The documents are as follows:

The foregoing writ of summons, addressed to Samuel B. Kent, United States District Judge, and the foregoing precept, addressed to me, were duly served upon the said Samuel B. Kent, by my delivering true and attested copies of the same to Samuel B. Kent, at Devens Federal Medical Center on the 24th day of June, 2009, at 4:30 p.m.

TERRANCE W. GAINER,
Sergeant at Arms.

Dated: June 24, 2009.
Witness: Andrew B. Willison, Deputy Sergeant at Arms.

I, Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, hereby tender my resignation as a Federal District Judge effective 30th June 2009.

SAMUEL B. KENT.

Dated 24 June 2009.
Witnessed: Terrance W. Gainer; 4:44 p.m., Andrew B. Willison.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I ask unanimous consent that the Secretary of the Senate be directed to deliver the original statement of resignation executed by Judge Samuel B. Kent on June 24, 2009, to the President of the United States and to send a certified copy of the statement of resignation to the House of Representatives.

I further ask unanimous consent that a copy of the statement of resignation be referred to the Impeachment Trial Committee on the Articles Against Judge Samuel B. Kent established by the Senate on June 24, 2009.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, there will be no more votes today. We will have no session tomorrow. When we come back a week from Monday, we will have a number of votes beginning at 5:30.

As I have told everyone more than once, the next 5 weeks after we get back are going to be jam packed with stuff to do. Members should understand that we will have votes on Mondays and Fridays, with one exception which has already been announced: It is July 17. We hope we don't have to have weekend sessions. We have a lot to do. Everyone knows the workload we have. I would hope that we understand the amount of work we have to do. We are going to be in a week longer than the House of Representatives, as everyone knows. Because of our rules, we can't move as quickly as they do. We have an immense amount of work to do. We have the Sotomayor nomination. We have Defense authorization that was reported out of committee today by Senators LEVIN and MCCAIN. That is something that is very important for the military and to the American people. We have other appropriations bills we have to work on. We have health care. We are going to move as far as we can on that during that period of time. So we have a lot of work to do.

Also, on July 14, there will be no votes after 2 p.m. These are arrangements I made with one of the Senators, and this will be good for the entire body. So there will be no votes after 2 p.m. on July 14.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2010—Continued

AMENDMENT NO. 1366 TO AMENDMENT NO. 1365

Mr. MCCAIN. Madam President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1366 to amendment No. 1365.

Mr. MCCAIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the earmark for the Durham Museum in Omaha, Nebraska)

On page 27, strike lines 5 through 10 and insert ''mission.''.

Mr. MCCAIN. Madam President, the amendment is very simple. It strikes from the bill an earmark of $200,000 for the Durham Museum in Omaha, NE. Let me be very clear. I hold no grudge against the museum or the sponsor of this earmark. On the contrary, I hold my colleagues from Nebraska in very high esteem, and I have no doubt that the museum does wonderful work. Thanks to modern technology and Wikipedia, it has a very nice description of the Durham Museum, formerly known as the Durham Western Heritage Museum in downtown Omaha, NE, dedicated to preserving and displaying the history of the U.S. western region and it is housed in Omaha's Union Station.

I am sure it is a very fine place. I am sure it gets lots of visitors from all over the great State of Nebraska. The only problem is, as I understand from reading the bill, which sometimes some of us don't do, this is a bill that is entitled ''Making Appropriations for the Legislative Branch for the Fiscal Year Ending September 30, 2010, and for Other Purposes.'' Well, obviously, the distinguished manager of the bill found another purpose but certainly none that has the slightest connection to the city of Omaha or the State of Nebraska, except the Senator happens to be from that State. He maybe even resides in that city.

The reason I am taking the floor is because Americans are hurting right now. Americans all over this country are hurting right now. I go downtown in my city, my hometown of Phoenix, AR, and I see people closing store fronts. I see people not able to make their house payments or people not able to pay their medical bills, and $200,000 would mean a lot to them; $200,000 is not a small sum.

So the fact is, I don't question the merits of the program. I don't question that the Durham Museum is probably a nice place to visit. I do question when we are going to stop earmarking porkbarrel projects because of the influence or clout of Members of the Senate.

