoken with the majority leader. I also placed a call to the Vice President to see if he could help jump-start the negotiations on his side. The Vice President and I have worked together on solutions before and I believe we can again.

I want my colleagues to know that we will keep everyone updated. The consequences of this are too high for the American people to be engaged in a political messaging campaign. I am interested in getting a result. I was here all day yesterday. As I indicated, we submitted our latest proposal at 7 p.m. last night. I am willing to work with whoever can help.

There is no single issue that remains an impossible sticking point. The sticking point appears to be a willingness, an interest, or, frankly, the courage to close the deal. I want everyone to know I am willing to get this done, but I need a dance partner.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we have been negotiating now for 36 hours or thereabouts. We did have conversations last night that ended late in the evening between the staffs. This morning we have been trying to come up with some counteroffer to my friend's proposal. We have been unable to do that.

I have had a number of conversations with the President. At this stage, we are not able to make a counteroffer. The Republican leader has told me that—he just said here that he is working with the Vice President. I wish them well. In the meantime, I will continue to try to come up with something, but at this stage, I do not have a counteroffer to make. Perhaps as the day wears on, I will be able to.

I will say that I think the Republican leader has shown absolute good faith. It is just that we are apart on some pretty big issues.

Mr. GRASSLEY. Mr. President, today, the Senate turns to the nomination of William Joseph Baer, of Maryland, to be an Assistant Attorney General. If confirmed he will head the Antitrust Division of the Department of Justice. In considering the confirmation of the President's nominees, I give the President great deference. I believe he should have great latitude in selecting his advisors and officers. But that does not mean that I will not make an independent determination of the nominee's qualifications and fitness for the job. I am not here to merely rubberstamp the President's desires. Factors that I consider relevant include respect for the Constitution, fidelity to the law, intellectual ability, personal integrity, and professional competence. In reviewing Mr. Baer's entire record, I was disappointed to find he does not meet this test. Therefore I will vote no on his confirmation.

Mrs. FEINSTEIN. Mr. President, I come to the floor to express my support for Carol Galante, who is from my home State of California, in her nomination for Commissioner of the Federal Housing Administration and Assistant Secretary for Housing.

The FHA Commissioner is directly responsible for oversight of the FHA insurance portfolio, which includes single family, multifamily housing and in-

sured health care facilities. Carol Galante has been serving in an acting capacity since last year, but it is critical that she be confirmed by the Senate today.

While Acting FHA Commissioner, Carol Galante has made improvements to the long term health and position of the FHA. It is important that we confirm her to this position because continuing in an acting capacity adds to overall uncertainty in the market regarding the role of the FHA.

In the wake of the collapse of the housing bubble, the FHA has played a vital role in providing access to credit for worthy homebuyers looking to purchase a home. As the private mortgage insurance market pulled back, the FHA has stepped in to make sure that credit-worthy borrowers have the ability to get a mortgage.

Carol Galante has taken steps as the Acting Commissioner to help FHA better manage risk, bolster the Mutual Mortgage Insurance Fund and streamline programs to better enable FHA to fulfill its mission of contributing to the creation and growth of stable, sustainable, inclusive communities.

This includes placing a moratorium on the troubled full drawdown reverse mortgage program, increasing underwriting standards for riskier borrowers, and increasing down payment requirements and insurance premiums for higher balance mortgages.

I believe that these steps will help enhance the future solvency of the FHA while allowing the agency to fulfill its mission of providing low-income and first time homebuyers with access to affordable mortgage credit.

Carol Galante had decades of work experience in affordable housing development before she went to HUD to manage FHA's multifamily programs; this gives her a unique perspective on the issues facing our Nation's housing and mortgage markets.

In addition to her early work in the private sector in real estate development, ownership, and management, she worked for a number of California cities as a city planner and in community economic development.

These roles led to her eventual position for 25 years as president and chief executive of BRIDGE Housing Corporation, the largest nonprofit developer of affordable, mixed-income and mixed-use developments in California. While at BRIDGE, she helped create partnerships between government, private industry and nonprofits.

This blend of public and private experience has been extremely valuable for the Federal Housing Administration as it deal with both the private loan and mortgage industry.

Given her demonstrated and unique experience in the housing market, I strongly urge the confirmation of Carol J. Galante as Federal Housing Administration Commissioner and Assistant Secretary for Housing.

VOTE ON THE NOMINATION OF WILLIAM BAER

The PRESIDING OFFICER. Under the previous order, there is now 2 min-

utes of debate prior to a vote on the Baer nomination.

Who yields time?

Mr. REID. We yield back all time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William Joseph Baer, of Maryland, to be an Assistant Attorney General?

Mr. REID. 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. DEMINT), the Senator from Nebraska (Mr. JOHANNIS), the Senator from Illinois (Mr. KIRK), the Senator from Ohio (Mr. PORTMAN), and the Senator from Florida (Mr. RUBIO).

