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Senate

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

PRAYER

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

Let us pray.

Lord God, You are holy and inhabit the praises of Your people. We are thankful that those who seek You will not lack any good thing. Help us to make You our source of hope, depending on Your providence and trusting Your mighty arms to save us. As our lawmakers seek to serve You by making choices that honor You, purify their intentions that they will say what they believe and will act consistently with their speech. Keep them aware of how their words and deeds affect the good fortune of the lives of those in need.

O God, You are our hiding place. And in these challenging days, we are depending on You to protect this Nation from trouble. You are the one who puts the songs of deliverance in our hearts.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 7, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, if any, there will be an hour of morning business, with the majority controlling the first half and the Republicans controlling the final half. Following morning business, the Senate will resume consideration of the motion to proceed to the America Invents Act.

The Senate will recess from 12:30 until 2:15 for our weekly party conferences. At 2:30, there will be 30 minutes of tribute to the late Senator Mark Hatfield of Oregon, and I would indicate that if people are unable to come during that 30 minutes, I would solicit their statements so that we can put them together, as we often do in these situations, so they are in that nice little booklet people can look through at a later time.

I would say, Madam President, that I had the good fortune of being able to serve with Mark Hatfield—a treasure of a man. We have had great leaders from Oregon, but certainly he was equal to any of them—a man of great character who was not bound by party. He was bound by what he thought was best for this country.

I had the good fortune to travel on a codel he led. It was a wonderful trip, led by this great statesman. We went into the Soviet Union—Mongolia—and saw Lake Baikal and found that the Soviets had not ruined this great Alpine glacier lake. There are only two in the world. One is in Nevada and California—we share Lake Tahoe. But Lake Baikal is one thing the Soviets didn't ruin. Anyway, it was a trip I will always remember, not only where we went but who led that trip.

I will give a more complete statement at a later time regarding Mark Hatfield, a man for whom I had great respect and admiration. He was really a role model, in my mind, for what a Senator should be.

We expect to be in consideration of the patent bill today. I hope the Republicans will let us get on that. It is too bad we had to move to proceed to it, but we did. I hope we don't have to use the full 30 hours, and I hope I don't have to file cloture again. I hope there are a couple of amendments and then we can get rid of this bill as early as possible.

We have a lot to do. We have so much to do in this work period—the highway bill, the patent bill, FEMA, and trade issues. We need to complete all those matters before we leave here in just a few weeks. We have to take a break because of the holidays coming up toward the end of this month.

MEASURE PLACED ON THE CALENDAR—H.J. Res. 66

Mr. REID. Madam President, I understand H.J. Res. 66 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the joint resolution by title for the second time.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 66) approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

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

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Mr. REID. Madam President, I object to any further proceedings with respect to this joint resolution.

The ACTING PRESIDENT pro tempore. Objection is heard. The joint resolution will be placed on the calendar in accordance with rule XIV.

NEVADA TRAGEDY

Mr. REID. Madam President, yesterday morning a man walked into a pancake house in Carson City, NV, our capital, and proceeded to—with, I am told, an AK–47—first shoot and kill some poor woman outside the pancake house, and he then walked inside and started shooting with this automatic weapon and killed three National Guardsmen and another innocent person. We have a number of people who are in the hospital, and we hope no more die. We are still learning the details of this tragedy, but we do know five are dead. The shooter then killed himself following this rampage he went on.

The National Guardsmen—as I understand, there were five of them there having breakfast prior to their duties when this madman walked in and killed them. One of the five was a woman who was an assistant to one of my outstanding employees, a colonel in the Nevada Army National Guard. He is an airman, and she was his assistant when he does his duty out there. She was killed.

It is sad, this violence around us, even in little Carson City, NV, where citizen soldiers—sacrificing their time to defend our country—are killed having pancakes at a little restaurant. My thoughts go out to the victims, and I appreciate their commitment to Nevada and this country.

What else can you say, Madam President? Your heart goes out to these people who are going through such a turmoil today, trying to figure out why this happened. It is hard to imagine such a terrible act taking place in this quiet little town. The legislature is out of session, which is when the town picks up a little bit. There is not much going on in Carson City, not as you would have with the buzz of a capital when the legislature is in session. I spent three legislative sessions in Carson City. My kids went to school in Carson City when I was the Lieutenant Governor.

I wish all the citizens of Carson City well as they begin the process of healing after this shocking event.

JOB CREATION

Mr. REID. Madam President, this fall the Democrats are hoping to find Republican allies willing to reach across the aisle for the sake of creating jobs in America, for the sake of putting people back to work. For 8 months now, Republicans have wasted our time on partisan politics regarding issues that should have been so simple, such as funding the government for last year. We were forced to deal with that for months. Then, when we finished that, we went to do something that happens as a matter of fact around here. Not that it is unimportant, but there is no reason for our country to default on the debts we have. Extending the debt ceiling doesn't allow us to spend money on more items, it simply allows us to pay our debts.

Take, for example, Ronald Reagan. Ronald Reagan is somebody whom Republicans idolize, and I have no problem with that. He was a good President and did some good things for our country—lots of good things. I liked him very much as a person and as a President. He asked us 18 different times to raise the debt ceiling, and we did it every time—every time. But this time, no thanks. The Republicans forced us to spend months on raising the debt ceiling.

They have also used unrelated amendments and procedural stall tactics to kill good pieces of legislation that have always had the support of Democrats and Republicans. Take, for example, the Economic Development Administration. They blocked that, something that has been going on for 35 years creating jobs. This piece of legislation alone would have created 314,000 jobs. They killed it. The EDA has worked with little businesses, universities, and economically challenged areas to create jobs, as I said, for three decades. Actually, it has been 4½ decades.

For nearly 2 months, they held up efforts to reauthorize the Small Business Innovation and Research Program before finally killing it altogether. This legislation would have helped small businesses, small technology companies, which have invented everything from the electric toothbrush to how to put armor on a Bradley fighting vehicle. These small business innovation loans were terrific for bringing out the innovation and creativity of the American people, creating thousands of jobs. They forced that bill off the floor.

The fate of these two pieces of legislation alone cost more than one-half million jobs—more than 500,000 jobs. But not only did they take away these two pieces of legislation—and there are many others but speaking of these two—their obstructionistic tactics also cost us lots of time. Every moment wasted on procedural hurdles—and we have spent months on these useless amendments—was a moment we weren't creating jobs.

Republicans held up the work of Congress for months in the hope of defeating the President. And this is not something I have made up. My counterpart, the Republican leader, has said that is his No. 1 issue—making sure President Obama is not reelected. But this effort to defeat President Obama has also held up our economic recovery. We saw the toll in last month's job report, showing unemployment holding steady. For the eighth month in a row we have created private-sector jobs—we didn't create many—last month, about 20,000.

Because of what is going on around the country, with the Republicans' austerity programs, there are lots of government jobs being cut. Each of us, from New York, Illinois, and Nevada, has had local governments really being cut to the bone—police and fire. These are the jobs that people need very much.

Madam President, I hope the Republicans have gotten the stalling tactics out of their system and really will work with us to create jobs. Hopefully, the Senate is now moving forward with this patent bill, the America Invents Act. This bill will reform the Nation's outdated patent system that has almost 1 million patents waiting to be looked at. Any one of those patents could be a new benefit—something that will create jobs and allow people who have such great ingenuity in America to put their product on line.

We are told that this reform of our Nation's outdated patent system will allow us to create almost 300,000 jobs, and it will clear up a 3-year backlog in patent applications so inventors might be able to invent the next iPod or iPad or electric car or whatever other interesting thing that makes America so great. I hope the spirit of bipartisanship comes into being now, because Congress and this country cannot afford to waste any more time.

There are two things we can do right away to create lots of jobs. First, extend the authorization of the FAA bill. Let me explain what this is all about.

We passed an FAA bill, a good bill, passed overwhelmingly, Democrats and Republicans. It went to the House and they put it in some dark hole over there, and finally they gave us a bill back. It is different than our bill, and here is how it is different. The National Mediation Board set a new rule. It is something called democracy. What it means is that in a labor election, the majority wins. Under Republican dominance in years past, if you had a group of people who were trying to be unionized, and let's say there were 1,000 and that is how many were in the work unit and there was an election held and 600 people turned out for that election, 450 voted, yes, we think we should be able to collectively bargain with our employer, under the old rules that is not enough; 450 out of 600 is not enough. You would have to get a majority of the people in the unit.

I ask my friend from New York, the Presiding Officer, and my friend from Illinois, because I have asked myself, under rules like that, none of us would have been elected. Of the millions and millions of people in New York and Illinois and the 3 million people in Nevada, I won by 5 percent last election. I got a majority of the people who were registered to vote. That is how you win in America, not a majority of everyone in the State, because no one would be elected if that in fact were the case.

But that is how the Republicans want to change the rules. They want go back

and say a simple majority of those voting is not enough. You have to have a majority of everybody in the union. And, as I indicated, based on our elections, it would mean each of us would have to get a majority of everyone in the State.

So they stuck that provision in the bill saying, no, a majority is not enough; you have to have a majority of everyone in the unit. It is this kind of antidemocratic issue they placed in this legislation. I would hope they would take that out. They haven't been willing to do that.

If we can reform our antiquated air traffic control system, it will bring us into the modern world where we are no longer depending on Second World War technology; that is, radar, and we can move into the modern world as most all countries have, where we would have GPS, and it will create lots and lots of jobs, hundreds of thousands of jobs which are so badly needed. Ray LaHood, Secretary of Transportation, thinks it is essential that we get this done for the safety and security of our Nation and certainly to create lots and lots of jobs.

Second, we must authorize Federal spending for our Nation's highways. About 1.8 million construction jobs in highway and mass transit projects are at stake. If we don't extend this bill, they will be gone, almost 2 million jobs.

So we will be happy to consider a bipartisan idea to get the economy going again. I have talked about two things.

Here are two ideas Republicans have supported in the past: payroll tax cuts and extension of unemployment insurance. Extending the payroll tax cut could save 972,000 American jobs next year alone. Extending unemployment insurance during these tough economic times would save 528,000 American jobs. They have agreed to these in the past.

Speaker BOEHNER and Leader CANTOR wrote to the President yesterday and they said, Our differences should not preclude us from taking action in areas where there is common ground.

I hope they would agree that extending unemployment benefits and cutting the payroll tax are agreements that are common sense. So I agree with them, our differences should not preclude us from taking action in areas where there is common agreement. Let's start with the four commonsense measures I have talked about: the FAA bill; of course, we have to do the extension of the payroll tax cuts; do the unemployment insurance; and, of course, FAA. I would hope we can move on these as quickly as possible.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent to speak for 10 minutes.

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

Mr. DURBIN. I see the Senator from New Hampshire is here, and I ask that she be permitted to speak immediately after I have concluded.

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

THE BUDGET

Mr. DURBIN. Madam President, tomorrow night we will hear a speech from the President of the United States about an issue that affects every single one of us in America. It affects millions in a personal way and all of us indirectly. It is the state of our economy. It is an economy that has been wracked by a recession which has gone on way too long. Even the President concedes that we had hoped we would have emerged at this point, but we still have not. I think it is important for us to focus on the reality of life even for working families in America. Too many working families today are struggling to survive paycheck to paycheck.

Over the last 10 or 20 years, we have seen a decline in the rate of growth in real wages, which means that families, even working families, aren't earning enough to keep up with the cost of living. They are falling a little bit behind each year.

They recently surveyed working families across America and asked them a basic question. They said: If you had an emergency in your family and needed to come up with $2,000 in the next 30 days, could you find that $2,000 either in your savings or borrowed? Forty-seven percent of working families said they could not come up with $2,000 in 30 days. Now $2,000 is the cost of an uneventful trip to an emergency room. It is an indication of the vulnerability of families all across America.

I am also concerned about the fact that, as we speak about the economy, we know many families are doing the right thing, trying to shed debt. We see the credit card debt in America declining as fewer and fewer people borrow against their credit cards, understanding the interest rates they are going to pay are way too high and it is impossible to keep up with your debt if you pile it all on credit cards. People are reluctant to purchase because they are afraid of debt, and vulnerable, with the thought of losing their jobs or perhaps seeing a decline in their wages. That is the reality of life for working families across America. It is the reality I have seen in Illinois and a reality that affects us nationwide. The President will address that tomorrow night, as he should.

I think there are ways to deal with it, but here is the caution I wish to add: We are fixed on the theme of our Nation's deficit and debt, and we should be, because as we borrow 40 cents for every dollar we spend, we create an unsustainable situation for future generations. That is a fact.

I have been party to the Bowles-Simpson Commission, where I voted for their report. I have worked with the Gang of Six, a bipartisan effort in the Senate which has more than 30 Senators showing an interest in this approach. So I seriously believe this deficit and debt are a problem for us in the long term. But I might remind my colleagues on both sides of the aisle that Bowles-Simpson, this bipartisan Presidential commission, concluded that we should not hit the brakes on spending, should not hit the brakes on government activity too soon because of the recession. In fact, they recommended that we wait another year, with a serious effort to reduce the deficit coming after the recession.

The logic behind it is obvious. It is virtually impossible to balance the budget of the United States with 14 million people out of work. You need to put Americans back to work earning a good paycheck, paying their taxes, and then you can start building this economy and building toward a balanced budget. I hope we keep that in mind as we talk about what we are facing, as we try to create a climate to create more jobs in America.

It is interesting to me, the President will propose to extend the payroll tax cut for working families across America. It accounts for 2 percent of income. That, to me, is sensible. Put spending power in the hands of working families, lower and middle-income families. These are the people who are struggling paycheck to paycheck. We have done that. We should continue to do that.

The criticism from the Republican side of the aisle is, no, you shouldn't allow a tax cut for middle-income families and those in lower income categories unless you pay for it. Interestingly enough, that is exactly the opposite position from what they took when they talked about tax cuts for the wealthiest Americans. When the Republicans wanted to see tax cuts for those making over $250,000 a year, they say we don't have to pay for it. But when we talk about tax cuts for working families, middle-income families, all of a sudden they become deficit hawks and say you have to pay for those tax cuts. I think we should continue the 2-percent payroll tax cuts to help working families. I think that is good. I also think we ought to extend unemployment benefits.

I spent my time in August in Illinois visiting unemployment offices, where I met a lot of people who are struggling every single day to apply for jobs, sometimes four and five applications a day, and many times without success. They are doing their best to pick up new skills at community colleges and training courses. They are trying to make their resumes look a little more attractive, working to do so, and they are running into a brick wall time after time. Some are in extremely difficult circumstances. Extending unemployment compensation at this point in our economy is absolutely essential. It is the right and caring and humane thing to do, and it also injects money into the economy. The President will call for this, and I think he is right. The Republicans have said we have to pay for that unemployment compensation. Again, it is hard to follow their logic as they offer millions of dollars in tax relief for millions of people, refuse to end the tax cuts and benefits for the most profitable oil companies in America, and when it comes to helping the unemployed and middle income, then they become deficit hawks.

They also talk about the corporate income tax. The corporate income tax rate in America is 35 percent, and they say it is one of the highest in the world. That is true. But it is an effective rate versus the nominal rate. The nominal rate is 35 percent. The effective rate is much lower.

Take, for example, the report that just came out that puts this in perspective. There was a report that compared the salaries for the CEOs, the chief executive officers, of major American corporations. Twenty-five of the one hundred highest paid corporate executives in the United States earned more in pay than their company paid in taxes in the year 2010. That is right. Our Tax Code is so easy on massive multinational corporations, they pay their top executives more than they pay in Federal taxes each year. It is a startling fact. It is a report released by the Institute for Policy Studies. If you look through the report, you will see some of the biggest names in corporate America.

Look at General Electric. They made waves when it was reported that they paid zero, absolutely nothing, in Federal taxes last year. In fact, GE got a refund from the government of over $3 billion. The top executive at General Electric was compensated to the tune of $15.2 million. Consider that for a moment when we talk about the unfairness of corporate taxes. The biggest multinational corporations in America are escaping the 35-percent rate. Some are actually getting money back, and they are paying their executives money in reward for coming up with these tax strategies under our current Tax Code.

Do you want to clean up the Tax Code? Stop imposing the highest corporate tax rate on middle and small businesses, and impose it on the large corporations, the most profitable corporations in America.

The other idea is this repatriation tax holiday. We should take care here. Before we allow major corporations to bring their profits back into the United States tax free or at lower tax rates, which is what they are asking for, look at what happened when we tried that under the Bush administration. There were $362 billion of earnings repatriated under the holiday, and $312 billion qualified for the tax break, but we didn't see a corresponding increase in employment of those corporations. They brought back the money they earned in profits overseas and declared it as dividends and profits, and gave it in compensation and bonuses to their executives. They did not create jobs. Now the Republicans are pushing for that same strategy. They want to give this tax holiday to these major corporations with no strings attached. I think we have learned our lesson under the Bush administration. If that money is coming back to America, it should be dedicated to growing the corporations in America and growing good-paying jobs right here at home. It shouldn't go out the door in executive compensation, dividends, and profits.

The Tax Code is unfair, but it is primarily unfair to working families. We have got to do everything we can to make it fairer for them. Secondly, we have got to make sure we eliminate some of the loopholes that are stacked in the Tax Code today. I have been in favor of tax reform and think it is an essential part of fairness in America, getting the economy moving forward, and dealing responsibly with our deficit.

Madam President, I yield the floor.

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

TENTH ANNIVERSARY OF 9/11

Mrs. SHAHEEN. Madam President, as you know so well as the Senator from New York, across the country this weekend Americans everywhere will gather to commemorate the 10th anniversary of the tragic events that took place on September 11, 2001. Families from every town, from every city and State will mark this day in their own solemn way and take a moment to remember and honor the nearly 3,000 victims of those senseless attacks. More than any episode in recent American history, the events of 9/11 were experienced on a very personal level all across this country.

No one was untouched by the tragedy of that day. All of us can remember exactly where we were when we heard the news. We remember those frantic hours as we tried to call loved ones. We remember the silence in our skies as our Nation's entire air system shut down. We remember mourning the loss of family, friends, and neighbors; and we remember the fear and uncertainty as we wondered if more attacks were coming.

We remember the sight we all watched on television, again and again—the sickening sight of the falling towers of the Trade Center. It is a vision that has been forever seared into every American's mind.

As Governor of New Hampshire at the time, I was actually in Washington for a National Governors Association event on early childhood education. I will never forget looking out of my hotel and seeing the smoke rising from the Pentagon.

The attacks of 9/11 forever changed us as a nation. Our entire notion of security was turned upside down. Our government changed, our policies changed, and our view of the world changed. For our children and grandchildren especially, this became one of the defining events of their generation and has left an indelible mark on their world view.

As we gather this weekend, all of us in our own way will take a moment to recall those feelings of sadness and anger and to honor the memories of those we lost. But that loss is not the end of the story, and grief is not the true legacy of 9/11. We are not defined by what happens to us but by how we respond when we are faced with adversity. September 11 did not cripple us as a nation. Instead, it brought out the best in all of us. Our story is really how we responded in the face of this attack—with courage, resolve, and unity. In the aftermath of September 11, we showed the world the true meaning of the American spirit.

The story of America's response to 9/11 starts on that very day with accounts of heroism that we could never have imagined. We remember the firefighters and the other first responders climbing up the stairwells of the burning World Trade Center while others fled down, and how they made the ultimate sacrifice for their selflessness. We remember the courageous passengers on American Airlines Flight 93 who took away the terrorists' greatest weapon, fear, by fighting back even though it meant their lives. And who knows how many lives they saved, whether they stopped that attack.

In the days that followed, all Americans stepped forward in any way they could. Red Cross centers were overwhelmed with volunteer blood donors. Millions of us donated money and offered up prayers. In New Hampshire in the days following the attack I remember joining a crowd of hundreds for a prayer service at St. Paul's Church in Concord. We came together to honor the victims and to comfort each other. The response was incredible. The crowd spilled out into the streets with many waving American flags, holding candles, and singing ''God Bless America.''

In New Hampshire, our State government and our employees refused to buckle under the terrorist threat. We kept the State working on September 11.

I will not forget the more than 100 fire departments across New Hampshire that called our State fire marshal's office to offer their services for

assistance in New York or the countless physicians, rescue workers, and volunteers who made themselves available to help at a moment's notice.

Of course, we cannot tell America's story without telling the story of the men and women in our military who have spent the last decade trying to make sure an attack like this never happens again. Since September 11, more than 5 million men and women have voluntarily joined the Armed Forces to protect America and defend her freedom abroad. More than 6,200 Americans, including 37 troops from New Hampshire, have given the ultimate sacrifice in our Nation's defense. Over 45,000 more have been wounded or injured and returned home with lasting scars. Millions of troops and their families have sustained the toughest, most debilitating tempo of deployments in our Nation's history, often being deployed into war five or six times, enduring constant mental and physical strains in service to our country.

The resolve our troops have demonstrated since 9/11 has yielded a string of successes on an extremely complex battlefield. Our men and women in uniform have done everything that has been asked of them. Osama bin Laden has been brought to justice. Countless other high-level terrorist operatives, including the mastermind of the 9/11 attacks, have been killed or captured, and the organization's bases in Afghanistan and Pakistan remain under constant pressure. Al-Qaida and its extremist affiliates' deadly ideology is being questioned around the globe, and the remnants of al-Qaida's diminishing leadership are disorganized and struggling to reestablish themselves in the face of an aggressive U.S. offensive.

As our current Secretary of Defense, Leon Panetta, has remarked, we are ''within reach of strategically defeating al-Qaida.'' Although we can't be complacent and we must remain steadfast in our pursuit, our military should be honored for the gains our Nation has made against the terrorists who attacked us on September 11.

In New Hampshire our Air National Guard deployed almost immediately after the attacks, and every day since September 11, 2011, they have been providing persistent air refueling coverage for homeland defense and for our command issues in Iraq and Afghanistan.

I will forever remember walking through the New Hampshire airport with the New Hampshire National Guard when flights resumed after 9/11. As we walked through, people everywhere stopped what they were doing to applaud the National Guard for their efforts to keep the people of New Hampshire safe.

In the decade since the attacks, Americans have found new appreciation for the service these citizen soldiers provide, and Americans outside the military have learned they have a role to play too. With the heroes of United Flight 93 as their inspiration, everyday Americans have stopped a number of terrorist plots from succeeding. Passengers and flight personnel stopped the December 2001 bomber, the attempt by shoe bomber Richard Reid, and they stopped the Christmas Day 2009 attempt onboard the Northwest Airlines flight. The attempted Times Square bombing last year, as you remember, was in part averted by an alert New York City street vendor.

Perhaps most importantly, as we remember America's 9/11 story this weekend, we should all reflect often the unity we demonstrated in the face of this terrible attack. On September 11 we were not Republicans or Democrats, Black or White, rich or poor. We were all Americans. The attack focused our attention on our common bonds and on the American ideals we all hold dear. We were determined to prove, despite our differences, that the United States of America would persevere and endure. While we have not always maintained that sense of unity in the years since, our memory of it has inspired us and continually reminded us of what is possible when we reach for the best within ourselves.

When the history books are written and America's 9/11 story is told to the generations to follow, I hope it will tell of how we came together to remind the entire world of what this country stands for and who we are as a people; how after our darkest day we rose up with new determination; how instead of turning inward, we chose to confront the evil that had visited our shores and to fight on; and how we continued to be the beacon of hope, liberty, and opportunity that we have always been to the world.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

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

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

HEALTH CARE

Mr. BARRASSO. Madam President, I come to the floor because this week President Obama is going to present his new jobs plan to the American people and to all of us. I am certain we will hear a lot of talk and a lot of promises.

I remember when former House Speaker NANCY PELOSI famously announced in 2010 their White House health care summit. I sat around the table at that summit. In the discussion, she said the President's new health care law would create 4 million jobs. Here is exactly what former Speaker PELOSI promised on February 25, 2010. She said:

> . . . this bill is not only about the health security of America, it's about jobs. In its life it will create 4 million jobs—400,000 jobs almost immediately.

I ask, where are the jobs? The fact is, the President's health care law didn't create jobs. As a physician, I have come to the floor every week since the health care law has been signed and have given a doctor's second opinion about this health care law and why I believe it is bad for patients, bad for providers—the nurses and the doctors who take care of those patients—and terrible for the taxpayers.

Here we are 17 months after the President signed his health care plan into law and the American people have yet to see job growth anywhere near the figures promised by NANCY PELOSI. In fact, the Bureau of Labor Statistics reported last week the American economy generated a whopping zero jobs during the month of August. This is sobering news when we have 9.1 percent unemployment in America.

The New York Times, on September 3, had an editorial called ''The Jobs Crisis,'' and let me read from it. It says:

> The August employment report, released on Friday, is bleak on all counts, but at least it leaves no doubt that the United States is in the grip of a severe and worsening jobs crisis. That should lend a sense of urgency to the speech on jobs that President Obama plans to deliver this week.

The speech is scheduled for tomorrow night. The New York Times goes on to say:

> The economy added no jobs in August—zero—and the anemic numbers for June and July were revised downward. The unemployment rate is stuck at 9.1 percent, but it would be 16.2 percent if it included the swelling ranks of those who find only part-time work and the millions who have given up looking for jobs that simply do not exist.

Here we are looking at this sobering news, and it seems the only connection between the health care law and the jobs market in America is that the job creators—the people who create jobs in this country—made it very clear they cannot afford the President's new health care law. Month after month we hear from more people in the private sector who explain they will either have to fire people or stop providing coverage in order to comply with the significant expenses of the new health care law. Let me repeat. This law encourages job creators not to create jobs but to fire workers, not to hire workers.

To get around this problem in the short term, the administration began doing something I did not anticipate when the health care law was signed. They began to grant waivers from the President's health care law. They said: Oh, it doesn't apply to you. It doesn't apply to you. Come and apply for a waiver. During the month of August—this past month—the administration, once again, granted another round of waivers from the President's health care law. There were another 73 waivers allowing 105,000 people to get out of

the mandates of the Obama health care law.

