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Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Eternal Lord God, the Father of mercies, show mercy to our Nation and the world. In Your mercy, give our Senators a discerning spirit so that they will understand our times and know exactly what they should do. Lord, instruct them in knowledge that transforms, enabling them to guide others through exemplary living. Provide for their needs, lighten their burdens, and fill them with Your joy. Refresh them with Your presence as You equip them to serve You and humanity.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND, 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. INOUYE.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 4, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate will be in a period of morning business for debate only until 12 p.m. with Senators permitted to speak therein for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

SCHEDULE

Mr. DURBIN. Madam President, the filing deadline for all second-degree amendments to S. 493, the small business jobs bill, is at 11 a.m. There will be up to two rollcall votes at noon. The first rollcall vote will be on the motion to invoke cloture on S. 493, the small business jobs bill. If cloture is not invoked on the bill, the Senate will immediately proceed to a second vote on the motion to invoke cloture on the nomination of John McConnell to be U.S. District Judge for the District of Rhode Island.

MIDWEST FLOODING

Mr. DURBIN. Madam President, hundreds of local first responders, 500 National Guardsmen, and hundreds of volunteers in southern Illinois are working around the clock to try to protect homes and communities from the rising waters of the Ohio River and other rivers in the region.

I have a photo that shows the devastation, which I witnessed personally last Friday. This is an area of southern Illinois, one that has been hard pressed economically, has been struggling, and now is inundated with flooding.

A few days ago when I visited Olive Branch and Cairo, IL, near the southern tip of the State, I saw this flooding firsthand. Homes, barns, and roads were covered by floodwater. Voluntary evacuations have been called for in a dozen Illinois towns, and people are scrambling to find a place to stay with friends and family and shelters to wait out the flood.

They worry about what will happen, when they will get back in their homes, and when the kids will get back to school.

This is another photo which demonstrates the kind of floodwaters that people are struggling with in my part of the world in southern Illinois. My colleague, Senator KIRK, was in southern Illinois over the last couple of days and has witnessed this firsthand as well.

We are both prepared to do whatever we can to help our State and all of the States in the region that have been affected by this terrible flooding. In many cases this flooding is, unfortunately, going to be there for some time.

One of the properties I showed was in Cairo, IL. The water is already waist high and will continue to rise. It can be weeks before people can return home to see what, if anything, they can salvage.

Late Monday night, the Army Corps of Engineers made a very difficult decision. They blew a hole in a levee on the Missouri side of the Mississippi River near Cairo, IL, to relieve pressure on the levee and on other levees along the Ohio and Mississippi Rivers. That decision will flood farmland, and that flooding will relieve some of the pressure on the towns and communities,

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

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the families and homes which have been threatened by these rising river waters.

The decision to disable the levee at Birds Point in Missouri, as difficult as it was, may have saved the lives of some of the nearly 3,000 people in Cairo, IL, and surrounding communities. There are early indications that the Army Corps plan is starting to work. The Ohio River has already dropped 1½ feet at Cairo since 10 o'clock Monday night. Engineers estimate the water level may go down as much as 7 feet as a result of the release of water at Birds Point.

I want to make it clear to the people of Missouri, to my colleagues from Missouri, that I will stand with them to make certain there is compensation given to those farmers and homeowners who were affected by this decision to open this levee. Their misfortune is going to spare literally thousands of homes and businesses from the inundation of these floodwaters, and we should stand with them just as if they were the victims of the original flooding.

I am thankful for the good news that the river levels are coming down, but the flooding is far from over. Water continues to rise and overtop levees throughout the southern part of my State. My heart goes out to the men and women piling sandbags, to the National Guard—God love them; every time we have an emergency in our State, they are there working night and day—also to the men and women of the Army Corps of Engineers, the Illinois Department of Natural Resources, the Illinois Emergency Management Agency, and all of the agencies—Federal, State and local—that are pitching in.

I stand ready with Senator KIRK to help in any way we can in Illinois and here in Washington over the next few days and weeks.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

DEBT LIMIT

Mr. MCCONNELL. Madam President, although lawmakers returned to Washington this week amidst news of a signal achievement in the war on terror, we also return to many critical debates about the situation here at home.

Gas prices are straining budgets and threatening to stall the economic rebound we have all been waiting for. Millions of men and women across the country still can not find a job.

And the two major parties have now presented competing visions of our economic future.

Republicans have shown that we are committed to creating an environment in which the private sector can flourish and create jobs, the jobs Americans need. As part of that effort, we outlined a comprehensive jobs agenda yesterday.

And today we will oppose prematurely ending debate on the small business bill. The other side has refused to allow votes on some of the best ideas Republicans have offered for creating jobs as a part of this legislation, including an important amendment by the ranking member of the Small Business Committee, Senator SNOWE. And we intend to oppose their efforts to short circuit this debate until they do.

Republicans are also committed to stopping the administration's inexcusable war on American energy at a time of near-record gas prices. And we are committed to repealing the Democrat health care bill that is already raising costs and destroying jobs.

But hovering above all of this is a growing fear about our Nation's debt.

The administration knows this. That is the reason for tomorrow's debt meeting at the White House.

So this morning I would like to start there, because anyone who has felt even the slightest twinge of pain from the recession has a vested interest in this debate.

Here is why: if we do not act to reduce our debt, this country could very well experience a crisis that makes the economic meltdown of 2008 look like a slow day on Wall Street.

That is not my conclusion.

That is the conclusion of the Democrat cochair of President Obama's own debt commission, a man who has spent the last year looking at this issue from every conceivable angle and who is now telling anybody who will listen that America faces, in his words, ''the most predictable economic crisis in history.''

Few of us saw the last crisis materialize. This one we can see. And a growing number of people now recognize that the upcoming vote on the debt limit provides us with the single best opportunity we have to avoid this crisis before it strikes.

This is the moment to get serious about preventing this approaching crisis and to show the world that we can come together, not for the sake of party but for all Americans.

The world is waiting for America to get its fiscal house in order. The fact that members of both major parties are now showing a willingness to do it is an encouraging sign.

But if we are actually going to do this, more Democrats in Washington have to acknowledge the problem, and the urgency of addressing it now, in a serious way.

I realize that for some people that is a difficult thing to do. We are all grateful to the President's decisiveness over the weekend in going after Osama bin Laden. He is to be congratulated for it. Yet over the past 2 years, we have had many crises. And all too often, it seemed the hardest decision for the President was not whether to solve these crises but whether or not to give a speech about them.

Last year, we waited for weeks to hear the President's position on one of the biggest ecological disasters in history. And throughout this past winter and spring, we waited to hear what he thought about a debt that had spiraled so out of control that America's economic outlook has been downgraded to ''negative'' for the first time ever.

We can not wait for the President on this one.

The consequences of sweeping our problems under the rug again are just too great.

So let me be clear: As even some Democrats have conceded, a failure to do anything meaningful about the debt would be far more harmful to our economic future than a failure to raise the debt limit.

The warnings are simply too loud to ignore.

In early 2008 most of us had no idea we were headed for a financial crisis. Only a few prophetic voices were saying anything about the dangers in the housing market.

Over the past few years, we have seen the painful consequences of that crisis: unemployment lines, lost savings, millions of homes foreclosed.

Despite this largely unforeseen economic catastrophe, the American people have dug in. They have worked harder. They have tried to drag the country back to fiscal health.

It has not been easy, but they have struggled every day to get us back on our feet.

What I am saying this morning is that the danger posed by the debt is not uncertain.

It is coming right at us.

It is, as the cochair of the President's Debt Commission put it, the most predictable crisis in history. And anyone who is more concerned about raising the debt ceiling than in using this debate as an opportunity to prevent this most predictable crisis will answer for it. The American people will make sure of it.

Some may continue to deny that we need to do something about the debt; that the only thing we need to do is raise the debt limit and leave it at that. They want people to think this is all just some political exercise, and that we all just vote according to the President's political affiliation anyway.

Those days are over. Anyone who continues to pretend otherwise is not just deluding themselves. They are deluding the American people.

There isn't a single one of us who has not vowed to do everything in our power to prevent the next crisis from happening. Now we know for certain—absolutely certain—it is on the way—unless we act to prevent it. Raising the debt limit alone will not prevent this crisis; it simply avoids it.

That is why the only way we can claim we have actually done something

meaningful in this debate is to insist on meaningful reforms as the price of our vote. Yes, we have had clean debt ceiling votes before. That was before S&P gave us a negative outlook for the first time ever and told us we risk a downgrade unless we get our fiscal house in order. That was before the world's largest private holder of U.S. Treasurys dumped its share of U.S. debt. That was before a commission that has spent a year studying this issue told us we are headed for ruin unless we act to prevent it. That was before this administration added trillions to the debt and submitted a budget plan this year that called for another $13 trillion in debt over the next 10 years alone.

The crisis is here. The time to act is now.

We hear a lot from administration officials about what a catastrophe it would be if we didn't raise the debt ceiling, and there may very well be some merit to that argument. But what good would it do to raise the limit and wait for the disaster to strike? We might as well tell people to move to the second floor in case of a fire on the first floor.

My constituents do not have the jobs to lose. Kentucky doesn't have the wealth to give away. We have seen the consequences of a recession we did not predict. There is no excuse not to do everything in our power to prevent one we know is coming.

So let me suggest a way forward in this debate.

No. 1, pitting one group of Americans against another isn't going to solve the problem. In fact, it is part of the problem. We all know it is going to take all of us working together to get out of this crisis, so why don't we start acting like it?

No. 2, there are not enough taxes Americans, rich or poor, can pay to sustain the kind of spending Democrats in Washington want. The President may say he wants to tax the rich, but sooner or later he is going to have to tax everyone else to pay for his plans. What is more, we all know raising taxes would stall the rebound we all claim we want. So let's admit we do not have a revenue problem; we have a spending problem.

No. 3, we all know entitlements need to be part of this discussion. It is about time everyone starts acknowledging it. I have seen the ads about lawmakers voting to end Medicare. Let's be honest and admit nobody is talking about taking anybody's Medicare. Frankly, it is pathetic to claim otherwise, and it only makes the problems harder to solve.

No. 4, let's discuss the art of the possible. We all know tax increases would not pass the House because of the damage they do to family budgets and businesses, and a bipartisan majority in the Senate opposes raising taxes on families, on energy production, and small businesses across America. So let's set that aside and find common ground.

Everyone has a stake in this debate. If we face up to it as adults, we will not only prevent a crisis, we will preserve our common way of life, and we will show the world the United States can solve its problems head on. Millions of Americans are looking for work and struggling every day to rebuild their lives. Families and small businesses are being squeezed by gas prices and an administration that refuses to do anything about it.

We will have debates about this in the days ahead, and Republicans will continue to make the case for tapping our own energy resources. We will make the case against new taxes and regulations and a health care law that is stifling jobs and creating new burdens. But all these efforts rise or fall on whether we do something about our debt.

It is time to show we can tackle the big stuff. The stakes are too high to let this debate come and go without acting. Denying the problem will not solve it. Avoiding the problem until the next election will not solve it. Giving speeches about the problem will not solve it. The time has come to act.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, are we in morning business?

The ACTING PRESIDENT pro tempore. Morning business.

NOMINATION OF JOHN McCONNELL

Mr. WHITEHOUSE. Madam President, I rise to speak in support of the nomination of John McConnell to be a U.S. district judge in my home State of Rhode Island. I had the occasion yesterday to be on the floor and to associate myself with the remarks of my senior Senator, JACK REED, but I wish to add some remarks of my own regarding how worthy an addition to the Federal bench Jack McConnell will be and to urge my colleagues to support his nomination and, in particular, to support an up-or-down vote on his nomination.

The McConnell nomination has been reported on three separate occasions by the Senate Judiciary Committee, each time with a bipartisan vote. This bipartisan backing is not a surprise, given the broad support his nomination has found across the political spectrum in my home State of Rhode Island. I will not read all the quotes of support from prominent Republicans back home, but let me just touch on a few.

Republican former Chief Justice Joseph R. Weisberger, an extraordinarily respected jurist of our State's supreme court, stated, for example, that McConnell:

> . . . would be superbly qualified to preside as a Federal judge over the most challenging and complex cases. He is a man of keen intelligence and impeccable integrity. He would be a splendid addition to the distinguished bench of the United States District Court of Rhode Island.

Republican former attorney general of Rhode Island Jeffrey Pine provides equally glowing reviews:

> Throughout his career, Jack has demonstrated the kind of legal ability, integrity, dedication to his client, and willingness to fight hard for the cause of justice that makes him a truly outstanding candidate for the Federal judiciary. . . . In my opinion, he would bring the kind of experience to the Federal bench that would make him an outstanding judge presiding at trials, and a fair and impartial arbiter for those who come before him.

I would add that Attorney General Pines' Republican predecessor as attorney general, Arlene Violet, has been equally complimentary.

John Harpootian, the former Republican Party vice-chair, has added:

> One of the greatest characteristics that I admire about Jack so much is that, despite political differences of opinion, he never allowed those differences to become personal or to cloud his judgment. As a result, we have always enjoyed spirited conversation regarding political issues, but have remained great friends. These characteristics lead me to unqualifiedly support Jack's confirmation to the United States District Court for Rhode Island.

There has been similar support beyond the Republican Party from the editorial board of our State's leading newspaper, The Providence Journal, owned by the Alexis Belo Corporation. Despite disagreeing with McConnell on major litigation he brought in private practice, the paper wrote not one but two separate editorials supporting his nomination. The paper opined, for example:

> Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.

The Providence Chamber of Commerce has weighed in to praise him as a ''well-respected member of the local community.'' Jack certainly has richly deserved that title with all his various community service throughout the years, whether for Crossroads Rhode Island, the State's largest homeless center, Providence's Trinity Repertory Theater, the Providence Tourism Council or other organizations.

In sum, those who know Jack McConnell as a lawyer and as a person recognize that he will be a great district court judge, with a proper understanding of the limited judicial role. A native Rhode Islander and a graduate of Brown University, McConnell will make his State proud in his service on the Federal bench, particularly at a time when our court is straining under the workload caused by the vacancy he would fill.

Unfortunately, out-of-State interest groups have politicized the McConnell nomination. I am not going to spend time now rebutting every argument these special interests and their well-paid lawyers have concocted to attack this nomination. Suffice it to say that Jack McConnell has answered all the questions posed to him by this body, leaving no doubt about his legal skill or his integrity.

I will briefly make two points, however.

No. 1, yes, Jack McConnell brought lawsuits against powerful industries, including tobacco, asbestos, and lead paint. There is nothing wrong with that. There is no dishonor in representing poisoned kids, lung cancer patients or the bereaved widow of a mesothelioma victim. It should not disqualify MCCONNELL or anyone from confirmation. The most important measures of a judicial nominee are legal expertise, strong character, and a proper understanding of the judicial role, and those are qualities that Jack McConnell possesses in abundance.

Yes, Jack McConnell has been active in politics, much like he has been active in many other aspects of Rhode Island public life. The question, however, is not whether he has been politically engaged in the past but, rather, whether he will put aside his political advocacy when he goes on the bench. I know he will. My senior Senator, JACK REED, knows he will. Mr. McConnell testified before the committee that he would. Consider what Judge Bruce Selya of the First Circuit Court of Appeals, a Republican appointee, said when interviewed by The Providence Journal:

> It would be a terrible rule to say candidates should be excluded if they donate to their political parties in a perfectly legal fashion.

The paper continued, describing the interview with Judge Selya:

> Selya said that when Senators weigh the credentials of political contributors who are nominated to the Federal bench, the proper question is not how much money did they give, but rather, can they make the transition from partisans to impartial jurists. The judge said he believes McConnell can do that.

Judge Selya is not only a leading Republican jurist in Rhode Island, he is also a man of impeccable integrity, and his vouching for Jack McConnell is entitled to considerable weight among all those who know Judge Selya.

We must not disqualify talented and successful advocates merely because of their prior political or legal advocacy. Some of my Republican colleagues may not like the suits McConnell chose to bring. I do not share that view, but fair enough. We should remember, however, that lawyers we disagree with can make the transition from advocate to arbiter. Lawyers nominated by Republican Presidents who defended corporations all their private practices simply do not have a monopoly over the proper judicial mindset.

Let me make a last point before I close. The tradition of this body has been to give up-or-down votes to district court nominations reported favorably by the Judiciary Committee and who have the support of both home State Senators. That is an important tradition in this body. Cloture has not historically been required. The Congressional Research Service reports that from 1949 to 2009—over six decades—only three cloture motions were ever made on district court nominations and, in each case, each nomination ultimately was confirmed without the 30 hours of postcloture time being used. For every other district court nomination in that 60-year stretch, no cloture motion has been necessary.

We have departed from that tradition in this case, and I fear it is a consequential departure. The majority leader has been forced to file a cloture motion on this nomination. I, nevertheless, hold out hope our Republican colleagues will allow the motion to be withdrawn and grant an up-or-down vote to be held in short order. Doing so would be the proper course of action, in keeping with this institution's best traditions and most conducive to future comity on nominations. Indeed, it would be consistent with the clearly held and firmly stated views my Republican colleagues have indicated in the past.

Once again, I urge my colleagues to support the nomination of John McConnell to the U.S. District Court for the District of Rhode Island. I urge them to give deference to the judgment of Senator REED and myself in this area and, at a minimum, to grant him the up-or-down vote that is Senate tradition for district court nominees backed by both home State Senators who have emerged, in this case in a bipartisan fashion, from the Judiciary Committee with clearance from the ABA and the FBI. Jack has proven himself to be an excellent lawyer and public-minded citizen of the highest integrity and he will be a great district court judge.

I thank the Acting President pro tempore and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Madam President, I rise to join my colleague, Senator WHITEHOUSE, in strongly supporting the nomination of Jack McConnell to be a United States district court judge for the District of Rhode Island. Indeed, as my colleague indicated, there is a big issue here beyond Mr. McConnell; which is whether we are going to institute a new threshold of cloture, which could be routinely applied to all district court judge nominees. As my colleague indicated, this is an extraordinary departure from the history of this Senate going back decades.

We have long adhered to the tradition that local Senators and the local legal community and the local civic community are the best judges for a potential nominee, subject, obviously, to the President's action and, quite importantly, to the review by the American Bar Association and, quite importantly, the background checks of the FBI, and, quite importantly and very, very importantly, to the deliberations of the Judiciary Committee here in the Senate. This has been the process for both Republicans and Democrats. It has extended over decades, and it is something I hope we can respect today through our deliberations and the conclusion of these deliberations.

Turning to Mr. McConnell, we are fortunate, I believe, to have an individual of his talent and his character. Jack is a graduate of Brown University and Case Western Reserve University Law School. He clerked for a justice of the Rhode Island Supreme Court. He has received numerous accolades and awards, such as the National Association of Attorneys General President's Award and Case Western Reserve University's Martin Luther King, Jr., Award. He has been named to numerous lists of the best lawyers. He has the top rating in both ethics and achievement from Martindale-Hubbell, which is the service that reviews and lists, practically, every attorney in the United States.

But I do not simply want to repeat Jack's extraordinary resume of hard work and success. I want to share some of my personal judgments. He is fundamentally and extraordinarily a decent and honest person. He started out from very humble beginnings. He has worked hard for everything he has accomplished in his life. Through his hours of not just legal work but pro bono work and volunteer work, he has contributed more to the community than anyone I can think of in my home State of Rhode Island. And he has done it without fanfare. He has done it without self-promotion.

He was raised by his late father, who served in Korea with the U.S. Marine Corps and continued to serve in the Marine Corps Reserve. His mother Jane was a teacher. They demonstrated to him the values of hard work and integrity and decency and honesty that have been the hallmark of his efforts and career.

While he was also juggling a very demanding legal career and a family and children, he took the time, early every Monday morning, to go to Amos House, which is a soup kitchen in Providence. It is where the poorest of the poor go simply to get some food for the day. He would quietly and anonymously serve breakfast, without publicity, without fanfare, because he saw this as being part of the community—someone responsible not just for personal success, but for contributing back because he has been fortunate in his life.

He was a Big Brother to a young man in the west end of Providence, a poor neighborhood. He has taught first communion classes in his parish for years. He has been a volunteer attorney at homeless legal clinics in Providence and Pawtucket—two of our central cities. He has served on numerous boards—Crossroads Rhode Island, the biggest and largest homeless service in the State of Rhode Island. He has been there working hard, tirelessly. He has chaired the Providence Tourism Council, which has worked with the Greater Providence Chamber of Commerce to promote the city of Providence.

These are the types of attributes, experiences, life experiences, that form a person and also provide the basis for being a judge. Because the quality I

think we all have to look for in a person, who is sitting in judgment of complicated civil cases, serious criminal cases, but ultimately cases involving men and women, is that they feel that this person understands them and will be fair to them, regardless of whether they are a large corporation or a poor person before the district court. I am convinced Jack McConnell will do that—impartially, deliberately, and carefully. These are the qualities he has exemplified throughout his career.

Jack enjoys strong support and broad support throughout the State of Rhode Island, and it is a reflection of his work not just as an attorney but as a civic leader. I have heard from members from the business community, the Rhode Island judiciary, the legal community, Republican and Democratic elected officials, members of the clergy, as well as individuals from Rhode Island's nonprofit sector and academic sector. All of them have submitted letters for the record, but I want to highlight a few.

The Greater Providence Chamber of Commerce called Mr. McConnell ''a well-respected member of the local community, leading important civic, charitable and economic development institutions including Crossroads Rhode Island, the Providence Tourism Council and Trinity Repertory Theatre.'' They do not oppose his nomination. If I were looking at the business community, I would look at the local business community, not the national, organized efforts, whose agenda is sometimes very far removed from the needs of the small business men and women of Rhode Island.

The Providence Journal, as my colleague has cited, has repeatedly editorialized in favor of his nomination. He has received emphatic and consistent endorsements. In May of 2010, they said:

> Providence lawyer John J. McConnell Jr., whom President Obama has nominated to serve on the U.S. District Court for Rhode Island, is a very able attorney. He has also demonstrated much civic commitment and leadership as a very generous philanthropist and board member of various nonprofit organizations in our area.

Furthermore:

> Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion and independence to be a distinguished jurist.

After no action was taken on Mr. McConnell's nomination by this body in the previous session, the Providence Journal wrote, in November 2010, that Mr. McConnell is:

> one of America's most able and successful litigators, and has been a very energetic and generous leader in philanthropies and other parts of community life. His character and deep love of the law suggest strongly that he will function as a disinterested judge—one able to look at the facts of each case in the light of a close and rigorous reading of statutory and constitutional law and precedent. Indeed, his legal work and community leadership suggest that he would be a distinguished jurist.

He is a man of tremendous character, recognized by community leaders. The Institute for the Study & Practice of Nonviolence—an innovative organization on the south side of Providence—their executive director, Teny Gross, wrote in strong support.

Rhode Island Supreme Court Justice Joseph Weisberger, one of the most respected jurists in the history of Rhode Island, said of his nomination:

> His great experience as a litigator has given him exceptional knowledge of the intricacies of the rules and practice and procedures of federal courts. He would be superbly qualified to preside as a federal judge over the most challenging and complex cases. He would be a splendid addition to the distinguished bench of the United States District Court of Rhode Island.

Justice Weisberger is a former Navy veteran and a 45-year veteran of the Rhode Island bench, and he is a man who commands enormous respect in Rhode Island.

The Republican mayor of Rhode Island's second largest city, Scott Avedisian, has said:

> Jack is a man of integrity, a strong sense of community, and a very fair and forward-thinking individual.

This is a Republican elected official: ''a very fair and forward-thinking individual.''

Business executive Merrill Sherman, an avowed believer in the free market, a very successful entrepreneur and banker, concluded Mr. McConnell ''has the temperament, demeanor and capacity to be an excellent federal trial judge.''

So if Mr. McConnell is so bad for business, why are business leaders in the State reflecting on his qualities and giving him accolades and predicting he will be a distinguished jurist?

John Harpootian, another major Republican attorney in the State, a distinguished attorney, stated:

> In my view, however, the most important attribute is integrity. Time and again, Jack has proven that he is a man of great principle and integrity. While being a vigilant advocate for his clients and the causes that he has taken up during his professional career, Jack has always conducted himself in the most ethical and professional manner; a trait unfortunately sometimes not found among lawyers today.
>
> One of the greatest characteristics that I admire about Jack so much is that despite political differences of opinion, he never allowed those differences to become personal, or to cloud his judgement.

I am hard pressed, again, to believe the suggestions that have been made that in some way Mr. McConnell is not a completely ethical person because every bit of evidence from Rhode Island—Republicans, Democrats, lawyers, business leaders—from a lifetime of observation suggests that he is ethical.

But perhaps the most compelling words are the words of former Rhode Island Republican Attorney General Jeff Pine. As Jeff concluded:

> There is no question in my mind that Jack would be an honest, principled, ethical, and fair judge. He would be a credit to our state and judiciary. I enthusiastically support his candidacy for the position on the federal bench.

This is our former Republican attorney general.

If that judgment is not sufficient, let me render another judgment. This is in the form of a colleague, a former Pennsylvania Attorney General, a Republican, who is now a member of the U.S. Court of Appeals for the Third Circuit. This body, at the recommendation of the Pennsylvania Senators, years ago, under President George W. Bush, confirmed unanimously D. Michael Fisher to serve—after distinguished service as a Republican attorney general in Pennsylvania—as a circuit judge. Here is what Judge Fisher said:

> I met and worked with Mr. McConnell when I was the elected Attorney General of Pennsylvania from 1996 to 2003. We worked very closely together on the national tobacco litigation . . . and worked closely with Mr. McConnell. . . . We spent considerable time together in New York and at meetings elsewhere and I had the unique opportunity to assess Mr. McConnell's legal abilities and his character which were both outstanding. . . . John J. McConnell Jr. is an outstanding nominee to serve on the U.S. District Court for the District of Rhode Island, and I enthusiastically support his nomination.

These are the words of a Federal circuit court judge, nominated by President George W. Bush and confirmed unanimously by this Senate.

Again, I implore my colleagues to listen to what people who know Jack McConnell have said and the words they have used: integrity, honesty, character, independence, impartiality. Those are the words used by people who know him, and that is the truth.

I urge not only on the merits, but also in terms of the traditions of the Senate that we allow this vote to come to a final vote and that we vote for Mr. McConnell.

But let my turn briefly to the claims made by some. Frankly, I am a little bit leery to address these supposed criticisms, but they have been leveled and I think there should be some response.

The first claim seems to be that Mr. McConnell is anti-business. Well, outside of the support he has received from business leaders from Rhode Island and the Providence Journal, which has a historic reputation going back several years of being a prominent supporter of business in Rhode Island, I think it is also good to reference the fact that two insurance industry trade associations—the National Association of Mutual Insurance Companies and the Property Casualty Insurers Association of America—originally signed a letter in 2010 that stridently attacked Mr. McConnell.

However, in December of 2010, both of these associations, which represent companies that scrupulously work for their shareholders, withdrew their opposition because they stopped and looked at the facts.

They spoke to their Rhode Island insurance company members. They examined the Republican support for Mr.

McConnell. They listened to what the Greater Providence Chamber of Commerce had to say. To quote from the National Association of Mutual Insurance Companies' letter:

Upon further consideration and consultation with our member companies in Rhode Island, and after evaluating support for Mr. McConnell from the local business community and former Rhode Island Attorneys General Arlene Violet and Jeffrey Pine, NAMIC withdraws its opposition to his nomination. . . .

Again, those who have carefully considered Jack McConnell have acknowledged that he will bring no personal agenda to the courtroom, as he has testified truthfully and accurately.

Another insinuation is that Mr. McConnell has not comported himself in an ethical manner. This is a serious charge. If any Senator is going to level this kind of assertion, they have to have clear and compelling facts on their side.

Indeed, in his over two decades of practice, Mr. McConnell has never had an ethics complaint alleged or filed against him. He has never had a malpractice claim alleged or filed against him. He has never had a rule 11 motion filed against him.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. REED. Madam President, I ask unanimous consent for 2 more minutes.

Mr. ALEXANDER. Madam President, reserving the right to object, then we would need to add 2 minutes to the Republican side, and I ask unanimous consent for that.

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

Mr. REED. There is a third claim against Mr. McConnell regarding the State of Rhode Island's lawsuit against a number of companies which, at one time, manufactured lead paint. Let me state for the record that this process had its start under a Republican Attorney General, Jeffrey Pine, and then continued under two succeeding attorneys general.

The lawsuit had precedent under Rhode Island law. While it was a lengthy and difficult trial, Judge Silverstein, a State superior court judge who oversaw this trial and was responsible for the court's business calendar, had nothing but praise for Mr. McConnell's involvement and that of his opposing counsels. Again, Judge Silverstein is one of our most respected judges by all sides and by the entire Rhode Island bar for his judgment, integrity, and his skill. He had nothing but praise for Mr. McConnell's involvement.

A fourth claim is an insinuation that Mr. McConnell received some kind of favoritism when the state selected a legal firm to bring the lead paint lawsuit. The facts are again different from the claim. First, Mr. McConnell and former Attorney General Pine discussed this issue within the context of the global tobacco litigation. Attorney General Pine then asked Mr. McConnell to provide a legal memo on this matter. Attorney General Pine reviewed the materials and believed the case was solid but did not want to undertake the case due to the end of his term. In 1999, AG Pine's successor, who happened to be Senator WHITEHOUSE, asked to be briefed on the matter. Then Attorney General WHITEHOUSE, asked another firm, DeCof and DeCof, to review the case, and this firm found the merits of the case to be factually and legally sound under Rhode Island law. The case was then actively litigated by the state under AG WHITEHOUSE's tenure. It was then reviewed by AG WHITEHOUSE's successor, who decided after much deliberation to continue the case. So there you have it. A Republican Attorney General chose Mr. McConnell more or less and his Democratic successors retained his firm.

I am also told this proposed arrangement was submitted to the court, the court reviewed it, and did not object to it. I am also told by Senator WHITEHOUSE that, indeed, the judge had the final approval of any type of payments made. That is the type of arrangement I think is well within the consistency and ethics of procedures within Rhode Island and across the Nation.

I could go on and on. I conclude by saying this: This is an individual of integrity, character, decency, education, talent, and skill. Today, we are on the verge, I hope, of confirming a district court judge nominee. If we reject this person through a cloture fight, we are setting up an extraordinarily dangerous precedent that in the future could be used to prevent individuals of character and talent from serving on the bench.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that over the next 30 minutes Republican Senators led by the Senator from Ohio, Mr. PORTMAN, and including the Senator from Wyoming, Mr. BARRASSO, Senator CORNYN from Texas, Senator HOEVEN from North Dakota, and myself be permitted to engage in a colloquy.

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

RIGHT-TO-WORK LAW

Mr. ALEXANDER. Madam President, it seems as if every day there is some new action by the Obama administration that throws a big wet blanket over job creation in America. Republicans haven't been hesitant to point this out and talk about too many taxes, too many regulations, too much debt, higher gasoline prices, higher health care costs, and the health care law.

Yesterday, Senators GRAHAM and DEMINT and I introduced legislation to reaffirm section 14(b) of the Taft-Hartley Act to permit States, if they so chose, to have a right-to-work law, creating a competitive environment in which we can create more jobs in this country. This is in reaction to the action by the National Labor Relations Board that would basically say the Boeing Company could not expand into a nonunion State.

I ask unanimous consent to have printed in the RECORD an editorial in the Wall Street Journal today called ''Congress vs. the NLRB.''

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

CONGRESS VS. THE NLRB

President Obama's National Labor Relations Board has spent the year thumbing its nose at Congress by reinterpreting longstanding labor law on behalf of union friends. Congress is finally fighting back.

Tennessee GOP Senator Lamar Alexander along with South Carolina Senators Lindsey Graham and Jim DeMint are this week introducing legislation to rein in the labor board's latest assault on business. The board's complaint against Boeing, filed last month, is the first shot in a new union war on federal right-to-work law, a policy shift that is every bit as threatening as the drive to get rid of secret ballots in union elections.

Boeing decided 17 months ago to invest $2 billion building a new production plant for its 787 Dreamliner in South Carolina. It made the decision only after talks broke down with the International Association of Machinists and Aerospace Workers, whose members wanted the work at a unionized plant in Washington state. The union's many strikes over the years have cost Boeing a bundle. South Carolina, like 21 other states, has a right-to-work law, which forbids compulsory unionism.

The Obama NLRB nonetheless chose to make Boeing a whipping boy in a new offensive against right-to-work states. It filed a complaint demanding that an administrative law judge halt the South Carolina plant (set to open in July), and force Boeing to move production to Washington.

This despite the fact that Boeing made clear this is a new production facility or that it has added 12,000 jobs in Washington since announcing the South Carolina move.

No matter. The complaint's real target is the federal right-to-work guarantee. Among the most celebrated provisions of the 1947 Taft-Hartley Act is what's known as 14(b)—the section that allows states to pass right-to-work laws. The Boeing complaint guts that guarantee by effectively requiring companies to continue manufacturing in union states—or be found guilty of a rights violation. This is a union dream come true, on par with ''card check.''

As Senator Alexander tells us, this is a direct attack on a right-to-work law that was ''thoroughly debated'' by Congress in 1947 and ''remains clear today.'' The Alexander-Graham-DeMint legislation would clarify the existing provision, ensuring that state right-to-work laws cannot be pre-empted by the NLRB or union contracts. We're assuming the 11 Democratic Senators from right-to-work states will stand up for their nonunionized workers—if Senator Majority Harry Reid (from right-to-work Nevada) allows a vote.

Boeing will fight the NLRB complaint, though that might mean a protracted court fight. It also means more uncertainty for every business considering a move of future production facilities to a right-to-work state. Many of them may simply relocate manufacturing overseas.

This is the latest gambit from an Administration that has been ramping up its regulatory and enforcement powers on behalf of special-interest allies such as unions. The only check against this is Congress, so we're glad to see Members speaking up.

Mr. ALEXANDER. Madam President, as important as it is to say what we don't like about the Obama administration's job policy, it is even more important for us to say what Republicans will do to create an environment to make it easier and cheaper to create private sector jobs.

Senator PORTMAN of Ohio has a strong background as a budget director, as a Congressman, and as a trade negotiator in the Bush administration, and he has a good understanding, representing one of our largest and most important manufacturing States, of exactly what kind of policy it takes to create an environment for job growth. He has been working with Republican Senators so that we can clearly state our progrowth plan. We would like to discuss that.

I ask Senator PORTMAN, what would be the keys to the Republican plan to make it easier and cheaper to create private sector jobs?

Mr. PORTMAN. I thank my colleague from Tennessee. I happen to have the answer to his question. Yesterday—he is correct—we did propose a jobs plan, which is a series of commonsense proposals to get our economy back on track and create jobs across our country.

You will recall that a few years ago there was a stimulus effort in the Congress—the President's $800 billion stimulus plan—that was passed. The idea was to get the economy back on track. There were estimates that it would have a big impact on job growth and, in fact, reduce our unemployment numbers significantly. That didn't happen.

One of the reasons that didn't happen is because it relied too much on government providing the resources for jobs. Government doesn't create jobs, but government can create the climate for job growth. Our view is that we need to take a different approach. That approach is to stimulate private sector job growth and create that pro-growth environment.

The seven proposals we announced yesterday as part of our jobs plan include being sure that we do indeed deal with the deficit and debt because that is a negative impact today on our economy. In fact, there are economic studies out there showing that our GDP is much smaller than it would otherwise be but for the deficit and debt. Also, we need to reform the Tax Code to spur economic growth. Economists across the spectrum agree that we can stimulate economic growth by having a Tax Code that makes more sense for job creation.

Regulation is a major issue. We will hear from our colleagues who want to make sure we have regulatory relief for small businesses which are not able to create jobs because of the increased regulations coming from Washington.

We need a workforce that is more competitive, and that requires the Federal Government to do a better job on workforce development. Also, there is the need to increase and expand exports. The President has talked about that. We are eager to get trade agreements in Congress. We can create hundreds of thousands of new jobs immediately through expanding markets.

We also talked yesterday about energy. This is important. There are things we can do right now to get America less dependent upon foreign oil and use our own resources in this country more effectively. Then in terms of the health care circumstances—we will talk about this in a moment—every person I have talked to in Ohio, and I have been on over 200 factory visits in the last couple years—tells me the cost of health care is going up not down, which is making it harder to create jobs. We will talk about the need to reduce health care costs.

This is a commonsense, seven-point plan to get the economy moving and create jobs. It is incredibly important to get the unemployment numbers down and to be sure American families have opportunities. It is also very important, though, in terms of dealing with the debt and deficit because, although we need to restrain spending—and Congress is beginning to take small steps in that regard—we also need to grow the economy.

When we have 1.8 percent economic growth, which we had in the last quarter, which is anemic, weak, and not something we should be satisfied with, it is difficult to create that economic growth to help deal with this huge overhang of deficits and debts.

As the Senator from Tennessee said, we have other colleagues with us today, and Senator JOHN HOEVEN from North Dakota will talk about these issues, as will Senator BARRASSO from Wyoming. Senator CORNYN from Texas has just joined us.

I ask Senator HOEVEN, a former Governor of North Dakota—where there is about 3.6 percent unemployment and is a State that is producing domestic energy to help meet our needs and is a big State for exports—if he will talk about his ideas on job growth and how it fits into this job plan.

Mr. HOEVEN. Madam President, I say to my colleagues, Senators PORTMAN, ALEXANDER, BARRASSO, and CORNYN, that it is great to be here this morning to engage in this colloquy. I want to follow up on the points that my esteemed colleague referred to on both energy and trade. They are very important in terms of job creation for our country.

If I could, I will start for a minute on the comprehensive nature of this jobs plan that Republicans have put together. If we look at it, we will see that it is truly comprehensive. It is about living within our means, about reforming our Tax Code, without raising taxes, to create a progrowth environment, create jobs, and get our economy moving. It is about unburdening our economy from the overregulation that is hurting job creation. It is about helping to create a more competitive workforce to compete in a global economy. It is about increasing our exports, and it is about a truly comprehensive approach to energy that will help us develop all of our sources of energy, both traditional and renewable. It is also about commonsense health care reform. We need to do that because we have more than 15 million people who are unemployed. Every day they are unemployed is one day too many. We also have to get on top of this deficit and debt we face. That means controlling our spending, reducing our spending, but it also means growing our economy. That is the way to not only get people back to work but reduce the debt and deficit.

If we look at the 1990s when we were in a somewhat similar situation, that is exactly what we did. We need to go back and do that. North Dakota is a large energy-producing State—oil, gas, clean coal technology, and also the renewables, biofuels, and wind. But the way we did it wasn't through government spending. It was through creating a legal, tax and regulatory environment and creating certainty so that companies and entrepreneurs could invest in energy and advanced manufacturing and technology—the whole gamut. But there are hundreds of millions to billions of dollars today that would go into investments all over this country in the energy patch, both traditional sources and renewable sources of energy, with the latest, greatest technology—more energy, more dependable, and cost effective, with better environmental stewardship.

That is what this is about, creating the right environment. By the same token, we are looking at three different trade agreements: the South Korea Free Trade Agreement, the Colombia Free Trade Agreement, and the Panama Free Trade Agreement. These would create more economic activity. The Korea agreement alone is expected to increase U.S. exports to South Korea by $10 billion a year. We are talking hundreds of thousands of jobs.

We need to be working on those free-trade agreements right now, today, to approve them. I urge our leadership and the administration to work with us to get those trade agreements to the floor and get them approved as part of this comprehensive jobs plan.

I thank my esteemed colleagues again, and I commend Senator PORTMAN for his outstanding work on this plan. I thank all of the members of our caucus for the contributions they have made to this plan. Also, again, I express our desire to go to work with our friends across the aisle on all of these provisions for the benefit of all of those who are looking for work, for the benefit of our economy, and for the important role that economic growth, along with spending restraint, will play in helping us get on top of our debt and deficit.

With that, I turn the colloquy back over to Senator PORTMAN for his additional remarks.

Mr. PORTMAN. Madam President, I thank my colleague from North Dakota. He makes great points about the need for us to use our resources at home on energy and for us to expand exports because that immediately creates jobs in this country. He has done it. As a Governor, he rolled up his sleeves and got directly involved in economic development. He knows what it takes. The fact that he has been a champion of this plan and helped put it together gives me confidence that this is going to work.

We need to work on a bipartisan basis. We are reaching out to our colleagues on the other side of the aisle and the administration. So much of this is common sense. These are things we should do now.

We are also joined by our colleague from Wyoming. He is Wyoming's doctor. He is also a leader in the Senate and has taken the lead on a number of issues related to jobs, two of which are part of our jobs plan. One is, of course, the regulatory front, where he has taken the time to really dig into how these regulations affect business growth. He may have comments on that issue today.

I would like to hear Dr. BARRASSO on that point but also on the health care front where, as a doctor, he looked into what the impact of health care reform will be on jobs. This is something that perhaps does not get talked about enough. Unless we figure out a way to get health care costs under control, it will be harder for us to create opportunities in this country because the costs embedded in hiring a new employee under health care alone are so high that many companies are simply not hiring. I would love to hear his thoughts.

Mr. BARRASSO. Madam President, I thank Senator PORTMAN for the incredible job he has been doing as a champion of efforts to create more private sector jobs in this country, to make it easier and cheaper to create private sector jobs, for the private sector to create the jobs we need. Senator PORTMAN showed significant leadership in his campaign last year in Ohio developing the Portman jobs plan. He went to factories and small businesses all across the State of Ohio because he knows small businesses are the engines that drive the economy.

Seventy percent of the jobs created in this country are created by our small businesses one at a time. When there are government rules, regulations, redtape, and increased expenses, it makes it much harder because it does not provide the certainty the small businesses of this country need to create those new jobs. They may not be willing to take the additional risk and additional expense because of the unknown concerns.

I think that is one of the points that is highlighted in this wonderful plan Senator PORTMAN has put together, along with the members of the Republican Party. A big part of this plan has to do with the rules and regulations that come out of Washington, DC—rules and regulations that may not even be connected to laws that were passed in this body but rules and regulations put forward by this administration, by people who have a different view of how America works.

I was encouraged over 100 days ago when the President said he had an Executive order that would try to eliminate some of the redtape. Here we are 100 days later, and it is just another broken promise from this administration. The redtape continues to hold American small businesses hostage.

We are trying to cut through that redtape. The American people realize it. The administration may not realize it, but the American people realize it. When the American people were questioned just this last month about whether there are too few regulations or too many regulations and the impact on business, a majority said there are too many regulations on our businesses.

How much money does Washington spend on regulations? I will tell you, Madam President. Government spent a record $55 billion developing and enforcing rules last year—$55 billion developing and enforcing rules last year. That is just the spending of government. What is the impact on businesses around the country? For every $1 the government spends to put forth and enforce these rules, it costs businesses of this country $30. That is over $1.5 trillion expended by businesses across the country. That is a drag on our economy, making it harder for them—not easier but harder and more expensive for the private sector to create jobs. There is $30 of business expense for every $1 spent on rules and regulations out of Washington.

People are worried because it is going to get worse. There are still 224 rules in the pipeline that have been labeled as ''economically significant.'' What is an economically significant rule? It is a rule that has an impact on the economy of over $100 million. There are 224 of them coming down the line. Is it a surprise that the unemployment rate continues to be so high? It is because of the rules and regulations of this administration.

What do the American people believe about this situation? Over 70 percent of the American people believe several different things about the effect of the rules. I will tell my colleagues what they are. This is polling from just last month. They will tell you that additional environmental regulation increases the price of energy for items such as gasoline and electricity. Seventy percent of Americans believe the rules coming out of Washington increase the costs of items such as gasoline and electricity—the energy issues. How much is the pain at the pump costing the American family this year? About $800 per family this year in higher gasoline rates than last year. If you are a family, that has an impact on your quality of life. It has an impact if you are trying to deal with bills, kids, and a mortgage. But there are a lot of regulations out there. The American people see this.

Also, over 70 percent of the American people know in their hearts and believe that small businesses—the job creators of this country—are impacted much more than the large businesses of the country. But it is the small businesses we want to help.

The other point that more than 70 percent of the American people believe, in a poll by the Tarrance Group, is that if regulations make it too expensive to keep jobs in America, businesses will continue to move overseas. Businesses will continue to move overseas.

There is so much uncertainty with the rules and regulations coming out of this town that it is paralyzing the rest of our country. That is just on the rules and regulations aspect that people can see. There are so many rules and regulations that are still coming.

I was at a hospital in Cody, WY, talking about health care. I practiced medicine for 27 years, taking care of families all across the Cowboy State. I was visiting a hospital in Cody, WY, and they said they were trying to figure out one aspect of the health care law—accountable care organizations. It is 6 pages of the 2,700-page law that was crammed through in the middle of the night, with Americans saying: No we don't want this. The people who do regulations took 6 pages of the law and came up with over 400 pages of regulations. They just came out about a month ago. The hospital administrator said: We are having to take money away from patient care, from helping with nurses and therapists to pay for consultants to try to explain these rules and regulations to us so we can abide by them.

