The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

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

The yeas and nays resulted—yeas 81, nays 18, as follows:

[Rollcall Vote No. 224 Ex.]

YEAS—81

Alexander	Gillibrand	Murphy
Baldwin	Grassley	Murray
Baucus	Hagan	Nelson
Begich	Harkin	Paul
Bennet	Hatch	Portman
Blumenthal	Heinrich	Pryor
Blunt	Heitkamp	Reed
Boxer	Hirono	Reid
Brown	Hoeven	Rockefeller
Cantwell	Isakson	Sanders
Cardin	Johanns	Schatz
Carper	Johnson (SD)	Schumer
Casey	Kaine	Scott
Chambliss	King	Sessions
Chiesa	Kirk	Shaheen
Coats	Klobuchar	Shelby
Cochran	Landrieu	Stabenow
Collins	Leahy	Tester
Coons	Levin	Thune
Corker	Manchin	Toomey
Crapo	Markey	Udall (CO)
Donnelly	McCain	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Warren
Fischer	Merkley	Whitehouse
Flake	Mikulski	Wicker
Franken	Murkowski	Wyden

NAYS—18

Ayotte	Cruz	McConnell
Barrasso	Enzi	Moran
Boozman	Graham	Risch
Burr	Heller	Roberts
Coburn	Johnson (WI)	Rubio
Cornyn	Lee	Vitter

NOT VOTING—1

Inhofe

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF KATHERINE ARCHULETA TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Katherine Archuleta, of Colorado, to be Director of the Office of Personnel Management.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise to speak on this nomination and to oppose it because of the recent actions of the Office of Personnel Management with regard to the Washington exemption from ObamaCare. I voted just now against cloture on the nomination, and I will vote against the nomination itself later today because of these very serious matters.

OPM, the office to which this nominee is nominated and which she would head, has issued an illegal rule that is very offensive and flies in the face of the ObamaCare statute language itself, and this nominee has pledged to continue to enforce that illegal rule and illegal policy.

Furthermore, OPM has completely stonewalled Members, including myself, my colleague Senator HELLER, and others regarding how they came to that decision and, importantly, whom they talked with, whom they e-mailed with, and whom they met with in coming to the decision to create this illegal Washington exemption.

Let me back up a little bit and explain exactly what we are talking about. Really, this story started several years ago in the ObamaCare debate. During the original debate on the ObamaCare statute, several conservatives, including myself, pushed an amendment that said every Member of Congress and all of our official congressional staff have to use the same fallback plan as is there for all other Americans—originally, it was called the public option, and then it became known as the exchanges—no special rules, no special treatment, no special subsidy. In fact, that is one of the very few battles in that debate we won because that provision was adopted during the consideration of the ObamaCare statute. It was adopted right here in the Senate.

So in the statutory language as it finally passed into law is that section, and that section says very clearly that every Member of Congress and all of our official congressional staff have to go to the ObamaCare exchanges for our health care—the same fallback plan as is there for all other Americans—no special rules or privileges or subsidies or exemptions. We go there. Well, I guess this became an example of what NANCY PELOSI was talking about when she famously said: Well, we have to pass the law in order to figure out what is in it—because the law did pass. It had that specific statutory provision. Then people on Capitol Hill started reading it, and they came to that section and a lot of them said: Oh, you know what. We can't live with this. We can't have this. We can't be pushed to the same fallback plan as all other Americans. We can't stand for this.

From that moment on, a furious lobbying campaign and scheming behind the scenes started to avoid that provision fully going into effect, to avoid the pain of that provision, the pain of ObamaCare that millions of other Americans are facing as we speak. Meetings happened, leadership meetings happened, Member meetings happened, furious scheming behind the scenes, and a lot of lobbying. Ultimately, that lobbying of the Obama administration paid off because in early August of this year, right after Congress got out of town for the August recess, conveniently right after Congress left the scene of the crime, the Obama administration issued a special rule with no basis in the law, in my opinion, no basis in the ObamaCare statute. This special rule was a special exemption for Congress, a carve-out to take all of the financial sting out of that ObamaCare section.

What this special OPM rule is—and, again, OPM, the Office of Personnel Management, was the agency that came up with this illegal rule after this furious lobbying, after President Obama became personally involved, literally personally participated in the discussions leading to this rule. What this illegal rule does is essentially two things. First of all, the rule says: Well, ''official congressional staff''—we do not know who that is. We cannot possibly determine who official congressional staff are, so we are going to leave it up to each individual Member of Congress to figure out who is their official staff.

Well, I would submit that is just ludicrous on its face. Congressional staff is congressional staff. Official staff is anyone who works for us through the institution of Congress versus outside entities and institutions, such as our campaign staff. So leaving it up to each individual Member of Congress is contrary to the statute on its face. It is outrageous on its face. But under this OPM rule, that is exactly what they do. So an individual Member of Congress can say: Well, these 10 people are not official staff. They are on my staff, but for some magical reason they are not official for purposes of this mandate. In fact, under this rule a Member can say: Nobody on my congressional staff is official staff for purposes of this mandate. And we see Members doing that as we speak. We see examples of that being reported in the press as we speak—Members deciding, ''Well, nobody is official staff. I do not have official staff'' because it will mean they will have to go to the ObamaCare exchange and live by the same rules through the same experience as other Americans. That is flatout ridiculous.

But that is not the only thing the OPM rule did. It did a second thing that is perhaps even more outrageous. It said Members of Congress and staff who do go to the exchange—they get to take along with them a huge taxpayer-funded subsidy that no other American at similar income levels has, enjoys, going to the ObamaCare exchanges. This is a huge subsidy worth at least $5,000 for individuals and $10,000 or $11,000 for families. Again, no other American at similar income levels is privy to that sort of subsidy.

Again, I believe this part of the OPM rule is flatout illegal. It is not in the ObamaCare statute. There was discussion of it. There were drafts that allowed that to happen, but the language that was put in the law did not include that subsidy. It was specifically left out. And, in fact, magically transforming what was, under previous law, a Federal employees health benefits plan subsidy, magically transforming

that into some ObamaCare exchange subsidy—that is contrary to law, and that is beyond OPM and the administration's legal authority, but they just did it because they could to bail out Washington, to bail out Congress. Well, this is outrageous and it is illegal.

As soon as I heard of this proposed rule in early August, I joined with many colleagues, House and Senate, and I appreciate all of their leadership. I am joined by many colleagues in the Senate whom I specifically want to acknowledge, who are fighting for this change: Senators ENZI, HELLER, LEE, JOHNSON, INHOFE, CRUZ, and GRAHAM. We are also joined by House Members, led by Representative RON DESANTIS of Florida. All of us quickly got together and said: This is illegal, this is wrong, and we have to stop it.

So we came up with language to do just that, to reverse this illegal OPM rule and to make sure that every Member of Congress and all of our congressional staff go to the ObamaCare exchanges and that we go there just like other Americans go there—no special exemption or special subsidy or special treatment. Our fix also expands that to the President, the Vice President, their White House staff, and all of their political appointees because that is appropriate as well. So our language says to all those folks—Congress and the administration—you have to get your health care the same way other Americans are in the backup plan, in the fallback plan, in the so-called exchanges. You go to the exchanges, and you get no special treatment, no special exemption, no special subsidy.

This is very important for two reasons. First of all, basic fairness. It should be the first rule of American democracy that what Washington passes on America, it lives with itself. Washington should have to eat its own cooking. It is like going to a restaurant and hearing that the chef in the kitchen never eats there. Something is wrong with that restaurant. Something is wrong with that picture. And something is wrong with Washington when Washington exempts itself over and over from eating its own cooking.

The second reason this is important is a very practical one because the sooner we demand that Washington live by exactly the same rules it imposes on America, the sooner Washington will start getting things right on ObamaCare, on taxes, on regulation across the board. So for that very practical reason, we need to make sure the same rules apply to Washington the same way they apply to the rest of America.

Let me come back to OPM because what we are debating is the nominee to head the Office of Personnel Management, OPM, the bureaucracy that came up with this illegal rule. That nominee has pledged to continue to enforce that illegal rule, to continue to defend that illegal rule.

Also, OPM, to date, has been completely unresponsive—''stonewalling'' is the more appropriate term—to all of my and other Members' inquiries about the process they used to come up with this illegal rule. I have written OPM several times. I wrote them immediately after their draft rule was issued. I wrote them very soon after their final rule was issued. I specifically wrote them demanding all emails and other correspondence and other documentation and information they had from Members of Congress, from leadership, from the administration with regard to the work and discussion that went into their rule.

Other colleagues of ours here in the Senate and also in the House have done the same. My distinguished colleague from Nevada DEAN HELLER talked to the then-OPM Director face to face. He asked the OPM Director: Did you speak with, were you lobbied by Members of Congress or the administration about this rule? That Director said: No, absolutely not. It now turns out that apparently is a lie. According to other sources, there absolutely were discussions, communications, emails, and the like between congressional leadership and the administration and OPM. So DEAN HELLER was lied to face to face about this by OPM.

I have asked for all of the emails, all of the correspondence, all of the discussions that happened leading up to this rule involving Members of Congress, leadership, and also the President and the Vice President and members of their administration. That request for information has been completely stonewalled.

So, first, OPM caves to intense lobbying from Washington insiders. Second, it caves and issues an illegal rule contrary to the statutory language of ObamaCare. Third, it stonewalls regarding the process and the conversations and the emails that led to that illegal rule.

We cannot stand for that. That is precisely why I am opposing this OPM nomination and why I voted no on cloture and why I will vote no on the nomination. We need answers. We need to reverse this illegal rule. Yes, we need a vote on the Vitter amendment the distinguished majority leader and others have blocked for months now. We need that vote. We need that vote that has been actively blocked by the majority leader for months.

Let's do things right. Let's get that information from OPM. Let's reverse this illegal rule. Let's vote on this important matter.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. BALDWIN.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. 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 FARM BILL

Ms. KLOBUCHAR. Madam President, this afternoon the 2013 farm bill conference committee will finally convene for the first time, bringing us one step closer to finishing the farm bill. I know the Presiding Officer, being from Wisconsin, understands how important this is to our country's future, and certainly the farmers, businesses, and families in Minnesota understand how important this bill is. We have waited a long time to go to this conference committee. The Senate has passed two farm bills now that continue the strong policies of the last farm bill but in fact reduce the debt by $24 billion over the farm bill that is currently in place. I am part of the group that negotiated the details of the bill to help finish the process which started over 2 years ago.

Before I go on about the details of the Senate bill, I thank Chairman STABENOW for her incredible leadership and perseverance in getting us to this point that has been so long awaited. Under Chairman STABENOW's leadership, the Senate Agriculture Committee put together a farm bill that strengthens the safety net for our Nation's farmers and ranchers, reforms and streamlines our agriculture, conservation, and nutrition programs while still keeping them strong, and, as I mentioned, reduces $24 billion from the Nation's debt.

Throughout the process we faced unprecedented challenges and delay. We had the lack of a dance partner over in the House, but then of course we had the traditional issues—regional disputes about how certain crops and commodities should be handled, a few partisan issues here and there, but somehow we were able to come together to the point where the Senate bill was supported by 68 Senators, including 18 Republicans. I believe this is a testament to the open process we had, the endless amendments we voted on on the floor, as well as the strong committee that was brought together to work on this bill.

No matter where I go in my State—and I am sure the Presiding Officer has seen this in Wisconsin—I am always reminded of the critical role agriculture plays in our economy. Minnesota is No. 1 in turkeys—something we think of a lot as we head into the Thanksgiving season. We are No. 1 in sweet corn, green peas, and oats, and No. 2 in hogs. I don't think people would think about that with our State, but we have surpassed some other States. But we are No. 2 in hogs and spring wheat, and No. 3 in soybeans, and No. 4 in corn.

But we don't just grow the crops and raise the livestock. We are also home to a number of major agricultural companies which have kept our economy strong, and is one of the reasons our unemployment rate is down to 5.1 percent in Minnesota. These companies include Hormel, Cargill, General Mills, coops such as CHS, and Land o' Lakes. That is why one of the first things I did when I came to the Senate was ask to be on the Agriculture Committee. I am honored to serve on this conference committee and to team up with my friend and House colleague, Representative COLLIN PETERSON, who will be

leading the Democratic side in the House, as well as Congressman Tim Wells who represents the southern part of our State.

The expiration of the current farm bill on September 30 is hurting our agricultural economy and is creating a huge amount of uncertainty for our farmers and for our consumers. Last week I visited with Minnesotans from across the State who want Congress to pass a farm bill. I was in Kiester, MN, where I got to ride in a combine and see the good work of our farmers as they harvested the corn. I have to say that sitting in the combine after the 3 weeks of the shutdown was actually quite rewarding, as I saw firsthand you could actually get results very quickly in a combine, which I hope will happen in Congress as we move ahead.

From farmers in Redwood County to the Red River Valley to volunteers at a food bank in Minneapolis, where we also had a joint event with hunger groups, conservation groups, including Pheasants Forever, which is based in Minnesota, and the Farm Bureau and the Farmers Union, we all came together to say we had to get this done.