I want to repeat, I do not question that this museum is a fine museum. I do question—and any objective observer would question—how in the world that has a place on appropriations of the taxpayers' dollars for the legislative branch. I don't think the Durham Museum is in the legislative branch of government unless I am badly mistaken, and I am sure I am not.

Here we are with trillions of dollars of deficit—$1.2 trillion for TARP, $410 million for the Omnibus appropriations bill, which was loaded with 9,000 unnecessary and wasteful earmarks, tens of billions of dollars to the domestic auto manufacturers, and we passed a budget resolution totaling $3.5 trillion. Now we have a bill totaling $3.1 billion to run the legislative branch of government.

As has been widely trumpeted, this bill is less than that requested. What it is also, though, is 3 percent more than it was last year. How many Americans are able to get 3 percent more money than they had last year? It is over $76 million more than last year's bill. So is this a big deal, $200,000? Probably not, with the trillions of dollars that we seem to throw around here.

But I am serving notice on my colleagues that I and some of my other colleagues are going to come to the floor and challenge these earmarks. We have to stop doing business as usual while we are committing generational theft and mortgaging our children's future.

Since it is going to be about 10 days or so before we will have a vote on this amendment—as the majority leader mentioned, we are not going to have anymore votes—I ask unanimous consent that before the vote I have 5 minutes and the Senator from Nebraska have the time he needs before the vote that will take place at the pleasure of the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I respect greatly my colleague from Arizona and his concern about spending. As was noted, the increase in the spending requested in the

appropriations bill is about 2.4 percent. While $200,000 is a lot of money—and it certainly is a lot to people today—I think it is important to point out that this museum is associated with the legislative branch in the following manner.

The Durham Museum is seeking to provide a public service of Federal interest making it appropriate to promote a public-private partnership. And this truly is a public-private partnership; the funding for the project in this bill is only 10 percent of the total cost. The Durham Museum will privately raise the remaining 90 percent and incur all ongoing operating costs.

The $200,000 requested in this bill for the Durham Museum to begin the preservation and digitization of the museum's photo archive collection will create new jobs, preserve our history and improve access to these priceless treasures.

This project will be moved significantly forward by the able assistance of the Library of Congress, and I thank Dr. Billington for his willingness to assist with this important project.

It is important to point out that the Library of Congress has been a leader in digitization efforts, having digitized more than 15 million unique primary source documents. The library enjoyed a remarkable long-term relationship with the Durham Museum long before I came to the Senate and will undoubtedly oversee a quality project as the Durham Museum seeks to follow in our national library's footsteps.

Mr. President, not all national treasures are located inside the beltway.

This project is more than just a ''photo exhibit.'' In addition to making these images available to the public, as noted in the Legislative Branch Report, Durham will work with the Library of Congress to establish conservation and preservation training programs, and on incorporating digitized primary source materials into school curricula.

Dr. Billington and I have worked together to ensure that the library's most impressive exhibits have traveled to the Durham Museum over the years, ensuring that my fellow Nebraskans, Iowans from the east, Kansans from the south, and South Dakotans from the north, have had access to some of our Nation's most treasured documents and artifacts.

Some of the notable library exhibits that have traveled to the Durham Museum have included: ''Bound for Glory,'' showcasing the photographs of the Farm Security Administration in the late 1930s and 1940s, and ''With An Even Hand, Brown v. Board at Fifty,'' commemorating the 50th anniversary of the landmark Supreme Court decision in the case of Brown v. the Board of Education.

In January of 2011, the library's most recent impressive exhibit on Abraham Lincoln, ''With Malice Toward None,'' will travel to the Durham Museum, showcasing some of our revered former President's most transformative speeches and eloquent letters.

I urge that this not be considered just a local project. It is associated with the Library of Congress and, as such, has a tie that is an ongoing and longstanding relationship that will benefit both the Library of Congress and the Durham Museum. There is a nexus here and it is not an isolated incident.

At this point, I ask my colleagues to support the inclusion of that funding within this budgetary request.