Those are the kinds of regulations and rules on steroids that I continued to hear about as I traveled in the last week or so at home visiting with people, visiting the communities, listening to what people have to say and the concern and the uncertainty because what is coming out of Washington is a drag on our economy. It is preventing us from making it easier and cheaper for the private sector to create more jobs.

People all across the country are concerned, and that is why I am so happy to be here with Senator PORTMAN today and his efforts, his leadership on a jobs plan that is one that focuses fundamentally on the things that will get government off the backs of the American people and let the American people get back to work. I thank Senator PORTMAN for his leadership at a time when we see a government that is borrowing too much, spending too much, and growing bigger every day. I am very appreciative of his efforts to get things back under control and get the decisionmaking out of

Washington and back to the hometowns and States across the country.

Mr. PORTMAN. Madam President, I thank Dr. BARRASSO. I appreciate the amount of time he has put into this regulatory issue and the relief small businesses need on the regulatory front. It is obvious he is out talking to businesses, and it is directly related to jobs because we cannot get the jobs back unless we reduce the cost of doing business that comes from these regulations.

Madam President, how much time do we have remaining in this colloquy?

The ACTING PRESIDENT pro tempore. There is 12 minutes 7 seconds on the Republican side.

Mr. PORTMAN. I thank the Presiding Officer.

Madam President, as I said, we are also joined by Senator CORNYN of Texas. I am going to ask him in a minute to say a few words about the jobs plan. The input he has put into it has been terrific because he is the guy who understands, again, the importance of small business, the importance of us creating an environment through Washington laws and regulations that helps create jobs, and that it is not Washington that is going to create the jobs but the private sector that is going to do it.

I ask my colleague from Texas to say a few words about his thoughts.

Mr. CORNYN. Madam President, I say to my colleague from Ohio, what a welcome idea of refocusing on the No. 1 issue in America today, which is too many Americans out of work. Of course, we saw the growth numbers for the first quarter of this year: 1.8 percent—hardly vigorous enough to create the kind of economic expansion and job creation we need.

As we are dealing with the spending issue, we have to deal with growing the economy. That is exactly what the Senator from Ohio has proposed—a comprehensive plan to try to figure out how to get people back to work and to try to get the kind of economic growth that will help us deal with this debt crisis we are in.

The one thing I especially like about the plan, although I like all of it, is the embracing of a notion of a balanced budget amendment to the Constitution. The Senator from Ohio has had a distinguished career not only in the House but as U.S. Trade Representative and also as Director of the Office of Management and Budget. He knows the budget numbers and the intricacies of that better than just about anybody here. He knows the difficulty we have had, whether Republican administrations or Democratic administrations, of living within our means.

Now that we are spending so much money we do not have—about 40 cents on every dollar, with $14.3 trillion in debt and huge deficits—we have to figure a way out of that situation. I think the best way to do that is to put this proverbial straitjacket on Congress and force us to do what every family and every business and 49 States do, either because of constitutional or statutory provisions.

I wish to say in conclusion how much I appreciate the good work he has done. Senator PORTMAN has been here a short time, but he brings a lot of experience and a lot of wisdom on these issues, particularly on getting America back to work.

Mr. PORTMAN. Madam President, I thank my colleague from Texas. He is absolutely right. When we look at the budget deficit and the debt and the impact it is having on our economy today, it is clear we need constraints. Forty-nine States have a balanced budget requirement. When I am back home talking with people in our cities and counties, in their struggles with balancing their own budgets, they ask me: How can Washington continue to spend so much money it does not have? Forty cents of every dollar Washington spends today is borrowed money. Clearly that restraint is needed.

It is important to get the economy back on track. Often we talk about the record budget deficit and the $14 trillion debt in terms of its impact on future generations. As the father of three, I am very concerned about that, as we all should be, because we are mortgaging their future, the excessive spending today that they are going to have to pay back.

It is not just what is going to happen in the future. Our deficits and debts have gotten so big that there is an impact on the economy. There was a study done recently by a couple of respected economists—Rogoff and Reinhart—which says, in looking around the world, where a country's debt is up to 90 percent of its total economy, you have about a 1-percent decline in the GDP or the growth in the economy. Our growth was only 1.8 percent last quarter. That means it should have been at least 2.8 percent but for our debt and deficit because now our gross debt is 100 percent of our economy. So we are over that 90-percent threshold, and we are impacting our economy today.

When we think about it, with all the government borrowing out there, it is crowding out private borrowing. There are fewer jobs being created in America because the government is playing a bigger and bigger role, crowding out the ability of small businesses to get a loan.

I also join a lot of other folks in this Chamber on both sides of the aisle in my deep concern about the possibility of a debt crisis if we do not deal with these historic deficits and debts. That could send our economy into a tailspin with sky-high interest rates, with inflation that is already rearing its ugly head again in this country. We need to address this issue because it is the right thing to do for future generations—it is really a moral issue—but also because it does impact what is going on today in our economy and our ability to get this economy back on track and create jobs. It is so important to American families and, as I said earlier, so important for us dealing with the fiscal problems because we have to both restrain spending and grow the economy, increase economic activity, which will increase revenues.

Madam President, can you give me a warning when we have 5 minutes remaining in the colloquy today?

I would like to turn back to my colleague from Tennessee who started this off this morning talking about the importance of this job plan.

Mr. ALEXANDER. Madam President, would the Senator have some more comments on the plan and about what has been said by some of our other colleagues?

Mr. PORTMAN. I thank my colleague very much.

Mr. ALEXANDER. To the Chair, if the 5-minute warning could be for the end of the 25 minutes because I intend to take 5 minutes after that.

The ACTING PRESIDENT pro tempore. There is 6 minutes remaining in total on the Republican side.

Mr. ALEXANDER. I will take 1 minute and then conclude. I wish to thank Senators PORTMAN, CORNYN, and BARRASSO for this. We will be hearing often from Republicans who want to make clear what we are for as well as what we are against, and I thank the Senator from Ohio for his leadership.

I wonder if, in the last 30 seconds or so, he wants to focus on trade and jobs, which has been his specialty.

Mr. PORTMAN. First of all, I thank my colleague from Tennessee for helping to promote this idea. Again, we are looking to reach out to Democrats in this Chamber, in the House, and working with the administration, to actually get this done. We need to get the American economy back on track.

I just heard the Senator talk about trade, and we talked about that earlier. But as was said earlier, we need to increase exports because exports equal jobs. If we look at these three pending trade agreements, which the administration has yet to send to Congress—and we can't move unless they do that—they would create, alone, between 250,000 and 380,000 jobs, depending on what numbers you look at. Think about that, hundreds of thousands of jobs are ready to be created right now by knocking down barriers to our workers, our farmers, and our service providers just in these three instances alone.

We also need to provide the President with the authority to knock down more barriers by giving him trade promotion authority. So I call on the administration to send us those agreements—free up those agreements—and allow us here in America to be able to create more jobs by expanding our exports, by leveling this playing field between these three countries—Panama, Korea, and Colombia—and then let us get busy on having the United States even more engaged in international trade, expanding exports and, therefore, creating jobs.

Let me review quickly these seven core areas and then turn it back to my colleague from Tennessee.

We do need to focus on the fiscal situation, as we have talked about, to be able to help the economy. Our Tax Code needs to be reformed to create economic growth. We can do that. We know there is a way to do it without raising taxes and by reforming the code and making it more progrowth; the regulations we talked about that are stifling so many small businesses in this country; the competitive workforce, retraining is critical, and we can do a much better job taking the existing Federal resources and directing them toward retraining for jobs that are actually there; expanding exports, we just talked about; of course, powering America's economy by using more of our own domestic resources—renewable but also traditional uses of energy; and, finally, getting health care costs down, as Senator BARRASSO talked about.

If we do these things, we will create more hope and opportunity at a time when it is so desperately needed. We should be able to do it because they are commonsense ideas.

I thank my colleagues.

NOMINATION OF JOHN McCONNELL

Mr. ALEXANDER. Madam President, we have a vote at noon. I know there are a number of Senators who wish to speak. I will take about 5 minutes, I suspect Senator CORNYN wants to speak, and I know Senator GRASSLEY wants to speak. I also see Senator REID.

The Senate is a body of precedent. One important precedent is that never in the Senate history has a President's district court nomination, reported by the Judiciary Committee, been defeated because of a filibuster; that is, because of a cloture vote. Once a nominee for Federal district judge has gotten to the floor, the majority of Senators have made the decision in an up-or-down vote.

Therefore, I will vote for cloture in order to allow an up-or-down vote on the President's nomination of John McConnell, then I will vote ''no'' on confirmation because I believe he is a flawed nominee.

I know most of my Republican colleagues are going to register their opposition to Mr. McConnell by voting to deny an up-or-down vote. I respect their decision. I understand how they feel. I also was outraged in 2003 when Democratic Senators filibustered President Bush's circuit court nominees simply because they disagreed with their philosophies. I made my first speeches on the floor of the Senate arguing against such a change in precedent.

On February 27, 2003, I said on this floor:

> When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide. In plain English, I will not vote to deny a Democratic President's judicial nominee just because the nominee may have views more liberal than mine. That is the way judges have always been selected. That is the way they should be selected.

That is what I said in 2003.

In 2005, Republicans grew so upset with the Democrats' continued filibustering of President Bush's circuit nominees, the Republican majority leader threatened to eliminate the right to filibuster in connection with judicial nominations. That proposal was called the nuclear option because it was said if Republicans succeeded in abolishing the filibuster, their actions would ''blow the place up.'' I suggested, in two Senate speeches, that a small group of Senators, equally divided by party, agree to oppose the filibustering of judges. The result of those remarks was the creation of the Gang of 14—the Gang of 14 Senators who preserved the tradition of up-or-down votes by agreeing to use the filibuster only in extraordinary cases. I have amended my own views to subscribe to the Gang of 14's standard for Supreme Court and circuit court judges.

It is true the Gang of 14 agreement didn't explicitly distinguish between circuit and district judges. But the debate then clearly was only about Supreme Court and circuit judges, and the Senate always thought of district judges differently. District judges are trial judges. Circuit judges also must follow precedent but have broader discretion in interpreting and applying the law. Circuit judges' jurisdictions are broader. Their attitudes and philosophies are much more consequential in the judicial process.

That is why the Senate has never allowed a Federal district court nomination to fail by denying cloture. According to the Congressional Research Service, in the history of the Senate——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ALEXANDER. I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, it is so ordered.

Mr. ALEXANDER. I thank the Chair.

According to the Congressional Research Service, in the history of the Senate, only three cloture motions have ever been filed on district judge nominations. In each case, the nomination eventually was confirmed.

In 1986 cloture was invoked by a vote of 64–33 on Sidney Fitzwater despite opposition to the nomination by Democratic senators. Mr. Fitzwater was then confirmed 52–42.

In 1999 cloture was not invoked by a vote of 55–44 on Brian Theodore Stewart's nomination because of Democrat opposition. He was confirmed two weeks later by a vote of 95–3.

In 2003 a cloture motion was filed on Marcia G. Cook's nomination but it was withdrawn and she was confirmed 96–0.

I certainly wish President Obama had nominated someone other than Mr. McConnell. During his confirmation hearings, questions arose about a possible role in stolen corporate documents, in soliciting contingency fee legal contracts, and about his judicial temperament. Some senators even feel misled by some of his statements. It was even said he is the only district judge to be opposed by the U.S. Chamber of Commerce in its 99-year history.

Well, the Senate has more than a 200-year history. And that history is not to use the filibuster to defeat a district judge nomination.

I am comfortable with the Gang of 14 precedent in the case of circuit justices and Supreme Court justices. I will continue to reserve the right to vote against allowing an up-or-down vote in an extraordinary case. I also understand the strategy of ''They did it to us, so we will do it to them.'' Unfortunately, that strategy, I am afraid, will lead us to a new and bad precedent, one which will weaken the Senate as an institution and come back one day to bite those who establish it.

I thank the Chair and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. CORNYN. Will the Senator yield for a quick question?

Mr. SCHUMER. I will yield.

Mr. CORNYN. I know there are a number of us who would like to speak on the upcoming cloture vote at noon on the McConnell nomination. I know Senator GRASSLEY would; I presume the Senators from New York and Rhode Island would. I wonder if we could reach some unanimous consent agreement that would allow at least 5 minutes for each of us to speak.

I would pose that as a unanimous consent request; that for the Senators who are currently on the floor, the five of us, we be given up to 5 minutes to speak preceding the cloture vote.

Mr. SCHUMER. Might I ask a question of the Chair? What is the time status? There is 35 minutes until noon; is that divided?

The ACTING PRESIDENT pro tempore. Yes, the time is equally divided. The Democrats control 19 minutes, the Republicans control 18½ minutes.

Ms. LANDRIEU. Madam President, reserving the right to object, I wish to remind the Senators this isn't the only debate on the floor. We are having a cloture vote on SBIR, and we would like some time to close that debate as well. So I am open to work with the other Senators.

Mr. REED. Madam President, reserving my right to object, I would suggest, according to the request of the Senator from Texas, that the Senator from New York be recognized for 5 minutes, the Senator from Texas be recognized for 5 minutes, that I be recognized for 5 minutes, and then Senator GRASSLEY be recognized for 5 minutes.

The question then would be, Is there sufficient time for Senator LANDRIEU and, of course, Senator LEAHY?

Mr. SCHUMER. Could I ask unanimous consent——

Ms. LANDRIEU. I don't know how to do this, but if we could do 3 minutes each and reserve at least 15 minutes for closure.

The ACTING PRESIDENT pro tempore. Time has been consumed during this debate.

The Senator from New York.

Mr. SCHUMER. Madam President, I believe we have 37 minutes remaining; is that right, 19 and 18?

The ACTING PRESIDENT pro tempore. Correct.

Mr. SCHUMER. I know Senator LEAHY wants to close with 5 minutes.

So what we could do, equitably, is give each of the six Members on the floor 5 minutes.

Ms. LANDRIEU. I have to object to that.

Mr. SCHUMER. OK. Madam President, I have the floor and I ask to be recognized.

The ACTING PRESIDENT pro tempore. The Senator from New York.

COURT VACANCIES

Mr. SCHUMER. Madam President, I rise to talk about a serious crisis in the third branch of government; that is, the rate of vacancies in the U.S. district courts.

There is a crisis that is unlike almost all the other issues we grapple with on a daily basis. It has a very simple solution. My colleagues and I deal with a lot of very difficult and very divisive problems every day. Not many of them lend themselves to solutions that are both politically and economically costless, but this one is easy: confirm these judges.

Take the district court nominees who were passed out of committee with bipartisan support, schedule votes on the floor, and confirm them. It sounds easy. Apparently, it is not. It is not easy because my colleagues on the other side of the aisle have slowed the confirmation of district court judges to a trickle, even those nominees who were passed out of the Judiciary Committee with no objection from Republicans.

This Congress, I am grateful for the hard work of Chairman LEAHY, Ranking Member GRASSLEY, Majority Leader REID, and Minority Leader MCCONNELL in beginning to unclog the pipeline, but we still have a long way to go. To go the rest of the distance, to restore the pace of judicial confirmations before the Federal judiciary faces the worst vacancy crisis in history, we need the consent of our Republican colleagues.

Here are the facts: The targeting of district court nominees is unprecedented. Five of the nineteen district court nominees who have received split votes in the last 65 years have been President Obama's nominees. We have only confirmed 61 of his district court nominees. By this time in their Presidencies, we had confirmed 98 of President Bush's and 114 of President Clinton's.

Judicial vacancies affect nearly 100 Federal courtrooms across the Nation. One in nine seats on the Federal bench is vacant. So we should approve these nominees.

As for the current nominee pending on the floor, he is somebody who deserves nomination. When we ask about nominees, we are concerned the standard used by my colleagues is, would I have nominated this person, rather than is this person whom I might not have nominated in the mainstream? Jack McConnell is clearly in the mainstream. He has more than 25 years' experience as a lawyer in private practice. Leading Republican figures in Rhode Island have endorsed him. But he has garnered opposition not because of his qualifications but because of his clients. That is not fair, that is not right, and that is not how we do judicial nominees.

He has chosen his work as a private lawyer, and that has no bearing on his judicial temperament, his interpretive philosophy or his legal acumen. In the interest of my colleagues who require more time, I would urge, at the very least, that people take the standard of the Senator from Tennessee—don't block cloture on this nominee. If you think he is not qualified, vote against him.

Jack McConnell deserves to be on the bench. I am glad Leader REID has called him, and Senators REED and WHITEHOUSE have taken the lead. I urge, at least on cloture, that my colleagues let this nominee be voted upon.

I yield the remainder of the time I have been allotted so others of my colleagues might speak.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, I have been conferring with the Senator from Rhode Island and other Senators who want to speak. Maybe if we could try another attempt at a unanimous consent request that would allow all of us a chance to speak.

Since I have the floor, I assume I can speak for up to 10 minutes under the standing order. I am willing to yield some of that time so everybody can have an opportunity.

Ms. LANDRIEU. Madam President, I object to any unanimous consent request.

Mr. CORNYN. Madam President, I have the floor. The Senator is out of order.

The ACTING PRESIDENT pro tempore. The Senator from Texas has the floor.

Mr. CORNYN. I ask unanimous consent that the Senator from Rhode Island, the Senator from——

The ACTING PRESIDENT pro tempore. Is there objection?

Ms. LANDRIEU. I object.

Mr. CORNYN. I will proceed, then, under the standing order which gives me up to 10 minutes, as I understand.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. CORNYN. I regret that the Senator from Louisiana is unwilling to cooperate and provide everybody a chance to be heard, but I will proceed.

I wish to speak to the nomination of Jack McConnell to the Federal district bench. I spoke on this nomination yesterday. I have authored an op-ed piece in the Washington Times expressing my concern. I wish to summarize my concerns for my colleagues' benefit and their consideration.

I serve as a member of the Judiciary Committee, as does the Senator from Iowa, Mr. GRASSLEY. Before the Senate Judiciary Committee, this nominee was asked about allegations of theft of corporate documents arising out of some lead paint litigation that his law firm was pursuing in the State of Rhode Island. That has been the subject of some discussion.

I will ask unanimous consent to have several documents printed in the RECORD at this time.

First, I ask unanimous consent that after my comments, the complaint of the Sherwin Williams Company v. Motley Rice and others be printed in the RECORD.

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

(See exhibit 1.)

Mr. CORNYN. I ask one further unanimous consent, and that would be that an article from Legal Newsline about a discovery dispute still delaying the resolution of the theft case against Motley Rice be printed in the RECORD.

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

(See exhibit 2.)

Mr. CORNYN. What I think these documents demonstrate is that not only did Mr. McConnell intentionally mislead the Senate Judiciary Committee with regard to his possession of these stolen documents, but now there has been for some years—even after the lead paint cases have been essentially dismissed by the Rhode Island Supreme Court with the State and Mr. McConnell and his law firm having lost—ongoing litigation by one of the defendants in that case suing for tortious interference with their property; also conversion—in other words, theft, as the Presiding Officer knows—of their private, proprietary documents, including their litigation strategy, including their trade secrets and the like.

The article, dated April 21, 2011, that I have made part of the record shows that dispute over the theft of these documents remains unresolved. In other words, Mr. McConnell and his law firm's participation in this ongoing dispute remains unresolved. I don't know why the majority leader would choose to bring up a nomination of somebody for a lifetime appointment to the Federal bench when serious allegations about his law firm's participation and his personal participation in the theft of corporate documents in pursuit of litigation remains unresolved. I think it is a terrible mistake.

I know the Senator from New York suggests we ought to just go ahead and vote on cloture because he knows then that because our Democratic friends control 53 votes in the Senate, Mr. McConnell will be confirmed. But I am concerned that because the ethical allegations made against Mr. McConnell and his law firm remain unresolved, this is a terrible time for us to be voting on a lifetime tenure. If he were to be confirmed and we find out later on that the court actually finds he did participate in this conspiracy to steal these corporate documents, what would that say about the Senate and about this process, our deliberative process? I think it would be a scandal. It would be a scandal.

Finally, let me say I have expressed my concerns previously about the scheme that a group of very smart trial lawyers have dreamed up to sue legal industries for huge amounts of money by making alliances with State attorneys general and then suing in the name of the State but then in the end settling these cases for billions of dollars—in some cases, hundreds of billions of dollars—and these lawyers reaping a windfall of billions of dollars in attorney's fees. That is something Stuart Taylor—I think one of the more level-headed commentators about legal matters—has said, that this has indeed morphed the rule of law into the rule of lawyers, and ultimately consumers will have to pay more in terms of higher prices and the lawyers reap a windfall.

The very same lawyers who are hired through these no-bid, noncompete contracts are indeed the political supporters of these very same attorneys general, raising at least the appearance of impropriety and a pay-to-play system of providing litigation opportunities to these lawyers from which they reap billions of dollars and after which they funnel campaign contributions back to the very same State officials who have, in fact, authorized them to sue on behalf of the State. This is unseemly, to say the very least about it.

Finally, I would say Mr. McConnell continues by his own admission to be eligible to receive up to $3.1 million a year in one of these shakedown-industry lawsuits where these trial lawyers have worked with State attorneys general to sue on behalf of the State, not in cases that were actually tried but were actually settled under an existential threat to these businesses and these industries.

At a time when we are talking, as Senator PORTMAN did, about job creation, the idea that we would be confirming a lawyer to a lifetime appointment to the Federal bench where he could then serve as a venue, given the venue shopping that frequently goes on in this type of litigation, we can expect, if Mr. McConnell finds himself confirmed as a Federal judge, that in the future litigants will find a warm reception in his court to these ethically dubious schemes.

I think it is an extraordinary circumstance according to the standards set by the so-called Gang of 14. It is not something we will be doing often. But when an ethically flawed nominee such as this nominee is proposed by the President of the United States on three different occasions, and Senator REID, the majority leader, as is his right, tries to slip this stealth nominee through when people are paying attention to other things, and we have not had adequate time to debate and expose in the record so Senators can make a good judgment about the facts and do their duty as individual Senators, I think it is a terrible shame.

I intend to vote against cloture, and I hope my colleagues will so we can have additional time to review this nominee's credentials and make a good-faith assessment on behalf of all of our constituents.

EXHIBIT 1

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNT, OHIO

THE SHERWIN WILLIAMS COMPANY, 101 Prospect Avenue, N.W., Cleveland, OH 44115 (Plaintiff), v. MOTLEY RICE LLC, Motley Rice LLC, 28 Bridgeside Boulevard, Mount Pleasant, SC 29464 And JOHN DOES, Defendants.

Complaint
JOHN P. O'DONNELL
CV 09 689237.

The Sherwin-Williams Company (''Sherwin-Williams''), for its Complaint against Motley Rice LLC (''Motley Rice'') and other unknown persons, alleges as follows:

INTRODUCTION AND NATURE OF CLAIM

1. The law firm of Motley Rice has represented since 1999 the Rhode Island Attorney General, other government officials, and private individuals in highly contentious public nuisance and personal injury lawsuits filed against Sherwin-Williams and other former manufacturers of lead paint and pigments.

2. Without the knowledge or consent of Sherwin-Williams, Motley Rice has somehow obtained stolen copies of PowerPoint slides used by Sherwin-Williams' Associate General Counsel—Litigation to advise the Company's Board of Directors on the costs of defending the lead paint and pigment litigation, among other information, and his analysis of potentially available insurance coverage for that litigation—an issue that Sherwin-Williams was actively litigating with its insurers in a separate action. Those documents contain highly confidential, proprietary business information and are also protected by the attorney-client privilege and the attorney work product doctrine.

3. It appears that Motley Rice, at the time it received those slides, wrongfully obtained other Sherwin-Williams' confidential, proprietary, and privileged documents from the same person who is unknown to Sherwin-Williams. All of Sherwin-Williams' confidential, proprietary, and privileged documents taken without authorization will be referred to as ''Documents'' in this Complaint.

4. Despite repeated requests by Sherwin-Williams, and despite Motley Rice's admission that it obtained Sherwin-Williams' Documents through its own efforts, Motley Rice has refused to reveal how it obtained Sherwin-Williams' stolen Documents; to identify all Sherwin-Williams' Documents in its possession; to provide them to a court for in camera review; or to return Sherwin-Williams' Documents.

5. By this action, Sherwin-Williams seeks to uncover how Motley Rice obtained the Documents, to protect and secure the return of its stolen Documents from Motley Rice, to prevent any use of those Documents or information contained in them, and to be compensated for the harm caused to Sherwin-Williams by Motley Rice's wrongful acquisition and use of those Documents.

THE PARTIES

6. Sherwin-Williams is a corporation organized under the laws of the State of Ohio, with its principal place of business in Cleveland, Ohio.

7. Motley Rice LLC is a limited liability company incorporated under the laws of South Carolina. It has its principal place in Mt. Pleasant, South Carolina and has another office in Providence, Rhode Island.

8. The John Does are persons presently unknown to Sherwin-Williams who assisted, aided, and abetted Motley Rice in the tortious acts alleged in this Complaint. The John Does are believed to be residents of the State of Ohio.

JURISDICTION AND VENUE

9. Motley Rice has caused tortious injury in this State by an act or omission in Ohio and by acts outside of Ohio committed with the purpose of injuring Sherwin-Williams, which resides in Ohio. Motley Rice also regularly conducted business in Ohio during the time of the alleged tortious acts. Thus, this Court has jurisdiction over Motley Rice pursuant to Ohio Revised Code 2307.382(A)(3)–(4), (6), (7).

10. Venue is proper in Cuyahoga County because part of the activity that gave rise to the claim for relief took place in this County. Ohio R. Civ. Pro. 3(B)(3). Additionally, venue is proper in Cuyahoga County because all or part of the claim for relief arose in this County. Ohio R. Civ. Pro. 3(B)(6).

FACTS

11. In the course of conducting its business, Sherwin-Williams creates and maintains confidential, proprietary, and privileged information and documents. Included among those documents are materials generated by Sherwin-Williams' attorneys to provide advice to Sherwin-Williams' Board of Directors concerning ongoing litigation strategy, anticipation of litigation, developments and costs of defense as well as potentially available insurance coverage for litigation liabilities and defense costs.

12. Sherwin-Williams' attorneys have frequently met with the Board of Directors to discuss the lead paint and pigment litigation and the disputes and litigation with its insurers to obtain reimbursement of defense costs and any potential judgments in the lead paint and pigment litigation. The oral and written presentations by Sherwin-Williams' attorneys to the Company's Board of Directors are intended to be confidential and protected by the attorney-client privilege and attorney work product doctrine. Presentations to the Board of Directors may also contain confidential and proprietary business information, such as strategies for other litigation, trade secrets for new products, acquisition plans, employment policies, and other sensitive, competitive information. For these reasons, all minutes of and presentations at Sherwin-Williams' Board of Directors' meetings are kept strictly confidential and are securely maintained with restricted access at the company.

13. Since October 1999, the State of Rhode Island, through its Attorney General, has retained Motley Rice to sue certain former manufacturers of lead pigments used in architectural paints decades ago, including Sherwin-Williams, for allegedly creating a public nuisance (''Rhode Island Litigation''). Under a contingency fee agreement with the Rhode Island Attorney General, Motley Rice

and other counsel are responsible for all costs and expenses of prosecuting the claims in the Rhode Island Litigation.

14. Since the commencement of the Rhode Island Litigation, Motley Rice has been retained by local governments in California, New Jersey, and Ohio to bring similar public nuisance lawsuits against Sherwin-Williams and other former lead pigment manufacturers. Motley Rice also tried unsuccessfully to obtain representation of the cities of St. Louis and Milwaukee as part of its continuing campaign to launch public nuisance lawsuits against Sherwin-Williams and other former lead pigment manufacturers all across the country. The public nuisance lawsuits seek to require several, out of many, former lead pigment manufacturers, including Sherwin-Williams, to remediate all lead paint in all buildings.

15. Also, since 1999, Motley Rice has represented dozens of individual plaintiffs in Wisconsin who have sued Sherwin-Williams and other former lead pigment manufacturers alleging personal injuries from elevated blood lead levels.

16. Motley Rice attorneys frequently came into Ohio in 2006 to meet and communicate with mayors and members of the executive and legislative branches of local governments in order to persuade them to retain Motley Rice to bring public nuisance lawsuits against Sherwin-Williams and other former lead pigment manufacturers. Beginning in September 2006, Motley Rice was retained to sue Sherwin-Williams and others on behalf of the cities of Akron, Athens, Canton, Cincinnati, Columbus, Dayton, East Cleveland, Massillon, Lancaster, Toledo, and Youngstown and the Stark County Housing Authority. It signed a contingency fee agreement for each city. Motley Rice moved for, and was allowed, leave to appear as counsel pro hac vice in state court for each Ohio plaintiff. Motley Rice wrote, appeared as counsel, and submitted complaints for each Ohio plaintiff. It wrote and submitted briefs in every Ohio case in which defendants filed a motion to dismiss or other pre-trial papers. Motley Rice attorneys appeared in Ohio Common Pleas Courts located in Canton, Cincinnati, Cleveland, and Toledo to argue motions, and it responded to public records requests on behalf of various cities.

17. Through the public nuisance and personal injury litigation against Sherwin-Williams and others, Motley Rice was and still is attempting to gain millions of dollars in fees for itself.

18. Motley Rice's representation of cities in Ohio continued until at least July 2008. Its representation was ultimately unsuccessful, as every Ohio city's complaint was either voluntarily dismissed or dismissed by court order.

19. In or about 2006, while Motley Rice was soliciting Ohio cities to retain it, one or more attorneys from Motley Rice, including Fidelma Fitzpatrick, met with a former Sherwin-Williams employee at Cleveland Hopkins Airport. This former employee had been responsible for preparing the PowerPoint slides and other graphics used during presentations made to Sherwin-Williams' Board of Directors in 2004, 2005, and earlier years. Sherwin-Williams did not know of this secret meeting.

20. At no time in meeting with the former Sherwin-Williams employee did any Motley Rice attorney caution him not to disclose or discuss any confidential, privileged, or proprietary information or document belonging to Sherwin-Williams.

21. During the meeting, the former Sherwin-Williams employee provided Motley Rice with the names of other former employees, several of whom may have had a role in preparing, or would likely have had access to, Board presentation materials.

22. On July 1, 2008, the Rhode Island Supreme Court unanimously ruled in favor of Sherwin-Williams and other defendants in the Rhode Island Litigation, reversing a jury verdict in favor of the State and holding that the complaint should have been dismissed at the outset.

23. After the Rhode Island Supreme Court's ruling, Sherwin-Williams filed a motion in the trial court, called the Superior Court, for entry of final judgment in its favor, including an award of costs incurred in defending the lawsuit. Although Sherwin-Williams has not yet submitted an itemized bill of costs, Motley Rice submitted a bill of costs for the State exceeding $1.9 million when it initially prevailed in the trial court.

24. On September 24, 2008, Motley Rice, on behalf of the State of Rhode Island, filed in the Superior Court a Supplemental Memorandum in Opposition to Defendants' Motion for Costs (''Supplemental Memorandum''). Because Motley Rice is obligated under its contingency fee agreement with the Rhode Island Attorney General to pay all costs of the Rhode Island Litigation, it has a direct, personal financial self-interest in whether the Rhode Island Superior Court awards costs to Sherwin-Williams and, if so, the amount of costs.

25. The State's Supplemental Memorandum, which Motley Rice prepared, signed, and filed, contained as an exhibit a copy of the PowerPoint slides used by Sherwin-Williams' Associate General Counsel—Litigation during his presentation to the Board of Directors in October 2004. The first slide identified the speaker as Sherwin-Williams' Associate General Counsel—Litigation. The second slide showed the company's cost to that date of defending the lead paint and pigment litigation. The third slide presented the Associate General Counsel's analysis and opinion regarding potentially available insurance coverage for that litigation, a matter then and still in dispute with its insurers. The presentation contained confidential information, was prepared to provide legal advice to the Board of Directors, and was intended to be confidential and privileged. The Directors were not allowed to keep copies of those slides (hereinafter ''October 2004 Confidential Board Slides''). Because Sherwin-Williams considered the information in the October 2004 Confidential Board Slides to be confidential, proprietary, and privileged, it has not publicly disclosed that information.

26. Sherwin-Williams never produced in any lawsuit the documents or information contained in the October 2004 Confidential Board Slides. Nor has Sherwin-Williams knowingly produced the October 2004 Confidential Board Slides to any person outside the company. On their face, the October 2004 Confidential Board Slides show that they contain confidential and proprietary information and that they were created and used for the purpose of providing legal advice and analysis.

27. The copy of the October 2004 Confidential Board Slides that Motley Rice attached to its Supplemental Memorandum bears a fax line at the top reflecting that it was one page of a 34-page fax sent by an unidentified person from a FedexKinko's in Akron, Ohio. The 34-page fax containing the October 2004 Confidential Board Slides was sent on September 12, 2006 from the fax number (330) 668–1105; the receiving number is not identified.

28. On information and belief, the other 33 pages of the fax contain highly confidential and proprietary business information, including information regarding strategies in other litigation, proposed business strategies, plans for geographic expansion and market growth, potential mergers or acquisitions, retail partnerships, and sensitive information regarding the company's finances.

29. On information and belief, the other 33 pages of this fax are or were in the possession of Motley Rice.

30. To this date, despite Sherwin-Williams' request, Motley Rice has refused to (a) explain how it came into possession of the October 2004 Confidential Board Slides; (b) confirm if it has the other 33 pages of the fax; and (c) identify and return Sherwin-Williams' Documents.

31. Motley Rice deliberately obtained, kept, and used copies of the October 2004 Confidential Board Slides and other documents belonging to Sherwin-Williams while it knew or should have known that those documents had been taken without Sherwin-Williams' authorization and were confidential, proprietary, and privileged. Motley Rice acted for its own financial self-interest and gain and in conscious disregard of Sherwin-Williams' legal rights and property interests.

COUNT I

CONVERSION

32. Sherwin-Williams incorporates by reference its allegations in Paragraph 1 through 31 of this Complaint.

33. Sometime before September 24, 2008, Motley Rice intentionally and wrongfully obtained and kept without Sherwin-Williams' knowledge or permission its Documents, including the October 2004 Confidential Board Slides and, on information and belief, the documents sent with the September 16, 2006 fax. Motley Rice may also have additional Sherwin-Williams' Documents.

34. Motley Rice knew, or should have known, that the October 2004 Confidential Board Slides and the Documents sent with the September 12, 2006 fax are the property of Sherwin-Williams.

35. Motley Rice knew, or should have known, that the Documents were taken from Sherwin-Williams and provided to Motley Rice without Sherwin-Williams' knowledge or permission.

36. Motley Rice also knew, or should have known, that it had no right to possess or use Sherwin-Williams' stolen Documents. Nevertheless, in conscious disregard of Sherwin-Williams' legal rights and property interests, Motley Rice chose to obtain, keep and use those Documents for its own financial benefit in the Rhode Island Litigation and to attempt to cause substantial harm to Sherwin-Williams.

37. At all relevant times until present Motley Rice has acted with malice and conscious disregard of Sherwin-Williams' legal rights and property interests. By wrongfully obtaining, retaining possession of, and using Sherwin-Williams' stolen Documents for Motley Rice's own advantage and self-interest with the intent to harm Sherwin-Williams, Motley Rice has converted and continues to convert Sherwin-Williams' property.

38. By refusing to return Sherwin-Williams' Documents despite Sherwin-Williams' request to identify and return those Documents, Motley Rice continues to the present day to wrongfully convert Sherwin-Williams' property.

39. Wherefore, Sherwin-Williams requests compensatory damages in an amount in excess of $25,000, punitive damages, costs, and reasonable attorneys' fees.

COUNT II

REPLEVIN

40. Sherwin-Williams incorporates by reference the allegations in Paragraphs 1 through 39 of this Complaint.

41. Sherwin-Williams created and is the sole rightful owner of its Documents now wrongfully obtained, possessed, and used by

Motley Rice without Sherwin-Williams' permission, including, but not limited to, the October 2004 Confidential Board Slides and, on information and belief, the documents sent with the September 12, 2006 fax.

42. No one has the right to possess, retain, or use Sherwin-Williams' Documents without the permission of its Board or management.

43. Motley Rice has wrongfully obtained, kept, and used Sherwin-Williams' Documents without Sherwin-Williams' permission.

44. Motley Rice knew or should have known that those Documents were taken from Sherwin-Williams without Sherwin-Williams' knowledge or permission, and that it was wrongfully obtaining, keeping, and using property belonging to Sherwin-Williams.

45. Sherwin-Williams has requested Motley Rice to return Sherwin-Williams' Documents.

46. Motley Rice has deliberately and wrongfully refused to return Sherwin-Williams' property, and it has chosen to use Sherwin-Williams' Documents for its own financial advantage and to the substantial detriment of Sherwin-Williams.

47. Motley Rice continues to retain and refuses to identify and return Sherwin-Williams' Documents without any right or privilege to do so.

48. At all relevant times until present, Motley Rice has acted with malice and conscious disregard of Sherwin-Williams' legal rights and property interests. Motley Rice wrongfully obtained, kept, and used Sherwin-Williams' stolen Documents for the purpose of harming Sherwin-Williams and for Motley Rice's own economic gain.

49. Wherefore, Sherwin-Williams is entitled to the immediate identification and recovery of its Documents in the possession, custody, and control of Motley Rice or its attorneys, employees, and agents, damages in an amount exceeding $25,000, punitive damages, costs, and reasonable attorneys' fees.

COUNT III

AIDING AND ABETTING TORTIOUS CONDUCT

50. Sherwin-Williams incorporates by reference the allegations of Paragraphs 1 through 49 of the Complaint.

51. Each John Doe owed to Sherwin-Williams the duty of loyalty and good faith and the duty to maintain the confidentiality of Sherwin-Williams' proprietary and privileged documents.

52. Each John Doe breached these duties by wrongfully converting Sherwin-Williams' Documents and providing them without Sherwin-Williams' knowledge or permission to Motley Rice, which had no privilege or right to obtain or possess those Sherwin-Williams' Documents.

53. Motley Rice wrongfully obtained, kept, and used Sherwin-Williams' Documents that Motley Rice knew, or should have known, were taken or obtained without Sherwin-Williams' knowledge or permission and in breach of each John Doe's duties to Sherwin-Williams.

54. By using Sherwin-Williams' Documents in the Rhode Island Litigation, Motley Rice assisted, aided, and abetted each John Doe, and each John Doe assisted, aided, and abetted Motley Rice, in tortious conduct harming Sherwin-Williams.

55. By wrongfully obtaining, keeping, and using Sherwin-Williams' Documents that it knew, or should have known, were stolen or wrongfully obtained by each John Doe without Sherwin-Williams' knowledge or permission, Motley Rice assisted, aided and abetted each John Doe's tortious conduct.

56. By wrongfully taking or obtaining Sherwin-Williams' Documents and providing those Documents to Motley Rice without Sherwin-Williams' knowledge or permission, each John Doe assisted, aided, and abetted Motley Rice in its tortious conduct.

57. By wrongfully retaining without permission and refusing to identify and return Sherwin-Williams' Documents, each John Doe has assisted, aided, and abetted Motley Rice's tortious conduct.

58. Each John Doe and Motley Rice have acted at all relevant times until present with conscious disregard for Sherwin-Williams' legal rights and property interests and for the purpose of causing substantial harm to Sherwin-Williams.

59. Wherefore, Sherwin-Williams requests compensatory damages in an amount exceeding $25,000, punitive damages, costs, and reasonable attorneys' fees.

COUNT IV

REQUEST FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND PERMANENT INJUNCTION

60. Sherwin-Williams incorporates by reference the allegations of Paragraphs 1 through 59 of the Complaint.

61. Pursuant to Ohio Rule of Civil Procedure 65(A), Sherwin-Williams requests the Court to issue a Temporary Restraining Order prohibiting Motley Rice, any of its attorneys, employees, or agents, and each John Doe from:

(a) Using or reproducing Sherwin-Williams' Documents;

(b) transferring, conveying, disclosing, or communicating in any manner Sherwin-Williams' Documents or their contents to any person;

(c) destroying any Sherwin-Williams' Documents or any copies of any such Documents, including electronically stored information;

(d) destroying or disposing of any Documents, including electronically stored information, that constitute, show, or discuss how Motley Rice obtained, received, disclosed, used, or communicated Sherwin-Williams Documents.

In addition, Sherwin-Williams requests that a Temporary Restraining Order require Motley Rice to:

(e) immediately file with the Clerk of Court under seal all originals and copies of Sherwin-Williams' Documents in the possession, custody, or control of Motley Rice or any of its attorneys, employees, or agents; and (f) identify all persons (i) who have possession, custody, or control of Sherwin-Williams' Documents, or (ii) who provided or sent those Documents directly or indirectly to Motley Rice or any of its attorneys, employees, or agents.

62. A temporary restraining order is necessary to preserve Sherwin-Williams' valuable property rights in its Documents and confidential business information.

63. Sherwin-Williams will suffer irreparable harm if Defendants are permitted to transfer, release, possess, use, disclose, or communicate in any manner Sherwin-Williams' Documents and confidential business information.

64. Sherwin-Williams further requests the Court, after appropriate hearing, to enter a preliminary and permanent injunction granting the same relief requested in paragraph 60 (a), (b), (e) and (1) and, in addition, requiring Motley Rice to immediately return all originals and copies of Sherwin-Williams' Documents, all documents discussing the contents of those Documents, and all documents reporting or discussing confidential, proprietary or privileged communications between Sherwin-Williams' attorneys and its directors, officers or employees, in the possession, custody, or control of Motley Rice or any of its attorneys, employees, or agents.

65. Pursuant to Ohio Revised Code § 2737.03, Sherwin-Williams requests this Court to issue an order requiring Motley Rice to return all of Sherwin-Williams' Documents, all documents discussing the contents of those Documents, and all documents reporting or discussing confidential, proprietary or privileged communications between Sherwin-Williams' attorneys and its directors, officers or employees, in the possession, custody, or control of Motley Rice or any of its attorneys, employees, or agents.

Dated: April 3, 2009

Respectfully Submitted,

JAMES R. WOOLEY,
Attorney I.D. No. 0033850.

STEPHEN G. SOZIO,
Attorney I.D. No. 0032405.

JONES DAY,
Counsel for Plaintiff, The Sherwin-Williams Company.

EXHIBIT 2

[From Legal Newsline.com, Apr. 21, 2011]

DISCOVERY DISPUTE DELAYING THEFT CASE AGAINST MOTLEY RICE

(By John O'Brien)

CLEVELAND (Legal Newsline)—The court battle over the alleged theft of confidential documents by plaintiffs firm Motley Rice is stagnant as Sherwin-Williams attempts to make the firm respond to its discovery requests.

According to the online docket for the Cuyahoga County Court of Common Pleas, Sherwin-Williams has filed a motion to compel the firm to respond to written discovery deposition requests. Motley Rice, which filed lawsuits against Sherwin-Williams and other paint companies over lead-based paint, allegedly obtained privileged documents stolen by the company from a former employee.

According to a Jan. 31 order, Sherwin-Williams is filing a supplemental brief in support of its motion to compel Motley Rice's answers. Some of the case, which could have an impact on the pending nomination of Motley Rice attorney Jack McConnell to a federal judgeship in Rhode Island, has been filed under seal.

The Wall Street Journal mentioned the case in a recent editorial. McConnell's nomination was recently approved by an 11–7 vote of the Senate Judiciary Committee, and the matter will now go to the full Senate.

''In response to written questions from Arizona Senator Jon Kyle in May 2010, Mr. McConnell told the committee he wasn't very involved in the lead paint case, was not familiar with the documents in question and had no reason to believe he'd be one of the defendants in the Ohio lawsuit. In deposition testimony in September 2010, however, his memory was suddenly refreshed,'' the editorial says.

''He was the first lawyer in his office to review the documents, signed a brief which incorporated portions of them and even helped write an article about the information.''

Because of his ''changing story,'' the WSJ doesn't feel he is worthy of a spot on the bench.

McConnell and Motley Rice's Rhode Island office represented several states and municipalities in the lead paint litigation, which alleged paint companies had created a public nuisance by manufacturing lead paint before its federal ban in 1978. Public nuisance claims have no statute of limitations, like product liability claims do. The suits were largely unsuccessful.

Along the way, Sherwin-Williams claims, Motley Rice obtained a PowerPoint presentation given by the company's attorney's to

its board of directors. The presentation outlined litigation costs and possible coverage by its insurers.

The company said the presentation was protected by attorney-client privilege, but Stephen Walker met with Motley Rice at Cleveland Hopkins Airport in 2006 to hand over the presentation. Walker had been laid off from his job in 2005 and had formerly assisted company officers, attorneys and executives with technical and design aspects of PowerPoint presentations.

Motley Rice did not notify Walker that it could not receive documents protected by privilege, the company says.

A trial was scheduled for last year but it was postponed. No new trail date has been set.

Sens. Sheldon Whitehouse and Jack Reed recommended McConnell to fill a vacancy in U.S. District Court in Rhode Island last year. Whitehouse is a member of the Judiciary Committee.