I journeyed up to the Moorhead area and joined Senator HOEVEN in Fargo. We like to call it Moorhead-Fargo in Minnesota instead of Fargo-Moorhead—two towns divided by a river but joined by many common interests. We met there with farmers about the importance of sugar beets and about the importance of a strong farm bill for that region of the country.

Through my week I quickly heard—as I am sure the Presiding Officer did in Wisconsin—that the people of this country are sick and tired of gridlock politics, they are sick and tired of people standing in opposite corners of the boxing ring and throwing punches. They are sick and tired of the red-light, green-light game that has been played with policy. It is time to come together and get this done.

I am convinced if there is any silver lining or hope that came out of the chaos of last month, it is that the American people saw firsthand why we need change and why we need to work together. That is why in fact Senator HOEVEN and I came together across the river, to make a very strong statement that we thought we had to get this bill done.

As a member of the conference committee, I know that if we don't pass a new farm bill, farmers will not be able to sign up for crop insurance, something that is so central to this new bill and is part of the $24 billion in debt reduction. They won't be able to sign up for a conservation program at a time when we need more conservation, when we see a decline in our pheasant population, where we have seen the signs that we need to have strong conservation programs. We would also see a skyrocketing of dairy prices as we would be going back to the farm bill that was passed in 1949. As I like to say at home, we don't want to party like it is 1949, and we certainly don't want to farm like it is 1949.

The failure to come together and resolve the differences between the two bills now would likely result in either 1949 prices or some kind of extension. And guess what. Ask the farmers and ranchers about that in South Dakota who just saw a decimation of their cattle because of the sudden cold weather and blizzard they experienced in South Dakota. This current bill that is in place does nothing to provide a safety net for them that used to be in place but isn't in place because of the fact we haven't passed a permanent farm bill.

It does nothing, if we simply extended it, about energy programs or about changes we need to see in the milk program or about reforms or the streamlining of our conservation programs. We simply cannot afford to do that again.

Finally, it does nothing to reduce the debt if we simply extend the current program.

Farmers and ranchers do not want another extension like the one we saw last year that left out the programs I just mentioned, the livestock disaster program, any significant deficit reduction. I believe the Senate bill lays a strong foundation for a conference agreement that can be supported on a bipartisan basis and signed into law by the President. To put it more directly, over the weekend I got a call from Greg Schwarz, who works with the Minnesota corn growers. He was hard at work, bringing in the harvest. He actually was calling me while driving his combine. His words offer some perspective, as they were passed on to me, about where we have been and where we need to go. He said:

> We have been working on this farm bill for over 2 years now, and we just want to get it done. Farmers are working around the clock on this year's harvest, and if you don't hear from us, it is not because we don't care, it's because we have work to do.

Greg is right. Members of the farm bill conference committee have work to do as well. I believe that Washington should strive to be more like the farmers and ranchers that we represent who work and hope they get the job done. They can't leave a bunch of corn or soybeans in the field just because they get sick of it or they don't like their neighbor. They have to finish the job. If it starts getting cold or if it is raining, they have to bring that harvest in before there is a blizzard. That is what they do, and that is what we need to do. We have a time deadline here, an important reason we need to get moving on this bill.

I would like to highlight some areas of the Senate bill that I believe need to be preserved as part of the final agreement as near as possible to the way they are right now. I recognize there will be some compromise, but I think whatever compromise needs to be worked out should be closer to the bipartisan Senate bill that, as we know, had the support of 18 Senate Republicans, including Senators in my part of the country such as Senator GRASSLEY and Senator HOEVEN.

I know that important differences need to be worked out, especially in the areas of nutrition. I think we can do that. But, again, given what we are seeing in terms of the cuts over on the House side, we have to get them much closer to where we are in the Senate bill, which is something that will keep a safety net not just for our farmers, not just for our conservation and our pheasants and our wildlife, but also for the people of this country.

I believe the people who grow our food deserve to know that their livelihoods cannot be swept away in the blink of an eye, either by market failures or by natural disasters. That is why in the Senate farm bill the foundation of the safety net is a strengthened crop insurance program. We made the program work better for underserved commodities and specialty crops.

In recognition of the importance of crop insurance, we extended conservation compliance rules to this program to ensure that all producers benefiting from this safety net play by the same set of rules and keep our water clean and soil productive for future generations.

This agreement has the support of agriculture, environmental wildlife leaders, including the National Farmers Union and the National Corn Growers Association, as well as the Environmental Defense Fund and Ducks Unlimited. That is quite a crew.

In our charge to do more with fewer resources, the Senate bill pulls back on crop insurance subsidies for the wealthiest farmers, while ensuring that everyone can still participate in the program, keeping the risk pool strong. We also eliminated direct payments and further focused commodity title programs on our family farmers by strengthening payment limits on rules that ensure that farmers and not urban millionaires are eligible for farm payments.

We continued the successful sugar program, funded the livestock disaster programs, which I mentioned earlier, and put in place a new safety net for dairy producers to address the wild volatility in that market. No one knows that better than those in the State of Wisconsin, the home of a lot of cheese, the home of a lot of cows and a lot of dairy.

We streamlined conservation programs from 23 to 13. Specifically, I worked with COLLIN PETERSON to ensure that local communities such as those in the Red River Valley have tools they need to address conservation challenges like flooding. The bill funds energy title programs to extend homegrown renewable energy production.

When you look at our reduction in dependence on foreign oil, from 60 to 40 percent in just the last few years—yes, you look at the increased domestic drilling and natural gas; yes, you look at the facts that we finally increased

gas mileage standards that made a big difference in this country, but you also look at biofuels which are now 10 percent of our Nation's fuel supply.

These bills ensure that we are working to support our farmers and workers in the Midwest and not the oil cartels in the Middle East. That is why I strongly support mandatory funding for the energy titles to help provide incentives for homegrown energy production from the next generation of biofuels to blender pumps. This is a vital industry in States such as mine, supporting thousands of jobs and millions of dollars in economic growth. I appreciate the support of my colleague Senator FRANKEN for this important industry. As many of us understand, we want an ''all of the above'' energy approach that includes oil, includes natural gas, but also includes biofuels.

The Senate bill ensures that our energy innovators have the certainty and stability they need to develop the next generation of American energy.

The Senate bill also includes a number of initiatives for beginning farmers and ranchers, including two of my provisions. The first provision I produced with Senator BAUCUS, which would reduce crop insurance costs for beginning farmers by 10 percent. The second provision that I have introduced with Senators JOHANNS, BAUCUS, and HOEVEN would allow beginning producers to use conservation reserve program acres for grazing without a penalty. I believe that both of these provisions will go a long way in building the next generation of farmers who will grow our food supply. Both of these provisions should be included in the final bill.

I believe that if we want to recruit a new generation of farmers and ranchers we must take further action to improve the quality of life in our small towns and our rural areas. That is why I worked with Senators HOEVEN and HEITKAMP, and I led the amendment to provide additional resources for critical priorities in the farm bill, including research—something the Presiding Officer knows something about from the University of Wisconsin—as well as rural development, conservation, and energy.

Our provision funds the new nonprofit foundation, the Foundation for Food and Agricultural Research, to leverage private funding with a Federal match to support agricultural research. It provides additional funds to address the $3.2 billion backlog of water and wastewater projects in rural America. You literally cannot go to a region of any State in rural America without hearing about this backlog of rural wastewater and water projects. This amendment that we passed helps with that.

It also increases funding for a regional approach to conservation to address a variety of challenges, including the flooding that we saw in the Red River Valley. The provision also added an additional $100 million to the energy title to help farmers, ranchers, and rural businesses produce homegrown energy. I was pleased to get the strong support of our committee for that amendment, and I am pleased it is included in the final Senate bill.

In the Senate we also preserve the essential nutrition programs that millions of families and children rely on every day. In recent years, programs such as the Supplemental Nutritional Assistance Program, also known as SNAP, became especially important as hard-working families and seniors were suddenly cashed-strapped but still in need of groceries. One of my predecessors—in fact I have his desk—Vice President Hubert H. Humphrey, was an early champion of the food stamp program now known as SNAP. As one of the founders—Humphrey was one of the founders of the Democratic-Farmer-Labor Party in Minnesota—he understood the importance of a stable government policy for both agricultural producers as well as families struggling to put food on the table.

That is why we have always seen this combination of these programs. It makes sense—food comes from farms. Food is a safety net for the people of this country, as are the farm provisions, which are actually a minority of the provisions in this bill. The farm provisions provide a safety net for those who provide food. What we have done with this bill, of course, is reduce some costs and made it more efficient but still kept a strong safety net.

For more than 40 years we have linked together food and farm policy in 5-year farm bills. Nearly 72 percent of the SNAP participants are families with children, and more than one quarter of participants are in households with seniors or people with disabilities. This is not the time to make the deep cuts, as proposed in the House bill, to programs that provide important nutritional support for working families, low-income seniors, and people with disabilities with fixed incomes.

Yet what we have seen is that those cuts—which we will be discussing—on the House side include 170,000 veterans who would be cut off from food assistance if the House bill were to pass. The Senate bill, on the other hand, makes reforms that were necessary, that bring the debt down by $4 billion, reforms that were necessary. So it is not like there were no reforms to this program in the Senate bill. As I noted, 68 Senators voted for this bipartisan bill, including 18 Republicans.

The cuts proposed by the House are in addition to the $11 billion cuts to the program that will go into place this Friday, when the American Reinvestment and Recovery Act supplemental nutrition payments expire.

This program is already moving in the right direction. As the economy has improved, nutrition assistance has been further focused on families in areas with the greatest need. In fact, the CBO projects that without any changes to the program, the number of people eligible for nutrition assistance and the cost of nutrition programs will continue to fall as the economy improves. In this way, nutrition programs operate a lot like the farm safety net for agricultural producers. Just as agriculture payments spiked during the 2012 drought, which was the worst since the 1950s, the need for nutrition assistance, for example, similarly increased when our economy was struck with the worst recession since the 1930s.

When farmers are blessed with a strong harvest or when workers bring home a paycheck from a new job, we have designed agriculture and nutrition programs to adjust accordingly and be reduced.

I believe that instead of trying to find ways to make people ineligible for nutrition assistance, we need to focus on real solutions that put people back to work. This farm bill is an opportunity to do that, as are a number of these efforts—Innovate America, workforce training—and bringing in other things we should be focused on, bringing the tax reform in, bringing the corporate tax rate down and paid for. But if we continue to engage in the brinkmanship as we did in the last month we will never get to the core issue. I believe our country is on the cusp of economic expansion. I believe we have so many opportunities out there when you look at how we are situated with the increase in manufacturing and exports. We need to do work with the immigration bill to help the economy move forward, instead of what we went through last month.

I think this farm bill is the first chance to show that, out of this chaos, came something positive. It is a 5-year farm bill. It worked in the past. It brings the debt down by $24 billion. It is a bipartisan bill. Let's show the people of America that we mean business about working across the aisle.

I see my colleagues here from Tennessee. I have just about 3 minutes more on a very different topic, and that is the nomination of Patty Millett to the DC Circuit Court.

In the past few weeks, as I mentioned, we have made some efforts to come together and get work done on behalf of the American people. There are many of us who work together in relationships of trust, and I hope that continues with regard to nominations.

Patty Millett would make an excellent addition to the court on the DC Circuit, and I urge my colleagues to vote for cloture and to confirm her without delay.

Patty Millett has extensive Federal appellate and Supreme Court experience. She previously served 15 years as an attorney on the appellate staff of the U.S. Department of Justice, Civil Division, and then as an assistant to the Solicitor General. She has argued 32 cases in the Supreme Court—32—in addition to dozens of cases in other appellate courts across the country. In addition to her work for the Justice Department and in private practice, she has also devoted substantial time

to pro bono work. Ms. Millett clearly has an impressive professional background, but even outside the legal world she volunteers as a literacy tutor and for the homeless in the DC area.

She was given the Attorney General's Distinguished Service Award for representing the interests of the United States before the Supreme Court and the National Association of Attorneys General award for assistance to the States in preparation for their appearances before the Supreme Court. Ms. Millett is the kind of woman we should have on the bench. It should be no surprise that the nonpartisan American Bar Association committee that reviews every Federal judicial nominee unanimously gave her its highest rating, and over 100 leading lawyers and law professors wrote a letter in support of her nomination. This letter included 7 former Solicitors General who served under Democratic and Republican Presidents alike.

Clearly there can be no question she has the experience and ability to sit on the Federal bench. She also has the support of the Fraternal Order of Police, the Police Executive Research Forum, the National Women's Law Center, the Women's Bar Association, and the National Congress of American Indians.

Ms. Millett is well qualified, and we should confirm her now.

One justification—and there is only one that I have heard and I don't think it is a good one, and I am about to debunk it. The only justification I have heard is not about her at all, it is about the DC Circuit. Some of my colleagues think they should remain with three openings on the bench. I don't think this argument squares with the facts. Currently, 3 of the 11 seats on the DC Circuit are empty. According to the Administrative Office of the Courts, senior judges—judges who are partially retired—are now involved in over 40 percent of the cases that are decided on the merits.