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

The result was announced—yeas 64, nays 26, as follows:

[Rollcall Vote No. 249 Ex.]

YEAS—64

Akaka	Graham	Nelson (FL)
Ayotte	Hagan	Paul
Baucus	Harkin	Pryor
Begich	Heller	Reed
Bennet	Johnson (SD)	Reid
Bingaman	Johnson (WI)	Rockefeller
Blumenthal	Klobuchar	Sanders
Boxer	Kohl	Schatz
Brown (MA)	Landrieu	Schumer
Brown (OH)	Lee	Shaheen
Cantwell	Levin	Snowe
Cardin	Lieberman	Stabenow
Carper	Lugar	Tester
Casey	Manchin	Toomey
Collins	McCaskill	Udall (CO)
Conrad	Menendez	Udall (NM)
Coons	Merkley	Warner
Corker	Mikulski	Webb
Durbin	Moran	Whitehouse
Feinstein	Murkowski	Wyden
Franken	Murray	
Gillibrand	Nelson (NE)	

NAYS—26

Barrasso	Enzi	McConnell
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Hoeben	Sessions
Coats	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Cornyn	Kyl	Wicker
Crapo	McCain	

NOT VOTING—10

Alexander	Kerry	Portman
Chambliss	Kirk	Rubio
DeMint	Lautenberg	
Johanns	Leahy	

The nomination was confirmed.

Mr. LEAHY. Mr. President, I am glad that the Senate voted to confirm the nomination of Bill Baer to serve as Assistant Attorney General in the Antitrust Division of the Department of Justice. His nomination has been pending for 10 months, and more than three

months have passed since the Judiciary Committee favorably reported his nomination with bipartisan support. The Antitrust Division has continued its important work with three acting heads who have worked diligently to fulfill the mission of the office. But those solutions are only temporary, and it is essential that the Senate undertook its constitutional responsibility to advise and consent on a permanent division head with responsibility for enforcing our Nation's antitrust laws.

Mr. Baer is an outstanding candidate to fulfill this role. He has spent over 35 years working in the field of antitrust and consumer protection law. He served as Director of the Bureau of Competition at the Federal Trade Commission in the 1990s, and now chairs the Antitrust Group at the law firm of Arnold & Porter. His nomination has received bipartisan support from leading practitioners of antitrust law, including 12 former heads of the Antitrust Division representing every presidential administration since 1972. His nomination has also received bipartisan support from 29 former chairs of the American Bar Association's Section on Antitrust Law, who praise his "demonstrated ability as an antitrust lawyer and his outstanding record of public service."

Bill Baer is a leading voice on antitrust matters. He advised the Antitrust Modernization Commission, and frequently contributes to workshops at the Department of Justice and FTC. He was named one of "The Decade's Most Influential Lawyers" by The National Law Journal in 2010, and the "Leading Lawyer for Antitrust" in 2011. Chambers, Who's Who, and the Legal 500 have all recognized him as one of our country's leading practitioners in antitrust law.

When the 12 former heads of the Antitrust Division wrote to the Senate Judiciary Committee in support of Mr. Baer's nomination earlier this year, they wrote: "Mr. Baer's tenure as Director of the [FTC] Bureau of Competition was marked by principled, effective enforcement of the antitrust laws and . . . procedures that balanced the needs of the Commission with the legitimate concerns of both businesses and consumers. We are confident that he will continue the strong, rational, and nonpartisan antitrust enforcement tradition of the United States Department of Justice."

After months and months of needless delays, Bill Baer can at last begin that important work to help protect the American people.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we had a brief colloquy, the Republican leader and I, before the vote. Now that everyone is on the floor, I will elaborate a little bit. We have one more vote today. Then we are both going to have our respective caucuses. We hope there will be an announcement after that. We will have to wait and see.

Over the last 24 hours, we have been working with Senator MCCONNELL's staff and Senator MCCONNELL to craft legislation to shield middle-class families from huge tax increases that could pass both Chambers on a bipartisan basis. But I wish to be clear. There are still serious differences between the two sides. I am only going to talk about one. We have made a lot of progress. I said earlier today, I appreciate very much Senator MCCONNELL's good-faith efforts, and I am confident he feels the same way about me.

The one thing I do want to mention is that we are not going to have any Social Security cuts. At this stage, that just doesn't seem appropriate. We are open to discussion about entitlement reforms, but we are going to have to take it in a different direction. The present status will not work. We are willing to make difficult concessions as part of a balanced comprehensive agreement, but we will not agree to cut Social Security benefits as part of a small or short-term agreement, especially if that agreement gives more handouts to the rich.