''Jack McConnell is a brilliant legal mind and an outstanding community leader. We believe he possesses the experience, intellect, and temperament to be a judge on the U.S. District Court for Rhode Island,'' a statement released by the senators said.

Whitehouse, then the attorney general, hired McConnell and his firm Motley Rice to file lawsuit against the former makers of lead paint in 1999.

The state Supreme Court unanimously struck down a verdict for the plaintiffs in 2008. Sherwin-Williams says Motley Rice produced the part of the PowerPoint presentation concerning litigation costs when the company argued the plaintiffs should be liable for its attorney fees.

After Whitehouse left the Attorney General's Office, McConnell and his wife pumped $12,600 into his campaign fund. WHITEHOUSE took office in 2007.

Since 2001, the McConnells have given Reed $13,200, including $8,800 for his 2008 re-election campaign.

McConnell also represented some states in their lawsuits against the tobacco industry. His work, and the work of other private attorneys, led to the 1998 Tobacco Master Settlement Agreement. It has an estimated worth of $246 billion over its first 25 years and allows for annual payments made to the attorneys who litigated the case.

A post by Judicial Watch says McConnell will receive between $2.5 million and $3.1 million annually until 2024 as a result of the settlement.

Through the years, he and his wife have given more than $600,000 to the Democratic Party and its candidates, including Obama. Obama nominated him in March 2010.

The Institute for Legal Reform, an affiliate of the U.S. Chamber of Commerce, is one of the groups opposing McConnell's nomination. The ILR owns Legal Newsline.

Mr. REED. Madam President, I propose a unanimous consent agreement that would recognize myself for 5 minutes, Senator GRASSLEY for 5 minutes, Senator LEAHY for 5 minutes, and then Senator SNOWE and Senator LANDRIEU for 10 minutes each.

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

Mr. REED. Madam President, this is not a stealth nomination. Mr. McConnell has been approved and voted by the committee three separate times. This has already lasted years. There is nothing stealthy about it. That is an exaggeration and completely inaccurate.

Let me suggest in response to all the ethical claims or allegations, Mr. McConnell has never had an ethics complaint alleged or filed against him. All of these issues of so-called stolen documents were vetted and reviewed by a court in Rhode Island by Judge Silverstein. Judge Silverstein found no merit to their claims and, in fact, commended Mr. McConnell for his involvement and the involvement of his opposing counsels in this case.

Let me also try to respond to the issue of the so-called shakedown suits. One of the participants in those shakedown suits is a current circuit court judge, whom my colleague voted for. He is on the Third Circuit Court of Appeals in Pennsylvania. He was a Republican Attorney General of Pennsylvania. He worked with Mr. McConnell in a path-breaking suit to bring tobacco companies to justice and to provide States billions of dollars to relieve the dangers and the harm caused by tobacco. This judge, this Federal circuit judge, testifies to the integrity and the character of Jack McConnell. I am indeed appalled that his integrity would be questioned in such a way.

With respect to statements before the Senate Judiciary Committee, they have been consistent. He has said, with respect to these documents, these allegedly stolen documents, ''I saw the documents prior to suit being filed in Ohio.'' Again, this second suit is really retaliation by the companies in order to express their great anger at being sued in Rhode Island. ''I saw the documents prior to suit being filed in Ohio. I briefly saw them when they were first faxed to our law firm and then again a few years later, I saw them when we submitted one page of the documents to the court in Rhode Island. I would not say I was familiar with the documents in any fashion.'' He makes no bones about the fact that he saw those documents. Then the debate seems to be, the quibble seems to be not about a clear misstatement but what—''familiar'' means. I think he was being very careful. I think if a lawyer says: I was familiar with the documents, it means they have read them thoroughly, they read them carefully. He couldn't say that. This came over his desk, was quickly out of his hands and quickly in the hands of others.

Again, all these allegations of unscrupulous behavior, unethical behavior have never been supported by any finding. There is a case in Ohio. It is not directly against Jack McConnell. He is not a named party. It is his law firm. He is one of many people in the law firm. There are suits filed against organizations, I would suspect, frequently. Is every member of the organization involved? I suspect not.

Finally, let me just respond to this notion of, well, this is just an elaborate arrangement between attorneys general and Jack McConnell. Again, the process for this suit started with a Republican attorney general. The succeeding attorney general was, indeed, our colleague SHELDON WHITEHOUSE. They scrupulously had a contract that was reviewed by the court. In fact, the court had to approve any payments to McConnell's firm. That is the judge's call, not the attorney general's call.

Interestingly enough, in response to this whole suggestion that there is this cozy deal going on here—Jack McConnell is such a principled and active Democrat that when my colleague ran for Governor of Rhode Island, Jack McConnell handled the successful campaign of his opponent, a woman with whom he felt more aligned in terms of her philosophy, in terms of her commitment to issues he cared about. Senator WHITEHOUSE lost that race—unfortunate for the State of Rhode Island, fortunate, I think, for the U.S. Senate.

So this suggestion, this notion that this is all a cozy deal that has been worked out is absolutely erroneous.

The overwhelming consensus of lawyers, clergy, everyone in Rhode Island, business leaders, is this is one of the most honest and ethical persons you would ever want to know. Frankly, that was the ultimate issue that prompted me to recommend him to the President of the United States. He is a decent man of character, and I think the assault on his character is unprecedented, as well as this assault on allowing a district court judge to have an up-or-down vote.

Mr. President, I ask unanimous consent to have printed in the RECORD letters of support for Jack McConnell's nomination to the United States District Court for the District of Rhode Island, as well as editorials on the McConnell nomination from the Providence Journal.

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

[From the Providence Journal, May 14, 2010]

EDITORIAL: CONFIRM MCCONNELL

Providence lawyer John J. McConnell Jr., whom President Obama has nominated to serve on the U.S. District Court for Rhode Island, is a very able attorney. He has also demonstrated much civic commitment and leadership as a very generous philanthropist and board member of various nonprofit organizations in our area.

''Jack'' McConnell's nationally known abilities have gotten him hired to press some very big lawsuits. As with most plaintiffs' lawyers who have practiced at the highly competitive national level for a long time, some of these have been very controversial. The most notable example is the case against lead-paint makers pursued at the behest of then-Rhode Island Atty. Gen. (and now U.S. Sen.) Sheldon Whitehouse.

We remain convinced that that action, which was (happily, to us) terminated by the Rhode Island Supreme Court, was unfortunate. But some other cases Mr. McConnell was involved in, such as against tobacco companies, we agreed with. But then, Mr. McConnell has been a hired hand doing as capably as he could the job he has specialized in—pursuing product-liability and other class-action cases. Mr. McConnell, a graduate of Brown and Case Western Reserve University Law School, has been retained in these high-profile lawsuits because of the ability and strenuous work ethic he has shown time and time again.

Jack McConnell has had very close ties with the Democratic Party, to whose candidates he has given a lot of money. But many federal judges have had close political links before being named to the bench. The judgeship-nomination process can rarely be separated from politics in varying degrees, as even a cursory look at the backgrounds of state and federal judges will demonstrate.

Many over the years had been elected officials and/or highly partisan Democrats or Republicans but have displayed great judicial judgment, disinterestedness and independence when they achieved the protective tenure of the bench.

But in any case, Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion and independence to be a distinguished jurist. Indeed, given his understanding of the ''little guy,'' Mr. McConnell could serve as something of a healthy offset to the corporate-lawyer backgrounds and attitudes that so many judges have. And his deep knowledge of environmental law could be of particular importance in coming years as such issues come to the fore more often. We hope that the Senate confirms him.

[From the Providence Journal, Nov. 23, 2010]

EDITORIAL: STILL CONFIRM MCCONNELL

As we have said (''Confirm McConnell,'' editorial, May 14) Providence lawyer John (''Jack'') McConnell is highly qualified to be a U.S. District judge. He's one of America's most able and successful litigators, and has been a very energetic and generous leader in philanthropies and other parts of community life.

But Republicans in the U.S. Senate seem determined to derail his nomination, both because they dislike Mr. McConnell's frequent past support of Democratic candidates and, more generally, because they want to do anything they can to defeat President Obama, who nominated him.

To say that the current mood of Congress is partisan is an understatement.

Yes, like many judicial nominees, Mr. McConnell has taken partisan stands in the past. But his character and deep love of the law suggest strongly that he will function as a disinterested judge—one able to look at the facts of each case in the light of a close and rigorous reading of statutory and constitutional law and precedent. Indeed, his legal work and community leadership suggest that he would be a distinguished jurist.

The Senate should face down a filibuster and approve his nomination.

[From the Greater Providence Chamber of Commerce]

STATEMENT OF THE GREATER PROVIDENCE CHAMBER OF COMMERCE ON THE NOMINATION OF JOHN MCCONNELL TO THE U.S. DISTRICT COURT

On Tuesday May 11, the United States Chamber of Commerce urged the members of the Senate Judiciary Committee to reject the nomination of John J. 'Jack' McConnell for a judgeship on the U.S. District Court in Rhode Island.

The Greater Providence Chamber of Commerce was not consulted at any point in the process by the United States Chamber of Commerce or The Institute for Legal Reform as to our views relative to the nomination of Mr. McConnell.

The Greater Providence Chamber of Commerce has never endorsed nor opposed nominees vying for the federal or state judiciary. In a similar vein, we have never endorsed nor opposed candidates seeking elective office on the federal, state or municipal levels.

The Greater Providence Chamber of Commerce has enjoyed a very positive working relationship with Senator Reed and Senator Whitehouse, and we respect their right and ability to put forth qualified nominees to the United States District Court.

We would point out that Mr. McConnell is a well respected member of the local community, leading important civic, charitable and economic development institutions including Crossroads Rhode Island, the Providence Tourism Council and Trinity Repertory Theatre.

U.S. COURT OF APPEALS
FOR THE THIRD CIRCUIT,
Pittsburgh, PA, May 11, 2010.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: I write at this time to most favorably recommend John J. McConnell who has been nominated by the President to the U.S. District Court for the District of Rhode Island.

I met and worked with Mr. McConnell when I was the elected Attorney General of Pennsylvania from 1996–2003. We worked very closely together on the national tobacco litigation which resulted in the $206 Billion 1998 Master Settlement Agreement. I was designated by my Attorney General colleagues to be part of the national negotiating team and worked closely with Mr. McConnell who was part of that team along with his partner from Ness Motley, Joe Rice. We spent considerable time together in New York and at meetings elsewhere and I had the unique opportunity to assess Mr. McConnell's legal abilities and his character, which were both outstanding. He was one of our key people in developing strategy, drafting documents and evaluating various provisions of this landmark settlement.

In addition to his work with the state Attorneys General in that case, Mr. McConnell has been involved in major litigation in the state and federal courts in Rhode Island and elsewhere across the country. He has been honored for his legal skill and acumen by many organizations and has made major contributions to the cause of justice in his state and elsewhere.

John J. McConnell, Jr. is an outstanding nominee to serve on the U.S. District Court for the District of Rhode Island and I enthusiastically support his nomination. If I can provide any additional information, please feel free to contact me.

Very truly yours,

D. MICHAEL FISHER.

LAW OFFICES OF
JEFFREY B. PINE ESQ.,
Providence, RI, May 7, 2010.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: I have the pleasure of writing on behalf of John (Jack) McConnell Jr. for a position on the Federal bench. I served as Rhode Island Attorney General from 1993–1999, as a Republican.

I have known Jack for more than fifteen years, both professionally and personally, and feel very qualified to comment on his credentials for such a prestigious position. Throughout his career, Jack has demonstrated the kind of legal ability, integrity, dedication to his client, and Willingness to fight hard for the cause of justice that makes him a truly outstanding candidate for the Federal Judiciary.

During my tenure as Attorney General I worked closely with Jack during the multistate tobacco litigation initiated on a bipartisan basis by more than 40 Attorneys General in the mid-1990's. As Attorney General, I was directly involved in the prosecution of our lawsuit and in the settlement negotiations between the Attorneys General and the tobacco industry. In that capacity I had the ability to work with and observe Jack over an extended period of time as he represented many states' interests, including Rhode Island; in short, what I observed was an attorney who was smart, ethical, diligent and absolutely dedicated to the cause of justice on behalf of his client.

Since our interaction in the public sector I have remained very aware of Jack's talents and abilities as an attorney. I closely followed the lead paint litigation in Rhode Island, where Jack led the fight on behalf of the victims of this public health problem.

He has always fought for those less fortunate who might otherwise not have had a voice in the judicial system. Jack has been that effective voice for many people for many years. I also believe that as an experienced litigator Jack has an outstanding ability to look at legal issues from all perspectives, without bias or predisposition, and I have no doubt that he would be fair to all litigants who appear before him. In my opinion he would bring the kind of experience to the federal bench that would make him an outstanding judge presiding at trials, and a fair and impartial arbiter for those who come before him.

I also have the pleasure of knowing Jack outside of legal circles, and while I consider him a friend, my comments about him as a person and family man are not influenced by our friendship—they are objective assessments that are very easy to make.

Jack and his wife Sara have three children who are very close in age to each of my three children. For most of the past fifteen years our children have attended the same schools at the same time. Jack is a devoted and dedicated father who understands the importance of being there for your family even if the demands of a busy career are always present. All three of their children have grown up with strong values, a sense of giving back to society, and the same kind of commitment to others that Jack and Sara have. Jack understands the balance that needs to be struck between career and family, and while he has achieved great success professionally, he retains the strong values of his own upbringing, which he in turn imparts to his children.

In addition to his professional accomplishments and commitment to his family, Jack has always been very active in the community, involved in a number of civic activities, and he has been honored for his efforts on many occasions. He enjoys an outstanding reputation in both the legal community and the community at large, and many organizations have recognized his commitment to his public service.

In conclusion, there is no question in my mind that Jack would be an honest, principled, ethical and fair judge. He would be a credit to our state and to our judiciary. He has earned this prestigious position for his many years of hard work, legal experience and success as an attorney, as well as his position in the community as a respected civic leader and family man.

I enthusiastically support his candidacy for a position on the federal bench.

If I can answer any questions or be of further assistance to you, please don't hesitate to contact me.

Sincerely,

JEFFREY B. PINE.

PASTER & HARPOOTIAN, LTD.,
COUNSELLORS AT LAW,
Cranston, RI, May 7, 2010.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: Thank you for allowing me the time to write to you in support of my friend and colleague, John J. McConnell, Jr., for confirmation to the United States District Court for the District of Rhode Island. The Senate Judiciary Committee is scheduled to hold a confirmation hearing on his appointment on May 13, 2010.

I have known Jack McConnell for many years as a professional colleague, fellow dedicated board member of Trinity Repertory Company here in Rhode Island and as a very friendly political rival.

Time and again, Jack has proven that he is a man of great principle and integrity. While being a vigilant advocate for his clients and the causes that he has taken up during his professional career, Jack has always conducted himself in the most ethical and professional manner; a trait unfortunately sometimes not found among lawyers today.

Jack and I also know each other from being on opposites sides of the aisle politically, including some elections as well. As you know, elections can turn bitter and the participants can sometimes allow themselves to get caught up in the bitterness to the extent of it becoming personal. One of the greatest characteristics that I admire about Jack so much is that, despite political differences of opinion, he never allowed those differences to become personal, or to cloud his judgment. As a result, we have always enjoyed spirited conversation regarding political issues, but have remained great friends.

These characteristics lead me to unqualifiedly support Jack's confirmation to the United States District Court for Rhode Island.

Please do not hesitate to contact me if you believe I have information which may be helpful to you in this process.

Thank you very much for your kind consideration.

Very truly yours,
JOHN M. HARPOOTIAN.

EXECUTIVE CHAMBER,
CITY OF WARWICK, RHODE ISLAND,
May 7, 2010.

Hon. JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR SESSIONS: I am pleased to write this letter in support of John J. "Jack" McConnell, Jr., who is seeking appointment to the United States District Court for the District of Rhode Island.

Jack had been an acquaintance of mine for many years, but it was not until we began serving together for two non-profit agencies—Crossroads Rhode Island's Board of Directors and the Institute for the Study and Practice of Non-Violence that I got to know him well. Jack is a man of integrity, a strong sense of community and a very fair and forward-thinking individual.

As the Republican Mayor of Rhode Island's second largest community, I have always firmly believed that the ability to reach consensus among people of differing points of view is critical to the well-being of our residents and our state as a whole. In the time I have come to know Jack, I have realized that he shares this same philosophy.

The District Court appointment is a critical one to ensure that our justice system continues to provide victims and their accused with an opportunity to be heard fairly and impartially. I believe that Jack would be a valuable asset to the bench and a good representative of Rhode Island in the federal court system.

I am proud to offer this recommendation and respectfully urge you to give him your serious consideration. Thank you for your attention.

Sincerely,
SCOTT AVEDISIAN,
Mayor.

ARLENE VIOLET, ESQ.,
Barrington, RI, Dec. 10, 2010.

In Re Jack McConnell.

DEAR SENATOR SESSIONS: As a former Republican Attorney General I have followed your career from the day you became the Attorney General for your state. You have acquitted yourself very well and have served the people of Alabama with diligence and competence.

I am writing to you in support of the nomination of Jack McConnell. As an attorney for close to 36 years I have known Jack for about 20 of them. I often appeared in court and on occasion he'd be ahead of me on the docket and I'd be on "standby" for my case. I observed a carefully prepared advocate who had done his homework. He is a highly respected attorney here because his word was his bond. His forthrightness as an attorney along with his competence and honesty have convinced me that he will be a fair and balanced judge on the federal bench.

He has also been on the Board of Trustees at Roger Williams University where I am also a trustee. He has been the voice of reason and analysis on the tough issues facing universities today. His judgment is finely honed and I have no doubt that he will apply his analytical skills in service to the highest standards of jurisprudence. I respectfully ask you to confirm his nomination to the bench.

With every best wish for you and your family, I remain,

Sincerely yours,
ARLENE VIOLET.

SUPREME COURT OF RHODE ISLAND,
FRANK LICHT JUDICIAL COMPLEX,
Providence, RI, Feb. 9, 2009.

Re John J. McConnell, Jr.

Hon. JACK REED,
U.S. Senate, Cranston, RI.

DEAR SENATOR REED: I have recently learned that the subject attorney has applied to your office as a candidate for appointment to the United States District Court for the District of Rhode Island. It may be of assistance in evaluating his application if those who are familiar with his professional background write concerning his outstanding qualifications.

I have known Mr. McConnell since 1983 when he served as a law clerk to Justice Donald F. Shea of the Rhode Island Supreme Court. Prior to this service, he graduated from Brown University and Case Western Reserve University School of Law. His talent and personality were outstanding from the earliest stages of his career.

Since he left our court, I have observed, with great admiration, his meteoric rise as a trial lawyer. He has been lead counsel in a number of extremely high profile cases in both State and Federal Courts. His work in the negotiation of the master settlement agreement with the tobacco industry on behalf of forty-six states is legendary in the annals of litigation. His achievements in asbestos litigation are equally distinguished and involved some of the most complex cases on record. He has been recognized by his peers with numerous awards for service to the profession as well as designation as one of the best lawyers in America. The Rhode Island Bar Association has honored him for his service to the poor and disadvantaged.

His compassion and charitable contributions have benefited agencies in the field of health, education and service to the poor and homeless. His service as a director of Crossroads Rhode Island is only one example of his reaching out to the needy and dispossessed.

He has been active in civic affairs in the City of Providence, the State of Rhode Island as well as on the national level. He is a splendid example of a model citizen whose advice and counsel are sought after and freely given.

His great experience as a litigator has given him exceptional knowledge of the intracies of the rules of practice and procedure in the federal courts. He would be superbly qualified to preside as a federal judge over the most challenging and complex cases. He is a man of keen intelligence and impeccable integrity. He would be a splendid addition to the distinguished bench of the United States District Court of Rhode Island.

Sincerely yours,
JOSEPH R. WEISBERGER,
Chief Justice (Ret.).

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I rise to oppose the cloture motion on Jack McConnell, who has been nominated to be U.S. district judge for Rhode Island.

In the first few months that I have been ranking member of the Judiciary Committee, I have worked in good faith to move forward with consensus nominees. We have taken positive action on 68 percent of the judicial nominees submitted in this Congress. Despite my efforts, friends on the other side of the aisle and the President's top lawyer continue to claim we are not moving fast enough. There are additional consensus nominees the Senate could turn to. We could confirm additional district judge vacancies, as we have been doing. But rather than continuing to move forward with consensus nominees, the majority leader chose to throw up a detour and proceed to one of the President's most controversial nominees, Mr. McConnell. It seems no good deed goes unpunished.

Before turning to Mr. McConnell's record, I want to say a few words about the use of extended debate in considering judicial nominations. My friends on the other side have made some comments on this issue that are pretty difficult to understand given the record there.

First, with respect to district court nominees, and contrary to what my colleagues have suggested, there have been in the past filibusters of district court nominees. Most recently, the Democrats successfully filibustered a district court nominee in 1999, Mr. Brian Stewart by a vote of 55 to 44. Judge Stewart was ultimately confirmed.

But the fact of the matter is that district court nominees have been filibustered, and it was Democrats who first took the step. On circuit court nominees, the record is far worse. I would note that I do not necessarily like to

vote against cloture on judicial nominees. I do not take these votes lightly. But these are the rules that the other side instituted.

Under the precedent and threshold that the Democrats first established, Members must decide whether they believe they should move forward to a vote on confirmation of this nominee. By any fair measure, Mr. McConnell qualifies as a very extraordinary circumstances. I have reached this conclusion based on a number of factors. I want to discuss a couple of these reasons now.

I am particularly troubled by the way Mr. McConnell handled himself before the committee. I believe Mr. McConnell at best misled the committee when he testified about his familiarity with a set of stolen legal documents that his law firm obtained during the lead paint litigation. When asked about these documents during his committee hearing, he testified that he saw the documents ''briefly'' but that he was not familiar with them ''in any fashion.''

But several months after his hearing, Mr. McConnell was deposed under oath about those same documents. In his sworn deposition, Mr. McConnell testified that he was the first lawyer to receive the documents. He drafted a newspaper editorial citing information that came directly from those documents. He testified that he reviewed and signed a legal brief that incorporated the stolen documents. And even though he told the committee that he was not familiar with the documents ''in any fashion,'' during his deposition he testified that he did not see any indication on the documents that they were confidential or secret.

How could he know the documents were not confidential or secret if, as he testified before the committee, he was not familiar with them ''in any fashion?''

Given these facts, it is hard to square Mr. McConnell's testimony before the committee with his sworn deposition testimony a couple of months later.

The litigation over these documents remains ongoing. We do not know how it will conclude. We do not know whether Mr. McConnell and his law firm will be held liable for the theft of these documents. But what is the Senate going to do if we confirm this individual but at some later date he or his law firm are found liable for theft? At that point, it will be too late. Members will not be able to reconsider their votes.

The Wall Street Journal recently opined that Mr. McConnell's ''changing story about his lead paint advocacy is enough by itself to disqualify him from the bench.'' I could not agree more.

There are other aspects of Mr. McConnell's record that concern me a great deal, which I will outline later. I will just conclude by saying this. I have supported the overwhelming majority of President Obama's judicial nominees. If it were up to me, I would not have nominated many of those individuals. But I supported them nonetheless. Mr. McConnell is in an entirely different category. I believe that he misled the committee when he testified before us. For that reason alone, I do not think he should be rewarded with a lifetime appointment to the Federal bench. But even if I did not have that concern, I could not support this nominee.

I yield back the time that was allotted to me.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, I hope that all Senators have had a chance to consider the remarks of the Senators from Rhode Island on this nomination. I do not think anyone could listen to the remarks of the distinguished senior Senator from Rhode Island yesterday and today and come away doing anything other than voting for cloture. Likewise, Senator WHITEHOUSE, who spoke this morning and has shepherded this nomination through the Senate Judiciary Committee, has done an outstanding job in his statement not only this week but throughout the course of this nomination, which now extends into a second year. They have set forth not only the merits of this nominee, but also what is at stake for the Senate and the country if Senate Republicans take the virtually unprecedented action of filibustering a Federal district court nominee.

Jack McConnell has bipartisan support from those in his home State. Leading Republican figures in Rhode Island have endorsed his nomination. They include First Circuit Court of Appeals Judge Bruce Selya; Warwick Mayor Scott Avedisian; Rhode Island Chief Justice Joseph Weisberger; former Rhode Island Attorneys General Jeffrey Pine and Arlene Violet; former Director of the Rhode Island Department of Business Barry Hittner; former Rhode Island Republican Party Vice-Chair John M. Harpootian; and Third Circuit Court of Appeals Judge Michael Fisher.

With more than 25 years of experience as an outstanding litigator in private practice, Mr. McConnell has been endorsed by the Providence Journal, which wrote:

> In his legal work and community leadership [he] has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.

That is what Senator REED talked about, the nominee's qualifications, experience, temperament, integrity, and character.

Just a few years ago, Republican Senators argued that filibusters of judicial nominees were unconstitutional, and that every nominee was entitled to an up-or-down vote. Of course, they said that with a Republican President. Now suddenly things have changed. At that time, a number of Republican Senators joined in a bipartisan memorandum of understanding to head off the ''nuclear option'' and agreed that nominees should only be filibustered under ''extraordinary circumstances.'' No one could seriously argue that this Federal district court nomination presents anything approaching ''extraordinary circumstances'' that might justify a filibuster to prevent a vote on the nomination.

It would be unfortunate if Senators were to knuckle under to the demand for a filibuster by special interest business lobbies. Mr. McConnell should not be filibustered for being a good lawyer, yet that is at the root of any opposition. The corporate lobby opposes him because he successfully represented plaintiffs, including the State of Rhode Island itself, in lawsuits against lead paint manufacturers. Some here in the Senate may support the lead paint industry. That is their right. I support the right of this attorney to bring legal claims based on the poisoning of children by the lead in paint and to hold those responsible accountable. You can support the lead paint manufacturers or you can support the children who were poisoned. I will stand with the children. That is what Mr. McConnell did. That is why the business lobbies oppose him. No Senator should oppose Mr. McConnell for doing what lawyers do and vigorously representing his clients in lawsuits. That is not a justification to filibuster this nomination. Mr. McConnell has testified and demonstrated that he understands the differences between the role of the judge and the role of an advocate for one of the parties.

With judicial vacancies at crisis levels, affecting the ability of courts to provide justice to Americans around the country, we should be debating and voting on each of the 13 judicial nominations reported favorably by the Judiciary Committee and pending on the Senate's Executive Calendar. No one should be playing partisan games and obstructing while vacancies remain above 90 in the Federal courts around the country. With one out of every nine Federal judgeships still vacant, and judicial vacancies around the country at 93, there is serious work to be done.

I have made it a practice as the chairman of the Senate Judiciary Committee to respect the views of home State Senators from both sides of the aisle. I have encouraged President Obama to work with home State Senators from both sides of the aisle. Republican Senators used to defer to home State Senators on Federal district court nominations. That was their justification for voting both for or against nominations during the last several years. But if Senate Republicans abandon that deference and engage in a filibuster of this Federal district court nominee, and ignore the strongly held views of home State Senators, then they will be undercutting all those understandings and practices.

When home State Senators as widely respected and as serious about the rule of law as the Senators from Rhode Island endorse a Federal district court

nominee, that nominee should not be filibustered. They never have been. I have been here 37 years. We used to treat each other, as well as such nominees willing to serve on the bench, with respect. I hope that today the Senate will return to that tradition. I trust that Senate Republicans will not go down the dark path on which they are headed.

Senator REED spoke yesterday of the precipice on which the Senate is poised. Senator WHITEHOUSE, Senator FEINSTEIN, and Senator SCHUMER have spoken eloquently on this issue as well. I urge all Senators, Senators on both sides of the aisle, to do the right thing to honor our constitutional role and traditions, and to vote in favor of ending this filibuster so that the nomination of Jack McConnell can then be considered on the merits and voted up or down.

I reserve the balance of my time and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

SBIR/STTR

Ms. SNOWE. Madam President, I rise today regrettably, as ranking member of the Small Business Committee, to announce that I will be opposing cloture on the pending legislation regarding small business. I have reached this decision after much deliberation, because I support the underlying legislation. In fact, I have championed the Small Business Innovation Research Program since its inception in 1982, when I was serving in the House of Representatives.

But regrettably there has been a disturbing trend in this body over the past several years of disregarding the minority rights and flat out disallowing votes on our amendments. We were informed early this year that we would have an open amendment process on legislation in this Congress. We were told, let's let the Senate be the Senate again. I could not agree more. Let's allow Senators to offer amendments and have votes on them. That is the Senate that I know, and the one that has served our country so well since it first convened in 1789.

As we all well know, the Senate has traditionally been a place where the rights of the minority were protected, and where constructive debate is the rule, not the exception. It is supposed to be the institutional check that ensures all voices are heard and considered. Because while our constitutional democracy is premised on majority role, it is also grounded in a commitment to minority rights.

The fact of the matter is, we have been considering the small business innovation research legislation since March 14, a month and a half ago. Over the course of that time, when excluding weekends and recesses, the Senate was in session 15 days. And in those 15 days, we had merely 3 days in which the Senate has held votes related to this legislation—3 days.

Furthermore, we have voted on 11 amendments out of 137 amendments filed prior to the Easter recess, which hardly represents an open amendment process. So we have 137 amendments filed. What do we do? We do not hold votes or debate these issues, allowing those amendments to be offered, we go on a 2-week recess, a fact that was not lost on the American people. What they saw was business as usual in Washington, acting as if there is nothing wrong in America today.

So it is disappointing to hear the statements that the Republicans are not allowing this bill to move forward. We are more than ready to move forward with votes on amendments, then onward to final passage. That is how the process works in the Senate.

We could have already been at that point if we had been given the time, instead of having recesses and days off and morning business. Indeed the majority has squandered the time of the past several months not on this legislation but in quorum calls and in morning business. There was nothing else commanding our attention.

There were several days we voted for the continuing resolution. I understand not having votes on those days. But just 3 days for votes out of 15 is unfortunate, not to mention underachieving. We could have held votes on any other day.

Indeed, on April 19, USA Today ran an article titled, ''Two chambers work at different paces.'' It noted that the House of Representatives has held 277 roll call votes as of April 18, the most in that period of time since 1995 following the Republican Revolution. The article then shifted its focus to the Senate, where it noted that our body has held a mere 68 record votes ''the fewest roll-call votes since 1997''! One of our colleagues in the House joked last month that the Senate has two paces—''slow and glacial.'' It would be humorous if it didn't mean that the American people are getting shortchanged by their elected representatives, who were sent here to vote on the critical issues facing our country.

Voting is our primary responsibility, as are amendments to flesh out the legislative process. We should have had a vote on the legislation I was offering as an amendment, in conjunction with Senator COBURN and six other cosponsors on regulatory reform, to reduce the burden on our Nation's small businesses.

This would have had a direct impact, here and now, on the ability of small businesses to create jobs. I am mystified as to why I cannot have a vote on this regulatory reform amendment as the ranking member of the Small Business Committee.

In November, the Senate Small Business Committee held a hearing on regulatory reform. It was noted in that hearing that a 30-percent reduction in regulatory costs in an average 10-person firm would save nearly $32,000, enough to hire one additional individual. After enduring 26 straight months with unemployment at or above 8 percent, it is more imperative than ever that we finally liberate American small businesses from the regulatory burden that diminishes our ability to compete globally and create jobs at home.

The regulatory reform amendment I am proposing with Senator COBURN is strongly supported by a variety of small business community organizations: the NFIB, the Chamber of Commerce, and 28 other groups.

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

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

MAY 2, 2011.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.
Hon. TOM COBURN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SNOWE AND COBURN: As representatives of small businesses, we are pleased to support Senate Amendment 299, the Small Business Regulatory Freedom Act of 2011. This amendment to S. 493, the SBIR/STTR Reauthorization Act, puts into place strong protections for small business to help ensure that the federal government fully considers the impact of proposed regulation on small businesses.

In an economy with high unemployment, and where almost 2/3 of all net new jobs come from the small business sector, we appreciate that your legislation would require regulators to further analyze the impact of certain proposals on job creation. The annual cost of federal regulation per employee is significantly higher for smaller firms than larger firms. Federal regulations—not to mention state and local regulations—add up and increase the cost of labor. If the cost of labor continues to increase, then job creation will be stifled because small businesses will not be able to afford to hire new employees.

The Small Business Regulatory Freedom Act expands the scope of the Regulatory Flexibility Act (RFA) by forcing government regulators to include the indirect impact of their regulations in their assessments of a regulation's impact on small businesses. The bill also provides small business with expanded judicial review protections, which would help to ensure that small businesses have their views heard during the proposed rule stage of federal rulemaking.

The legislation strengthens several other aspects of the RFA—such as clarifying the standard for periodic review of rules by federal agencies; requiring federal agencies to conduct small business economic analyses before publishing informal guidance documents; and requiring federal agencies to review existing penalty structures for their impact on small businesses within a set timeframe after enactment of new legislation. These important protections are needed to prevent duplicative and outdated regulatory burdens as well as to address penalty structures that may be too high for the small business sector.

The legislation also expands over time the small business advocacy review panel process. Currently, the panels only apply to the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau. These panels have proven to be an extremely effective mechanism in helping

agencies to understand how their rules will affect small businesses, and help agencies identify less costly alternatives to regulations before proposing new rules.

We applaud your efforts to ensure the federal government recognizes the important contributions of job creation by small business, and look forward to working with you on this important legislation.

Sincerely,

Air Conditioning Contractors of America, American Bakers Association, American Chemistry Council, American Farm Bureau Federation, Associated Builders and Contractors, Food Marketing Institute, Hearth, Patio & Barbecue Association, Hispanic Leadership Fund, Independent Electrical Contractors, Institute for Liberty, International Franchise Association, National Association for the Self-Employed, National Association of Home Builders, National Association of REALTORS, National Association of the Remodeling Industry (NARI).

National Automobile Dealers Association (NADA), National Black Chamber of Commerce, National Federation of Independent Business, National Funeral Directors Association, National Lumber and Building Material Dealers Association, National Restaurant Association, National Retail Federation, National Roofing Contractors Association, Plumbing-Heating-Cooling Contractors—National Association, Printing Industries of America, Small Business & Entrepreneurship Council, Snack Food Association, Society of American Florists, U.S. Chamber of Commerce, Window and Door Manufacturers Association.

Ms. SNOWE. We have taken great strides to address the concerns of those from across the aisle. But they keep moving the goalposts. For instance, some did not like our definition of indirect effect and costs with respect to evaluating the impact of regulations on small businesses. So we agreed to take the language that was initially proposed by Dr. Sargeant with the Office of Advocacy at the Small Business Administration. He is the President's top small business regulatory appointee.

It was expressed that the Office of Advocacy would require more funding to carry out these additional responsibilities. I agreed. We proposed increased authorization for the funding for this office. Moreover, we offset that spending with cuts in the SBA, already proposed in the President's 2012 budget.

There were concerns with language that would require that rules sunset if agencies failed to review them as required by law, by the way. So we developed a compromise. Instead there would be a ''stick'' of reducing an agency's budget for salaries by 1 percent if it failed to comply with its review requirements under law. Moreover, it includes several safeguards to allow the agency to have multiple bites out of the apple to satisfy their legal requirements. We heard that some Democrats might oppose adding regulatory review panels at every agency, immediately, saying that doing so would be too much, too soon and that a phase-in would be more responsible so we proposed a modest phase-in approach of three additional agencies per year over 3 years. After all, what is wrong with having small business review panels established at agencies, when they are proposing rules? Let's determine whether those rules are going to affect small businesses before they are implemented in the rulemaking process, not after.

You know, I hear in the Senate, well, we will see. We will let the rules take effect, and then see what happens to small businesses afterwards. Does anybody understand what that means for a small business on Main Street in America to have to implement a regulation that is handed down from the Federal Government—the cost of compliance, the added number of employees it requires just to deal with the regulatory burden? They can't afford it. After all, we are in an age of high unemployment. It is persistent.

So we could deal with this issue here and now. We have had a number of hearings over time on regulatory reform. The Homeland Security and Government Affairs Committee has had hearings on regulatory reform. The time is now to address it.

Furthermore, what is the problem with allowing a vote on this amendment? That is what I don't understand. Why can't we have a vote on the amendment on regulatory reform? If those on the other side do not want to support it, they can vote against it. But let's have a vote. Let's have a debate. What else are we doing?

We just came off of a 2-week recess. I cannot imagine anybody that went home and talked to small businesses on Main Street or to the average person who is desperately searching for a job not understanding that we need to do something about these key issues.

We should focus more on issues like this and less on concerns about lunches, or recess. It is about doing our work in the Senate however long and however hard it is, but to do it. That is what this issue is all about. It is about doing things that are going to matter on Main Street, and regulatory reform matters on Main Street. We can talk about it endlessly. The time is now to act. That is what this is all about. Let the Senate work in the traditions of the Senate: an open, deliberative process.

When we had the continuing resolution, we had 700 amendments in the House of Representatives. What amendments did we have? The same is true now. They are shutting down the process. I am told that we had 137 amendments, and what did the Senate do? Go on recess for 2 weeks.

The point is, we have a serious problem in America. It is persistently high unemployment. It is subpar growth. The economic conditions are deeply troubling. We have to get the show on the road, and that means regulatory reform.

It is one of the chief, foremost concerns among small businesses. Among the plethora of concerns they have about what we are doing or not doing, one of the foremost issues is regulatory reform, and we are dithering. I can't even get a vote on the amendment. Vote yes or vote no. Let's debate it.

Is there anything else we are doing in the Senate? Can somebody tell me? We just came off of a 2-week recess, and I am mystified why we are just driving this to a cloture vote and I am denied a vote on an amendment that is so relevant to the well-being, to the survival of small businesses—regulations.

There was a $26 billion increase in regulation costs last year. That is on new regulations. The total cost is $1.7 trillion overall. Some have debated that cost saying that is not a true cost. They say: No, it is this cost. It is a lesser cost. Some say: Well, it is less than $1 trillion. Why? Because they do not count the IRS. Well, ask the small businesses if IRS regulations are hampering their well-being and suffocating the entrepreneurial spirit in America, or the FCC or all the myriad of other independent agencies that are not included. I suggest everybody take Main Street tours and see what is happening.

If we are wondering why we can't create the jobs that are necessary for America, then just look right here. We are shutting down the process with cloture votes. For what? Because we can't have a debate. We can't have votes. We are doing nothing.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator's time has expired.

Ms. SNOWE. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I urge my colleagues to vote for cloture on this important bill. It is the Federal Government's largest research program for new technologies and innovation. It is a job creator. It is widely supported by many business organizations in this country. It is a bill that should have passed 6 years ago. It is a bill, a statute, that will expire in less than 30 days from now. If we don't vote favorably on this bill today, there will be virtually no chance of this program being extended under law, and we will either have to eliminate the program entirely or we will revert back to no way to do business, which is a 3-month or 6-month rolling extension.

I wish to answer a few of the charges made by my colleague. First of all, I have the greatest respect for my ranking member, and I can understand her frustration as being the ranking member of the Small Business Committee and not getting her amendment on the Senate floor. I would respectfully remind her that we could have had a vote on her amendment in committee except that her side demanded—and I wish to submit a letter to the effect—that the bill come out of our committee clean; that the SBIR bill not be attached to anything else so we could have an open debate on it because it has been going on for 6 years.

No. 2, an open amendment process, which the majority leader has been more than gracious with, considering

the fact that 150 amendments have been filed on a bill that is only 116 pages long, and 95 percent of these amendments have nothing to do with this bill—the majority leader has been more than patient. But an open debate does not—on the Senate floor, an open and free debate does not mean eliminating the committee process in the Senate that has existed, to my knowledge, as long as this body has existed, and it never will.

We cannot trample on the rights of our committees, whether it be Homeland Security, which has primary jurisdiction over this issue, or the Small Business Committee, which has some jurisdiction over this issue. But because this regulatory reform bill is so far reaching and a necessary debate to have—not here, not now, not on this Senate floor but in the relevant committees. In fact, there are four other bills besides that of my ranking member. Senator VITTER has one bill, and I will submit for the RECORD other bills that have been filed, in fact, on this exact subject.

The chairman of the Homeland Security Committee, who sits right here at this desk, has already agreed to have a hearing on all of these bills because Senator SNOWE, with all due respect, is not the only Member who has an interest in regulatory reform. My committee, which I chair, does not have complete jurisdiction over this issue. Commerce is interested in it. Homeland Security is interested in it.

I can't pull a bill—I don't believe it is right to pull a bill from the floor to have a vote that has not had a hearing in any committee of the Senate. That is not an open process. That is an ask that is impossible to agree to.

No. 3 in my argument: If we vote no on cloture, I wish to remind Senators the amendments of Senator CARPER and Senator VITTER will see no light of day. They have good amendments they have been working on for 3 years that have had committee review to help expedite the sale of Federal buildings that could save taxpayers millions of dollars. That amendment will go down.

The Cornyn amendment, which establishes a commission to cut spending which will also save taxpayer money and reduce the burden on taxpayers, that amendment will go down.

Senator PAUL's amendment to reduce spending by $200 billion, he will not get the majority of our votes, but there will be an interesting debate on whether we can cut $200 billion out of the Federal Government. We lose that amendment.

Senator HUTCHISON has an amendment for us to debate all of the regulations in the entire universe on health care. People are complaining about regulations for health care. We are giving a vote on that. That amendment will not be voted on.

Senator CARDIN has an amendment to fix surety bonds. We are going to lose that.

Senator SNOWE, herself, has an amendment to prevent fraud in contracting. We are going to lose that.

So, evidently, 95 percent of the loaf is not enough. So we either get 60 votes on this bill or we don't.

Mr. President, I wish to give my last minute to Senator SHAHEEN, and I wish to ask her a question. What actually did the Senator hear in the Armed Services Committee that is relevant to this bill? If I have 2 seconds, go ahead and tell me.

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

Mrs. SHAHEEN. I took the opportunity yesterday in an Armed Services Committee subcommittee to ask Department of Defense officials who have been responsible for maintaining our military technological edge what the impact would be on DOD's research if Congress does not reauthorize the SBIR Program. Assistant Secretary Zachary Lemnios said the SBIR is ''something we absolutely need.'' He spoke of what it is like talking to small innovative companies he works with through SBIR, and he told me:

> There are small companies willing to take some risk in areas where larger companies just, for whatever reason, just don't. You spend a day with a small business like that, and your mind explodes with new ideas.

That is the kind of innovative spirit we need to stay competitive. We need this for America's national security, and as the Senator from Louisiana points out, this is a program that creates jobs.

We need to get this reauthorization done. We need to talk about regulatory reform, but we need to do this first.

In a few minutes we will be voting on whether to move forward with a bill reauthorizing a program that is critically important to my home State of New Hampshire and the entire country—the Small Business Innovation Research program, or SBIR.

As Chair LANDRIEU has pointed out, the Senate has been debating this bill for 5 weeks now. My colleagues and I from the Small Business Committee have come to the floor several times to talk about the importance of this program for the future of our economy. The bottom line is that SBIR promotes innovation among the entrepreneurs that will keep the American economy competitive in the 21st century.

But as we decide whether to move forward with this bill—which has broad bipartisan support—I wanted to talk about the importance of SBIR—not just for our small businesses, but also for our national defense.

Many agencies have come to rely on small, innovative companies to help them think outside the box and solve important problems. This is especially true for agencies that are charged with protecting our national security. Agencies like the Department of Defense rely on small companies to perform R&D that often leads to technologies that help our troops in the battlefield and help secure our country.

I took the opportunity yesterday at an Armed Services Committee hearing to ask the Department of Defense officials responsible for maintaining our military's technological edge what the impact would be on DOD's research if Congress did not reauthorize SBIR. Assistant Secretary Zachary Lemnios said the SBIR is ''something we absolutely need.'' He discussed what it is like talking to the small, innovative entrepreneurs that he works with through the SBIR program. He told me, ''there are small companies willing to take some risk in areas where larger companies just, for whatever reason, just don't. You spend a day with a small business like that, and your mind explodes with new ideas.''

That is the kind of innovative spirit that we need to stay competitive. And it is the same spirit that agencies like the Department of Defense need to keep America secure. In 2010, the Department of Defense issued nearly 3,000 awards through the SBIR program.

Let me give just one example of a company in my State that has benefitted from the SBIR program and has helped the Department of Defense develop a product that is currently helping our troops carry out their missions.

Earlier this year, I visited a firm called Active Shock in Manchester, NH. Active Shock showed me the suspension technologies that it developed with funding from a competitive SBIR award. These technologies are now used by the Department of Defense to help our troops in the field. They help stabilize our war vehicles in rough terrain.

This is exactly the kind of high-tech product that is developed as a result of SBIR. And SBIR awards are absolutely critical for these small companies. Bill Larkins, the CEO of Active Shock, told me that Active Shock would simply not be here today were it not for the SBIR program. The products that Active Shock developed also have commercial applications, so the SBIR awards have helped them grow and create jobs. Active Shock started with only a few employees; now, it has grown to over 30 employees.