Before he was our Supreme Court Justice, John Roberts was confirmed to sit on the DC Circuit. Ten years ago when Chief Justice Roberts was confirmed to sit on that circuit, the average judge on that court had only 125 pending cases. Today, with 3 vacancies on the court, that number is 185 cases. Those are the complex cases that are pending. Even if we fill all the empty slots, the judges on the DC Circuit will still have more pending cases on average than John Roberts did when we confirmed him to sit on the DC Circuit back in 2003.

There are no excuses. We have a finely qualified nominee, with 32 Supreme Court arguments, support of the nonpartisan group that looks at these nominees, someone whose spouse served in the military for 22 years, someone who raised her kids while he was over in Kuwait, and we are going to turn her down? That makes no sense to me at all, and I urge my colleagues to help Patty Millett get into this job to do what she says is the highest honor you can have; that is, public service.

She should be confirmed without delay. The Senate should have confirmed her this week. We heard from the American people—we all heard this when we were home—how they are sick and tired of this kind of delay and partisanship. She is a fine, highly qualified nominee. She should get an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER (Mr. DONNELLY). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise to speak on behalf of Congressman MEL WATT to serve as director of the Federal Housing Finance Agency.

It has been over 5 years since the FHFA's inception, and it still has never had a confirmed Director. First, Senate Republicans blocked President Obama's original nominee for the post, Joe Smith, who was a technocrat. Today they are trying to block Congressman WATT because they say he is a politician and not a technocrat.

But they forget that Congressman WATT has over 40 years of experience in housing, real estate, and other financial services issues. Before coming to Congress, he practiced business and economic development law and personally walked hundreds of families through real estate closings.

In Congress, he has served on the House Financial Services Committee for the past 21 years. In that capacity, he was one of the first Members to recognize the need for action on predatory lending. With great foresight, he introduced the Prohibit Predatory Lending Act in 2004 and introduced it every Congress until it became the foundation for the qualified mortgage provision of the Wall Street Reform and Consumer Protection Act of 2010. If we had all listened to Congressman WATT before the housing crisis, then thousands of consumers might have avoided being scammed into unsafe mortgages that ultimately led to foreclosure.

Congressman WATT has also shown a commitment to housing finance reform. In 2007, he partnered with Congressman Frank and introduced a bill to reform Freddie and Fannie. This bill eventually led to the Housing and Economic Recovery Act, which established the FHFA.

Industry groups, consumer advocates, and fellow Members of Congress have recognized Congressman WATT's impressive track record and support him for this position.

One of his home State Senators, and the Republican Senator who probably knows him best, has supported his nomination from the beginning. Shortly after Congressman WATT's nomination was announced, Senator BURR stated:

> Having served with Mel, I know of his commitment to sustainable federal housing programs and am confident he will work hard to protect taxpayers from future exposure to Fannie Mae and Freddie Mac. I look forward to working with Representative Watt in his new role to find new ways to facilitate more private sector involvement in the housing and mortgage markets.

Recently, the National Association of Home Builders sent a letter in support of Congressman WATT's nomination, stating:

> During Representative Watt's tenure on the House Financial Services Committee, he has proven to be a thoughtful leader on housing policy. The FHFA needs a permanent director with his leadership capabilities.

The National Association of Realtors has also sent a letter of support praising Congressman WATT by stating:

> The Director of the FHFA must weigh the costs of action and inaction with the benefits of protecting the taxpayer, and ensuring that the housing sector can stabilize and grow. Mr. Watt has the experience and skill necessary to ensure that both are handled in a manner that will benefit our nation.

It is time we finally confirm a Director for the FHFA, to ensure stability and confidence in the housing market. Congressman WATT has the experience, intellect, and temperament to succeed as Director, and there is no legitimate reason why Congressman WATT should not be confirmed. At a minimum, as a sitting Member of Congress, he deserves the courtesy of an up-or-down vote. I urge my colleagues to vote yes on the motion to invoke cloture so we can proceed to an up-or-down vote on Congressman WATT's nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the majority leader says it is time to cut off debate and vote on the President's nominees to fill three vacancies on the District of Columbia Court of Appeals. I will not vote to end debate now because I think such a vote would be premature.

Before the Senate has an up-or-down vote on the three judges, there is something else we ought to do first. We should first consider the bipartisan proposal that was made 10 years ago to have the right number of judges on this Federal appellate court. For more than a decade, Senators of both parties have argued that this court has more judges than it needs and that other Federal appellate courts have too few. In 2003, 2005, and 2007, with a Republican President in the White House, Republican Senators SESSIONS and GRASSLEY introduced legislation to reduce the number of seats on the DC Circuit.

In 2006, they were joined by a distinguished group of eight Judiciary Committee Democrats who made the same argument. These included the chairman, Senator LEAHY, Senator SCHUMER, Senator Feingold, Senator Kennedy, Senator FEINSTEIN, Senator DURBIN, Senator Kohl, and Senator BIDEN. When President Bush nominated Peter Keisler to the DC Circuit, the Democrats wrote Senator Specter, the committee chairman, a strong letter.

The letter says:

> We believe that Mr. Keisler should under no circumstances be considered—much less

confirmed—by this Committee before we first address the very need for that judgeship . . . and deal with the genuine judicial emergencies identified by the Judicial Conference.

The Democratic Senators argued, first, the committee should—before turning to the nomination itself—hold a hearing on the necessity of filling the 11th seat on the DC Circuit, to which Mr. Keisler has been nominated. They cited a number of objections by Senators to the need for more judges on that circuit.

They then argued 6 years ago:

[That] since these emphatic objections were raised in 1997, by every relevant benchmark, the caseload for that circuit has dropped further.

Only after we reassess the need to fill this seat and tend to judicial emergencies should we hold a hearing on Mr. Keisler's nomination.

That was the Democratic Senators' position in 2007. These distinguished Democratic Senators were not only forceful in 2006 and 2007, they were persuasive. They worked with President Bush and Congress agreed to reduce the DC Circuit by one seat and add it to the Ninth Circuit, where the caseload was 526 filings per judge—well above the caseload average for all the judicial circuits.

In 2007, Senator FEINSTEIN, a Democrat, and Senator Kyl, a Republican wrote:

It makes sense to take a judgeship from where it is needed the least and transfer it to where it is needed the most.

Mr. Keisler, by the way, was never confirmed. For 2½ years his nomination was held in the Judiciary Committee, from June 2006 until January 2009. The same arguments made in 2006 and 2007 should be persuasive today.

Today, the average caseload for the DC Circuit—even if it were reduced by three judgeships to the eight seats currently occupied—would be less than one-half the national average for circuit courts. The national average is 344 cases filed per judge this year in Federal appellate courts. The DC Circuit average, if it were reduced to the 8 current judges, would be 149 per year. The national average is 344 cases per year. The DC Circuit average—even if it is reduced to 8—would be 149 per year, less than half.

Since 2005, there has been a decrease of 27 percent in the number of written decisions by an active judge on the DC Circuit. Since 2005, the number of appeals filed in the DC Circuit has fallen by 17½ percent.

Before it considers any of the President's nominees for the DC Circuit, the Senate should do in 2013, today, what Republican President Bush and the Democratic Senate did in 2007; first, consider the appropriate number of judges for the DC Circuit, and then, as Senator Kyl and Senator FEINSTEIN wrote, ''take a judgeship from where it is needed least and transfer it to where it is needed most.''

I heard the argument that the cases in the DC Circuit are more complex than in another circuit, and therefore the caseload ought to be lighter. With eight judges, it will be a lot lighter—half the national average for circuit courts. That ought to allow plenty of time to write decisions in complex cases.

Other circuits have complex cases as well. For example, the Second Circuit, including New York, regularly handles many of the most complex cases that come to the Federal courts. Finally, there are a number of senior judges who are active in the DC Circuit—that is true in almost all the circuits, and that is part of the way our system works today. They can carry some of the workload when that becomes necessary.

I think it is striking that even if this court only has eight seats, that the average caseload is less than half of the national average. So why does it need three additional judges? That is the question Democratic Senators asked in 2007, and that is what the Senate and President Bush addressed. That is the question we should be asking today before we fill any more seats for an underworked circuit court.

So I will not vote to end the debate on the President's nominees until the Senate does in 2013 what Democratic Senators suggested and what the Senate did in 2007: Assess the need for judges on the DC Circuit and transfer judges from where they are needed least to where they are needed most. That means that before we act on the President's three nominees, the Judiciary Committee and the full Senate should consider Senator GRASSLEY's legislation that would transfer one judge to each of the overworked Second and Eleventh Circuits and eliminate one judge, leaving the DC Circuit with a caseload that still is less than half the national average for the eight remaining judgeships. Then, if there are still vacancies to be filled in the DC Circuit, the Senate can consider them one by one.

The Senate has treated President Obama very well in considering his nominations. According to the Congressional Research Service, as of August of this year President Obama's Cabinet members were, on average, 54 days—moving from announcement to confirmation at about the same pace as those of President Bush and President Clinton.

As far as President Obama's judicial nominees, President Obama has had 38 article III judges confirmed at this point in his second term, including 9 circuit judges, 25 district judges, and 4 judges to other article III courts. By comparison to those 38, President George Bush had 16 article III judges confirmed, 7 circuit judges, 7 district judges, and 2 judges to other article III courts.

What about a waiting list of judges who are waiting to be confirmed by the Senate? Is there a big backlog? The answer is no. As of today, only two circuit judges have been reported by the committee and await floor action. Remember, the committee is controlled by Democrats and they can report whomever they want. Both of these are for the DC Circuit and are not judicial emergencies. Only seven district court nominations await floor action. None have been waiting long. Three were reported in August, and four were reported in September.

So while there are always a few nominations that provoke controversy and take a while to consider, one of the Senate's most important and best known powers is the constitutional authority to advise and consent on Presidential nominations. That is a part of the checks and balances our Founders set up so we didn't have a king, we didn't have a tyranny. We made it slower. We gave the President the right to nominate, but the Senate has the right to advise and consent. Sometimes that takes a while. Sometimes those nominees are rejected.

I believe and have argued consistently that with rare exceptions, Presidential nominations deserve an up-or-down vote after an appropriate time for consideration. President Obama's nominations have been receiving timely up-or-down votes. But first, as Senators of both political parties have argued for 10 years, we should make certain we have the right number of judges on the court. We don't have money to waste in this country with the debt we have today. We should transfer judges from where they are needed the least to where they are needed the most. That is the sensible thing to do. The President's nominees for the DC Circuit will receive up-or-down votes insofar as I am concerned unless there are exceptional circumstances.

I ask unanimous consent to have printed in the RECORD the letter of July 27, 2006, from eight Democratic Senators to Chairman Arlen Specter suggesting that the hearing on Mr. Keisler be postponed until the Senate had considered the number of judges on the DC Circuit. I ask unanimous consent to have printed in the RECORD as well ''Additional Views of Senators Feinstein and Kyl'' which were written at that time.

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

U.S. SENATE,
Washington, DC, July 27, 2006.

Hon. ARLEN SPECTER,
Chairman, Committee on Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN SPECTER: We write to request that you postpone next week's proposed confirmation hearing for Peter Keisler, only recently nominated to the D.C. Circuit Court of Appeals. For the reasons set forth below, we believe that Mr. Keisler should under no circumstances be considered—much less confirmed—by this Committee before we first address the very need for that judgeship, receive and review necessary information about the nominee, and deal with the genuine judicial emergencies identified by the Judicial Conference.

First, the Committee should, before turning to the nomination itself, hold a hearing

on the necessity of filling the 11th seat on the D.C. Circuit, to which Mr. Keisler has been nominated. There has long been concern—much of it expressed by Republican Members—that the D.C. Circuit's workload does not warrant more than 10 active judges. As you may recall, in years past, a number of Senators, including several who still sit on this Committee, have vehemently opposed the filling of the 11th and 12th seats on that court:

Senator Sessions: ''[The eleventh] judgeship, more than any other judgeship in America, is not needed.'' (1997)

Senator Grassley: ''I can confidently conclude that the D.C. Circuit does not need 12 judges or even 11 judges.'' (1997)

Senator Kyl: ''If . . . another vacancy occurs, thereby opening up the 11th seat again, I plan to vote against filling the seat—and, of course, the 12th seat—unless there is a significant increase in the caseload or some other extraordinary circumstance.'' (1997)

More recently, at a hearing on the D.C. Circuit, Senator Sessions, citing the Chief Judge of the D.C. Circuit, reaffirmed his view that there was no need to fill the 11th seat: ''I thought ten was too many . . . I will oppose going above ten unless the caseload is up.'' (2002)

In addition, these and other Senators expressed great reluctance to spend the estimated $1 million per year in taxpayer funds to finance a judgeship that could not be justified based on the workload. Indeed, Senator SESSIONS even suggested that filling the 11th seat would be ''an unjust burden on the taxpayers of America.''

Since these emphatic objections were raised in 1997, by every relevant benchmark, the caseload for that circuit has only dropped further. According to the Administrative Office of the United States Courts, the Circuit's caseload, as measured by written decisions per active judge, has declined 17 percent since 1997; as measured by number of appeals resolved on the merits per active judge, it declined by 21 percent; and as measured by total number of appeals filed, it declined by 10 percent. Accordingly, before we rush to consider Mr. Keisler's nomination, we should look closely—as we did in 2002—at whether there is even a need for this seat to be filled and at what expense to the taxpayer.