Since October of 2010, the Obama administration has granted over 1,500 annual benefit limit waivers. Now they are granting them for 3 years. These waivers now cover over 3.4 million Americans. So the law and the mandates don't have to apply to them with regard to the benefits. Whom have over 50 percent of these waivers gone to? They have gone to union people, people who have gotten their health care through a union health plan. These are the same people who supported the President's health care law. It is startling that even unions cannot afford the President's law.

Remember NANCY PELOSI saying: First, we have to pass it before you get to find out what is in it. As more and more Americans have found out what is in the health care law, they say we do not want this to apply to us. In fact, the Service Employees International Union said the law would be financially impossible; that it is financially impossible for them to comply with. I don't think any job creator or American family should have to bear financially impossible costs because of the President's health care law. Each time this administration releases yet another round of its health care law waivers, it reminds the American people how fatally flawed the President's new law is.

As the President prepares for his speech tomorrow night, he needs to take a hard look at his health care law. He needs to face the unfortunate reality that his law actually makes it harder and more expensive for the job creators of this country to hire more people. We need to make it easier and cheaper for the job creators in this country to create private sector jobs, but yet the President's health care law makes it harder and more expensive. Tomorrow night, the President needs to change direction. Instead of giving waivers to businesses and unions, he should announce that all Americans can get a waiver from his health care law.

The good news is, I have a bill he can support immediately. My bill will allow any individual—any American citizen—to submit a waiver application seeking relief from any or all of the health care law's mandates. The waivers will be granted to individuals showing that the health care law is either increasing their health care premiums or decreasing their access to benefits. The bill is simple. It is straightforward. It is S. 1395. It is called the Waive Act, and there are 16 cosponsors in the Senate. Basically, it says, if a person's costs go up or their benefits go down, they have the freedom to get out of the President's health care law. Health insurance premiums have risen 19 percent since President Obama took office.

Tomorrow night, the President should announce that he will allow all Americans an opportunity to opt out of his health care law. If he did, this would be one of the best steps he could take to help America's economy. That is why I come to the floor, week after week, with a doctor's second opinion about a health care law that I believe is hurting our country.

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

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

The legislative clerk proceeded to call the roll.

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

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

DEBT CRISIS

Mr. SESSIONS. Madam President, the debt crisis has become a jobs crisis. There is no doubt in my mind that the debt we have now incurred is already weakening our economy. The gross Federal debt has increased by almost $5 trillion since President Obama took office, surging past 100 percent of our gross domestic product—100 percent of the size of the economy.

Academic research shows this level of debt is already costing us 1 million jobs a year. Our debt is destroying growth and confidence in the economy. More borrowing—more borrowing—will only make matters worse. But according to the Associated Press in an article today, the President's job plan will add another $300 billion to the debt.

This is the article by David Espo:

> The economy weak and the public seething, President Obama is expected to propose $300 billion in tax cuts and Federal spending Thursday night to get Americans working again.

I would say that is what he says will get the American people working again. But we have already borrowed all we can borrow without damaging the economy. It has come to a point where we can't keep borrowing in a futile attempt to stimulate the economy when the increased debt itself is weakening the economy.

The article goes on to say this:

> According to people familiar with White House deliberations, two of the biggest measures in the proposal for 2012—

that begins October 1 of this year, fiscal year 2012—

> are expected to be a one-year extension of the payroll tax for workers and an extension of expiring jobless benefits. Together those two would total about $170 billion.

It goes on:

> The White House is also considering a tax credit for businesses that hire the unemployed. That could cost about $30 billion. Obama has also called for public works projects, such as school construction. Advocates of that plan have called for spending of $50 billion . . .

on school construction. I don't think school buildings are the problem with our education right now, and when we don't have any money, we have to be careful about borrowing more to spend.

It goes on to say—and this is significant:

> Though Obama has said he intends to propose long-term deficit reduction measures to cover the up-front costs of his jobs plan, White House spokesman Jay Carney said Obama would not lay out a wholesale deficit reduction plan in his speech.

In other words, he won't lay out a plan that would pay for it.

So this is where we are heading, it seems to me.

Remember the big debate we had over the debt ceiling that ended just before our August recess at the eleventh hour and the 59th minute. We remember how much spending reductions it would call for in the next fiscal year: $7 billion. That is how much we would actually cut spending next fiscal year: $7 billion. And this plan has called for over $300 billion in spending anew, not paid for. We are already in debt. We are already borrowing 40 cents of every dollar we spend, and we are going to add another $300 billion in spending, not paid for, borrowed, every penny of it. At some point, this country gets to a position where we cannot continue to borrow without damaging the economy. It is that simple. Americans understand it. As one man told me in Evergreen, AL: you can't borrow your way out of debt. You cannot borrow your way out of debt. We have reached and gone past that limit, in my opinion.

In order to have the kind of robust growth we desperately need, we must remove the looming threat of a Greek-like debt crisis. We must do so. This debt has a chilling effect throughout our economy. Indeed, a European banker just a few days ago said this feels like 2008, and that gained quite a bit of traction because people were feeling that, but nobody was saying it, and he was quoted all over the business channels about 2008 and the crisis we might be facing.

But the President has refused to do anything to actually reduce the surge in spending that he has engineered, nor have our Senate Democratic colleagues here in the Senate. The House proposed a sound budget plan that would reduce spending over the next 10 years and change the debt trajectory of America, but we spent almost $8 trillion here in the Congress since the Senate Democratic majority has passed a budget—861 days. In fact, the Lewis and Clark expedition lasted 860 days. We have passed that now, without having a budget. That is a do-nothing record. It just is.

At a time of national crisis, we have a failure of leadership in the Senate and in the Presidency, in my opinion. President Obama has never once looked the American people in the eye and told them the bitter truth about the economic dangers we are facing and how much work must be done to get us back on a sound, secure path. It is hard to ask a people to sacrifice. It is hard to ask the American public to make tough choices if the President, our

leader, will not affirm that we need to make these choices because it is a serious threat to America. Admiral Mullen, who is the Chairman of the Joint Chiefs, has stated that the greatest threat to our security is the national debt. Every expert tells us that the greatest threat to our country is the debt. In my opinion, it dwarfs any other threat this Nation faces. Yet according to the Associated Press, the President's speech is going to talk about spending and nothing about how to deal with the debt, or nothing significant about that.

So the rhetoric needs to confront reality. The President has given a number of speeches about creating jobs and reducing the deficit. But a speech is no substitute for a budget or for a detailed plan. The only plan the President has ever put on paper—the only plan that can be reviewed by the press, the public, and Congress—is his February budget. He reaffirmed that plan last week, sending Congress a midsession review that made no policy changes in his budget he submitted earlier. He had the 500-person Office of Management and Budget staff working for him. Is it too much to ask for a real plan? Whatever he may say on Thursday night, on paper—officially—he remains committed to this budget plan that grows the debt by about $12 trillion and raises taxes by about $2 trillion. What it does is it increases spending and increases taxes significantly, but the increase in spending is greater than the increase in taxes. So the net result is that the President's plan makes the budget projections we have from the Congressional Budget Office worse than they would be if we didn't have this budget plan.

America needs the confidence that only a concrete plan can provide. The constant threat of more Federal taxing, borrowing, and regulating undermines confidence, certainty, and predictability in our economy, that which our economy so desperately needs.

This isn't a question simply of ideology; it is a question of leadership. We need and have to grow the economy, not the government. We need to grow the economy. America needs a budget plan that recognizes a core truth. Our Nation's strength does not lie in the size of our government, but in the scope of our freedoms and in the creativity of our people. We need to focus on policies that unleash the enormous productive potential of the private sector. We need to focus on policies that remove instability fostered by the President's refusal to put forward a coherent economic plan that will actually reduce debt, not make it worse, and that would end the threat of high taxes and improve conditions for our job creators. Instead of the failed tax-and-spend approach the voters rejected in the last election, we need to focus on policies that create jobs—not more bureaucracy—helping to steady the economy in these difficult, uncertain times. That would include such things as energy production. We have definitely damaged and delayed significantly the production of energy in the gulf far beyond what was necessary. Only now is it beginning to come back. We are having incredibly increased regulations of every kind on our economy, and we have failed to undertake the kind of serious tax reform that could help create growth and productivity. So these are very dangerous things.

I wish to remind our colleagues that the debt problem can't all be blamed on President Bush. I was a critic of some of his spending programs. But, for example, in the last 3 years of President Bush's plans compared to the first 3 years of President Obama's, he has increased spending for education 67 percent. His budget for the next fiscal year beginning October 1, which was defended a few weeks ago in the Appropriations Committee, calls for a 13.5-percent increase in the Education Department. His budget plan calls for a 10.5-percent increase in the Energy Department. I affectionately call them the Department of Anti-Energy, the Anti-Energy Department. The State Department is looking at a 10.5-percent increase. At a time when we are borrowing 40 cents of every dollar we spend, how can this be reality? Now we are talking about $300 billion which will be thrown in on top of this to stimulate the economy again. I hope and trust there are some things the government can do to improve the economy, but I am afraid we are at a point where borrowing more money is not one of them.

Look what the Europeans have done. They are facing a similar crisis. Do they think they should borrow more and spend more? Is that what they are doing? No. They are taking their medicine. Italy is attempting to pass a $65 billion austerity plan that would balance their budget by 2013. The budget the President submitted to us does not even come close to balancing in 10 years. In fact, the projected annual 1-year deficit under the President's plan for the tenth year of his 10-year budget is $1 trillion plus. The highest budget deficit President Bush ever had was $450 billion. He will average almost $1 trillion a year—$1,000 billion average—over 10 years. The interest payment last year was $240 billion. The CBO projects in the tenth year after President Obama has doubled the deficit based on his budget, interest in 1 year will be $840 billion, crowding out things such as aid to education, which is $100 billion, Federal aid to highways, $40 billion.

We cannot continue on this path. Italy is making a change. What about Spain? These are three of the so-called ''PIGS'' in Europe, the ones that are in financial trouble. Spain is planning a constitutional amendment and complementary law that will require close to balanced budgets at the Federal and State levels and to limit Federal debt to 60 percent of their economy. The enacted austerity plan reduces salaries of public sector workers and cuts public sector spending.

Portugal has a 4-year consolidation plan that will reduce Federal spending by 7 percent of GDP and would balance the budget by 2015. We have no plan to balance the budget, nothing close to it. Indeed, the plan the President has submitted to us—and I am not exaggerating. This is in the record books. We have the two-volume budget he sent to us, and it has been analyzed by the Congressional Budget Office. It will average $1 trillion a year in deficits, which I suppose is why, when I brought it up, the Senate voted 97 to 0 to reject the budget. We do not have one. That is the only one that is pending.

Our Democratic colleagues cancelled the budget markup in the Budget Committee in which I am the ranking Republican—we never even pretended to produce a budget this year. Senator REID, the majority leader, said it would be ''foolish'' to do so.

So we are now looking at a crisis that involves millions of Americans, the jobs they, hopefully, have now and hope to continue, and those who have lost their jobs. Unemployment has almost doubled. So we are facing a difficult time. I know the pressure is on to just do something so we can politically say we did something. But that is not sufficient now. We need mature, strong, detailed leadership, a detailed plan that will put us on a path to a sound economy.

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

Mr. SESSIONS. We need a plan. I hope the President will do more than the article in the newspaper says and provide the kind of specific leadership that can help us move forward from the economic difficulties we face.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LEAHY-SMITH AMERICA INVENTS ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 1249, which the clerk will report by title.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of H.R. 1249, an act to amend title 35, United States Code, to provide for patent reform.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, every time I hear discussion about how we balance the budget, especially coming from the other side of the aisle—maybe because I have been here long enough—I remember the last time we did balance the budget during President Clinton's term. We balanced the budget. We

created an amazing surplus. We created millions and millions of new jobs.

But you know what. Not a single Republican voted for that. It passed in the Senate only because the Vice President of the United States cast the deciding vote. No Republican voted—we actually had to do more than just have a bumper sticker ''Let's Balance the Budget.'' We actually did balance the budget, which required some very tough choices. No Republican voted for that.

In fact, they all condemned it saying: This would bring about wrack and ruin, and on and on. It did not. It created an enormous budget surplus and created 22 million new jobs. We were paying down the national debt. We left a very large surplus to President Clinton's successor, President Bush, who immediately wasted it on a needless war in Iraq and tax cuts, both of which I voted against.

It is also interesting to be lectured by the other side of the aisle about balancing the budget when they voted to go into two of the longest wars in our history, and for the first time in our history voted to pay for them by borrowing the money. Now look where trillions of dollars will have gone because of Iraq and Afghanistan, and now to be told that to continue to pay for unnecessary wars we must cut out things for Americans such as education, medical care, housing, scientific research, and things such as finding cures for cancer, Alzheimer's, repairing our aging bridges, roads—even hearing a Member of the other body saying: We cannot respond to the tragedies caused by Irene in the distinguished Presiding Officer's home State, mine and others, unless we take the money from other needs in this country. Yet that same Member supported an unnecessary war in Iraq and supports paying for it on the credit card. Come on. Let's be real. Let's start thinking about things in America.

The Senate began debate last night on the America Invents Act. Unfortunately, as has happened so many times, we had to invoke cloture on a motion to proceed to something that has strong support. I would note that 93 Senators, Republicans and Democrats alike, voted to invoke cloture on the motion to proceed.

This is a bipartisan consensus bill. It is largely similar to the legislation the Senate passed in March. Incidentally, we passed that on a vote of 95 to 5. Some would say these days that we cannot even have a vote like that on a resolution saying the Sun rises in the east. Here Republicans and Democrats came together 95 to 5. The Senate can and should move immediately to pass this bill. It will create good jobs. It will encourage innovation. It will strengthen our recovering economy, and it will not cost the taxpayers anything.

I want to commend Senator HATCH, the longtime Republican lead sponsor of this measure; Senator GRASSLEY, the ranking Republican on the Senate Judiciary Committee; and Senator KYL, the Republican whip, for their support of the bill and for their commitment to making patent reform become a reality.

This is an effort we have worked on for nearly 6 years. I sometimes shudder to think of the amount of time my staff and I have spent on this issue. During those 6 years it has become even more important to the economy. The time has come to enact this bipartisan, bicameral legislation.

I ask unanimous consent to have printed in the RECORD the Statement of Administration Policy on H.R. 1249 from the Obama administration.

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

STATEMENT OF ADMINISTRATION POLICY

H.R. 1249—AMERICA INVENTS ACT

(Rep. Smith, R–Texas, and 5 cosponsors, June 21, 2011)

The Administration supports House passage of H.R. 1249 as modified by the Manager's Amendment, but final legislative action must ensure that fee collections fully support the Nation's patent and trademark system.

The bill's much-needed reforms to the Nation's patent system will speed deployment of innovative products to market and promote job creation, economic growth, and U.S. economic competitiveness—all at no cost to American taxpayers. The bill represents a balanced and well-crafted effort to enhance the services to patent applicants and America's innovators provided by the United States Patent and Trademark Office, USPTO. It does so by supporting the USPTO's efforts to improve patent quality and reduce the backlog of patent applications, reducing domestic and global patenting costs for U.S. companies, providing greater certainty with respect to patent rights, and offering effective administrative alternatives to costly and complex litigation.

By adopting a first-inventor-to-file system, the bill simplifies the process of acquiring intellectual property rights. This provision provides greater certainty for innovators, reduces legal costs that often burden small businesses and independent inventors, and makes it easier for innovators to market their inventions in the global marketplace. This legislation also provides authority for the USPTO to establish and adjust its fees to reflect the actual costs of the services it provides. In addition, the Manager's Amendment provides important authority for a 15 percent surcharge on patent fees and additional fees for ''fast-track'' patent applications, which will enable the USPTO to reduce the backlog. Finally, to increase the quality and certainty of patent rights and offer cost-effective, timely alternatives to district court litigation, the Administration also supports provisions in the legislation that would enhance the opportunities for post-grant review of patents by the USPTO.

To carry out the new mandates of the legislation and reduce delays in the patent application process, the USPTO must be able to use all the fees it collects to serve the users who pay those fees. In this light, the Administration is concerned that Section 22 of the Manager's Amendment to H.R. 1249 does not by itself ensure such access. The Administration looks forward to working with Congress to provide additional direction that makes clear that the USPTO will have timely access to all of the fees collected, subject to the congressional oversight provisions in the bill.

House passage of H.R. 1249 would foster innovation, improve economic competitiveness, and create jobs at no expense to taxpayers—all of which are key Administration goals. The Administration looks forward to working with Congress to finalize this important bipartisan legislation and ensure that the USPTO can effectively accomplish its mission to support America's innovators.

Mr. LEAHY. The statement describes the bill as a balanced and well-crafted effort to enhance the services to patent applicants and America's innovators provided by the U.S. Patent Office.

The Statement of Administration Policy emphasizes the bill supports the USPTO's efforts to improve patent quality, reduce the backlog of patent applications, reducing domestic and global costs for U.S. companies. I underscore these points because they are exactly the goals Chairman SMITH of the other body and I set out to achieve when we first introduced patent reform legislation 6 years ago. It has been over half a century since our patent laws were updated.

Look at the changes that have occurred during that time. We have become even more of a global economy than ever before. We have become more of an innovative economy than ever before. Improving patent quality will benefit businesses across the economic spectrum. The America Invents Act will improve patent quality by expanding the role of third parties to the patent examination process, creating a streamlined first-window, postgrant review to quickly challenge and weed out patents that never should have been issued in the first place.

It improves the funding mechanism for the Patent Office to confront its backlog of nearly 700,000 patent applications. Those are patents that could be creating jobs and improving our economy. For years, low-quality patents have been a drain on our patent system, and in turn our economy, by undermining the value of what it means to hold a patent. Higher quality patents will bring greater certainty in the patent system. That is going to make it easier to get investment in American businesses, create jobs, and grow our economy. This act is bipartisan legislation. It is going to lead to long-needed improvements in our patent system and laws. I would note that no one Senator, no industry, no interest group, got everything it wanted in this bill. I suggested that if we were going to write this bill exactly the way we wanted in this body, we would have 100 separate bills. But we can only pass one. That is the nature of compromise.

This bill represents a significant step forward in preparing the Patent Office and, in turn businesses, to deal with the challenges of the 21st century. Support for the bill has grown over time. It is now endorsed by an extensive list of supporters across the political spectrum. Look at who we have here. How often do you see this kind of a breakdown?

The National Association of Manufacturers, the United Steelworkers, the U.S. Chamber of Commerce, the Association of American Universities, the American Intellectual Property Law Association, Coalition for the 21st Century Patent Reform, Small Business and Entrepreneurship Council, the National Retail Federation, the Financial Services Roundtable, the American Bar Association, the United Inventors Association of America, the Association of Competitive Technology, the Association of University Technology Managers, the Information Technology Council, American Institute of Certified Public Accountants, and so many more.

I cannot remember a time in my years in the Senate where we have seen such a broad coalition come together: business, labor, high-tech, and others, coming together to pass legislation. We should grant this legislation final approval.

The Senate and the House have now both considered it. A host of associations, interested parties from the private sector have endorsed passing the bill without further amendment. At a time when we can do something to create jobs and not cost the taxpayers money, every day we wait, every day we delay is another day before those jobs are created. Every day we wait, every day we delay is another day that we hold back the innovative genius of America. Every day we wait, every day we delay is another day we are unable to compete with the rest of the world on a level playing field.

Any amendment—any amendment, including ones I might like—would force reconsideration by the House, and more unnecessary delay, and longer before we can create those jobs, longer before we can innovate, longer before we can compete with the rest of the world. I can think of a half dozen amendments that I would like to have in the bill.

I will vote against them because it is time to get this done. Patent reform legislation has been debated exhaustively in both the Senate and the House for the past four Congresses. It is the product of dozens of hearings and weeks of committee markups. We should proceed to the bill and pass it.

Let's not have any one person feeling they have the magic point everybody else has somehow overlooked. That is not the way the legislative process works. There are 100 here in the Senate and 435 in the House. Nobody gets every single thing they want. But here, the vast majority of Republicans and Democrats in the House and the Senate are getting what they feel is best for America.

It is time for the Senate to serve the interests of the American people by passing the legislation before us. We have before us a consensus bill that will facilitate invention, innovation, and job creation today. This can help everybody from startups and small businesses to our largest cutting-edge corporations.

Let's put Americans back to work. Let's show the American people that the Congress can actually accomplish something and do it for America. Here is something on which both Republicans and Democrats can come together. Let's not delay any longer. We have taken 6 years to get here. We had a vote yesterday where over 90 Senators voted to proceed, which indicates it is time to get moving, it is time to stop debating, and it is time to vote.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. CARPER. Madam President, it is quiet in here. Tomorrow night, down at the other end of the Capitol, hopefully it won't be this quiet. The President is going to give a speech that is to be focused on the next steps of getting our economy moving and getting people back to work. That is something which is on all of our minds.

As a guy who used to make my living as Governor of my State, I focused a lot on the economy. These are issues of great interest to me and certainly to the people I represent. The thought that occurs to me as we anticipate the President's speech is that I don't know that there is any one particular jobs bill that will do the trick. I would like to think there is a silver bullet, but I don't know that there is.

I have always focused on and what we try to focus on in our State is how to create a nurturing environment for job creation and job preservation. How do we do that? We try to make sure we invest wisely in infrastructure—roads, highways, bridges, ports, trains, water, sewer, broadband. We try to invest in the workforce and make sure we have people who are coming out of our schools who can read, write, do math, and who have the skills that will enable them to fill the kinds of jobs that will exist in the 21st century. The other part of what we focus on is trying to help promote research and development, and not just any kind but R&D that can be used to create products that can be commercialized and sold not only in this country but in other places as well.

Hopefully, the President will talk about some of those things tomorrow night. I look forward to whatever he talks about. I hope he talks about that kind of nurturing environment and what we can do to allow them to plow the fields so that companies, large and small, can actually grow some jobs here.

Part of the nurturing environment for job creation is infrastructure. We have been trying for many months since the beginning of this year to work on the airport infrastructure in our country, to try to bring the FAA and air traffic control system into the 21st century because it is not and it needs to be. We need resources to modernize our airports across the country, and it is important that we actually pay for it and not add to the deficit.

Legislation was passed earlier this year that does that—modernizes the FAA and brings the air traffic control system into the 21st century, provides some agreement between the airlines and the general aviation community on how to come up with the resources we need to modernize our airports. It is a good approach, but it has been hung up in the House since then. We need to get that done.

Today and this week, another part of that infrastructure needs to be worked on. This is the infrastructure that allows companies that have a good idea—and inventors—to get a patent on their idea and the patent doesn't end up being litigated on and on, maybe for years, in the courts. Too often, it takes years when somebody comes up with a good idea. They submit it to the Patent Office, and it takes a long time to get to the top of the list and for somebody to pay attention to the application. Somebody may come in and say: I had the same idea before he did, and then it ends up in litigation. We need to stop that. We worked out a compromise that provides that whoever files first is essentially the winner. It is not necessarily the one who came up with the idea sooner. We need to get that legislation done and deal with that one aspect of uncertainty and unpredictability that businesses face. It would be great if we could make progress on that front this week.

Another part of the infrastructure for job creation and preservation is the Postal Service. Not a lot of people pay much attention to the Postal Service until they get into trouble. The Postal Service is in trouble. I describe the situation as dire, but it is not hopeless. The Postal Service finds itself in a situation not unlike that of the auto industry a couple of years ago. The auto industry was losing market share, and their products weren't especially good. They were losing market share, and they essentially concluded that we have more people than we need for the size of the market to which we now sell. We need to reduce our head count. They said: We have to make our wage-benefit structure more competitive for the people we are hiring in the future in order to be competitive. Third, they said: We have too many plants, and the wage-benefit structure was out of whack.

In the Postal Service today, we are seeing an enormous diversion of people using traditional mail, first-class mail, and a diversion into electronic media. As a naval flight officer in the Vietnam war, I remember how excited I was—and we have been joined by Senator MCCAIN, who went for a long time

without getting much mail at all when he was a POW. Those of us who were more fortunate, while deployed it was exciting to get mail—postcards, letters, cards, packages, magazines, newspapers. It was some connection from home.

Senator KLOBUCHAR has been over to Afghanistan, as have Senator MCCAIN and I. Our soldiers, sailors, airmen, and marines Skype. They communicate through different social media such as Facebook, Twitter, Internet, and cell phones. We never had that stuff, even 30, 35 years ago, in Southeast Asia or around the world. But people don't use the mail too much, especially first-class mail.

The situation the Postal Service is in today—and they lost last year—is they are on track to lose about $10 billion. They can only borrow $15 billion on a line of credit with the Federal Government. That is it. They are looking to lose more money. If we don't let them do something, they are going to lose more next year. At the end of this year—they can default by the end of the month if we do nothing. If they don't do something, by the end of next September, they could be out of business. That is not good for them, for us, or for the 7 or 8 million jobs that depend on the Postal Service.

The situation with the Postal Service is similar to that of the auto industry a couple of years ago, but it is different too. The U.S. auto industry—not Ford but Chrysler and GM—was looking for, if you will, a taxpayer bailout. They got that and have repaid most of that to the Treasury.

The Postal Service is not asking for a bailout. They want to be allowed to be treated like a real business, run like a real business. They say, like the auto industry, we have too many people—more than they need. They need to continue to reduce the headcount through attrition and to incentivize the 120,000-or-so people who are eligible to retire, to retire by giving them early payments—maybe $10,000 or $20,000—and allowing them to maybe get credit for a couple extra years, but get the people who are eligible to retire and encourage them to do so, incentivize them to retire—not to be fired or laid off but to retire. So there are too many people.