Active Shock is just one of many small firms in New Hampshire that have successfully competed for funding through SBIR in the 28 years it has been in existence. All across New Hampshire, small businesses that otherwise would not be able to compete for federal R&D funding have won competitive SBIR grants that advance technology and science and create good jobs. In just the last 2 years, New Hampshire firms have won 80 SBIR awards.

And many of these companies are helping the Department of Defense meet its R&D needs—in fact, despite its small size, New Hampshire is ranked 22nd in the Nation for total grants awarded from the Department of Defense since SBIR began.

We need to focus on smart ways to create jobs and stay competitive. This

program is critical for meeting that goal. But we also need to remember that SBIR also enhances our national security.

I encourage my colleagues to join me in supporting this important program.

Ms. LANDRIEU. Mr. President, I thank the Senator for answering my question.

I would like to submit many more things for the RECORD. But, again, I wish to close, because we are 10 minutes extended from the vote, by asking the Senate to please consider voting for the SBIR Program. If we don't it will expire on May 31 this year.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Republican leader.

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

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

NOMINATION OF JOHN MCCONNELL

Mr. MCCONNELL. Mr. President, the Senate will shortly vote on the cloture motion on the Jack McConnell nomination. We have been working in good faith with our Democratic colleagues to confirm consensus judicial nominees in general and to fill judicial emergencies in particular. So it is disappointing that our Democratic friends have chosen to depart from this bipartisan practice and to press the McConnell nomination which would not fill a judicial emergency and is about as far from a consensus nomination as one could imagine.

Mr. McConnell has described his judicial philosophy in this way:

> There are wrongs that need to be righted, and that's how I see the law.

In Mr. McConnell's eyes, the wrongdoers in America are invariably its job creators.

His legal career has been marked by a pervasive and persistent hostility to American job creators. This bias against one part of American society is fundamentally antithetical to the rule of law, and it has led him to take a series of troubling actions that show his unfitness for a lifetime position as a fair and impartial judicial officer.

For example, he has filed what his hometown newspaper described as a ''ludicrous'' lawsuit against businesses. This case ended up costing not just the companies but Rhode Island taxpayers as well. After the State's supreme court unanimously rejected his frivolous legal theory, his clients—the taxpayers—had to pay a quarter of a million dollars in lawyers' fees.

Rather than be contrite about the damage he had done, he lashed out at his State's supreme court, saying it let ''wrongdoers off the hook.'' He has made other intemperate statements as well that underscore his bias, such as when he insisted that one American industry only does ''the right thing'' when it is ''sued and forced to by a jury.''

After such a long record of hostility toward one segment of American society, it is difficult to believe Mr. McConnell can now turn on a dime and ''administer justice without respect to persons,'' as the judicial oath requires. The business community does not think so, and it is easy to see why.

In fact, the U.S. Chamber of Commerce has never before opposed a district court nominee in its 100-year history—not once. Yet it is so troubled by Mr. McConnell's clear disdain for the business community that it has taken the extraordinary step of opposing this nomination.

Senator CORNYN pointed out yesterday that there are also serious ethical issues with Mr. McConnell's nomination. He pioneered the practice of ''pay to play'' lawsuits, where he solicited lucrative no-bid, contingency fee contracts from public officials.

He has given statements to the Judiciary Committee that are misleading at best and untrue at worst about his familiarity with a case involving stolen litigation documents. There is the outstanding matter of the stolen litigation documents themselves, over which his law firm and several unnamed ''John Doe'' defendants are being sued.

In light of all the problems with the McConnell nomination, I have listened with interest to the admonishments by the chairman of the Judiciary Committee and other Democratic colleagues against opposing cloture on his nomination. I know my record of supporting up-and-down votes for controversial judicial nominees during the administration of President Clinton, and I am equally aware of the determined efforts by my Democratic colleagues ''to change the ground rules'' in the Senate confirmation process once there was a Republican President.

My Democratic colleagues ultimately succeeded in their efforts by repeatedly filibustering President Bush's judicial nominees. I wish our friends had not succeeded and not set up that precedent. But they did. And the precedent is the precedent, and their buyer's remorse now that there is again a Democrat in the Oval Office will not change it.

Over the years, there have been bipartisan concerns with judicial nominees, and cloture has been needed to end debate. Abe Fortas is a famous case. He was opposed by Senators from both sides of the aisle because of ethical issues, and his nomination did not even have majority support, let alone the votes needed to invoke cloture.

But the partisan filibuster is a more recent development, and our Democratic colleagues have been the proud pioneers in this area. In 1986, they mounted the first partisan filibuster against a judicial nominee. That nominee, by the way, was a district court nominee, Sidney Fitzwater.

Also in 1986, they mounted the first partisan filibuster against a nominee to be Chief Justice. That was Chief Justice Rehnquist's nomination.

In 1999, they mounted the first successful partisan filibuster of a judicial nominee. That too involved a district court nominee, Brian Stewart. Both the chairman of the Judiciary Committee and the senior Senator from Rhode Island voted to filibuster Mr. Stewart. I, and all Republicans, voted actually against filibustering him.

Our friends' successful filibuster of this nominee is now inconvenient to their narrative about filibuster norms and propriety. They claim that filibuster does not count. I guess they are saying they only filibustered him to leverage floor votes on other judicial nominees, and once they got what they wanted, he was confirmed. I gather this is the ''coercion exception'' to the body of filibuster precedent they have created.

In 2003, our friends mounted the first successful filibuster of a circuit court nomination. That would be Miguel Estrada's nomination. He was filibustered seven times, in fact. Our Democratic colleagues added to this record by filibustering nine other circuit court nominees, a total of 21 times. That is a record, too. The chairman of the Judiciary Committee and the senior Senator from Rhode Island participated in all of those filibusters as well.

In 2006, led by President Obama himself, our Democratic colleagues mounted the first partisan filibuster of a nominee to be an Associate Justice of the U.S. Supreme Court. That would be the Justice Alito nomination. Our Democratic friends from Vermont and Rhode Island joined in that filibuster, too.

I agree that filibusters of judicial nominees should be used sparingly. Unfortunately, our friends on the other side of the aisle have filibustered judicial nominees whenever it suited their purposes to do so, whether it was to defeat nominees such as Miguel Estrada or to leverage other nominees as with the Stewart nomination. Given their persistent enthusiasm for the judicial filibuster, I do not view our Democratic friends as the arbiters of filibuster propriety.

In this case, I believe the McConnell nomination is an extraordinary one. He should not be confirmed to a lifetime position on the bench. I will oppose cloture, and I urge my colleagues to do the same.

I yield the floor.

Mr. MCCAIN. Mr. President, during my 24 years in the U.S. Senate I have not once voted against cloture for a nominee to the district court, and I will not do so today. As a member of the ''Gang of 14'' in 2005, I agreed that ''Nominees should be filibustered only under extraordinary circumstances.'' The nomination of Mr. McConnell does not rise to a level of ''extraordinary circumstances.''

However, I am deeply troubled by Mr. McConnell's less than candid responses

to the Senate Judiciary Committee, his liberal judicial philosophy, including his public antipathy toward private enterprise, and his strong political activism. For these reasons, I will not support his nomination.

Shaping the judiciary through the appointment power is one of the most important and solemn responsibilities a President has and certainly one that has a profound and lasting impact. The President is entitled to nominate those whom he sees fit to serve on the Federal bench, and unless the nominee rises to ''extraordinary circumstances,'' I have provided my constitutional duty of ''consent'' for most nominees.

While I would not have chosen Mr. McConnell as a nominee to the Federal bench if I were in a position to nominate, I respect the President's ability to do so and therefore will vote for the cloture motion on Mr. McConnell's nomination, but will strongly oppose his nomination to the Federal bench.

SBIR/STTR REAUTHORIZATION ACT OF 2011

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 17, S. 493, the SBIR and STTR Reauthorization Act of 2011.

Harry Reid, Mary L. Landrieu, John F. Kerry, Robert P. Casey, Jr., Michael F. Bennet, Al Franken, Jon Tester, Patrick J. Leahy, Carl Levin, Tom Harkin, Charles E. Schumer, Jack Reed, Maria Cantwell, Kirsten E. Gillibrand, Benjamin L. Cardin, Bill Nelson, Sheldon Whitehouse, Ron Wyden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Kentucky (Mr. PAUL).

Further, if present and voting, the Senator from Kentucky (Mr. PAUL) would have voted ''nay.''

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

The yeas and nays resulted—yeas 52, nays 44, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—52

Baucus	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Conrad	Manchin	Udall (NM)
Coons	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	
Hagan	Nelson (NE)	

NAYS—44

Alexander	Enzi	McConnell
Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Blunt	Hatch	Portman
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NOT VOTING—3

Akaka	Coburn	Paul

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

EXECUTIVE CALENDAR

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of John J. McConnell, Jr., of Rhode Island, to be United States District Judge for the District of Rhode Island.

Harry Reid, Patrick J. Leahy, John F. Kerry, Dianne Feinstein, Frank R. Lautenberg, Jack Reed, Sheldon Whitehouse, Robert Menendez, Amy Klobuchar, Barbara Boxer, Daniel K. Inouye, Mark Begich, Mark R. Warner, Kent Conrad, John D. Rockefeller, IV, Richard J. Durbin, Ron Wyden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the nomination of John J. McConnell, Jr., to be U.S. District Judge for the District of Rhode Island, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 33, as follows:

[Rollcall Vote No. 65 Ex.]

YEAS—63

Alexander	Graham	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Inouye	Nelson (FL)
Bingaman	Isakson	Pryor
Blumenthal	Johnson (SD)	Reed
Boxer	Kerry	Reid
Brown (MA)	Kirk	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Snowe
Casey	Leahy	Stabenow
Chambliss	Levin	Tester
Collins	Lieberman	Thune
Conrad	Manchin	Udall (CO)
Coons	McCain	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Webb
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden

NAYS—33

Ayotte	Enzi	Moran
Barrasso	Grassley	Paul
Blunt	Hoeven	Portman
Boozman	Hutchison	Risch
Burr	Inhofe	Roberts
Coats	Johanns	Rubio
Cochran	Johnson (WI)	Sessions
Corker	Kyl	Shelby
Cornyn	Lee	Toomey
Crapo	Lugar	Vitter
DeMint	McConnell	Wicker

ANSWERED ''PRESENT''—1

Hatch

NOT VOTING—2

Akaka	Coburn

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 33, with one Senator responding present. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF JOHN J. MCCONNELL, JR., TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I wish to express my appreciation to my friends on the other side of the aisle for allowing cloture to be invoked on this nomination. It is so important that we not get into a position where we have to file cloture on all these district court judges. If there are real problems, there is the hearing process. That is where, when problems arise, it comes out in the committee, and there is ample time to make a case if you don't like them personally for whatever reason. But this is a good man. The biggest problem he had is he is a trial lawyer—a very fine trial lawyer.

But I express my appreciation to those on the other side of the aisle who

did the right thing. This is going to make the atmosphere around here so much more pleasant. I am disappointed we weren't able to get cloture on the small business jobs bill. That was an important piece of legislation. I thought we had been so very fair on this legislation in allowing amendments, and we are going to continue allowing amendments. There will be rare occasions, as Senator MCCONNELL said when we started this new Congress, when he will not, without a cloture vote, allow us to proceed to a bill. But generally speaking, we have been able to move legislation, and that is important. I have said the same thing about filling the tree. I will still fill the tree, but it will be a rare occasion that we will do that. I think that is going to make things around here a lot better.

Again, I say thank you very much for allowing this to go forward. This is very important that we are able to move on and have the nomination process, as relates to judges, move forward expeditiously. There is a lot of blame to go around as to what has transpired in years past. We are past that. Let us move on. There are things that probably we as Democrats could have done a little differently, and there are things the Republicans could have done differently as it relates to judges. But let us start now, as we have been today, with a new day.

Again, I say for the fourth time, this is a good day for the Senate.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I wish to thank all my colleagues, particularly those who supported this motion to invoke cloture. Everyone brought to this floor very vigorous arguments and very clear positions.

I think what has been confirmed today is not just moving forward on the confirmation of one judge but reaffirming a practice in the Senate that if the home State Senators submit a District Court nominee who is then put forth by the President, and if that person—that man or woman—receives the appropriate evaluation by the bar association, the appropriate vetting by the FBI, the appropriate scrutiny of the committee, and then the vote of the committee is to bring that District Court nominee to the floor, that we will move to an up-or-down vote on the merits of the individual District Court nominee.

There were extraordinary individuals engaged in this discussion, and they may view—in fact, I think they do view—the merits quite differently than I. But what they had firmly in mind was not just this moment but the Senate as an institution going forward. I particularly wish to commend Senator ALEXANDER, Senator GRAHAM, Senator COLLINS, Senator BROWN of Massachusetts, Senator MURKOWSKI, Senator MCCAIN, Senator SNOWE, Senator THUNE, Senator SAXBY CHAMBLISS, Senator JOHNNY ISAKSON, and SENATOR KIRK, as well as all my other colleagues who joined.

This vote, I think, to many of my colleagues, was less about an individual and more about whether the Senate would conduct its business in a time-honored tradition with respect to District Court nominees; whether the viewpoints not just of individual Senators from a particular State but the community of that State—the business leaders, the civic leaders, the members of the bar—whether their views and their evaluation would be weighed successfully.

I thank everyone for the opportunity to move forward on this nomination. Again, I appreciate and respect the principled debate and thoughtful debate of those who took a different position. But I think today is not just a case of an individual nomination; I hope it sets the standard going forward—again, a standard that we as Democrats must respect. If a person is nominated to be a District Court judge, if that person passes through the close scrutiny of the bar association, of the FBI, of the Judiciary Committee, and comes to the floor, that District Court nominee deserves an up-or-down vote. That is something we all have to expect. It cannot be a device of convenience for the moment; it has to be a practice of this institution. I think today we went a long way to institutionalize that.

I yield the floor for my distinguished colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I planned to present some similar words—if my senior Senator would stay just for one moment with me on the floor. He spoke so eloquently that I am simply going to associate myself with his remarks, but I also want to add one additional point, which is how much I appreciate his leadership and how hard he worked and the extent to which the credibility he has built over years with his colleagues in this institution has helped to get us to this point. This was not preordained.

There are times here when it feels as if the interest groups that seek our attention and our good wishes control the day around here and there is not much of an institution. Today was a day in which the institution stood up for itself in all the ways Senator REED mentioned. Again, I associate myself with his remarks and add my gratitude and respect for him for his leadership through this process.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask unanimous consent to speak as in morning business and that my time be counted against cloture.

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

Mr. SCHUMER. Mr. President, I wish to add my kudos to Senator REED and Senator WHITEHOUSE from Rhode Island for their persistence and their success today in getting a fine person to the bench.

I also thank my Republican colleagues, those who voted for cloture. Maybe that will help break some of the logjams here. I think it is very meaningful to us on this side of the aisle for that to happen. It should happen, of course, but the fact that it did happen maybe says something—that this is a day, after what happened over in Pakistan, that we can come together. It is meaningful.

I thank Senator MCCONNELL as well. He had his strong views, but obviously we know the respect his colleagues have for him and thank him as well for understanding that there will be differing views within both sides of the aisle as well as on both sides of the aisle.

DEATH OF OSAMA BIN LADEN

I rise to speak on a different subject today, and that is about what happened in Pakistan and the aftermath.

First, of course, the killing of Osama bin Laden, the evil mastermind of the world's bloodiest terrorist organization, was a thunderous strike for justice for the thousands of my fellow New Yorkers and citizens from all over the world who were murdered on 9/11. It took almost a decade, but the world's most-wanted terrorist finally met his fate 4 days ago. New York's heart is still broken from the tragedy of 9/11, but at least this brings some measure of closure and consolation to the families and victims.

When I spoke to the families, one of the things that they said galled them almost every day when they woke up was that their father or mother, brother or sister, son or daughter, husband or wife was gone and bin Laden still lived. That kind of galling knowledge is no longer in their hearts and minds because bin Laden, at least, has met his deserved fate.

We owe a massive debt of gratitude to our military. They have done an amazing job. I sat in on the briefings. Your jaw drops at their professionalism, their excellence, their sacrifice, their courage, their dedication—unbelievable.

That is also true of our civilian intelligence. The CIA, led by Leon Panetta, should be incredibly proud. We know they are. It is an agency that gets too little of the acclaim their accomplishments deserve.

Finally, the job President Obama did should not be forgotten. His steely courage, his quiet courage was incredible. All one had to do was look at some of the films from the Situation Room and learn a little bit of the history to know what an amazing feat this was for our President. He could have taken the easy way out, in a certain sense. He didn't. The easy way out probably would have been an air bombardment, but we never would have known certainly that bin Laden is gone, and there might have been—probably would have been many unnecessary civilian casualties. The President chose the right path.

I want to say something about this President. He is not a chest thumper.

He is not somebody who involves himself in a lot of rhetorical flourishes. He is serious, he is focused, he is factually driven. But let no one mistake the fact that he is fact-driven and often quietly contemplative for a lack of steel or a lack of courage or a lack of strength. This incident showed the true strength of the man. His speech Sunday night—modest but forceful, proud but understated—was President Obama. There has been a lot of talk of lack of determination or taking a side or focus. I think the people who do that mistake the President's steel—often low key, often fact-based, often without chest thumping or big slogans—for a lack of strength. They are so wrong. The actions show it. I think every American, regardless of political party, regardless of political attitude and conviction and ideology, should be proud of our military and of our country but also of our President.

I want to say one more thing about this. I read today's newspapers, and there was a great deal of talk about how some of the facts that were reported in the early moments after this great victory were not exactly correct. There is certainly reason to correct facts, and they certainly are news, but they should not displace the importance of what happened. For critics to dwell on the early discrepancies and over-exaggerate their importance would be an injustice to the magnitude of what really happened. It is only 2 days after we learned early Monday morning of what happened, and all of a sudden, it seems, oh, they messed up this or they didn't do that right or this and that. There were discrepancies and they should be made public, but to dwell on them, to listen to the morning news shows or to look at the headlines blaring, may have us miss the main point, which is that a superb, professional, well-practiced, and almost flawless military mission and civilian accompaniment got rid of the greatest terrorist in the world.

Let's keep our priorities straight. Let's acknowledge, let's find the facts and watch as they come out, let's make sure some of the early comments that were not right are corrected, but let's not let that in any way detract from the greatness and magnitude of what happened. Our focus should be on the successful mission and on the message it sends to the world, which is, to those who would test the resolve of the people of the United States of America: Do not doubt our resolve. If you do us harm, we will find you, we will mete out justice, and we will prevail. That is where our focus should be and should stay.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I would like to take a few minutes to acknowledge the steady efforts of our Armed Forces and our intelligence community to eliminate the leader of al-Qaida and to help bring some peace and relief to our Nation and to those who lost loved ones in the tragedy on 9/11.

I have heard some people say justice has been done because the leader of this terrorist organization has finally been killed. I am not one who is going to say justice has been done. I do not consider taking out the leader of a terrorist organization who killed thousands of Americans who just went to work one day to do their jobs, to add to their quality of life and the lives of their families, an even trade. I do not consider it is enough. However, it is a first step to righting the wrong that was done by not only the leader of al-Qaida but all of those he trained through the years to give up their own lives in order to kill innocent people. He ruined the lives of so many Americans, and he also ruined the lives of so many young Muslim followers who gave up a productive life for one of terrorism and murder.

I thank President George W. Bush for his relentless efforts to put this accomplishment in motion. He is the President who received the shock on 9/11, who had to deal with the immediate aftermath, and he put in place the organizations, the military control, and the intelligence gathering that have brought us to this point today.

I commend President Obama for carrying these principles through to completion. As things are unfolding more and more we know President Obama made a very tough and very decisive and correct decision. I think both President Bush and President Obama deserve praise today.

I also especially say I am proud of the Navy SEALs who knowingly went into harm's way to take down Osama bin Laden. Those are the troops who probably thought there was a chance they might not come back home, but they are among the most highly trained forces in the world. They operate in sea, air, and on land. Each and every day they volunteer for some of the most dangerous missions under the most difficult circumstances, and without recognition. Normally, it is something we never hear about that takes us one step closer to wiping out the terrorism we know in the world today. They are truly our Nation's heroes.

While much praise, deservedly, goes to the two dozen Navy SEALs who raided the terrorist stronghold using surprise and lethal speed, we should not think that they went there alone because they did not. Shortly after the world saw the brutality of Osama bin Laden's savage plan unfold on American soil nearly 10 years ago, President Bush took the decisive steps to launch an aggressive campaign to hunt down those responsible, including Osama bin Laden.

One such step occurred on October 26, 2001, when President Bush signed into law the PATRIOT Act. It provided the law enforcement and the intelligence community greater authority to track and intercept communications among suspected terrorists. This law has proven to be immeasurably valuable to the intelligence community. It has enhanced our ability to find and capture terrorists. I hope we will be able to reach a bipartisan agreement to extend the provisions of the PATRIOT Act that are set to expire at the end of this month.

As we have seen from various media reports—and I look forward to getting more details—the ability to monitor communications was a crucial lead used by analysts to determine the eventual location of Osama bin Laden. As my colleagues are aware, the provisions that are set to expire include the authorization for the FBI to use roving wiretaps on surveillance targets because at the time we took up the PATRIOT Act, we were still having to get permission from authorities to wiretap a telephone number—not keeping up with the technology advances that allow you to have a cell phone and never have a landline and throw away a cell phone every 15 minutes if you think you are in danger of being under surveillance.

It also has a ''lone wolf'' provision that allows for the investigation of individuals who are acting alone but who have been radicalized and are sympathetic to terrorist organizations and pose a significant national security threat.

These are just two of the provisions that have enhanced our capabilities to obtain information that has been crucial in capturing not only terrorists we know have already plotted against us but also to uncover their plots before they are able to do harm.

We must not allow the provisions of the PATRIOT Act to expire, especially at a time when al-Qaida is reeling from the death of their leader and could be plotting revenge. Stepping back our intelligence efforts now could allow al-Qaida to regroup and launch additional attacks against our Nation.

Another very important step was taken when President George W. Bush signed the Intelligence Reform and Terrorism Prevention Act in December 2004. This act created the National Counterterrorism Center. This center is the primary organization in the U.S. Government for integrating, analyzing, and sharing all intelligence from the CIA, FBI, Department of Defense, and others which pertains to counterterrorism. This is a very important tool for compiling the various information that was being gathered by many of the intelligence organizations and putting it through one grid and analysis. It was

that painstaking analysis through the last 10 years that allowed actionable intelligence to be the instigator of the effort to take out Osama bin Laden.

Within our military, we have a small group of Tier 1 units that are specially selected and highly trained for this exact type of mission. They have gained fame in the last few decades through books and movies. But these heroes are real.

I wish to point out that the commander of these elite warriors, VADM William McRaven, is a proud Texan from San Antonio, who is also an alumni of the University of Texas. Admiral McRaven is a highly decorated Navy SEAL who lives by the SEAL code and ''earns his trident every day.'' Vice Admiral McRaven has been nominated by the President to receive his fourth star and, if confirmed, will lead U.S. Special Operations Command. I can think of no one better qualified to lead our special operations than he is. I look forward to supporting his confirmation on the Senate floor.

While these highly skilled commandos deserve every accolade that is bestowed upon them, we cannot forget those who guided them to the target: the direct and indirect support personnel, the technicians, the analysts, the pilots and crews, and all those who have worked meticulously and attentively for years to finally put together all the pieces to get the SEALs to the right place at the right time.

We have seen many changes in the past 10 years. Departments and agencies have been consolidated or created, military commanders have retired, and administrations have changed hands. Most of the soldiers who conducted that first raid in Afghanistan in October of 2001 are no longer wearing uniforms, just as most of those in the military today were still in school in September of 2001. Many of those signed up to go into the military after 9/11 because they felt so much loyalty to our country.

I wish to acknowledge those who devoted so many years to pursuing Osama bin Laden. To those who have retired or moved on to other professions, I want you to know we appreciate you and your work was not in vain.

Our leaders said from the beginning, after September 11—that fateful day—that we would get Osama bin Laden. Through the efforts of thousands, we did. We have the most professional, the best trained, the best equipped military and intelligence agencies in the world.

While there are sighs of relief now from the public, our work is clearly not done. Al-Qaida is still plotting against our freedom. Other groups are just as zealously dedicated to the mission of destroying our way of life. So while taking down the head of al-Qaida was a victory, it is also a stark reminder that we must remain vigilant.

As we speak right now, our intelligence experts are employing, analyzing, and disseminating the information gleaned from the bin Laden raid, and our special operators are preparing for their next mission, whatever it may be. I believe our country is united in the commitment to protecting what makes America great: our freedom and our way of life.

I look forward to a day when we will not have to walk through a body scan or put our shoes on an x-ray machine to get on an airplane. I look forward to a day when we will not have to fight against an enemy who is living among us, an enemy who is plotting against us in our own country, an enemy who is willing to kill itself in order to kill innocent people and destroy our way of life. I look forward to a day when we never see a casket at Dover, DE—one of our military elite coming home having made the ultimate sacrifice.

That day will only come if we as a nation remain willing to fight to protect the ideals of America—the foundation that was laid by our Founding Fathers and has been protected by every generation since that time. Today is a day we reflect on those principles. It is a day we renew our commitment to uphold them at all costs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

THE ECONOMY

Mr. BINGAMAN. Mr. President, the country faces two large economic challenges. The first is growing our economy, creating jobs, getting the economy back on track. The second major challenge is cutting the deficit. I wish to briefly talk about both of those.

I have four charts—one that relates to jobs and growing the economy and three that deal more specifically with the deficit.

Unfortunately, in Washington, the debate has shifted almost entirely to a discussion of the deficit. Too many people in Washington are pretending our efforts to generate growth in the economy have been accomplished, that it is a done deal, that we have recovered from the recession, and we can now focus full time on how to cut the deficit.

The fact is, this is simply not true. Professor Alan Blinder, an economist at Princeton and former Deputy Chair of the Federal Reserve, testified before the Senate Finance Committee a couple weeks ago. He made the following statement:

> The economic recovery is mediocre at best and unemployment remains high. To me, those conditions describe a bad time to put the economy on a diet of either spending cuts or tax increases.

Let me point to the first chart to underscore the point professor Blinder made. The recession we have just gone through created a very deep hole. If you look at the number of private sector jobs that were lost between November of 2007 and the end of March of 2010, you can see—it is February of 2010—8.8 million jobs were lost as a result of the recession. While things are getting better, it is clear they have not gotten better enough. We have now created 1.8 million new jobs since we began adding private sector jobs. So we still have a shortfall of about 7 million jobs that need to be created in order to get back to where we were in November of 2007. Of course, there have been a lot of new people who came into the job market since then, so we need to create more jobs than that.

We are encountering some strong headwinds in our effort to dig out of the recession. The strongest headwind is the high price of oil and gas, which is a tax on consumers, a tax on our businesses, and it comes at a very bad time. We are all looking for ways to try to deal with that. Frankly, it is difficult to legislate a solution.

Another headwind is one of our own creation; that is, the constant drumbeat we hear to cut spending at all levels of government—cut it in Washington, cut it at the State level, cut it at the local level. My own strong view is we should heed Professor Blinder's advice. We need to continue to work to keep investing in those things that will help us create good-paying jobs. Timing is important. We clearly need to reduce the deficit, but we should adopt policies this year that will put us on a long-term path to reduce the deficit. I hope these policies will delay major cuts in spending and major increases in taxes, until we can come out of this recession some additional distance.

Let me talk about the deficits, the second challenge I talked about before. We have a chart called ''Federal Revenues and Outlays as a Percentage of Gross Domestic Product.'' This is for a 40-year period, from 1970 to 2010. It is a chart the Congressional Budget Office prepared and presented to us.

Clearly, there are some important points you can take away from this chart. No. 1, on average, over the last 40 years, the Federal Government has accounted for 20.7 percent of gross domestic product—spending by the Federal Government—on average. Over that same period, on average, we have raised 18.1 percent of GDP in the form of revenues. So, on average, we have been running a deficit of about 3 percent of GDP each year during this 40-year period. Today, that 3 percent of GDP is about $450 billion.

The one time during this 40 years when we achieved a balanced budget—and even ran a surplus for a 4-year period—was at the end of the 1990s and in the year 2000. How did we manage to do that? Well, beginning in 1990, the Congress passed, and President George H.W. Bush signed, a bill that both restrained spending and raised taxes. Again, in 1993 and again in 1997, Congress passed and, in that case, President Clinton signed, budget plans that

did even more to do what had been done in 1990; that is, both of those plans restrained spending and raised revenues.

We enjoyed a strong economy during those years in question and that, of course, helped to bring more revenue into the government and get us to a balanced budget and a surplus.

What went wrong that caused us to, once again, fall into deficit? I will cite three factors:

First, the tax cuts Congress enacted in the last decade. Beginning in 2001 and then again in 2003, Congress passed what have come to be known as the Bush tax cuts. These fairly drastically reduced the revenue coming to the Federal Government. At the same time we were cutting taxes, we ramped up Federal spending, primarily for defense, and that is a result of the Afghanistan war and the Iraq war. The estimate there is that something like $1.3 trillion has gone into those efforts. In addition to defense, we ramped up spending on health care primarily by including a prescription drug benefit in Medicare. All of that increased spending occurred without any increase in revenues to pay for it. I repeat that none of this spending was offset with increased revenues.

The third factor, of course, that has brought us into the very serious deficit we now face is the slowdown of economic activity. This contributed substantially to increased expenses for the government and some of the entitlement programs—Medicaid, food stamps, and a variety of them—but also the decreased revenues. When people are earning less money, they pay less in taxes and less revenue comes to the government to pay for those services that the government is providing.

The deficit, of course, has worsened substantially in the last 2 years because of, first, reduced Federal taxes being collected, largely a result of the recession; second, increased Federal spending—both because there is more demand for government services as a result of the recession and also because we passed the Recovery Act to stimulate the economy. I think most economists would conclude it has helped stimulate the economy.

The Pew fiscal analysis initiative analyzed the policies and legislation that have caused the surpluses of the late 1990s to become the deficits we see today. They produced a list showing their conclusions. That list is on this chart. We can see these are in the order of importance, the order in which they contributed to the current deficit situation.

The top two drivers on this list are the 2001 and 2003 tax cuts—they account for about 13 percent of what we face today in deficits—and the Iraq and Afghanistan wars, which account for about 10 percent of what we face.

All told, tax cuts caused 21 percent of deficits since 2001; increased defense spending caused 15 percent of deficits. Two-thirds of that was due to Iraq and Afghanistan. Increased nondefense spending caused 10 percent of the deficits we currently face; the Recovery Act caused 6 percent; Medicare prescription drug caused 2 percent.

The final chart I have shows how these policies have affected the deficit over time. This is a chart which is labeled ''Why CBO's debt projections changed between 2001 and 2011,'' the specific policies and drivers. I know this is very difficult for anyone to see on a television. Let me make the main points.

The main points are that the changes caused by the legislation make up the large segments at the top of the chart, including interest charges. They caused 65 percent of the deficits when we look at these policy changes. The remaining 35 percent of deficits are due mainly to the economic and technical adjustments to CBO's projections primarily to reflect the lower revenue we have enjoyed because of the recessions.

How do we dig out of the hole we are in? I say simple obvious things. No. 1, we need to keep the focus on growing the economy. As Professor Blinder said, do not put the economy on a diet. This is not the right time to do that.

Second, we need to agree, as we did in 1990 and 1993 and 1997, to a balanced package of spending cuts and tax increases that will, once again, put us on a path to a balanced budget. We have some serious proposals to work from in achieving this deficit reduction plan. Of course, the President's deficit reduction commission, the Simpson-Bowles commission, and Senator Domenici and Alice Rivlin, the former head of the Congressional Budget Office, put out a bipartisan commission report which is very constructive. The President himself has given the framework for a plan. There is a bipartisan group of Senators, the Gang of 6, who are working to come up with a proposal. And, of course, Senator CONRAD, who chairs the Budget Committee, is putting together a proposed budget plan for that committee's consideration.

All of these plans I have mentioned follow the model used in the 1990s of combining both spending cuts and revenue increases. The only proposal that does not follow this model of a balanced package of spending cuts and tax increases is the budget that was passed by the House Republicans 2 weeks ago. Rather than raising revenue while cutting spending, it would cut revenue while cutting spending. In my view, this cannot lead us to a lower deficit.

There is a lot of political polarization in Washington. I remain hopeful that we can get a critical mass of right-thinking people to do what is responsible, to come together on a balanced package of spending cuts and revenue increases that we can commit to going forward. We should be able to agree on policies that grow the economy and shrink the long-term deficit.

I pledge my best efforts to achieve these objectives. I urge my colleagues to work to do so as well.

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

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. FRANKEN. Madam President, I ask unanimous consent to speak as in morning business.

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

NET NEUTRALITY

Mr. FRANKEN. Madam President, I rise today to talk about the effort of the House last month to repeal the Federal Communications Commission's net neutrality rules. Net neutrality is the very simple idea that all content and applications on the Internet should be treated the same regardless of who owns the content or the Web site. This is not a radical concept, in large part because it is what we see and experience every time we use the Internet. But the House wants to change all of that and effectively turn control of the Internet over to a handful of very powerful corporations.

I want to take a few moments today to tell you why I think the House's vote was a mistake, and why I am going to do everything in my power to make sure we don't make the same mistake in the Senate. But before I get into those details, I think it is important to take a step back and talk about the Internet we have today.

Let's be clear. The Internet we have exists because it is free and open, because we have always had net neutrality throughout the entire existence of the Internet. I have to give credit to my opponents on this issue who have done a masterful job of manipulating the American public into believing that net neutrality is something that it is not.

Net neutrality is not about a government takeover of the Internet. It is simply the idea that all content, whether it is a Web page, an e-mail, or a movie we are downloading can load onto our computers at home at the same speed, regardless of who owns or controls that content.

This is not a radical idea. It is what we experience today when we use the Internet. Right now, if we buy Rihanna's latest song from iTunes, it downloads as quickly as a song from a friend who started a band in his or her garage.

If you send an e-mail to your mother, it arrives in her inbox just as quickly as the e-mail she gets from President Obama. If you start a Web site for your small business, your customers are able to access your Web site and place orders for your products just as quickly as if they were buying from a multinational corporation.

I like to talk about YouTube's early days as a startup because it is such a

powerful example of why net neutrality is so critical and how this simple concept helped create a billion-dollar company practically overnight. YouTube's early headquarters were situated in a tiny space above a pizzeria and Japanese restaurant in San Francisco, CA. But just 6 months after the site was activated, over 100 million people were using YouTube to watch videos every day. Less than 2 years after it started, YouTube sold their business to Google for $1.6 billion. Isn't that incredible?

Well, I am here to tell you it would not have been possible without net neutrality. At that time, Google had a competing product, Google Video, which was the standard at the time but was widely seen as inferior. If Google had been able to pay Comcast or Verizon or any of the others large amounts of money to make its Web site faster than YouTube's, YouTube would still be floundering over that pizzeria or most likely it would have ceased to exist at all. Fortunately, Google couldn't pay for priority access, and the rest is history.

What I am saying is, we take, and have taken, this equality that YouTube enjoyed—this basic fairness or neutrality—for granted in large part because that is how the Internet has always been. Unfortunately, many Members of the House have twisted this concept and are misleading the American public into believing that the government wants to take over the Internet. That is simply not true.

One Member of the House actually got up on the House floor and said this:

> Over the last 10 years, over $500 billion—billion with a ''b''—of private investment has been made to develop broadband throughout the country. This is without any kind of taxpayer money.

He is wrong on that point, but let's put that aside for now. He went on to say:

> This is private sector money being put into the marketplace to go and create jobs, to go and create the kinds of technologies that allow you to view and use all kinds of apps that are available on these kinds of devices. That was done without net neutrality. They would tell you that they need net neutrality in order to have this innovation. Of course, they fail to point out that net neutrality was not in place when all this innovation happened.

Yes, it was; it was in place. That is the whole point. All of this innovation occurred while net neutrality was in place. We are not trying to change anything. We are keeping the Internet the way it has been during this explosion in innovation.

Now, my fervent hope is that this Member of Congress was just horribly, egregiously misinformed because not only is his statement untrue, it is the opposite of true. It is 180 degrees opposite of the truth.

Please, everyone understand this, I beg you. Net neutrality has been in place since the beginning of the Internet.

From the very beginning, during all of that explosive growth, the Internet operated with an understanding that network providers must treat all content the same and must interconnect the pipes they have to customers' homes with the pipes that are owned by other operators. This was a fundamental design principle that was established by academics, engineers, and computer scientists who designed the earliest protocols for Internet traffic.

The fact is, the Internet started and grew because everyone realized they needed to cooperate and work together for customers to be able to have access to the content they wanted. They realized that is what consumers needed to create demand for Internet service, and they realized that is what would lead to the most innovation on the Internet.

The FCC isn't trying to change that. It has no interest in derailing free enterprise. Quite the contrary. The FCC is interested in protecting the innovators and entrepreneurs who have made the Internet what it is today. Because of the Internet, you no longer need a major studio to like your film or a television show you produce in order to have people see it. You no longer need a major record deal to start distributing your music. You no longer need a high school diploma or a fancy degree to launch a small business and sell your products online. We don't want to change that. We want to preserve that.

The FCC's only goal is to make sure the Internet we know and love does not become corrupted and altered by a small number of large corporations controlling the last free and open distribution channel we have in this country.

As telecom companies have grown larger and fewer and started owning not just the pipes but also the content, their incentives have changed. They are starting to care more about giving their own content a competitive advantage rather than promoting innovation and competition on the Internet.

The fight for net neutrality isn't about changing the Internet, it is about creating a few rules of the road to keep it open and free, to keep it the same, and to continue the innovation and growth that is such a creator of jobs and wealth.

The fight for net neutrality is about making sure large corporations are not allowed to put tollbooths on the information superhighway. This fight is about making sure that the Internet stays the way it is—free, open, equal, available to everyone regardless of how much they can pay to get their content.

There was a time not so long ago when net neutrality was a bipartisan issue that was not incredibly controversial. Three years ago, Mike Huckabee was talking about the need to keep the Internet a level playing field. In 2006, 11 House Republicans voted in favor of net neutrality on the floor. Rarely do you have the Gun Owners of America and the Christian Coalition joining with moveon.org and the ACLU to advocate for the same policy of nondiscrimination on the Internet. But they all agree on net neutrality. And so do the Catholic bishops.

Later today, I will receive 87,000 letters opposing the House's effort to undo the FCC's open Internet rules. These letters came from Americans across the United States, including 2,000 letters from Minnesotans who are worried about this issue. They want the Internet to stay the way it is—open and free from corporate control.

I am confident as more Americans realize what is at stake, we will hear from more and more constituents who will ask us to protect them from corporate takeover of the Internet.

What is most striking about this issue, which seems to have gotten lost in the rhetoric that my opponents use, is that experts from Bank of America, Merrill Lynch, Goldman Sachs, Citibank, Wells Fargo, and Raymond James have all stated they do not believe the FCC's current rules will hurt investment. Citibank has called the rule ''balanced'' and Goldman Sachs said it is ''a framework with a lot of wiggle room'' that is a ''light touch'' by the FCC. Despite this broad and diverse coalition of businesses and interest groups, we are still arguing about something that should have been settled long ago.

Why is that? A lot has changed in the last couple of years. Control of the Internet has been placed in the hands of a small number of players. Media consolidation has raised the stakes for certain mega conglomerates which have a lot more to gain in a world without net neutrality. I was last year on the Senate floor talking about net neutrality back in December when the NBC-Comcast merger had not yet been approved by the FCC or the Department of Justice. At the time, I warned this would be the first in a cascade of media consolidation deals. Wouldn't you know it, 2 months later, AT&T announced another record-breaking $39 billion deal with T-Mobile.

That merger, which Wall Street applauded, is almost assuredly going to be a raw deal for consumers. If approved, we will have a duopoly in wireless telecommunications in this country. Eighty percent of the wireless space will be controlled by two companies—AT&T and Verizon.

I look forward to the hearing next week in the Antitrust Subcommittee of the Judiciary Committee so we can further explore the details of this deal. But I think it is fair to say I am very skeptical because it is likely to raise prices and it certainly will reduce choice for consumers. I have always been skeptical of media consolidation because at the end of the day, when corporations have tremendous amounts of power to control prices and cripple competitors to benefit their bottom line, everyone loses.

But the impact of media consolidation in telecommunications is about more than just consumer prices. We

have always known that large corporations have the power to influence elections. Last year, the Supreme Court's decision in Citizens United took a situation that was already terrible and made it worse—much worse. Now AT&T, Verizon, Time Warner, and Comcast can spend unlimited amounts of money to support the candidate or campaign they care most about or try to weaken or kill net neutrality. It does not take a rocket scientist to realize that when a single corporation—in this case AT&T—spends $15.3 million in a single year to influence Congress and has 93 full-time lobbyists on its roster, Congress might churn out legislation that AT&T likes.

How can American consumers, stuck with rising cable, Internet, and cell phone bills, ever be expected to counter that type of lobbying power?

With media consolidation, we have seen a shift in the net neutrality talking points of Members of Congress who are also receiving large checks from Verizon, AT&T, and Comcast. Yet the irony here is that the open Internet rules passed by the FCC earlier this year are actually pretty weak and riddled with loopholes. Actually, I think that is the ''wiggle room'' to which Goldman Sachs was referring.

These rules are, let's be honest, a mediocre compromise drafted to appease a handful of powerful Internet service providers.

I was not happy with these rules and thought the FCC should have done more, particularly to cover wireless Internet networks. But it did not. It did not in part because the Commission wanted companies such as AT&T to get on board with its plan, and AT&T did—more or less. AT&T did not think the rules were ideal, but it acknowledged the framework is a compromise that gives its investors certainty.

That has not changed how the House is framing its rhetoric about this rule, which is one of the reasons I think the vote last month was a political stunt designed to misinform Americans and appease a small number of very vocal critics. This is not what most Americans, entrepreneurs, or small businesses want. They and I want a world where the future Twitters, eBays, and Amazons of the world can grow and thrive without interference from big, mega conglomerates.

Finally, regardless of how one feels about the FCC's rules, I think we can all agree this issue requires thoughtful debate and discussion, not the kind of uninformed rhetoric I quoted earlier from the House debate. By forcing an up-or-down vote through the Congressional Review Act, the House leadership short circuited the normal legislative process and ignored the FCC's work on this issue.

The FCC spent months examining this topic and meeting with tons of stakeholders and Internet companies. It carefully considered and compromised on a range of issues that I, frankly, wish they had not budged on. To claim that the FCC engaged in a power grab is unfair and far from the truth.

The White House has said the President will veto this resolution, but I will be working hard in the coming months to make sure that we have enough votes to stop this before it reaches the President's desk.

We are at a pivotal moment. If we do not act to preserve the FCC's open Internet rules, the Internet as we know it today may cease to exist. I hope my colleagues will recognize this and will join with me in voting down the House's resolution of disapproval.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE BUDGET

Mr. HARKIN. Madam President, everyone in this body agrees that we must take aggressive action to reduce the deficit, but we have to do it right. Frankly, the best way to bring down the deficit is to help 15 million unemployed Americans get good middle-class jobs again. Those hard-working Americans would be delighted to be on the tax rolls and to be taxpayers once again. But, regrettably, the tea party budget passed by the House Republicans last month takes us in the opposite direction—it would weaken our economy and destroy jobs.

I have spoken previously on the Senate floor about the grave flaws in the Republican budget. But beyond the misguided priorities in that budget, I object to its premise. The premise of the tea party Republican budget coming over from the House is that America is poor and broke and we can no longer afford the investments that make possible a strong middle-class and world-class economy. Indeed, some House Republicans take the radical view that government has no business investing in the middle class, period. I emphatically reject the defeatist premise of this Republican budget. The United States of America is a wealthy Nation—the wealthiest Nation in world history. The problem is how that wealth has been shared or not shared among the American people, with income inequality that is the highest among developed countries. Let me repeat that. Right now, income inequality in America is the highest among developed countries. So the problem is how our wealth has been invested or misinvested, with trillions of dollars squandered by money manipulators on Wall Street or funneled to those at the top through tax cuts.

Unfortunately, the tea party budget, authored by Congressman RYAN, would make these problems far worse. It lavishes yet more tax cuts on corporations and the wealthy even as it slashes investments that undergird the middle class in this country—everything from education funding to Medicare and Medicaid. Let me state the obvious: If working people in the middle class are going to take a hit in tough times, it shouldn't be to take a hit to pay for tax breaks for millionaires and billionaires.

Let's look at some of the particulars in this so-called deficit reduction plan of the House Republicans. For starters, never before have I heard of a deficit reduction plan that begins by demanding trillions of dollars in new tax cuts, largely for corporations and the wealthy. In addition to allowing the very wealthy to keep all of the benefits of the Bush-era tax cuts and to keep them permanently, the Republican budget would cut the top tax rate from 35 percent down to 25 percent. Let's again state the obvious: This doesn't reduce the deficit; it digs the deficit hole much deeper.

Next, the Republican budget dismantles Medicare and Medicaid and lays the groundwork for deep cuts to Social Security—changes that will devastate the economic security of the middle class in this country.