Second, given how quickly the Keisler hearing was scheduled (he was nominated only 28 days ago), the American Bar Association has not yet even completed its evaluation of this nominee. We should not be scheduling hearings for nominees before the Committee has received their ABA ratings. Moreover, in connection with the most recent judicial nominees who, like Mr. Keisler, served in past administrations, Senators appropriately sought and received publicly available documents relevant to their government service. Everyone, we believe, benefited from the review of that material, which assisted Senators in fulfilling their responsibilities of advice and consent. Similarly, the Committee should have the benefit of publicly available information relevant to Mr. Keisler's tenure in the Reagan Administration, some of which may take some time to procure from, among other places, the Reagan Library. As Senator Frist said in an interview on Tuesday, ''[Tlhe DC Circuit . . . after the Supreme Court is the next court in terms of hierarchy, in terms of responsibility, interpretation, and in terms of prioritization.'' We should therefore perform our due diligence before awarding a lifetime appointment to this uniquely important court.

Finally, given the questionable need to fill the 11th seat, we believe that Mr. Keisler should not jump ahead of those who have been nominated for vacant seats identified as judicial emergencies by the non-partisan Judicial Conference. Indeed, every other Circuit Court nominee awaiting a hearing in the Committee, save one, has been selected for a vacancy that has been deemed a ''judicial emergency.'' We should turn to those nominees first; emergency vacancies should clearly take priority over a possibly superfluous one.

Given the singular importance of the D.C. Circuit, we should not proceed hastily and without full information. Only after we reassess the need to fill this seat, perform reasonable due diligence on the nominee, and tend to actual judicial emergencies, should we hold a hearing on Mr. Keisler's nomination.

We thank you for your consideration of this unanimous request of Democratic Senators.

Sincerely,

PATRICK LEAHY.
CHUCK SCHUMER.
NITA FEINGOLD.
DIANNE FEINSTEIN.
HERB KOHL.
TED KENNEDY.
DICK DURBIN.
JOE BIDEN.

THE COURT SECURITY ACT OF 2007

MARCH 29, 2007—ORDERED TO BE PRINTED

Mr. LEAHY, Chairman of the Committee on the Judiciary, submits the following report together with additional views

VI. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATORS FEINSTEIN AND KYL

Section 506 of this bill transfers a judgeship from the U.S. Court of Appeals for the District of Columbia Circuit to the U.S. Court of Appeals for the Ninth Circuit. Once this provision is enacted into law, the Ninth Circuit will have 29 judgeships and the D.C. Circuit will have 11.

Section 506 will help to ease the backlog of pending cases in the Ninth Circuit, where more judgeships are sorely needed. At the same time, it will eliminate a judgeship on the D.C. Circuit that many Senators—including both Democrats and Republicans on this committee—have indicated that they believe to be unnecessary.

The numbers tell a striking story. According to the Administrative Office of the United States Courts, 107 appeals per judge were filed in the D.C. Circuit in 2006. By contrast, in the Ninth Circuit, the filings were nearly five times higher—a total of 523 filings per judge in 2006. Filings per judge in the Ninth Circuit are also substantially higher than the national average of 399 filings per judge. The D.C. Circuit's rate of filings, by contrast, falls far below the national average.

The merits of transferring a judgeship from the D.C. Circuit to the Ninth Circuit are also brought into relief by considering the total number of appeals left pending in each circuit at the end of the 2006 reporting cycle. In the Ninth Circuit, 1,853 appeals were pending at the end of this period. This was the highest total for any circuit in the nation. By contrast, in the D.C. Circuit, only 387 appeals were pending at the end of the 2006 period. This was the lowest total for any circuit in the nation.

The backlog of cases in the Ninth Circuit is not merely a problem for lawyers and judges. It injures ordinary people who have to wait longer to have their cases resolved. Plaintiffs who have been injured, criminal defendants seeking review of their convictions, and victims waiting for justice—for all of these people, justice delayed is justice denied.

It just makes sense to take a judgeship from where it is needed least, and to transfer it to where it is needed most.

California is hit hardest by the inadequate number of judgeships on the Ninth Circuit. In 2005, 10,000 federal appeals—70% of the circuit's total docket—were filed in California. On February 14, during his testimony before this Committee, even U.S. Supreme Court Justice Anthony Kennedy commented on the overloaded docket of the Central District of California. Yet of the Ninth Circuit's 28 judgeships, only 14 are assigned to California.

California needs more judges. Transferring a judgeship from the D.C. Circuit to the Ninth Circuit in California would be a first step toward correcting this deficiency.

The D.C. Circuit, by contrast, has seen its caseload decline in recent years. In fact, filings in that circuit dropped by 7.1% in 2006 alone. Removal of the 12th judgeship would only modestly increase filings per judge in that circuit to 115—a figure still well below half the national average for U.S. courts of appeals. And in any event, the burden on that court of removing a seat is largely hypothetical. The 12th seat on the D.C. Circuit was created in 1984 and has remained vacant for most of the intervening years, including all of the last decade. On the other hand, adding one seat to the Ninth Circuit would reduce filings per judge on that court to 503—still a heavy burden on the justice system of the Western States.

Section 506 is a reasonable step toward the solution of a pressing problem in the administration of United States courts. We are pleased to see it made part of this bill.

DIANNE FEINSTEIN.
JON KYL.

NATIONAL DAY OF REMEMBRANCE

Mr. ALEXANDER. Mr. President, I come to the floor today to give thanks and show respect to World War II and Cold War heroes who served in our Nation's nuclear weapons programs on this fifth National Day of Remembrance. They weren't serving in the heat of battle but in the laboratory, handling materials on a daily basis that ranged from benign to toxic and highly radioactive. These materials posed risks that many scientists did not understand at the time.

Today in Oak Ridge, TN, the American Museum of Science and Energy, and Cold War Patriots are gathering to celebrate former workers and view a quilt that honors nuclear workers for their contribution to America's safety. This one-of-a-kind remembrance quilt has 1,250 commemorative handwritten quilt squares that form an American flag that measures 17 feet by 11 feet.

I want to specifically remember Bill Wilcox for his service to our country and passion for preserving Oak Ridge history. Bill passed this September. Bill was a former manager of the K–25 operations, a Manhattan Project veteran, and the official historian for the city of Oak Ridge.

In 1943, Bill was hired by Tennessee Eastman on a ''Secret, secret, secret!'' project in an unknown location. When he started at Eastman he was told:

As chemists you'll have to know that you'll be working [on] this project with a substance called uranium. That is the last time that you will hear that word or you will speak it until after the war. And if you are

ever heard speaking the word you will be subject to discharge from our employment immediately, and very likely prosecuted by the United States government, and may end up in jail. Is that clear?

In Oak Ridge ground was broken for the Y–12 plant in February of 1943, and by the end of the summer they started installing complex physics machines, called calutrons. About 1,000 calutrons were installed at Y–12.

How were these calutrons operated? Tennessee Eastman said that the calutrons couldn't be run as an experiment but should be run like an industrial plant. Rather than manuals, there should be a simple red line on meter A. The operator would turn knob A until the needle is on the red line on meter A.

However, General Leslie Groves, head of the Manhattan Project, along with physicists disagreed. So they took five calutrons and ran them for a week with the best physicists and then another week with girls right out of high school that kept the needle on the red line of the meters. ''After a week the girls had won hands down in terms of productivity.''

These women were called the ''calutron girls.'' One calutron girl first learned of the war effort in Oak Ridge when she was at a café in Sweetwater, TN. She was working in a hardware store at the time. The store had a big window where people from the surrounding counties put photos of their sons who went away to war. She had the job of straightening up the photos when the heat from the window caused the cardboard frames to buckle. With great dignity, the families would take down the pictures of their fallen soldiers.

Wanting to help the war effort, she went to Oak Ridge, where there was ''mud everywhere, and green Army trucks, and vehicles, and soldiers, and that was just inside the gate.'' As a calutron girl, she wore a blue uniform. The chemical workers wore white. She said:

> You weren't allowed to go in the other room . . . you'd stick out like a sore thumb, a blue something in a white-uniformed place . . . But they let us go over—towards the end . . . they told us to take all the bobby pins out of your hair before you go out there because it would yank your bobby pins out.

She remembers:

> You couldn't talk. You couldn't say anything to anybody about where you worked, what building, when you left the plant. In fact, there were huge banners up all over the plant: 'When you leave here what you see here stays here.' And you weren't allowed to tell even . . . somebody [that] worked on the same thing you did.

There were signs everywhere: ''Keep your mouth shut!'' ''Loose lips sink ships!'' ''See no evil; hear no evil; speak no evil'' with posted fines of $10,000 and warnings of jail time.

One of the things that was curious about Oak Ridge was that these rail cars came in every week, but nobody ever saw any product going out. The reason was that the product went out in a standard-sized briefcase every week chained to the wrist of a military officer, in plainclothes. He would get on the train and go to Chicago to exchange the briefcase.

During 1945, a different process at the K–25 building was surprisingly successful and cost less than 10 percent of the cost of the Y–12 process. The K–25 building was a mile-long U-shape—once the world's largest buildings under one roof. The operators had to use bicycles just to get around their building.

The successful K–25 process ran full blast for another 20 years, while the Y–12 plant received a new mission.

These efforts along with others by our nuclear weapons workers across the country won World War II and the cold war. At the peak of the Cold War, nearly 600,000 workers across the country were involved in the research and production of nuclear weapons.

Today, many former nuclear weapons workers are retired. Many of them are sick. Some are dying. The government is helping these sick nuclear workers through the Energy Employees Occupational Illness Compensation Program created by Congress in 2001.

This program provides compensation to those who were exposed to radiation and toxic materials while building our nuclear weapons, especially those that were instrumental in our winning the cold war. This program receives claims from all 50 States nearly 100,000 individual workers.

This program is especially important to Tennessee. Tennessee has the highest number of claims than any other State—over 14,000 workers. Tennesseans, mostly former workers at Oak Ridge National Laboratory, Y–12 and K–25, have received over $1.7 billion in compensation and paid medical bills, according to the Department of Labor.

Today, the nuclear workers across the country continue this heroic legacy to advance nuclear power, nuclear medicine and other technology that continues to make our lives better and keep our country safe.

So I am privileged to work with Senator MARK UDALL in honoring these patriots who worked countless hours with little-understood hazardous materials to build our country's nuclear deterrent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I ask unanimous consent to enter into a colloquy with my colleagues from Delaware and Ohio for up to 30 minutes.

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

MANUFACTURING IN AMERICA

Mr. BLUNT. Mr. President, this is one of those all-too-rare occasions anymore where we all agree, and it is about making things. We will be talking for the next few minutes about what happens in our country and what needs to happen so we can not just make things again—because we still make lots of things, and we make them very well—but what we need to do to be able to make more things. What do we need to do to be sure we are at the competitive front of the line as we work to make things.

All of us are working on things together. Senator BROWN and I have been working on advanced manufacturing—something that he has spoken about and we have spoken about together and that he has been a leader on for a long time—and all of our States benefit.

Missouri and Ohio have certainly been among the significant manufacturing States. In Missouri we have more than $32 billion a year in manufacturing. For about the last 4 years that has been the top manufacturing employment, has been in the agricultural industry, in food processing, as well as transportation equipment, fabricated metals, machinery of all kinds, and automobiles have been in the top of our manufacturing sectors.

I believe we are really at a point where so many things could easily come together, and the Federal Government and the Congress can help make those things come together by taking down barriers and by creating easier ways to work together. In the case of advanced manufacturing, we have talked about the centers of excellence and we have worked on that together, and we have both seen some of these ideas work.

I wish to ask Senator BROWN some of the things he has seen and the things he thinks we can do better through the legislation we have been talking about.

Mr. BROWN. Mr. President, I appreciate Senator BLUNT yielding. I appreciate the opportunity to engage in this colloquy with the Senator from Missouri as well as the Senator from Delaware, both of whom have been leaders in manufacturing in Missouri and in Delaware.

It is pretty clear what these public-private hubs can do in terms of a multiplier effect. When we look at manufacturing history in this country—and of course I will use an illustration in my State, as I understand my State better than I do any other—when Akron was the leading tire manufacturer and was sort of the center for tire manufacturing along the Ohio turnpike in northeast Ohio; to Toledo, where glass manufacturing was prominent and prevalent for decades; to autos in Cleveland; to steel; and then to rubber in Akron, we can see that once we have an innovative focus, then other kinds of manufacturing come out of that. As the tire industry declined over the decades, Akron is now one of the leaders in polymer. Toledo, which was a leader in glass manufacturing—plate glass for cars, bottles, and a lot of other kinds of glassware—has become a solar center.

So the legislation Senator BLUNT and I have come up with will help American workers and American business have the drive and the creative thinking and the determination to innovate ahead of the rest of the world.

Before turning to Senator COONS, I wish to tell a quick story that tells me

why it is so important that manufacturing take place here. We out-innovate the rest of the world. We are still the most creative. We are the best innovators. We lead in foundational research and in other kinds of research. The problem is that as we invent things in this country, if we then outsource the manufacturing, so much of the creativity and innovation, both in process and in product, takes place in that other country because it takes place in the shops.