Two, there are too many post offices. There are 33,000 post offices around the country. The post office doesn't want to close them all. They are saying: Let's look at 3,000 of them, and let's have a conversation with the communities there. Do all of these 3,000 post offices in those communities need to stay open? Are there some that could locate services elsewhere? Say, if you go to a convenience store that is open 24/7 or a pharmacy that is open maybe 7 days a week or if you go into a supermarket that is open 7 days a week, you can get your postal services there. They could locate those post offices there, and all those services in one place adds more convenience to consumers. That is what the Postal Service wants to do.

The last thing the Postal Service has too much of is mail processing centers. They have over 500 of them around the country, which is probably twice the number they need. They need to be able to reduce those.

The Postal Service needs to be treated fairly, and they have been paying into the Civil Service Retirement System for many years for some of the older employees and more recently the Federal Employees Retirement System for the newer employees. Two separate audits done by the Segal Company and by a consulting company called the Hay Group have concluded that the Postal Service has overpaid its obligation into the Civil Service Retirement System by $50 billion or more. They have estimated they have overpaid their obligation to the Federal Employees Retirement System by about $7 billion more. The Postal Service has asked to be reimbursed for those overpayments. They would like to use those overpayments, on the one hand, to help meet their obligation to pay the heavy health care cost for folks who are retiring from the Postal Service or about to retire. They want to prefund that. It is an obligation they have under the 2006 law, and they would like to use some of the $7 billion overpayment into the Federal Employees Retirement System to actually incent people who are eligible to retire from the Postal Service to go ahead and retire.

Eighty percent of the cost of the Postal Service is people—80 percent. The Postal Service has reduced its head count from about 800,000 people to, say, 600,000 people over the last 7 or 8 years. They need to be able to continue to reduce that in the years to come—roughly 100,000 over the next 2 or 3 years through attrition and maybe another 120,000 by incentivizing people to retire.

The Senator from Minnesota is still standing here waiting for me to stop, and I have a lot more I wish to say, but I am going to stop and come back maybe later today to finish my comments, but let me conclude with this.

We need to act so the Postal Service can save itself. We don't need to bail them out. We need to let them act as a real company. The situation is dire, but it is not hopeless. They need to be able to address, as the auto industry did, too many people. They need to be able to close and consolidate some post offices and colocate those services in places that make more sense and are more convenient to consumers, they need to be able to close some of their mail processing centers, and they need to be treated fairly with respect to their overpayments into both the Civil Service Retirement System and the Federal Employees Retirement System. We can do this, and we don't need to do it next year; we need to do it this year.

I yield the floor to our friend from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

AMERICA INVENTS ACT

Ms. KLOBUCHAR. I thank very much the Senator from Delaware, and I appreciate the ability to go ahead. I know the Senator from Arizona is waiting as well.

I rise to speak in support of the America Invents Act, a bill to revamp our patent system. As a member of the Judiciary Committee, I worked on this bill. I was one of the cosponsors, and I also helped manage the bill the last time it was on the floor. I am here to make sure we get it over the finish line.

It is without dispute that intellectual property is one of our Nation's most valuable assets, and our patent system plays a vital role in maintaining the value of our intellectual property. In fact, the Commerce Department estimates that up to 75 percent of economic growth in our Nation since World War II is due to technological innovation—innovation that was made possible, in part, by our patent system.

I see firsthand the importance of success of a robust patent system whenever I am visiting Minnesota companies and talking with business leaders in our State, as I did many times over the past month. Minnesotans have brought the world everything from the pacemaker to the Post-It-Note. These innovations would not have been possible without the protection of the patent system. This strong commitment to innovation and development is why our State ranks sixth in the Nation in patents per capita, and we are No. 1 per capita for Fortune 500 companies.

Companies such as 3M, Ecolab, and Medtronic need an efficient patent system. But it is also medium-sized companies, such as Imation in Oakdale and Polaris in Medina, that rely on patents to grow their companies and create jobs in America. In fact, from 1980 to 2001, all the net job growth in our country came from companies that were less than 5 years old. It is the person in the garage building a mousetrap or, in the case of Medtronic, the first battery-powered pacemaker who drives our economy forward and creates the products Americans can make and sell to the world.

I truly believe, to get out of this economic rut, we need to be a country that makes stuff again, that invents, that exports to the world. That is why it is so critical we pass the America Invents Act.

Unfortunately, our patent laws haven't had a major update since 1952. The system is outdated, and it is quickly becoming a burden on our innovators and entrepreneurs. Because of these outdated laws, the Patent and Trademark Office faces a backlog of over 700,000 patent applications. Many would argue that all too often the office issues low-quality patents. One of these 700,000 patents may be the next

implantable pacemaker or a new and improved hearing aid.

Our current patent system also seems stacked against small entrepreneurs. I have spoken to small business owners and entrepreneurs across Minnesota who are concerned with the high cost and uncertainty of protecting their inventions. For example, under the current system, when two patents are filed around the same time for the same invention, the applicants must go through an arduous and expensive process called an interference, to determine which applicant will be awarded the patent. Small inventors rarely, if ever, win interference proceedings because the rules for interferences are often stacked in favor of companies with deep pockets. This needs to change.

Our current patent system also ignores the realities of the information age we live in. In 1952, the world wasn't as interconnected as it is today. There was no Internet and people didn't share information, as they do in this modern age. In 1952, most publicly available information about technology could be found either in patents or scientific publications. So patent examiners only had to look to a few sources to determine if the technology described in the patent application was both novel and nonobvious. Today, there is a vast amount of information readily available everywhere we look. It is unrealistic to believe a patent examiner would know all the places to look for this information. Even if the examiner knew where to look, it is unlikely he or she would have the time to search in all these nooks and crannies. The people who know where to look are the other scientists and innovators who also work in the field. But current law does not allow participation by third parties in the patent application process, despite the fact that third parties are often in the best position to challenge a patent application. Without the benefit of this outside expertise, an examiner might grant a patent for technology that simply isn't a true invention, and those low-quality patents clog the system and hinder true innovation.

Our Nation can't afford to slow innovation any more. While China is investing billions of dollars in its medical technology sector, we are still bickering about the regulations. While India encourages invention and entrepreneurship, we are still giving our innovators the runaround—playing red light, green light, with stop-and-go tax incentives. The truth is, America can no longer afford to be a country that simply exists on churning money and shuffling paper, a country that consumes imports and spends its way to huge trade deficits. What we need to be is that Nation that invents again, that thinks again, and that exports to the world, a country where we can walk into any store and pick up a product and turn it over and it says ''Made in the USA.'' That is what our country needs to be. It is what Tom Friedman, who writes for the New York Times and is a Minnesota native, calls nation building in our own nation.

As innovators and entrepreneurs across Minnesota have told me, we need to rejuvenate our laws to ensure that our patent system supports the needs of a 21st century economy. The America Invents Act does just that.

First, the America Invents Act increases the speed and certainty of a patent application process by transitioning our patent system from a first-to-invent system to a first-inventor-to-file system. This change to a first-inventor-to-file system will increase predictability by creating brighter lines to guide patent applicants and Patent Office examiners.

By simply using the filing date of an application to determine the true inventors, the bill increases the speed of the patent application process while also rewarding novel, cutting-edge inventions. To help guide investors and inventors, this bill allows them to search the public record to discover with more certainty whether their idea is patentable, helping eliminate duplication and streamlining the system. At the same time, the bill still provides a safe harbor of 1 year for inventors to go out and market their inventions before having to file for their patent.

This grace period is one of the reasons our Nation's top research universities, such as the University of Minnesota, support the bill. The grace period protects professors who discuss their inventions with colleagues or publish them in journals before filing their patent application. The grace period, along with prior user rights, will encourage cross-pollination of ideas and eliminate concerns about discussing inventions with others before a patent application is filed.

This legislation also helps to ensure that only true inventions receive protection under our laws. By allowing third parties to provide information to the patent examiner, the America Invents Act helps bridge the information gap between the patent application and existing knowledge.

The legislation also provides a modernized, streamlined mechanism for third parties who want to challenge recently issued, low-quality patents that should never have been issued in the first place. Eliminating these potential trivial patents will help the entire patent system by improving certainty.

The legislation will also improve the patent system by granting the U.S. Patent and Trademark Office the authority to set and adjust its own fees. Allowing the office to set their own fees will give them the resources to reduce the current backlog and devote greater resources to each patent that is reviewed to ensure higher quality. The fee-setting authority is why IBM—one of the most innovative companies around, that has facilities in Rochester, MN, and in the Twin Cities—was granted a record 5,896 patents in 2010 and why they support this bill. They want to bring even more inventions and more jobs to America.

As chair of the Subcommittee on Competitiveness, Innovation, and Export Promotion, I have been focused on ways to promote innovation and growth in the 21st century. Stakeholders from across the spectrum agree this bill is a necessary step to ensure the United States remains the world leader in developing innovative products that bring prosperity and happiness to our citizens. Globalization and technology have changed our economy. This legislation will ensure that our patent system rewards the innovation of the 21st century.

I know this is not the exact bill we passed in the Senate earlier this year, but the major components of that earlier bill are in the one on the floor today. Those components are vital to bringing our patent system into the 21st century and unleashing American ingenuity as never before. Sometimes it is obvious how one can get a job, but sometimes it is harder to see, such as when one has to get an invention developed and get it approved and get the patent on it and get it to market. That is the hard work that goes on in this bill.

I urge my colleagues to support this bill, and I yield the floor to my colleague and friend from Arizona, Senator MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask unanimous consent to address the Senate as in morning business, and I additionally ask unanimous consent that I be joined in a colloquy with Senator GRAHAM from South Carolina and Senator LIEBERMAN from Connecticut.

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

IRAQ

Mr. MCCAIN. Madam President, yesterday, we learned from media reports the Obama administration has made a decision to sharply reduce the number of U.S. forces it is proposing for a post-2011 security agreement with Iraq to roughly 3,000 troops. That media report has not been contradicted yet by anyone in the administration, so one has to assume that is the direction which the administration is headed.

As is well known, 3,000 troops is dramatically lower than what our military commanders have repeatedly told us, on multiple trips to Iraq, would be needed to support Iraq's stability and secure the mutual interests our two nations have sacrificed so much to achieve. Our military leaders on the ground in Iraq have told us, in order to achieve our goal—which is a stable, self-governing Iraq, and as a partner in fighting terrorism and extremism—they need a post-2011 force presence that is significantly higher than 3,000 troops.

We continue to hear that the Iraqis are to blame because they haven't asked for a new agreement. The fact is, in early August, Iraq's major political blocks reached agreement to begin negotiations with the United States on a new security agreement. This week, Massoud Barzani, the President of the Kurdistan regional government and one of the most respected men in Iraq—and, in my view, one of the finest—called for a continued presence of U.S. troops, saying Iraqi security forces are still not prepared to secure protection for Iraq.

Perhaps significantly the inspector general for Iraq reconstruction, Mr. Stuart Bowen, recently reported:

> Iraq remains an extraordinarily dangerous place to work. It is less safe, in my judgment, than 12 months ago. Buttressing this conclusion is the fact that June was the deadliest month for U.S. troops in more than 2 years.

And, by the way, we continue to hear these quotes from various administration officials about absent a request from the Iraqis, it is difficult to settle on any one thing. Victoria Nuland stated that if they come forward with a request, we would consider it. That is assuming it is only in Iraq's national interests to have additional troops here. It is in America's national security interests not to lose Iraq after the sacrifice of some 4,500 brave young Americans, and the consequences of failure are obvious.

Who is it that opposes the continued presence of the U.S. troops most vociferously, strenuously, and sometimes in a very subversive way? Iran and the Sadrists. Iran and the Sadrists want the United States out. It is not a matter of Iraqi national security interests, it is a matter of American national security interests.

What do 3,000 troops do? I don't know what 3,000 troops do, but I know they are required to have certain force protection numbers, which would be significant, and then how many troops would be left to carry out the mission of protecting the United States civilians, contractors, and personnel who remain there.

I guess you can sum this up, this decisionmaking process, best, and I quote from a New York Times article, ''Plan Would Keep Small Force in Iraq Past Deadline'':

> A senior American military officer said the planning at this point seemed to be driven more by the troop numbers than the missions they could accomplish, exactly the opposite of how military planners ideally like to operate. ''I think we are doing this thing backwards,'' the officer said. ''We should be talking about what missions we want to do, and then decide how many troops we will need.''

I can assure my colleagues that is the view of the majority of members of the military, many of whom have had multiple tours in Iraq, that is their view of this process we are going through.

I would point out that my friends Senator GRAHAM and Senator LIEBERMAN, who are coming—and I have been to Iraq on many occasions since the initial invasion. We have had the opportunity to watch the brave young Americans serve and sacrifice. We have had the ability to see as the initial military success deteriorated into a situation of chaos, beginning with the looting and unrest in Baghdad to very unfortunate decisions that were made in the early period after the victory in Iraq. And we watched. We watched the situation where many of our military leaders, but also those who are now in the administration, say that if we employed a surge, it would fail. The President of the United States, the Vice President of the United States, the Secretary of State, the President's National Security Adviser, all of them said the surge would fail; it was doomed to failure.

The fact is the surge succeeded. The fact is we now have an Iraq that has an opportunity to be a free and independent country, but, maybe more importantly, one that would never pose a threat to the United States of America and, most importantly, a chance for the Iraqi people to enjoy the fruits of the sacrifice that thousands and thousands and thousands of Iraqis have made on their behalf and approximately 4,500 brave young Americans have.

The Senator from South Carolina, the Senator from Connecticut, and I recall meeting with military leaders in 2006, where we were told that everything was going fine. The Senator from Connecticut, the Senator from South Carolina, and I recall meeting with a British colonel in Basra who told us that unless we turned things around, we were doomed to failure. We remember the summer of 2007, when we were lonely voices, along with that of General Petraeus, General Odierno, and other great leaders who have been saying the surge could, and must, succeed.

I will leave it up to historians to decide whether our venture into Iraq was a good one or a bad one, whether the sacrifice of young Americans' lives was worth it, whether a stable and democratic Iraq, which can be the result of our involvement there, was the right or wrong thing to do. But what we should not do, and in deference to those who have served and sacrificed we must not do, is make a decision which would put all of that sacrifice and all that was gained by it in jeopardy because of our failure to carry out the fundamental requirement of contributing to Iraqi security in this very difficult transition time.

I would ask my friend from South Carolina, to start with, perhaps he remembers when we went to Baghdad, I believe it was 2007, and went downtown with General Petraeus and were mocked and made fun of in the media as I came back and said that things had improved in Iraq. Perhaps the Senator from South Carolina recalls when we had that almost triumphant visit in downtown Fallujah, a conflict that was won with great cost in American blood and treasure. Perhaps the Senator from South Carolina recalls going into downtown Baghdad and going to a bakery in an environment not of complete security but dramatically improved. All of it was purchased by the expenditure of America's most precious asset, young Americans' blood. And now we place all of that at great risk in the decisions, I say with respect, made by the same people who said the surge couldn't succeed.

I urge the administration and the President to reconsider what apparently is a decision and listen to our military leaders once, and employ a sufficient number of troops to provide the Iraqis with—as Barzai said, a sufficient number of troops to secure. As Barzai said, Iraq security forces are still not prepared to secure protections for Iraq.

I would ask my colleagues from South Carolina and Connecticut, aren't there plans for us to have a large amount of American civilians there, contractors, to protect them? Probably the most expensive form that we could do rather than American troops. Is it not a flawed strategy to not have enough American troops there to ensure that the lives of Americans who are serving there in various capacities are protected?

Mr. GRAHAM. If I may, trying to respond to the Senator's question, the answer is yes. But you don't have to believe me or Senator MCCAIN. Ambassador Jeffrey, who is our U.S. Ambassador to Iraq, told us back in June when he was getting confirmed that all civilian movements are accompanied by American forces, to some extent, a mixture of Iraqi and American forces.

We are about to pass the baton between the Department of Defense to the Department of State. The civilian-military partnership that has been formed over the last decade has been working very well, and the future of Iraq is in Iraqis' hands, but they do need our help. As Senator MCCAIN said, we are helping ourselves.

On June 24, 2010, we asked General Odierno, Where are we in terms of Iraq? How would you evaluate our situation? And since this is football season——

Mr. MCCAIN. This was at a hearing?

Mr. GRAHAM. Yes. This was at a hearing for confirmation for General Austin. He said, We are inside the 10-yard line.

Well, this is football season. I think most Americans can understand this great progress. He said, We have four downs. This is first in 10, on the 10, we have 4 downs. He felt good that we can get it into the end zone, but getting it into the end zone is going to require a follow-on presence in 2012.

Having said that, I know most Americans want our troops to come home. Include me in that group. We are going to go from 50,000 to zero at the end of this year if something new doesn't happen. I am confident the Iraqis want our continued presence in a reasoned way.

What do they need that we can provide? Intelligence gathering. We have the best intelligence-gathering capability of anyone in the world, and it helps the Iraqis stay ahead of their enemies. And who are their enemies? The Iranians are trying to destabilize this young democracy. Ambassador Jeffrey, who is a good man, said the reason we need to get Iraq right is it helps our national security interests.

Show me an example in history where two democracies went to war. There is not any. So if he could take Saddam Hussein's dictatorship and replace it with a representative government, that is a huge advancement in our national security interests over time.

What do the Iraqis need militarily? They don't have a mature air force, so General Austin said it would be in our interests not only to sell them planes, F–16s, but actually train them how to use those airplanes. They have an infant navy to patrol their coast, to protect them against threats there. It is in our interests not only to train and develop the Iraqi police and army but to make sure that our civilians who are going to help build this new democracy can travel without fear and without unnecessary casualties, because the Iranians are going to try to undercut us at every turn. That means targeting American forces left behind.

What else do they need? Counterterrorism. Al-Qaida and other groups, other radical groups, are going to try to come back into Iraq and destabilize what we have done. We have seen some signs of that. We have had 60 al-Qaida types released from American custody to Iraqi custody, and some are back out on the streets. So a counterterrorism footprint would be smart. Vice President BIDEN is right about this. A CT footprint in Afghanistan and Iraq makes sense.

When you add up all these missions, intelligence gathering, training, embedding, counterterrorism, force protection——

Mr. MCCAIN. Could I ask the Senator, are you leaving out the necessity for peacekeeping in the north between the Kurdish and the Arabs?

Mr. GRAHAM. That is a very good point, and that is exactly sort of where I was going to take this. That requires the footprint of thousands. We don't need 5,000, but I think 10,000 when you add it up is probably the bare minimum to do this. Because the commanders who are policing the Kurdish-Arab dispute boundary line in the northern part of Iraq have come up with a very novel approach, and I want to give the administration credit and the military credit. What they have done is they have taken Peshmergas, which are basically Kurdish militia, integrated them with Iraqi national security forces and American forces to form companies that eventually go to brigades, where they will get to know each other and work together as a team. I think any neutral observer would tell you our presence in Kirkuk has prevented a shooting conflict in the past. That is what President Barzai is worried about in the Kurdish areas. That is 5,000, he said. He has said we will need 5,000 troops here for a while to make sure this new concept of jointness develops over time. So when you add the whole package, you are somewhere around 10,000 plus.

To the administration, not only is bipartisanship desired in national security, I think it is required. We can look back and pat each other on the back or blame each other about Iraq. That is not what I am trying to do. We are where we are, and we are in a pretty decent place to the point that the Iranians are going nuts. They are trying to undercut Iraq's national development, because their biggest nightmare is to have a representative democracy on their border. That will incite their own people in Iran to ask for more freedom.

So, please, to the Obama administration, don't make the same mistakes at the end that the Bush administration made in the beginning. I can say with some credibility that I argued against my own political party infrastructure, that Senators MCCAIN and LIEBERMAN and others—we went there enough to know it was not a few dead-enders, that the whole security footprint was not sufficient, and the model to change Iraq was not working.

It was General Petraeus's model that was adopted, to President Bush's credit. That was a hard decision for President Bush. The war was incredibly unpopular. People were frustrated. It seemed it was a lost cause, and President Bush went against what was the political tide at the moment. I am glad he did.

I ask President Obama to consider the long-term national security interests of the United States and do what Senator MCCAIN suggested—not what he suggested, what our military suggested: define missions. Is it important to have some support to intelligence gathering? I would say yes. Training the Army and Air Force and Navy? I would say yes. Having some presence to protect our civilians who are going to be the largest groups? I would say overwhelmingly yes. Does it make sense to have some American military support in the Kurdish-Arab dispute area? Overwhelmingly yes.

We will stand by you. I think most Americans are frustrated and war weary, but they don't want to lose. We are very close to changing Iraq by helping the Iraqi people. We can't change Iraq; only they can. They want to.

We talk about the deaths of Americans and it breaks our hearts. For every American who has died there have probably been 10 Iraqis. This has not been easy for people in Iraq. That is why I never lost faith. What kept me going with Iraq and Afghanistan is I have been there enough to know there are people in those countries who want the same thing for their children as most people in this body want for theirs.

To be a judge in America, one can get criticized. It is a tough job. One can lose their life in Iraq and Afghanistan, and I have personally met people who decided to step to the plate—to be lawyers, be judges, be policemen—who got killed. They knew what was coming their way.

It is in our national security interest to help this infant democracy, and that is what it is. Corruption still abounds, there are tons of problems in Iraq, but they are on the right trajectory.

I am asking the administration: Listen to your commanders. And 25,000, in my view—I am not a commander, but I could understand why the President would say that is a bridge too far. I know what the generals have recommended. It goes from the midteens to the midtwenties. But somewhere to the north of 10, given my understanding of Iraq, I think it will work. But I know we are broke. One thing I can tell you is, we cannot afford to lose after all this investment. The price and cost of losing in Iraq now would be devastating for years to come.

If we do not see this through, who would help us in the future push back against extremism, knowing that America left at a time when they were asking us to stay? I am confident Sunnis, Shias, and Kurds want us there in reasonable numbers to make sure they can have the help they need to get this right.

Apparently, the decision has not been made yet. I am urging the administration to look at the missions, be reasonable, understand that we cannot give the military all they want all the time.

This is the decision of the Commander in Chief. He is a good man. It is his call. But the one thing I offer and I think the three of us offer in these very difficult times when America is under siege at home is to be supportive voices for the idea we cannot retreat and become fortress America.

Look what happened when a few people from Afghanistan, in far away places, for less than $1 million—what havoc they wreaked on our country. This Sunday is the 10th anniversary. I am hopeful as we get to the 10th anniversary we can look back and say we have defended America in a bipartisan way. It is not just luck that has prevented us from being attacked. The President deserves a lot of credit for going after bin Laden, a lot of credit for adding to troops in Afghanistan when people were ready to come home.

I urge this administration to listen to our military leaders and finish this right. It would be a tragedy upon a tragedy for us to be inside the 10-yard line and fumble at a time when we can score a touchdown—not only for our national security but for fundamental change in the Mideast. If we get it right in Iraq, the Arab spring is going to get the support it needs and deserves. If we fail in Iraq, it will be just repeating history's mistakes.

The Bush administration did change. Thank God they did because they did not get it right early on. We are so close to the end now. Let's be cautious, let's be reasonable, let's err on the side of making sure we can sustain what we have all fought for. I tell you this: History will judge everybody well, including President Obama—and that would be OK with me—if we can turn Saddam Hussein's dictatorship into a representative government that would be aligned with us and be a voice of moderation for the rest of the 21st century.

I would like to get Senator LIEBERMAN's thoughts. It is one thing for me to talk about this in South Carolina. But even in South Carolina, a very red State, people are war weary and they are not excited about having to stay in Iraq in 2012. I think they will listen to reason. But during the darkest days of this effort in Iraq, Senator MCCAIN went the road less traveled by saying we need more at a time when the polls said everybody is ready to come home. I do not question anybody's patriotism. It was a hard call. It was a tough fight, and there were no easy answers. But I am glad we chose to do what we did. I am glad President Bush adjusted.

But Senator LIEBERMAN, above all of us quite frankly, literally risked his political career because he believed that what happened in Iraq mattered to the United States.

The Senator was right. I want to thank him on behalf of all those who served in Iraq for giving them the time and resources to prove we could get it right.

I would like the Senator to, if he doesn't mind, to share his thoughts with the body about how we should finish Iraq.

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

Mr. LIEBERMAN. Mr. President, I thank the Chair and thank my friend from South Carolina for his generous words.

Obviously, what turned the tide in Iraq was a vision, a commanding vision by General Petraeus about what had to happen to succeed with a new counterterrorism strategy and tremendous support from the men and women of the American military, a generation that volunteered, that stepped up to the call, that rightfully should be called America's ''new greatest generation.'' They are an inspiration to us.

Of course, we lost a lot of them there. The Iraqi military fought hard and now, increasingly, has shown its capability to defend its own nation, which is what we had hoped and prayed and fought for. So my friends from Arizona and South Carolina had the same reaction I did yesterday. We began to talk to each other by the end of the day as we came back to Washington, to what was originally a FOX News story, that the decision had been made in the administration to go down to 3,000 troops. We reacted that way because it was lower than any number we had ever heard from anybody we had confidence in about what was necessary to secure all that we have gained and all the Iraqis have gained.

The papers today report it as a fact. Secretary Panetta says no decision has been made. I hope not because in these matters—I understand there is politics in Iraq as well as here, but what has to be put at the top of the list is what is best for our national security and, of course, for the Iraqis, what is best for their national security.

To me, if the number is right, and it is only going to be 3,000 more there after the end of this year, I don't see how we can feel confident that we can protect what we have spent a lot of American lives—a lot of Iraqi lives, a lot of our national treasure and theirs—securing. And I don't see how we can help to avoid a kind of possible return to civil war, particularly on the fault lines my friends have mentioned, between the Kurdish areas and the Arab areas.