The Republican budget says we cannot cut one additional dime from the Pentagon budget because I guess to them there is no waste in the Pentagon, there are no unnecessary weapon systems, no troops based in Japan or Europe or elsewhere who could be brought home. Meanwhile, this tea party Republican budget slashes Federal investments in everything from education to infrastructure to law enforcement back to the levels of the 1920s. Again, let me repeat that. It slashes Federal investments in everything from education to infrastructure to law enforcement back to the levels of the 1920s.

It also repeals Wall Street reform that we passed here, as well as the consumer protections in the affordable care act, including the ban on denying coverage for preexisting conditions. What has that got to do with the deficit?

Their budget cuts funding for food safety, workplace safety, environmental protection, and guts the commonsense regulation of corporate America. It tells Wall Street bankers and speculators, health insurance companies, credit card companies, and mortgage lenders: You are free to go back to the reckless abusive practices of the past. We will just trust you to do what is right for the American people.

To appreciate just how extreme and ideological this budget is, look more closely at the blueprint for replacing Medicare with a voucher system. The nonpartisan Congressional Budget Office estimates that by 2030, future seniors would have to pay two-thirds of the cost of their private health insurance. Their out-of-pocket costs would average in excess of $12,000 per person, per year—more than double the current

cost to seniors. Yet this would pay for private plans that would provide only half of current Medicare coverage. How many seniors can afford to pay $12,000 annually out of pocket for health insurance that only gives them half the coverage they have right now for Medicare? And good luck finding affordable coverage if you are a 70-year-old with a preexisting condition, such as heart disease. Good luck fighting endless battles with your private health insurance company over that one.

Madam President, does this tea party Republican budget reflect our values and priorities as Americans? Is this the kind of country we want to live in, the kind of country we want to pass on to our children? Of course not. Americans don't want or expect a handout, but they rightfully expect a government that lends a helping hand, not one that stands in their way and not one that destroys the essence of the middle class. The American people want a government that helps them to achieve retirement security, a government that makes sure that when we put money away for retirement, it is going to be there when we retire. The American people want to maintain strong investments in education and infrastructure.

To reduce deficits, the American people want shared sacrifice, including an increase in revenues from those who can most afford it. They want an end to taxpayer subsidies to oil and gas companies, and they want to cut Pentagon spending. Yet the Republican budget does exactly the opposite in every single respect.

Make no mistake, this tea party Republican budget puts us on a course of disinvestment, drift, and decline. This budget wreaks of pessimism and gloom and doom. As I said, its defeatist premise is that the United States is poor and broke and we can no longer afford a strong and secure middle class, we can no longer afford to prepare our young or care for our elderly. Yet, bizarrely, the Republicans insist that we can afford—we can absolutely afford—another enormous tax cut for millionaires and billionaires.

I totally reject their premise. I reject this defeatist Ryan budget—the premise that America is poor and broke.

Here is the truth: The United States is recovering from the largest economic downturn since the Great Depression and from the damage caused by very unwise budget decisions made over the last decade, and we are growing wealthier by the day. Our entrepreneurial economy, our technology, our universities and the arts are the envy of the world. Americans are still the best educated and most productive people on Earth.

Most importantly, Americans continue to be an optimistic, can-do people. We have faced national trauma, including depressions and wars and national disasters, many times before, and we have always rebounded stronger and better than ever. We can overcome our current challenges without sacrificing our great middle class and without abandoning our seniors or people with disabilities and the less fortunate among us.

There is one important point of agreement on both sides of the aisle here in the Senate: We agree the current budget deficits are unacceptable. We must bring these deficits under control.

However, deficits are by no means our only urgent economic challenge. An even greater challenge—a greater challenge—is our fragile economy and the jobs crisis. Addressing this successfully will help reduce the deficit. Now, the unofficial unemployment rate is 8.8 percent, but the real unemployment rate, including people who are underemployed or who have dropped out of the job market in frustration and are no longer working, is a staggering 16 percent.

Meanwhile, our middle class is under siege. Our middle class is being dismantled as fast as big corporations can shift our manufacturing jobs overseas. People are losing their savings, their health care, their pensions, and in many cases losing even their homes. With good reason, the American people feel they are losing the American dream for themselves and for their children.

That is why we cannot look at the deficit reduction challenge in isolation. We cannot just take a slash-and-burn approach to the budget. Smart countries do not just turn a chainsaw on themselves. Instead of this tea party Republican budget, which is being sold through fear and fatalism, we need a budget that reflects the hopes and aspirations of the American people. We need a budget that brings deficits under control in a way that allows us to continue investments that boost competitiveness, create jobs, and strengthen the middle class.

I would add this: We need a deficit reduction plan that actually attacks the sources of our current deficits. What are those sources? Well, a remarkable article from the front page of Sunday's—May 1—Washington Post by Lori Montgomery documented clearly how the huge budget surpluses of the Clinton years were turned into the $1 trillion budget deficit President George W. Bush passed on to President Obama. The article states:

> Voices of caution were swept aside. Political leaders chose to cut taxes, jack up spending, and, for the first time in U.S. history, wage two wars solely with borrowed funds.

The article cites a new analysis by the nonpartisan Congressional Budget Office which determined that ''routine increases in defense and domestic spending account for only about 15 percent of the financial deterioration. The biggest culprit, by far, has been an erosion of tax revenue, triggered largely by two recessions and multiple rounds of tax cuts.''

The article also notes that Federal tax collections now stand at their lowest level as a percentage of the economy in 60 years.

Let me repeat that—their lowest level in 60 years.

Of legislation passed since 2001, when George W. Bush became President, about half of the negative impact on deficits came from reductions in revenue and nearly a quarter came from increases in defense spending. One-half came from reductions in revenue.

I am talking now about what are the sources. What are the sources of the deficit hole we are in? In 2001, we had huge surpluses. CBO said if we maintained the same budget policies that by 2010 we would have paid off the entire national debt. 10 years later, in 2011, we have a $1.4 trillion deficit. What happened? What decisions were made in those 10 years that put us in that hole?

As I said, the article by Lori Montgomery in the Washington Post clearly points out, and the CBO clearly points out, that half of the hole we are in came from reductions in revenue, one-quarter came from increases in defense spending, and one-quarter from everything else.

As the CBO analysis makes clear, we do not just have a spending problem, we have a revenue problem. The main source of our current deficit problem is not the modest increase in domestic spending beyond the one-time spending in the Recovery Act—which is rapidly coming to an end. The principal source of our deficits is the deep tax cuts and the surging Pentagon budget, 75 percent of our current problems.

Yet now the tea party Republican budget calls for trillions of dollars and yet more new tax cuts, largely for those at the top. It refuses to cut Pentagon spending in any significant way. It places almost the entire burden of deficit reduction on programs that support the middle class, seniors, people with disabilities, and those of low income.

Americans are rightly asking some commonsense questions. If a principal source of our deficit problem has been deep tax cuts largely benefitting those at the top, shouldn't a big part of our deficit reduction plan include allowing those unaffordable tax cuts to expire? If ongoing domestic spending increases are only a minor source of our deficit problem, why does this Republican budget take a slash-and-burn approach to these programs which are so important to the middle class and to working Americans? The answer, of course, is the tea party Republican budget is not principally a deficit reduction plan. It is an ideological manifesto that encompasses the entire party wish list, everything from more tax breaks for the rich to dismantling Medicare and Medicaid.

I have a simple test for judging any budget plan. What does that plan do to give hope and opportunity to middle-class Americans who have been hardest hit by the economic downturn?

To speak in terms specific to my State of Iowa, what did it do for Webster City? Webster City is a community

like thousands of others across the United States. It is a town where middle-class families work hard, play by the rules, sacrifice for their children. But it is also a town where a decent middle class way of life is threatened. Recently, in Webster City, IA, the Electrolux plant that has been the town's economic engine for over 80 years closed its doors. Production was moved to Juarez, Mexico. In the final round of layoffs in March, 500 Iowans lost their well-paying, middle-class jobs.

This most recent factory closing comes on the heels of 222 plant closings just in Iowa last year, destroying nearly 12,000 well-paying, middle-class jobs. As we all know, each of these plant closures reverberated on Main Street, with many local stores and restaurants falling on hard times or going out of business themselves. Let's be clear, the wrong kind of budget plan, one that indiscriminately slashes funding for education and job training, infrastructure and research, will deepen the plight of Webster City and similar communities across America. Indeed, by accelerating the erosion of the middle class in this country, such a plan will make our fiscal situation even worse. There can be no sustainable economic recovery in the United States without the recovery of the middle class. There can be no sustainable solution to our budget challenges without a strong middle class, a middle class that is getting its fair share of rising national income.

As I said earlier, we are growing wealthier by the day in America. We are the wealthiest country in world history, and we are growing wealthier by the day. But what we ought to make sure is that the middle class will get its fair share of that rising national income.

Again, I think the test of a budget plan is this: Will it strengthen the middle class in America? Will it require shared sacrifice with a promise of shared prosperity in the long run? I have applied this test to the tea party Republican budget and it comes up woefully short.

This tea party Republican budget cuts the top tax rate for millionaires and billionaires from 35 percent down to 25 percent. How will that help laid-off workers in Webster City?

The Republican budget dismantling Medicare and replacing it with an absurdly inadequate voucher system, will that strengthen the retirement security of seniors in Webster City?

This budget of the Republican tea party people guts Medicaid. Will that improve the lives of seniors and people with disabilities who depend on Medicaid to pay for nursing home care and home health care assistance?

The tea party Republican budget slashes funding for Pell grants. Will that improve the prospect for kids in Webster City who plan to go to college but whose parents are now unemployed and without resources?

The tea party Republican budget makes Draconian cuts to everything from food safety and law enforcement to environmental protection. How will that improve the quality of life in Webster City and communities across America? We know the answer to these questions. The bottom line is, the Republican's budget offers more pain and no gain to the people of Webster City. Instead of increasing opportunity, it sends a message of surrender and defeat. Indeed, let's speak the plain truth. With this tea party budget, Republicans have taken their class warfare to a new level. They have launched an unprecedented assault on middle-class and working Americans. Their message to struggling folks in Webster City and communities like it across America is brutally clear: Tough luck. I have mine. You are on your own.

This Republican tea party budget would drive down our standard of living, shred the economic safety net, reduce access to health care and higher education, and do damage to our public schools' ability to prepare our kids for the jobs of the future. We can and must do better.

I have come to the floor to propose an alternative approach to the Federal budget, a planned approach that will discipline the Federal budget and bring deficits under control while continuing to make critical investments in a stronger America. Best of all, we know this approach can work because it is consciously modeled on the successful budget policies of the 1990s.

Under President Clinton's leadership, Congress passed a bold economic plan that combined tough-minded spending cuts with smart investments and, yes, revenue increases. This created large budget surpluses and put us on a track to completely eliminate the national debt within a decade. It created a brief era of shared prosperity for the middle class, with 22 million new jobs and 116 consecutive months of economic expansion, the longest in American history.

I say to the people across America, we can do this again. The key to renewing America and restoring our economy is to revitalize the middle class. This means reducing deficits while continuing to invest in education, innovation, and infrastructure, boosting American competitiveness. It means restoring a level playing field with fair taxation, an empowered workforce, and a strong ladder of opportunity to give every American access to the middle class.

We have the resources, both financial and human, to do these things. I repeat what I said earlier, the central falsehood in the tea party Republican budget is its assumption that America is poor and broke; its assumption that we can no longer afford to invest in a prosperous and secure middle class. Again, I say emphatically, we are not poor and we are not broke. We have the highest per capita income of any major country. As I said earlier, the problem is how our wealth is distributed, how it is managed, and how it has been invested—or should I say ''misinvested.''

Income inequality in the United States has reached levels not seen since immediately before the Great Depression. Middle-class Americans are working harder than ever, but they are falling behind. Real average incomes have not gone up since 1979, more than three decades ago. Let me repeat that: Average real incomes haven't gone up since 1979, more than three decades ago. In fact, over the last decade, the average income of working Americans has actually declined while those in the top 10 percent of income earners and wealthy in America, their incomes and their wealth has soared to new levels. Vast wealth because of tax breaks and other government preferences have flowed to millionaires and money manipulators who pay a tax rate that is lower than that paid by their chauffeurs and secretaries.

In 2007, the top 25 hedge fund managers took home an average income of $892 million—yes, you heard that right, $892 million each, average income for 1 year. Over the last decade, the average income of the top 1 percent in America increased by an average of more than one-quarter of a million dollars a year. Again, let me repeat: The top 1 percent of income earners in America, their income increased by an average of more than one-quarter of a million dollars a year for 10 years. I ask, who in their right mind believes these people need another giant tax cut?

People do not hate the rich. To the contrary, most Americans aspire to do well and to achieve financial independence. That is a big part of the American dream. But Americans do resent it when the wealthy and powerful manipulate the political system to reap huge advantages at the expense of working people and the middle class. Ordinary people think the game is rigged and unfair, and you know what? They are right. Yet this tea party Republican budget says to middle-class Americans again: Hey, tough luck. I have mine. You are on your own. Your retirement security is expendable. Your access to health care and college is expendable. Your desire for quality public schools is expendable. Your quest for a modernized transportation system is expendable. All these things, according to the Republican budget, are expendable in order to create a Tax Code even more favorable to the rich and the powerful and the privileged.

This is deeply wrong. The middle class is the backbone of this country, and it is time our leaders showed the backbone to defend it. We need an alternative, a budget that invests in education and opportunity for all Americans, a budget that invests in the retirement security of the middle class and, yes, a budget that does not abandon the less fortunate among us, including seniors and people with disabilities.

As we saw in the 1990s, we can do these things at the same time we are bringing deficits under control. This will require smart, prudent reductions

in spending, and it will require reform of the Tax Code to make it fairer and more equitable, a Tax Code that asks more from those at the top whose incomes have skyrocketed in recent decades.

Let me speak first about spending cuts. I hope I have set an example with my own appropriations subcommittee, the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Appropriations Committee. The fiscal year 2011 spending bill that was enacted last month cuts spending in these areas by almost $6 billion and eliminates dozens of individual programs. I also serve on the Appropriations Subcommittee on Defense. Of course, I believe we can make major spending cuts without harming our national security. I agree with Secretary Gates, who has urged us to terminate the additional C–17 cargo planes and a new amphibious fighting vehicle. I would also save $12 billion by terminating the V–22 Osprey, which even Dick Cheney labeled a turkey and tried to cancel it.

I would also save $80 billion over the next decade by reducing the number of Active-Duty military personnel stationed in Europe and Japan.

Most importantly, it is time to save hundreds of billions of dollars by speeding up the return of our troops from Iraq and Afghanistan. It costs an estimated $1 million a year to deploy and support each soldier deployed in those wars. That is an extravagance we can do without.

We can also make cuts close to home. I represent a farm State, and I have a strong record of supporting a true farm income safety net. However, in this time of strong commodity prices, record levels of net farm income, the USDA—the Department of Agriculture—is still paying out nearly $5 billion a year in direct payments to farmers, having no relationship to farm income or commodity prices or to what they are even planting. No question, we can save some money here while still making sure farmers have a good solid income safety net protection system.

We also must find additional deficit reduction in the area of health care. Once again, the tea party Republican budget flunks the test. It does not reduce spending on health care, it just shifts costs. It shifts the costs to seniors and others by making them pay most of the bills themselves.

By contrast, the new health reform law actually cuts health care costs. Again, according to CBO, it reduces the deficit by hundreds of billions in the first decade and by more than $1 trillion—the health reform bill cuts the deficit by more than $1 trillion in the second decade, while preserving and strengthening Medicare, not dumping it on the backs of seniors. It does so by rewarding health care providers for the quality of care, not the quantity. It does so by placing a sharp new emphasis on wellness and prevention, keeping people out of the hospital in the first place. It does so by creating an independent commission of doctors, nurses, medical experts, and consumers, to examine patient data and recommend the best ways to reduce wasteful spending and ineffective procedures, while preserving the quality of care.

We can and must build on the health care savings in the Affordable Care Act. But my friends on the other side of the aisle want to repeal the Health Reform Act. But they do not say where they are going to get the money to make up the $1 trillion hole it will blow in the budget in the next decade.

The enormously successful deficit reduction campaign of the 1990s insisted on a balanced approach: spending cuts and revenue increases. Revenue increases were concentrated on the most affluent Americans, those who could most easily afford it, and who benefited the most from the strong economy and the stock market that followed. This must be our template as we raise necessary revenues to reduce future deficits.

By all means, we must allow the Bush era tax breaks for the wealthiest 10 percent of Americans to expire immediately. To put it bluntly, they do not need it, and we cannot afford it. The fact is, high-income Americans did extremely well in the 1990s under the higher rates of the Clinton years, and they will continue to do very well in the future, while contributing their fair share to bringing deficits under control.

I also strongly agree with President Obama's proposal to limit itemized deductions for the wealthiest 2 percent of Americans, a reform that would reduce the deficit by $320 billion over 10 years. We need to end the outrageous gimmicks in our Tax Code. Just one example. The ''carried interest'' loophole allows many hedge fund managers to pay taxes at just a 15-percent rate on part of their bonuses, a far lower rate than middle-class Americans pay.

As I said earlier, in one recent year, the top 25 hedge fund mangers took home an average income of $892 million a year each. Let's tax this income the same way we tax the income of teachers and truckdrivers.

In addition, I strongly favor a modest speculation tax on certain types of financial transactions, a .25-percent tax—that is one-quarter of 1 percent tax—on each stock transaction, and a similar tax on options, futures, and swap transactions.

In order to minimize the impact on ordinary American investors, this would exclude transactions in tax-benefited pension accounts such as 401(k)s and IRAs and defined benefit plans.

Some might say, well, this sounds kind of a pie in the sky. Well, Great Britain currently levies a tax on stock transactions that is twice as high as what I am proposing—twice as high as what I am proposing. There is no question that Wall Street can easily bear this modest tax.

John Bogle, the legendary founder of the Vanguard Mutual Fund Group, has long advocated such a speculation tax, a transaction tax, in order to ''slow the rampant speculation that has created such havoc in our financial markets.''

We also should be working to eliminate the tax provisions which promote the shifting of jobs to other countries. The President's budget proposes the elimination of over $100 billion in international tax breaks in this area.

A prudent but aggressive mix of spending reductions and tax increases, combined with stronger economic growth and an end to the wars in Iraq and Afghanistan, will bring Federal deficits under control. This will restore the fiscal discipline that was squandered in the years after President Clinton left office.

Best of all, this restored fiscal foundation will allow us to continue making critical investments in transportation and infrastructure, education and energy, investments that will put Americans back to work, strengthen our global competitiveness, and prepare our workforce for the future.

Make no mistake, we have no time to waste. While the United States has been distracted and weakened by foolish wars and speculative bubbles, our competitors have been charging ahead. We have lost major ground to China and to other rapidly growing economies, including Brazil, South Korea. We are playing catchup and the stakes are enormous.

Across America, roads are crumbling, bridges are collapsing. Our formerly world-class interstate highway system is increasingly overwhelmed. Mass transit systems, including Washington's once proud Metro system, have fallen into disrepair. We have a backlog of nearly $300 billion in school construction and modernization.

In infrastructure, we currently invest less than one-third of what Western Europe does as a percentage of GDP. China has tripled its investment in education, and is building hundreds of new colleges and universities at a time when we are slashing school budgets and laying off teachers.

The tea party Republican budget makes this investment gap far worse. It proposes to cut funding for transportation by 25 percent, and for education by 25 percent, and in future years would cut those investments even more deeply. Congressman RYAN has the audacity to tell us this is ''a path to prosperity.'' Common sense tells us it is a bridge to nowhere.

These statistics are not abstractions. Investments in education, infrastructure, and innovation directly translate into more and better jobs, higher incomes, stronger economic growth. That is why we need to get America moving again.

For starters, we need a massive new commitment to infrastructure expansion and modernization, truly a Marshall plan for America. The first step is to adopt a solid 6-year surface transportation reauthorization bill that will allow us to modernize our transportation system.

We also need robust new investments in clean, renewable, domestically produced energy. This will lower our energy costs in the long term, and will reduce our dependence on some of the most unstable countries in the world.

Early in the 20th century, we provided the emerging oil energy with subsidies to accelerate its growth. Today, we must provide similar policies to accelerate America's transition to a clean energy economy, including long-term tax credits for a renewable energy generation, and for infrastructure investments for biofuels, as well as smart grid technologies to enable broader renewable energy use. The goal should be 25 percent of our energy from renewable resources by 2025.

In the field of education, we need major new investments. This begins with Federal support for universal preschool education to ensure that every child is ready to learn and succeed in school. It means an ambitious reauthorization of the elementary and secondary education bill that close the gap between world-class schools in affluent suburbs, and struggling schools in poor urban and rural communities. It means providing resources to ensure that the goal of graduating students who are college and career ready applies equally to students with disabilities.

In closing, in my remarks today I have offered not just an alternative approach to bringing deficits under control but an alternative vision of the role of the Federal Government. Going back to the 1930s, the American people have supported and strengthened an unwritten social contract. That social contract says we will prepare our young and care for our elderly. That social contract says if you work hard and play by the rules, you will be able to rise to the middle class or even beyond. That social contract says a cardinal role of government is to provide a ladder of opportunity, so every American can realistically aspire to the American dream.

In one fell swoop, this tea party Republican budget rips up that social contract. It replaces it with a winner-take-all philosophy, again, that tells struggling, aspiring people and communities across America: I have got mine. You are on your own.

As I said at the outset, the Republican budget is premised on the idea that America is poor and broke, that our best days are behind us, that we have no choice but to slash investment required in order to keep our middle class strong. I totally disagree.

America remains a tremendously wealthy and resourceful nation. We are an optimistic, forward-looking people. We are a purposeful and can-do people, and we expect our government to be on our side, the side of the middle class. We expect it to be an instrument of national greatness and purpose, allowing us to come together to achieve the big things we cannot achieve as individuals, things such as building an interstate highway system, mapping the human genome, one day discovering a cure for cancer.

Through our government, we come together to provide a ladder of opportunity to give every citizen a shot at the American dream, a ladder of opportunity that includes quality public schools and universities, Pell grants, the GI bill, job training. Through our government, we come together to ensure that our citizens have a secure retirement with guaranteed access to health care, and to ensure that the less fortunate among us are not abandoned to the shadows of life.

I am convinced that the great majority of Americans share this positive can-do vision. We refuse to be dragged backward into a winner-take-all society where the privileged and the powerful seize even a greater share of the wealth, as the middle class struggles and declines.

Americans are a tough and resilient and optimistic people. We can and will work together to meet the great challenges of our day. We can and will, indeed we must, restore the middle class as the backbone of a stronger, richer and fairer America.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN.) The Senator from Texas.

Mr. CORNYN. Earlier today we had a cloture vote on the nomination of Jack McConnell to be a United States District Judge for Rhode Island, and 63 Senators voted to cut off debate and to move then to a final vote on confirmation which will occur, I am told, around 5:30, shortly.

But first I wanted to come to the floor and expand a little bit on some of my earlier comments with regard to this nomination and why I am so strongly opposed to it just to make a few other comments.

Thirty-three years ago I became a lawyer, a member of the legal profession. While I have heard as many lawyer jokes as a person can stand in a lifetime, I am actually proud of the legal profession. What attracted me to it was study of the law, the rule of law, and the majesty of law being made by elected representatives of the American people speaking for the American people themselves; a profession that observes a rule of ethics, that is not just who can get the most the fastest but one that actually requires lawyers to practice according to a standard of ethics.

Third, the obligation and the responsibility that comes with representing a client; in other words, it is not the lawyer who is speaking on his or her own behalf but a lawyer who is speaking on behalf of a client, whether they have been arrested and charged with a crime, whether they have been injured in an accident and seeking compensation for some wrongdoing and to deter future acts, similar actions in the future, whether it is a commercial dispute over a contract or some other relationship. I believe it is the rule of law and our adherence to ethical standards and the fact that the legal profession serves the interests of clients who need help, many of whom don't have a voice themselves, or certainly the capability of representing themselves, who need somebody who can help them.

But I have to tell my colleagues that it is because of my respect and admiration for the legal profession that it makes me angry when I see people making a mockery out of the foundational principles I just mentioned: the rule of law, ethics, and the fiduciary duty owed to a client.

After I practiced law for a while, I had the great honor of being elected to and serving as a district judge in my home city of San Antonio. So not only did I represent clients as an advocate in court, I had the responsibility of presiding over trials and making sure people were treated impartially, the same, and according to the rule of law; that it was not a matter of who they were or how much money they had but that everybody could have access to our system of justice.

Later I was honored to be elected to serve on the Texas Supreme Court for 7 years where I was an appellate judge and I wrote legal opinions, basically grading the papers of some of those trial judges and making sure that indeed we had equal justice under the law. Then I served as attorney general for 4 years before I came here, during which time I became acquainted with a certain class of entrepreneurial lawyers whom I think threatened the very rule of law I have been talking about.

I previously talked about my objections to Jack McConnell's nomination and confirmation to serve as a Federal judge because I believe he intentionally misrepresented certain facts before the Senate Judiciary Committee. Mr. McConnell and his firm have been sued in Ohio for stealing and maintaining custody of certain stolen documents in a lead paint lawsuit which I will speak about in a moment. As a matter of fact, earlier today I introduced an article which demonstrates that legal dispute still is raging and is not yet resolved. Yet the Senate is moving ahead and will likely confirm someone to a life-tenured job as a Federal judge who may ultimately be found responsible. I don't know, he could be vindicated. But why are we taking the risk that this individual who will be given a lifetime job as a Federal judge might ultimately be found culpable in something that is certainly disqualifying if he is responsible for it?

But I wish to speak just a little bit more about—well, I wish to tell a story. I think it helps make the point I wish to convey.

Once upon a time there was an enterprising lawyer and some of his law partners who were trying to figure a new way to make a lot of money. One of them said:

''Well, I have a plan to do that. First, we have to pick a product or sector of

the economy that is unpopular, even though it is legal. For example, tobacco.''

''Exactly,'' one of the lawyers said. ''We pick a product like tobacco, and we sue the manufacturer and make a lot of money.''

''The problem is we have already tried to do that in individual lawsuits that are designed to compensate victims and deter wrongdoing, but we lost all of those lawsuits.''

''Well,'' the enterprising young lawyer who suggested this plan said, ''we did, but now we have a new legal theory. We have a new approach. And it is a legal theory that has never actually been embraced or accepted by the courts.''

One of the other lawyers said, ''Well, how does that work? What is the theory?''

To which the other responded, ''Well, the theory really doesn't matter because this case will never be tried, but it will be settled for billions of dollars.''

That takes us to the second part of the plan. The truth is, the client or the person who would be represented is not an individual victim who was harmed as a result of some wrongdoing by the manufacturer of the product, but instead of that it is the State—a State. How do you get hired to represent a State? Well, you have to get the attorney general—my former job. You have to get the attorney general, who is the chief law enforcement officer of the State, to basically hire you and then to delegate to you the sovereign law enforcement power of the State—in this case to sue the makers of a product. Part of this scheme is you sue not just for damages to one individual or a group of individuals, you sue for essentially everyone in the State, alleging billions of dollars in damages.

The key reason this is so important to this scheme, of course, is because this is a break-the-company lawsuit. By that I mean it is an existential threat to the existence of this company, far bigger than any legal threat they may have faced in the past, because the damages are enormous. Every potential juror who would sit in judgment of the case being a constituent, a resident of that State, would stand to benefit in some way or another by any judgment rendered against this company. Then, of course, there is the power of the State itself to launch, perhaps, a negative publicity campaign against this company or sector to erode the stock value of this company in order to compel them or force them into a settlement posture.

Well, part of this scheme is that even though the chances of winning in court are very slim, even a small risk of losing everything—wiping out shareholders, retirees, pension funds, and employees—even that small risk is enough to cause the defendant to consider coming to the settlement table. True, even if you have a chance—liability is very thin and you think you aren't responsible—you still have to navigate the maze of litigation through the trial and the appellate and the Supreme Court. You know you might just win if you can outlast their adversaries. But in the meantime, as I indicated earlier, the stock price takes a beating, management is consumed with defending the lawsuit rather than running the business, and millions of dollars are being spent on their own lawyers in order to defend this case.

Well, in this story the law partners of this enterprising young lawyer say: That sounds like a great plan. We could earn a lot of money.

The lawyer proposing this says: Well, we can earn more than you can possibly imagine because our compensation may well exceed $100,000 an hour.

Well, how do you do that? No one can charge $100,000 an hour as a legal fee.

Well, this is the best part from their perspective. They would not actually negotiate an hourly fee under the supervision of a judge that reflects prevailing ethical standards. Instead, they will negotiate a deal with this attorney general for the State on a contingency fee basis in a no-bid, noncompetitive contract. So then they would get a percentage of any amount of money recovered in this bet-the-company lawsuit. Since there are no costs up front for the taxpayer, the State attorney general would look like a hero, even if the lawsuit was unsuccessful. But if he succeeds, these lawyers would get a significant percentage of an astronomical sum of money. No funds would be appropriated by the legislature to finance the litigation, so the State official can make the ethically fallacious and ethically dubious claim that no tax dollars will be used to pay legal fees. The official enters into this no-bid contract for legal services with lawyers whose future political support, including campaign contributions, is assured. The official can expect to be lauded as a popular hero in the press by his willingness to take on an unpopular industry.

Now, as part of this scheme and story, to leverage the chances for success, these lawyers then cherry-pick the court where the lawsuit is filed, a court well known for being friendly to these sorts of claims. Seeing the handwriting on the wall, ultimately as part of this scheme, the plan would be that the defendants, even though they are not—the chances of proving them responsible are very thin, the risk of losing and losing the company are so huge that they decide to go to the settlement table.

Well, here is the deal. The plaintiff's lawyers say—under this scheme, and in some ways it turns out to be a lifeline to the defendants—first, the good news: The defendants will survive. They won't be at risk of losing the company—the employees, the stock price, the pensioners, the retirees who depend on the existence of the company.

Secondly, the business will continue to operate and—here is the best part—the judgment that will be entered will ultimately, from the standpoint of the company, bar any future lawsuits. The defendants agree rather than paying a lump sum settlement out of their current assets to pay hundreds of billions of dollars to these lawyers and the State out of future profits.

How do you make sure you don't have to dip into your current assets? Well, basically, the defendants agree under this arrangement to raise the price of their product for consumers. So, ultimately, the consumers pay, and the defendants will pay the attorney's fees out of this same income stream.

Now, these lawyers in this story believe this is really a stroke of genius. While no person who has allegedly been injured by this product will receive a penny—and, indeed, as a result, the defendant will not be deterred from engaging in that sort of conduct, nor will, as I say, any victim be compensated—the State recovers a windfall of damages without having to appear to raise taxes, although the increased price for the product is passed along to consumers.

As a result of this deal, the defendant's stock price rebounds, they can stay in business essentially as a partner with this law firm whose legal fees will be paid out of future sales revenue, and the State official who agrees to this ingenious scheme is elected to higher office in part on the strength of this David v. Goliath story. The only problem with this story is that it is no fairy tale.

So who are these lawyers who dreamed up this ingenious scheme to partner with a State official to be able to be delegated the sovereign power of the State and collect fabulous wealth in the form of attorney's fees that no judge will award and no jury will award because it is part of this settlement? Jack McConnell, the nominee, and his law firm.

His Web site says: McConnell played a central role in the historic litigation against the tobacco industry in which $246 million in all was recovered, it says, on behalf of the State attorneys general, serving as a negotiator and primary drafter of the master settlement agreement. As a result, Mr. McConnell told us in the Judiciary Committee, he expects to collect between $2.5 million and $3.1 million a year from now through 2024. What is more, Jack McConnell now finds himself nominated to be a Federal judge in whose court future ingenious but ethically dubious schemes can be expected to have a warm reception.

This is the type of thing Stuart Taylor—a well-respected legal commentator—called, he said: The rule of law has now morphed into these sorts of schemes into the rule of lawyers. He has talked about the sequel to this litigation I have described in this story which was the lead paint lawsuit, which we have talked about a little before, which was unanimously rejected by the Rhode Island Supreme Court—frivolous litigation.

As a matter of fact, Mr. McConnell and his law firm were assessed fees of over $200,000. But Mr. Taylor said: It is litigation of this type which has perverted the legal system for personal or political gain at the expense of everyone else. Strong words, hard words, but I think the Senate needs to know the type of nominee we are voting on, and the American people need to know what the record of this nominee is, so then they can hold the Senators who vote for his confirmation accountable.

But this is not a partisan issue. It is not. This is not even about ideology. This is about ethics. This is about upholding the rule of law.

Mr. President, I ask unanimous consent that after the close of my remarks, a Wall Street Journal article, dated January 12, 2000, by Robert B. Reich, be printed in the RECORD.

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

(See exhibit 1.)

Mr. CORNYN. Mr. Reich was Secretary of Labor during the Clinton administration, and he wrote an article in the Wall Street Journal that I think is particularly appropriate to what I am talking about. The lead of the article from this prominent Democrat, a Cabinet Secretary under Bill Clinton, is: ''Don't Democrats Believe in Democracy?'' That is the title. I will not read all of it, but I will read just a few sentences.

In talking about this kind of government-sponsored litigation by outsourcing the responsibilities of the sovereign government and the elected officials to contingency fee lawyers, whose only motive is maximizing their personal profit, he said:

> . . . the biggest problem is that these lawsuits are end runs around the democratic process. We used to be a nation of laws, but this new strategy presents novel means of legislating—within settlement negotiations of large civil lawsuits initiated by the executive branch. This is faux legislation, which sacrifices democracy to the discretion of administration officials operating in secrecy.

Well, I agree with Secretary Reich. I think this is a threat to our democracy. Again, I do not think it should be viewed as a partisan issue, even though he has that provocative headline and he is talking about members of his own party who have endorsed and initiated some of this type of litigation.

We had an earlier vote, as I said, where 63 Senators voted to close off debate, and we will have a vote here in short order. I know some Senators have indicated they voted to close off debate because they felt that was the appropriate vote to make, but they were going to vote against Mr. McConnell's nomination. So we will see how many votes he gets. But we know if it is a party-line vote, there are 53 Democrats in this body and 46 Republicans. If it is a party-line vote, Mr. McConnell is going to be a Federal judge. But I think it is important to make the RECORD crystal clear as to the type of nominee Senators are voting on. I think it is my responsibility to my constituents, it is my responsibility to the Senate, to express the strong objections I have to this nominee. Surely—well, I know there are better people for the President to nominate in Rhode Island. Two of them serve in the Senate. There are other qualified people who could be nominated, and I believe this ethically challenged nominee—who, according to the words of Stuart Taylor, is among a class of lawyers who have perverted the legal system for personal and political gain at the expense of everyone else—is the wrong person for this job. So I will be voting against the nomination.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Jan. 12, 2000]

DON'T DEMOCRATS BELIEVE IN DEMOCRACY?

(By Robert B. Reich)

If I had my way there would be laws restricting cigarettes and handguns. But Congress won't even pass halfway measures. Cigarette companies have admitted they produce death sticks, yet Congress won't lift a finger to stub them out. Teenage boys continue to shoot up high schools, yet Congress won't pass stricter gun controls. The politically potent cigarette and gun industries have got what they wanted: no action. Almost makes you lose faith in democracy, doesn't it?

Apparently that's exactly what's happened to the Clinton administration. Fed up with trying to move legislation, the White House is launching lawsuits to succeed where legislation failed. The strategy may work, but at the cost of making our frail democracy even weaker.

The Justice Department is going after the tobacco companies with a law designed to fight mobsters—the 1970 Racketeer Influenced and Corrupt Organizations chapter of the Organized Crime Control Act. Justice alleges that the tobacco companies violated RICO by conspiring to create an illegal enterprise. They did this by agreeing to a ''concerted public-relations campaign'' to deny any link between smoking and disease, suppress internal research and engage in 116 ''racketeering acts'' of mail and wire fraud, which included advertisements and press releases the companies knew to be false.

A few weeks ago, the administration announced another large lawsuit, this one against America's gun manufacturers. Justice couldn't argue that the gun makers had conspired to mislead the public about the danger of their products, so it decided against using RICO in favor of offering ''legal advice'' to public housing authorities organized under the Department of Housing and Urban Development, who are suing the gun makers on behalf of their three million tenants. The basis of this case is strict liability and negligence. The gun makers allegedly sold defective products, or products they knew or should have known would harm people.

Both of these legal grounds—the mobster-like conspiracy of cigarette manufacturers to mislead the public, and the defective aspects of guns or the negligence of their manufacturers—are stretches, to say the least. If any agreement to mislead any segment of the public is a ''conspiracy'' under RICO, then America's entire advertising industry is in deep trouble, not to mention health maintenance organizations, the legal profession, automobile dealers and the Pentagon. And if every product that might result in death or serious injury is ''defective,'' you might as well say goodbye to liquor and beer, fatty foods and sharp cooking utensils.

These two novel legal theories give the administration extraordinary discretion to decide who's misleading the public and whose products are defective. You might approve the outcomes in these two cases, but they establish precedents for other cases you might find wildly unjust.

Worse, no judge will ever scrutinize these theories. The administration has no intention of seeing these lawsuits through to final verdicts. The goal of both efforts is to threaten the industries with such large penalties that they'll agree to a deal—for the cigarette makers, to pay a large amount of money to the federal government, coupled perhaps with a steep increase in the price of a pack of cigarettes; and for the gun makers, to limit bulk purchases and put more safety devices on guns. In announcing the lawsuit against the gun makers, HUD Secretary Andrew Cuomo assured the press that the whole effort was just a bargaining ploy: ''If all parties act in good faith we'll stay at the negotiating table.''

But the biggest problem is that these lawsuits are end runs around the democratic process. We used to be a nation of laws, but this new strategy presents novel means of legislating—within settlement negotiations of large civil lawsuits initiated by the executive branch. This is faux legislation, which sacrifices democracy to the discretion of administration officials operating in secrecy.

It's one thing for cities and states to go to court (big tobacco has already agreed to pay the states $246 billion to settle state Medicaid suits, and 28 cities along with New York state and Connecticut are now suing the gun manufacturers; it's quite another for the feds to bring to bear the entire weight of the nation. New York state isn't exactly a pushover, but its attorney general, Eliot Spitzer, says the federal lawsuit will finally pressure gun makers to settle. New York's lawsuit is a small dagger, he says. ''The feds' is a meat ax.''

The feds' meat ax may be a good way to get an industry to shape up, but its a bad way to get democracy to shape up. Yes, American politics is rotting. Special-interest money is oozing over Capitol Hill. The makers of cigarettes and guns have enormous clout in Washington, and they are bribing our elected representatives to turn their backs on these problems.

But the way to fix everything isn't to turn our backs on the democratic process and pursue litigation, as the administration is doing. It's to campaign for people who promise to take action against cigarettes and guns, and against the re-election of House and Senate members who won't. And to fight like hell for campaign finance reform. In short, the answer is to make democracy work better, not to give up on it.

Mr. GRASSLEY. Mr. President, I rise today to speak in opposition to one of President Obama's most controversial nominees, Mr. Jack McConnell, who has been nominated to be U.S. district judge for the District of Rhode Island.

He has dedicated his professional career, and enriched himself in the process, by bringing dubious mass tort litigation. I believe he has demonstrated a result-oriented view of the law. He has repeatedly demonstrated that he is highly partisan. And given his history of intemperate and highly partisan remarks, I do not believe he is capable of being an impartial jurist.

First, Mr. McConnell is an active partisan, a little more so than most nominees recently before the Senate. Mr. McConnell and his wife have donated at

least $700,000 to elect Democrats, over $160,000 in 2008 alone. He has served as treasurer of the Rhode Island Democratic State Committee. He is a member of Amnesty International USA and has served as a director at Planned Parenthood of Rhode Island. Partisan political activity is not disqualifying on its own. My concern is that Mr. McConnell is so steeped in political activity and ideology that it may be impossible for him to be an impartial jurist—even if he earnestly believes that he can.

We can legitimately question whether his partisanship will influence his judicial philosophy. He has made a number of sharp partisan political statements, including one in which he indicated that only Democrats fight for ''economic and social justice and opportunity for all.'' He has called for a more ''active government'' and redistribution of wealth, and claimed that ''health care should be a right of citizenship.'' When Republican Gov. Lincoln Almond kept the Rhode Island government open during a snowstorm in 1996, Mr. McConnell commented to the press that the decision was ''typical of the cold-hearted Republican attitude of disregarding workers' needs.'' He went on to argue against the Governor's appeal to the cost efficiency of keeping agencies open by saying that ''[we] could bring child labor back, which would be cheaper, too.''

Mr. McConnell has often portrayed his mass tort cases as movements against societal injustices. He has said that these cases represent ''wrongs that need to be righted and that is how I see the law.'' He has said that he is ''an emotional person about injustice at any level—personal, societal, global.'' These statements indicate an activist viewpoint. This is not what I want in a Federal judge.

Second, Mr. McConnell has a view of the law that I believe is outside the mainstream of legal thought. Much of McConnell's career has been devoted to bringing some of the most controversial mass tort litigation of recent years. He has pursued the manufacturers of asbestos, tobacco, and lead paint, whose actions he believes to be ''unjust.'' In bringing many of these cases, Mr. McConnell has often stretched legal argument beyond its breaking point. An example is the ''public nuisance'' theory he pursued in the Rhode Island lead paint case. Well-respected attorneys have said Mr. McConnell's theory ''just [did not] mesh with centuries of Anglo-American law'' and a former attorney general called the lead-paint cases ''a lawsuit in search of a legal theory.''

The Rhode Island Supreme Court unanimously ruled against him in State v. Lead Industries Associates, Inc. In a well-reasoned opinion, the court found that there was no set of facts that he could have proven to establish that the defendants were liable in public nuisance.

Mr. McConnell's reaction to that opinion illustrates my third major concern—that he lacks appropriate judicial temperament. Although the opinion was based firmly in the law, Mr. McConnell saw fit to publicly and harshly criticize the court's decision in a Providence Journal editorial. But his criticism made little reference to points of law. Rather, his major complaint was simply that, in his view, ''justice was not served.'' His op-ed lambasted the court for ''let[ting] wrongdoers off the hook.'' Not only were these statements intemperate, even for an advocate, but they reflect a results-oriented view of judging. Mr. McConnell did not focus on the court's analysis or argue that it wrongly applied the law. He argued that the ''wrongdoers'' weren't punished. In other words, the result didn't fit with his notion of justice, so it was the wrong result.

Mr. McConnell was also deeply involved in State lawsuits against tobacco companies. However, beyond litigation, he has shown an open hostility to tobacco companies. He told the press in 1999 that he would ''like Congress to put the Cigarette makers out of business.'' He has even gone so far as to compare people who opposed smoking bans in restaurants to the supporters of racial segregation, saying ''some people might like having all-White restaurants so they don't have to sit with Blacks, but we don't allow it.''

A fourth concern relates to the manner in which Mr. McConnell conducts his business. I am not suggesting illegal or unethical behavior, but it is a bit unseemly. He and his firm, Motley Rice, have often brought these controversial mass tort litigations cases while representing State attorneys general on no-bid contingency fee contracts. According to an April 24, 2009, Wall Street Journal editorial:

> Mr. McConnell and his firm helped pioneer the practice of soliciting public officials to bring lawsuits in which private lawyers are paid a percentage of any judgment or settlement. The law firms front the costs of litigation and are compensated if the suit is successful. But such contingency-fee arrangements inevitably raise questions of pay to play. And private lawyers with state power and a financial stake in the outcome of a case can't be counted on to act in the interest of justice alone.

There are numerous examples of campaign contributions by Mr. McConnell and/or his wife in States where he or his firm was conducting or soliciting litigation. These include Rhode Island, Ohio, Washington, Vermont, and North Dakota.

In another instance, as part of a settlement in the Rhode Island lead paint case, DuPont was to pay $2.5 million to the International Mesothelioma Program at a Boston hospital, which is run by a former Motley Rice expert asbestos witness, Dr. David J. Sugarbaker. According to press reports, the payment was intended to satisfy a $3 million pledge previously made by Motley Rice to Dr. Sugarbaker to secure a seat on the executive advisory board of the program.

My problem with this is the way the facts have dribbled out and the spin that Mr. McConnell has tried to put on this payment. Although both Rhode Island and DuPont claimed that the agreement was not a legal settlement, the agreement involved a commitment by DuPont to contribute over $12 million to charity and a commitment by the State of Rhode Island to dismiss the case against DuPont. DuPont refused to pay any attorneys' fees because they were disputing the permissibility of the State's use of private counsel on a no-bid contingency-fee contract. Nonetheless, DuPont agreed to make a sizeable donation to charity to settle the case.

In my view, the donation to the Boston hospital is highly suspect. Settlement money that was supposed to help reduce lead poisoning in Rhode Island in effect was diverted to offset a debt of Mr. McConnell's law firm. The chairman of the Rhode Island Republican Party described the problem as follows: ''McConnell's law firm had a $3 million obligation to a Boston hospital, and so as part of the settlement, $2.5 million of that obligation was paid by DuPont.''