With 36 hours left until the country goes over the Cliff, I remain hopeful but realistic about the prospects of reaching a bipartisan agreement. At some point in the negotiating process it becomes obvious, when the other side is intentionally demanding concessions they know the other side is not willing to make, we are not there.

I hope we are going to be able to go further. Right now, with the status of the negotiations, we are not where we could come forward and say we have this for you. As I indicated, and just to make another statement in that regard, at some point in the negotiating process it appears there are things that stop us from moving forward. I hope we are not there, but we are getting real close, and that is why I still hold out hope we can get something done. I am not overly optimistic, but I am cautiously optimistic we can get something done.

I hope I have made it clear we have one vote. That is all we have. I hope later in the evening there will be another vote or two, but right now we don't have that. We have one scheduled vote, and that is taking place right now. But everybody should hang loose because something may break and we will be able to get something done.

VOTE ON NOMINATION OF CAROL J. GALANTE

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote on the nomination.

Who yields time?

Mr. REID. I yield back the remaining time.

The PRESIDING OFFICER. All time is yielded back. The question is, Will the Senate advise and consent to the nomination of Carol J. Galante, of California, to be an Assistant Secretary of Housing and Urban Development?

Mr. VITTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. LAUTENBERG), are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Illinois (Mr. KIRK), the Senator from Ohio (Mr. PORTMAN), the Senator from Tennessee (Mr. ALEXANDER), and the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 69, nays 24, as follows:

[Rollcall Vote No. 250 Ex.]

YEAS—69

Akaka	Feinstein	Mikulski
Ayotte	Franken	Murkowski
Baucus	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Hagan	Nelson (FL)
Bingaman	Harkin	Pryor
Blumenthal	Hoeven	Reed
Blunt	Hutchison	Reid
Boxer	Isakson	Rockefeller
Brown (MA)	Johnson (SD)	Sanders
Brown (OH)	Johnson (WI)	Schatz
Burr	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Leahy	Stabenow
Casey	Levin	Tester
Coats	Lieberman	Thune
Coburn	Lugar	Udall (CO)
Collins	Manchin	Udall (NM)
Conrad	McCain	Warner
Coons	McCaskill	Webb
Corker	Menendez	Whitehouse
Durbin	Merkley	Wyden

NAYS—24

Barrasso	Heller	Risch
Boozman	Inhofe	Roberts
Cochran	Johanns	Rubio
Cornyn	Kyl	Sessions
Crapo	Lee	Shelby
Enzi	McConnell	Toomey
Grassley	Moran	Vitter
Hatch	Paul	Wicker

NOT VOTING—7

Alexander	Kerry	Portman
Chambliss	Kirk	
DeMint	Lautenberg	

The PRESIDING OFFICER. The 60-vote threshold having been achieved, the nomination is confirmed.

Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, I was necessarily absent for the votes on the nomination of Carol J. Galante to be Assistant Secretary at the Department of Housing and Urban Development and William Baer to be Assistant Attorney General at the Department of Justice. If I were able to attend today's session, I would have supported the nominations of Carol J. Galante and William Baer.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RECESS

Mr. REID. Mr. President, I ask unanimous consent the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 3:05 p.m., recessed subject to the call of the chair and reassembled when called to order by the Presiding Officer (Mr. BROWN of Ohio.)

MORNING BUSINESS

Mr. REID. Mr. President, I was gratified to hear the Republicans taking their demand for Social Security cuts off the table. The truth is that they should never have been on the table to begin with.

There is still a significant difference between the two sides but negotiations continue. There is still time left to reach an agreement, and we intend to continue negotiations.

I ask unanimous consent that the Senate now proceed to a period of morning business for debate only, with Senators permitted to speak for up to 10 minutes each.

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

ORDER OF BUSINESS

Mr. REID. Mr. President, we are going to come in at 11 a.m. tomorrow morning. We will have further announcements, perhaps, at 11 o'clock in the morning. I certainly hope so.

The PRESIDING OFFICER. The senior Senator from Connecticut is recognized.

REPORT ON THE TERRORIST
ATTACK AT BENGHAZI

Mr. LIEBERMAN. Mr. President, I guess the good news is that I am rising today not to speak about the fiscal cliff. What I am speaking about is not good news because it deals with the tragic event that occurred in Benghazi, Libya, on September 11, when terrorists took the lives of our Ambassador, Chris Stevens, and three other brave Americans who were serving us there.

I rise today, along with the ranking member of the Homeland Security and Governmental Affairs Committee, Senator COLLINS, to submit for the RECORD the report she and I have been working on with our staffs and other members of the committee following those events in Libya. We call this report "Flashing Red: A Special Report On The Terrorist Attack At Benghazi." "Flashing red" is a term that was used in a conversation with us by an official of the State Department, and it could not have been more correct. All the evidence was flashing red that we had put American personnel in Benghazi in

an increasingly dangerous situation, with violent Islamic extremists gathering there, with events having occurred, attacks on our mission there—two others prior that year. Yet we did not give them the security they needed to protect them, and we did not make the decision that I believe we should have made, since we did not provide them with the security, that we should have closed our mission there. As a result, people really suffered.