OSHA VIOLATIONS

Mr. GRASSLEY. Madam President, as the Senate considers the fiscal year 2010 legislative branch appropriations bill, S. 1294, I would like to raise a concern I have with a provision related to the Congressional Accountability Act of 1995, CAA. As the author of the Congressional Accountability Act, I have long believed that Congress needs to practice what it preaches by applying certain laws Congress passes to the legislative branch. The CAA did this by incorporating a number of laws including the Occupational Safety and Health Act of 1970. Senator MURKOWSKI, the distinguished ranking member of the Appropriations Subcommittee on the Legislative Branch, is here and I would like to ask about the provision in the bill related to the CAA.

I am concerned that the provision striking a section of the CAA related to the compliance date for OSHA violations may go further than necessary. As the author of the CAA, this provision was included to ensure that OSHA violations that are found in legislative branch buildings are remedied in a timely fashion. I understand that some concerns have arisen regarding the requirement that compliance occur by the next fiscal year, which prompted this revision, is that correct?

Ms. MURKOWSKI. That is correct, and it was a topic of discussion during the subcommittee hearings. Citations from the Office of Compliance are requiring certain actions by the Architect of the Capitol that don't always make sense. We found that the legislative branch is held to a higher standard than the executive branch and the private sector, and certain standards and timelines are applied that would not be applied outside the legislative branch, particularly to historic buildings.

As I said in our hearing with the Architect of the Capitol and Office of Compliance, I am completely supportive of having strong fire and life safety standards, but applying a ''gold standard'' to the legislative branch doesn't seem to be appropriate. We need to be pragmatic, and operate within a risk-based framework. In some cases, we have been asked to fund expensive projects by the AOC that simply aren't a good use of taxpayer dollars and don't necessarily offer significant improvements in fire and life safety.

Senator NELSON and I asked GAO to work with us to suggest how we could get the legislative branch on par with the executive branch and private sector. This language is the result of those discussions.

Mr. GRASSLEY. I agree that this provision should not lead to unnecessary expenditures and that we should examine this provision. However, I'm concerned the current revision in S. 1294 goes a bit too far by completely striking the compliance date. In fact I am informed the Office of Compliance, the entity in charge of enforcing the CAA has expressed concerns with completely striking this provision and instead recommends a selective amendment.

Out of the interest of saving time on the Senate floor, I will withhold an amendment to strike or modify this provision if the distinguished ranking member is willing to commit to working with me on this provision to make sure the revision is as narrow as possible as recommended by the Office of Compliance.

Ms. MURKOWSKI. I would agree to work with the ranking member of the Finance Committee, to work with the chairman of this subcommittee, Senator NELSON, and attempt to address his concerns as this bill moves forward.

Mr. GRASSLEY. I thank the distinguished ranking member and look forward to working with her and the chairman to narrow this provision and address the concerns expressed by the Office of Compliance.

Mr. NELSON of Nebraska. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Madam President, the nomination of a new Justice to the Supreme Court has somewhat unexpectedly brought to our mind a core question both for the Senate and the American people, and that is: What, if any, is the appropriate role for foreign law to play in the interpretation of our Constitution—meaning, should judges look at what other countries say when they are determining what are our constitutional rights.

This is not an academic question; it is a question that has the potential to impact our fundamental rights guaranteed to us by the U.S. Constitution.

Until recent years, the answer has always been understood to be no, apart from a few rare circumstances, certainly, and certainly never in the interpretation of the meaning of our precious constitutional rights.

This traditional understanding has served to protect our constitutional right by ensuring that judges remain true to the will of the American people, not the will of foreign judges or courts.

Our system has a critical component: moral authority. That moral authority

comes from the basic concept that our law is a product of the will of the people through the people they chose to represent them. The Constitution begins ''We the People do ordain and establish this Constitution.'' Our laws are enacted by a Congress, a body subject to the will of the people, composed of people elected by the people. We are accountable to the American citizens.

The novel idea that foreign law has a place in the interpretation of American law creates numerous dangers. A number of academics, and even Federal judges, I would say, are seduced by this idea.

Judge Sotomayor clearly shares in that idea. I am somewhat surprised, but it is true, as I will discuss. Her vision seems to be that we should change our laws, or listen to other laws and judges, and sort of merge them with this foreign law. That is the overt opinion of Mr. Koh, who was just nominated and confirmed to the chief counsel of the U.S. State Department. Mr. Koh is quite open about it—shockingly so, really.