Mr. McConnell does not dispute this characterization of the $2.5 million payment. Despite claims by Attorney General Lynch that the payment would not satisfy Motley Rice's obligation to the hospital, he said ''I don't see why it shouldn't, and I don't see anything nefarious or wrong with that.'' The controversy regarding the settlement intensified when attorneys from another firm who had worked on the case on a contingency fee basis disputed the payment, claiming it was a ''legal fee'' that they were not being allowed to share in.

Fifth, I am concerned that Mr. McConnell has approached this confirmation process with either a lack of diligence or a lack of candor. I am particularly troubled by the way Mr. McConnell handled himself before the committee. I believe Mr. McConnell, at best, misled the committee when he testified about his familiarity with a set of stolen legal documents that his law firm obtained during the lead paint litigation. When asked about these documents during his committee hearing, he testified that he saw the documents ''briefly,'' but that he was not familiar with them ''in any fashion.''

But several months after his hearing, Mr. McConnell was deposed, under oath, about those same documents. In his sworn deposition, Mr. McConnell testified that he was the first lawyer to receive the documents. He drafted a newspaper editorial citing information that came directly from those documents. He testified that he reviewed and signed a legal brief that incorporated the stolen documents. And, even though he told the committee that he was not familiar with the documents ''in any fashion,'' during his deposition he testified that he did not see any indication on the documents that

they were confidential or secret. How could he know the documents were not confidential or secret, if, as he testified before the committee, he was not familiar with them ''in any fashion''? Given these facts, it is hard to square Mr. McConnell's testimony before the committee with his sworn deposition testimony a couple months later.

The litigation over these documents remains ongoing. We do not know how it will conclude. We do not know whether Mr. McConnell and his law firm will be held liable for the theft of these documents. But what is the Senate going to do if we confirm this individual, and at some later date he or his law firm is found liable for theft? At that point, it will be too late. Members will not be able to reconsider their votes. The Wall Street Journal recently opined that Mr. McConnell's ''changing story about his lead paint advocacy is enough by itself to disqualify him from the bench.'' I could not agree more.

In another instance, I asked in written questions the degree of awareness or notification that he or his law firm had regarding rallies that were held outside or near the Superior Court in Providence during the lead-paint trials in September 2002. He replied ''None.'' However, there is email traffic that indicates Mr. McConnell was, in fact, aware of the demonstrations. This email was produced in the lead paint litigation as part of Sherwin Williams's motion for a new trial. In other words, Mr. McConnell and his firm had this in their possession when he was asked about it by the committee.

Inconsistent answers were provided with regard to Mr. McConnell's relationship with the ACLU as well. In response to the question ''Did you, in fact, represent the ACLU in the matter?'' Mr. McConnell said ''I entered an appearance as counsel.'' Yet in response to another question regarding any matters in which he provided legal services to the ACLU or any affiliate thereof, he replied, ''I have never provided legal services to the ACLU or any affiliate thereof.'' I find this answer confusing at best.

These types of responses indicate, at a minimum, a careless approach in his response to the legitimate inquiries of this committee. They could also be viewed as indicating a lack of candor. Either way, they do not reflect the standard we should expect from an individual who seeks confirmation to the Federal judiciary.

These concerns lead me to believe this nominee is not qualified to serve as a U.S. district judge. Finally, I note Mr. McConnell received a low rating from the ABA—a rating of substantial majority qualified, minority not qualified.

My concerns are shared by the U.S. Chamber of Commerce, and I take their views very seriously because the Chamber only rarely takes positions on judicial nominations. In a letter to this committee, the Chamber wrote:

> Mr. McConnell's actions during his career as a personal injury lawyer and past statements demonstrate his disregard for the rule of law, an activist judicial philosophy and obvious bias against businesses.

For the reasons I have articulated—one, his active partisanship which I believe he will carry with him into the judiciary; two, his legal theories being outside the mainstream; three, his lack of judicial temperament; four, his questionable business practices; and five, his lack of candor with the committee—and other concerns which I have not expressed today, I shall oppose this nomination.

I will conclude by saying this. I have supported the overwhelming majority of President Obama's judicial nominees. If it were up to me, I would not have nominated many of those individuals, but I supported them nonetheless. Mr. McConnell is in an entirely different category. I believe he misled the committee when he testified before us. For that reason alone, I do not think he should be rewarded with a lifetime appointment to the Federal bench. Even if I did not have that concern, I could not support this nominee.

Mr. LEAHY. Mr. President, earlier today, the Senate took a step toward restoring a longstanding tradition of deference to home state Senators with regard to Federal District Court nominations. The Senate turned away from what Senator REED rightly called a precipice. Eleven Republican Senators joined in voting to end a filibuster of the nomination of Jack McConnell to the District Court for the District of Rhode Island. A supermajority of the Senate came together to reject a new standard, which I believe is being unfairly applied to President Obama's district court nominees. Now, more than a year after his nomination, nearly a year after his confirmation hearing, and after having had his nomination reported positively by a bipartisan majority of the Judiciary Committee three times, the nomination of Jack McConnell will finally have an up-or-down vote in the Senate.

The Senate should have debate on judicial nominations, and Senators should be free to vote for or against any nomination. A few hours ago the Senate voted to invoke cloture and now we are proceeding to hold a final confirmation vote on this nomination.

There was no need for cloture to be filed on this nomination. There were no ''extraordinary circumstances'' that held up this nomination for over a year. Why was the Senate not able to reach a time agreement to debate and vote on this nomination last year? It was the obstruction that prevented us from doing so. It was wrong for the Senate to knuckle under to business lobbies and it was right for the Senate to reject that opposition.

In fact, in the days leading up to the filibuster vote and in the hours since, no great number of Senators has spoken in opposition to this nomination. Only a handful of Senators from the minority leadership spoke at all. Only one such Senator has spoken in opposition since cloture was invoked.

With judicial vacancies at crisis levels, affecting the ability of courts to provide justice to Americans around the country, we should be debating and voting on each of the 13 judicial nominations reported favorably by the Judiciary Committee and pending on the Senate's Executive Calendar. No one should be playing partisan games and obstructing while vacancies remain above 90 in the Federal courts around the country. With one out of every nine Federal judgeships still vacant, and judicial vacancies around the country at 93, there is serious work to be done.

I will support the nomination of Jack McConnell, just as I have each of the three times it was before the Judiciary Committee. Mr. McConnell is an outstanding lawyer. He is supported by his home State Senators, Senator REED and Senator WHITEHOUSE. Each has spoken passionately and persuasively in support of his nomination.

As I noted earlier, Mr. McConnell's nomination has been reported by a bipartisan majority of the Judiciary Committee three times. His nomination also has bipartisan support from those in his home State. Leading Republican figures in Rhode Island have endorsed his nomination. They include First Circuit Court of Appeals Judge Bruce Selya; Warwick Mayor Scott Avedisian; Rhode Island Chief Justice Joseph Weisberger; former Rhode Island Attorneys General Jeffrey Pine and Arlene Violet; former Director of the Rhode Island Department of Business Barry Hittner; former Rhode Island Republican Party Vice-Chair John M. Harpootian; and Third Circuit Court of Appeals Judge Michael Fisher.

The strident opposition to this nomination has been fueled by the corporate lobby, who oppose Jack McConnell because he is a good lawyer. They oppose him because he successfully represented plaintiffs, including the State of Rhode Island, in lawsuits against lead paint manufacturers. Some in the Senate may support the lead paint industry. Some in the Senate may oppose those who wish to hold lead paint companies accountable for poisoning children. That is their right. But as I said earlier in opposing the filibuster of this nomination, nobody should oppose Mr. McConnell for doing what lawyers do—vigorously represent clients.

I also hope no Senator opposes this nomination based on what I believe to be a distortion of Mr. McConnell's testimony before the committee. As chairman of the Judiciary Committee, I take seriously the obligation of nominees appearing before the Committee to be truthful. I would be the first Senator to raise an issue if there were any legitimate question as to the accuracy of Mr. McConnell's testimony. But there is not.

Far from establishing that Mr. McConnell was untruthful with the committee, the deposition transcript

cited by some who oppose his nomination in fact validates Mr. McConnell's testimony to the committee. There has been no inconsistency in Mr. McConnell's testimony, either to the committee or in sworn testimony in a deposition. Jack McConnell is not a party to the lawsuit. He has been accused of no wrongdoing. There is no basis to believe that Mr. McConnell did not answer questions from members of the committee truthfully. Some Senators may feel strongly that Mr. McConnell and his firm were wrong to sue lead paint companies, but there is simply no basis for believing that Mr. McConnell was untruthful with the committee. I hope other Senators will reject those conclusions.

With more than 25 years of experience as an outstanding litigator in private practice, Mr. McConnell has been endorsed by The Providence Journal, which wrote: ''In his legal work and community leadership [he] has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.'' This debate should focus on Mr. McConnell's qualifications, experience, temperament, integrity, and character. Any fair evaluation of his qualifications would reveal a nominee worthy of confirmation.

I congratulate Jack McConnell and his family on his confirmation today. I commend Senator REED and Senator WHITEHOUSE for their steadfast support and all they have done to ensure that the Senate vote on this nomination.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that the remaining time postcloture be yielded back and the Senate proceed to vote on the confirmation of the nomination of John J. McConnell, Jr., to be a U.S. District Judge for the District of Rhode Island; that the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that the President be immediately notified of the Senate's action; the Senate then resume legislative session and proceed to a period of morning business for debate only until 7:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of John J. McConnell, Jr., of Rhode Island, to be United States District Judge for the District of Rhode Island?

Mr. WHITEHOUSE. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. AKAKA) and the Senator from Washington (Mrs. MURRAY) would each vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 66 Ex.]

YEAS—50

Baucus	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Manchin	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Webb
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden
Hagan	Nelson (NE)	

NAYS—44

Alexander	Enzi	McConnell
Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Blunt	Hatch	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NOT VOTING—5

Akaka	Coburn	Roberts
Boxer	Murray	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, the President will be immediately notified of the Senate's action, and the Senate will resume legislative session.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in a period for the transaction of morning business for debate only until 7:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for a much longer period of time, for 45 minutes. I may not use all that time, but I would like to have permission to speak for that time.

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

ETHANOL

Mr. GRASSLEY. Mr. President, it is not going to surprise any of my colleagues or the public at large that a lot of times I come to the Senate floor to speak about agriculture and to speak about ethanol. What brings me to the floor today is the ongoing crusade by the Wall Street Journal, in an intellectually dishonest way, to put out a lot of facts about ethanol that are not true.

The latest barrage comes from an interview published last Saturday in the Wall Street Journal with C. Larry Pope, CEO of Smithfield Foods. In this article, there are a lot of misstatements about ethanol and about ethanol causing the price of food to rise dramatically. I take the floor now to rebut some of those misstatements and also to set the record straight so that when a very fine CEO such as Mr. Pope, even though I disagree with him on this article—he is a decent person, and he is a good corporate executive—the next time, he will not speak. But I can also say I do not like to have confrontations with Smithfield Foods because they do provide a lot of good-paying jobs in the Middle West, and they do a good job of adding value to agriculture.

There has been a tradition at Smithfield to kind of not appreciate American agriculture. It goes back to some conversations I had with the previous CEO by the name of Joe Luter. I remember Joe Luter coming to my office to try to explain to me some things he thought I had misinterpreted of what he was really talking about regarding the family farmer and about the production of hogs and whether he was wanting to put the family farmer out of business.

I remember just as if it was said to me yesterday a statement he made when I said: You are running the family farmer, the family producer, the independent producer out of the hog business, and you want to control everything. He said to me something along the lines: I do not want to put your farmers out of business; I just want them feeding my pigs. He was basically saying he wanted the family farmer to be an employee of Smithfield and not be an independent producer.

Another point he tried to argue with me—and I am referring to Mr. Pope's predecessor, Mr. Luter—he also argued that Iowa farmers in a sense were not smart enough to run a packing plant. In fact, he offered to give a plant to a group of farmers and guaranteed it would be out of business within 6 months.

I do not know whether I have fault with Mr. Pope as CEO of Smithfield and ethanol in this case as opposed to Mr. Luter, his predecessor, and who is going to raise pigs, but there may be an institutional bias within the corporation of Smithfield.

Anyway, with that as background, I want to go to this article I pointed out that was in the Wall Street Journal. The article says: ''It is Getting Hard to Bring Home the Bacon.'' Basically, what the paper is saying in that headline is that because so much corn is used for ethanol, we are raising the price of corn and that is driving up the price of food.

Well, I am on the floor to say that is a bunch of hogwash. This article was in the April 30 edition of the Wall Street Journal, so if people want to read it and check it against what I have to say, I am happy to provide that information. The article was based on an interview with C. Larry Pope, CEO of Smithfield Foods, the largest pork producer and the largest pork processor.

The opinion piece was intended to share Mr. Pope's view on rising food prices and also on the price of pork. Mr. Pope puts much of the blame on the Federal ethanol program. But I wish to address a number of the claims made by Mr. Pope, and claims made in the opinion piece presumably based on statements by Mr. Pope.

Mr. Pope claims, and I quote:

> Now, 40 percent of the corn crop is directed to ethanol, which equals the amount that is going into livestock food.

Right there, statistically, he is wrong. Let me point out how he is wrong. In 2010, 4.65 billion bushels of corn were used to produce 13 billion gallons of ethanol. But ethanol production uses only the starch from a corn kernel. So I want to hold up a bag of corn kernels. It would be better if I brought in an ear of corn, but this is the best way to transport it. These are corn kernels.

When ethanol uses only the starch from the corn kernel, the result is that more than one-third, or 1.4 billion bushels of corn—and it is called dried distiller's grain, and this is what dried distiller's grain is—was available as a high-value livestock feed. In fact, what is left over after you produce ethanol is of much more value than if you would take the original corn kernels and use that by itself for animal feed.

Let's go back to that quote.

> Now, 40 percent of the corn crop is directed to ethanol, which equals the amount that is going into livestock food.

Well, on a net basis now, ethanol production used only 23 percent of the U.S. corn crop—far less than the 40 percent that ethanol detractors claim. So once again, you have a bushel of corn—56 pounds. Out of that 56 pounds of corn, you get 2.8 gallons of ethanol. When you get done making the ethanol, you have 18 pounds of dried distiller's grain that is left over. Anybody who isn't ignorant about ethanol understands there is still an animal feed product left over. So you can't say you are making ethanol out of corn and using it all for ethanol and nothing for food, because this is a very efficient process.

By the way, let me say this. You can tell about the ignorance over ethanol in this town because a lot of people pronounce it E-E-E-T-H-A-N-O-L. It is ethanol. But people who are ignorant about it don't even know how to pronounce it. I don't know whether Mr. Pope pronounced it right or not.

According to the USDA, feed use consumes 37 percent of the U.S. corn supply, much more than the 23 percent consumed by ethanol production. So I hope Mr. Pope will put that in his pipe and smoke it, because he is wrong on that point. Ethanol is not diverting corn away from feed use.

Next, Mr. Pope claims:

> Ethanol policy has impacted the world price of corn.

I am glad Mr. Pope raised that issue. He clearly has no idea how little an impact ethanol has on the global grain market. In fact, U.S. ethanol use represents a mere 3 percent of the world's supply of coarse grain. In addition, the global grain supply in 2010 to 2011 is 11 percent larger than the 2000 to 2001 supply.

U.S. farmers happen to be the most productive in the world. Since 1975, American farmers have doubled U.S. corn production from under 6 billion bushels to over 12 billion bushels last year, and they have done it using essentially the same number of acres. Corn farmers today grow five times as much corn as they did in 1930 on 20 percent less land.

So for all those people out there who think there isn't enough productivity in the American farmer or in our land or in the efficiency of producing, I hope you understand that we are producing five times more corn than we did in 1930 but doing it on 20 percent less land. Let me explain it another way. In 1910, you know what powered agriculture? Horses and mules. And in that day, it took 90 million acres of land to grow the food to keep the animals that powered agriculture alive and productive. That 90 million acres is equal almost to the 92 million acres that will be planted to corn in the United States this year.

Farmers are continuing to meet the growing demand of ethanol, livestock feed, and exports. So I hope that Mr. Pope will put that in his pipe and smoke it, because he needs to understand how productive the American grain farmer is.

The author of the opinion piece then makes a claim that has absolutely no basis in fact, so I guess I can't attribute this to Mr. Pope. The article states:

> The EPA has found ethanol production has a neutral to negative impact on the environment.

I have always said that ethanol is good for the environment, but here we have the EPA being quoted stating it has a neutral to negative impact on the environment. The fact is, under the renewable fuels standard created in 2007, corn ethanol was required to reduce greenhouse gas emissions compared to gasoline by at least 20 percent. Corn ethanol has exceeded that threshold. In other words, the law says such and such, and ethanol exceeds what the law even requires.

A reduction of more than 20 percent compared to gasoline is not neutral. So the EPA has found ethanol production has neutral to negative impact on the environment. Not so. If you remove EPA's use of murky science surrounding emissions from what is called indirect land use—and that is kind of complicated, so I won't go into that—ethanol reduces greenhouse gas emissions by 48 percent compared to gasoline.

I have heard Senators in the last 2 months on the floor of the Senate telling all of us that ethanol was bad for the environment, but a recent peer-reviewed study published in the Yale Journal of Industrial Ecology—all those Ivy League people in the Senate ought to have some allegiance to anything done by Yale University—says that ethanol reduces greenhouse gas emissions by up to 59 percent compared to gasoline.

Mr. Pope also asserts that Pilgrim's Pride went bankrupt because of ethanol. Pilgrim's Pride was a food processor. He stated:

> The largest chicken processor in the United States, Pilgrim's Pride, filed for bankruptcy. They couldn't raise prices, so their cost of production went up dramatically.

Again, facts are stubborn things. On December 1, 2008, analysts cited the primary cause of bankruptcy was their large debt load, the result of the acquisition of a $1.3 billion rival they purchased in 2007. Other factors included low chicken demand and prices resulting from the recession and poor commodity hedging. But it had nothing to do with the price of ethanol and corn prices being high. So I hope Mr. Pope will put that in his pipe and smoke it.

Another statement by Mr. Pope seems to place all the blame on corn farmers for rising food prices. He said:

> You eat eggs, you drink milk, you get a loaf of bread, and you get a pound of meat. All of those are based on grains.

That last part of the statement is accurate. But let me tell you what is wrong with the relationship between rising food prices and the price of grain. Let us look at the U.S. Department of Agriculture. The farm value of every food dollar is 19 cents. In other words, if you spend $1 on food at the supermarket, only 19 cents of that goes into the pocket of the farmer. Of that 19 cents, the corn value of that farmer's income is 3 cents.

So let us look at some of these prices. You buy a box of corn flakes—12.9 ounces. Only 5.6 cents goes to a farmer if the corn is $4 a bushel. If corn is $6 a bushel, the farmer gets 8.6 cents out of a whole package of corn flakes.

Soft drinks: $4 a bushel, the farmer gets 6.6 cents. If it is $6 a bushel, he gets 10 cents.

Beef: The farmer gets 18.2 cents at the low end of corn prices, and 27.8 cents at the higher end.

I could go on with pork and chicken and turkey and eggs and milk. But the

point is, don't blame the farmer when you buy a box of corn flakes because the farmer gets a little over a nickel, or at most, if corn is higher priced, 8.6 cents. So the farmer gets 19 cents in a global way. Corn only accounts for 3 cents out of $1 of food that you buy. The other 81 cents of that $1 goes to labor, goes to energy, goes to transportation, goes to marketing, and goes to packaging.

The World Bank, in 2008, stated that biofuels were a large contributor to rising food prices. And you know what, 2 years later, in 2010, they released a more thorough analysis that essentially dismissed that idea. So I want to quote from the World Bank report.

> . . . the effect of biofuels on food prices has not been as large as originally thought. . . . the use of commodities by financial investors may have been partly responsible for the 2007–2008 spike.

So, for Mr. Pope, I hope he puts that in his pipe and smokes it because he is wrong about the amount of corn and the price of corn and the impact on food prices, and the World Bank dismisses that as well. We even have the United Kingdom—I like to say Great Britain instead of United Kingdom—their Department for Environment, Food and Rural Affairs concluded in 2010 that ''available evidence suggests that biofuels had a relatively small contribution to the 2008 spike in agricultural commodity prices.''

In 2009, the Congressional Budget Office evaluated the increasing demand for corn to produce ethanol on food prices. Maybe I better start with the 5.1-percent increase in food prices for the year 2009. Of that 5.1 percent, just one-half of 1 percent, between that and eight-tenths of 1 percent—I better say it more accurately. We have a 5.1-percent increase in food prices. Only one-half percent, maybe up to .8 percent of that 5.1 percent was due to the demand for ethanol, and about 10 percent of just the increased price of food was because of ethanol.

In 2007, Informa Economics concluded that ''it is statistically unsupported to suggest that high and/or rising corn prices are the causative reason behind high and rising retail meat, egg and milk prices.''

Another point raised in this article by Mr. Pope needs to be addressed. He said, ''Over the last several years, the cost of corn has gone from a base of $2.40 a bushel to today at $7.40 a bushel.'' While true, this all needs to be put in context. Over that same period of time, crude oil prices went from $50 a barrel to nearly $150 a barrel. Today, it is over $110 a barrel. Gold prices went from $500 an ounce to $1,500 an ounce today.

Mr. Pope would rather pay $2.40 a bushel for corn rather than $7.40. I understand that. But does he know what impact that would have on agriculture? If corn were only $2.40 a bushel, every farmer today would be out of business because the cost of production is around $4 a bushel.

I can see he wants the farmers to subsidize Smithfield if he wants to continue getting corn for $2.40 a bushel, but a farmer cannot subsidize the big corporations. Perhaps Mr. Pope would rather have us support government subsidies so long as they would allow him to buy corn below the cost of production.

I can tell you this: A lot of people say ethanol is the reason corn prices are high. It might be part of the reason. But let's suppose you didn't have any ethanol and you had $2.40 a bushel for corn. You know darn well that a lot more would be coming out of the Treasury to make sure the safety net for the family farmer was working than we give for an ethanol subsidy.

Regardless, at $7.40 a bushel, the corn costs in a gallon of milk is about 46 cents; the cost of corn in a pound of chicken is about 34 cents; 1 pound of beef takes about 92 cents worth of corn; and relative to Smithfield because they are big in pork, 1 pound of pork requires about 39 cents of corn. So if that $4.54-a-pound for bacon in the grocery aisle contains only 39 cents worth of corn, perhaps Mr. Pope should explain to all of us—and, most important, to the people who buy it, the consumer—where the other $4.15 or 91 percent of the retail cost is going.

In addition, after the steep rise in commodities in 2008, prices of corn and other commodities retreated very significantly. I don't recall seeing from people like Smithfield, that when corn was $7 3 years ago and it went down to $3.58—I didn't see a very dramatic drop in prices at the grocery store after the corn prices dropped, which leads me, as I have so often said on the floor of the Senate, that these food processors need to scapegoat something to increase the price of their product to the retailer and the consumer. Then when the price goes down, they have increased their price but the price doesn't go down accordingly.

Mr. Pope claims rising corn prices are hurting his business. He said, ''Rising prices are already squeezing food producers 2 to 3 percent earnings margins.'' That is his quote. The statement is rather surprising given the contradictory earnings report for Smithfield Foods that came out March 10, 2011. Smithfield reported net income for the quarter of $202 million, an increase of $165 million over the same quarter in 2010. Mr. Pope stated at the time of the earnings report: ''We are extremely pleased with the record performance of our company in the third quarter. Year to date, our earnings have surpassed that of our record year.''

The reality of Smithfield's record profits fails to validate the rhetoric. According to the article—and here I am quoting the article and not Mr. Pope:

> Smithfield's economists estimate corn prices would fall by a dollar a bushel if ethanol blending wasn't subsidized.

I guess if it is Smithfield's economists, it must be coming directly from the company, then. Smithfield may want to invest, then, in better economists.

According to an April 2011 study issued by the Center for Agricultural and Rural Development at Iowa State University, only 14 cents or 8 percent of the increase in corn prices from 2006 to 2009 was due to ethanol subsidies. The study also found that without the ethanol subsidy, corn prices would have averaged only 4 percent less over the same period of time.

Finally, the article calls into question the value of ethanol to our Nation's energy supply. It states:

> The ethanol industry would supply only 4 percent of the nation's annual energy needs even if it used 100 percent of the corn crop.

This is a straw man. No one is arguing that ethanol will replace our Nation's entire energy needs. Using just 23 percent of the corn crop, we are displacing nearly 10 percent of our Nation's foreign oil dependence. Domestic ethanol production ranks behind only the United States and Canadian oil production in terms of domestic transportation fuel supply.

It is obvious that Saturday's opinion piece in the Wall Street Journal was just another coordinated effort to undermine and scapegoat homegrown ethanol and America's corn farmers to help deflect criticism from big food producers. Make no mistake, Smithfield's CEO, Larry Pope, is concerned with only one thing—Smithfield's bottom line.

While companies such as Smithfield perpetuate a smear campaign to boost their profits, American farmers and alternative-fuel producers are working hard to produce a reliable and safe supply of food, fiber, and feed for the Nation and the world.

That is the end of my reaction to what he, Mr. Pope, said, but I would like to end by saying that the marketplace will take care of this. You know, 30 years ago when we started an ethanol program, we produced about 100 bushels of corn to the acre on average. Today, nationally, I think it is about 155 bushels of corn to the acre. In Iowa, I think it is about 168; the year before, it was 182.

People who are experts in genetics can say we will be able to double the production of corn over the next 50 years. That is one way we can solve this problem. The other way is that there is a massive amount of land in a lot of places on this Earth, and a great part of it is in West Africa, South Africa, and parts of East Africa, where, if people would establish law guaranteeing property rights, title to land, there would not be governmental disincentives to growing food, there would not be a cheap food policy—there would be a massive production of foodstuff in this world.

In the United States, we are going to continue to produce more. There are going to be 4 million more acres of corn grown this year than last year.

There are even some odd things being done because the price of corn is $7.

From the Des Moines Register, this headline, from a northern small community of Iowa: At the Whittemore Golf Club, the golf course is going to be plowed up and planted with corn. There are some extreme measures that will be taken here to respond to the demand for food or fiber or fuel.

Just remember, agriculture in America has the capability—the demonstrated capability to produce it all. We don't grow crops just for food. We have always grown for food and fiber, and for the last 30 years, food, fiber, and fuel. We can continue to do it, and we are going to do it successfully, and the consumers of America are not going to pay for it. In fact, if we do not continue to do that and keep the family farmer of the United States healthy and strong—and ethanol is a contribution to that—then we are not going to be able to meet the needs of our society.

I yield the floor.

TRIBUTE TO ROBERT CVAR

Mr. REID. Mr. President, today we congratulate an important Senate employee on retiring after 34 years of dedicated service. Robert Cvar started working at the Senate Recording Studio on August 1, 1977, as a film technician. He worked his way up the ladder to become a broadcast production director. In addition to television studio production, Bob directs the very proceedings that many Americans are watching now on the Senate floor.

Bob plans to spend his retirement with his wife Rocio and their daughter Veronica, who turns 3 years old this week. As a native of Minnesota, Bob is a diehard Minnesota Vikings fan. This year, one of his lifelong dreams came true when the University of Minnesota at Duluth won the national championship for men's hockey.

I am proud of the many dedicated employees like Bob that help this Chamber function. The entire Senate family extends our best wishes to Bob Cvar in his future endeavors.

REMEMBERING SALLY BROWN

Mr. McCONNELL. Mr. President, it is with great sadness that I rise today to pay tribute and bid a fond farewell to a remarkable philanthropist, a proud Louisvillian, a great-grandmother of 29, and a dear friend. Sadly, Sara Shallenberger Brown—known by her friends as ''Sally''—passed away this April 30 in Louisville, just after celebrating her 100th birthday on April 14.

Sally was more than just a leading citizen of Louisville and of Kentucky—she was a driving force of nature. Through her energy, spirit, and great generosity, she made our city and our Commonwealth better places to live.

Sally led a life that would not seem out of place in an epic movie or novel. Born in Valdez, AK, in 1911, her father was a brigadier general who fought in France during World War I and served with generals Pershing and Patton. In 1931, Sally visited a friend from college in Louisville, and here she met her future husband, W.L. Lyons Brown. When Lyons soon after wrote Sally's parents to tell them he was naming a race horse ''Sally Shall,'' they knew it had been love at first sight.

The couple made their home in Louisville, where he was the president and chairman of Brown-Forman Corp., a Louisville-based company for over 140 years and one of the largest American-owned spirits and wine companies. Sally became a generous benefactor to Louisville institutions such as the Speed Museum, Locust Grove, the Actors Theatre of Louisville and Waterfront Park.

She was instrumental in preserving Locust Grove, the final home of Louisville founder George Rogers Clark. Where the home had once been abandoned and in ill repair, today it is a museum and National Historic Landmark.

Sally cared deeply and throughout her long life for conservation and preservation. She founded a conservation program to preserve the natural beauty of the Kentucky River. She advocated for the preservation of federal national wildlife refuges, and was present at the bill signing by President Jimmy Carter that saw the culmination of her efforts. She was a delegate to U.N. conferences, and traveled internationally to promote wildlife conservation.

But most of all, Sally will be remembered for her enjoyment of life. She loved to be outdoors, working on her farm. Even in her later years you could often see her riding around on top of her tractor. She was an artist, designer, and breeder of cattle, thoroughbreds and Cavalier King Charles spaniels.

Sally inspired her family, friends and all who knew her as she forged ahead with her many philanthropic and intellectual interests, all while setting the example as the matriarch of the Brown family since her husband's passing in 1973. Together they had four children, 12 grandchildren, and 29 great-grandchildren, and I want to express my condolences to them and other family members at this great woman's passing.

Mr. President, the Louisville Courier-Journal recently published an editorial celebrating the life of Sally Brown. I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the article was printed as follows:

[From the Louisville Courier-Journal, May 2, 2011]

SALLY BROWN: A FORCE OF NATURE

Five years ago, when Kentucky Educational Television produced a documentary about her life, Sara Shallenberger Brown was called ''a force of nature.''

For most of the century through which she lived, she was precisely that. And with her death on Saturday, the environmental movement and the community have lost a remarkable leader.

The daughter of an Army general who fought alongside George Patton in World War II, Mrs. Brown witnessed important events in history at close range. Born in Valdez, Alaska, in 1911, decades later she would become a leader in the drive to save the Arctic National Wildlife Refuge in Alaska and stood beside President Jimmy Carter when he signed the act protecting it in 1980.

Widowed for almost 40 years from distillery executive W.L. Lyons Brown, Sr., she rejected a comfortable, quiet life and became an advocate for all sorts of causes related to the environment. She traveled to Frankfort to testify about the perils of strip mining and always came armed with a battery of facts, which she eloquently expressed in precise terms.

She often said that to succeed as an advocate on political issues a woman needs to ''act like a lady, look like a girl, think like a man, and work like a dog.''

Besides her crusades, Sally Brown enjoyed life. She loved to ride, shoot and take care of her farm. She was as much at home on her tractor as she was in the corridors of power. She took pleasure in the accomplishments of her children and grandchildren and always challenged those she knew to push harder.

She lived well on a grand stage, and with her departure, our city has lost one of its visionary leaders.

TRIBUTE TO DAVID AND IRENE MORRIS

Mr. McCONNELL. Mr. President, I rise today to honor the extraordinary accomplishments of two of the most dedicated and hard-working citizens of the Commonwealth, David and Irene Morris of Hager Hill, KY. Working as a team of husband and wife, David and Irene have worked tirelessly over the years to strengthen and improve the manufacturing industry in Johnson County and throughout the State through their work at the Atlantic India Rubber Company.

Although Irene and David's native roots are in Michigan, the couple moved to Kentucky when the Atlantic India Rubber Company, a 92-year-old company, moved its operations here from Illinois and Ohio in 2003. David and Irene were hired to oversee the day-to-day operations of the facility. Their son and one other employee joined them on their move, and the rest of their employees were hired locally.

David and Irene's decision to take on their responsibilities as manager and executive came at a time when the State's manufacturing job rate was on a steady decline. In recent years, Kentucky has lost too many of its manufacturing jobs, with some especially hard-hit counties losing as many as one-third of their manufacturing employers. But thanks to David and Irene, this was not to be in Johnson County. The couple lived in their warehouse while trying to establish the business, and had to have machines shipped from other locations since the local business community was geared more towards the coal industry than manufacturing, but they succeeded. As only one of nine manufacturing employers in the county, they have raised the local area's manufacturing employment rate, and have helped keep jobs from drifting overseas.

Last spring, after the couple had poured nearly 10 years of their lives into building the company, then-owner Jim Green announced that he would be retiring. With none of the interested buyers having ties to Johnson County, David and Irene knew what they had to do. Later that fall the couple announced they were the new owners of the Atlantic India Rubber Company.

Because of their purchase, the rubber parts used on Harley Davidson motorcycles, Arctic Cat snowmobiles, and Boeing jets would still be made in the heart of the Commonwealth, and eight hardworking people would still have their jobs. With combined help from the Southeast Kentucky Economic Development Corporation and the Mountain Association for Community Economic Development, David and Irene secured a $1.3-million loan to buy the company and the location.

Irene once said that at first she was hesitant to take on her responsibilities at Atlantic India Rubber Company for fear of failure. Well, as she discovered, along with her employees and the residents of Johnson County, failure was simply not in the cards for the Morrises. It is people like them, who have extraordinary aspirations and faith in themselves and in Kentucky, that continue to make the Commonwealth a thriving and positive place to work and live.

Mr. President, the Lexington Herald-Leader recently published an article highlighting the impressive careers of David and Irene, and I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the article was printed as follows:

[From Kentucky.com, Jan. 29, 2011]

JOHNSON COUNTY COUPLE BUYS OUT EMPLOYER, KEEPS JOBS IN KENTUCKY

(By Dori Hjalmarson)

KY. MANUFACTURING EMPLOYMENT WOES

Percent Change in Employment, 2005–2009

United States—16.8
Kentucky—18.6
Johnson Co.—11.6
—Kentucky Office of Employment and Training

HAGER HILL.—Irene and David Morris could have packed up and taken jobs elsewhere, maybe back home in Ohio or Michigan, when the owner of the manufacturing company retired and sold out. If that had happened, Atlantic India Rubber Co. grommets and parts might be made in China now.

But the Morrises—working as manager and executive—decided they'd poured nearly 10 years of their life into building the factory in Johnson County.

They cared about their employees, all hired locally when the 92-year-old company moved from Illinois and Ohio in 2003. They cared that the rubber parts used on Harley Davidson motorcycles and Arctic Cat snowmobiles and Boeing jets are made in the U.S.A. They wanted to save their jobs. And ultimately, Irene Morris said, the company survived ''one of the toughest years ever'' for manufacturers, so ''we knew the business was sound.''

So the couple, whose children are grown and whose only debt was a mortgage and a car loan, borrowed nearly $1.3 million to buy out their employer last summer.

''When we came on board here, we ran it like it was ours. We put a lot of ourselves into it,'' Irene Morris said.

''I think we're proud of what we do here.''

KENTUCKY'S MANUFACTURING SLIDE

Many manufacturers haven't fared so well. Since 2005, Kentucky has lost more than 18 percent of its manufacturing jobs. Some counties have lost as many as a third of their manufacturing employers and more than 60 percent of manufacturing jobs, according to the Kentucky Office of Employment and Training. The Morrises' purchase of Atlantic India Rubber helped Johnson County buck that trend.

The company is one of nine manufacturing employers in the county. Atlantic India's eight employees count for less than 10 percent of the 135–strong manufacturing labor force in the county.

But since 2005, Johnson County's manufacturing employment has grown by nearly 12 percent.

The rubber company has an old brand name, but before it moved to Johnson County, it was really just a distributor. Contractors made all the parts, Irene Morris said.

''We were a start-up in the sense that for probably 30 or maybe more years, it was maybe just a distribution center,'' she said. ''Distribution isn't all that much cost to set up; manufacturing is because you've got all your presses.

''Coming into this area, that was probably one of the biggest challenges we've had. No one in this area had experience.''

They brought two employees from Michigan, including their son, who now manages a restaurant in Paintsville. But they hired the rest of their employees locally.

The Morrises worked to improve the quality of their products and relationships with customers. Atlantic India's owner, Jim Green, was a former Johnson Countian who knew the area but lived in Florida. He trusted Irene and David Morris to run the business as though it were their own.

Irene Morris said her husband, who had served in Germany and Spain in the Army, was the one who talked her into pulling up her Michigan roots to move to Johnson County in the first place.

''I didn't have a lot of faith in my ability,'' Irene Morris said.

She had gone to college to be a social worker but got a job as a trimmer at another rubber company. She has learned the business from the ground up over 20 years. She and David met working for the same rubber company, before they were hired by Atlantic India.

There were advantages to working in Johnson County: Their boss knew the area and wanted to move; costs were lower than those in factory-saturated Ohio and Michigan; the small-town atmosphere and cost of living appealed to the couple.

But there were problems, too. The local business community isn't geared toward manufacturing.

''In Michigan,'' David Morris said, parts makers used to be so plentiful ''you could just go around the corner and find what you need.''

Now, the Morrises need a tool-and-die maker, for example, but the market is so geared toward the coal industry, they aren't sure where to start looking locally. Also, they are pleased that one of their Oregon contractors might be opening up facilities in Ohio, cutting travel and distribution costs.

When they first moved to Hager Hill, Irene and David Morris lived in their warehouse while trying to establish the business. They had to have machines shipped in and find workers they could train to run them.

They still feel like outsiders in Johnson County, but local leaders have welcomed them, Irene Morris said. She has a relationship with the local chamber of commerce, the judge-executive, state representatives. She said she personally knows the local UPS and FedEx workers, as well as bankers and suppliers.

''They made us feel like a big deal, even though we were small,'' Irene Morris said.

HANDS-ON MANAGERS

The Morrises were managers, but they knew every job in the business and were hands-on. They filled in for their workers, and they trained a press operator to fill in for them. They bought a house and two cars, and their son eventually moved on to other jobs.

''We're just ordinary people,'' Irene Morris said. She didn't have aspirations to ''get rich'' or even to own her own business until a couple of years ago, when her boss decided to retire and sell.

There were interested buyers, but none with ties to Johnson County. The economy was starting to slide, manufacturing jobs nationwide were disappearing, and the Atlantic India brand might have been valuable enough to those outside buyers without keeping the manufacturing in Kentucky.

A few years earlier, a major Johnson County manufacturer, American Standard plumbing parts, had sent hundreds of jobs to Mexico. The Morrises feared Atlantic India would have had a similar fate.

The couple made contacts with local government and non-profit groups, as well as the state Cabinet for Economic Development.

The Morrises are part of a trend, said Economic Development Commissioner Erik Dunnigan.

In 2010, 84 percent of job growth and investment growth came from existing local companies, as opposed to companies new to Kentucky: ''That's redirecting our efforts,'' Dunnigan said.

In September 2009, Atlantic India started talking with Mountain Association for Community Economic Development, a Berea non-profit. MACED and Southeast Kentucky Economic Development, a London non-profit, began the year-long process to help Atlantic India secure nearly $1.3 million in financing to buy the company and the building they were leasing.

Irene Morris had to write an application for the loan, a three-year forecast, growth projections and a business plan.

She said she knew the manufacturing side of her work, but she had to learn quickly about the financial side.

Half of the loan came from a federal Small Business Administration program handled by SKED: the other half came from MACED. If the couple defaults, the organizations would seize the business and property.

The feeling, when they signed their names to the loan, was both empowerment and trepidation.

''We've never been that far ever in debt,'' David Morris said.

But he believed in his wife. Irene Morris is officially the 51 percent owner, which gives the company a leg up in some contracts because it can call itself a ''woman-owned'' business.

The fact that the Morrises know the business so well made them good candidates for a loan, said Justin Maxson, president of MACED.

Irene Morris said she might have given up trying to get the loan if not for such encouragement from MACED and Southeast Kentucky Economic Development.

When she's ready to retire in 20 years, Morris said, ''I would like to see a couple of our employees be able to buy the business.''

HONORING OUR ARMED FORCES

LIEUTENANT MATTHEW IRA LOWE AND LIEUTENANT NATHAN HOLLINGSWORTH WILLIAMS

Mrs. BOXER. Mr. President, today I ask my colleagues to join me in paying tribute to two dedicated Navy officers who were tragically killed in a training accident in my home State of California.

LT Matthew Ira Lowe and LT Nathan Hollingsworth Williams died on April 6, 2011, after their F/A–18F Super Hornet crashed near the Lemoore Naval Air Station in central California. Lieutenants Lowe and Williams were assigned to Strike Fighter Squadron VFA–122, based at Lemoore Naval Air Station.

LT Matthew Ira Lowe of Plantation, FL, had a lifelong passion for flying. He received an engineering degree from the University of Central Florida in 2001. While in college, he also earned his pilot's license. He later joined the Navy and received his commission through Officer Candidate School in February 2003. Most recently, Lieutenant Lowe served as an instructor, and had been training to become a pilot for the elite Blue Angels exhibition team.

A decorated pilot who earned the Navy/Marine Corps Achievement Medal and the National Defense Service Medal, Lieutenant Lowe will be remembered by those who served with him for his sense of humor and outgoing personality. Lieutenant Lowe is survived by his parents Ira and Pamela Lowe, and two elder siblings. He was 33 years old.

A native of Oswego, NY, LT Nathan Hollingsworth Williams attended the University of Rochester on a Navy Reserve Officer Training Corps scholarship. Upon graduating with honors in mathematics in 2004, he reported for duty at Naval Air Station Pensacola for flight training where he earned his naval flight officer wings. Lieutenant Williams was deployed to Afghanistan, where he served aboard the U.S.S. Theodore Roosevelt, providing air support for U.S. ground troops. After returning from Afghanistan, Lieutenant Williams was chosen as a flight instructor at Lemoore Naval Air Station.

For his service, Lieutenant Williams received a number of awards including two Presidential Air Medals, the Afghanistan Campaign Medal with Star, Global War on Terrorism Service Medal, Pistol Marksmanship Medal, and Sea Service Deployment Ribbon. A dedicated Buffalo Bills fan, he will be remembered as a kind and caring person who was always willing to lend a hand to those in need. Lieutenant Williams is survived by his wife Meredith; his parents Alan and Gay Williams; and his brothers Jeffrey and Seth. He was 28 years old.

Nothing can fully account for the loss suffered by the families of Lieutenants Lowe and Williams, and all those who loved them. But I hope they can take comfort in the knowledge that they will be forever honored and remembered by a grateful Nation.

ARMENIAN GENOCIDE REMEMBRANCE DAY, 2011

Mr. LEVIN. Mr. President, each year we commemorate Armenian Genocide Remembrance Day. April 24 came during our recess this year and marked the 96th anniversary of the date in 1915 when Turkish Ottoman authorities ordered the rounding up and detention of hundreds of Armenian intellectual leaders, civic leaders, writers, priests, teachers, and doctors. Many of these leaders would eventually be executed. What followed between 1915 and 1923 was an organized campaign of deportation, expropriation, conscription, starvation, and other atrocities that resulted in the deaths of over 1.5 million Armenians. Large numbers of Armenians fled their homeland to seek safety elsewhere, including in Michigan and other communities in the United States. We remember the tragic events of this period to honor those who died and to show our respect and solace for those who survived the suffering inflicted on the Armenian people.

We also remember the Armenian Genocide to remind ourselves of the evil which mankind is capable of and to reaffirm our collective commitment to a future in which such mass atrocities will not be repeated. While the horrific abuses suffered by the Armenians have been described as the first genocide of the 20th century, they were soon followed by other genocides and mass atrocities, including the Holocaust, which Hitler said could be pursued because ''Who, after all, speaks today of the annihilation of the Armenians?'' As the tragedies in Rwanda, Bosnia, Darfur and elsewhere show, when mankind turns a blind eye to an unfolding massacre, those who would use wholesale violence against others are emboldened to believe they can act with impunity.

More recently, the international community has come together to prevent a massacre of civilians from occurring in Libya. The memory of the tragic consequences of mankind's collective failure to act in the past has helped to motivate world leaders to commit at the United Nations to the protection of the Libyan people against the murderous threats of the Qadhafi regime.

It is also important to remember the events of 1915–1923 with honesty and integrity for reconciliation and healing to occur. Some have sought to deny that these events constituted genocide. But the devastating effects of the Ottoman Turkish regime's systematic engagement in the killing and deportation of the Armenian community cannot be denied. The consequences of these acts are with us today among the Armenian diaspora living and thriving throughout the world and in the tensions within the Caucasus region. The costs of these violent acts to the victims and the survivors must not be discounted through denial.

These acts were not committed by the present day Republic of Turkey. Over the last few years, Armenia and Turkey have engaged in an important dialogue on normalizing relations. This process has unfortunately stalled, and should be reinvigorated to remove barriers and promote reconciliation between the two countries. In addition, Turkey, as a NATO ally, has played an important role in the enforcement of the U.N. resolutions regarding Libya and the protection of the Libyan people from brutal attacks by the Qadhafi regime.