This is a decision ultimately for the President. I want to say this about doing the right thing: The President, obviously, took a position for withdrawal of American troops from Iraq during the campaign of 2008. I think there were a lot of his supporters who felt, who hoped, who dreamed that pretty much the day—we are hearing a lot about day one these days, a lot about day one after the next election. But I think a lot of President Obama's supporters expected that on day one of his administration he would begin a full withdrawal from Iraq. To his great, great credit, he did not do that because I think he understood he had a goal, which was to pull our troops out of Iraq but that America had an interest and he as President had to protect that interest in not losing in Iraq, not letting it fall apart, and not letting us suffer the loss we would to our credibility and strength around the world.

My friends and I traveled a lot together. We have been in places far away from Iraq—Asia, for instance—where, when it was uncertain about whether we were going to stick to it in Iraq we heard real concern from our allies in Asia. They said: You know, Iraq is far from here, but we depend on American strength and credibility for our security and freedom in Asia, in the Asia-Pacific region. If you are seen to be weak and lame and not up to the fight in Iraq, it is going to compromise our freedom.

The President, to his credit, understood all that and put us on a slow path to withdrawal. But I don't think anybody would fault the President if we—and I think the expectation has been that we have achieved so much that we could—leave a core group there to continue to train the Iraqi military so they reach their full potential, to be there to assist them in a counterterrorism fight because that is essentially what is going on in Iraq now. The war is basically over, but the extremists, the Shia militia, some remnants of al-Qaida, are carrying out terrorist attacks. Those are the explosive—literally explosive—high-visibility attacks.

We have special capacities in the U.S. military to work with the Iraqi military to prevent and counter those terrorist attacks.

Then the final part of the mission has to be to protect the American personnel there, civilian personnel. I don't know what that number will be. At one point—we already have the largest——

Mr. MCCAIN. Can I ask my friend to yield?

Mr. LIEBERMAN. I yield.

Mr. MCCAIN. I ask unanimous consent for an additional 7 minutes past 12:30.

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

Mr. LIEBERMAN. I thank my friend. At one point somebody indicated to us—we were in Baghdad—that the American Embassy, which is already the largest U.S. Embassy in the world in terms of personnel, could go up as high as 20,000. It could be that high. Those are a lot of civilians committed to working in the country that we need to have forces there to protect.

We are all coming to the floor today to appeal to Secretary Panetta, to the President: It would be shortsighted. If it is really going to be 3,000 and only 3,000, and, frankly, we are not going to tuck some away in those civilian personnel numbers in the embassy or somewhere else, covert operators—if it is really only 3,000, they are not going to be able to do the job that needs to be done. Not only that, they are going to send a message of weakness, lack of resolve, anxiousness to get out to the Iraqis' enemies and ours in the region, and that particularly includes Iran.

I join my colleagues. We have been together on this for a long time. I don't want us to squander what we have won, and we will, I am afraid, if we only leave 3,000 American troops there.

Mr. MCCAIN. Could I say to my colleague, no events in history are exactly similar. But I think we learned in Lebanon and again in Somalia that forces that are too small and do not have sufficient force protection—and I am not saying they are exact parallels, but certainly it puts whoever is there, whether they be military or civilian, in some kind of danger. As that progress has been made—and it has been significant progress in a country that has never known democracy—we have now Turkish attacks on the PKK up in the Kurdish area. We have continued tensions in the areas to which the Senator from South Carolina referred, which at one point, I believe, last June almost came to exchange of hostilities, between the Peshmerga and the others, and there is also increased Iranian interest in Basra. There continues to be the export of arms and IEDs from Iran into Iraq. They have no air force. They have no ability to protect their airspace.

Isn't it true their counterintelligence is dependent on our technical assistance, which means personnel?

So the argument seems to be that if we want this experiment to succeed, we should not put it in unnecessary jeopardy.

Mr. GRAHAM. I will add, if I may, the 3,000 number does not allow the missions that are obvious to most everybody who has looked at Iraq to be performed in a successful manner. That is the bottom line. That is why no one has thrown out 3,000 before. Can you do it with 10,000? That is where you are pushing the envelope. The Kurdish-Arab boundary dispute almost went hot. This new plan we have come up with to integrate the Peshmurga, the Iraqi security forces with some Americans, will pay dividends over time. Mr. President, 5,000 is what the American commander said he needed to continue that plan. We have a plan to even wind down that number. It is just going to take a while. When it comes to Iraq, I can tell you right now I would not want our American civilians to be without some American military support, given what I know is coming to Iraq from Iran.

Mr. MCCAIN. Could I mention one fundamental here? The question is: Is it in the United States national security interest to have these 10,000-plus American troops carrying out the missions we just described or is it not? If it is, then it is pure sophistry to say: Well, we would only consider this if the Iraqis requested it. If we are waiting for the Iraqis to request it, then it means it doesn't matter whether the United States is there.

I think the three of us and others—including General Odierno, General Petraeus, and the most respected military and civilian leadership—think it is in our national interest. The way this should have happened is the United States and the Iraqis sitting down together, once coming to an agreement, making a joint announcement that it is in both countries' national security interest. If it is not, then we should not send one single American there, not one.

Mr. GRAHAM. If the Senator will yield for a second, that is a good point. We have been asked to go by both administrations. The Iraqis have a political problem. That is not lost upon us. Most people in most countries don't want hundreds of thousands of foreign troops roaming around their country forever. So the Iraqis have been upfront with us. We want to continue the partnership, but it needs to be at a smaller level. They are absolutely right. I don't buy one moment that there is a movement in Iraq saying we will take 3,000, not 1 soldier more. I think what is going on here is there is, as Senator MCCAIN suggested, a number drives the mission, not the mission drives the number. At the end of the day, this 3,000 doesn't get any of the essential jobs done. It leads to 3,000 exposed. It leaves the thousands of civilians without the help they need. It leaves the Iraqi military in a lurch. There is no upside to this.

I would end with this thought: Let's get the missions identified and resource them in an adequate way, and I think the country will rally around the President. I cannot think of too many Americans who would want our people to be in harm's way unnecessarily. If you leave one, you have some obligation to the one. Well, if you left one, you would be doing that person a disservice. Leave enough so we can get it right, and that number is far beyond 3,000.

Mr. LIEBERMAN. Mr. President, I want to say in response to something Senator MCCAIN said, somebody in the military said to me: If we are not going to leave enough to do the job, we might as well not leave anybody there.

Of course, we don't want that to happen. There are a couple of alternatives here. One is that the 3,000 is not the number. Hopefully we will have clarification. It is more than that. In all our trips to Iraq, talking about repeated teams of leadership, never has there been anyone who said to us that we needed less than 10,000 American troops there to do this job. I want to repeat this; there is a kind of sleight of hand here. Maybe it is 3,000 here and a few more thousand tucked into the civilian workforce at the embassy and a few more somewhere in the special covert operators. If that is the game plan here, it is a mistake. We ought to see exactly how many troops are leaving there. It gives confidence to our allies in the region, particularly in Iraq, and it will unsettle our enemies, particularly in Iran.

Dr. Ken Pollack has a piece in the National Interest that is out now about this situation. He is concerned about the small number of troops that may be left there and agrees that there may be some Iraqis who might be pushing for a smaller post-2011 force with a more limited set of missions. Dr. Pollack says:

> That would be a bad deal for the Iraqi people and for the United States. Our troops would be reduced to spectators as various Iraqi groups employ violence against one another. Moreover, if we have troops in Iraq but do nothing to stop bloodshed there, it would be seen as proof of Washington's complicity. If American forces cannot enforce the rules of the game, they should not be in Iraq, period, lest they be portrayed as contributing to the destruction of the country.

That is what we are saying.

The final point here is Dr. Pollack argues in this piece that the United States, if this is in response—giving the benefit of the doubt for a moment—to Iraqi political concerns, that the U.S. has the leverage to avoid this dangerous outcome. He writes:

> America has the goods to bargain. The question is whether Washington will.

That is the question I believe my colleagues from Arizona and South Carolina are asking today: Will we bargain with our Iraqi allies that this is the problem to be able to work with them for another chapter to secure all we have gained together up until now?

Mr. MCCAIN. Mr. President, I appreciate your indulgence and yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m. recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARDIN)

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

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

REMEMBERING SENATOR MARK O. HATFIELD

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, my home State of Oregon has many towering and majestic features, such as our iconic Mount Hood and our beautiful State tree, the Douglas fir. Senator Mark O. Hatfield, who passed away on August 7, stood head and shoulders above all of them.

Last night, the Senate passed S. Res. 257, a resolution in respect of the memory of Senator Hatfield. This afternoon, Senator MERKLEY and I, with colleagues of both parties, would like to reflect on the extraordinary legacy of our special friend, Senator Mark Hatfield.

For me, Senator Hatfield's passing this summer, just as it seems the Congress has become embroiled in a never-ending series of divisive and polarizing debates and battles, drove home that Senator Hatfield's approach to government is now needed more than ever in our country.

Senator Hatfield was the great reconciler. He was proud to be a Republican with strongly held views. Yet he was a leader who, when voices were raised and doors were slammed and problems seemed beyond solution, could bring Democrats and Republicans together. He would look at all of us, smile and always start by saying: ''Now, colleagues,'' and then he would graciously and calmly lay out how on one issue or another—I see my friend, Senator COCHRAN from Mississippi, who knows this so well from their work together on Appropriations—it might one day be a natural resources question, it might one day be a budget issue or a health issue or an education issue, but Senator Hatfield had this extraordinary ability to allow both sides to work together so an agreement could be reached, where each side could achieve some of the principles they felt strongly about. They would not get

them all, but they would get a number of them. That, of course, is the key to what is principled bipartisanship.

It was not very long ago, it seems, when Senator Hatfield walked me down that center aisle, when I had the honor of being selected Oregon's first new Senator in almost 30 years. I remember coming to the Senate, a new Senator, and watching Senator Hatfield at work. Sometimes he would be with Senator Kennedy and a big flock of the Senate's leading progressives, and sometimes he would shuttle over to visit with Senator Dole and a big group of conservatives. Somehow the public interest was addressed.

The question then becomes: How did he do it? What was the Hatfield approach all about? To me, Senator Hatfield was religious, but he was never intolerant. He was idealistic, but he was never naive. He was willing to stand alone but never one to grandstand.

But it was not his public life that shaped his belief and his principles. Those were forged in the most hellish of places: World War II in the Pacific. As a landing craft officer in the U.S. Navy, Senator Hatfield witnessed firsthand the battles at Iwo Jima and Okinawa. He was one of the first Americans to see the devastating effects of the atomic bombing of Hiroshima.

Later, he served in French Indochina, where he saw the economic disparities that would later lead to war in Southeast Asia. Those images remained with him throughout his life, acting as a touchstone for his belief that the world should be a safer and more peaceful place. It was Senator Hatfield's beliefs—those beliefs—that served as the foundation for his career in the Senate and for his opposition to the Vietnam war and to the proliferation of nuclear weapons.

Senator Hatfield was a major player on the national stage. At the same time, he never forgot our home State or strayed very far from his approach of trying to bring people together. I see our friend, Senator ALEXANDER, on the floor, who also has had a lot of experience on natural resources issues.

I can tell my friends on both sides of the aisle that watching Senator Hatfield champion the need for family-wage jobs in the forest products sector, while at the same time being a champion of environmental protections of wilderness areas and scenic rivers, was like a classroom in the effort to come up with sound public policy.

When colleagues come to our home State, they will have an opportunity to go to the Columbia River Gorge, a special treasure. We had a big anniversary recently on the anniversary of the Columbia Gorge National Scenic Area. Senator MERKLEY and I were there. That never could have happened without that unique ability of Senator Hatfield to bring people together, and he went into every nook and cranny of our State, communities that barely were bigger than a fly speck on the map. He would make their roads better and their schools better and their health care better, again by bringing people together.

I know colleagues are waiting. I would simply wrap up by saying that my State has lost a great son. The Senate has lost one of its former giants. Our Nation has lost a man who represented honesty and decency in public service. I will never, ever forget how much Senator Hatfield has meant to my home State of Oregon.

I note Senator MERKLEY is here who served as one of Senator Hatfield's interns as well as Senator ALEXANDER and Senator COCHRAN. I think we have, through the graciousness of Senator REED and Senator MCCONNELL, time for all our colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I rise today to commemorate a statesman and a mentor, Senator Mark O. Hatfield. He took many roles: dedicated public servant, conscientious man of faith, and pioneer for new development in the West. He was born in 1922 in Dallas, OR, a small town not far from our capital, Salem, to a family of modest means. His father was a blacksmith and his mother was a schoolteacher. When he was young, his family then actually moved to the State capital, which gave him a chance, as a teenager, to work as a guide in the State capitol building and to imagine returning one day as a public leader.

He proceeded to study at Willamette University in Salem. During his freshman year, events took a dramatic turn with the attack on Pearl Harbor in 1941. Senator Hatfield joined the Reserves and accelerated his studies, so he completed his degree in 1943 and joined the Navy. He proceeded as a naval officer and fought in Okinawa and Iwo Jima, and he saw the devastating aftermath of the atomic bomb at Hiroshima, an imprint that, along with his State, caused him to struggle with the appropriate and moral use of force throughout his life in public service. In his own words:

> In the war's immediate aftermath, one vivid experience made the profoundest impression on me. I was with a Navy contingent who were among the first Americans to enter Hiroshima after the atomic bomb had been dropped. Sensing, in that utter devastation, the full inhumanity and horror of modern war's violence, I began to question whether there can be any virtue in war.

He elaborates on this process of questioning, this process of challenging, in his book ''Conflict and Conscience.'' In terms of the Vietnam war, he concluded that it did not meet the Christian theologians' test for a just war. After the war, Hatfield went back to Oregon and he started a law degree, but he changed course after a year. He decided instead to pursue a master's in political affairs, and he went to Stanford and completed that master's and came back to Oregon. He started teaching at Willamette University, and in short order he was running for the Oregon House, in 1950, first elected at the age of 28, and then Secretary of State 6 years later at the age of 34, and Governor 2 years later at the age of 36. Through these experiences, Senator Hatfield developed the ability to chart his own course, to determine and follow his own convictions. In 1964, he championed an initiative to outlaw the death penalty. That ballot measure passed, and Governor Hatfield then commuted the sentences of those on death row.

In 1965, in July, he was the one Governor at the National Governors Association to vote against the resolution endorsing the Vietnam war.

In 1995, he proceeded to oppose the balanced budget amendment, and as the Senate historian, Don Ritchie, observed, ''It was one of the most courageous votes I had ever seen. He knew he was sacrificing his chairmanship and his position as a Senator. Few knew then that Senator Hatfield had offered to resign.''

Senator Hatfield also worked hard to build core institutions in Oregon. He was a champion of Oregon Health and Sciences University and built it into a fabulous institution of research and learning. The Mark O. Hatfield School of Government carries on his legacy of leadership, conveying those principles to young leaders who are dispersing throughout the public policy arena. The Marine Science Center in Newport, a tremendous research facility, continues to yield benefits, including setting the foundation for the recent location of NOAA'S research fleet in the city of Newport.

He was an intense advocate of medical research, and he championed NIH, where a building now bears his name. He was a champion for the U.S. Institute of Peace. He felt if there were academies that studied war, there should be acadamies to study peace and reconciliation.

In 1975, he introduced the George Washington Peace Academy Act to further the understanding of the process and state of peace among nations, to consider the dimensions of peaceful resolutions of differences, to train students and to inform government leaders in the process of peaceful resolutions. It took 9 years, but this effort which began as the George Washington Peace Academy Act ended in the establishment of the U.S. Institute of Peace in 1984.

As my senior colleague mentioned, he championed many efforts to protect Oregon's precious wilderness. One of his final projects was to protect Opal Creek, which has been described as 6,800 acres of virgin old growth, the largest span remaining in western Oregon. He said about this:

> It is an inspiration. It is a place of educational and spiritual renewal and exploration. To walk among the centuries old fir, hemlock, and cedar inspires tremendous awe and instills, I think, a perspective unlike itself.

My own connection to Senator Hatfield began in 1976, in the spring of that

year, when I went to Salem to meet with Jerry Frank, Senator Hatfield's legendary Chief of Staff, to interview for a possible summer internship in Senator Hatfield's DC office. I will be eternally grateful to Jerry Frank and Senator Hatfield for offering me that internship, for that opportunity to come to our Nation's capital to see government in action. My first responsibility was to open the mail. When you open the mail, you start to understand the dimension, the breadth of political opinion in the breadth of a State.

How readily did many constituents attack Senator Hatfield's Christian faith because they disagreed with him on some policy position. I opened so much mail that said: Hi, my policy position is this and yours is different. So how can you be a man of Christian faith?

Indeed, Senator Hatfield started his book ''Conflict and Conscience'' with just this dimension, a politicization of religion. He puts in it a number of letters that he received. One reads:

> Dear Mr. Hatfield,
>
> Your encouragement of antiwar demonstrations and the riots that have come from such demonstration are in fact treason for they give comfort and aid to our enemies. . . .
>
> I and a lot of other Christian people are extremely disappointed in your performance in the Senate, for you who claim to be a Christian and have access to our Almighty God should have a better understanding of human nature and the evil in the human heart.

Senator Hatfield talked about the challenge of being a public man of faith and working to take those principles and convert them to public policy in the face of hostility coming from the left or the right. But it was his determination to stay that course, to continue to be a person of reflection and depth in the pursuit of public policy.

That summer, I was assigned to the Tax Reform Act of 1976. The great joy that I had was that it happened to come up on the floor that summer. Back then, before there was television in this Chamber, before there was e-mail, you would come to the floor, if you were working on an issue, and go up to the staff gallery and follow debate, and you would rush down with the other staffers to meet your Senator coming out of the elevators just outside those double doors. Because there were lots of amendments, I got to meet with the Senator many times to describe the debate on the floor here, and to fill in what folks back home were saying about the particular issue at hand.

Then, occasionally, the timing being just right, we would have a chance to walk back and forth. Senator Hatfield loved to walk back and forth outside in the sunshine under the trees between the Capitol and his office in the Russell Office Building. It was while observing those debates that I saw the Senate at its best. There was an amendment from the right side of the aisle that was debated and discussed and voted on an hour and a half later. Then there was an amendment from the left side of the aisle. The amendments were on the issue at hand, such as different tax strategies, and often they were bipartisan in nature. Indeed, you saw that our Senators at that time—most of whom had served in World War II together—could disagree without demonizing each other. This is a tremendously important facet of the Senate that has been lost over the decades since. Indeed, there were many friendly debates between Republicans and Democrats.

My father, Darrell, was a mechanic, and he had one of these debates with his boss who owned the company. When I was offered the internship with Senator Hatfield, Jerry called my father and said, Darrell, I won the debate because Senator Hatfield will work to make JEFF a good Republican. My dad said, no, no, no, I won the debate because JEFF will work to make Senator Hatfield a good Democrat. Neither of us would have broached such a topic.

The conversation wasn't about Democrats and Republicans. It was about the challenges at hand and how you resolve them. It was from that summer that I developed a lifelong admiration for Senator Hatfield and his model of public service. Here is what Senator Hatfield had to say about public calling:

> Political service must be rooted in a philosophy of society's overall well-being, with a broad vision of how the body politic serves the people through its corporate structures. The heart of one's service in the political order must be molded by ideals, principles, and values that express how we, in the words of the Constitution, are ''to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the General Welfare, and secure the Blessings of liberty to ourselves and our posterity.''

He continued:

> Political service must flow out of such a commitment. Convictions about war and peace, about the priorities governing the expenditure of Federal funds, about the patterns of economic wealth and distribution, about the Government's responsibility toward the oppressed and dispossessed both in our land and throughout the world, about our Nation's system of law and justice, and about the meaning of human liberty—these should be at the core of one's desire to seek public office.

It was because of my admiration for Senator Hatfield that when I became Speaker of the Oregon House in 2007, I called him and asked if he would consider coming to swear me in when I took the oath of office. He readily agreed to do so. That was the last public event that my father was at before he passed away. It was one of Senator Hatfield's last major public events.

I so much appreciated the symbolism of a Republican and a Democrat coming together at that moment, and sought to help guide the Oregon House, the same Chamber where Senator Hatfield started his political career to solve Oregon's problems.

It is because of my admiration for Senator Hatfield that when I came to this Chamber I asked for Senator Hatfield's desk. There are 14 names carved into the desk drawer in his desk. The 13th is Senator Hatfield's. As I looked at the names, I was surprised to discover this desk had never crossed the aisle before. So I think it is symbolic of Senator Hatfield's career of public service, focused on solving problems and working together across the aisle, that his desk made that journey to where it is now.

During those walks back and forth between here and the Russell Senate Office Building, Senator Hatfield paused one day to pull the leaf off a Ginkgo tree. He said: JEFF, this is one of the simplest of God's creations. Why is it that folks can't see the beauty of God's creation in the very simplest of one of his plants?

I held that leaf tightly in my hand, determined to preserve it. Just as we got back to the office, he plucked it out of my hand and said: Well, of course, you don't want to continue to carry that leaf. I didn't have the courage at that moment to say: No, I would treasure that leaf all my life, and then grab it back from him. So I don't have the leaf, but I take that memory of his deep personal faith and conviction.

I was sharing this story with another intern who served with Senator Hatfield in 1985, and he said: Well, let me tell you another story about a tree and Senator Hatfield. On this walk between the Capitol and the Russell Senate Office Building there is a tree that Senator Hatfield planted. It is a Metasequoia tree. It so happens the Metasequoia used to grow throughout Oregon millions of years ago. When people found the fossils and studied them, they concluded the tree was extinct—until the 1940s when they found a stand of Metasequoias growing in China.

Senator Hatfield arranged to have one of these trees planted in that walk. It so happens in 2005, when I was House Democratic leader in Oregon, we passed a bill that made the Metasequoia tree the fossil of Oregon, but we didn't know about this tree Senator Hatfield had planted. But there it is today. It is now 25 years old. It sheds its needles every winter, so people think it is a fir tree that has died. But it comes roaring back to life in the spring.

Now, 25 years into its life, it is equal to the highest of the broad leaf trees on the grounds of the Capitol. In another 25 years the Hatfield tree is going to soar over these Capitol grounds. In so doing, it is going to represent the values he fought for—the courage of one's convictions, the effort to get beyond the bumper stickers and into the nitty-gritty of issues, and to come to a conscientious decision that will take our Nation forward, the determination to be oriented toward solving problems and not to a partisan divide.

Mr. WYDEN. Mr. President, would my colleague yield?

Mr. MERKLEY. Certainly.

Mr. WYDEN. I appreciate that, and I certainly don't want to interrupt his very eloquent remarks.

Mr. President, I ask unanimous consent that the time for tributes to former Senator Hatfield be extended until 3:30 so that my friend and colleague can speak, as well as Senators LEAHY, ALEXANDER, COCHRAN, BINGAMAN, and LEVIN, who all wish to speak.

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

Mr. MERKLEY. Mr. President, I have just one closing comment, and that is this: This is a picture of the Senator Hatfield tree. It has my staff in front of it. We went out there on July 12, Senator Hatfield's birthday, to take this picture and we hoped to give this to him. We didn't have a chance to do that before he passed away. But I think this tree will serve as a living reminder of all that he championed throughout his tremendous career. We have lost a great man, and our Senate and our Nation are poorer for it.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, let me speak a little bit about Mark Hatfield, because those of us who knew Mark thought the world of him. I had an opportunity to know him and to serve with him, and for 23 years I served with him in the Senate.

I rise to pay tribute to Mark as a dedicated public servant and a respected lawmaker, a man whom I liked to call my friend, and I think virtually everybody serving during that time, Republican and Democrat alike, considered him a friend.

He dedicated nearly his entire life to public service. He served in the U.S. Navy during World War II. He took part in the battles of Iwo Jima and Okinawa. He taught political science in Oregon at Willamette College for 7 years. He served in the Oregon State legislature. He served two terms as Governor. I remember him smiling when somebody would see him in the corridors and call him Governor. He became Oregon's longest serving Senator. He served five terms in the Senate.

Unfortunately, Mark was one of a dying breed in politics today. He was an old-fashioned Senator and a political moderate. He came from a brand of Senators that included names such as Bob Stafford and George Aiken, both from Vermont. Oregon, like my State, prizes independence in their elected officials, and he was certainly never afraid to buck his party. From his opposition to the war in Vietnam to his early support for the Endangered Species Act and federally protected wilderness, Mark showed us all that he was ruled only by the people of Oregon and his conscience.

A true compassion for people drove many of Mark's decisions. After being one of the first American servicemen to see the destruction and carnage of Hiroshima following the atomic bombing, he later declared his leadership in the campaign to pass the 1987 nuclear weapons test ban, one of his major accomplishments.

Having a father with Alzheimer's disease and other family members with cancer, Mark became one of the strongest Senate advocates of Federal spending on medical research. He also supported prohibiting the sale of arms to undemocratic countries and countries that did not respect human rights.

Spending 8 years as the chairman of the Appropriations Committee, Mark Hatfield did an amazing amount of good for his State of Oregon. In fact, it is hard to travel in the State of Oregon without seeing the differences he made.

Senator Hatfield was always known for his courteousness. Despite his independent streak, he had complete respect on both sides of the aisle. More than once I was there, and my two colleagues from Oregon on the floor know this, when people would come up to him and call him ''Saint Mark.''

It is important to remember that despite the squabbling that goes on in Washington these days, there are politicians who care deeply about the well-being of their colleagues in their State.

On a personal note, when I came to the Senate, I was No. 99 in seniority. Actually, there were only 99 of us in the Senate because there had been a tied race in New Hampshire. So I was the junior most Senator, sitting way over in the corner seat. Several of the more senior Senators reminded me how junior I was. I received a handwritten note, which I still have, from a Senator who wrote: When I came to the Senate, I was No. 99. But you move up. You move up quickly in seniority. He said: My door is always open to you. Let me know what I can do to help.