But I suggest that if we become transnational, we suffer two monumental blows to our legal system. First, the laws we are subject to would not be laws made by us. This should remind us of the Boston tea party. The colonies objected to paying taxes, but not just any taxes; they objected because the taxes were being imposed on them by the British Parliament, and they didn't have a voice in it. The complaint was ''taxation without representation.'' Thus, the moral power of the American law to compel obedience arises from the people's choice to enact it in the first place. That moral authority is undermined when we allow foreign law, which we had nothing to do with, to impact our law. That is a pernicious thing, I suggest.

Second, it is not ever going to work in a good way. Most countries don't have laws, truth be known. They have politics masquerading as laws. Trying to merge our system, based on truth, the law, and the evidence, with these political legal systems will only result in our being shortchanged. We can reach agreements affecting mutual interests with foreign nations and adhere to them as long as we agree to do so—treaties and other kinds of agreements—but to submit ourselves to their political policies while pretending we are merging our law with theirs is foolishness.

It also creates confusion on a matter of utmost importance. The question is, who does the judge serve, the people of the United States or the people of the world or some individual country with whom they agree or the amorphous ''world community,'' which has been referred to?

Furthermore, reliance on foreign law places our constitutional rights in jeopardy. There are great differences between American and foreign law on cherished rights protected by our Constitution. The Constitution's protection of free speech is probably unparalleled anywhere in the world. Other nations punish sometimes spirited debate on controversial matters. They call it sometimes ''hate speech'' and take action against speech and other things that we would allow without a single thought, but it is criminalized in other countries.

The Constitution clearly protects the right to keep and bear arms. Other nations ban private gun ownership entirely. The Constitution allows for the death penalty. Other nations reject the use of the death penalty, even for violent killers, while some other nations have the death penalty and they impose it without due process being carried out. Yet this troubling potential for infringements on constitutional rights, I suggest, is only the tip of the iceberg.

First and foremost, reliance on foreign law creates opportunities for judges to indulge their policy preferences. In a speech that was given to the Puerto Rico chapter of the American Civil Liberties Union on April 28 of this year, 2009, 1 day after having been contacted by the White House about the possibility of a Supreme Court vacancy, Judge Sotomayor placed herself firmly on what I believe is the wrong side of this debate, stating in this speech:

> To suggest to anyone that you can outlaw the use of foreign or international law is a sentiment that is based on a fundamental misunderstanding. What you would be asking American judges to do is close their minds to good ideas.

Well, the ideas our judges are supposed to reflect are the ideas that the Congress sought to be good, the ones we enacted into law—not what was enacted in France, Saudi Arabia, China, or any other place. This is a matter of real importance. This whole concept of foreign law has been a matter of real controversy for several years. It is a timely subject, for sure. I thought it was pretty roundly condemned, although one judge on the Supreme Court defends it. In her speech, Judge Sotomayor explains:

> The nature of the criticism comes from . . . a misunderstanding of the American use of that concept of using foreign law, and that misunderstanding is unfortunately endorsed by some of our own Supreme Court justices. Both Justice Scalia and Justice Thomas have written extensively criticizing the use of foreign and international law in Supreme Court decisions.

So she criticized Justice Scalia and Justice Thomas, who have expressed opposition to this. Let me be blunt. I believe it is Judge Sotomayor, not Justices Scalia and Thomas, who is wrong.

Under her approach, a judge has free rein to survey the world to find what they might consider to be good ideas and then impose these views on the American people, calling it law. However, this is not the American system. Our system requires judges to adhere to this Constitution, to the statutes, and to the legal precedent, to the end that judges follow the will of the people of our country as expressed in our law.

The Constitution says ''We . . . do ordain and establish this Constitution for the United States of America,'' not some other. Judges are not free to amend it by citing some other foreign constitution. I think this is a big deal.

Judges are not free to indulge their own personal opinions about what good policy is. Judges do not set policy and search for support for that in foreign law. Despite Judge Sotomayor's claim at a Duke Law School panel discussion that ''courts of appeals is where policy is made,'' judges are not policymakers. They are servants of the law, if they are fulfilling their role properly—the law as it is, not the way they might wish it to be.