So in honor of the 97th anniversary of Armenian Genocide Remembrance Day, let us rededicate ourselves to the prevention of mass atrocities and the principles of justice and understanding, which are essential for the promotion of human dignity.

REMEMBERING CONGRESSMAN ROBERT DUNCAN

Mr. WYDEN. Mr. President, I rise today to recognize a man who deserves his own branch on the tree of Oregon politics.

Former Congressman Robert B. Duncan, died Friday in Portland at the age of 90. He will long be remembered for what he achieved in reviving the Oregon Democratic Party in the years after World War II and being elected to represent two of Oregon's congressional districts during the 1960s and 1970s where he championed such great causes as civil rights and the war on poverty.

He will also be remembered as someone who bravely took on two of Oregon's iconic figures. Bob Duncan ran unsuccessfully for the U.S. Senate three times, narrowly losing to names that are familiar to everyone in this room—Wayne Morse and Mark Hatfield.

On a personal note, I might also add that Bob Duncan was the incumbent and my opponent in the 1980 primary race for Oregon's 3rd Congressional District. When I won that race I was afraid that I had made an enemy for life out of someone who was revered in State Democratic circles. I couldn't have been more wrong. He reached out to me and became both a friend and a supporter.

Throughout his life, Bob Duncan was a major force in Oregon politics, shaping the state through his various roles as speaker of the Oregon House to influential member of the House appropriations subcommittee on transportation where he played a key role in bringing light rail to the streets of Portland. His public life ended in 1987 when he stepped down as chairman of the Northwest Power Planning Council.

Bob's service in Congress covered a pivotal time in American politics the war in Vietnam. In 1966, at the urging of President Lyndon Johnson, Bob gave up his congressional seat from southern Oregon to run for the Senate against then-Governor Mark Hatfield. It was a nationally watched race pitting Duncan, a proponent of the war,

against Hatfield, one of the Nation's earliest opponents of the United States' Vietnam policy.

Two years later, Bob lost by only about 10,000 votes when he ran against Wayne Morse in the Democratic primary for Oregon's other Senate seat. Morse eventually lost to Republican Bob Packwood. In 1972, he lost again to Morse in a Democratic primary for the U.S. Senate.

Never one to remain idle, Duncan having moved to Portland, won an open congressional seat in 1974, making him the only person in Oregon history to represent U.S. House districts in different parts of the State.

But Bob Duncan's life should not be defined by races won and lost. He was a tireless advocate for civil liberties, civil rights and eliminating the scourge of poverty in America. His friends and you can count me among them remember him as tenacious and hard working with a brilliant legal mind.

I will always remember him as a larger-than-life figure who loved telling stories and never let politics getting in the way of doing what he felt was right. Despite running a hard-fought race against each other, Duncan and Mark Hatfield became close friends and working partners. Thanks to Hatfield's efforts, a government building in downtown Portland now bears Duncan's name.

Please join me in extending my condolences to his wife Kathryn and his children. All of Oregon shares in their loss.

NATIONAL VA RESEARCH WEEK

Mrs. MURRAY. Mr. President, I would like to recognize the accomplishments and discoveries of investigators and scientists at the Department of Veterans Affairs, VA, who have brought about critical advances in health care delivery and medical knowledge through innovative medical research. These researchers and the veterans that make it all possible will be honored this week by National VA Research Week, which celebrates the historic success of VA research collaborations through this year's theme of ''Discovery and Collaboration for Exceptional Health Care.'' I would like to share some of the amazing breakthroughs that have resulted from VA research and that have advanced the quality of health care for all Americans.

At the conclusion of World War I, it was clear that servicemembers returning from a new type of warfare needed innovative medical treatment. VA research began conducting hospital-based medical studies in 1925 and since then has continued to publish significant research studies on a regular basis. While VA research studies have changed dramatically over the years to reflect the needs of veterans of each conflict, the goal of providing quality care has remained paramount.

This commitment to quality care has led to a litany of medical breakthroughs and discoveries that are respected and have been utilized around the world. Without the tireless efforts of VA researchers, the medical community would not have lifesaving tools such as the pacemaker and the heart stint. Without the breakthroughs of VA research, the world may never have seen a successful liver transplant, a safer cure for tuberculosis, or genetic mapping that may one day lead to the eradication of Alzheimer's disease. The many successes of VA research continue today as ongoing projects close in on a possible cure for cancer, create new pharmaceutical solutions for serious mental illness, and build new prosthetics and assistive devices that make a return to normal life possible for our wounded warriors.

VA research holds the promise to improve treatment and rehabilitation for our Nation's veterans. From developing new prosthetics to understanding and treating traumatic brain injuries, veterans can be certain that VA medical staff will always be prepared to best heal their wounds. Wounds, both visible and invisible, must receive the best care and treatment possible, and I am proud that VA is leading the way on new treatments for post-traumatic stress disorder, PTSD.

VA breakthroughs in the treatment of PTSD have not only helped thousands of veterans but have served as an example for both the American and international mental health community. Most recently, VA has been a resource for the people of Japan while they grapple with the mental wounds of the tragic earthquake and tsunami that so violently shook that country earlier this year. Today, while the first responders and the resilient people of Alabama and the areas affected by recent tornado destruction begin physically rebuilding their homes and communities, they can rely on the Psychological First Aid Field Operations Guide to provide tips on how to begin the healing process.

Medical and scientific advances from VA research have often come through collaboration. VA has the privilege of relying on one of our Nation's greatest assets, the men and women who serve. These veterans understand that oftentimes, their participation in VA Research may not directly benefit their lives. Instead, they continue to serve their fellow Americans by trying to ensure better quality care for those who return from armed conflicts in the future. By partnering with 1 million veterans, VA is launching the Million Veteran Project, an effort to learn more about how genetics affect health.

VA also has the ability to partner with some of the best medical research institutions through their relationship with the Association of American Medical Colleges. This year's theme marks the 65th anniversary of an agreement which allowed VA to join with medical schools and create innovative partnerships directly impacting the quality of care. This partnership is a significant reason for VA research being so successful at finding innovative solutions to health care problems. Because of this collaboration, VA scientists and researchers have access to both VA medical centers and various university medical centers to conduct their research. This partnership brings together the brightest minds of our medical and scientific communities and yields positive results for our veterans.

I am proud to have been a long-time, ardent supporter of VA research. I know that VA's world-class researchers could easily work elsewhere, but they continue to work with the Department in fulfilling its obligations to constantly improve the quality of care for our veterans. At a time when more and more veterans are coming home from war and relying on VA for their health care needs, we here in Congress must make sure we can lead the way with a strong investment in our veterans and the high quality care we are committed to providing them.

ADDITIONAL STATEMENTS

60TH ANNIVERSARY OF BUENO FOODS

• Mr. BINGAMAN. Mr. President, ''red or green?'' That is the question. As anyone who has ever dined in my State well knows, this inquiry refers to whether one prefers the zesty green chile or the piquant red chile when ordering New Mexico's unique native cuisine. In fact, in my State of New Mexico ''red or green'' is our official State question, and as I understand it, New Mexico is the only State that has designated a State question.

For hundreds of years, chile has been central to the culture of New Mexico. Early Spanish settlers brought the chile plant to New Mexico from the Valley of Mexico. Today, growing and processing chile peppers is New Mexico's signature industry providing about 5,000 jobs and a total value of about $400 million per year. The chile pepper and the frijole—or pinto bean—are also the State's official vegetables.

Today I honor the Baca family of Albuquerque and the 60th anniversary of Bueno Foods. Just as chile peppers are integral to New Mexican cuisine, for generations Bueno Foods has been integral to the preparation of delicious products made from chile. The Baca family is a pillar of New Mexico business and of the Barelas neighborhood in the South Valley of Albuquerque.

Three brothers, Joe, Ray, and August Baca, members of a long-established New Mexican family, returned to New Mexico in 1946 from serving in World War II. They opened a local grocery, the Ace Food Store in Barelas. Soon they started offering their mother's legendary cooking, adding a carry-out component to the store. At first, from the kitchen of their childhood home,

they made corn and flour tortillas, tamales and posole.

The homemade traditional New Mexican dishes were an immediate hit. Then, the Baca brothers had an idea. They talked about it around the supper table with their mother and father. They talked about it day and night. It was the early 1950s and every household was getting a freezer. Commercial frozen vegetables were becoming the rage. The brothers asked themselves two questions: Why couldn't they take a piece of their heritage, New Mexico's fresh-roasted green chile, and preserve it? Why couldn't they start with an autumn tradition and use freezers to make it last until the following year's harvest?

Thus, the Baca brothers were the first to flame roast green chile and freeze it on a commercial scale. No equipment existed, so they had to build it. No process existed, so they had to invent it. And on May 18, 1951, Bueno Foods was born.

Bueno Foods has grown steadily from that small neighborhood grocery store into a producer of 150 unique New Mexican and Mexican food products, spreading ''el sabor de Nuevo Mexico'' across the State and the Nation. Now owned and operated by the second generation of the Baca family in the same South Valley neighborhood, Bueno Foods employs about 220 people year-round and up to 350 during peak chile-roasting season. The Baca family is also active in the New Mexico Chile Association, a nonprofit organization composed of growers and producers fighting to ensure the chile industry remains and prospers in New Mexico.

The Baca family has always believed in giving back to its community. To help mark the 60th anniversary celebration, Bueno Foods is focusing on four elements that are important to the family and their company: improving the environment by planting 60 cottonwood trees to replace those destroyed in last year's bosque fire in Barelas; preserving their culture by giving away special Autumn Roast Chile grown in Hatch, NM; supporting literacy and education by providing 600 copies of the children's book ''Tia Tamales'' to low-income schools in New Mexico; and contributing to 60 community charities that focus on the basic needs of education, hunger, and stronger communities.

It is an honor to congratulate Jackie, Gene, Catherine, and Ana Baca and the Baca family on their 60 years of success with Bueno Foods, to thank them for all their good work in the South Valley and throughout New Mexico, and to remember those far-sighted brothers who started it all with a good idea and a chile roaster.●

REMEMBERING ABRAHAM BREEHEY

● Mrs. BOXER. Mr. President, it is with deep sadness that I pay tribute to Abraham ''Abe'' Breehey, and I ask my colleagues to join me today in honoring his memory. Abe, who was a champion of the rights of America's working men and women, passed away suddenly last month from complications related to a brain tumor. He was just 34 years old.

Abe was a well-respected friend and colleague to many in the Senate. As director of Legislative Affairs and special assistant to the international president of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, he tirelessly represented workers across the country. He also served as chairman of the AFL–CIO Building and Construction Trades Department's Legislative Task Force.

Abe worked closely with the Senate Environment and Public Works Committee, which I chair, in our efforts to promote clean energy jobs. He represented labor interests with passion and intellect and was a powerful advocate for the role of workers in moving the U.S. toward a clean energy future.

He was, in the words of International Brotherhood of Boilermakers President Newton B. Jones, the union's ''point man on Capitol Hill,'' who advanced many critical causes on behalf of working men and women ''with boundless enthusiasm and determination.''

Abe's work was not limited to the U.S. Congress. He also worked internationally on efforts to control global warming, representing the International Brotherhood of Boilermakers in international negotiations under the United Nations Framework Convention on Climate Change.

Abe received his bachelor's degree from Sienna College in Loudonville, NY, and his master's degree in public policy from the Rockefeller College of Public Affairs and Policy at the University of Albany. He was also a graduate of the Trade Union Program at Harvard Law School. Prior to joining the Boilermakers, he served as legislative assistant for Representative DOGGETT.

As anyone who worked with him can tell you, Abe was an extraordinary person. Always full of cheer, he possessed a gift for finding common ground on tough issues, and he was taken from this world far too early.

On Thursday, April 14, Abe passed away, leaving a loving wife, Sonya, and beloved daughter, Abigail. He is also survived by his parents Ray and Carol Breehey, sister Rachel Breehey Mollen, three nieces, and a nephew. Our thoughts and prayers go out to his loving family and many friends.

The U.S. Congress and workers across the country have lost a tireless advocate, trusted colleague and friend, and Abe will be greatly missed. Although his life was short, Abe unquestionably left his mark and he made a difference in the lives of working people everywhere. He will serve as an inspiration for all of us going forward, and we will build on his important work to honor his legacy. I know I speak for all of my colleagues in the Senate in mourning the loss of Abe Breehey and paying tribute to the life of this vibrant and successful young man.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1213. An act to repeal mandatory funding provided to States in the Patient Protection and Affordable Care Act to establish American Health Benefit Exchanges.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1213. An act to repeal mandatory funding provided to States in the Patient Protection and Affordable Care Act to establish American Health Benefit Exchanges.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1401. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fluopicolide; Pesticide Tolerances'' (FRL No. 8859–9) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1402. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Data Requirements for Antimicrobial Pesticides; Notification to the Secretaries of Agriculture and Health and Human Services'' (FRL No. 8861–7) received during adjournment of the Senate in the Office of the President of the Senate on April 19, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1403. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the

report of a rule entitled ''Triflusulfuron-methyl; Pesticide Tolerances'' (FRL No. 8871–4) received during adjournment of the Senate in the Office of the President of the Senate on April 19, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1404. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyrasulfotole; Pesticide Tolerances'' (FRL No. 8869–5) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1405. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mefenpyr-diethyl; Pesticide Tolerances'' (FRL No. 8870–9) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1406. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Metiram; Pesticide Tolerances'' (FRL No. 8869–1) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1407. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Aluminum tris(0-ethylphosphonate), Butylate, Chlorethoxyfos, Clethodim, et al.; Tolerance Actions'' (FRL No. 8869–6) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1408. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carbon Dioxide; Exemption from the Requirement of a Tolerance'' (FRL No. 8873–1) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1409. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clothianidin; Pesticide Tolerances'' (FRL No. 8873–3) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1410. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Metarhizium anisopliae strain F52; Exemption From the Requirement of a Tolerance'' (FRL No. 8872–3) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1411. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Interstate Movement of Regulated Nursery Stock'' ((RIN0579-AD29)(Docket No. APHIS–2010–0048)) received during adjournment of the Senate in the Office of the President of the Senate on April 27, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1412. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Gypsy Moth Generally Infested Areas; Additions in Indiana, Maine, Ohio, Virginia, West Virginia, and Wisconsin'' (Docket No. APHIS–2010–0075) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1413. A communication from the Health Physicist, Army Safety Office, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Radiation Sources on Army Land'' (RIN0702-AA58) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Armed Services.

EC–1414. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Robert L. Van Antwerp, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–1415. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items'' ((RIN0750-AG23)(DFARS Case 2008–D011)) received during adjournment of the Senate in the Office of the President of the Senate on April 25, 2011; to the Committee on Armed Services.

EC–1416. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Peter H. Daly, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–1417. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral David J. Dorsett, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–1418. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Brigadier General Larry D. Wyche, United States Army, and his advancement to the grade of brigadier general on the retired list; to the Committee on Armed Services.

EC–1419. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Acquisition Regulation Supplement; Rules of the Armed Services Board of Contract Appeals'' (48 CFR Chapter 2) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Armed Services.

EC–1420. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of an officer authorized to wear the insignia of the grade of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–1421. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Anthony L. Winns, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–1422. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost and the Average Procurement Unit Cost for the restructured National Polar-orbiting Operational Environmental Satellite System exceeding the Acquisition Program Baseline values; to the Committee on Armed Services.

EC–1423. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost and the Average Procurement Unit Cost for the C–27J program exceeding the Acquisition Program Baseline values; to the Committee on Armed Services.

EC–1424. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the realistic survivability testing of the Littoral Combat Ship (LCS); to the Committee on Armed Services.

EC–1425. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, ninety-five (95) Selected Acquisition Reports (SARs) for the quarter ending December 31, 2010 (DCN OSS 2011–0710); to the Committee on Armed Services.

EC–1426. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 11–011, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–1427. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 11–014, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–1428. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–130, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–1429. A communication from the Chief Counsel, United States Mint, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Assessment of Civil Penalties for Misuse of Words, Letters, Symbols, and Emblems of the United States Mint'' (RIN1506–AA58) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1430. A communication from the Chief Counsel, United States Mint, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Prohibition on the Exportation, Melting, or Treatment of 5-Cent and One-Cent Coins'' (31 CFR Part 82) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1431. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Corporate Credit Unions, Technical Corrections'' (RIN3133–AD58) received during adjournment of the Senate in the Office of the President of the Senate on April 28, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1432. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation Z—Truth in Lending'' ((RIN7100–AD55)(12 CFR 226)) received during adjournment of the Senate in the Office of the President of the Senate on April 15, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1433. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1434. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1435. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1436. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1437. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1438. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1439. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 20, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1440. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on April 28, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1441. A communication from the Assistant General Counsel, General Law, Ethics, and Regulation, Department of the Treasury, transmitting, pursuant to law, two (2) reports relative to vacancies in the Department of the Treasury, received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1442. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency that was originally declared in Executive Order 13466 of June 26, 2008, and expanded in Executive Order 13551 of August 20, 2010, with respect to the current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula; to the Committee on Banking, Housing, and Urban Affairs.

EC–1443. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–1444. A communication from the President of the United States, transmitting, pursuant to law, a report relative to expanding the scope of the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–1445. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency that was originally declared in Executive Order 13047 of May 20, 1997, with respect to Burma; to the Committee on Banking, Housing, and Urban Affairs.

EC–1446. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to South Africa; to the Committee on Banking, Housing, and Urban Affairs.

EC–1447. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the continuation of the national emergency declared in Executive Order 13413 with respect to blocking the property of persons contributing to the conflict taking place in the Democratic Republic of the Congo; to the Committee on Banking, Housing, and Urban Affairs.

EC–1448. A communication from the First Vice President, Controller and Chief Accounting Officer, Federal Home Loan Bank of Boston, transmitting, pursuant to law, the Bank's 2010 Management Report and statement on the system of internal control; to the Committee on Banking, Housing, and Urban Affairs.

EC–1449. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Wetland Conservation'' (RIN0578-AA58) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Environment and Public Works.

EC–1450. A communication from the Director of Congressional Affairs, Office of Enforcement, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Interim Enforcement Policy for Minimum Days Off Requirements'' (SRM-SECY-11-0003 and SRM-SECY-11-0028) received during adjournment of the Senate in the Office of the President of the Senate on April 25, 2011; to the Committee on Environment and Public Works.

EC–1451. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Clarifying the Process for Making Emergency Plan Changes'' (NRC Regulatory Issue Summary 2005–02, Revision 1) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Environment and Public Works.

EC–1452. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Standard Format and Content for Emergency Plans for Fuel Cycle and Materials Facilities'' (Regulatory Guide 3.67, Revision 1) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Environment and Public Works.

EC–1453. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Protection of Safeguard Information'' (Regulatory Guide 5.79) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Environment and Public Works.

EC–1454. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Information Relevant to Ensuring That Occupational Radiation Exposures at Medical Institutions Will Be As Low As Is Reasonably Achievable'' (Regulatory Guide 8.18, Revision 2) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Environment and Public Works.

EC–1455. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Great Lakes Ecosystem; to the Committee on Environment and Public Works.

EC–1456. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Update to Materials Incorporated by Reference'' (FRL No. 9286–2) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Environment and Public Works.

EC–1457. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Adoption of the Revised Lead Standards and Related Reference Conditions and Update of Appendices'' (FRL No. 9298–1) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Environment and Public Works.

EC–1458. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—Amendments for Milk and Milk Products Containers'' (FRL No. 9297–37) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Environment and Public Works.

EC–1459. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Florida; Jefferson County, Kentucky; Forsyth, Mecklenburg, and Buncombe Counties, North Carolina; and South Carolina'' (FRL No. 9298–9) received during adjournment of the Senate in the Office of the President of the Senate on April 19, 2011; to the Committee on Environment and Public Works.

EC–1460. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference'' (FRL No. 9298–3) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Environment and Public Works.

EC–1461. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clarifications to Indian Tribes' Clean Air Act Regulatory Requirements; Direct Final Amendments'' (FRL No. 9300–2) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Environment and Public Works.

EC–1462. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Removal of Vehicle Inspection and Maintenance Programs for Clark and Floyd Counties'' (FRL No. 9299–7) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Environment and Public Works.

EC–1463. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions'' (FRL No. 9299–3) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Environment and Public Works.

EC–1464. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas's Prevention of Significant Deterioration Program'' (FRL No. 9299–9) received during adjournment of the Senate in the Office of the President of the Senate on April 26, 2011; to the Committee on Environment and Public Works.

EC–1465. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Illinois'' (FRL No. 9294–7) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Environment and Public Works.

EC–1466. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems'' (FRL No. 9299–1) received during adjournment of the Senate in the Office of the President of the Senate on April 21, 2011; to the Committee on Environment and Public Works.

EC–1467. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Northern Sonoma County Air Pollution Control District (NSCAPCD) and Mendocino County Air Quality Management District'' (FRL No. 9292–6) received in the Office of the President of the Senate on May 2, 2011; to the Committee on Environment and Public Works.

EC–1468. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''User Fees Relating to Enrolled Agents and Enrolled Retirement Plan Agents'' (RIN1545–BJ65) received during adjournment of the Senate in the Office of the President of the Senate on April 18, 2011; to the Committee on Finance.

EC–1469. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Eliminating the Decision Review Board'' (RIN0960–AG80) received in the Office of the President of the Senate on April 28, 2011; to the Committee on Finance.

EC–1470. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Afghanistan and Pakistan (DCN OSS–2011–0611); to the Committee on Foreign Relations.

EC–1471. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, an Accountability Review Board report relative to an incident in Pakistan on February 3, 2010 (DCN OSS 2011–0708); to the Committee on Foreign Relations.

EC–1472. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report prepared by the Department of State on progress toward a negotiated solution of the Cyprus question covering the periods December 1, 2010 through January 31, 2011; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mrs. MURRAY for the Committee on Veterans' Affairs.

*Allison A. Hickey, of Virginia, to be Under Secretary for Benefits of the Department of Veterans Affairs.

*Steve L. Muro, of California, to be Under Secretary of Veterans Affairs for Memorial Affairs.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. COBURN, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ROBERTS, Mr. RUBIO, Mr. BLUNT, Ms. AYOTTE, Mr. WICKER, Mr. ISAKSON, Mr. VITTER, Mr. CHAMBLISS, Mr. BARRASSO, Mr. BOOZMAN, Mr. BURR, Mr. THUNE, Mr. RISCH, Mr. INHOFE, Mr. MORAN, Mr. GRASSLEY, Mr. CRAPO, Mr. JOHANNS, Mr. HOEVEN, Mr. SHELBY, Mr. COATS, Mr. CORKER, Mr. PAUL, Mr. JOHNSON of Wisconsin, Mr. MCCAIN, Mr. LEE, and Mr. KYL):

S. 877. A bill to prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 878. A bill to amend section 520 of the Housing Act of 1949 to revise the requirements for areas to be considered as rural areas for purposes of such Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KIRK (for himself, Mrs. GILLIBRAND, and Mr. CORNYN):

S. 879. A bill to promote human rights and democracy in Iran; to the Committee on Foreign Relations.

By Mr. NELSON of Florida:

S. 880. A bill to extend Federal recognition to the Muscogee Nation of Florida; to the Committee on Indian Affairs.

By Ms. LANDRIEU (for herself, Mr. WICKER, and Mr. BLUNT):

S. 881. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN of Ohio:

S. 882. A bill to prevent misuse, overutilization, and trafficking of prescription drugs by limiting access to such drugs for Medicare and Medicaid beneficiaries who have been identified as high-risk prescription drug users; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. GRASSLEY):

S. 883. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. JOHANNS, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. JOHNSON of South Dakota, Mr. HARKIN, and Mr. NELSON of Nebraska):

S. 884. A bill to amend the Internal Revenue Code of 1986 to provide for a variable

VEETC rate based on the price of crude oil, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 885. A bill to amend the Transportation Equity Act for the 21st Century to reauthorize a provision relating to additional contract authority for States with Indian reservations; to the Committee on Environment and Public Works.

By Mr. UDALL of New Mexico:

S. 886. A bill to amend the Interstate Horseracing Act of 1978 to prohibit the use of performance-enhancing drugs in horseracing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida:

S. 887. A bill to increase the portion of community block grants that may be used to provide public services, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. FRANKEN, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Ms. SNOWE, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. LIEBERMAN):

S. Res. 162. A resolution expressing the sense of the Senate that stable and affordable housing is an essential component of an effective strategy for the prevention, treatment, and care of human immunodeficiency virus, and that the United States should make a commitment to providing adequate funding for the development of housing as a response to the acquired immunodeficiency syndrome pandemic; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN:

S. Res. 163. A resolution commemorating the 175th anniversary of the United States National Library of Medicine; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Ms. MURKOWSKI, Mrs. MURRAY, Mrs. GILLIBRAND, Ms. LANDRIEU, Ms. STABENOW, Mrs. FEINSTEIN, Mr. COONS, Mr. SANDERS, Mr. BEGICH, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. WARNER, Mr. KOHL, Mr. JOHNSON of South Dakota, and Mr. CARDIN):

S. Res. 164. A resolution recognizing the teachers of the United States for their contributions to the development and progress of our Nation; considered and agreed to.

ADDITIONAL COSPONSORS

S. 185

At the request of Mrs. BOXER, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 185, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 211

At the request of Mr. ISAKSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 229

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 229, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically-engineered fish.

S. 274

At the request of Mrs. HAGAN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 274, a bill to amend title XVIII of the Social Security Act to expand access to medication therapy management services under the Medicare prescription drug program.

S. 393

At the request of Mr. REED, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 393, a bill to aid and support pediatric involvement in reading and education.

S. 414

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Montana (Mr. TESTER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 431

At the request of Mr. PRYOR, the names of the Senator from Minnesota (Mr. FRANKEN), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 431, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

S. 486

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 486, a bill to amend the Servicemembers Civil Relief Act to enhance protections for members of the uniformed services relating to mortgages, mortgage foreclosure, and eviction, and for other purposes.

S. 501

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 501, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 528

At the request of Mrs. GILLIBRAND, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 528, a bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements.

S. 581

At the request of Mr. BURR, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 581, a bill to amend the Child Care and Development Block Grant Act of 1990 to require criminal background checks for child care providers.

S. 593

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

S. 668

At the request of Mr. CORNYN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. 668, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. 707

At the request of Mr. DURBIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 707, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 718

At the request of Mr. ROBERTS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 718, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides.

S. 838

At the request of Mr. TESTER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 838, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from a definition under that Act.

S. 855

At the request of Ms. STABENOW, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 855, a bill to make available such funds as may be necessary to ensure that members of the Armed Forces, including reserve components thereof, continue to receive pay and allowances for active service performed when a funding gap caused by the failure to enact interim or full-year appropriations for the Armed Forces occurs, which results in the furlough of non-emergency personnel and the curtailment of Government activities and services.

S. 865

At the request of Mrs. MURRAY, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 865, a bill to provide grants to promote financial literacy.

S. 868

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. RISCH), the Senator from South Dakota (Mr. THUNE), the Senator from Alabama (Mr. SHELBY), the Senator from Kentucky (Mr. PAUL), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. LEE), the Senator from Arizona (Mr. MCCAIN) and the Senator from Indiana (Mr. COATS) were added as cosponsors of S. 868, a bill to restore the longstanding partnership between the States and the Federal Government in managing the Medicaid program.

S. RES. 86

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. Res. 86, a resolution recognizing the Defense Intelligence Agency on its 50th Anniversary.

S. RES. 138

At the request of Mrs. GILLIBRAND, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 138, a resolution calling on the United Nations to rescind the Goldstone report, and for other purposes.

S. RES. 144

At the request of Mrs. HUTCHISON, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. Res. 144, a resolution supporting early detection for breast cancer.

S. RES. 151

At the request of Ms. KLOBUCHAR, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. Res. 151, a resolution congratulating the University of Minnesota Duluth men's ice hockey team on winning their first National Collegiate Athletic Association (NCAA) Division I Men's Hockey National Championship.

AMENDMENT NO. 299

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. COATS) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of amendment No. 299 intended to be proposed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. JOHANNS, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. JOHNSON of South Dakota, Mr. HARKIN, and Mr. NELSON of Nebraska).

S. 884. A bill to amend the Internal Revenue Code of 1986 to provide for a variable VEETC rate based on the price of crude oil, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased today to be joined by a number of my colleagues in introducing the Domestic Energy Promotion Act of 2011, an important piece of legislation that I believe is a good starting point in how tax policies for ethanol should evolve. I am joined in this effort by Senators CONRAD, JOHANNS, KLOBUCHAR, FRANKEN, TIM JOHNSON, HARKIN and BEN NELSON.

Over the years, I have supported domestic ethanol production as a means to improve the environment, reduce our dependence on foreign oil, increase our national security, and bring economic activity to rural America. Those efforts have undoubtedly been an enormous success. Domestic biofuels now supply more than 13 billion gallons of homegrown fuel, accounting for nearly 10 percent of our Nation's transportation fuel needs.

In 2010, Congress enacted a one-year extension of the Volumetric Ethanol Excise Tax Credit, or VEETC, also known as the blenders' credit. This 1-year extension has allowed Congress and the domestic biofuels industry to determine the best path forward for Federal support for biofuels. The legislation we are introducing today is a serious, responsible first step to reducing and redirecting Federal tax incentives for biofuels.

This legislation will reduce VEETC to a fixed rate of 20 cents in 2012, and 15 cents in 2013. It will then convert to a variable tax incentive for the remaining 3 years, based on the price of crude oil. When crude oil is more than $90 a barrel, there will be no blenders' credit. When crude oil is $50 and below, the blenders' credit will be 30 cents. The rate will vary when the price of crude is between $50 and $90 a barrel. When oil prices are high, a natural incentive should exist in the market to drive ethanol use.

It also would extend, through 2016, the alternative fuel refueling property credit; the cellulosic producers' tax credit; and the special depreciation allowance for cellulosic biofuel plant property. The bill would modify the alternative fuel refueling property credit to allow the credit for ethanol blends from E20 to E85. The credit would apply to 100 percent of the cost of the property, so long as dual-use pumps are used partly for alternative fuels. Finally, the bill would extend the ethanol import tariff, through 2016, stepping it down to 20 cents for 2012 and 15 cents for 2013 through 2016.

This legislation is a responsible approach that will reduce the existing blenders' credit and put those valuable resources into investing in alternative fuel infrastructure, including alternative fuel pumps. It would responsibly and predictably reduce the existing tax incentive, and help get alternative fuel infrastructure in place so consumers can decide which fuel they would prefer. I know that when American consumers have the choice, they will choose domestic, clean, affordable renewable fuel. They will choose fuel from America's farmers and ranchers, rather than oil sheiks and foreign dictators.

Some of my colleagues have argued that it is time to end the incentives for biofuels immediately and entirely. Not only is this bad energy policy, poor tax policy, and dangerous to our national security, it is also intellectually dishonest. I believe a discussion concerning our Nation's energy and tax policy should be debated in a comprehensive manner. Biofuels are not the only form of energy that receives incentives or supportive policies from the Federal Government.

How about the incentives for wind, oil, natural gas, nuclear, and geothermal? If the Senate intends to consider reforms to biofuels incentives, it should be in the context of a comprehensive review of all energy tax incentives. This bill is meant to serve as a first step in the process. This bill demonstrates a significant reduction in biofuels incentives over the next 5 years. I challenge my colleagues to find any other energy source that is contributing as much to our economy and energy supply that is willing to step up and do that in the current legislative debate.

Now is not the time to pull the rug out from under the only domestic renewable energy source that is making significant contributions to our energy supply. I thank my colleagues for their support, and I look forward to a comprehensive discussion to advance sensible, responsible energy tax policies.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 885. A bill to amend the Transportation Equity Act for the 21st Century to reauthorize a provision relating to additional contract authority for States with Indian reservations; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today with my distinguished colleague Senator UDALL of New Mexico to introduce the Indian School Bus Route Safety Reauthorization Act of 2011. This bill continues an important federal program begun in 1998 that addresses a unique problem with the roads in and around the Nation's single largest Indian reservation and the neighboring counties. Through this program, Navajo children who had been prevented from getting to school by roads that were often impassable are now traveling safely to and from their schools. Because of the unusual nature of this situation, I believe it must continue to be addressed at the Federal level.

I would like to begin with some statistics on this unique problem and why

I believe a Federal solution continues to be necessary. The Navajo Nation is by far the nation's largest Indian Reservation, covering 25,000 square miles. Portions of the Navajo Nation are in three states: Arizona, New Mexico, and Utah. No other reservation comes anywhere close to the size of Navajo. To give you an idea of its size, the state of West Virginia is about 24,000 square miles. In fact, 10 states are smaller in size than the Navajo reservation.

According to the Bureau of Indian Affairs, about 9,700 miles of public roads serve the Navajo nation. Only about 1/3 of these roads are paved. The remaining 6,500 miles, 67 percent, are dirt roads. Every day school buses use nearly all of these roads to transport Navajo children to and from school.

About 6,200 miles of the roads on the Navajo reservation are BIA roads, and about 3,300 miles are State and county roads. All public roads within, adjacent to, or leading to the reservation, including BIA, State, and county roads are considered part of the Federal Indian Reservation Road System. However, only BIA and tribal roads are eligible for Federal maintenance funding from BIA. Moreover, the funding for road construction from the Federal Lands Highways Program in SAFETEA is generally applied only to BIA or tribal roads. Thus, the states and counties are responsible for maintenance and improvement of their 2,500 miles of roads that serve the reservation.

The counties in the three States that include the Navajo reservation are simply not in a position to maintain all of the roads on the reservation that carry children to and from school. Nearly all of the land area in these counties is under Federal or tribal jurisdiction.

For example, in my State of New Mexico, ¾ of McKinley County is either tribal or federal land, including BLM, Forest Service, and military land. The Indian land area alone comprises 61 percent of McKinley County. Consequently, the county can draw upon only a very limited tax base as a source of revenue for maintenance purposes. Of the nearly 600 miles of county-maintained roads in McKinley County, 512 miles serve Indian land.

In San Juan County, Utah, the Navajo Nation comprises 40 percent of the land area. The county maintains 611 miles of roads on the Navajo Nation. Of these, 357 miles are dirt, 164 miles are gravel and only 90 miles are paved. On the reservation, the county has three high schools, two elementary schools, two BIA boarding schools and four preschools.

The situation is similar in neighboring San Juan County, New Mexico, and Apache, Navajo, and Coconino Counties, Arizona. In light of the counties' limited resources, I do believe the Federal Government is asking the States and counties to bear too large a burden for road maintenance in this unique situation.

Families living in and around the reservation are no different from families anywhere else; their children are entitled to the same opportunity to get to school safely and to get a good education. However, the many miles of unpaved and deficient roads on the reservation are frequently impassable, especially when they are wet, muddy or snowy. If the school buses don't get through, the kids simply cannot get to school.

These children are literally being left behind.

Because of the vast size of the Navajo reservation, the cost of maintaining the county roads used by the school buses is more than the counties can bear without Federal assistance. I believe it is essential that the Federal Government help these counties deal with this one-of-a-kind situation.

In response to this unique situation, in 1998 Congress began providing direct annual funding to the counties that contain the Navajo reservation to help ensure that children on the reservation can get to and from their public schools. In 2005, the program was reauthorized in SAFETEA through 2009, and now extended through 2011.

Under this program, $1.8 million is made available each year to be shared equally among the three states. The funding is provided directly to the counties in Arizona, New Mexico, and Utah that contain the Navajo reservation. I want to be very clear: these Federal funds can be used only on roads that are located within or that lead to the reservation, that are on the State or county maintenance system, and that are used by school buses.

This program has been very successful. For 14 years, the counties have used the annual funding to help maintain the routes used by school buses to carry children to school and to Headstart programs. I have had an opportunity to see firsthand the importance of this funding when I rode in a school bus over some of the roads that are maintained using funds from this program.

The bill we are introducing today provides a simple 6 year reauthorization of that program, for fiscal years 2012 through 2017, with a modest increase in the annual funding to allow for inflation and for additional roads to be maintained in each of the three states.

I believe that continuing this program for 6 more years is fully justified because of the vast area of the Navajo reservation, by far the nation's largest, and the unique nature of this need that only the Federal Government can deal with effectively.

I don't believe any child wanting to get to and from school should have to risk or tolerate unsafe roads. Kids today, particularly in rural and remote areas, face enough hurdles to getting a good education. I ask my colleagues to join me again this year in assuring that Navajo schoolchildren at least have a chance to get to school safely and get an education.

I look forward to working with Chairman BOXER and Ranking Member INHOFE of the Environment and Public Works Committee, and Chairman BAUCUS and Ranking Member VITTER of the Transportation and Infrastructure Subcommittee, to incorporate this legislation once again into the next comprehensive 6 year reauthorization of surface transportation programs.

Mr. President, I ask unanimous consent that text of the bill be printed in the RECORD.

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

S. 885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian School Bus Route Safety Reauthorization Act of 2011''.

SEC. 2. REAUTHORIZATION OF ADDITIONAL CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206; 119 Stat. 1460) is amended by striking ''$1,800,000 for each of fiscal years 2005 through 2009'' and inserting ''$2,000,000 for each of fiscal years 2012 through 2017''.

By Mr. UDALL of New Mexico:

S. 886. A bill to amend the Interstate Horseracing Act of 1978 to prohibit the use of performance-enhancing drugs in horseracing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. UDALL of New Mexico. Mr. President, I rise today to introduce the Interstate Horseracing Improvement Act. This legislation addresses an issue affecting interstate commerce and an iconic American animal. I am pleased to be working on this in a bipartisan manner with Representative ED WHITFIELD of Kentucky.

Although many recognize the horse as an iconic American animal, particularly for the West, there are probably few who know how long horseracing has been a part of our nation's history. My colleagues in Kentucky, Maryland, and New York can boast of the Sport of Kings' long tradition in their States. Yet the first recorded horserace in what is now the United States took place in New Mexico. In 1541, the Spanish explorer Coronado challenged one of his officers to a match race while they were camped near Bernalillo.

The Spanish brought not only horses, but also horseracing to what is now the United States. Decades before the Pilgrims arrived at Plymouth Rock, Don Juan de Oñate crossed into present day New Mexico with Spanish colonists who were not just settlers but caballeros, or ''horse'' men. Native American petroglyphs record early encounters with these new arrivals travelling on horseback. Horseracing became a tradition in the Southwest as it later did in Eastern states.

That tradition continues today at racetracks in New Mexico and over 30 other States across the nation. With the Kentucky Derby this Saturday,

many Americans will turn their attention to Churchill Downs for the most exciting two minutes in sports. Some of the best of horseracing will be on display. Away from the crowds, however, horseracing finds itself facing an unattractive reality. Too many of its equine athletes are overmedicated and doped. The Sport of Kings is no place for such a drug problem.

American horseracing stands apart from the rest of the world when it comes to permissive medication rules and tolerance of doping. Unlike other countries that ban race day medications, racing jurisdictions here allow injecting horses just hours before post time. There are trainers who violate medication rules multiple times, seemingly with impunity. According to a recent Racing Commissioners International, RCI, letter, one trainer has been sanctioned at least 64 times for various rule violations, including medication violations involving the class 2 painkiller mepivacaine and the class 3 drug clenbuterol. According to the New York Times, only two of the top 20 trainers, by racing purses won, have never been cited for a medication violation. This tolerance of doping represents a shameful abuse of an iconic American animal, and it is time to put an end to it.

Anyone who goes to the track outside of a Triple Crown or Breeders' Cup race knows that attendance is down across the country. The decline is especially stark considering that horseracing was once the No. 1 spectator sport in the United States. One poll of sports industry insiders found that most think horseracing is in decline or dying. With the loss of fans, comes the loss of revenue that ultimately sustains a $40 billion industry and 400,000 jobs nationwide, including 10,000 jobs in my home State. As current fans leave the sport, many potential new fans will probably never come to the track while doping is rampant.

Although a horse may need therapeutic medication from time to time, there is no excuse for injecting almost all thoroughbreds hours before they race. As RCI Chairman William Koester rightly noted, that just does not pass the smell test with the public or anyone else. While medicating sound horses on race day is concerning, the doping of sore horses is appalling. Sore and lame horses should not be raced. Feeling no pain, an injured horse on drugs may continue to charge down the track, endangering every horse and jockey in the race. Drugs may account for the fact that the U.S. horse fatality rate is more than three times higher than in comparable British flat racing. Trainers or anyone else caught doping racehorses should face stiff penalties, including fines and meaningful suspensions.

This is a matter of concern to me as a senator from a state where quarterhorse and thoroughbred racing is an important industry. But it should be of concern to all my Senate colleagues since Congress granted a special privilege to horseracing that no other U.S. gambling enterprise enjoys: interstate and online wagering. The Interstate Horseracing Act of 1978, IHA, allows off-track, or ''simulcast,'' wagering across state lines. Internet wagering on horseraces subject to the IHA was granted a special exemption from the Unlawful Internet Gambling Enforcement Act of 2006, UIGEA. Given the benefits of the IHA, the horse racing industry should not only protect the safety and welfare of its animals and jockeys, but also ensure the integrity of the sport.

I reluctantly believe that Congressional action is needed to address this critical challenge facing the industry. Unlike other sports, horseracing lacks a governing body that can issue uniform medication rules and ban performance enhancing drugs. That is why recent calls from the RCI and the Jockey Club to phase out race day medication are not enough to save American horseracing. Despite repeated pledges from the racing industry to address this issue, horseracing's drug problem has festered for decades.

The legislation Representative WHITFIELD and I are introducing today would amend the Interstate Horseracing Act to ban performance-enhancing drugs and require stiff penalties for doping. Under the Interstate Horseracing Improvement Act, anyone who knowingly provides or races a horse on performance enhancing drugs faces minimum fines and suspensions. The winner of each race plus one additional horse must be tested for performance enhancing drugs. To ensure quality testing, the bill requires that test labs are accredited to quality standards. This legislation envisions that individual state racing commissions would continue to enforce horseracing rules within their jurisdiction, including the new anti-doping rules. However, the Federal Trade Commission can also enforce the anti-doping rules if there is inadequate enforcement. The new rules would apply only to those races that are already governed by the IHA.

In addition to the animal welfare issues that doping creates, I know how important drug reform is for those who make their living from the sport. Passing this legislation will help bring integrity back to racing, benefitting everyone involved and, most importantly, the health and safety of the horses at the center of it all.

I urge my colleagues to support the Interstate Horseracing Improvement Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Interstate Horseracing Improvement Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Congress enacted the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) to regulate interstate commerce with respect to parimutuel wagering on horseracing in order to protect and further the horseracing industry of the United States.

(2) The horseracing industry represents approximately $40,000,000,000 to the United States economy annually and generates nearly 400,000 domestic jobs.

(3) The use of performance-enhancing drugs in horseracing adversely affects interstate commerce, creates unfair competition, deceives horse buyers and the wagering public, weakens the breed of the American Thoroughbred, is detrimental to international sales of the American Thoroughbred, and threatens the safety and welfare of horses and jockeys.

(4) The use of performance-enhancing drugs in horseracing is widespread in the United States, where no uniform regulations exist with respect to the use of, and testing for, performance-enhancing drugs in interstate horseracing.

(5) The use of performance-enhancing drugs in horseracing is not permitted in most jurisdictions outside the United States. In the internationally competitive sport of horseracing, the United States stands alone in its permissive use of performance-enhancing drugs.

(6) The use of performance-enhancing drugs is illegal in the United States in every sport other than horseracing.

(7) To protect and further the horseracing industry of the United States, it is necessary to prohibit the use of performance-enhancing drugs in interstate horseracing.

SEC. 3. PROHIBITIONS ON USE OF PERFORMANCE-ENHANCING DRUGS.

(a) IN GENERAL.—The Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) is amended—

(1) by redesignating section 9 as section 11; and

(2) by inserting after section 8 the following:

''SEC. 9. PROHIBITIONS ON USE OF PERFORMANCE-ENHANCING DRUGS.

''(a) DEFINITIONS.—In this section:

''(1) ACCREDITED THIRD PARTY CONFORMITY ASSESSMENT BODY.—The term 'accredited third party conformity assessment body' means a testing laboratory that has an accreditation—

''(A) meeting International Organization for Standardization/International Electrotechnical Commission standard 17025:2005 entitled 'General Requirements for the Competence of Testing and Calibration Laboratories' (or any successor standard);

''(B) from an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement; and

''(C) that includes testing for performance-enhancing drugs within the scope of the accreditation.

''(2) PERFORMANCE-ENHANCING DRUG.—The term 'performance-enhancing drug'—

''(A) means any substance capable of affecting the performance of a horse at any time by acting on the nervous system, cardiovascular system, respiratory system, digestive system, urinary system, reproductive system, musculoskeletal system, blood system, immune system (other than licensed vaccines against infectious agents), or endocrine system of the horse; and

''(B) includes the substances listed in the Alphabetized Listing of Drugs in the January 2010 revision of the Association of Racing Commissioners International, Inc., publication entitled 'Uniform Classification Guidelines for Foreign Substances'.