That Senator was Mark Hatfield. We became friends from that moment. I did go to him for advice. Marcelle and I traveled with him and Antoinette in numerous parts of the world. I can still remember the laughter on the plane. We would talk about everything—everything from children to politics, to sports, to whatever.

What a wonderful person. He was a public servant. He was a statesman. He was a friend. I consider myself fortunate to have known him, but especially to have served with him. This Senate was a better place with Mark Hatfield.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, let me thank Chairman LEAHY for his kind and gracious thoughts. I know Senator Hatfield was very fond of the Senator as well. You have represented his values very well. I thank the Senator for those remarks.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mark Hatfield was elected to the Senate in 1966. It was a distinguished class that included some prominent Republicans, sort of a new wave in the Republican Party. In addition to Governor Hatfield, a former two-term Governor, there was Charles Percy of Illinois, former President of Bell & Howell; there was Ed Brooke of Massachusetts, the first African American popularly elected to the Senate.

Also in that Republican class were Cliff Hansen, a prominent rancher from Wyoming, and a young man who was a son-in-law of then-Republican leader, Everett Dirksen, Howard H. Baker, Jr.

I hitched a ride with Howard Baker to Washington, DC, in that year and went to work as Baker's legislative assistant in 1967, and, of course, had a chance to meet Senator Hatfield. At that time, there was less space for Senators than there is even today. So new Senators were put into rooms with each other. For example, Senator Baker and Senator Brooke and all their staffs were put in a single room, separated only by a partition.

They got along with that for 6 months. But Senator Hatfield did not like it very much. After all, he had been a Governor for two terms and was not used to being treated in that way. He was polite about it, as he always was. But soon he made a mission. He went around the Senate and the Capitol and he counted up all the rooms that then-Senator James Eastland of Mississippi had taken to himself. He found 34 different rooms that were assigned to Senator Eastland and only half a room was assigned to Hatfield.

Senator Hatfield then reported to the Republican conference that Eastland had 34 rooms and that apparently someone was living in one of the rooms because someone from Restaurant Associates was putting a tray of food outside the door of this room in the Capitol and every morning two arms would come out and bring the food in.

This was Senator Hatfield's first report to the Senate. I saw him about 25 years later, when he was chairman of the Appropriations Committee and had a lot of power. I said: Senator Hatfield, how many rooms do you have now? He just smiled. My guess is he probably had 34.

But what I remember about Senator Hatfield, as a very young aide, was how unfailingly courteous he was to every single person. If you caught his attention, you had his full attention. It is easy to see why he was elected to the Senate for 30 years. It is easy to see why he won 11 elections.

Of course, the other reason, he was so interesting. He was a Baptist. He was a Libertarian. He was a great friend of Billy Graham. He was pro-life, not just on abortion but on the death penalty as well. He was antiwar. He was antibalanced budget. He was an interesting, independent, decent man. I simply wanted to say, from the vantage point of someone who feels privileged to serve in the Senate, what an impression this man from Oregon made on a 26-year-old young aide to Howard Baker in 1967.

I remember him for his courtesy, his decency, and for his independence.

I yield the floor.

Mr. MERKLEY. Mr. President, I applaud my colleague from Tennessee. I

appreciate him coming to make comments about his service with Senator Hatfield. When I was first coming to the Senate, Senator Hatfield asked me to bring greetings to his former colleagues. One of the first conversations I was able to have was to sit down with Senator LAMAR ALEXANDER who, like Senator Hatfield, served as a Governor, and who embodies so many of the qualities Senator Hatfield worked to cultivate.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, today, the Senate mourns the death of the former United States Senator of the State of Oregon, Mark Odom Hatfield. He was elected to the Senate in 1966, and served for 30 years until his retirement.

The U.S. Senate lost one of its most talented and successful Senators when Mark Hatfield retired from this body.

It was a pleasure for me to serve on the Appropriations Committee when he became Chairman and to learn from his example of courtesy to others and his polite but unapologetic adherence to his personal views and convictions, even when they may have differed from those of others.

His service reflected great credit on the United States Senate.

Senator Hatfield was a tireless and effective advocate for serious reforms aimed at improving the quality of life for all Americans and addressing what he called ''the desperate human needs in our midst.'' During the 1980s, he effectively used his Appropriations Chairmanship to champion a wide range of issues from human rights to improvements in health and education programs and environmental and conservation issues; and he got results.

Senator Hatfield's strength of character and commitment to doing the right thing, according to his conscience, whatever the consequences, was widely admired.

His contributions through his lifetime of dedicated service in Oregon and our Nation's capital are impressive, and will be long respected.

Mr. President, I ask unanimous consent to have printed in the RECORD an outline of Senator Hatfield's legislative accomplishments.

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

FORMER SENATOR MARK HATFIELD'S LEGISLATIVE HIGHLIGHTS

Served five terms as a United States Senator for Oregon making him the longest serving U.S. Senator from Oregon. (1967–1997) Twice served as chairman of the Appropriations Committee (1981–1987 and 1995–1997)

As chairman and later ranking Republican on the Senate Appropriations Committee, Senator Hatfield steered millions of dollars to public works projects in Oregon. They ranged from national scenic areas and hydropower dams to the state university system and the Marine Science Center that bears his name. Senator Hatfield fought earnestly throughout his career for environmental protection and conservation, including reforestation, the development of alternative energy, and pollution control. He was a longtime defender of Native American tribes, serving on the Indian Review Commission to protect treaty rights on tribal lands.

Senator Hatfield quadrupled Oregon's wilderness areas to more than two million acres and worked successfully to protect the Columbia River Gorge, the Oregon Dunes and Oregon's rivers. During his last session of Congress, Hatfield helped preserve the Opal Creek Wilderness from logging. He also generously funded a wide variety of civic, academic and environmental programs.

Senator Hatfield restored funding for the National Institutes of Health and secured appropriations for the improvement of the Oregon Health & Sciences University, now a leading U.S. research institution. In a hushed congressional hearing room in 1990, he pleaded for increased money for Alzheimer's research while describing how the disease had reduced his father, a powerfully built former blacksmith, to a ''vegetable.''

His unwavering commitment to peace and matters of national security were heavily influenced by his experiences as a young naval officer in World War II. He manned a landing craft during the invasion of Iwo Jima in 1944 and then became one of the first Americans to see the devastation in Hiroshima the following year. Senator Hatfield believed that lasting national security is not achieved through military might exclusively, but only possible when people have access to education, health care, housing and job opportunities.

In 1970 with Senator George McGovern (D–South Dakota), he co-sponsored the McGovern-Hatfield Amendment, which called for a complete withdrawal of U.S. troops from Vietnam.

In the 1980s, Hatfield co-sponsored nuclear weapons freeze legislation with Senator Ted Kennedy. He also advocated for the closure of the N-Reactor at the Hanford Nuclear Reservation, though he was a supporter of nuclear fusion programs. The N-Reactor was used for producing weapons grade plutonium while producing electricity.

Because of his opposition to what he viewed as excessive defense spending and an unnecessary military buildup under President Reagan, Senator Hatfield was the lone Republican to vote against the 1981 fiscal year's appropriations bill for the Department of Defense.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I am honored to join with my colleagues in saying a few words about our former colleague, Mark Hatfield.

At the time I came to the Senate, Mark Hatfield had already served for 16 years. For the next 14 years we were colleagues and friends in the Senate. His retirement in 1997 was an occasion for regret for all of us who knew him and admired him. He set a very high standard for service in the Senate.

He was a master of the complex spending and tax issues that are the weekly focus of most Senate work. Of course, in his role as chairman of the Appropriations Committee, he was respected and appreciated for his fair-minded consideration of requests from all Senators—Democrat and Republican and Independent. He was a model of civility and of kindness, and he took a genuine interest in the well-being of those with whom he worked, both Senators and staff and all of those who worked to keep the Senate functioning.

He had a heartfelt commitment to seeking nonmilitary solutions to our Nation's problems around the world, and his votes—including his votes against the Vietnam War—reflected that strongly held commitment.

It was not in Mark Hatfield's nature to be a demagogue on any issue. He saw no advantage, political or otherwise, in twisting issues. The pandering and posturing that afflict much of our political debate today were not part of the politics he practiced.

I considered Mark both a mentor and a friend during the time he served in the Senate and when I was able to serve with him. He has been greatly missed since his retirement from the Senate, and now, of course, our sense of loss is even greater.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I come to the floor today to pay tribute to the life and the public service of Mark Hatfield.

Mark Hatfield began his lifelong career of public service in the U.S. Navy during World War II. After the war he returned to Oregon where he served in the State house of representatives, in the State senate, as the Oregon secretary of state, and eventually as Governor of the State. Fortunately for us—for the Senate and for the country—Mark Hatfield did continue his career of public service and went on to serve five terms in the U.S. Senate.

During his time in the Senate, Mark Hatfield repeatedly demonstrated he possessed the courage of his convictions. We have heard that word ''courage'' used this afternoon by Oregon Senators and others as it relates to Mark Hatfield, and there are so many examples of that courage, including an unpopular position he took relative to the Vietnam war. But in 1995 he opposed the balanced budget constitutional amendment, which was then under consideration by the Senate. It was a difficult position then to take as it is today. But he followed the courage of his convictions, and this is what he said about the constitutional amendment they were debating in the Senate back in 1995:

> A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. . . . In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political will to create a balanced budget we will create one. Where there is a will to avoid one, we will avoid it. . . . A vote for this balanced budget constitutional amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

Mark Hatfield said it as he believed it, straight from the shoulder—courageously and direct. He did so in regard to many other issues.

From the vantage point of the Appropriations Committee, Senator Hatfield was able to champion causes near and dear not only to his heart but near and dear to the hearts of so many Americans. Among these causes was medical

research. Senator Hatfield was such an effective supporter of medical research that in 2005—8 years after his retirement from the Senate—the National Institutes of Health opened the Mark Hatfield Clinical Research Center in honor of his career-long support of medical research.

How well I personally remember, as a member of the FDR Memorial Commission, how Mark Hatfield joined DANNY INOUYE, his cochairman, to finally lead us to build the long overdue memorial to one of America's greatest Presidents.

Today, the Senate mourns the passing of Senator Hatfield. How vividly those of us who had the pleasure of serving with him remember him. My wife Barbara and my deepest sympathies go out to Mark's wife Antoinette, to their family, and to their friends. As the Senate honors his extraordinary career, we can all take inspiration from his willingness to join with colleagues of both parties to achieve enduring goals.

Mr. DURBIN. Mr. President, I wish to join my colleagues in remembering Senator Mark Hatfield, an extraordinarily good man, a man of dignity and integrity. I didn't have the opportunity to serve with him in the Senate, but he chaired the Senate Appropriations Committee when I was a member of the House Appropriations Committee, so oftentimes we would come together in conference on a given issue, and I admired him greatly.

Mark Hatfield was an independent man throughout his public career. He was a man of civility and deep faith, a devout evangelical Christian. He was a Republican who believed government could be a force for good.

During the course of my statement, I will read some comments by Senator Mark Hatfield, and those who are following this should pause and reflect that his was once a major voice in the Republican Party. Unfortunately, few, if any, voices such as his can be heard today. I hope there are those who are listening who will take heart that it is consistent with Republican principles to stand for the values of Mark Hatfield.

Announcing his retirement from the Senate in 1995, Mark Hatfield said:

> As a young man I felt the call of public service and believed in the positive impact government can have on the lives of people. Government service has allowed me to promote peace, protect human life, enhance education, safeguard our environment, improve the health care of Oregonians, and guard the rights of the individual.

As I said, though I didn't have the honor of actually serving in the Senate with Mark Hatfield, we shared a common hero. If a person visited his Hart Office Building suite and went to his conference room, they would see the most amazing display of memorabilia and tributes to Abraham Lincoln I have seen anywhere outside of my hometown of Springfield, IL. One whole wall in Senator Hatfield's office was covered with a collection of Abraham Lincoln paintings, photographs, and memorabilia. His fascination with Lincoln began when he was in grade school and he first learned about the evil of slavery and the leadership Lincoln provided in abolishing it.

Sometimes at night, Mark Hatfield said to a reporter, he liked to quietly slip down to the Lincoln Memorial to meditate. ''It's like a cathedral,'' he said. ''People come in talking loudly, but then they go up the steps, and it's amazing, they all begin to whisper. How can they help it?''

I can recall one particular instance where Mark Hatfield agreed to come to my hometown of Springfield, IL. Each year on February 12, we have the Abraham Lincoln Association dinner, and we invite people who are in public life or who are historians and academics to come and talk about their impressions of some aspect of the life of Abraham Lincoln. I remember his speech because he spoke about a man named Edward Dickinson Baker.

Edward Dickinson Baker had served in the U.S. House of Representatives as a Congressman from Illinois from two separate congressional districts. He then moved to Oregon and became a Senator from the State of Oregon. He was a close friend of President Abraham Lincoln. He was killed early in the Civil War at the Battle of Ball's Bluff. His statue is one of the Oregon statues here in the Capitol Building.

Mark Hatfield came to tell a story of Edward Dickinson Baker and the friendship of Abraham Lincoln and the connection with Oregon. I went up to him afterward and said: There is another part of this story you might find interesting. After Abraham Lincoln served as a Congressman—he was given one term, which was the agreement with the Whigs back in Illinois. He wanted to stay on, but they said: No, you can't. So they offered him another job which he turned down before returning to Springfield to practice law, and that was the job to be the provincial Governor of Oregon, the territory of Oregon. Had Lincoln made that decision, history might have been a lot different for America. Hatfield and I laughed about that and the Oregon connection between Lincoln and Edward Dickinson Baker. He was an extraordinary man, Hatfield was, in that he not only admired Lincoln, but he studied him and the history of his life.

Mark was born in 1922, the son of a railroad blacksmith and a schoolteacher. He attended Willamette University in Salem, OR. He ran for the office of student body president—the only race he ever lost.

As a young Navy officer in World War II, Mark Hatfield was at both Okinawa and Iwo Jima, the two Pacific islands that were the scene of some of the bloodiest fighting of the war. Later, he was one of the first Americans to enter Hiroshima after the city was devastated by the first atomic bomb. Those experiences and his own religious views had a profound influence on his beliefs about the use of military power.

He was a lifelong foe of excessive arms buildup. He told the Christian Science Monitor in 1982:

> There comes a time in a Nation's life when additional money spent for rockets and bombs, far from strengthening national security, will actually weaken national security—when there are people who are hungry and not fed, people who are cold and not clothed.

Mark Hatfield once castigated Democrats in the 1980s for not speaking up strongly enough about what he considered excessive military spending during the Ronald Reagan administration. He was the only Senator to have voted against the Vietnam war and the Persian Gulf war.

Politics wasn't his first calling. He was a college professor and then college president. In 1956, he was elected to the Oregon State Legislature, where he was instrumental in passing measures banning racial discrimination in housing and public accommodations—a decade before the government considered similar civil rights laws here in Washington. From there, it was a steady climb to State senator and secretary of state. In 1958, he was elected Governor, becoming the youngest ever in his State. He was reelected in 1962.

He successfully ran for the Senate in 1966 with a straightforward platform that included opposition to the Vietnam war. In all, he spent 30 years in this body, including 8 years as chairman of the powerful Senate Appropriations Committee. I remember him as chairman. When he would have conference committees, you could always count on Mark Hatfield to be genteel, courteous, and bipartisan. It was a great experience. Every conference committee was a great experience. The man really exuded fairness and integrity, and it is one of the reasons I wanted to come to the floor today and say a few words about how much he meant to me. When it came to particular issues on appropriations, he really focused on medical research, which was very important to him, and on efforts to eliminate poverty in the United States.

In 1995, he cast a historic vote. He was the only Republican to vote against a constitutional amendment to require a balanced Federal budget. His vote meant defeat for the measure because it fell one vote short for the two-thirds majority needed for passage. Senator Hatfield said he voted against the amendment for two reasons: because he believed it would starve social programs and tear deep holes in America's safety net and because it exempted defense and entitlement spending from cuts. Besides, he said, if Congress wanted a balanced budget, all it had to do was pass one.

Some younger Senators in his party were so angry at Hatfield for having cost them this balanced budget amendment that they set out to strip him of

his committee chairmanship as chairman of the Senate Appropriations Committee. Luckily, that threat never materialized. Senator Mark Hatfield shrugged off their anger. He told a reporter:

I've been out of step most of my political life. So what else is new?

In the year after the balanced budget amendment vote, the Appropriations Committee, under Chairman Hatfield's leadership, went on to cut more than $22 billion in discretionary nondefense spending from the budget. He wasn't opposed to spending cuts, but he didn't support a constitutional amendment.

I wish to offer my condolences to Senator Hatfield's wife Antoinette, who has been his partner for more than 50 years, and his children and grandchildren.

''Stand alone or come home''—that is the advice Mark Hatfield's father gave him about facing moral choices, and Mark Hatfield lived his life by that rule. Now he has gone home, and we are left to recall and celebrate the life and service of this good man.

Mr. HATCH. Mr. President, I rise today to speak about the passing last month of Mark Hatfield, a former colleague of mine in the U.S. Senate whose service to the people of our great Nation and his beloved State of Oregon is truly noteworthy and continues to inspire public servants today, 15 years after his retirement in 1996 from the world's greatest deliberative body.

Indeed, service is the hallmark of Senator Hatfield's legacy; I know because I had the pleasure of serving alongside him for many years. Senator Hatfield served the people of Oregon as a State legislator, as their secretary of state, as their Governor, and as a U.S. Senator. The only election he ever lost was for student body president for his beloved alma matter, Willamette! Although that is a record any statesman can envy, it is more importantly, an example of public service we can all admire.

As a Senator, Mark Hatfield served the people of Oregon for 30 years—longer than anybody in the history of the State—and he served them well. He was an Oregonian through and through, and you could tell he loved his home State. He worked tirelessly for all Oregonians, regardless of their background or political persuasion.

As a young naval officer, Mark Hatfield experienced the battle of Iwo Jima and the aftermath of the atomic bomb in Hiroshima. These experiences had a profound and lifelong effect on Senator Hatfield. He hated war, but he always had respect for our servicemen and women. Senator Hatfield was also deeply religious, and relied upon his religious convictions and love for this country to guide him. He believed in America as what some call it, ''a miracle of light.''

Senator Hatfield and I did not always agree on everything, but we respected each other's views. I admired that Senator Hatfield always tried to find common ground with his fellow Senators. This made him a successful statesman and a respected individual on both sides of the aisle.

Today, I am honored to have the privilege to add my voice to the chorus of praise for this outstanding public servant whose service will long endure in the heads and hearts of all Americans, especially those who knew and had the pleasure of serving with him. My thoughts and prayers are with his family as they mourn the loss and celebrate the life of this great man.

Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of Mark Hatfield, a former Governor and U.S. Senator from the State of Oregon. Mr. Hatfield passed away on August 7, 2011, in Portland at the age of 89.

The son of a Baptist railroad blacksmith and a schoolteacher, Mr. Hatfield was born in Dallas, OR, on July 12, 1922. He graduated from Willamette University in 1943, having fast-tracked his studies so that he could enlist with the Naval Reserve.

As a young man, Mr. Hatfield served in World War II at the battles of Iwo Jima and Okinawa and later saw firsthand the devastation of the atomic bombing of Hiroshima. These experiences shaped him personally and politically, and he became an outspoken advocate for peace, and a prominent opponent of the Vietnam war.

In 1966, Governor Hatfield stood alone in the National Governors Association when he voted against supporting the Vietnam war. And in 1970, as a Member of the U.S, Senate, he sponsored the McGovern-Hatfield amendment with Senator George McGovern of South Dakota, which would have created a deadline to end U.S. military action in Vietnam.

Senator Hatfield later was one of only two Republicans along with Senator CHARLES GRASSLEY of Iowa—to vote against the 1991 Senate resolution authorizing the first gulf war.

Mr. Hatfield will also be remembered as a leader in the fight against the proliferation of nuclear weapons.

In 1982, he introduced S.J. Res. 163—the nuclear freeze amendment—with Senator Edward Kennedy, which argued that ''the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design.''

Had it passed, the resolution would have urged the United States and the Soviet Union to ''pursue a complete halt to the nuclear arms race.''

Senator Hatfield told the Christian Science Monitor, ''We've developed the ability to destroy the planet, but that doesn't give us the right to destroy the planet.''

Throughout his career in public service, Mr. Hatfield fought for what he believed was right, rather than walking any strict party line. He fought for peace, for civil rights, for the environment, and for medical research.

As chairman of the Senate Appropriations Committee for two terms, he supported increased budgets for the National Institutes of Health; fought for crucial social programs in a time of shrinking government; and was an early supporter of the Endangered Species Act.

As a dedicated, remarkable and outspoken public servant, Mark Hatfield's life was filled with a wide range of service and accomplishments. Early in his career, he said, ''I pray for the integrity, justice and courage to vote the correct vote, not the political vote.'' It is clear he lived up to this principle and made extraordinary contributions to our nation and to the world. Our thoughts and prayers go out to his family. He will be missed.

Mr. LIEBERMAN. Mr. President, I rise today to honor the life and legacy of Senator Mark Hatfield—a lifelong Oregonian, a genuine statesman, and a dedicated public servant. With a career in government that spanned nearly five decades, Mark leaves behind a legacy of service and a model of civility in American political life.

From the shores of Iwo Jima, to the halls of the statehouse in Salem, Oregon, and the Chamber of the U.S. Senate, Mark dedicated his life to our country. He served courageously as a naval officer in the Second World War in the Pacific theater. He was a notable lawmaker in the Oregon State Legislature, championing civil rights legislation in the 1950s well before the Federal Government's landmark efforts in that area. He also served as Oregon's secretary of state, and for two terms, he was a successful Governor. He went on to serve the people of Oregon as a U.S. Senator for three decades.

I knew Mark to be a man of decency, always civil in the way he conducted his business, and I believe that was his signature strength as a legislator. While Mark and I did not always agree, he was never disagreeable. He was principled and passionate about the things he believed to be true, but he was also respectful of those with whom he disagreed. His demeanor won him many friends and built many fruitful relationships on both sides of the aisle, making him a most effective legislator.

Upon retiring from the Senate in 1996, Mark reflected upon the nature of our country's politics, saying, ''I'm going to miss the people, but not the process.'' He had grown disenchanted with the coarse partisanship that had warped the political process, and he knew that if we were to keep moving forward as a country, the vital center would have to hold, civility would have to prevail, and bipartisanship would have to return. Solutions do not come from gridlock. Bipartisanship has to win the day.

Since Mark retired from the Senate, our politics have become even more tribal. But I believe it would serve us all well, as we honor his life, to reflect upon the example he set—that disagreements do not have to become roadblocks but instead can be opportunities for innovative compromise.

I learned a great deal from Mark Hatfield during our time in the Senate together, and I am grateful for this opportunity to honor Mark's memory.

Ms. MIKULSKI. Mr. President, I rise today to honor the life and legacy of Senator Mark Hatfield. He was a true giant, a man who placed principle above politics—doing what he felt was right for the people of Oregon and the Nation.

Senator Hatfield's life was one of service. He served as a naval officer during World War II. He fought in the battles of Iwo Jima and Okinawa. Later, he was one of the first Americans to see the effects of the atomic bombing of Hiroshima. He served in the Oregon state legislature, as secretary of state and Governor, and then as Senator of the United States.

In the Senate, Senator Hatfield was known for his many accomplishments for the people of Oregon. He used his position on the Appropriations Committee, where he became chairman, to bring jobs and opportunity to his State. One of his greatest legacies is in foreign policy, nuclear disarmament, and in the pursuit of peace. Senator Hatfield was one of the first in the Senate to oppose the Vietnam war. He was a leader in the pursuit of nuclear disarmament, and he was a steadfast supporter of civil rights.

I was honored to serve with Senator Hatfield in the Senate and on the Appropriations Committee. We were neighbors on the 7th floor of the Hart Building. We worked together on many important issues, especially on international women's rights. As coastal Senators, we also worked together on jobs that affected both of our States—everything from fishery issues to saving jobs in the shrinking shipbuilding industry.

Senator Hatfield was a man of deep faith, known for putting his values into action. He was also a gentleman who accomplished so much for his State and his Nation. He will be greatly missed.

Mr. McCONNELL. Mr. President, I would like to join those who have spoken or intend to speak about our former colleague Mark Hatfield.

Most people remember Mark as one of our party's most liberal members—as a Republican who called himself a liberal even after Democrats started avoiding the term.

I think he would like to have been remembered as someone who tried to bring people together or as he put it, as a reconciler.

He was, as we all know, a man of deep principle and compassion. He was also a gifted politician, to this day the longest serving Senator in Oregon history.

Mark was also deeply influenced by his experiences.

It is said his deep aversion to war derived, in part, from his experience as one of the first American servicemen to enter Hiroshima after the dropping of the atomic bomb.

Those of us who knew Mark as a colleague are glad to have had the chance to know him and serve with him. And I would like to take this opportunity to extend my heartfelt condolences to Antoinette and the Hatfield children, as well as Mark's many grandchildren. America, and the Senate family, have lost a good man.

Mr. WYDEN. Mr. President, this afternoon we heard tributes to former Senator Mark Hatfield from a bipartisan group of Senators. I would like to add to those tributes by including in the CONGRESSIONAL RECORD the eulogy that Senator Hatfield's son Visko delivered at his father's Memorial Service.

I ask unanimous consent that the following statement be printed in the RECORD.

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

Good afternoon, thank you Dr. Ogilvie, Father Mike (Maslowski) amazing as usual, thank you. Pastor Ron (Kinkead), thank you. Thank you also to the Village Baptist church for providing this lovely sanctuary for today's Public Memorial.