Second, reliance on foreign law causes confusion rather than clarification as to the state of American law. Judge Sotomayor claims that foreign law ''can add to the story [sic] of knowledge relevant to the solution of . . . [a] question [sic],'' paraphrasing Supreme Court Justice Ruth Bader Ginsburg, who pioneered this concept. She made those statements. Judge Ginsburg's citation of it in cases and her defense of it in speeches has really led to this controversy to which Justices Scalia and Thomas have responded.

On the contrary, reliance on foreign law creates confusion. Consider Judge Sotomayor's dissenting opinion in Croll v. Croll in the interpretation of a treaty—one of the few instances in which reliance on foreign law may be perfectly permissible. Judge Sotomayor repeatedly criticized the majority judges on the panel as ''parochial'' for consulting American dictionaries to understand the meaning of custody as determined by the Hague Convention on International Child Abduction, and then she relies on foreign interpretations of those words instead. Yet the majority rightly rebuked Judge Sotomayor for relying on the scattered and divergent foreign legal cases on this subject. The majority even cites a Supreme Court precedent that warns against relying on foreign law where it is in a state of confusion.

Third, the reliance on foreign law is also based on a misconception that judges, rather than elected officials in the political branches of government, play a role in advancing our Nation's foreign policy.

Judge Sotomayor states this:

> I share more the ideas of Justice Ginsburg in thinking . . . that unless American courts are more open to discussing the ideas raised by foreign cases, and by international cases, that we are going to lose influence in the world.

But judges are not diplomats. It is the job of diplomats to protect our standing in the world, and they have to explain to the world why we rule the way we rule on our cases. That is their responsibility.

Fourth, reliance on foreign law blurs the distinction between domestic and

foreign law, undermining our ability to make democratic choices. The examples of the Supreme Court reliance on foreign law, cited approvingly by Judge Sotomayor, involved the interpretation of the Constitution dealing with purely domestic legal issues that do not and should not touch on any matter of international concern. For example, she approvingly cites the case of Roper v. Simmons in which five Justices of the Supreme Court recently rendered a decision based in part on their review of foreign law and concluded that our Constitution declares that we cannot execute a violent criminal if that criminal is 1 day under 18 years of age when he killed someone or a group of people. There is nothing in the Constitution that says that. They found some foreign law to make an argument about what the Constitution says about what age a State can set for the death penalty. I know we can disagree on what the age should be, but it is a legislative matter.

The Court in that case said it was looking to ''evolving standards of decency that mark the progress of a maturing society.'' What kind of standard is that for law? Where do you find what a maturing society now believes? Do you check with China? Do you check with Iran? Or maybe France? Where do we do this? How do they divine what this all is?

The Court concluded that the death penalty violated the eighth amendment which prohibits cruel and unusual punishment. There are at least six or more references in the Constitution itself to capital crimes, to taking a life without due process. It has always been contemplated in the Constitution that the death penalty is not cruel and unusual. That was for drawing-and-quartering and such matters as that.

If basic constitutional rights are subject to redefinition by considering foreign law, our Constitution ceases to be the bulwark for our liberty it has always been. The Constitution will be weakened. Its authority and power will be diminished. Yet this is precisely the view of foreign law advocated by Judge Sotomayor, who says that these courts that do this ''were just using foreign law to help us understand what the concept meant to other countries, and to help us understand whether our understanding of our own constitutional rights fell into the mainstream of human thinking.'' I am not sure, did the judge conduct worldwide polls of human thinking? How does a judge find out what the mainstream of human thinking is? In truth, many of the critics of this idea have hit the nail on the head. They say that all it does is allow a judge to look around the world to find somebody who agrees with them and use that as authority to do what they wanted to do all along.

Judge Sotomayor not only advocates for reliance on foreign law, but she also goes a step further than Justice Ginsburg, advocating for adoption of the techniques of foreign judges, even ones that serve to conceal the individual judge's reasoning process from public scrutiny.

In her forward to the book ''The International Judge,'' which she was chosen to do, Judge Sotomayor states:

> [T]he question of how much we have to learn from foreign law and the international community when interpreting our Constitution is not the only one worth posing. As ''The International Judge'' makes clear, we should also question how much we have to learn from international courts and from their male and female judges about the process of judging and the factors outside the law that influence our decisions.

