JOB LOSSES

Mr. WHITEHOUSE. Mr. President, I do not intend to speak long. I know we are getting ready to wrap up. I will not interfere with that. But I did not want the day to end without a reminder of the concern that H.R. 1 and the significant, serious cuts it imposes will produce significant, serious job losses. That is not something being manufactured on our side of the aisle. It comes from careful analysis from very neutral forums.

Many people will have seen this graphic already. Chairman Bernanke of the Federal Reserve is one of the observers who has looked at the bill and said it will cut significant jobs. I believe his testimony was that it was not trivial, that it would be hundreds of thousands of jobs. Economist Mark Zandi has advised Republicans and Democrats. He is a neutral, independent economist. He has calculated that the GOP plan would cost 700,000 jobs. When we consider the good news that we have just heard of job growth in the past reporting period, which was, I believe, around 170,000 jobs—less than 200 anyway—the idea of wiping out 700,000 jobs acquires a real scale and a real significance.

Finally, at the bottom is Goldman Sachs. Goldman Sachs is no great friend of the Democratic Party. It is a group of financial advisers and investors who look at data as dispassionately as possible, because if they are wrong, they don't make money. Goldman Sachs has estimated that the spending cuts will hurt economic growth. My memory is, they estimated it would be 2 percentage points off of our economic growth. When we consider that our economic growth is under 3 percent right now, if we take two of the percents out, we are basically getting pretty close to flat-lining the American economy. So prudence dictates that we go about the necessary adjustments to get rid of our debt and our deficit in a way that does not snuff out the gradually emerging recovery.

In my State of Rhode Island, we have just gone from 11.5 percent unemployment down to 11.3 percent. It is still pretty darn serious out there. While clearly things appear to have bottomed out and started to go in the right direction, nothing prevents what everybody calls the double dip. Things such as the gas crisis we are experiencing now have been discussed as potentially creating a double dip. To knock out hundreds of thousands of jobs, to knock 2 full percentage points out of growth out of a ratio that is not much over 3 percent is a very big hit to the economy. It may be wiser to allow the economic recovery to continue a little bit further, as the Bowles-Simpson group recommended, that you couldn't snuff out the recovery early. Let the blaze catch a little more. Let it get going, and then we can move into these areas.

I will come to the floor later to talk about not just prudence but also fairness. There are two issues we need to address as we face up to our debt and deficit challenge. We have to do it prudently. We also should do it fairly. The way the House does it does not meet the standard either of prudence or fairness. On prudence, I think we have pretty strong agreement when Ben Bernanke and Mark Zandi and Goldman Sachs all talk about significant job losses as a result, and fairness is a topic for another day.

I yield the floor.

REMEMBERING JAMES ARTHUR ''ONION'' EASTHAM

Mr. MCCONNELL. Mr. President, I rise today to honor the extraordinary life and legacy of an upstanding hero of the Commonwealth, the late Mr. James Arthur ''Onion'' Eastham. A native of Somerset, KY, Mr. Eastham passed away peacefully on December 28, 2010. He was 87 years old.

Born in Pulaski County, KY, James not only served both his community and country selflessly, but touched the lives of all who had the pleasure of meeting him. His courageous and patriotic spirit led him to join the U.S. Marines Corps where he served as a staff sergeant and crew chief aboard a B–25 bomber, and in the Asiatic-Pacific Theater where he was awarded two Bronze Stars for duty at and during the Luzon and southern Philippine campaigns. He was also presented with the impressive award of the Philippine Liberation Ribbon with a Bronze Star for his bravery during combat with the enemy.

After the war, James continued to serve his community as a regional salesman for Morton Salt Company, as a longstanding member of the Kiwanis Club and the Somerset Masonic Lodge No. 111, and as a member of the First Baptist Church where he taught Sunday school and served as a chair of a building committee for the church's new sanctuary. It was no surprise that James's conscientious and excellent character earned him a spot on the Somerset City Council for 18 years, where he played active roles in helping to establish the Somerset Community College and finding a location for what is now the Lake Cumberland Regional Hospital. It is evident that both his family and the people of his close-knit community respected and valued James's tireless dedication and steadfast leadership, as he will always be fondly remembered as a man who stood firm in his beliefs.

I could surely continue to praise the works and accomplishments of this brave and humble man, but I will simply ask that my colleagues join me in remembering a true gentleman who poured his heart into serving, protecting, and strengthening his family, his country, and the Commonwealth. My thoughts go out to his beloved wife, Virginia; his three children, Jimmy, Wayne, and Lisa; his sister Edna; his grandchildren and great-grandchildren, and many other beloved friends and family members.

The Commonwealth Journal recently published an article about a contribution that was made in James's name to the Reid S. Jones Fund, a fund named in honor of his dear friend that helps veterans make educational advancements. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Commonwealth Journal, Jan. 30, 2011]

FOUNDATION LAUNCHES REID S. JONES MEMORIAL FUND WITH CONTRIBUTION HONORING JAMES ''ONION'' EASTHAM

The Jones Educational Foundation Inc., a 501(C)3 not-for-profit corporation based in Somerset, has launched the Reid S. Jones Memorial Fund with a $1,000 contribution made by Dr. Sonya Jones honoring the late James Arthur ''Onion'' Eastham.