I would like to thank the distinguished guests, former staff members, life-long friends, and complete strangers who have turned out today to honor my father.

It is remarkable to see the outpouring of love and support for the man we simply called Dad.

I have pondered this moment over and over in my head for a long time.

Would I speak? What would I say?

What could I possibly add to what has already been said about my father.

So many introductions, so much accolade, hundreds of honors, countless speeches, ground breaking ceremonies, ribbon cutting dedications, political campaigns, opinion pages, articles and books.

Words, words, words and more words, volumes of stories some true, some false and some, hybrids of both.

A dear friend advised me to share the personal side, share the family side, and share something close to my heart.

I thought to myself, I have shared enough. I have shared my childhood, I have shared my adolescence, and I have shared my adulthood.

My entire life, shared as a function of a public figure.

The tank is pretty empty, what more could I share?

So I thought about it and came up with the reoccurring question.

The question that, I have been asked throughout my life.

''What is it like to be a Senator's son?''

I used to quip that I really didn't know anything different he had always been a senator; except for the day I was born, when he was Governor of this state of Oregon.

The only time in my life I wasn't a Senator's son, I was a Governor's son.

What is it like to be a Senator's son?

To be in the public eye, under the microscope, in the spotlight.

What was it like to grow up under the weight of assumption and misconception, subject to the torment of political persuasion?

In the shadow of a figure so large and with the awesome responsibility of privilege, simply because the people of Oregon had given my father their faith in him every six years, five times.

What is it like to be a Senator's son?

I have been subpoenaed and compelled to testify in front of a Senate ethics committee. Grilled for five hours by government lawyers because someone thought my father had sold out his career and the people of Oregon.

I witnessed my mother's real estate business shredded, slowly, painfully and publicly, because someone thought my father had sold out his career and the people of Oregon.

I have been hugged by total strangers who shared very personal stories about how my father had changed their life, or how he had bestowed their Eagle Scout award, on them decades before.

In high school, I was walking a friend home after school. Trailing us were two Secret Service agents. The same two who had taken me to school earlier that morning, the same two who had sat in on classes and in the lunchroom with me.

Two men whose job it was to throw down their lives for mine. Not because mine was so important, but because the same nut case had threatened the life of the President of the United States and my father's life, in the same breath. While my father and mother were out of the country, the thinking was, the family would be the next, most likely target.

Agent Robert Alt, Agent Don and other members of the 24 hour protection detail, I will never forget the position you were in for two weeks because I am a senator's son.

Twelve years ago ran into friends, a couple from Oregon, on the street in New York. Even more than being delighted at our chance meeting, in a city of millions, they were giddy with the news that they had just seen my father's obituary at the New York Times.

With great surprise I informed them that I had just hung up the phone with him not 30 minutes earlier.

They proceeded to clarify that they had won and auction item—a tour of the New York Times offices. During the tour, they had seen the Obituaries of the notable and famous. Including my father's. Pre written, ready to go.

I remember one time at a photo studio in New York I was introduced by a friend, to an Art Director from Oregon. Upon hearing ''Oregon'' and ''Hatfield,'' I could see the light bulb go on over the art director's head. The same connection, I had awkwardly embraced many times in my life, was made. He then asked in a definite and knowing voice . . . ''are you related (I began nodding) to Tinker Hatfield?''

With great relief, I said, ''no I am not.''

No offense to the famed shoe designer at Nike.

What is it like to be a Senator's son?

I could tell you about the woman who came up to me when I was 12 years old. I was with my father on a re-election campaign swing thorough eastern Oregon. I was wearing a three-piece, brown velvet suit—in eastern Oregon . . . in July.

She had cornered me when I was alone. She waved her finger in my face and exclaimed ''look at you in your fancy three piece suit all dressed up from the east coast. You know we have pretty girls here too, you just have to look for them hiding behind the sage brush.''

I was stunned—where was the political playbook? What do I say? I smiled and assured her I would keep my eye out for girls hiding in the sage brush and I thanked her for coming to the ''Meet Mark'' spaghetti dinner to support my Dad.

One night at dinner at my home, I sat to the right of former president Nixon, a dinner that included a round table of official presidential historians. Nixon was brilliant, the man fielded question after question on every aspect of geopolitics, managed to eat his dinner and comment on how he fondly remembered my mother's steamed green beans, and

how happy he was that she had served them again that night.

He conjured a memory of a visit to Oregon when he was VP. My father, as governor greeted him at the airport. Dad wore a white trench coat, Nixon a black one. The former president said it was a smart move wearing white, because, when the front-page photo of the event was published the next day, it was my Dad who jumped off the page, not him.

What is it like to be a Senator's son?

Ronald Reagan, Jimmy Carter, Billy Graham, all guests in our home on separate occasions.

I have met Mother Theresa, Menachem Begin and the Pope.

I have flown onto the deck of an aircraft carrier, visited mental institutions, medical research centers, and courthouses.

Tom Brokaw wrote six simple pages about my father in his book, The Greatest Generation. I always liked Tom Brokaw and this book is amazing. It highlighted the few things and more of what my father told me the ''one'' time he spoke about his service in World War II. He spoke of how he was poised, as the Commander of an Amphibious Craft, for the invasion of mainland Japan. Of how if we had not dropped the atom bombs on Hiroshima and Nagasaki, he would more than likely never have made it to the shores of Japan alive.

He said the catharsis for him was in sharing his rations with Japanese children, after his mission changed from that of invader to clean up and relief operations, in the aftermath of the bomb. He showed me a few small porcelain pieces he had dug out of the rubble. Simple everyday objects, teacups and saucers.

I will always be grateful to the people of Japan for their sacrifice, because in doing so, one US Soldier made it back alive and went on to become my father and to spend nearly fifty years of public service, fighting for the lives of millions of people worldwide.

I would learn more about my father reading books and newspapers, than I would learn about him, from him, or so I thought.

Dad was the man who taught me to pray.

To say thank you, to give thanks and to be grateful, to give thanks for food, to give thanks for the blessings of the day.

The prayer: Inner voice as outer voice.

''God bless this food, in Jesus name amen.'' The kids' simple prayer around our table.

''Dear heavenly father we pray that you bless this food to the nourishment of out bodies and thus to thy service in Christ's name we pray, Amen.'' His simple version around our table.

I have heard Dad give thanks in front of thousands and in front of a few. Because he wanted to and because he was asked to.

His faith was remarkable. His prayers were soothing, thoughtful and kind.

I have gone to nearly every kind of church with my father. But one in particular stood out . . . a Baptist church.

When I was a teenager, Dad would come into my room and wake me up on a Sunday to go to church. Then he would come in again and wake me up again.

Often times he would come in with a look of incredulous disbelief, when it seemed as though I was not going to budge.

He would declare ''I cannot believe you can't commit one hour of the week to the Lord.''

Well ''one hour'' in those days at this particular Baptist church soon became about 35 minutes.

This was because when would arrive on time and take our seats, the minister, Pastor Maritz—had kind of squeaky voice and he would say—''I see we have Senator Hatfield in our congregation today, perhaps he would lead us in the pastoral prayer.''—Privacy shattered—Dad would rise and deliver, praying for all of us, for those less fortunate, for those in need, for our soldiers over seas, for our leaders to have strength and wisdom to make good decisions, to make better decisions.

Dad was fond of mixing church and state—in church—during prayer.

I believe he thought there was certain irony in doing so.

And that in church, he was a safe enough distance from those who might decry his faith and it's influence on him when it came to matters of state.

When he had given enough pastoral prayers we began arriving late to church, well after the pastoral prayer had been given. Pastor Maritz began to catch on. Being the smart Baptist that he was, he switched to asking dad to give the benediction.

Not long afterward Dad re-maneuvered, so we would arrive late AND then leave early. I felt okay with dedicating 35 minutes a week, to the Lord in Church.

What is it like to be a Senator's son?

I want to read a letter, which I opened and read to my father two years ago.

It was at a time when his health and his total awareness as we knew it began to fade. I believe it was during this phase, that his inner awareness was unwavering, was still intact.

The letter had been mailed to the MOH School of government at PSU and had been forwarded on to dad's home. It was written by Philip Millam.

(Read Letter)

I have had this letter on my desk for two years.

Forty Years this man carried the desire to thank my father. To tell Dad that with the simplest words ''thank you . . . thank you for your service,'' that Dad had made this man's effort in an unpopular war, feel honorable. In the fewest of words he had lessened the feelings of animosity and of being marginalized.

It brought tears to my father's eyes and to mine. I was proud of my father and he knew it.

Mr. Millam I would like to respectfully ask you to stand up and to be recognized. For your service to our country, in the most difficult of circumstances, I would like to thank you. And for providing me with a memorable father and son moment, I would like to say Thank You.

What is it like to be a Senator's son?

Awe, Awareness, Anger.

Pride, Press and Privilege.

The realization that it is not about who I have met, where I have gone or what I have done.

It is to be witness to his impact on the lives of others.

Mark Odom Hatfield.

His life was never about the man or the name. To shower praise on it, to honor it, to chisel it granite or cast it in bronze or, to sully or demean it, or to criticize it, is missing the point.

The point of my father's existence was not to collect awards or praise, but rather, I believe, to teach a lesson.

The lesson is a simple one, yet too often overlooked.

The lesson is that we need to be kinder to one another, to help and to teach each other.

To honor and to respect one another.

Because long after the man is gone and the buildings are renamed or torn down, the lesson must live on in each of us.

The lesson from the teacher, from the servant leader.

The lesson in many instances was to stand up when others chose to sit, to speak out when others were silent. To find clarity when the noise was deafening. To forgive those who are unforgivable.

The lesson is to protect life at all stages of vulnerability, or as he used to say, in the womb, at the gallows and on the battlefield.

Dad taught me that it cannot be the selfish, it must be the selfless who make the world a better world.

Each one of us has a part to play,

Each one of us has influence on the other,

Each one of us has a responsibility to ourselves and in turn, to each other.

Dad never wanted to be a giant, he preferred to have giant impact. His were not the shoulders to stand on, his were foot steps to follow.

A few months ago in what we thought were Dad's final moments, it was late at night I was going into the second straight day at his bedside. I was holding his hand and telling him it was okay to let go, he had lived a good life and fought long enough, we would take care of mom.

It was during this time, he and I had a remarkable exchange.

At the time, he wasn't talking very much.

I asked him of there anything he needed or anything I could do.

He straightened up his leaning body and opened his eyes wide and he said.

''You need to save a life.''

He asked me to save a life.

I said, ''Whose life should I save?''

He said, ''The first one you can.''

There was a long pause, he was staring straight ahead, not blankly, but like he was seeing something that I wasn't.

I asked him what he was looking at, he said

''There are so many poor people and people who are hungry, who are on the doorstep.''

I paused a while, wondering.

Then I asked him ''what do they look like?''

Without hesitating, he said

''They look like us.''

A glimpse at what it is like to be this senator's son.

It is a continual reminder that there is a calling to help where ever possible, a calling to open our eyes to people who we may think are different, or who we may think are less, than who we think we are.

It is a reminder for us to open our eyes to help people who others cannot see, or who others choose not to see.

Why?

Because they ''look like us.'' They are in fact us.

I would like to take a moment and thank from the bottom of my heart, Dr. Francis Collins director of the NIH as well as Dr. John Gallin, director of the MOH clinical research center at NIH. Two men whose effort at sustaining human life and medical research continues to inspire.

I would like also like to thank my sister Elizabeth who for years has magnificently worn the titles of both doctor and daughter, through some of the most difficult times during our father's stages of declining health. You are a rock star of a doctor. And a fabulous sister.

Lastly, I would like to thank my mother Antoinette Hatfield, who for more decades than anyone, has stood by my father's side in life. She has made sacrifices most of us will never know, under more difficult circumstances than anyone should have to.

Always the matriarch, she is the woman behind the man, in front of the world.

Allow me to straighten your halo. You are an angel among us.

Visko Hatfield, August 14, 2011.

Mr. WYDEN. Mr. President, I think we have seen in the last half hour, almost going on an hour, the enormous goodwill that Senator Hatfield generated in the Senate, with Democrats

and Republicans alike coming to the floor. I just wanted to wrap up with one last comment.

Senator Hatfield did not serve alone. He was accompanied through his extraordinary public service journey that we have heard discussed today on the Senate floor by a remarkable woman, Antoinette Hatfield. For those of us who knew Mrs. Hatfield, the only way we could sum her up would be to say: What a woman. Whip smart, boundless energy, persistent in a way that made it clear she was going to push hard for what was important, but always in a way that left you with a sense that she would be standing up for what was right and almost invariably with her husband standing up for our State.

My colleague in the Chair, the Presiding Officer, Senator MERKLEY, described his experiences with Senator Hatfield very eloquently. We have heard that from one Senator after another. But I thought it was appropriate this afternoon—as many Senators knew Mrs. Hatfield and, I think, share my views—and important to note that Senator Hatfield often said—and my colleague will recall it as well—he could not have made the contributions to Oregon without having at his side, having the good counsel, enjoying the affection of this wonderful woman, Antoinette Hatfield.

So as the Oregon delegation in the Senate wraps up these tributes, we simply want to acknowledge not just Senator Hatfield's contributions but the chance we have had to be with Mrs. Hatfield in work situations and personal situations, and we wish to express our gratitude for all she has done for decades now working with her husband, working with Oregonians to make Oregon a better place.

This afternoon, Antoinette Hatfield, as well as her late husband, has our undying gratitude.

Mr. President, with that, I yield the floor, and I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

LEAHY-SMITH AMERICA INVENTS ACT

Mr. REID. Mr. President, I ask unanimous consent that the remaining time postcloture be yielded back, and the motion to proceed to H.R. 1249, the America Invents Act, be agreed to; that there be debate only on the bill until 5 p.m., and at 5 p.m. the majority leader be recognized.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. I ask that the unanimous consent request be modified so once we are on the bill I can offer an amendment related to the Secretary of the Treasury and that a vote on that issue be reported.

Mr. REID. Mr. President, I object to my friend's request. I ask that once we get on the bill that the Senator from Kentucky, Mr. PAUL, be recognized to speak for up to 10 minutes in order to explain the amendment that he had hoped to offer and will offer at some point in the future.

The PRESIDING OFFICER. Is there objection to the request as so modified?

Mr. REID. I modify my request to that effect.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Mr. President, they say the definition of insanity is doing the same thing over and over and expecting a different result. We now have been in 3 years of a policy that is not working. Joblessness is up and our debt has been downgraded. Our country is on a precipice, and yet we continue with the same people giving the same ideas that are not working. It is important to know how we got here.

We are in a great recession, the worst recession since the Great Depression. How did we get here? We got here through bad economic policy and bad monetary policy. This policy originated with Timothy Geithner when he was at the Federal Reserve in New York. It originated with Ben Bernanke, the head of the Federal Reserve.

What did we do? We reappointed these people to higher office. They say the definition of insanity is doing the same thing over and over and expecting a different result.

I would respectfully ask at this point we have a vote in the Senate. I think the American people have given a vote of no confidence to the Secretary of the Treasury. I think the American investors and worldwide investors have given a vote of no confidence to the debt ceiling deal and to what has been going on.

Over and over we are doing the same policy. We have now appointed as head of the Council of Economic Advisers someone who brought us Cash for Clunkers. We spent $1 trillion—money we don't have—trying to stimulate the economy and unemployment is worse. Gas prices have doubled. Economic growth is anemic, if at all. We are in the process, perhaps, of sliding into another recession and something has to be different. We cannot keep doing the same thing over and over and expecting a different result.

For the first time in our history our debt has been downgraded. This came after a policy that came from the Secretary of the Treasury and from this administration. It came from a deal the American people and the world public, world class of investors, judged and deemed to be inadequate.

This country needs a shakeup. We need new ideas. We need different propositions. The same propositions, the same tired, old proposals are not working. We are set during this administration to accumulate more debt than with all 43 previous Presidents combined. We are accumulating debt at $40,000 a second. We are spending money at $100,000 a second.

When a policy doesn't work, we need new policy leaders. There will not be a new President until 2012, but this President could choose new advisers because the advice he has been getting is not working. We are languishing. We are on the precipice of possibly going into another recession, and I would suggest at this point we need a new Secretary of the Treasury.

How did we get into this problem? We got into this problem because we had a housing boom. This came from bad monetary policy. It came from the Federal Reserve setting interest rates below the market rate, and that signal was transmitted out into the economy and we got a housing boom. Then we had a housing depression. We are still in the midst of a housing depression.

Where did that policy come from? That policy came from Secretary Geithner and Ben Bernanke.

What have we done? We have reappointed these people and reapproved their policies that got us into the problem in the first place. If we want our country to thrive again, we must diagnose the problem correctly before we try to fix it. Because they didn't understand how we got into this recession, they also passed a whole bunch of new regulations. The Dodd-Frank bill heaps all kinds of new regulations that make it harder to get a home loan.

In the midst of a housing depression, we have heaped all these new rules on community banks. You know what? In my State of Kentucky, not one bank failed. The problem is at the Federal Reserve. The problem is with the policy. The problem is with the people we still have running this country and advising the President.

What I am asking for today is a vote of no confidence on Timothy Geithner. I see no reason and no objective evidence that any of his policies are succeeding. I have come to the floor today to ask for this vote, and we will continue to try to get this vote. We have introduced a resolution in favor of voting a vote of no confidence on Timothy Geithner, and I hope this body will consider it.

I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask the Chair what is pending before the Senate at this moment.

The PRESIDING OFFICER. The bill H.R. 1249 is pending for debate only.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

THE ECONOMY

Mr. HARKIN. Mr. President, on Monday, we observed but did not celebrate Labor Day. I say ''observed and did not celebrate'' because we are painfully aware that there are at least 29 million underemployed and unemployed Americans in our midst. Last Friday, the Department of Labor sent shock waves through the global economy by reporting that the U.S. economy created zero net jobs in August. A growing chorus of economists is warning against the dangers of making immediate draconian cuts to the Federal budget—something that, by its very nature, will drain demand, reduce growth, and destroy jobs.

Tragically, too many Members of Congress refuse to listen. Over the summer, they have insisted on a mindless march to immediate austerity—an approach that threatens to strangle the weak economy.

Inside the Washington bubble, some of our political leaders continue to insist that the biggest issue is the budget deficit. Outside the beltway, ordinary Americans are desperately concerned with a far more urgent deficit, the job deficit.

I am also concerned about a third deficit, the deficit of vision and leadership in Washington. I am disturbed by our failure to confront the current economic crisis with the boldness and vision that earlier generations of Americans summoned in times of national challenge.

Smart countries, in tough economic times, do not just turn a chainsaw on themselves. Instead of the current slash-and-burn approach, which is being sold through fear and fatalism, we need an approach that reflects the courage and determination of the American people. By all means, we must agree on necessary spending cuts and revenue increases, but we also must continue to invest in that which will spur economic growth, create jobs, and rebuild the middle class.

I cannot emphasize too strongly the importance of restoring the middle class in America. I have given several floor speeches on this very subject. In the committee I am privileged to chair, the HELP Committee, we have had hearings on what has happened to the middle class. In fact, on September 1, our committee issued this report: ''Saving the American Dream: The Past, Present, and Uncertain Future of America's Middle Class.'' I commend it to my colleagues.

Restoring the middle class is essential to boosting demand and revitalizing our economy. It is the only way to restore long-term fiscal balance at the Federal level.

Economists across the political spectrum, from left to right, agree that a major cause of our current economic stagnation is a chronic lack of demand. For nearly three decades, workers' incomes have been stagnant. Simply put, they lack the purchasing power to drive America's consumer economy. Without adequate demand, businesses are reluctant to invest and hire.

Adjusted for inflation, average hourly earnings in 1970 were $18.80 an hour or $39,104 annually. Again, average hourly earnings in 1970 were $39,104. However, by 2009, those inflation-adjusted average hourly earnings had actually declined to $18.63 an hour or $38,750 a year. Imagine that. From 1970 to 2009, average hourly earnings went down. One might say: So what.

This second chart will show what is happening to the middle class. This chart shows the rising cost of essentials. At the same time earnings have stagnated or gone down a little bit, the costs that make up the largest part of a family budget have skyrocketed. Here is the food budget, up 2 percent; gas, up 18 percent; rent and utilities, up 41 percent; health expenditures, up 50 percent; public colleges, up 80 percent; price of a home, up 97 percent; cost of a private college, up 113 percent. No wonder the middle class is finding it harder and harder to make ends meet.

However, at the same time, let's look at what is happening at the higher end of the income spectrum and see what happened to CEO compensation during this same period of time. Average hourly earnings have gone down, as I said. The value of the minimum wage—I will talk about that in a minute—has gone down 19 percent from 1970 to last year. But the median executive compensation has gone up 430 percent in the same time. Is there any surprise that people are upset around America, that middle-class families are kind of edgy today? Sure, they are edgy. How are they going to send their kids to college or buy a new home or get out from the ones that are already underwater, provide rent or buy gasoline for cars in rural areas where they have to drive to go to work, to school or to go to church?

How do we boost income and restore people's purchasing power? There are a number of ways we need to do this. I will suggest one to start with. We need to restore a robust right to organize unions and bargain collectively. I say that unabashedly. It is no coincidence the decline of the middle class has coincided with the dramatic decline of union membership in the United States. Why? Because unions provide workers with the leverage to ensure that they share in their company's gains through wages and benefits and are not just providing company CEOs with even larger pay packages. That is just one step.

Another very practical step we can take to boost purchasing power and boost the economy is to increase the minimum wage. The minimum wage today is $7.25. If we raised the minimum wage to make up for what it has lost to inflation over the last 40 years, it would be $10.39 an hour. As we saw, the average CEO pay has gone up 430 percent, and the minimum wage—adjusted for inflation—should be $10.39 an hour today. But it is only $7.25. So the minimum wage has gone down, and the median executive compensation has gone up 430 percent. A raise in the minimum wage puts money in the pockets of low-income consumers who are likely to spend it at local businesses.

Most important, of course, we have to create more jobs—but not just any jobs, quality jobs with fair wages and real benefits that can support a family and help hard-working people build a brighter future. That is the way we will put demand back in the economy and get the economy moving again.

Tomorrow evening, the President will present to Congress his plan for boosting job creation and helping to lift the economy. I urge the President to point out that there are some things—big national undertakings—that the private sector simply is not capable of doing. At critical junctures, going back to the beginning of our Republic, the Federal Government has stepped up to the plate. Congresses and Presidents have to act decisively to spur economic growth, foster innovation, and help create jobs. We need that kind of bold action today.

The mantra I hear from my friends on the Republican side is that government can't create jobs. That is nonsense. Smart government can create jobs. Shortsighted government can destroy jobs. For example, the brief shutdown of the Federal Aviation Administration this summer put nearly 70,000 private sector construction employees out of work. Draconian cuts proposed by House Republicans to the new Transportation bill would destroy an estimated 490,000 highway construction jobs and nearly 100,000 transit-related jobs. That is dysfunctional government, making the problem even worse.

By contrast, across our history, an often visionary and bold Federal Government has funded and spearheaded initiatives that have expanded private commerce, given birth to countless inventions and new industries, and created tens of millions of jobs.

During the Presidency of Franklin Roosevelt, with the private sector paralyzed by the Great Depression, the Federal Government responded with an astonishing array of initiatives to restart the economy, restore opportunity, and create jobs. I still have on my wall in my office—and I will bet I am the only Senator on the floor today who can say this—the actual WPA form of my father when he worked for the Works Projects Administration. He got a job to help feed his family. Some of the things my father worked on in the WPA exist today—still used by the public, still used by kids going to high school. A lot of times people say: Well, that was all well and good, but that didn't stop the depression that was World War II. Well, what was World War II but massive government infusion into the economy?

By the end of the Second World War, wartime investments in plants and equipment and making tanks and airplanes and all kinds of things, which we then turned over to the private sector, created an industrial colossus the likes of which the world had never seen. Franklin Roosevelt and President Truman were followed by a Republican President, Dwight Eisenhower. President Eisenhower—I am sure a very proud Republican—was also determined to move America forward. He championed one of the greatest public works projects in American history—the construction of the Interstate Highway System. A 1996 study of that system concluded:

> The interstate highway system is an engine that has driven 40 years of unprecedented prosperity and positioned the United States to remain the world's preeminent power into the 21st century.

This kind of visionary thinking, by both Democratic Presidents and a Republican President, is by no means a relick of the distant past. In more recent times, the Federal Government has funded and spearheaded scientific discovery and innovation that has had profound impacts on our economy—spawning scores of new industries and creating millions of high-value jobs. I will just mention a few.

Specifically, the Defense Advanced Research Projects Agency—called DARPA—invented the Internet, making possible everything from e-mail to social networking to the World Wide Web. Federal researchers at that same agency—DARPA, the Defense Advanced Research Projects Agency—invented the global positioning satellite system.

I can remember when I first came to the Congress as a House Member on the House Science and Technology Committee and we first started authorizing funding for the GPS system. A lot of people at that time said: Oh no, no. This is not the role for the Federal Government. Only the private sector can do it. But the private sector could not undertake that at that point in time. So the Federal Government put up the satellites and the private sector took over, and now we have Garmin and TomTom and we have all kinds of things now for airplanes and cars and boats—all made by the private sector employing people in private-sector jobs—because the Federal Government put forth the money and the investment to put that system into place.

Need I mention NASA, and the number of technological breakthroughs over the years—everything from microchips to CAT scanner technology. And of course any discussion of the Federal role in promoting our economy would not be complete without mentioning the National Institutes of Health. More than 80 Nobel prizes have been awarded for NIH-supported research.

One might say: Well, how has that benefitted us? Recently, the Battelle Memorial Institute, a nongovernment research institute, reported on the Federal Government's $3.8 billion investment in the Human Genome Project from 1988 to 2003. Battelle estimates this Federal investment of $3.8 billion in taxpayer money has produced a staggering $796 billion in economic output. In 2010 alone, this ''genomic revolution'' generated $67 billion in U.S. economic output and supported 310,000 jobs.