I will give a quick example. The largest yogurt manufacturer in North America is in western Ohio near the town where Neil Armstrong grew up, western Ohio near Wapakoneta. That yogurt manufacturer—I was there one day, and they used to bring in—the suppliers would send the plastic cups to the shop floor, to the manufacturer, and they would fill them—in these big silver vats—they would fill these plastic cups with fermented milk, with yogurt, package it, and send it. A young industrial engineer and a couple of people who worked on the line for years said: We can do this a lot less expensively and save money for the company and be more productive and efficient. So the three of them developed something pretty simple to an engineer, not so simple, perhaps, to me, but they simply fed a roll of plastic, a sheet of plastic, it was slowly heated, and it was then extruded and then cooled and filled with yogurt. The line was about 75 feet, and it made for a much more efficient innovation. That innovation took place on the shop floor of an American manufacturing plant, making the productivity of that plant much greater.

That is really how we need to look at this. If we are going to do this partnership with government and local manufacturers and local labor unions and local businesses and local suppliers, we can do the kind of work Senator BLUNT mentioned with these manufacturing hubs, this network of manufacturing innovation initiative we have had.

We introduced the bill this summer. We are working to build support. We welcome the support of our colleagues. Senator BLUNT has already mentioned what it could mean in Missouri, and perhaps Senator COONS could tell us what it would mean in Delaware and in this country and what better manufacturing and more innovation means to our country.

I thank my two colleagues. I have a conference committee I need to join, but I appreciate very much my colleagues opening this discussion.

Mr. COONS. Mr. President, I thank the Senator from Ohio for his tireless and engaged leadership on manufacturing, on fighting for access to foreign markets on fair terms, for fighting for skills and increasing the skills of our manufacturing workforce, and in this instance, in this strong bipartisan bill, for working with our colleague from Missouri on a national network of manufacturing innovation centers.

My own work of 8 years at a manufacturing company in Delaware in a materials-based science company that makes things helped make it clear to me how important research and development and continuous innovation are for manufacturers at all levels. I have seen this across the State of Delaware. Our Presiding Officer—long owner and leader of a manufacturing business in his home State of Indiana—knows this better than any of us: that if we don't innovate, if we don't invest in research and development, in improving the skills in the workforce and improving the productivity and the operating efficiency of any manufacturing company, we can't survive in the tough headwinds of the global marketplace today.

One of the programs I championed here in the Senate that has bipartisan support is the Manufacturing Extension Partnership. It is a long-established program that takes the latest cutting-edge research and development work at universities and moves it to the shop floor. I have visited companies up and down Delaware, from FMC in Newark to Speakman in New Castle, where they have taken those innovations from the university to the shop floor.

One of the things I am grateful to Senator BLUNT for is his leadership in taking that insight that in order to have the most productive manufacturing workforce in the world, in order to continue to compete globally, we have to find ways to continue to invest in demonstrating the power of innovation and we have to find ways to do that in a bipartisan way.

I thank the Senator for being willing to work with Senator BROWN and others here. This is exactly the sort of stuff I hear from Delawareans they want us to be doing. There is lots that divides us. This is something that unites us: working together to strengthen our manufacturing sector, to make it more competitive, to bring jobs back to the United States, and to grow this sector.

We have grown half a million jobs in the last 3 years in the manufacturing sector. These are good jobs, at high wages, high benefits, high skills. But we can and should do more, pulling together to sort of lift further this ongoing manufacturing revival.

If Senator BLUNT would share some more with us about this specific bill and about his experience in what else we can and should be doing together to strengthen manufacturing in Missouri, I would be grateful.

Mr. BLUNT. The Senator's point is well made. These manufacturing jobs are goods jobs. The American workforce is competitive. As Senator BROWN said, we have always been on the cutting edge, the outside of competition, making things in a better way than we did last year. Everybody who is competing today is trying to figure out how they can do whatever they did last year better. We see that and what we can add to that, how we can make that process work better.

In our State, the average manufacturing job pays 21.5 percent more than the average wage. Mr. President, $52,000 or so for the average manufacturing job salary in Missouri is a significant improvement in where you might otherwise be. In Missouri we have 6,500 manufacturing firms. Almost a quarter of a million people work in manufacturing in Missouri. We used to have more than that. We used to have more than that, and I think we will have more than that again. The country used to do more in terms of manufacturing than it does now. But we are going to see that happen.

The Senator from Delaware just wrote an article in Congressional Quarterly that talked about what needs to be done, the great opportunities we have in energy. If we take advantage of those great energy opportunities, suddenly the utility bill is more predictable, the delivery system is more guaranteed.

I was talking to a manufacturer today in my office and this topic came up. At some point now, as you get further and further into innovation, people not only have to be better trained—the Senator talked about that too: the importance of a skilled workforce—but how the workforce competes with maybe a lower paid workforce in some other country maybe is not nearly as important as how the utility bill competes.

If you can run that facility—and I just gave him an example of another manufacturing facility in my hometown of Springfield, MO, that was making a significant expansion, I think about a $150 million expansion. They did not expect to hire any more people, but they expect to use that current workforce in a much more competitive way. Nobody was losing a job because of advanced competition. They are just expanding that workforce in a way that ensures they will keep their job and be more competitive. Of course, somebody, by the way, is building that expansion. There are jobs there as well. And those all matter.

We have all kinds of examples.

Perryville, MO, is a town of less than 10,000 people. In that town, they have become a hub—it is about 80 miles south of St. Louis—of 21st century manufacturing. A Japanese company is there, Toyoda Gosei, that makes plastic components for automobiles. Sabreliner makes aviation parts and is in the airplane industry. There is Gilster-Mary Lee, a much more traditional employer. But here is a town that has a significant number of manufacturing jobs.

The town of Cassville, near Springfield, for a number of years had more manufacturing jobs than they had population. Now, of course, that meant in the part of the country where I live lots of people may have been driving a significant number of miles to get to those jobs. But there are not very

many cities. This is a smaller community. It is the county seat of Barry County. But they had more manufacturing jobs than the number of people who lived in the community itself. It meant that is a competitive community. That is a community that knows how to build jobs.

Perryville is a community that has launched itself well into the 21st century. And the skills the Senator was talking about—the skilled workforce, the energy needs, the research component—one of the components of these hubs of excellence that we have been looking at and talking about, Senator BROWN and I have been working on, is to create ways to encourage that higher education be part of that research component.

I think Americans are eager to produce. I bet the Senator and I both hear the same thing over and over: How can we have a strong economy if we do not produce? Well, you can have a strong economy in parts of the economy that do not produce, but I think not only do you need to produce, but there is something that defines who we are in a positive way when people see American production that is not only heavily competitive here but competitive all over the world.

I think that is what Senator COONS and I are talking about, the kind of bipartisan effort we need to make. I do not know any Republicans or any Democrats anywhere, or any Independents, who have said: Oh, we don't need to worry about making things. We don't need to worry about a competitive economy. Actually, private sector jobs should be the No. 1 domestic goal of the Federal Government today. And the jobs we are talking about are a significant component because they lead to lots of other jobs. All of the ripple effects of manufacturing jobs are great: the other businesses that spring up, the suppliers that come.

Of course, the Senator and I have talked about his father was a significant part of launching new things into the marketplace. I think that is what the Senator and I want to see this Congress encourage, as we can encourage things without law and look for legislative ways to facilitate a growth back toward manufacturing.

Mr. COONS. I thank Senator BLUNT for his work on this bill with Senator BROWN. There are other bills that I hope this body will take up and discuss and debate where I hope we can find ideas that are out there, with progress that is being made and policy innovation that is being made, and that we can take them up, debate them, and find bipartisan sponsors who will carry them forward.

I absolutely agree with the Senator's point that we are seeing in manufacturing a revival in this country for a variety of reasons. One of them is less expensive energy. The shale gas revolution is reducing the feedstock costs for chemical manufacturing and reducing the energy costs broadly for manufacturing of all kinds.

We are also seeing that lots of American companies fear the loss of their inventions, their innovations, if they move offshore. So some of the attractiveness of operating in other countries has dimmed a bit, as they have recognized that the United States is one that has a rule of law that protects their inventions and innovations.

There is also less of a wage gap, frankly, as wages have come up in the developing world. In China, the wage gap is less. So that combination gives us a window, gives us a moment of opportunity. We lost millions of manufacturing jobs in the first years of this century, but in the last three we have been growing them and growing them steadily. If we can work in partnership across the aisle on manufacturing skills, on access to credit, on innovation, on a coordinated strategy, I cannot imagine a community in this country that would not rather have high-quality manufacturing jobs.

As Senator BLUNT was mentioning, for every manufacturing job that is created, there is 1.6 new support jobs created. For every $1 spent in manufacturing, there is $1.34 spent in the local economy that moves around. It is the sector that has the most positive secondary impact in our communities.

I do think there is broadly in our country a sense that we have sort of lost our leading edge in manufacturing because of the large-scale layoffs and the large plant closings. But in my State, and I presume in the Senator's State and in the Presiding Officer's State of Indiana, and others, there are dozens and dozens of small and medium-sized manufacturers who have seized this moment, who are growing, and who simply want us to help facilitate their access to the market, their access to innovation and new research, their access to a skilled workforce.

If we can pull together, I think we can do great things for the United States going forward.

Also, before we close, I thank Senator BLUNT for being a cosponsor with me of the startup innovation tax credit—something Senator ENZI and I and many others—Senator RUBIO, Senator SCHUMER, Senator STABENOW, as well as Senator MORAN—have cosponsored and introduced and discussed over time. It would help with access to capital for early stage startup manufacturers.

There are lots of good ideas we can and should discuss on the floor, in hearings, and going forward. But for today I am grateful to Senator BLUNT for his leadership with Senator BROWN on this bill that would help strengthen the National Network of Manufacturing Innovation centers. The Senator is a strong leader for manufacturing in his home State of Missouri, and I am grateful for a chance to spend some time with him on the floor today discussing that good bill and his good ideas.

Mr. BLUNT. Let me just talk a little bit about the startup act that Senator COONS and I have worked on. The Senator mentioned, I think, all the cosponsors of that: Senator RUBIO, Senator STABENOW, Senator MORAN, Senator KAINE, Senator SCHUMER, and Senator ENZI.

What that does is try to extend the opportunity of research and development to startup businesses. The way the tax credit works, you can deduct those costs from the taxes you pay. Well, if you are a startup business, you often do not have any profit to deduct from. That is part of the courage, frankly, of starting a business. You are almost insured, guaranteed, that for the first weeks, months, sometimes the first years, depending on how big a venture this is, you are not making money yet. So what the Senator and I and our friends have done in the startup act is say—these people would have employees—so what we do is allow the same tax credit for a big corporation or a big business or a highly successful business with lots of profit to be applied against what they pay as taxes for their employees—the Social Security tax, the other taxes that are paid—and, again, trying to encourage innovation.

We all know that small business is the engine that drives the country. But also small business can be the engine that drives manufacturing, if we figure out a way to let them have some of the same benefits that existing businesses have that have already gotten themselves in a profit-making situation. This just gives them a place to go and utilize that credit.

That is the kind of thing we ought to be looking at. Startup businesses are important, encouraging traditional businesses to figure out how to upgrade their equipment, upgrade the way they do things so they are more competitive in an international marketplace. I really do firmly believe that for reasons the Senator mentioned—the wage gap is not what it was, the transportation costs are more than they were to get something made from somewhere else back to the greatest market in world, the United States of America; and the more we know about the utility bills—Senator DONNELLY from Indiana, who is the Presiding Officer, and I have been working on things that pay attention to the utility bills. Again, that is a key component of future manufacturing. The more competitive you are, the more innovative you are, the more you are likely to be concerned about that part of your input costs. And sometimes when you expand, the utility bill is a bigger than the additional labor cost. But that may be exactly what ensures you can keep the labor you have and grow that labor by being able to make a commitment that you feel good about because you feel good about your ability to run that facility once you build it. You feel good that not only is it going to work this year, but, by the way, we are doing so well and doing so many things that 10 years from now we feel whatever the utility costs are going to be, they are

going to be within the range we can deal with and still produce right in Missouri, right in Ohio, right in Delaware, or right in Indiana.

That is the kind of thing we ought to be focusing on. How do we make things again? How do we create other kinds of private sector jobs, the No. 1 domestic priority of the country today?

Every time the Senator and I talk about manufacturing, I really do get excited about an America that is thinking about not are we going to be able to continue to make what we have always made, but what can we make better than anybody else that we are not making yet that is going to allow us to be out there in a world marketplace? Trade has become a much greater opportunity for the American workforce, as all of these other factors we have been talking about on the floor have come together to make our workforce what it is.

If Senator COONS has any final remarks, I would like him to finish our time here on the floor.

Mr. COONS. I thank Senator BLUNT. I thank the Senator for his enthusiasm for manufacturing and for his enthusiasm for working together with me on the startup innovation credit bill, as the Senator referenced, and with Senator BROWN on the national network of manufacturing innovation centers as he spoke about.

Manufacturing is the center, the beating heart of the middle class of America. Manufacturing jobs are good jobs. We do need to get back to being a country where inventing, growing, and making things is an area of bipartisan, sustained, purposeful focus. I know for the folks who watch us at home and for the folks here in this Chamber, nothing could meet the demands and the needs of our communities and our States more than for us to come together in a bipartisan, balanced, and responsible way to advocate for a stronger manufacturing sector in the United States.