According to Dr. Jones, president and CEO of The Jones Foundation, the donation is intended to pay tribute to the friendship between James ''Onion'' Eastham, a man who was regarded highly in the Somerset community, and her father.

Further, the fund is meant to honor veterans from all the wars in which the United States has fought. The initial donation honors veterans who served in the European and Pacific theaters of World War II.

''I had been thinking about the Foundation setting up a fund for veterans in Dad's name ever since I made a donation in his memory to help restore the Soldiers and Sailors Memorial building at Union College,'' Mr. Jones said.

Reid Jones graduated from Union in 1959. He went on to do graduate work in education at Eastern Kentucky University.

''When Mr. Eastham passed away in late December, I knew it was time,'' Dr. Jones added. ''Dad thought so much of his friend that I felt he would want me to do something special to honor Onion's memory.''

Reid Sievers Jones (April 24, 1926 to April 15, 2005) entered the U.S. Army at a crucial point in the history of World War II. he was stationed in Germany, and he fought in the Battle of the Bulge. He was a survivor in what has been called ''one of the bloodiest battles'' of World War II.

Conducted in the dense, mountainous region of Belgium, the Battle of the Bulge was Adolf Hitler's last major offensive against the Allies. The battle ran from Dec. 16, 1944, until Jan. 25, 1945.

When he enlisted in the Army as a private, Reid Jones was 18 years of age. He married Elva Sears on Dec. 30, 1944, shortly before shipping out to the European front. He was promoted to the rank of staff sergeant and remained in Germany for a short time after the war to help begin the process of reconstruction.

James ''Onion'' Eastham (Sept. 22, 1923, to Dec. 28, 2010) served in the Asiatic-Pacific theater where he was awarded two bronze stars for duty at and during the Luzon and Southern Philippine campaigns. He also received the Philippine Liberation Ribbon with a bronze star for duty involving combat with the enemy.

Reid Jones and Onion Eastham were ''two of a kind,'' said Jimmy Eastham, son of the former Somerset City Council member who served as staff sergeant and crew chief aboard a B–25 bomber in the United States Marine Corp.

Jones and Eastham both were salesmen after the war. Jones worked for many years for Fram Corp. and Eastham for the Morton

Salt Co. The two men liked to get together and engage in the high art of Southern storytelling. Both formed strong friendships with other men in the Somerset community.

''Dad and Onion Eastham were part of a group of men who convened initially at Dad's car lot out on East Mt. Vernon Street, then at Dad's automotive parts store on Ogden Street in the building now owned by Dr. Byron Owens,'' Dr. Jones said.

''After Dad retired from Fram, he devoted most of his time to the automotive business and our family's rental properties,'' Dr. Jones continued.

''When Dad closed the automotive parts store housed in the same building with Mother's antiques and collectibles, he and his buddies met for coffee at the Sugar Shack over on the strip,'' she said.

Meeting for coffee was part of their ''daily routine,'' said Jimmy Eastham.

From time to time, the group also included Bobby Claunch, Howard Eastham, Ledger Howard, Penny Starnes, Don Stone, Jim Williams and Bob Williams in addition to Reid Jones and Onion Eastham.

Like his father, Jimmy Eastham served as a member of Somerset City Council. He and the Eastham family have given their enthusiastic endorsement to the Reid S. Memorial Fund with Dr. Jones' cornerstone contribution in memory of James ''Onion'' Eastham.

''It is a good idea to establish the fund even if it weren't done in the name of my father,'' Eastham said.

Both Reid Jones and James Eastham were ''very patriotic,'' according to Virginia Eastham, mother of Jimmy, Lisa (Bandy) and Wayne Eastham.

When Reid Jones returned from the war, he worked first as a teacher and principal in the Pulaski County and Somerset City school systems. He is remembered, particularly by former students at Shopville High School as a firm teacher who was not afraid to exercise discipline when he thought it was needed.

Later, in the 1960s, he joined Fram Corp., based in Providence, RI, as a district sales manager. Frequently, he was recognized for exceeding sales quotas. He was instrumental in placing Fram products in Wal-Marts across the southeastern United States.

Reid Jones was a 32nd degree Mason and a member of Oleika Shriners Temple in Lexington. He served on the board of directors of First United Methodist Church.

In addition to being an influential member of Somerset City Council, James ''Onion'' Eastham was a member of the Somerset Masonic Lodge #111 and a long-standing member of the Kiwanis Club. He was also a member of First Baptist Church where he taught Sunday school and served as chair of a building committee for the church's new sanctuary.

As a member of Somerset City Council from 1964 to 1982, Eastham played an active role in helping to establish Somerset Community College and finding a location for what is now Lake Cumberland Regional Hospital. He considered running for mayor, but his job as a regional salesman for Morton Salt Co. created time constraints that caused him not to seek office.