In her speech in 1999, Judge Sotomayor expressed admiration for the French tradition of judicial panels of judges issuing single decisions, commenting:

> With a single decision, there is less pressure on individual judges and less fear of reprisal for unpopular decisions.

According to law professor William D. Popkin, French legal opinions are anonymous, unanimous, and laconic, the legal ''equivalent of flashing a policeman's badge,'' and ''[t]he irony about French judicial opinion writing is that minimal reason-giving allows French judges to conceal a bold judicial lawmaking role, perhaps even bolder than in the case of U.S. and English judges because of the lack of any formal notion of precedent.''

That is different from the American heritage of law. Judges sign opinions. But we have seen at least three very significant opinions in recent years and months from Judge Sotomayor that were per curiam. No one judge assumed responsibility for the decision, and they were very short—so in a way, maybe she is following that—really surprisingly short in the case involving firearms, in the case involving the firefighters in Connecticut. They were very short opinions and not a lot of discussion and per curiam.

The problems with this tradition are clear. The approach makes it easier for judges to conceal the grounds of their decisions, making it more difficult to assess whether their legal reasoning was justified. Only then can one see if proper principles are being followed. Indeed, Judge Sotomayor may already be following that, as I noted with some of the per curiam opinions we have seen.

I have to say the judge wants more international law, not less. Ominously, Judge Sotomayor states:

> International law and foreign law will be very important in the discussion of how we think about the unsettled issues in our legal system. It is my hope that judges everywhere will continue to do this because . . . within the American legal system, we're commanded to interpret our law in the best way we can, and that means looking to what other, anyone has said to see if it has persuasive value.

The judge makes an audacious claim that the American legal system commands judges to look at foreign law and highlights the role of making decisions on unsettled cases. There have been and will be many differences between domestic and foreign law on matters that are fundamental. This is normal and understandable because different nations have different cultures, values, and legal systems. The United States should be independent to pursue its own individual choices expressed through the American people through their elected officials to reach the fullest and richest expression of our exceptionalism as a nation.

The American ideal of law is objectivity in deciding the case before the court, that case being sufficient for the day. This is unusual. Most countries are not so restrained. To a much greater degree, foreign judges see themselves as policymakers. In Afghanistan and Pakistan recently, the chief judge was setting all kinds of policy in Afghanistan. I thought it was most unusual. Surely nothing like that would happen here because we have a different heritage.

I suggest that for an ambitious, strong-willed American judge, such freedom to search around the world to identify arguments that might be helpful in allowing them to reach a result they might like to reach would be a great temptation. It is a siren call that ought not to be followed, and great judges do not do so. They analyze the American statutes, the American Constitution in a fair and objective way. They apply it to the evidence fairly and honestly found and render a decision without any regard to the parties before them, to the rich and poor alike, as their oath says. That is why we give them independence as a judge to show they will be more willing to render those kinds of opinions.

I am troubled by this, I have to say. I did not expect to see a nominee who would be one of the leading advocates for the adoption of foreign law in the American legal system. I think it is wrong. I don't think that is a good idea. The American people need to be talking about that issue as they think about the confirmation that will be coming up.

Our nominee, Judge Sotomayor, is delightful to talk to. She has a record and a practice as a private practitioner, as a prosecutor, as a district judge, and an appellate judge. All of those are good. She has many good qualities. But some of the issues I am raising today and have raised previously do cause me concern.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The McCain amendment to H.R. 2918.

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

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

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 1382 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent to proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

COMMENDING MARK S. MANDELL

Mr. REID. Mr. President, I rise to honor my good friend, a good American and a good person, Mark Mandell.

Mark will turn 60 years old on Saturday, June 27. I have known Mark and his family for many years, and have long been impressed by his many accomplishments and contributions to his community.

Mark's affiliations are far too long to list but that is an accurate indication of how much of himself he has given to others.

A founding partner at his successful firm—Mandell, Schwartz & Boisclair, Ltd. in Providence, RI, Mark has been listed among the ''Best Lawyers in America.'' He has served as the president of the Association of Trial Lawyers of America, the Roscoe Pound Institute of Civil Justice, the Rhode Island Bar Association and the Rhode Island Trial Lawyers Association.