These are the kinds of investments that are some of the best ways to reduce budget deficits. They will help many of the 29 million unemployed and underemployed get jobs and become taxpayers again. With the private-sector engine again threatening to stall out, there is a critical role for the Federal Government in creating demand and preventing a slide back into recession.

The most obvious way forward—with support across the political spectrum, including the U.S. Chamber of Commerce—is to dramatically ramp up Federal investments in infrastructure in order to boost U.S. competitiveness. The American Society of Civil Engineers estimates that America faces a $2.2 trillion—trillion dollars—infrastructure backlog. Bringing this U.S. infrastructure into the 21st century would create millions of private-sector jobs—especially in the hard-hit construction industry—while modernizing the arteries and veins of commerce.

As someone once recently said: Think about it this way: We are still driving on Eisenhower's highways and going to Roosevelt's schools. It is time to do it for the next century.

There can be no economic recovery, no return to fiscal balance without the recovery of the middle class. And there will not be a middle class unless and until we come to grips with the need for Federal investment in education, innovation, research, and infrastructure. It means restoring a level playing field with fair taxation, vibrant unions, a strong ladder of opportunity to give every American access to the middle class.

I hope President Obama will be bold, as Presidents in the past have been. I hope he will put forward a very bold, visionary, challenging—challenging—proposal tomorrow night, to challenge us to the better side of our human nature and to recapture again what we have done in the past. In that way, we can rebuild the middle class and put America back to work. I believe that is the only way we will be able to do that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent the period for debate only on H.R. 1249 be extended to 6:30 p.m. and that at 6:30 p.m. the majority leader be recognized.

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

Mr. LEAHY. Mr. President, I have worked on efforts to prevent the diversion of fees collected by the U.S. Patent and Trademark Office for years. When the distinguished Senator from Oklahoma, Mr. COBURN, took on the issue, I urged him to work with me, to withhold the amendment during the Judiciary Committee's consideration of the bill, and I would work with him to include improvements on the Senate floor.

I did. I kept my word. In fact, I included language he drafted in the managers' amendment and worked hard to pass it despite the misgivings of several Senators on both sides of the aisle.

However, when our bill went over to the House of Representatives, they preserved the principle against fee diversion but changed the language. The language of the bill is that which the House devised and voted to include as worked out by the House Republican leadership to satisfy House rules. The provisions Senator COBURN had drafted—and I understand may offer with his amendment—apparently violate House rule 21, which prohibits authorizing legislation from converting discretionary spending into mandatory spending. So instead of a revolving fund, the House established a reserve fund.

The America Invents Act, as passed by the House, continues to make important improvements to ensure that fees collected by the U.S. Patent and Trademark Office are used for USPTO activities. That office is entirely fee-funded and does not rely upon taxpayer dollars, but it has been and continues to be subject to annual appropriations bills. That allows Congress greater opportunity for oversight.

The legislation that passed the Senate in March would have taken the Patent and Trademark Office out of the appropriations process by setting

up a revolving fund that allowed the PTO to spend all money it collects without appropriations legislation or congressional oversight. But instead of a revolving fund the House formulation against fee diversion establishes a separate account for the funds and directs they be used for the U.S. Patent and Trademark Office.

The House forged a compromise with its appropriators to reduce any incentive to divert fees from the PTO and to provide the PTO with access to all fees that it collects while keeping the PTO within the normal appropriations process with the oversight that process includes. The America Invents Act thus creates a new Patent and Trademark fee reserve fund into which all fees collected by PTO in excess of that amount appropriated in a fiscal year are to be deposited. Fees in the reserve fund may only be used for operations of the PTO. In effect, they are doing what we have asked but staying within the House rules.

In fact, in addition, the House appropriators agreed to carry language in their appropriations bills that would guarantee that fees collected by the PTO in excess of the appropriated amounts would remain available to the PTO until expended and could be accessed by the PTO through reprogramming procedures without the need for subsequent legislation.

This may sound kind of convoluted, but what a number of people, including Senator COBURN, wanted to do was to make sure the fees went to PTO. I happen to agree with that. What the House did has the effect of making sure the fees go to the PTO.

What I hope we not do now is try to offer amendments that may change that and in effect kill the bill. Through the creation of the reserve fund, as well as the commitment by House appropriators, H.R. 1249 makes important improvements in ensuring that user fees collected by the PTO for services are used by the PTO for those services.

So while I oppose fee diversion, I also oppose the Coburn amendment, and I will tell you why. After 6 years of work getting this bill here, this may kill the bill over a formality: the difference between a revolving fund and a reserve fund. One would be hard-pressed to know what the difference is except it would kill the bill. It would require the House to consider the whole bill again. They spent days and weeks in heavy debate working out their compromise in good faith. It was worked out by the House Republican leadership. There is no reason to think that having done that, they are going to reconsider and allow the original Coburn language to violate the rules and avoid oversight.

In fact, I ask that a letter from Congressmen ROGERS and RYAN to Chairman SMITH be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, June 6, 2011.

Hon. LAMAR SMITH,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

CHAIRMAN SMITH: It is our understanding that H.R. 1249, the America Invents Act, is likely to be considered on the House floor in the upcoming weeks.

As you know, section 22 of H.R. 1249 would strike the current appropriations account language for the Patent Trademark Office (PTO), replace it with a ''United States Patent and Trademark Office Public Enterprise Fund,'' and permit the PTO to collect and spend authorized fees—all without requiring action or approval from Congress.

We strongly oppose this proposed shift of billions in discretionary funding and fee collections to mandatory spending. Putting PTO funding on auto-pilot is a move in exactly the wrong direction, given the new Republican majority's commitment to restraining spending, improving accountability and transparency, and reducing the nation's unparalleled deficits and debt.

Placing PTO spending on mandatory autopilot as outlined in H.R. 1249 would also hand the Congressional ''power of the purse''—bestowed in the Constitution—to the Obama White House, and essentially eliminate the ability of Congress to perform substantive oversight of the PTO. We strongly oppose undermining these critical efforts, particularly when House Republicans have pledged to strengthen oversight of federal agencies to ensure resources are being used wisely and appropriately, and to prevent federal agencies from over-stepping their authority.

Oversight of the PTO belongs with the Congress, and should not be abdicated to the Executive Branch of government. Patent applications are filed by U.S. citizens and companies from all 50 states and territories, ranging from as many as 66,191 from California, 16,545 from Texas, 15,258 from New York, 8,128 from Ohio, 3,577 from Virginia, and 600 from Nebraska in 2010. Virtually every Member of Congress represents constituents who have a stake in the oversight of PTO—and often businesses and livelihoods depend on actions the agency undertakes. It would be both irresponsible and unwise to allow the PTO to operate solely under the authority of bureaucrats and White House political appointees—without being held accountable to the American public through their elected Representatives in Congress.

Given these concerns, we ask that section 22 be deleted or otherwise be modified prior to floor consideration in order to strengthen oversight of this important agency, and to ensure American citizens are getting the most from every dollar.

Sincerely,

HAROLD ROGERS,
Chairman, House Committee on Appropriations.

PAUL RYAN,
Chairman, House Committee on the Budget.

Mr. LEAHY. I know the members of the Senate Appropriations Committee. I know them. I trust Senator INOUYE, someone awarded the Congressional Medal of Honor for his bravery and valor in World War II. I trust the senior Senator from Mississippi and the senior Senator from Alabama with whom I have served for many years. They will follow the law. They will abide by the Supreme Court. I was disturbed to read a comment that this amendment is being brought forward out of distrust of these Senators. These are Senators I have served with for decades. They can and should be trusted. We should not kill this bill over this amendment. Instead, we should reject the amendment and pass the bill.

(Mr. BENNET assumed the Chair.)

Mr. WHITEHOUSE. Mr. President, I rise today to speak in favor of H.R. 1249, the Leahy-Smith America Invents Act. This is a vital piece of job-creating legislation and I urge my colleagues to support it.

Before I turn to the merits of the bill, let me start by applauding the long, hard work of Chairman LEAHY. He has led the effort on this legislation for many years, patiently working towards a bill that would win broad support from the many interested stakeholders while achieving the crucial goals of spurring innovation, generating jobs, and securing America's place as the world leader in the intellectual property economy. It has been a pleasure to work with him on this important issue. I likewise applaud the hard work of colleagues on both sides of the aisle who have sought to support continued American leadership in technology, medicine, and countless other fields.

Our patent system unfortunately has become a drag on that leadership, largely because it has gone 60 years without improvements. It is long past time to repair that system and thereby energize our innovation economy and create jobs.

Our Nation long has led the world in hard work and ingenuity. My home State of Rhode Island, for example, has a long and proud history of industry and innovation, from the birth of the American industrial revolution to the high-tech entrepreneurs leading our State forward today. An area has developed in Providence, for example, that is rightfully known by the nickname ''the Knowledge District'' for its remarkable innovation. Rhode Island likewise is the home of remarkable research universities, individual inventors, and businesses of all sizes that have contributed giant leaps forward in the fields of technology, medicine, and mechanical science.

Innovators like these in Rhode Island, and across America, are the drivers of our future economic well-being. My conversations with these Rhode Islanders, however, have made clear to me that the current patent system is making it unnecessarily difficult for them to innovate. Innovators who can solve the most complicated problems of medicine, mechanics, or technology are losing out because of basic problems in our patent system. We need to fix these problems now. Fail to do so and we will pay the price in jobs and international competitiveness.

I have heard two complaints over and over back home in Rhode Island. The first relates to delays in the issuance of patents. Enormous backlogs persist at the Patent and Trademark Office. As a result, our innovators have no certainty whether they have successfully

established intellectual property rights in their inventions. This dampens and frustrates innovation.

The America Invents Act takes on the backlog in a number of different ways. It allows the Patent and Trademark Office discretion to set its own fees and includes a provision that will discourage fee diversion. While I would have preferred to have seen Senator COBURN's anti-fee-diversion amendment accepted by the House, I am confident that these provisions, coupled with exceptions that will ensure low fees for small businesses, will enable the Patent and Trademark Office to better manage its resources and reduce examination times.

My conversations with Rhode Island inventors also identified a second clear problem in our patent system: the threat of protracted litigation. Unfortunately, numerous poor quality patents have issued in recent years, resulting in seemingly endless litigation that casts a cloud over patent ownership. Administrative processes that should serve as an alternative to litigation also have broken down, resulting in further delay, cost, and confusion.

The America Invents Act will address these problems by ensuring that higher quality patents issue in the future. This will produce less litigation and create greater incentives for innovators to commit the effort and resources to create the next big idea. Similarly, the bill will improve administrative processes so that disputes over patents can be resolved quickly and cheaply without patents being tied up for years in expensive litigation. The bill also moves America to the simple First-Inventor-to-File system which will eliminate needless uncertainty and litigation over patent ownership, and it eliminates so-called ''tax patents.''

In all, the Leahy-Smith America Invents Act is an important and much-needed reform of our patent system. True, every intellectual property stakeholder did not get everything they wanted in this version of the patent bill. I am sure every participant in this process would like a few things added to the bill and a few things taken out. That is inevitable in a bill that has been crafted in a true spirit of compromise. The result is a bill that may not please everyone in all respects but that satisfies its core responsibility to remove existing burdens on American innovation and allow the growth of high quality, high technology jobs in our country. It is extremely important in this time of economic hardship that we put people to work. That is exactly what this bill will do and I believe we should pass it immediately. We should not amend it further in a manner that will risk the bill's ultimate defeat. This is a long journey and we are at the finish; let's get this bill done for American inventors and workers. Let's see this much-needed piece of patent reform passed into law.

I once again urge my colleagues to vote to pass this important piece of legislation into law.

Mr. KYL. Mr. President, I rise today to submit for the RECORD two letters addressed to the chairman and ranking member of the House Judiciary Committee. The letters were written by Judge Michael McConnell, a former member of the U.S. Court of Appeals for the Tenth Circuit and the current the director of the Constitutional Law Center at Stanford Law School. Judge McConnell's letters examine the constitutionality of section 18 of the America Invents Act, a section of the bill that authorizes a temporary program for administrative review of business-method patents. The letters thoroughly refute the arguments being presented by some opponents of section 18 that the provision either constitutes a taking or runs afoul of the rule of *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211 1995. Because these letters have circulated widely among members and staff and have played a substantial role in the debate about section 18, I think that it is appropriate that they be published in the RECORD.

I ask unanimous consent that the following materials be printed in the RECORD.

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

MICHAEL W. MCCONNELL,
Stanford, CA, June 16, 2011.

DEAR CHAIRMAN SMITH AND RANKING MEMBER CONYERS: I am the Richard and Frances Mallery Professor and Director of the Constitutional Law Center at Stanford Law School, and a Senior Fellow of the Hoover Institution at Stanford University, where I teach and write in the field of constitutional law. I previously served as a judge on the United States Court of Appeals for the Tenth Circuit. Congress is now considering legislation (the ''America Invents Act'') that would expand the grounds on which patents may be reexamined by the Patent and Trademark Office (''PTO''), after their initial issuance. I write to address the constitutionality of those sections: Section 6 (Post-grant Review Proceedings) and Section 18 (Transitional Program for Covered Business Method Patents) of the America Invents Act. Based on my review, these sections of the proposed Act are constitutional as drafted.

As you are aware, for the past thirty years, this nation's patent laws have included procedures for reexamination of already-issued patents. In two leading cases, parties challenged the constitutionality of reexamination of patents in court, raising all the the theories now propounded in opposition to sections 6 and 18 of the proposed America Invents Act—takings, due process, retroactivity, and separation of powers. The court of appeals carefully considered and rejected those challenges, upholding the reexamination process in all respects. Sections 6 and 18 of the proposed Act merely expand the grounds on which reexamination is available under current law, but do not change substantive patent law at all, nor the fundamental procedure of reexamination in any constitutionally significant way. We may therefore state with confidence that the proposed legislation is supported by settled precedent.

Moreover, the proposed measure conforms to the purposes of the Patent Clause of the Constitution, Article I, Section 8, Clause 8, which grants Congress authority to ''promote the Progress of Science and the useful Arts.'' By means of this provision, the Framers sought to balance the goal of encouraging innovation against the dangers and economic loss of monopoly. The reexamination process serves to preserve that balance by adopting a procedure by which the PTO can identify patents that were issued in error. Challenges to the reexamination process proceed on the theory that a patent is a vested right, which once granted may not be taken away, at least not by the agency that granted it. This is a fundamental misconception. If a party is issued a patent that does not comply with the patent laws—and the patent is therefore invalid—it is not a ''taking'' for either a court or the PTO to determine that the patent is invalid. Just as it is not a taking to determine that a person occupying land has a defective title to it, it is not a taking to determine that a patent holder never had a right to a patent in the first place.

Unlike many other familiar forms of property, the validity of a patent is never determined once and for all; members of the public with competing or adverse interests have long had a continuing right to demonstrate, through reexamination before the PTO, that a patent was invalidly issued. And a party threatened with a patent infringement action has always had the right to seek to demonstrate that the patent is invalid, regardless of whether the same issue has been previously litigated in a different case. In other words, there is no such thing as ''adverse possession'' in patent law. The only change wrought by the proposed Act is to expand the grounds under which such reexaminations are made by the PTO in the first instance. As a constitutional matter, Congress is entitled to allocate the responsibility of determining whether a patent was properly granted to the courts or to the expert agency, in its discretion. As long as interested parties have the ultimate right to challenge the agency's decisions in court, the administrative nature of the proceeding has no constitutional significance. Moreover, I see nothing in sections 6 and 18 of the proposed Act that would alter or interfere with existing principles of res judicata or collateral estoppel in the context of a final judgment, much less allow the PTO to disturb the final judgment of a court.

I offer no view on the merits or policy of the Act, but offer my judgment that it is entirely consistent with the Constitution for Congress to bring to bear the experience and expertise of the PTO in providing for more robust review of issued patents.

I. BACKGROUND PRINCIPLES

I begin with the basic background principles. The Framers of the United States Constitution were well aware of the dangers of monopoly, and sought to ensure that patents could be granted only when they served an overriding public interest. An invalidly issued patent does not properly reward innovation, but instead impedes commerce, hence ''the public good.'' The Federalist, No. 43 (Madison), at 268 [1788] (C. Rossiter ed., 1961). The Framers were also painfully aware of the propensity of governmental agencies and bureaucracies to err. They would not, therefore, have been surprised by efforts to ensure that patent rights may be exercised only when the underlying patent claim is valid and the patent was properly issued. That is why, from the beginning, patents have never been regarded as a fully and irrevocably vested right. As the Supreme Court has explained, the Patent Clause of the Constitution ''is both a grant of power and a limitation,'' and Congress' actions

must be directed to striking the balance between encouraging innovation and stifling competition through the grant of patents that do not promote ''the Progress of . . . useful Arts. This is the standard expressed in the Constitution and it may not be ignored.'' *Graham* v. *John Deere Co.*, 383 U.S. 1, 5 (1966) (internal citations and quotation marks omitted); *see also Bonito Boats, Inc.* v. *Thunder Craft Boats, Inc.*, 489 U.S. 141, 146–47 (1989).

Patents are unquestionably property rights. *Consolidated Fruit Jar Co.* v. *Wright*, 94 U.S. 92, 96 (1876). However, unlike many property rights, the right to exclude under a patent ''is a right that can only be conferred by the government.'' *Patlex Corp.* v. *Mossinghoff*, 758 F.2d 594, 604 (Fed. Cir. 1985). A patent is not a natural right, but solely a product of positive law; its extent, duration, and validity is a matter that must be determined by the legislative branch. In contrast with purely private rights, ''the grant of a valid patent is primarily a public concern.'' Id. In assessing the validity of a patent, the ''threshold question usually is whether the PTO, under the authority assigned to it by Congress, properly granted the patent.'' Id. As the Supreme Court recently reaffirmed, the statutory presumption of validity found in 35 U.S.C. §282, is a reflection of the presumption of administrative correctness by the PTO. *Microsoft Corp.* v. *i4i Ltd. P'ship*, — U.S. —, No. 10–290, slip op. 16–17 (2011).

Patents are issued after a limited, ex parte process in which the public has no opportunity to participate. The PTO largely only has before it the information provided by the inventor's attorney. As a result, as courts have recognized, the PTO may not have all of the material information at the time it issues a patent. Therefore, although patents are presumed valid, ''if the PTO did not have all material facts before it, its considered judgment may lose significant force.'' *i4i*, slip op at 17.

The validity of a patent is not a matter that is ever fully and finally settled. Rather, it remains ''ever-present,'' *Patlex Corp.*, 758 F.2d at 600, because any defendant may assert an invalidity defense in patent litigation—even if the same issue has been previously litigated by another defendant. Prior to 1980, the only means by which a party could challenge the validity of a patent was through litigation in court. In 1980, however, Congress created an administrative reexamination procedure, designed to weed out patents that are invalid because they did not meet the requirements for patentability set forth in the Patent Act. See Public Law No. 96–517. Under these procedures, ''[a]ny person at any time may file a request for reexamination by the [PTO] of any claim of a patent on the basis of any prior art'' that was published. 35 U.S.C. §302 (emphasis added).

Since 1980, therefore, the validity of a patent may be challenged several ways: A party who is sued for patent infringement may assert a defense of invalidity, which must be proven by the higher standard of clear and convincing evidence (in deference to the presumed correctness of the PTO's decision), or a patent's validity can be reviewed through a reexamination proceeding. Upon reexamination, the PTO may confirm any patentable claim or cancel any unpatentable claim. Reexamination thus provides an opportunity for the PTO to review and correct its own work based on fuller information. As the Federal Circuit has described, ''[t]he innate function of the reexamination process is to increase the reliability of the PTO's action in issuing a patent by reexamination of patents thought 'doubtful.' '' *In re Etter*, 756 F.2d 852, 857 (Fed. Cir. 1985).

The reexamination process created in 1980 endured constitutional challenges similar to what opponents of the America Invents Act are marshalling today: the 1980 reexamination procedure was challenged by patent holders as an unconstitutional taking, as a violation of due process, as a violation of the Seventh Amendment right to a jury trial, and as a violation of separation of powers. See *Patlex Corp.*, 758 F.2d 598–599; *Joy Technologies* v. *Manbeck*, 959 F.2d 226 (Fed. Cir. 1992). Each of these challenges was soundly rejected by the United States Court of Appeals for the Federal Circuit.

Thus, to be clear, under current law, at the instance of a party, the PTO may reexamine a patent that has been issued, and the validity of which has been unsuccessfully challenged in litigation. With this in mind, I first address the constitutionality of Sections 6 and 18 of the America Invents Act.

II. SECTION 6 OF THE AMERICA INVENTS ACT IS CONSTITUTIONAL

Section 6 of the America Invents Act amends the Patent Act to create a post-grant review procedure available for a limited time (one year, in the current America Invents Act legislation) after the date a patent is granted. Section 6 also amends existing inter partes reexamination procedures to make them available after the period of time for post-grant review has passed or, if post-grant review has been initiated, after that post-grant review is complete. A key distinction between the post-grant review procedures and the inter partes reexamination procedures is the grounds and evidence that can be considered for invalidating a patent: as with current law, the inter partes reexamination procedure of Section 6 is limited to considering (1) whether a patent is invalid for failing to meet the Patent Act's requirements of novelty and non-obviousness (2) based on patents or printed publications.

Section 6 is in harmony with the first principles of the Constitution and with the body of legal precedent addressing the existing reexamination procedures. The Patent Clause of the Constitution empowers Congress to ''promote the Progress of Science and useful Arts'' by granting patents to inventors, but it correspondingly limits Congress' authority to grant patents that do not advance ''the Progress of Science and useful Arts.'' The Supreme Court has recognized that from the beginning our Founders have sought to strike that constitutional balance: ''Thus, from the outset, federal patent law has been about the difficult business of 'drawing a line between the things which are worth to the public the embarrassment of an exclusive patent, and those which are not.'' *Bonito Boats*, 489 U.S. at 148 (quoting 13 Writings of Thomas Jefferson (Memorial ed. 1904) at 335). One manner in which Congress has fulfilled this mandate to strike the proper balance is through the existing reexamination procedures, which provide a mechanism for removing patents that should never have been granted by the PTO because they did not meet the requirements for a valid patent set by Congress in the Patent Act. As the Federal Circuit has observed, ''[t]he reexamination statute's purpose is to correct errors made by the government, to remedy defective governmental (not private) action, and if need be to remove patents that should never have been granted.'' *Patlex Corp.*, 758 F.2d at 604 (emphasis added). A determination that a patent should never have been granted is no more a ''taking'' than is a determination that a putative landowner suffers a defect in title.

Accordingly, the revised inter partes reexamination procedures and the post-grant review procedures of Section 6 are hardly novel but rather are based on longstanding procedures established by Congress and repeatedly recognized as constitutional by the Federal Circuit in decisions such as *Patlex Corp.*, 758 F.2d 594, 607 (Fed. Cir. 1985) (emphasis added), *Joy Technologies*, 959 F.2d 226, 228–29 (Fed. Cir. 1992), and *In re Swanson*, 540 F.3d 1368, 1379 (Fed. Cir. 2008). As such, Section 6 does little more than expand the grounds for reexamination of patents, something Congress is plainly entitled to do pursuant to its authority under the Patent Clause (Article I, Section 8, Clause 8) of the Constitution.

Nor is there any conflict between Section 6 and other parts of the Constitution such as Article III and the Seventh Amendment. The gist of the arguments suggesting a conflict is that the PTO would be permitted to ''overrule'' final judicial determinations made by an Article III court and/or jury of a patent's validity. But these arguments fail to understand the nature of judicial review of patent validity and fail to recognize the body of precedent that has rejected these arguments as applied against the current legal regime.

To begin, what exactly happens when issues of patent validity are litigated in district courts should be placed in proper context. As the Federal Circuit has explained, ''Courts do not find patents 'valid,' only that the patent challenger did not carry the burden of establishing invalidity in the particular case before the court under 35 U.S.C. 282.'' *Ethicon, Inc.* v. *Quigg*, 849 F.2d 1422, 1429 n.3 (Fed. Cir. 1988) (emphasis original and internal quotation marks omitted). For this reason, ''a prior holding of validity is not necessarily inconsistent with a subsequent holding of invalidity and is not binding on subsequent litigation or PTO reexaminations.'' *In re Swanson*, 540 F.3d 1368, 1377 (Fed. Cir. 2008) (internal citations and quotation marks omitted). In other words, a district court decision that a patent is ''not invalid'' merely means that the challenger did not carry his burden; it does not mean that the patent is valid.

The existing reexamination procedures and the new post-grant review procedures proposed in the America Invents Act vest authority to determine validity upon reexamination in the agency entrusted by Congress with making the validity decision in the first instance—the PTO. It is entirely proper that this corrective action be taken by the PTO, with review 67 the Federal Circuit. It need not be limited to an Article III court in the first instance. ''A defectively examined and therefore erroneously granted patent must yield to the reasonable Congressional purpose of facilitating the correction of governmental mistakes. This Congressional purpose is presumptively correct, and we find it carries no insult to the Seventh Amendment and Article III.'' *Patlex Corp.*, 758 F.2d at 604. In other words, under a well-settled body of case law, ''the Constitution does not require that [courts] strike down statutes, otherwise having a reasonable legislative purpose, that invest administrative agencies with regulatory functions.'' *Id.* at 604,305. That holding is just as applicable to Section 6 of the America Invents Act as it is to the original reexamination procedures adopted in 1980.