According to Clarence Love, city clerk during the years Eastham served on council, ''he was very conscientious.'' In Love's opinion, Eastham was an ''excellent councilman.''

Jimmy Eastham said he thought his father most likely would be remembered most for ''standing for what he believed in.''

The Reid S. Jones Memorial Fund was established, first and foremost, to help veterans with educational issues.

''A veteran might return from Afghanistan ready to go to law school and need some assistance,'' Dr. Jones said. ''Or, a veteran might return and want to become a law enforcement officer or a mechanic.''

As interest on the fund grows, money will be awarded to veterans who demonstrate great potential for success in professional and vocational arenas.

Primarily, the Reid S. Jones Memorial Fund intends to honor ''the warrior spirit,'' Dr. Jones said, ''the spirit of courage and bravery'' that has helped to keep the United States free.

The Reid S. Jones Memorial Fund is now open for tax-deductible contributions. Interested parties may e-mail Dr. Jones at: djones@jonesfoundation.net or phone her at 606–875–2967.

AMERICA INVENTS ACT

Mr. LEAHY. Mr. President, Congress has been working on the America Invents Act going back many years. It has gone through numerous iterations and changes have been made over time. Accordingly, I want to take a few minutes to discuss some important legislative history of a critical piece of this bill—section 2 of the legislation, which amends section 102 of title 35 of the United States Code. There has been a great deal of attention paid to subsections 102(a) and (b) and how those two subsections will work together. Senator BENNET and others have asked about this issue in particular.

Mr. HATCH. I thank the Senator. I agree with the chairman that it is important that we set down a definitive legislative history of those subsections, which will be important for each and every patent application.

Mr. LEAHY. One key issue on which people have asked for clarification is the interplay between patent-defeating disclosures under subsection 102(a) and the situations where those disclosures are excepted and have no patent-defeating effect under the grace period provided in subsection 102(b).

In particular, some in the small inventor community have been concerned that a disclosure by an inventor might qualify as patent-defeating prior art under subsection 102(a) because, for example, the inventor's public disclosure and by a ''public disclosure'' I mean one that results in the claimed invention being ''described in a printed publication, or in public use, on sale, or otherwise available to the public''—might in some situation not be excluded as prior art under section 102(b)'s grace period. There is absolutely no situation in which this could happen given the interplay between subsections 102(a) and 102(b) as these subsections are drafted.

We intend that if an inventor's actions are such as to constitute prior art under subsection 102(a), then those actions necessarily trigger subsection 102(b)'s protections for the inventor and, what would otherwise have been section 102(a) prior art, would be excluded as prior art by the grace period provided by subsection 102(b). Indeed, as an example of this, subsection 102(b)(1)(A), as written, was deliberately couched in broader terms than subsection 102(a)(1). This means that any disclosure by the inventor whatsoever, whether or not in a form that resulted in the disclosure being available to the public, is wholly disregarded as prior art. A simple way of looking at new subsection 102(a) is that no aspect of the protections under current law for inventors who disclose their inventions before filing is in any way changed.

Mr. HATCH. The Senator from Vermont is correct. For the purposes of grace-period protection, the legislation intends parallelism between the treatment of an inventor's actions under subsection 102(a) that might create prior art and the treatment of those actions that negate any prior-art effect under subsection 102(b). Accordingly, small inventors and others will not accidentally create a patent-defeating bar by their prefiling actions that would otherwise be prior art under subsection 102(a) as long as they file their patent applications within the grace period provided by subsection 102(b). But, the important point is that if an inventor's disclosure triggers the 102(a) bar with respect to an invention, which can only be done by a disclosure that is both made available to the public and enabled, then he or she has thereby also triggered the grace period under 102(b). If a disclosure resulting from the inventor's actions is not one that is enabled, or is not made available to the public, then such a disclosure would not constitute patent-defeating prior art under 102(a) in the first place.

But even if the disclosure was enabled and available to the public so that it did qualify as prior art under subsection 102(a), subsection 102(b) would require that the disclosure be disregarded if it occurred during the 1-year grace period before the patent was sought. Indeed, a disclosure that does not satisfy the requirements to be prior art under subsection 102(a), nonetheless constitutes a disclosure that is fully protected under the more inclusive language of subsection 102(b). This relationship between these subsections will fully protect the inventor and, together with the provisions of subsection 101 limiting patenting to inventors, prevent others from obtaining a patent on the inventor's creation.

Mr. LEAHY. I agree. One of the implications of the point we are making is that subsection 102(a) was drafted in part to do away with precedent under current law that private offers for sale or private uses or secret processes practiced in the United States that result in a product or service that is then made public may be deemed patent-defeating prior art. That will no longer be the case. In effect, the new paragraph 102(a)(1) imposes an overarching requirement for availability to the public, that is a public disclosure, which will limit paragraph 102(a)(1) prior art to subject matter meeting the public accessibility standard that is well-settled in current law, especially case law of the Federal Circuit.

Mr. HATCH. An additional clarification we have been asked about deals