''(b) PROHIBITION ON ENTERING HORSES UNDER THE INFLUENCE OF PERFORMANCE-ENHANCING DRUGS IN RACES SUBJECT TO INTERSTATE OFF-TRACK WAGERING.—A person may not—

''(1) enter a horse in a race that is subject to an interstate off-track wager if the person knows the horse is under the influence of a performance-enhancing drug; or

''(2) knowingly provide a horse with a performance-enhancing drug if the horse, while under the influence of the drug, will participate in a race that is subject to an interstate off-track wager.

''(c) REGULATIONS OF THE HOST RACING ASSOCIATION BANNING PERFORMANCE-ENHANCING DRUGS.—A host racing association may not conduct a horserace that is the subject of an interstate off-track wager unless the host racing association has a policy in place that—

''(1) bans any person from providing a horse with a performance-enhancing drug if the horse will participate in such a horserace while under the influence of the drug;

''(2) bans the racing of a horse that is under the influence of a performance-enhancing drug;

''(3) requires, for each horserace that is the subject of an interstate off-track wager, that an accredited third party conformity assessment body test for any performance-enhancing drug—

''(A) the first-place horse in the race; and

''(B) one additional horse, to be randomly selected from the other horses participating in the race; and

''(4) requires the accredited third party conformity assessment body performing tests described in paragraph (3) to report any test results demonstrating that a horse may participate, or may have participated, in a horserace that is the subject of an interstate off-track wager while under the influence of a performance-enhancing drug—

''(A) to the Federal Trade Commission; and

''(B) if the host racing commission has entered into an agreement under subsection (e), to the host racing commission.

''(d) PENALTIES.—

''(1) CIVIL PENALTIES.—

''(A) IN GENERAL.—A person that provides a horse with a performance-enhancing drug or races a horse in violation of subsection (b) shall be—

''(i) for the first such violation—

''(I) subject to a civil penalty of not less than $5,000; and

''(II) suspended for a period of not less than 180 days from all activities relating to any horserace that is the subject of an interstate off-track wager;

''(ii) for the second such violation—

''(I) subject to a civil penalty of not less than $20,000; and

''(II) suspended for a period of not less than 1 year from all activities relating to any horserace that is the subject of an interstate off-track wager; and

''(iii) for the third or subsequent such violation—

''(I) subject to a civil penalty of not less than $50,000; and

''(II) permanently banned from all activities relating to any horserace that is the subject of an interstate off-track wager.

''(B) HORSERACING ACTIVITIES.—For purposes of subparagraph (A), activities relating to a horserace that is the subject of an interstate off-track wager include being physically present at any race track at which any such horserace takes place, placing a wager on any such horserace, and entering a horse in any such horserace.

''(C) PAYMENT OF CIVIL PENALTIES.—A civil penalty imposed under this paragraph shall be paid to the United States without regard to whether the imposition of the penalty results from the initiation of a civil action pursuant to section 10.

''(2) SUSPENSION OF HORSES.—A horse that is provided with a performance-enhancing drug or is raced in violation of subsection (b) shall—

''(A) for the first such violation, be suspended for a period of not less than 180 days from racing in any horserace that is the subject of an interstate off-track wager;

''(B) for the second such violation, be suspended for a period of not less than 1 year from racing in any horserace that is the subject of an interstate off-track wager; and

''(C) for the third or subsequent such violation, be suspended for a period of not less than 2 years from racing in any horserace that is the subject of an interstate off-track wager.

''(3) VIOLATIONS IN MULTIPLE STATES.—A person shall be subject to a penalty described in clause (ii) or (iii) of paragraph (1)(A), and a horse shall be subject to suspension under subparagraph (B) or (C) of paragraph (2), for a second or subsequent violation of subsection (b) without regard to whether the prior violation and the second or subsequent violation occurred in the same State.

''(e) AGREEMENTS FOR ENFORCEMENT BY HOST RACING COMMISSIONS.—

''(1) IN GENERAL.—The Federal Trade Commission may enter into an agreement with a host racing commission under which the host racing commission agrees to enforce the provisions of this section with respect to horseraces that are the subject of interstate off-track wagers in the host State.

''(2) CONDITIONAL AVAILABILITY OF CIVIL PENALTIES TO HOST RACING COMMISSIONS.—If a host racing commission agrees to enforce the provisions of this section pursuant to an agreement under paragraph (1), any amounts received by the United States as a result of a civil penalty imposed under subsection (d)(1) with respect to a horserace that occurred in the State in which the host racing commission operates shall be available to the host racing commission, without further appropriation and until expended, to cover the costs incurred by the host racing commission in enforcing the provisions of this section.

''(f) ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.—

''(1) IN GENERAL.—The Federal Trade Commission shall enforce the provisions of this section—

''(A) with respect to horseraces that are the subject of interstate off-track wagers that occur—

''(i) in any State in which the host racing commission does not enter into an agreement under subsection (e); and

''(ii) in any State in which the host racing commission has entered into an agreement under subsection (e) if the Federal Trade Commission determines the host racing commission is not adequately enforcing the provisions of this section; and

''(B) with respect to violations of subsection (b) by a person, or with respect to a horse, in multiple States.

''(2) UNFAIR OR DECEPTIVE ACT OR PRACTICE; ACTIONS BY FEDERAL TRADE COMMISSION.—In cases in which the Federal Trade Commission enforces the provisions of this section pursuant to paragraph (1)—

''(A) a violation of a prohibition described in subsection (b) or (c) shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)); and

''(B) except as provided in paragraph (3), the Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

''(3) ENFORCEMENT WITH RESPECT TO NONPROFIT ORGANIZATIONS.—Notwithstanding any provision of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), the Federal Trade Commission shall have the authority to enforce the provisions of this section pursuant to paragraph (1) with respect to organizations that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and that are exempt from taxation under section 501(a) of such Code.

''(g) RULEMAKING.—The Federal Trade Commission shall prescribe such rules as may be necessary to carry out the provisions of this section in accordance with the provisions of section 553 of title 5, United States Code.

''(h) EFFECT ON STATE LAWS.—Nothing in this section preempts a State from adopting or enforcing a law, policy, or regulation prohibiting the use of performance-enhancing drugs in horseracing to the extent that the law, policy, or regulation imposes additional requirements or higher penalties than are provided for under this section.

''SEC. 10. PRIVATE RIGHT OF ACTION FOR CERTAIN VIOLATIONS.

''Notwithstanding sections 6 and 7, in any case in which a person has reason to believe that an interest of that person is threatened or adversely affected by the engagement of another person in a practice that violates a provision of section 9 or a rule prescribed under section 9, the person may bring a civil action in an appropriate district court of the United States or other court of competent jurisdiction—

''(1) to enjoin the practice;

''(2) to enforce compliance with the provision or rule;

''(3) to enforce the penalties provided for under section 9(d);

''(4) to obtain damages or restitution, including court costs and reasonable attorney and expert witness fees; and

''(5) to obtain such other relief as the court considers appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to horseraces occurring on or after that date.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 162—EXPRESSING THE SENSE OF THE SENATE THAT STABLE AND AFFORDABLE HOUSING IS AN ESSENTIAL COMPONENT OF AN EFFECTIVE STRATEGY FOR THE PREVENTION, TREATMENT, AND CARE OF HUMAN IMMUNODEFICIENCY VIRUS, AND THAT THE UNITED STATES SHOULD MAKE A COMMITMENT TO PROVIDING ADEQUATE FUNDING FOR THE DEVELOPMENT OF HOUSING AS A RESPONSE TO THE ACQUIRED IMMUNODEFICIENCY SYNDROME PANDEMIC

Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. FRANKEN, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Ms. SNOWE, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 162

Whereas adequate and secure housing for people with human immunodeficiency virus or acquired immunodeficiency syndrome (referred to in this preamble as ''HIV/AIDS'') is a challenge with global dimensions, and adequate housing is one of the greatest unmet needs of people in the United States with HIV/AIDS;

Whereas growing empirical evidence shows that socioeconomic status and structural factors such as access to adequate housing are key determinants of health;

Whereas the link between poverty, disparities in the risk of human immunodeficiency virus (referred to in this resolution as ''HIV'') infection, and health outcomes is well established, and new research demonstrates the direct relationship between inadequate housing and greater risk of HIV infection, poor health outcomes, and early death;

Whereas rates of HIV infection are 3 to 16 times higher among people who are homeless or have an unstable housing situation, 70 percent of all people living with HIV/AIDS report an experience of homelessness or housing instability during their lifetime, and the HIV/AIDS death rate is 7 to 9 times higher for homeless adults than for the general population;

Whereas poor living conditions, including overcrowding and homelessness, undermine safety, privacy, and efforts to promote self-respect, human dignity, and responsible sexual behavior;

Whereas people who are homeless or have an unstable housing situation are 2 to 6 times more likely to use hard drugs, share needles, or exchange sex for money and housing than similar persons with stable housing, because the lack of stable housing directly impacts the ability of people living in poverty to reduce HIV risk behaviors;

Whereas, in spite of the evidence indicating that adequate housing has a direct positive effect on HIV prevention, treatment, and health outcomes, the housing resources devoted to the national response to HIV/AIDS have been inadequate, and housing has been largely ignored in policy discussions at the international level; and

Whereas, in 1990, Congress recognized the housing needs of people with HIV/AIDS when it enacted the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.), commonly referred to as the ''Housing Opportunities for Persons with AIDS Program'' or ''HOPWA Program'', as part of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4079), and the HOPWA program currently serves approximately 60,000 households: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) stable and affordable housing is an essential component of an effective strategy for human immunodeficiency virus prevention, treatment, and care; and

(2) the United States should make a commitment to providing adequate funding for the development of housing as a response to the acquired immunodeficiency syndrome pandemic.

SENATE RESOLUTION 163—COMMEMORATING THE 175TH ANNIVERSARY OF THE UNITED STATES NATIONAL LIBRARY OF MEDICINE

Mr. HARKIN submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 163

Whereas since 1836, the National Library of Medicine has played a crucial role in information innovation, revolutionizing the way scientific and medical information is organized, stored, accessed, and disseminated;

Whereas the National Library of Medicine houses the largest and most distinguished collection of health science and medical research literature in the world and serves as a vital resource to researchers, health professionals, and health care consumers;

Whereas the National Library of Medicine produces and provides free public access to comprehensive online databases of biological, genomic, and clinical research data that are a lynchpin to cutting edge biomedical research and are searched more than 2,000,000,000 times each year;

Whereas the National Library of Medicine plays a central role in developing health data standards to enable efficient use and exchange of health information in electronic health records;

Whereas the National Library of Medicine has conducted and supported training programs for ground-breaking informatics research and development for more than 40 years;

Whereas the National Library of Medicine is a leading source of toxicology, environmental health, and disaster preparedness and response information, including innovative use of information technology and mobile devices for first responders;

Whereas the National Library of Medicine has developed a wide range of consumer health information resources, which have improved the health of citizens of the United States and persons around the globe; and

Whereas the long and distinguished history of the National Library of Medicine is worthy of special commemoration by the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 175th anniversary of the United States National Library of Medicine;

(2) salutes the National Library of Medicine for a long and distinguished record of service to citizens of the United States and people around the globe, and for the many contributions of the National Library of Medicine in the area of information innovation; and

(3) calls upon the people of the United States to observe the 175th anniversary of the United States National Library of Medicine with appropriate recognition and activities.

Mr. HARKIN. Mr. President, as a member of the Senate who has been very interested in and involved with the areas of biomedical research, health care and the improvement of the public health, I want to draw the attention of the Congress and the Nation to the 175th anniversary of the National Library of Medicine, NLM, located at the National Institutes of Health, NIH.

NLM has changed the way scientific and medical information is organized, stored, accessed and disseminated. Throughout its distinguished history, the Library's hallmark has been information innovation, leading to exciting scientific discoveries that ultimately improve the public health.

From its modest beginnings as the Library of the U.S. Army Surgeon General in 1836, the National Library of Medicine has grown to become the world's largest medical library and the producer of electronic information resources used by millions of people around the globe every day.

The NLM has been fortunate to be led by Donald A.B. Lindberg, M.D. since 1984. Under Dr. Lindberg's leadership, the Library has dramatically advanced toward its goal of providing access to biomedical information—anytime, anywhere—for scientists, health professionals, and the public. During Dr. Lindberg's tenure, NLM has embraced the Internet as the primary mode of delivering its services and expanded its portfolio to include genetic sequence data, high-resolution anatomical images, clinical trials information, and a wide array of high-quality information for consumers. One wonders what astonishing developments the next 175 years might bring.

Throughout its 175 years, NLM's work has been vital to facilitating and improving the effectiveness of biomedical research, getting important health information out to health professionals and consumers and conducting groundbreaking informatics research.

Index Medicus, a groundbreaking index of medical journal articles first published in 1879, evolved into MEDLINE, the first marriage of online search technology and nationwide telecommunications, in 1971. Available free of charge since 1997 via the Internet, PubMed/MEDLINE is today the most frequently consulted medical database in the world.

NLM began providing toxicology and environmental health data for use in emergency response and disaster management in the mid–1960s. Today, it produces information services to help health professionals, disaster information specialists, and the general public cope with emergencies and disasters ranging from children swallowing household cleaners to overturned trucks carrying hazardous materials to the widespread effects of hurricanes, earthquakes, wildfires, and oil spills.

NLM established librarian training programs and the National Network of Libraries of Medicine in the late 1960s, to provide equal access to the biomedical literature to persons across the country. Now with nearly 6,000 members, NLM and this network of academic, hospital, and public libraries partner with community-based organizations to bring high-quality information services to health professionals and the public—regardless of geographic location, socioeconomic status or level of access to computers and telecommunications.

NLM has conducted and supported training programs and groundbreaking informatics research and development for more than 40 years. The Library, its grantees, and its former trainees continue to play essential roles in the development of electronic health records, health data standards, and the exchange of health information.

NLM is home to the National Center for Biotechnology Information, NCBI,

established in 1988 as a national resource for molecular biology information. Its work was essential to the mapping of the human genome. Today, NCBI is an indispensable international repository and software tool developer for genetic sequences and other scientific data, and a pioneer and leader in linking data and published research results to promote new scientific discoveries.

NLM began intensive development of Web health information services for the general public in 1998 with the release of MedlinePlus.gov. Now available in English and Spanish, MedlinePlus is just one of many NLM consumer health information products also available on mobile devices. An award-winning free magazine, NIH MedlinePlus, is edited by NLM staff and is an important vehicle for sharing information from all of the NIH Institutes and Centers, in language that consumers can easily understand. Copies of the magazine, both an English and Spanish-language version, are distributed to doctors' offices, clinics, community health centers and other sites around the Nation.

NLM released ClinicalTrials.gov in 2000. It is now the world's largest source of information about clinical trials recruiting for patients and healthy volunteers, and also provides summary results of some trials long before they appear in the published literature.

In 2003, the Library teamed with the National Institute on Aging to launch NIHSeniorHealth. The site features authoritative, up-to-date information from the NIH Institutes and Centers, in a format that addresses the cognitive changes that come with older adulthood and allows easy use.

Also in 2003, NLM began a program called the Information Rx. Partnering with a variety of respected national physician groups and other organizations, NLM has supplied prescription pads to health providers, so that they can point their patients to the first-rate health information on the MedlinePlus site.

In recognition of its many achievements, today I am introducing the following Senate Resolution to commemorate the 175th anniversary of the founding of the National Library of Medicine. I offer my congratulations to NLM and to its current and past leadership and staff and thank them for their important public service.

SENATE RESOLUTION 164—RECOGNIZING THE TEACHERS OF THE UNITED STATES FOR THEIR CONTRIBUTIONS TO THE DEVELOPMENT AND PROGRESS OF OUR NATION

Mr. LAUTENBERG (for himself, Ms. MURKOWSKI, Mrs. MURRAY, Mrs. GILLIBRAND, Ms. LANDRIEU, Ms. STABENOW, Mrs. FEINSTEIN, Mr. COONS, Mr. SANDERS, Mr. BEGICH, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. WARNER, Mr. KOHL, Mr. JOHNSON of South Dakota, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 164

Whereas education is the foundation of the current and future strength of the United States;

Whereas teachers and other education staff have earned and deserve the respect of students and communities for selfless dedication to our Nation's children;

Whereas the purpose of ''National Teacher Appreciation Week'', which is May 2, 2011, through May 6, 2011, is to raise public awareness of the important contributions of teachers and to promote greater respect and understanding for the teaching profession;

Whereas the teachers of the United States play an important role in preparing children to be positive and contributing members of society; and

Whereas students, schools, communities, and a number of organizations are hosting teacher appreciation events in recognition of ''National Teacher Appreciation Week'': Now, therefore, be it

Resolved, That the Senate—

(1) thanks teachers for their service;

(2) promotes the profession of teaching; and

(3) encourages students, parents, school administrators, and public officials to participate in teacher appreciation events during ''National Teacher Appreciation Week''.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 5, 2011, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on ''Stolen Identities: The Impact of Racist Stereotypes on Indigenous People.''

Those wishing additional information may contact the Indian Affairs Committee.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks.

The hearing will be held on Wednesday, May 11, 2011, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 114, to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes;

S. 127, to establish the Buffalo Bayou National Heritage Area in the State of Texas, and for other purposes;

S. 140, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, and for other purposes;

S. 161, to establish Pinnacles National Park in the State of California as a unit of the National Park System, and for other purposes;

S. 177, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California;

S. 247, to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, and for other purposes;

S. 279, to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System;

S. 302, to authorize the Secretary of the Interior to issue right-of-way permits for a natural gas transmission pipeline in nonwilderness areas within the boundary of Denali National Park, and for other purposes;

S. 313, to authorize the Secretary of the Interior to issue permits for a microhydro project in nonwilderness areas within the boundaries of Denali National Park and Preserve, to acquire land for Denali National Park and Preserve from Doyon Tourism, Inc., and for other purposes;

S. 323, to establish the First State National Historical Park in the State of Delaware, and for other purposes;

S. 403, to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in the State of Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes;

S. 404, to modify a land grant patent issued by the Secretary of the Interior;

S. 508, to establish the Chimney Rock National Monument in the State of Colorado;

S. 535, to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes;

S. 564, to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes;

S. 599, to establish a commission to commemorate the sesquicentennial of the American Civil War;

S. 713, to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, and for other purposes;

S. 765, to modify the boundary of the Oregon Caves National Monument, and for other purposes;

S. 779, to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program;

S. 849, to establish the Waco Mammoth National Monument in the State of Texas, and for other purposes; and

S. 858, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating the Colonel Charles Young Home in Xenia, Ohio as a unit of the National Park System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to allison_seyferth@energy.senate.gov.

For further information, please contact Sara Tucker or Allison Seyferth.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 12, 2011, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on carbon capture and sequestration legislation, including S. 699 and S. 757.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Allyson Anderson or Abigail Campbell.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, June 16, 2011, at 10:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to review S. 343, a bill to amend Title I of PL 99–658 regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau, to approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review, to appropriate funds for the purposes of the amended PL 99–658 for fiscal years ending on or before September 30, 2024, and to carry out the agreements resulting from that review.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Al Stayman or Abigail Campbell.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 4, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Budget Enforcement Mechanisms.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 4, 2011, at 2:45 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 4, 2011, at 10 a.m. to conduct a hearing entitled ''Securing the Border: Progress at the Federal level.''

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

COMMITTEE ON THE JUDICIARY

Mr. REED. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 4, 2011, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the U.S. Department of Justice.''

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

COMMITTEE ON THE JUDICIARY

Mr. REED. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 4, 2011, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate, on May 4, 2011.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REED. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 4, 2011, at 10 a.m.

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

SUBCOMMITTEE ON PERSONNEL

Mr. REED. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on May 4, 2011, at 2 p.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. REED. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on May 4, 2011, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Jesse Boettcher be granted floor privileges. He is currently my military fellow.

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

Mrs. HUTCHISON. Mr. President, as Jesse Boettcher is coming to the floor—and before I speak—I want to say he has served in the Army Special Operations Command for the past 16 years. Jesse, a special forces sergeant major, has deployed to Iraq and Afghanistan numerous times over the past decade, and he has added tremendously to our office's military and overall productivity.

Mr. MERKLEY. Mr. President, I ask unanimous consent that my intern, Eric Strod, be granted the privilege of the floor through the balance of the day.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Samantha Wessels, Kelly Mormon, and Carolyn Trager of my staff be granted the privilege of the floor for the duration of today's proceedings.

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

CONGRATULATING THE UNIVERSITY OF MINNESOTA DULUTH MEN'S ICE HOCKEY TEAM

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 151 and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 151) congratulating the University of Minnesota Duluth men's ice hockey team on winning their first National Collegiate Athletic Association (NCAA) Division I Men's Hockey National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the resolution

be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 151

Whereas on Saturday, April 9, 2011, the University of Minnesota Duluth won the 2011 NCAA Division I Men's Ice Hockey Championship;

Whereas this is the first national championship for the University of Minnesota Duluth Bulldogs men's ice hockey team (the ''University of Minnesota Duluth'');

Whereas the University of Minnesota Duluth won the Frozen Four championship game with a 3 to 2 sudden death win over the University of Michigan;

Whereas on Thursday, April 7, 2011, the University of Minnesota Duluth defeated the University of Notre Dame in the Frozen Four semifinal game with a score of 4 to 3 to advance to the national championship game;

Whereas the game was played before a sellout crowd of more than 19,200 fans at the Xcel Energy Center in St. Paul, Minnesota;

Whereas the University of Minnesota Duluth finished the 2010–2011 season with the most wins since the 2003–2004 season;

Whereas in the 2010–2011 season the University of Minnesota Duluth had the most fans for a home schedule in 50 Division I seasons, averaging more than 6,800 fans;

Whereas the University of Minnesota Duluth never lost more than 1 game in a row, a first in program history; and

Whereas the University of Minnesota Duluth had 6 wins and 1 loss in the postseason, closing with 4 straight wins and beating the top 2 teams in the Eastern College Athletic Conference in the East Regional and the top 2 teams in the Central Collegiate Hockey Association in the Frozen Four: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication helped the University of Minnesota Duluth win the 2011 NCAA Division I Men's Hockey National Championship; and

(2) recognizes University of Minnesota Duluth Chancellor Lendley Black and Athletic Director Bob Nielson, who have shown great leadership in bringing athletic success to the University of Minnesota Duluth.

RECOGNIZING THE TEACHERS OF THE UNITED STATES

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 164, which was introduced earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 164) recognizing the teachers of the United States for their contributions to the development and progress of our Nation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 164) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 164

Whereas education is the foundation of the current and future strength of the United States;

Whereas teachers and other education staff have earned and deserve the respect of students and communities for selfless dedication to our Nation's children;

Whereas the purpose of ''National Teacher Appreciation Week'', which is May 2, 2011, through May 6, 2011, is to raise public awareness of the important contributions of teachers and to promote greater respect and understanding for the teaching profession;

Whereas the teachers of the United States play an important role in preparing children to be positive and contributing members of society; and

Whereas students, schools, communities, and a number of organizations are hosting teacher appreciation events in recognition of ''National Teacher Appreciation Week'': Now, therefore, be it

Resolved, That the Senate—

(1) thanks teachers for their service;

(2) promotes the profession of teaching; and

(3) encourages students, parents, school administrators, and public officials to participate in teacher appreciation events during ''National Teacher Appreciation Week''.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194, as amended by Public Law 101–595, and upon the recommendation of the Chairman of the Committee on Commerce, Science and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy: the Senator from Mississippi (Mr. WICKER), from the Committee on Commerce, Science and Transportation and the Senator from Pennsylvania (Mr. TOOMEY), At Large.

MEASURE READ THE FIRST TIME—H.R. 1213

Mr. MERKLEY. Mr. President, I understand H.R. 1213 has been received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1213) to repeal mandatory funding provided to States in the Patient Protection and Affordable Care Act to establish American Health Benefit Exchanges.

Mr. MERKLEY. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, MAY 5, 2011

Mr. MERKLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, May 5; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks, the Senate proceed to a period of morning business for debate only until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

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

PROGRAM

Mr. MERKLEY. Mr. President, the next rollcall vote is expected on Monday, May 9, at 5:30 p.m. That vote will be in relation to a nomination.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MERKLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:59 p.m., adjourned until Thursday, May 5, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

SECURITIES INVESTOR PROTECTION CORPORATION

ANTHONY FRANK D'AGOSTINO, OF MARYLAND, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2011, VICE MARK S. SHELTON, TERM EXPIRED.

ANTHONY FRANK D'AGOSTINO, OF MARYLAND, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2014. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

JANICE EBERLY, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ALAN B. KRUEGER, RESIGNED.

DEPARTMENT OF STATE

RYAN C. CROCKER, OF WASHINGTON, PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF AFGHANISTAN.

THE JUDICIARY

CHRISTOPHER DRONEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE GUIDO CALABRESI, RETIRED.

DANA L. CHRISTENSEN, OF MONTANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MONTANA, VICE DONALD W. MOLLOY, RETIRING.

KATHERINE B. FORREST, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE JED S. RAKOFF, RETIRED.

JOHN M. GERRARD, OF NEBRASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA, VICE RICHARD G. KOPF, RETIRING.

YVONNE GONZALEZ ROGERS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE VAUGHN R. WALKER, RETIRED.

EDGARDO RAMOS, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE STEPHEN C. ROBINSON, RESIGNED.

ROBERT N. SCOLA, JR., OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE PAUL C. HUCK, RETIRED.

DEPARTMENT OF JUSTICE

DENNIS J. ERBY, OF MISSISSIPPI, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF FOUR YEARS, VICE LARRY WADE WAGSTER, RESIGNED.

EDWARD M. SPOONER, OF FLORIDA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE DENNIS ARTHUR WILLIAMSON, TERM EXPIRED.

ELECTION ASSISTANCE COMMISSION

THOMAS HICKS, OF VIRGINIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2013, VICE GRACIA M. HILLMAN, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAN-MARC JOUAS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BROOKS L. BASH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN L. HOOG

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. DAVID E. DEPUTY

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIG. GEN. JAMES D. DEMERITT
BRIG. GEN. JOSEPH K. MARTIN, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL MARK A. ATKINSON
BRIGADIER GENERAL WILLIAM J. BENDER
BRIGADIER GENERAL BRIAN T. BISHOP
BRIGADIER GENERAL CHRISTOPHER C. BOGDAN
BRIGADIER GENERAL MICHAEL J. CAREY
BRIGADIER GENERAL JOHN B. COOPER
BRIGADIER GENERAL SAMUEL D. COX
BRIGADIER GENERAL BARBARA J. FAULKENBERRY
BRIGADIER GENERAL RUSSELL J. HANDY
BRIGADIER GENERAL MICHAEL A. KELTZ
BRIGADIER GENERAL STEVEN L. KWAST
BRIGADIER GENERAL FREDERICK H. MARTIN
BRIGADIER GENERAL THOMAS J. MASIELLO
BRIGADIER GENERAL EARL D. MATTHEWS
BRIGADIER GENERAL ROBERT P. OTTO
BRIGADIER GENERAL JOHN W. RAYMOND
BRIGADIER GENERAL DARRYL L. ROBERSON
BRIGADIER GENERAL ANTHONY J. ROCK
BRIGADIER GENERAL JAY G. SANTEE
BRIGADIER GENERAL ROWAYNE A. SCHATZ, JR.
BRIGADIER GENERAL JOHN F. THOMPSON
BRIGADIER GENERAL THOMAS J. TRASK
BRIGADIER GENERAL JOSEPH S. WARD, JR.
BRIGADIER GENERAL JACK WEINSTEIN
BRIGADIER GENERAL ROBERT E. WHEELER
BRIGADIER GENERAL MARTIN WHELAN
BRIGADIER GENERAL STEPHEN W. WILSON
BRIGADIER GENERAL TOD D. WOLTERS
BRIGADIER GENERAL TIMOTHY M. ZADALIS

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. PATRICIA D. HOROHO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JAMES D. THURMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MARK W. PALZER

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. GERALD E. LANG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be brigadier general

COL. CHARLES R. BAILEY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. OMER C. TOOLEY, JR.

To be brigadier general

COL. BRIAN R. CARPENTER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN R. ALLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD P. MILLS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. GEORGE J. FLYNN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. KENDALL L. CARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. ROBERT S. HARWARD, JR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be colonel

JEFFREY A. BAILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

JAMES A. MACE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

BERNADETTE A. ANDERSON
TERRI L. BAILEY
MARGARET M. CAREY
LINDA A. CASE
TIMOTHY L. COOK
KAREN L. COX DEAN
JUDY B. GAVIN
CHERYL J. GREENTREE
APRIL L. IACOPELLI
DANA J. JAMES
ALLEN J. KIDD
JENNIFER A. KIMMET
MICHELLE D. LAVEY
JERRY B. LAWSON
LORI D. LEE
ANNE T. MAGPURI
JODY L. OCKER
CHRISTOPHER H. PAYNE
CHRISTINE L. PIERCE
DAVID J. ROLL
JEANNINE M. RYDER
CAROLINE M. SAMUOLIS
KATHRYN FORREST TATE
DWAYNE B. WILHITE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JEFFERY D. AEBISCHER
GERALD S. ALONGE
KREG M. ANDERSON
MICHAEL W. BANK
MARK EDWIN BEST
DARLOW G. BOTHA, JR.
CHARLES R. BOWES
JEFFREY CRAIG BOZARD
SHAWN N. BRATTON
DONALD B. BREWER
WILLIAM J. BUTZ
WILLIAM A. CHRISTMAS
GERALD K. COLMER, JR.
TIMOTHY D. CROUCH
FREDERICK PUTNAM DAVIES
RONALD D. DEAL
JOEL EVAN DEGROOT
VIRGINIA I. DOONAN
ANTHONY W. DUBOSE
BRIAN J. DYKSTRA
MAUREEN ANN EVANS
ARTHUR J. FLORU
TIMOTHY HENRY GAASCH
DAVID T. GARNER
PETER S. GARNER
NICHOLAS A. GENTILE, JR.
REBECCA S. GERVASI
ROBERT S. GRANT
KIMBERLY K. L. GREENE
ROBERT J. GREY, JR.
ROBERT A. HAMM
MARK D. HEINIGER
RANDALL LEE INMAN
DANIEL ERIC JARAMILLO
ERIC JONES
JAMES V. JONES
GARY WAYNE KIRK
WILLIAM A. KRUEGER
BURL NORMAN LAMBERT
GREGOR J. LEIST
KURT L. LESLIE
RUSSELL MARK LIMKE
KEVIN C. LITTLEMORE
SCOTT M. LOCKWOOD
PAUL N. LOISELLE
ROBERT J. MACKE
JEFFREY WARREN MAGRAM
KAREN E. MANSFIELD
HAROLD G. MASHBURN
GREGORY S. MCCREARY
KEN R. MCDANIEL
JEFFREY K. MENGES
RITA ANNETTE MILLER
DAVID H. MOLINARO
PATRICIA M. MOOK
JOSEPH F. MORRISSEY, JR.
BILLY M. NABORS
GLEN M. NAKAMURA
JAMES DENNIS NEAL
MICHAEL J. NORTON
CHARLES THOMAS OSUM
JOAN E. PETERSON
CRAIG RAY PIERCE
MARK BRYON PRIVOTT
PETER V. RABINOWITCH
SHIRLEY S. RAGUINDIN
JOHN J. REED
JEFFRY ALLYN RICE
EDITH E. RIVERAMORILLO
TRACY E. RUGER
MARK J. SCHULER
CHARLES ANTHONY SHURLOW
WHITNEY A. SIEBEN
PAUL R. SILVESTRI
THOMAS PATRICK SOSTARICS
JAMES EDWARD STAUBER
DANIEL J. SWAIN
JOHN M. THOMPSON
TOMMY F. TILLMAN, JR.
LISA L. TRAYNOR
WILLIAM MARK VALENTINE
JACK M. WALL
ROY V. WALTON
ROBERT V. WARE
ROBERT JOSEPH WETZEL
KURT V. WOYAK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LAUREN F. AASE
MICHELLE D. AASTROM
LEE ANN ALEXANDER
DAVID E. AMATO
CARMEN ARGUELLES
JOHN F. BAER
KAREN L. BURKE
BARBARA A. CAIN
MEGELA E. CAMPBELL
SHELLEY A. CAMPBELL
RUSSELL D. CARTER
RANDY O. CLAXTON
JEFFREY M. DAXE

KEITH A. DEARDORFF
JULIET T. DEGUZMAN
BEATRICE T. DOLIHITE
KAREY M. DUFOUR
NANCY A. EASTMAN
DONNA M. EGGERT
RUSSEL L. FRANTZ, JR.
LAURIE L. FRAZIER
TRICIA ROCHELLE GARCIA
JON B. GENO
ERWIN N. GINES
TINA M. GOLDEN
LORRAINE S. GRAVLEY
MARY R. GRAY
CAROLYN D. GREEN
SHAWNA M. GREINER
WILLIAM J. GRESS
LINDA A. HAGEMANN
MICHELLE M. HARMON
KENNY L. HARRYMAN
LORIROSE HINDMAN
ANITA A. HOYUELA
BRIAN S. HUBBARD
JAMES M. HURST
GACQUETTE R. JENNINGS
DEBORAH K. JONES
JENNIFER A. KORKOSZ
CHRISTINE A. KRESS
PAUL J. LANGEVIN
CARLA M. LEESEBERG
LIONEL M. LYDE
MARIA E. MELENDEZ
GINGER S. MILLER
MELISSA L. MOUCHETTE
KELLY C. NADER
ANN R. NEAL
GERALDINE G. NELSON
BRIAN T. OCONNOR
JOANN V. PALMER
BRIAN S. PARKER
TORI E. PEARCE
JEANETTE L. PETREQUIN
NICHOLAS R. PETRONE
CAROLYN BECKER PIGNATARO
TAMMY D. POKORNEY
ELENA R. SCHLENKER
MAGGIE H. SCHUMACHER
ANTOINETTE M. SHINN
WARD J. SIERT
ROBERT M. SOUTHER
HEIDI M. STEWART
PATRICK W. STILLEY
PATRICIA A. B. TATE
LARRY A. TODD
JENNIFER L. TRINKLE
KIMBERLY A. VOLLMER
SHEELAH Z. WALKER
RICHARD E. WALLEN
JENNIFER M. WALTERS
MICHAEL D. WASCHER
JOHN J. WEATHERWAX
SHERI A. WEBB
MARLIN G. WEICHEL
CYNTHIA J. WEIDMAN
HAZEL E. WRIGHT
DEBRA S. ZINSMEYER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

LA RITA S. ABEL
SARAH E. ABEL
DEBBORAH L. ADAMS
LAKISHA N. ALBERTIE
ARTHUR B. ASCANO
JESSICA N. ASTORGA
ERIC P. BAILEY
DANA G. BAKER
ALIDAN A. BANGURA
HEIDI M. BAYORO
HOLLI A. BELLUSCI
JANET L. BLANCHARD
JOSEPH H. BOWLEY, JR.
MELONIE M. BRESCIA
GRETA S. BREWSTER
CATHERINE BURNETT
CINDY L. CALLISTO
STACY N. CARR
MYUNGHEE P. CHOI
JOHN E. CLECKNER II
NICKITA R. COUNCIL
MARY L. CRESWELL
AMY EVANGELINE CROW
ALEJANDRO DAVILA
DANIELLE J. DEUTSCHENDORF
RONDA L. DIMAGGIO
REAH C. DOWNS
SAMANTHA L. DREW
MICHELLE RENEE FAELBER
JULIE FLORENTIN
TOD W. FRAZER II
STACY G. FRIESEN
JENNIFER L. GAYLE
GAYLE M. GILLISPIE
BROOKS B. GOETTLE
ELEANOR M. GONZALEZ
FRANCES A. GONZALEZ
JAMES HANUS
DALE E. HARRELL
MALISHA D. HARRIS
CLINTON J. HARTMAN
CURTIS J. HOOPES
BRENDA A. HOWELL
LINDA K. HUGO
MARLISCHA F. JACKSON
JACQUELINE JOHNSON
YVENA JOSEPH
MARY C. KELLEY
JOSEPH G. KELLY
HUI C. KIM
ANGELA M. LACEK
TAMI A. LACO
COREY C. LALONDE
JOHN P. LAWSON
GARY V. LEAVITT
PAMELA E. LICORISH
JOSHUA J. LINDQUIST
CHRISTY L. LIVERY
ANGELA D. MANNING
SEAN M. MARTS
HAROLD L. MCCANTS, JR.
KATHLEEN A. MCKINNEY
JOHN C. MCLENNAN
ARETHA BONIT MITCHELLMURRAY
KEVIN D. MONAGHAN
DANIEL D. MOORE, JR.
VANESSA MORA
DEANNA M. MORRELL
SAUDAH MUHAMMAD
EARNEST C. MULLEN, JR.
MARK A. NAUMAN
CHRISTOPHER T. NELSON
GERARDO F. NERI
VIVIAN A. NEWPORT
VANESSA R. NORTH
COREY M. NORTON
BRITTANY S. NUTT
NELSON PACHECO
BARBARA E. PARKES
HERNANDEZ D. PEREZ
MEFTER M. PERKINS
PAUL L. PFENNIG
ROBERT L. RAULSTON
MARLENE C. REESE
KATHLEEN R. RODRIGUEZ
DARLENE J. SANCHEZ
KRISTINE B. SCHWARTZKOPF
CHRISTOPHER K. SHAMBLIN
JULIE A. SHEPHERD
RYAN R. SMITHERS
YVONNE L. STOREY
SARAH E. STRANSKE
LAWRENCE E. SULLIVAN
NATASHA T. SUTTON
GLEN W. TACEY
BRADLEY A. TERRILL
JOSEPH D. THOMAS
EDWARD L. TICE
WESTINA E. TOLBERT
SAMANTHA TREADWELL
CARLOS VILLANUEVA
BOSTELLA J. WALKER
BRET A. WATERS
JAMES A. WEST
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KATHY M. WILLIAMS
LEAH M. WILLIAMS
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MICHAEL J. ZENK

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MICHAEL P. HARRY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

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RALPH P. AARON, JR.
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JERROD C. ADAMS
JASON N. ADLER
OKECHUKWU AKALAONU
CAMERON L. ALBERT
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ALFRED A. ALLARD
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DANIEL A. ANTOLOS
DANIEL L. ARCHER
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WILLIAM M. BAYNES
JAMIE D. BAZDARIC
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JAISON BLOOM
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JEFFREY M. SHELNUTT
HARRY L. SHERWOOD
LAURA E. SHIPLET
SCOTT A. SHOOP
LEAH C. SHUBIN
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KEVIN W. SIEGRIST
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WARREN O. SIMMONS
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BRADLEY J. SMITH
ERVIN D. SMITH
JAY K. SMITH
JOHN A. SMITH
MATTHEW J. SMITH
MICHAEL A. SMITH
NATHAN J. SMITH
ROBERT J. SMITH
SCOTT R. SMITH
TERRENCE N. SMITH
CARTER M. SMYTH
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DANIEL P. SNOW
JAMES M. SNOWDEN
JAVIER E. SOSTRECINTRON
STACY R. SOUTTER
MICHAEL V. SOYKA
DAVID M. SPANTON
LUCAS SPARKS
JASON G. SPENCER
BERNDT F. SPITTKA
COLE A. SPITZACK
LLOYD E. SPORLUCK
ADAM C. SPRINGER
DANIEL J. SQUYRES
STEVEN J. STANEART
JAMES T. STARTZELL
SCOTT D. STEELE
DUANE G. STEFANIAK
RICHARD T. STEINBACHER
KRISTIN E. STEINBRECHER
PATRICK M. STEVENS
TERRY W. STEVENSON
TARA M. STILES
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DANIEL W. STOCKTON
GALEN D. STONE, JR.
JEFFREY B. STONE
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DANIEL R. STUEWE
THOMAS B. STURM
MICHAEL J. STUTTS
MATTHEW W. SUCEC
CHRISTOPHER M. SWICKARD
DERRICK J. SWIM
JOSEPH D. SWINNEY

MARVIN E. SWITZER, JR.
NICHOLAS R. TALBOT
CHRISTOPHER S. TALLEY
TODD A. TATUM
ISAAC L. TAYLOR
JASON M. TAYLOR
JAY A. TAYLOR
JOSHUA D. TEITGE
STEVEN B. TEMPLETON
CHRISTOPHER D. TERRILL
PAUL J. THIESSEN
CARLA A. THOMAS
CHRISTOPHER D. THOMAS
HANS J. THOMAS
MARLON A. THOMAS
RUSSELL B. THOMAS
JOHN D. THOMASON
ANTHONY R. THOMPSON
DALTON W. THOMPSON
DAVID T. THOMPSON
KRISTOFER J. THOMPSON
MICHAEL R. THOMPSON
NICHOLAS R. THOMPSON
CASEY H. THOREEN
BRANDON E. THRASHER
DANIEL S. THRELKELD
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JOHN C. TISSERAND
WENDY R. TOKACH
KEVIN E. TOMS
JAMES E. TOWLE
TRAVIS I. TRAMMELL
JEREMY W. TRENTHAM
MICHAEL J. TRUJILLO
DAVID S. TURNER
JOHN D. TURNER
RYAN M. TURNER
ERICA J. TYE
CLINTON B. UNDERWOOD
TIMOTHY P. UNGARO
CURTIS J. UNGER
ERNEST M. URQUIETA
JAN R. URSO
NICHOLAS M. UTZIG
MATTHEW R. VANGILDER
BRYAN R. VANRIPER
PEDRO E. VAZQUEZ
JAMES S. VCHULEK II
RYAN L. VENEBERG
RONALD T. VERNON
THOMAS J. VETTER
MELISSA A. VIATOR
ADRIAN VILLA
JASON T. VINCENT
AMANDA M. VIOLETTE
RICKY L. VITTITOW, JR.
DANIEL J. VONBENKEN
JAMES W. WADE
JOSEPH B. WAID
PATRICK M. WALKER
CHRISTOPHER E. WALSH
OLIN L. WALTERS
ROGER A. WANG, JR.
ELIJAH M. WARD
STEPHEN P. WARD
PHILLIP S. WARREN
JASON B. WASHBURN
MICHAEL S. WASHBURN
DAVID E. WATERS
JOHN N. WAUGH
JESSICA C. WAYMENT
ELIZABETH A. WEAVER
TONY G. WEAVER, JR.
DAVID A. WEBB
ADAM C. WEECE
ERIC J. WEEKS
PEDER WEIERHOLT
BRIAN H. WEIGHTMAN
ALEXANDRE E. WEIS
DAVID M. WEISING
JAMES P. WELCH
GREGORY B. WELLS
CHRISTOPHER S. WENNER
RICHARD W. WERTZ III
KYLE D. WHEELER
JACOB E. WHITE
ROHN P. WHITE
WILLIAM G. WHITE
JACOB A. WHITESIDE
CRAIG R. WHITING
STEVEN L. WHITMORE
ANTHONY J. WHITTAKER
BRYAN S. WHITTIER
JOSEPH S. WIER
ERIC M. WIGLEY
BENJAMIN B. WILLIAMS
CARLIE A. WILLIAMS, JR.
CRISTINA WILLIAMS
DAVID G. WILLIAMS
EDWARD E. WILLIAMS
JOHN M. WILLIAMS, JR.
KEITH R. WILLIAMS
WESTON T. WILLIAMS
JEREMIAH J. WILLIS
TAMEKA R. WILSON
RAYMOND D. WINDMILLER
JASON M. WINGEART
BRIAN R. WINKELMAN
CONOR M. WINSLOW
JEFFREY R. WINSTON
LUKE A. WITTMER
SARAH R. WOLBERG
CHRISTINE T. WOLFE
GABRIEL M. WOLFE
JEFFREY J. WOLFE
ROBERT W. WOLFENDEN
MATTHEW L. WOLVERTON
JASON C. WOOD
JERRY L. WOOD, JR.
ROBERT A. WOOD
ROBERT S. WOOD
GUY F. WORKMAN
SHANNON R. WORTHAN
ADAM WOYTOWICH
NICHOLAS A. WRIGHT
ABDUL R. WURIE
JONATHAN T. YASUDA
MARK M. YEARY
AARON YOUNG III
ARTHUR G. YOUNG
CRAIG M. YOUNG
PETER C. ZAPPOLA, JR.
BRYAN C. ZESIGER
ROMAS J. ZIMLICKI
KURT P. ZORTMAN
JOSEPH V. ZULKEY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S. CODE, SECTION 531:

To be commander

VALERIE R. OVERSTREET

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

NADESIA V. HENRY
RONALD W. PERDUE
SHOLI A. ROTBLATT
JOHN A. SALVATO

CONFIRMATION

Executive nomination confirmed by the Senate May 4, 2011:

THE JUDICIARY

JOHN J. MCCONNELL, JR., OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on May 4, 2011 withdrawing from further Senate consideration the following nomination:

RYAN C. CROCKER, OF WASHINGTON, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2012, VICE PENNE PERCY KORTH, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 17, 2011.