I thank Senator BLUNT very much.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

UNANIMOUS CONSENT REQUEST—S. 1592

Mr. RUBIO. Mr. President, we have all now been aware over the last few days in the news about the problems being faced with the Web site upon which people are supposed to go in order to sign up to be on one of these exchanges. That is important, because next year Americans are going to owe money to the IRS if they do not have health insurance by a certain date.

One of the ways people are supposed to get health insurance is by going on one of those Web sites and logging on, registering, and being able to see what their options are for insurance, and then signing up. If you do not do that, then you are going to owe money to the IRS next year.

The problem is those Web sites are not working. In fact, just today as the Secretary was testifying before a House committee, the Web site crashed again. There are a lot of different reasons why that is happening. I am sure eventually, with all of the experts who are involved in it, they will be able to set up a Web site that functions, because this is the 21st century. The ability to go online and buy something, frankly, is something people do every single day with all kinds of things. So to me, it is inexplicable that they are not able to do that when it comes to health insurance.

But in the meantime, people are struggling not just with the Web site, by the way, there are problems now with the 800 number and the paper application.

I believe the prudent approach is to say we are going to delay, that we are going to put off punishing people, that we are going to put off the individual mandate until the Web site works. I will admit, I do not think the law works at all in its totality and it will eventually have to be repealed. That is what I favor. But in the interim, what I am proposing is something that I think is pretty reasonable; that is, the notion that until these Web sites are working, how can we punish people for not buying health insurance? Why are we going to punish someone for not buying health insurance if the Web site they are supposed to buy it on, by the administration's own admission, is not properly working?

This is creating a lot of anxiety for people. That is why I filed a bill to do that. That is why I come on the floor today for the purpose of making a motion.

As if in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 225, S. 1592, which is a bill to delay the individual mandate until the health exchanges are functioning properly. I further ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I think it is pretty clear that this motion is inappropriate. This is not what we should be doing and how we should potentially change the act. Actually, the effect here is to disrupt implementation of the Affordable Care Act. The Affordable Care Act is a law. It has been in place for several years. The Supreme Court has upheld it. Attempts to repeal it failed. I think the House has voted up to 20 times to try to repeal the ACA. They have all failed. The act is here. So the goal here is to make it work, make the act work. Then later on we can ask questions about what happened, why it didn't work, why wasn't implementation of the exchanges as good as a lot of us would have liked it to have been. Then find out who is responsible, et cetera. Right now it works.

The effect of this motion is severalfold. One, it will deny people having health insurance, people who otherwise would get health insurance. If you delay the individual responsibility requirement, it is going to cause a delay. People will not have insurance.

Second, it is going to increase the cost of health insurance for a lot of people. Why? Because fewer people will be signed up. The individual responsibility requirement will not be followed as much as otherwise would be the case. The result is fewer people will be in the insurance pool, and therefore prices will be higher.

Another consequence is it lowers the quality of health insurance, especially for those individuals who are seeking to be insured. They are going to have a lower quality product as a consequence of this request. It is an attempt to destabilize, it is an attempt to undermine the ACA.

I think for those reasons it is inappropriate and again is another effort to obstruct. We should not proceed in this way, so I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Florida.

Mr. RUBIO. Mr. President, I do not intend to offer another motion since the objection has been heard. I do want to point out a couple of things. First of all, this notion that ObamaCare is the law—it is true it is the law. It was passed by Congress in the years before I got here. This is called the Calendar of Business. This is the Executive Calendar. Basically every single bill that is in here is an effort to change existing law, for the most part. That is what we do around here. That is what the legislative process is about. Virtually every bill that is filed is either an effort to create a new law, but usually it is an effort to change existing law. So if we begin to argue around here that once something is existing law it can never be changed, we might as well close up shop, because that is what we do. That is what the legislative process is about.

The second point that was made was that this law will prevent people have having health insurance. That is not true. Let me say this: No. 1, I am in favor of people having health insurance. I do think we cannot ignore the health insurance problem this country faces.

No. 2, admittedly, I am in favor of repealing ObamaCare and replacing it with a better alternative. But that is not what this bill does. All this bill says—this is the only thing it says: The only thing it says is you cannot enforce the individual mandate, you cannot tell people next year that we will fine you, that the IRS is going to impose a fine on you. You will not be able to do that until the Web site is fully working.

In terms of this preventing people from getting health insurance, that is simply not accurate. This does not prevent anyone from going onto the Web site and signing up. If the bill I am proposing is adopted, it would not keep

anybody from signing up for health insurance under ObamaCare. The only thing it would do is keep the IRS from fining you if you are unable to do it. The reason why that makes sense is because the way we are supposed to do it on a Web site simply is not working.

So it is not accurate to say this will somehow prevent people from buying health insurance. It does not. It does not prohibit you from trying to get it on the Web site. It is just the recognition that the Web site is not working well and there is a consequence to it. The consequence to it is if they cannot get these Web sites up and running, there are people who will not be able to buy health insurance and they are going to get fined for it. That does not sound fair to me.

So while I continue to want to repeal ObamaCare, I think for the good of our people it is unfair to continue to hold over their head the threat of an IRS fine when the method of compliance we are asking them to follow is not fully functioning. That is all this would do.

I would point out this is not a theoretical concern. I get letters and emails every day. But I want to read one I got. I will paraphrase it. It is from Barbara in Ruskin, FL. She is 63 years old. She tried to apply to the health insurance marketplace on October 1. As of the writing of this email, she is no further along. She sought the services of a certified navigator on October 14. After spending hours on line trying to get an account established and making the application, the navigator, with her on speaker phone, after many hours finally assisted her in making an application. She was told she would receive additional information via email. Ten days later she has still heard nothing. She is worried because she is currently covered, but that is being terminated at the end of the year because of ObamaCare. It is going to end on December 31. According to the information provided to her, she has to be enrolled in another insurance plan or she is going to face the fine.

This is just one example. I could go on and on. I do not want to burden the time of the Senate. But there are thousands upon thousands of people who are dealing with this problem.

Here is the last point I would make. I have now heard on a number of occasions the administration say with full confidence that by the end of this coming month, by the end of November, the Web sites will be up and running. If that is true, then there is no reason to be against my bill. If, in fact, you are so confident the Web sites are going to be up and running by the end of November, then this problem will be taken care of. If, in fact, you are right, and the Web sites are going to be up and running at the end of November, then the mandate will be back in effect.

The only thing my bill does is say: As long as the Web site is not working and until it is working, you cannot enforce the ObamaCare mandates on people through a fine from the IRS. That is it. That is all it says. That is why I think this makes all the sense in the world. I am surprised that we somehow believe we should continue to hold the penalty over people's heads when the way we are asking them to comply with the law, by the admission of the administration, by the admission of the Secretary today, is simply not working well enough.

I hope in the days to come my colleagues will reconsider, because I think our people, irrespective of how you feel about ObamaCare, deserve better. To that end, I would read to you one email I got from someone who actually supports ObamaCare. Nicholas in Palm Bay, FL, wrote an extensive email. He talked about how he submitted an application to the Web site. It took hours to complete because of Web issues. They finally finished the application 23 days later. The application is still in progress, but it will not let him go any farther to choose the insurance. So while he does not agree with me about defunding or repealing ObamaCare, he agrees with me that we should suspend the individual mandate penalty until this Web site issue is fixed.

I think there are a lot of people who are going to feel that way. I think there are a lot of people who would be shocked that the government is going to punish them for not buying insurance when the Web site they are being sent to buy it on does not work.

Again, I think it is a commonsense approach. I am surprised there is objection to it. I suppose I should not be, but I am. I hope in the days and weeks to come my colleagues will reconsider, because in my opinion, and I think in the opinion of many Americans, it is simply unfair.

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

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

Mr. COONS. Mr. President, I rise today to speak in favor of Ms. Patricia Millett's nomination to the DC Circuit Court. As a member of the Senate Judiciary Committee, I have the opportunity to closely examine each of the judicial candidates nominated by our President. I did so with Ms. Millett, attending her nomination hearing and speaking to a wide range of the practitioners and colleagues who have direct knowledge of her professionalism and experience. Without exception, at every stage of her career and with every personal and professional colleague with whom she has had work experience, Patty—Ms. Millett—has distinguished herself as a person of integrity, intelligence, and dedication. She is a person whose capability and devotion to a family is an inspiration to those around her. She is unanimously recommended by former living Solicitors General, and received the ABA's highest rating.

Some of my colleagues here have argued that President Obama is trying to ''pack the court'' by nominating Ms. Millett and two other nominees to fill three current vacancies on the DC Circuit Court. These charges of court packing strike me, frankly, as without foundation. Court packing is an historical term used to describe when politicians try to change the size of a court, expand a court, in order to control its expected outcome. That was the cause of the objection to President Roosevelt's plan to add up to six Justices to the U.S. Supreme Court back in 1937.

In fact, a current legislative proposal to strip the President's ability to fill three vacant seats on the DC Circuit could better be called court stripping. In this particular case, making nominations to vacant judicial positions is not court packing, it is a President doing his job. Confirming highly qualified nominees to serve on this circuit in this vacancy would be this body doing its job.

The charges of court packing are absurd on their face. They are even more absurd when put in context.

Ms. Millett has been nominated to the ninth seat of the 11 authorized on this court. There are currently three vacancies on this vital circuit court.

I held a hearing earlier this year on judicial staffing levels in my role as the chair of the Subcommittee on Bankruptcy and the Courts of the Judiciary Committee. I invited the chair of the Judicial Conference Committee on Judicial Resources, Judge Tymkovich, to come testify. For those who ascribe significance to such things, Judge Tymkovich was nominated by President George W. Bush to sit on the 10th Circuit Court of Appeals.

Judge Tymkovich testified—convincingly, in my opinion—that the Federal judiciary needs more judges, not fewer. Every other year, the Judicial Conference submits to Congress a report on recommendations on judgeships. That report did not conclude that any judgeships should be removed or remain unfilled on the DC Circuit.

Judge Tymkovich also explained why the caseload statistics used by some of our colleagues to argue that the DC Circuit has a low caseload—and thus need not have its vacancies filled—are, in fact, unconvincing. The DC Circuit hears a unique caseload, with four times the number of complex administrative appeals than other circuit courts around the country.

The DC Circuit is the circuit from which all the Federal agencies' actions are repealed. More than any other court in the country, its caseload is made up of very complex, very difficult cases with far-reaching consequences and that require a great deal of time. Simply looking at the raw number of cases filed, opened, and closed is not an accurate predictor of whether a vacant seat on the DC Circuit should, in fact,

be filled. The DC Circuit's caseload has remained steady over the past 10 years, so the Judicial Conference has seen no reason to recommend any alteration in its staffing level.

The court packing argument made by some is also at odds with history, especially when one considers that caseloads lower than they are now on the DC Circuit were sufficient when all Republican Members then in office voted to confirm then Judge Roberts to the 9th seat, Janice Rogers Brown to the 10th seat, Thomas Griffith to the 11th seat, and Brett Kavanaugh to the 10th seat when it became vacant. When Ms. Millett is confirmed, the DC Circuit will still have more pending appeals per active judge than after the confirmations of any of those four earlier Bush nominees I just referenced. The caseload on the DC Circuit would also remain above that of the current 6th Circuit and 10th Circuit, to which courts the Senate has confirmed Republican supported judicial nominees this year.

A filibuster of Ms. Millett on caseload grounds would bring the Senate to an unprecedented and regrettable place. It would destroy comity and trust at a time when our Nation needs it most, when we need to demonstrate to the people of the United States that this Congress can function and that this Senate can fulfill its constitutional role.

It would not only facilitate the administration of justice by our courts, but also allow us to tackle other issues if we could move past endless and needless filibusters on issues such as this. It would allow us to move forward to the broader issues of the day, tackling long-term debt and deficit challenges, the fight against global terrorism, reinvesting in our future, and working together to invest in manufacturing and grow our economy. There are so many other issues that call for the time of this body.

With that, I wish to urge my colleagues to look at Ms. Millett's nomination on its merits and to not be distracted by what I think are groundless arguments that this is an instance of so-called court packing by this President.

This President is doing his job. He is nominating supremely qualified candidates to serve in the highest courts of this land, and this body should do its job and confirm those qualified nominees.

NATIONAL TECHNOLOGICAL INNOVATION DAY

If I might, I simply wanted to comment to this body that something passed with little notice here yesterday. October 29, 2013, was National Technological Innovation Day. This was recognizing the role that technological innovation plays in the United States economy.

We know that innovation is absolutely essential to developing new medicines, treatments, and cures to help us live longer and more healthy lives. Innovation is essential to strengthen the manufacturing sector of the American economy and make us more competitive. Innovation is essential to allow us to take advantage of new materials and new opportunities in the world and to access new export markets overseas. Innovation overall is what has brought all that is best about modern life and the modern world.

Yesterday, in a bipartisan way, we recognized that on October 29, many years ago, was the very first day that DARPAnet was able to exchange communications from one computer to another. It was literally the dawning of the modern Internet age. This was made possible in part by Federal investment and innovation.