We recognize that the congressionally mandated Accountability Review Board at the Department of State has issued a report on the events in Benghazi. I think it was an excellent report. There are other committees of Congress continuing with their own investigations. Each of these will and should make a valuable contribution to our understanding of what happened at Benghazi so that we can take steps to make sure nothing like it ever happens again.

Under the rules of the Senate, the Committee on Homeland Security and Governmental Affairs has a unique mandate to investigate the effectiveness and efficiency of governmental agencies, especially when matters that span multiple agencies are involved.

Our report is intended to inform the Senate and the American people about events immediately before, during, and after the attack at Benghazi. In order to contribute most to the public debate, we have chosen to include only unclassified information in this report. We are hopeful that the report can and will make an important contribution to the ongoing discussions about how to better protect our diplomatic personnel abroad.

Our report contains 10 findings and 11 recommendations that we believe can help us better protect our diplomats and others who serve our country, often in very dangerous places. I ask unanimous consent that the full text of the report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LIEBERMAN. Mr. President, this is probably the last opportunity I will have to do this, to thank the ranking member again for the extraordinary partnership we have had for more than a decade now on the Homeland Security and Governmental Affairs Committee. It is really meaningful to me that we have this last opportunity to do something together, across party lines, that we believe and hope will be in our national interest.

EXHIBIT 1

FLASHING RED: A SPECIAL REPORT ON THE
TERRORIST ATTACK AT BENGHAZI

(By Joseph I. Lieberman, Chairman and Susan M. Collins, Ranking Member)

UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
December 30, 2012

While our country spent September 11, 2012, remembering the terrorist attacks that took place 11 years earlier, brave Americans posted at U.S. government facilities in

Benghazi, Libya, were fighting for their lives against a terrorist assault. When the fight ended, U.S. Ambassador to Libya John C. (Chris) Stevens and three other Americans were dead and U.S. facilities in Benghazi were left in ruin. We must remember the sacrifice that these selfless public servants made to support the struggle for freedom in Libya and to improve our own national security. While we mourn their deaths, it is also crucial that we learn from how they died. By examining the circumstances of the attack in Benghazi on September 11th, we hope to gain a better understanding of what went wrong and what we must do now to ensure better protection for American diplomatic personnel who must sometimes operate in dangerous places abroad.

We are cognizant that the Congressionally-mandated Accountability Review Board (ARB) of the Department of State has now issued its important and constructive report and that other Congressional committees are investigating the Benghazi attack as well. Each makes significant contributions to our collective understanding of what transpired and what we must do going forward.

The Committee on Homeland Security and Governmental Affairs (HSGAC), pursuant to its authority under Rule XXV(k) of the Standing Rules of the Senate, Section 101 of S. Res 445 (108th Congress) and Section 12(e) of S. Res 81 (112th Congress), has a unique mandate to investigate the effectiveness and efficiency of governmental agencies, especially when matters that span multiple government agencies are involved. Over the years, HSGAC has spent much time and dedicated considerable resources to understanding the challenges inherent in national security interagency relationships, and it is through this lens that we have examined and drawn lessons from the attack in Benghazi.

Since the 112th Congress is drawing to a close, this investigation has necessarily been conducted with a sense of urgency and with focused objectives. Our findings and recommendations are based on investigative work that the Committee has conducted since shortly after the attack of September 11, 2012, including meetings of members and staff with senior and mid-level government officials; reviews of thousands of pages of documents provided by the Department of State, Department of Defense, and the Intelligence Community (IC); written responses to questions posed by the Committee to these agencies; and reading of publicly-available documents.

In the report that follows we provide a brief factual overview of the attacks in Benghazi and then discuss our findings and recommendations.

BRIEF OVERVIEW OF THE BENGHAZI ATTACKS

The attacks in Benghazi occurred at two different locations: a Department of State "Temporary Mission Facility" and an Annex facility ("Annex") approximately a mile away used by another agency of the United States Government. On September 11th, Ambassador Stevens was in Benghazi, accompanied by two Diplomatic Security (DS) agents who had traveled there with him. Also present were three other DS agents and a Foreign Service Officer, Sean Smith, who were posted at the Temporary Mission Facility ("facility" or "compound"). There were also three members of the February 17 Brigade, a Libyan militia deputized by the Libyan government but not under its direct control, and four unarmed local contract guards protecting the compound.

During the day on September 11th, the Ambassador held several meetings on the compound and retired to his room at approximately 9:00 p.m. local time. About 40 minutes later, several agents and guards