In addition to his abundant bar memberships, professional associations, society memberships, civic and community activities, and government appointments, Mark has authored and lectured extensively throughout the United States and around the world.

Mark has been recognized with numerous awards, but I know that he is most gratified not by those that honor his professional achievements, but rather those that acknowledge his good citizenship and leadership in community service.

Many of those awards honor Mark for his strong commitment to the Jewish community he so values. As the Torah implores, ''Justice, justice shall you pursue.''

I am proud to call Mark Mandell my friend, and thank him for his dedicated and principled pursuit of justice. Happy birthday, Mark.

BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I rise to submit to the Senate the first budget scorekeeping reports for the 2010 budget resolution. The reports, which cover fiscal years 2009 and 2010, were prepared by the Congressional Budget Office pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended.

The reports show the effects of congressional action through June 23, 2009, and include the effects of P.L. 111–22, the Helping Families Save Their Homes Act of 2009; P.L. 111–31, the Family Smoking Prevention and Tobacco Control Act; H.R. 1777, an act to make technical corrections to the Higher Education Act of 1965, and for other purposes, pending Presidential action; and H.R. 2346, the Supplemental Appropriations Act, 2009, pending Presidential action. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 13, the 2010 budget resolution.

For 2009, the estimates show that current level spending is $942 million below the level provided for in the budget resolution for budget authority and $3.9 billion above it for outlays while current level revenues match the budget resolution level. For 2010, the estimates show that current level spending is $1,205.9 billion below the level provided for in the budget resolution for budget authority and $715.9 billion below it for outlays while current level revenues are $12.3 billion above the budget resolution level.

I ask unanimous consent to have the letters and accompanying tables from CBO printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 2009.

Hon. KENT CONRAD,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2009 budget and is current through June 23, 2009. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, as approved by the Senate and the House of Representatives.

Pursuant to section 403 of S. Con Res. 13, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 of Table 2 of the report).

Since my last letter dated September 11, 2008, the Congress has cleared and the President has signed several acts that affect budget authority, outlays, and revenues for fiscal year 2009. The budgetary effects of legislation enacted at the end of the second session of the 110th Congress are included in the effects of previously enacted legislation on Table 2.

Legislation enacted during the 111th Congress prior to the adoption of S. Con. Res. 13 is included in the budget aggregates of S. Con. Res. 13 (see footnote 1 of Table 2). In addition, since the adoption of S. Con. Res. 13, the Congress has cleared and the President has signed the following acts:

Helping Families Save Their Homes Act of 2009 (Public Law 111–22); and

An act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (Public Law 111–31).

The Congress has also cleared for the President's signature the following acts:

An act to make technical corrections to the Higher Education Act of 1965, and for other purposes (H.R. 1777); and

Supplemental Appropriations Act, 2009 (H.R. 2346).

This is CBO's first current level report since the adoption of S. Con. Res. 13.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

TABLE 1.—SENATE CURRENT LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2009, AS OF JUNE 23, 2009

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (—) resolution
ON-BUDGET			
Budget Authority	3,668.6	3,667.6	—0.9
Outlays	3,357.2	3,361.0	3.9
Revenues	1,532.6	1,532.6	0.0
OFF-BUDGET			
Social Security Outlays [3]	513.0	513.0	0.0
Social Security Revenues	653.1	653.1	0.0

[1] S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, includes $7.2 billion in budget authority and $1.8 billion in outlays as a disaster allowance to recognize the potential cost of disasters; those funds will never be allocated to a committee. At the direction of the Senate Committee on the Budget, the budget resolution totals have been revised to exclude those amounts for purposes of enforcing current level.

[2] Current level is the estimated effect on revenues and spending of all legislation, excluding amounts designated as emergency requirements (see footnote 2 of table 2), that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget, but are appropriated annually.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2009, AS OF JUNE 23, 2009

[In millions of dollars]

	Budget authority	Outlays	Revenues
Previously Enacted [1]			
Revenues	n.a.	n.a.	1,532,571
Permanents and other spending legislation	2,186,897	2,119,086	n.a.
Appropriation legislation	2,031,683	1,851,797	n.a.