I am grateful that Senator MORAN, Senator ISAKSON, Senator HEINRICH, and Senator KIRK joined me in recognizing the unique and important role that technological innovation has played in America's past, America's present, and America's future.

I yield the floor, and 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. JOHNSON of Wisconsin. I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks of Mr. JOHNSON of Wisconsin pertaining to the introduction of S. 1617 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. JOHNSON of Wisconsin. Mr. President, I yield the floor, and 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. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REED. Mr. President, I rise today to support my colleague and my friend, Congressman MEL WATT of North Carolina, who has been nominated by the President to be the next Director of the Federal Housing Finance Agency—the FHFA. I have total confidence that Mel is fully capable and qualified to serve as the FHFA Director, and I am not alone.

This week, the National Association of Home Builders wrote a letter to Leaders REID and MCCONNELL unequivocally endorsing Congressman WATT, stating:

> During Representative WATT's tenure on the House Financial Services Committee, he has proven to be a thoughtful leader on housing policy. The FHFA needs a permanent director with his leadership capabilities.

Senator BURR, Congressman WATT's Republican colleague from North Carolina, and Senator HAGAN recently shared a ''Dear Colleague'' in which both North Carolina Senators stated clearly, in their words:

> Congressman WATT has shown himself to be an honest, kind, and capable individual with deep understanding of the housing market. We urge you to support his nomination.

He is indeed qualified to serve as the FHFA Director. He is an incredibly decent and honest person who I know will always work diligently toward a decision based on the facts, not on ideology or momentary trends. Democrats know this, and Republicans who have worked and served with him know this.

Despite this, there is some question whether Congressman WATT has the technical experience to run FHFA. So let us look at Congressman WATT's record to see if we can peel that back and look closely.

He is a graduate of Yale Law School, who for 22 years practiced business, economic development, and real estate law. He is not a theoretician. He understands the impact of foreclosure, not just the macroeconomics but the personal dimension. He understands the role of financial intermediaries, banks and housing agencies. He has been a 21-year member of the House Financial Services Committee, so legislatively he has been engaged and involved in every major business, financial, and housing initiative in the last two decades, and he has seen this from the perspective of a legislator.

He has earned the support of his colleagues, but also he has earned the support of his constituents and his neighbors back home. He has the endorsement of the former Republican Chairman of the House Financial Services Committee, SPENCER BACHUS of Alabama, who noted:

> Congressman WATT has played an integral role in the financial services committee's deliberations on housing policy and is known as a serious and substantive legislator . . . In my experience in working with him on a variety of issues, I have always personally respected Congressman WATT for his intellect, attention to detail, and dedication to serving the public.

Again, this is a reflection of two decades of service at the heart of the process of legislating with respect to housing policy in the United States. So when we combine his legal training, his practical experience as a lawyer, his two decades of service as a member of the House Financial Services Committee, he is fully qualified for this key position, which is so vitally important now because we have to seriously tackle the issue of housing finance reform, and we have to take into consideration the needs and concerns of all the stakeholders, from investors to homeowners.

Again, Congressman WATT has that perspective—knowing the intricacies from his legal training of financial laws, doing what he has to do to protect the interests of his clients, and as a legislator with over two decades of experience in creating housing policy in the United States.

The FHFA should be led by a Director, confirmed by the Senate, not an

Acting Director. We have to send the signal this is a position that is important and deserves a confirmed Director, notwithstanding the skills and abilities and the great dedication of the current Acting Director. We need to have someone in the position who has been confirmed by the Senate. There are too many critical decisions each day, and too much at stake in terms of housing finance reform not to have a confirmed Director of the FHFA.

I urge my colleagues to allow this nomination to come before this body for a vote. Congressman WATT deserves no less, and I indeed urge support for his confirmation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

YOUTH EMPLOYMENT

Mrs. FISCHER. Mr. President, today I rise to call attention to a problem that seems to have gotten lost in the shuffle recently. That issue is our unemployed and underemployed American youth.

On September 14, the Wall Street Journal published a must-read story entitled: ''Wanted: Jobs for the New 'Lost' Generation.'' I would like to read a brief excerpt from that article.

Like so many young Americans, Derek Wetherell is stuck. At 23 years old, he has a job, but not a career, and little prospect for advancement. He has tens of thousands of dollars in student debt but no college degree. He says he is more likely to move back in with his parents than to buy a home, and he doesn't know what he will do if his car—a 2001 Chrysler Sebring with well over 100,000 miles—breaks down. ''I'm kind of spinning my wheels,'' Mr. Wetherell says. ''We can wishfully think that eventually it's going to get better, but we really don't know, and that doesn't really help us now.''

Derek Wetherell's experience is hardly unique. It is unfortunately an experience shared by Americans across this Nation, including in my home State of Nebraska. Despite promises of economic recovery, jobs remain scarce, particularly for young people. A quick survey of family members, neighbors, and friends reveals that too many adult children are now living at home, stuck in their parents' proverbial basements.

A study released by The Opportunity Nation shows that 6 million young people between 16 and 24 are neither in school nor are they working. That means roughly 15 percent of America's youth are idle when they should be gearing up for their most productive years. The study went on to state:

Youth unemployment is at its highest in more than a decade, and young people in many European countries now have a better shot at moving up the ladder from poor to rich than they do in America.

The United States has always stood as the land of opportunity—the new home sought by immigrants from Europe and from around the world, risking life and limb for personal freedom and economic progress.

It seems that the ancient European capitals now offer young people more hope—a better chance at upward mobility—than our failing economy. That must change.

The jobless youth don't belong exclusively to any class, race, or gender. This problem does not discriminate. Nearly 1 in 4 African-American youth is unemployed, while the unemployment rate for young Latinos in September was 15.8 percent. Young men are unemployed at a rate of over 17 percent, while nearly 13 percent of young women are out of work.

Washington Monthly recently discussed the long-term impact of joblessness on our youth.

The consequences are dire for these young Americans.

They're not only more likely to have a hard time in the job market; researchers have found that disconnection has scarring effects on health and happiness that endure throughout a lifetime.

Unemployed, uneducated youth are at greater risk for criminality and incarceration, and they often go on to become unreliable spouses and improvident parents.

The costs to society are also considerable.

The direct support expenses and lost tax revenues associated with disengaged young people cost U.S. taxpayers $93 billion in 2011 alone—a bill that will only compound as the years progress.

In short, our weak economy is not only frustrating young Americans presently eager for work; it is jeopardizing their future. It is threatening more than just their ability to find present jobs; it is thwarting their efforts to build rewarding careers and to start families. They are getting a late start—if any start at all.

And what about those young Americans who have found work? According to a report by Accenture, over 40 percent of college graduates in the last 2 years are overqualified for their jobs. In other words, many of them are underemployed.

I believe all work has dignity. And while a college degree is important, it is not for everyone. But hard-working young people should have the opportunity to use their degrees and pursue their passions. They are not asking for special treatment—they are just asking for a chance. This economy is holding them back.

As if young people weren't facing enough adversity, now they are told they are legally required to purchase costly health insurance. In fact, the new law completely depends on their participation. Yet the report on premiums released by the Department of Health and Human Services shows that many young people will not qualify for subsidies to make their premiums affordable.

A study published by the National Center for Public Policy Research found that subsidies did not exist for people from 18 to 34 years of age in 11 of 15 exchanges. These young people will be required to pay the full price of their premiums, which we all know are skyrocketing around this country. The American Academy of Actuaries published an article noting that the young people who don't qualify for subsidies will see an increase in costs of 42 percent.

Tom from Omaha wrote me to tell me about his 26-year-old son, who had been paying $159 a month for his health coverage. ''Effective January 1, 2014, his rate will be $231. What is affordable about this?'' Tom added that his son's deductible would ''increase by $3,000 and his out-of-pocket costs by $3,850.'' We are no longer dealing with projections, we are dealing with real people.

The National Center for Public Policy Research also found that even with the subsidies, about 3.7 million young people would actually save at least $500 by forgoing insurance and paying the fine, and as many as 3 million young people would save at least $1,000 by opting out of ObamaCare.

The bottom line? We have record numbers of unemployed young Americans now being forced to purchase health plans they do not want and, in some cases, with coverage they don't even need. We need to empower, not burden, young Americans.

The American dream of launching a career, starting a family, buying a home, and forging a brighter future is not some quaint relic of a bygone era. The dream is alive and well. Our young people are still dreaming. It is time for us to honor our duty to ensure that the next generation has the tools and experience to succeed, to keep America strong, and to pursue that dream. Right now, we are falling woefully short. But we can do better. Our children and our grandchildren are counting on us. This generation isn't lost yet, and I am here to fight for them.

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

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

Mr. HELLER. Mr. President, I rise today to speak on why I had a hold on this particular nomination.

Contrary to some who are speculating on this issue, I am not voting against this specific nominee. My concerns are with the way OPM determines who can ask questions and who can receive answers.

Imagine, there is a Federal Government agency which determines who can ask a question to them and who can get an answer. Whether a Member of the minority or majority, every Member should be able to ask questions and to receive those answers. Frankly, if you ask a question, you should be able to get an answer; and when you get the answer, it probably should be truthful. That is my argument, and that is the purpose I have this hold.

I want to be very clear that I am not voting against the nominee as an individual. I am voting against the agency itself.

OPM, in my opinion, has become one of the most politicized agencies in Washington, DC. I believe the Office of Personnel Management has refused to do its part to ensure that all Americans are treated fairly under ObamaCare. Specifically what I mean by that is I believe what is good for the American people should probably be good for Congress, and what is good for Congress should be good for the American people. I believe that is a standard which many of us in the Senate live by. I think there are some who don't, but I think the majority do. If something is good for the American people, it should be good for Congress. And I think ObamaCare is a good example of that.

For me, the most concerning issue is whether OPM engaged in negotiations with the Senate and House leadership to secure exemptions and subsidies for Members of the Senate and the House of Representatives. I wish to thank a colleague of mine from Louisiana, Senator VITTER, for his hard-fought effort on this particular issue.

I am not the only person here in this Chamber who can't get questions answered from OPM. I would like to walk for a minute the time line and the difficulty I have had with OPM over the last couple of months trying to get direct and truthful answers from this agency.

I will start on August 28. I wrote OPM asking specifically from the agency to ensure that all congressional staff, including leadership and committee staff, be fairly treated under ObamaCare.

This is what I said:

> This is a missed opportunity for the Office of Personnel Management (OPM), which currently administers and operates Congressional health care, to ensure that all Congressional staff, including Committee and Leadership, play by the same rules as the American taxpayer.

I go on to say later:

> As you issue your final rule in order to comply with Section 1312 of the Affordable Care Act, I encourage you to clarify this issue once and for all and require in addition to Members of Congress that all Congressional staff—Committee and Leadership—to go into the exchanges.

I wanted the dialog. I wanted this conversation. That is why I wrote to OPM. Of course I was looking to hear back from them, and I received no answer. I received no answer from the agency, so I followed up on September 13. From August 28 to September 13, I got no answer.

On September 13, I wrote:

> I would like to first express my disappointment with your agency's lack of response to my stated concerns. In addition, I would like to reiterate my request that the Office of Personnel Management (OPM) clearly mandate in its final rule that all Congressional staff, including Committee and Leadership, be subject to the consequences of ObamaCare.

I think that is a fair dialog and a fair question to ask. That was on September 13. Finally, on September 18, I got the response. Not the response that I wanted, as you can imagine, but I did get a response. In their letter, it says:

> In issuing our final rule, OPM will address this specific issue as well as others raised by members of Congress and the public at large.

So in this letter on September 18, I wanted to have a discussion with OPM, and OPM says: You can read the final rule. We are not going to have a discussion with you. We are not going to reach out. We are not going to come to your office. We just want you to read the final rule, like every other American, and we are not going to have a discussion prior to issuing the rule.

Obviously, I wasn't going to take that for an answer, so I reached out and I requested a formal briefing with the Acting Director. Sure enough, we had that meeting on September 26. So this is from August 28 all the way to September 26. I will tell you, frankly, it was a good discussion. They were frank. They had a couple of members of their staff there. I raised concerns about possible back door negotiations that would allow for special treatment under the law. I asked specifically whether OPM had engaged leadership on this issue. I asked that question: Have you engaged leadership on this issue? I asked the question three times: Did you engage with leadership on either the House side or Senate side on how you wrote these rules? Three times I asked that question and three times OPM had insisted that they had not, that the answer was no. So they said no three times. They formulated their proposal based on the advice of their lawyers.

I was OK with that. We had discussions on other principles of the bill itself, but that was the essence of the conversation I had and I was fine with that. Frankly, I was ready to release my hold. But what I did want was answers in writing. I wanted to memorialize the conversation that we had in my office, so I sent them another letter on September 28, formally requesting OPM to provide me with a detailed list of all conversations or negotiations that they had with staff members of the Senate or House leadership when crafting the proposed rule.

I want to be super specific. On September 28 we had numerous questions but question No. 4 that I had:

> Provide me a detailed list of all conversations or negotiations you had with any staff member of Senate or House Leadership when crafting your proposed rule specifically, the provision giving each Member of Congress the authority to determine who on their staff goes to the Exchange. If you engaged in any discussions—both formal and informal—with Leadership staff was there any undue pressure received from staff during these discussions? Do you believe this to be a conflict of interest?

So that question, that letter, was sent out. We had a great discussion. Please memorialize, please respond, and I received none. That was September 28. Please respond to that. They refused to do that.

On October 1, I started reading press reports, press reports both in Politico and also in the National Review. After I asked OPM have you ever dealt specifically with leadership in either House on these proposed rules and they told me no three times, then we find out in Politico that leadership worked for months—months to save these very same longstanding subsidies, according to documents and emails provided to Politico.

I go back to the original question and my concern, if you talk to an agency, do you have a right, whether you are in the majority or minority, to talk to OPM? Do you have a right to receive an answer, and when you get an answer, should that answer be truthful? Three times they told me no, they had not dealt with leadership, and you can see in the press reports, the emails that were released that was not the case.

What was reported in these stories is directly counter to what OPM told me in our meeting. I followed up with another letter dated October 8. I asked for OPM to provide me with detailed lists of all conversations or negotiations that they had with leadership staff. So this is what I said specifically:

> In light of recent press reports that Congressional Leadership staff negotiated with the Office of Personnel and Management (OPM) regarding changes made to the Federal Employees Health Benefit Program, I respectfully reiterate my request that you provide me with a detailed list of all conversations or negotiations with any staff member of Senate or House Leadership. These news reports run directly counter to statements that you made with [me and] three other OPM staff members during our meeting two weeks ago.

This time I got a response. I finally get a response. OPM told me they couldn't answer my question. They told me they couldn't answer the questions because the government was shut down.

Pretty convenient and, frankly, very disturbing. All I am asking is what OPM told me in our meetings—is it true or whether the press is reporting the truth? Where is the truth? Senators have a right to ask questions. They have a right to receive answers. Those answers should be truthful. That is why I put on the hold. That is why I voted against cloture on this nominee. This is why I will vote against the nominee, not because I have an issue with the nominee herself. I have a problem with this agency.

I want to reiterate and again express my appreciation with others in this Chamber who are as frustrated as I am with OPM—Senator VITTER being one of them—of not being able to get answers, to receive answers back from this particular agency. I want to say I still believe—and I think most in this Chamber believe this—that what is important and good for the American people should be good for Congress; what is good for Congress should be good for the American people. I stand by that and will be voting against final confirmation on this nominee.

I yield the floor.

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.

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

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

Ms. MURKOWSKI. Mr. President, I ask unanimous consent at this time to enter into a colloquy with my colleague from North Dakota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Ms. MURKOWSKI and Ms. HEITKAMP pertaining to the introduction of S. 1622 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from Montana.

THE TAX CODE

Mr. BAUCUS. The famed author George Bernard Shaw once wrote:

> The reasonable man adapts himself to the world; the unreasonable one persists in trying to adapt the world to himself.

A few weeks ago, lost among the headlines about shutdowns and showdowns was another very important news story. This story didn't receive big headlines. It didn't make the evening news, and it wasn't trending on Twitter.

Yet the story in the October 8 edition of the New York Times has serious implications for the future of our economy and our ability to adapt to the modern world. The eye-opening article discussed the merger of a California-based chip maker called Applied Materials. Applied Materials merged with a Japanese company called Tokyo Electron.

Applied Materials is one of the biggest companies in Silicon Valley, an industry leader with a global presence. They have more than 13,000 employees across 18 countries. Their headquarters, where they got their start 46 years ago, is in Santa Clara, CA. In addition to 8,000 workers in the Bay Area of California, Applied Materials has employees at research, development, and manufacturing facilities in Texas, Utah, Massachusetts, and in my home State of Montana.

Now, with the merger with Tokyo Electron, what is this all-American company doing? It is shifting its corporation, not to Japan, but to the Netherlands. That is right. This new American-Japanese company will be incorporated in Holland.

Why are they moving to the Netherlands? What is going on.

In the New York Times article on the merger, reporter David Gelles wrote:

> Executives at Applied Materials highlighted a number of advantages in announcing a merger recently with a smaller Japanese rival, but an important one was barely mentioned: lower taxes.

The merged company will save millions of dollars a year by moving—not to one side of the Pacific or the other, but by reincorporating in the Netherlands.

The article goes on to note that Applied Materials' effective tax rate will drop from 22 percent to 17 percent as a result of the merger. For a company that had nearly $2 billion in profit in 2011, that amounts to savings of about $100 million per year.

Mergers resulting in U.S. companies being owned by companies in tax haven jurisdictions such as Ireland, Bermuda, or the Cayman Islands, are a new spin on the old ''inversion'' problem, and it is becoming an increasingly popular practice.

The Times article highlighted the following additional examples.

Last year, the Eaton Corporation, a power management company from Ohio, acquired Cooper Industries from Ireland for $13 billion and then reincorporated in Ireland. The company expects to save $160 million a year as a result of the move.

In July, Omnicom, the large New York advertising group, agreed to merge with Publicis Groupe, its French rival, in a $35 billion deal. The new company will be based in the Netherlands, resulting in savings of about $80 million a year.

Also in July, Perrigo, a pharmaceutical company from Michigan, said it would acquire Elan, an Irish drug company, for $6.7 billion. Perrigo will also reincorporate in Ireland, lowering its effective tax credit from 30 percent to 17 percent, and saving the company an estimated $150 million a year, much of it in taxes.

Earlier in the year, Actavis, based in New Jersey, bought Warner Chilcott, a drug maker with headquarters in Dublin, and said it would reincorporate in Ireland, leading to an estimated $150 million in savings over 2 years.

It would be easy for us to attack these companies by calling them immoral and unpatriotic, but it is much more constructive to step back and ask: What's motivating these companies? Why are they moving their headquarters abroad? How can we keep them in the United States? How can we adapt to the world and fix the problem?

It is a very simple issue. Globalization has made America's Tax Code system out of date.

The United States is stuck with a 35 percent corporate tax rate—one of the highest in the world—and a maze of incentives that only an army of tax lawyers can navigate. Some of these tax incentives are extremely costly but are much less valuable to businesses than a rate reduction with the same price tag.

When U.S. companies look abroad, what do they see? They see other countries with more modern, more efficient, and more competitive tax codes. Then, what do they do? They reincorporate overseas by acquiring or merging with another business.

They are not necessarily breaking laws. In fact, many of these companies are following the rules that America's outdated, overly complicated Tax Code provides.

The United States is losing hundreds of millions in revenue as a result. Even worse, it is losing jobs. When headquarters moves abroad, good-paying jobs often go abroad too. We need to reverse that tide. We need to bring our tax system into the 21st century to make the United States more competitive. That is what tax reform can do. It can help America overcome the competitiveness crisis that is driving businesses and jobs overseas.

This competitiveness crisis was made very clear in a Harvard Business School study last year with the sobering title: ''Prosperity at Risk.'' This indepth report examined the risks that threaten to undermine U.S. competitiveness in the global marketplace. It also looked at what action we could take in the United States to restore our country's economic vitality.

Harvard Business School surveyed 10,000 of its graduates who live and conduct business worldwide. They asked about the challenges of doing business in America. These individuals are leaders on the front lines of the global economy. They are CEOs, CFOs, business owners, and presidents. They are personally involved in decisions about whether to hire, where to locate, and which markets to serve.

Unfortunately, these business leaders are pessimistic about America's economic future. They think America's prosperity—our success, our growth, and our economic status—is at serious risk. The vast majority of those surveyed, 71 percent, expected U.S. competitiveness to deteriorate over the next several years.

A survey found that the U.S. fared poorly when competing to attract business and pointed to increased competition from emerging markets. According to the survey: ''For the first time in decades, the business environment in the United States is in danger of falling behind the rest of the world.''

What did they identify as the root of America's competitiveness problem? Respondents—remember, these are 10,000 Harvard Business School graduates working all around the world and in the United States—pointed to America's Tax Code as the root of the problem. Specifically, they pointed to the complexity of the code as one of the greatest current or emerging weaknesses in the U.S. business environment.

The Harvard study made clear that our Tax Code puts American businesses at a competitive disadvantage on the world market. That obviously concerns us.

Where do we go from here? I believe we have to reform our Tax Code. We have to adapt. We have to help make America more competitive. It is very clear. It is very simple. We have to give companies such as Applied Materials a reason to keep their headquarters in the United States.

We have been through a difficult and counterproductive period on Capitol Hill. The recent shutdown and the threat of default undermined confidence in the U.S. and did $24 billion in unnecessary damage to our economy.

According to a report from the White House Council of Economic Advisers, the shutdown cost 120,000 jobs in October alone.

I spent last week home in my State, as others were in their States. I was meeting with my bosses, the folks and citizens of Montana. They are not too happy with the antics going on in Washington, DC—and rightly so.

Fortunately, that battle is behind us and the government is back to work. It is time for us to come together to tackle the challenges facing our country.

Right now there are more than 11 million unemployed Americans looking for work. Our economy is expected to continue growing at a sluggish rate for the next year, less than 3 percent.

We have to ask: How do we create jobs? How can we spark faster growth in our economy? How can we boost our competitiveness and keep American companies at home in America?

Tax reform must be part of the solution. It is not the whole solution, but it is part of the solution.

That was the clear message I heard traveling around the country this summer with my friend DAVE CAMP. Dave is the chairman of the House Ways and Means Committee. Dave and I met with families and businesses, large and small, to hear about their experiences in dealing with the Tax Code.

We visited a family-owned bakery in Minneapolis, a small appliance store in New Jersey, a tech start-up in Silicon Valley, and a farm in Tennessee. We visited some large companies as well, companies such as 3M, Intel, FedEx, who employ thousands of people in the United States and around the world.

At every stop Dave and I heard the same message. U.S. companies and workers, companies large and small, workers employed at large and small companies, want a more simple, more fair Tax Code that closes loopholes and helps them compete and strengthens our economy.

This issue is not going away. It is too important. With so many people out of work, with economic growth still too slow, with a competitiveness gap costing us jobs and revenue, it is time for us to act. It is time for us to reform our Tax Code.

The chairman of the House and Senate Budget Committees brought their conferees together for the first time today. They have come together to try to find common ground on a budget and a plan to rebuild confidence in our economy. PATTY MURRAY and PAUL RYAN are incredibly smart and hard-working people. They care. And I am confident they can craft a compromise to help get America back on track.

I look forward to working with Chairman MURRAY and Chairman RYAN in the tax entitlement components of their discussions, but at the same time I will continue to work on a parallel track with the Finance Committee advancing tax reform.

We are working hard—in Bernard Shaw's words—to adapt to the world and build a tax code that works. And DAVE CAMP is doing the same thing in the House. We are going down separate paths but coming together with a common goal—reducing the deficit, creating jobs, and promoting economic growth. We are coming together to put America back on track.

Mr. President, I yield the floor, and 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that all time on both sides be yielded back.

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

All time having been yielded, the question is, Will the Senate advise and consent to the nomination of Katherine Archuleta, of Colorado, to be Director of the Office of Personnel Management?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Virginia (Mr. KAINE) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Georgia (Mr. ISAKSON).

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 225 Ex.]

YEAS—62

Baldwin	Gillibrand	Murphy
Baucus	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Heinrich	Pryor
Blumenthal	Heitkamp	Reed
Boxer	Hirono	Reid
Brown	Johanns	Rockefeller
Cantwell	Johnson (SD)	Sanders
Cardin	King	Schatz
Carper	Klobuchar	Schumer
Casey	Landrieu	Shaheen
Chambliss	Leahy	Stabenow
Chiesa	Levin	Tester
Collins	Manchin	Toomey
Coons	Markey	Udall (CO)
Donnelly	McCain	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Warren
Fischer	Merkley	Whitehouse
Flake	Mikulski	Wyden
Franken	Murkowski	

NAYS—35

Alexander	Cruz	Paul
Ayotte	Enzi	Portman
Barrasso	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hatch	Rubio
Burr	Heller	Scott
Coats	Hoeven	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Kirk	Thune
Corker	Lee	Vitter
Cornyn	McConnell	Wicker
Crapo	Moran	

NOT VOTING—3

Inhofe	Isakson	Kaine

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and that the President be immediately notified of the Senate's action.

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

NOMINATION OF JACOB J. LEW, OF NEW YORK, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Mr. DURBIN. Mr. President, I ask unanimous consent that cloture on Calendar No. 63 be withdrawn and that the Senate proceed to vote on confirmation of the nomination; that the motion to reconsider be made and laid upon the table with no intervening action or debate; that no further motions be in order; and that the President be immediately notified of the Senate's action.

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

Under the previous order, the motion to invoke cloture on the Lew nomination is withdrawn.

Is there any further debate? If not, the question is on agreeing to the nomination of Jacob J. Lew, of New York, to be United States Governor of the International Monetary Fund; United States Governor of the International Bank for Reconstruction and Development; United States Governor of the Inter-American Development Bank; United States Governor of the European Bank for Reconstruction and Development.

The nomination was confirmed.

Mr. DURBIN. Mr. President, I ask unanimous consent the cloture vote on the Watt nomination occur immediately following the swearing in of Senator-elect Booker, of New Jersey, tomorrow, and the Senate proceed to legislative session and a period of