Nor does it matter, for constitutional purposes, that the PTO may reconsider the validity of patents' that are, or have been, adjudicated by district courts. In *In re Swanson*, 540 F.3d 1368 (Fed. Cir. 2008), the Federal Circuit specifically considered and rejected the argument that *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211 (1995), prohibited reexamination of a patent by the PTO after that patent had survived an invalidity challenge in court. *See Swanson*, 540 F.3d at 1378,79 (''[The patentee] argues that this reading of the statute—allowing an executive agency to find patent claims invalid after an Article III court has upheld their validity—violates the constitutionally mandated separation of powers, and therefore must be avoided. We disagree.''). As the Federal Circuit held, ''the

court's final judgment and the examiner's rejection are not duplicative—They are differing proceedings with different evidentiary standards for validity. Accordingly, there is no Article III issue created when a reexamination considers the same issue of validity as a prior district court proceeding.'' *In re Swanson*, 540 F.3d 1368, 1379 (Fed. Cir. 2008) (citation omitted). Because Section 6 merely broadens the kinds of invalidity challenges that can be pursued during reexamination, that holding would apply to the America Invents Act as well. Plaut simply does not apply.

Relatedly, invalidation of a patent by the PTO (or by a court, for that matter), after it has been adjudicated ''not invalid'' in one particular case, does not purport to undo a court's judgment in an earlier case. The PTO has no authority to disturb a final judgment of a court, and nothing in the proposed Act would change that. Rather, it would remain within the discretion of the district court to determine whether relief from a final judgment was appropriate under Rule 60(b) based on changed circumstances. *See Amado* v. *Microsoft Corp.*, 517 F.3d 1353, 1363 (Fed. Cir. 2008). Nothing in Section 6 purports to alter the standards under which a court determines whether to grant relief from a final judgment. Accordingly, there is no constitutional problem under Plaut.

III. SECTION 18 OF THE AMERICA INVENTS ACT IS CONSTITUTIONAL

Section 18 of the America Invents Act is equally constitutional. As an initial matter, it is important to recognize that Section 18 does nothing more than apply the more robust post-grant review provisions of Section 6 to existing business-method patents. By any measure, this is not a ''taking'' within the meaning of the constitution (unless for the past thirty years patent law has been effecting ''takings'' each time a reexamination takes place). The constitutional arguments that have been marshaled against Section 18—that it applies ''retroactively'' to existing patents, that it would change the rules of the game, or that it would upset settled property rights—were rejected by the Federal Circuit in Patlex Corp. and again in Joy Technologies. These are the precedents that would govern any future challenge to Section 18.

I understand that critics of Section 18 are arguing that it improperly singles out business-method patents and that it creates a ''second bite at the apple.'' I find both sets of arguments to be unpersuasive as a constitutional matter. First, Congress is well within its authority to determine that a particular subset of patents warrant closer administrative review than other patents due to their history and development. Business-method patents are relatively novel creatures, and far removed from what the Founders would have envisioned when they sought to ''promote the Progress of Science and the useful Arts.'' Prior to the 1990s, business-method patents were largely unheard of. The surge in the issuance of such patents followed the 1998 decision of the Federal Circuit in *State Street Bank & Trust Co.* v. *Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998), which has been widely viewed as having opened the door to business-method patenting. The increase in business method patents does not appear to be abating. According to the PTO, the number of business-method patent applications that issued as patents jumped from 494 in 2002 to 3649 in 2010. *See* http://www.uspto.gov/patents/resourcesimethods/applicationfiling.jsp (last visited June 14, 2011). In the intervening 13 years since State Street, the PTO and the courts have struggled to determine when such patents should issue. The Supreme Court's decision last Term in *Bilski* v. *Kappos*, 130 S. Ct. 3218 (2010), offered some clarification, reaffirming the basic minima required to be patent-eligible subject matter under 35 U.S.C. §101. Nonetheless, in light of the continuing confusion over such patents, and the paucity of traditional published prior art at the time such patents were issued, it is entirely rational—and thus constitutionally appropriate—for Congress to make the judgment that it wants to provide a mechanism for ensuring that adequate vigor went into the PTO's decision to issue a business-method patent, and that such further review helps to ensure that this category of patents is subject to the same quality of review as other patents were. *See eBay Inc.* v. *MercExchange, LLC*, 547 U.S. 388, 397 (Kennedy, J., concurring) (noting the ''suspect validity of some'' business-method patents). Given Congress's general authority to allow administrative reexamination, as well as judicial challenge, to an already-issued patent, there can be no valid objection to Congress's decision to focus these reexaminations on a class of patents that, because of their novelty, were especially prone to improvident grant.

Second, providing a more robust reexamination procedure does not create a second bite at the apple. By their nature, patents are continuously subject to challenge, whether in court or before the PTO. As noted above, patents are initially issued after an entirely ex parte process in which no one else is allowed to participate. To the extent a patent's validity has been challenged in court, the challenge is only reviewed for *clear and convincing evidence* that the PTO erred in granting the patent. That does not answer the question of whether or not the PTO made a mistake—only reexamination provides a vehicle for answering that question. To the extent this is a second bite, it is at a different apple. Section 18 does not create any more opportunities for challenge than there are under existing law. It simply allows reexamination on a broader array of theories than allowed today.

Moreover, just as a criminal defendant can be acquitted under a beyond-a-reasonable-doubt standard, but found civilly liable under a preponderance standard, there is also nothing unusual about the fact that a patent may be upheld in court (where a thumb is decidedly on the scale of the patentee), but subsequently rejected as invalid by the PTO during reexamination. That is exactly what happened in *Translogic Technology, Inc. v. Hitachi, Ltd*, 250 F. App'x 988 (Fed. Cir. 2007), and *In re Translogic Tech., Inc.*, 504 F.3d 1249 (Fed. Cir. 2007). In the Translogic cases, the district court found the asserted patent to be infringed and not invalid. While the case was pending, the PTO reexamined the patent in an inter partes proceeding and found the patent was improperly issued and, thus, invalid. The Federal Circuit affirmed, and thus found that the judgment of infringement in the case against Hitachi had to be vacated. The only material difference between the law today and the procedures contemplated in Section 18, is that Section 18 allows a broader array of invalidity arguments to be presented to the PTO. Moreover, nothing in Section 18 purports to alter how principles of res judicata and collateral estoppel would apply to a final judgment after all appeals are resolved, or to change the standard for a district court to determine whether relief should be granted under Rule 60(b). Thus, as discussed above, the procedures in Section 18 and Section 6 do not present any of the constitutional concerns identified in *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211 (1995).

Nor is there anything constitutionally suspect about limiting the review of existing business-method patents to those that have actually been asserted in court (or threatened to be asserted, such that a declaratory judgment action could be brought). Rather, such a decision serves to limit the burden on the PTO and to focus the use of limited resources on reexamining patents that, if improperly issued, are more detrimental to the economy. It is like limiting challenges to land claims to competing users of the land. Again, I see nothing in section 18 that purports to alter or interfere with application of existing principles of res judicata or collateral estoppel in the context of a final judgment, or to alter the standard for obtaining relief from a final judgment.

Finally, Section 18(c) provides that a party that initiates a PTO reexamination may also seek a stay of ongoing litigation pending reexamination from the court where ongoing litigation is pending. It is the court, not the PTO, that decides whether or not to grant a stay. That is consistent with existing law. *See, e.g., Medichem, S.A. v. Rolabo, S.L.*, 353 F.3d 928, 936 (Fed. Cir. 2003) (IA] stay of proceedings in the district court pending the outcome of the parallel proceedings in the PTO remains an option within the district court's discretion.''). Although Section 18(c) provides a list of factors for a district court should consider, these factors are quite balanced and provide the district court with ample discretion. Indeed, these are the factors currently used by district courts in deciding whether to grant a stay pending reexamination. *See, e.g., Akeena Solar Inc. v. Zep Solar Inc.*, 2010 WL 1526388, *1 (N.D. Cal. 2010); *Broadcast Innovation, L.L.C. v. Charter Communications, Inc.*, 2006 WL 1897165, *4 (D. Colo. 2006); Mots Fr ove Co., 2005 WL 3465664, *1 (D.N.J. 2005); *Tap Pharm. Prods. Inc. v. Atrix Labs., Inc.*, 70 U.S.P.Q. 2d 1319, 1320 (N.D. III. 2004). Moreover, Section 18(c) provides for immediate appellate review of a decision to grant or deny a stay, ensuring that this discretion is not abused.

In sum, there is nothing novel or unprecedented, much less unconstitutional, about the procedures proposed in sections 6 and 18 of the America Invents Act. The proposed procedures simply expand existing reexamination procedures to a broader array of invalidity issues. And under settled case law, the application of these new reexamination procedures to existing patents is not a taking or otherwise a violation of the Constitution. Congress's decision, to make these new reexamination procedures available only to a subset of existing patents—a category of patents that Congress could rationally believe were more suspect than other patents—represents a constitutionally proper decision on how to expend limited resources.

Sincerely,

MICHAEL W. MCCONNELL.

MICHAEL W. MCCONNELL,
Stanford, CA, June 23, 2011.

DEAR CHAIRMAN SMITH AND RANKING MEMBER CONYERS: I am the Richard and Frances Mallery Professor and Director of the Constitutional Law Center at Stanford Law School, and a Senior Fellow of the Hoover Institution at Stanford University, where I teach and write in the field of constitutional law. I previously served as a judge on the United States Court of Appeals for the Tenth Circuit. On June 16, I wrote to you regarding several constitutional issues that have arisen regarding proposed changes to patent reexamination procedures in sections 6 and 18 of the America Invents Act. Since then, two distinguished constitutional authorities, my old friends Richard Epstein and Charles Cooper have written responses to my letter. I thought it would be helpful for me to address those two responses directly and to explain why I remain convinced my original analysis was correct.

Both responses give far too broad a reading to *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211 (1995), and give short shrift to binding precedent of the U.S. Court of Appeals for the Federal Circuit that directly addresses the very kinds of constitutional objections that are being made with respect to sections 6 and 18 of the America Invents Act. Indeed Professor Epstein and Mr. Cooper acknowledge, as they must, that their position is contradicted by *In re Swanson,* 540 F.3d 1368 (Fed. Cir. 2008). This shows that their analysis, whatever its abstract merits, is a departure from actual judicial precedent governing these questions.

Most fundamentally, the Epstein and Cooper critiques refuse to accept the importance of the fact that judicial review of invalidity in the context of a patent infringement suit applies a different standard than administrative reexamination. When the PTO (and subsequently the Federal Circuit) reviews invalidity in the context of a reexamination, a court is not ''rehearing'' the same issue, much less ''reopening'' a final judgment (as Professor Epstein erroneously posits), nor does it somehow render an earlier decision that an accused infringer had failed to carry its burden of proving invalidity by clear and convincing evidence an ''advisory opinion'' (as suggested by Mr. Cooper). Indeed, this fundamental point was critical to the holding in Swanson. See 540 F.3d at 1377 (''[A] prior holding of validity is not necessarily inconsistent with a subsequent holding of invalidity and is not binding on subsequent litigation or PTO reexaminations''). Plaut does not need to be ''overcome''—it is simply inapplicable.

Professor Epstein attempts to distinguish the well-developed body of case law upholding the constitutionality of reexamination procedures, on which sections 6 and 18 of the proposed act are based, by highlighting factual differences in those cases that are, in my view, simply irrelevant to the constitutional analysis. For example, he contends *Patlex Corp.* v. *Mossinghoff,* 758 F.2d 594 (Fed. Cir. 1985), is different because there was no final judgment at the time the reexamination had begun. However, the Federal Circuit ascribed no significance to that fact—and with good reason. The case rests on the necessarily provisional and correctable nature of patents, not on whether they had previously gone unchallenged in court. A prior judicial decision that a patent was not invalid would mean only that the initial PTO decision was not bereft of substantial support in the evidence—not that it was correct for all time, under a de novo standard. The court rejected the notion that there was a ''right to judgment by an Article III court on those issues'' of invalidity. Id. at 600. The court reasoned that ''[t]he reexamination statute's purpose is to correct errors made by the government, to remedy defective governmental (not private) action, and if need be to remove patents that should never have been granted.'' Id. at 604. That holding and reasoning would apply equally whether or not the reexamination was commenced before entry of a final judgment.

Likewise, Professor Epstein attempts to distinguish *Joy Technologies* v. *Manbeck,* 959 F.2d 226 (Fed. Cir. 1992), by saying it arose in the context of a settlement. But regardless of the context in which it arose, the court there considered and rejected the same constitutional objections being raised by the objectors to sections 6 and 18 in the context of reexamination. The attempt to distinguish *Ethicon, Inc.* v. *Quigg,* 849 F.2d 1422 (Fed. Cir. 1988), is also unavailing. That case cogently explains the distinction between a court considering a challenge to validity under the clear and convincing standard, and reexamination by the PTO under the preponderance standard.

In addressing Swanson, Professor Epstein suggests that it is ''strange'' to ''think that the PTO will help purge the legal system of weak patents when it allows itself to use a weaker standard than those involved in litigation.'' But under the clear-and-convincing evidence standard used for reviewing the PTO's work in court, an improperly issued patent will often survive even in the face of significant evidence that the patent should not have issued. Thus, there are many mistakes that can be corrected only by the PTO—the agency that erroneously issued the patent in the first place. Professor Epstein further suggests that Swanson is of ''dubious validity.'' However, I am not aware of any subsequent court decision calling *Swanson*'s holding into question. That Professor Epstein disagrees with Swanson shows only that his analysis is contrary to precedent, not that the precedent is ''dubious.'' He also contends that the reexamination procedures in *Swanson* are distinguishable because they were limited to new prior art. However, he ignores the higher-threshold gatekeeping function required under sections 6 and 18 of the proposed Act to obtain reexamination in the first place. In any event, the distinction is one without constitutional significance: there is no constitutional basis for confining reexamination to only one of possible correctable defects in the original issuance of a patent.

Professor Epstein asserts that I am incorrect in stating that under current law, at the instance of a party, the PTO may reexamine a patent that has issued, and the validity of which has been unsuccessfully challenged in litigation. Yet, that is essentially what happened in *Translogic Technology, Inc.* v. *Hitachi, Ltd.*, 250 F. App'x 988 (Fed. Cir. 2007), and *In re Translogic Technology, Inc.*, 504 F.3d 1249 (Fed. Cir. 2007)—cases that he simply does not address.

Mr. Cooper barely addresses the abovementioned precedent at all, except to assert that the unanimous decision of the U.S. Court of Appeals for the Federal Circuit in In re Swanson is inconsistent with his reading of *Plaut*. In so doing, Mr. Cooper suggests that there is something unseemly about the fact that a patent could be found ''not invalid'' in a proceeding against an infringer, but then subsequently found invalid by the PTO through reexamination at the behest of the infringer. Yet that is the law today. Sections 6 and 18 do nothing more than expand the types of invalidity challenges that may be considered by the PTO. Mr. Cooper's analysis is not really a critique of sections 6 and 18; it is a critique of patent law as it has existed for thirty years. By analogy, the fact that a party may be acquitted by one court under a reasonable doubt standard, but found civilly liable by another court under a preponderance standard does not render either decision ''advisory.'' So too here. Finally, the passage Mr. Cooper cites from Plaut is simply inapplicable. The standard of patentability is not being changed, and the use of a clear-and-convincing standard of review in court is merely an acknowledgement of the presumption of administrative correctness, which is inapplicable when the PTO reviews its own work.

At bottom, nothing in sections 6 and 18 of the proposed Act purports to change the substantive law regarding when a patent is validly issued. They merely broaden the availability of one of the preexisting procedural vehicles (reexamination) for assessing validity. Matters of a technical nature, such as this, are especially appropriate to administrative as opposed to judicial redetermination. Courts have consistently rejected the notion that there is a property right in having patent validity reviewed only in an Article III court. And courts have rejected the argument that the PTO cannot reconsider its own decision to issue a patent merely because a court has found in a particular proceeding that an accused infringer failed to carry its burden of proving the patent invalid by clear and convincing evidence. Against this backdrop, we may be confident that the amendments to the reexamination procedure provided by sections 6 and 18 will be judged to pass constitutional muster.

Sincerely,

MICHAEL W. MCCONNELL.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that on Thursday, September 8, when the Senate resumes consideration of the America Invents Act, the following amendments be the only first-degree amendments in order: Coburn No. 599, Sessions No. 600, Cantwell No. 595; that there be 5 hours of debate on the amendments divided in the following manner: 75 minutes for Senator COBURN or his designee; 1 hour for Senator SESSIONS or his designee; 45 minutes for Senator CANTWELL or her designee; 1 hour for Senator GRASSLEY or his designee; and 1 hour for Senator LEAHY or his designee; that upon the use or yielding back of time, the Senate proceed to votes in relation to the amendments in the following order: Sessions No. 600; Cantwell No. 595; Coburn No. 599; that no other amendments or points of order be in order to any of the amendments or the bill prior to the votes; finally, that following disposition of the amendments, the Senate proceed to vote on passage of the bill, as amended, if amended.

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

Mr. REID. Mr. President, with this agreement, there will be up to four rollcall votes tomorrow afternoon beginning about 4 p.m. Senators should also expect an additional vote following the President's speech to the joint session. This vote will be on a motion to proceed to S.J. Res. 25, which is a joint resolution of disapproval of the President's exercise of authority to increase the debt limit.

If we proceed to the debt limit; that is, S.J. Res. 25, that means we will be in session for a long time on Friday—enough to dispose of that. If we do not move, the motion to proceed is not made successfully, then we would finish that matter and the week's business, at least as far as votes. Friday we have some other items we need to be filing, different motions and things, but the general body would not have to worry about that.

MORNING BUSINESS

COMMITTEE ALLOCATIONS, BUDGET AGGREGATES, AND PAY-AS-YOU-GO SCORECARD

Mr. CONRAD. Mr. President, section 106 of the Budget Control Act of 2011 provides for budget enforcement in the Senate for the remainder of the current year, 2011, for the upcoming budget year, 2012, and, if necessary, for fiscal year 2013.

Section 106(b)(1) requires the chairman of the Budget Committee to file: (1) allocations for fiscal years 2011 and 2012 for the Committee on Appropriations; (2) allocations for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 for committees other than the Committee on Appropriations; (3) aggregate spending levels for fiscal years 2011 and 2012; (4) aggregate revenue levels for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021; and (5) aggregate outlay and revenue levels for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 for Social Security.

In the case of the Committee on Appropriations, the allocations for 2011 and 2012 shall be set consistent with the discretionary spending limits set forth in the Budget Control Act. In the case of allocations for committees other than the Committee on Appropriations and the revenue and Social Security aggregates, the levels shall be set consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of legislation enacted prior to and including the Budget Control Act but not included in the March 2011 baseline. In the case of the spending aggregates for 2011 and 2012, the levels shall be set consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of legislation enacted prior to and including the Budget Control Act but not included in the March 2011 baseline and the discretionary spending limits set forth in the Budget Control Act.

In addition, section 106(c)(1) requires the chairman of the Budget Committee to reset the Senate pay-as-you-go scorecard to zero for all fiscal years and to notify the Senate of this action.

I ask unanimous consent that the following tables detailing the new committee allocations, budgetary and Social Security aggregates, and pay-as-you-go scorecard that I am making pursuant to section 106 of the Budget Control Act of 2011 be printed in the RECORD.

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

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTIONS 106(b)(1)(A) AND 106(b)(1)(B) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974, BUDGET YEAR 2011

[in millions of dollars]

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations:				
General Purpose Discretionary	1,211,141	1,391,055		
Memo:				
on-budget	1,205,096	1,385,032		
off-budget	6,045	6,023		
Mandatory	760,339	745,168		
Total	1,971,480	2,136,223		
Agriculture, Nutrition, and Forestry	17,123	15,419	116,980	101,878
Armed Services	138,783	142,549	107	106
Banking, Housing, and Urban Affairs	849	−13,714	0	0
Commerce, Science, and Transportation	14,441	9,883	1,401	1,376
Energy and Natural Resources	3,876	3,885	446	446
Environment and Public Works	44,872	3,557	0	0
Finance	1,481,842	1,478,151	545,640	545,944
Foreign Relations	35,904	25,673	159	159
Homeland Security and Governmental Affairs	95,763	92,229	10,032	10,032
Judiciary	11,987	10,652	675	685
Health, Education, Labor, and Pensions	−10,039	−12,323	14,190	14,020
Rules and Administration	47	45	26	25
Intelligence	0	0	292	292
Veterans' Affairs	2,452	2,595	70,284	70,099
Indian Affairs	2,773	782	0	0
Small Business	4,722	4,722	0	0
Unassigned to Committee	−739,945	−732,331	107	106
Total	3,076,930	3,167,997	760,339	745,168

Note: In the absence of a discretionary spending limit for Fiscal Year 2011 in the Budget Control Act, the 302 allocation to the Committee on Appropriations for 2011 is set consistent with the already enacted level.

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTIONS 106(b)(1)(A) AND 106(b)(1)(B) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974 BUDGET YEAR 2012

[In millions of dollars]

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations:				
General Purpose Discretionary	1,043,000	1,262,000		
Memo:				
on-budget	1,036,835	1,255,845		
off-budget	6,165	6,155		
Mandatory	750,166	737,515		
Total	1,793,166	1,999,515		
Agriculture, Nutrition, and Forestry	13,326	14,478	116,916	104,805
Armed Services	143,163	139,124	107	109
Banking, Housing, and Urban Affairs	37,057	28,793	0	0
Commerce, Science, and Transportation	14,840	9,815	1,440	1,402
Energy and Natural Resources	4,913	5,052	456	456
Environment and Public Works	44,501	3,191	0	0
Finance	1,351,138	1,344,534	536,327	536,271
Foreign Relations	33,593	27,088	159	159
Homeland Security and Governmental Affairs	98,428	94,857	10,034	10,034
Judiciary	15,414	11,152	705	717
Health, Education, Labor, and Pensions	6,825	11,786	14,924	14,711
Rules and Administration	47	220	26	26
Intelligence	0	0	514	514
Veterans Affairs	1,021	1,182	68,448	68,201
Indian Affairs	758	1,097	0	0
Small Business	0	0	0	0
Unassigned to Committee	−703,805	−704,465	110	110
Total	2,854,385	2,987,419	750,166	737,515

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTIONS 106(b)(1)(A) AND 106(b)(1)(B) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974 5-YEAR: 2012–2016

[in millions of dollars]

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	69,511	71,290	567,654	514,904
Armed Services	759,884	759,430	505	503
Banking, Housing, and Urban Affairs	126,377	24,581	0	0
Commerce, Science, and Transportation	75,817	51,156	7,768	7,515
Energy and Natural Resources	25,982	27,251	688	688
Environment and Public Works	222,367	15,744	0	0
Finance	7,561,995	7,528,351	3,181,096	3,180,794
Foreign Relations	135,604	135,069	604	604
Homeland Security and Governmental Affairs	520,945	501,945	49,678	49,678
Judiciary	52,914	53,470	3,837	3,835
Health, Education, Labor, and Pensions	114,076	126,121	84,445	83,936
Rules and Administration	235	432	137	137
Intelligence	0	0	2,570	2,570
Veterans' Affairs	4,662	5,629	359,214	357,979
Indian Affairs	3,562	5,405	0	0
Small Business	0	0	0	0

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTIONS 106(b)(1)(A) AND 106(b)(1)(B) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974 10-YEAR: 2012–2021

[In millions of dollars]

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	143,439	143,223	1,126,571	1,017,059
Armed Services	1,658,690	1,653,081	981	969
Banking, Housing, and Urban Affairs	226,333	−33,553	0	0
Commerce, Science, and Transportation	156,465	104,984	16,778	16,224
Energy and Natural Resources	51,909	53,765	978	978
Environment and Public Works	445,435	32,142	0	0
Finance	18,064,976	18,041,945	7,746,200	7,745,605
Foreign Relations	242,023	248,438	1,083	1,083
Homeland Security and Governmental Affairs	1,145,274	1,100,595	97,602	97,602
Judiciary	98,494	100,244	8,677	8,624
Health, Education, Labor, and Pensions	403,560	412,703	200,923	200,152
Rules and Administration	447	642	297	297
Intelligence	0	0	5,140	5,140
Veterans Affairs	7,605	9,740	759,332	756,862
Indian Affairs	6,631	8,608	0	0
Small Business	0	0	0	0

BUDGETARY AGGREGATES—PURSUANT TO SECTION 106(b)(1)(C) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 311 OF THE CONGRESSIONAL BUDGET ACT OF 1974

$s in millions	2011	2012	2012–16	2012–21
Spending:				
Budget Authority	3,076,930	2,854,385	n/a	n/a
Outlays	3,167,997	2,987,419	n/a	n/a
Revenue	1,664,563	1,890,921	12,710,420	30,279,657

SOCIAL SECURITY LEVELS—PURSUANT TO SECTION 106(b)(1)(D) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 311 OF THE CONGRESSIONAL BUDGET ACT OF 1974

$s in millions	2011	2012	2012–16	2012–21
Outlays	487,502	574,011	3,352,634	7,866,233
Revenue	565,636	666,758	3,833,608	8,733,524

PAY-AS-YOU-GO SCORECARD FOR THE SENATE—PURSUANT TO SECTION 106(c)(1) OF THE BUDGET CONTROL ACT OF 2011

$s in millions	Balances
Fiscal Years 2011 through 2016	0
Fiscal Years 2011 through 2021	0

HONORING OUR ARMED FORCES

MASTER AT ARMS FIRST CLASS JOHNNY DOUANGDARA

Mr. NELSON of Nebraska. Mr. President, I rise today to honor a true American hero, Master-at-Arms PO1 Johnny Douangdara of South Sioux City, NE, who was tragically killed on August 6, 2011, when the CH–47 Chinook helicopter in which he was a passenger was shot down in Wardak Province, Afghanistan.

After graduating from South Sioux City High School in 2003, Johnny knew he wanted to serve in the Navy. While initially he wanted to work on nuclear submarines, his love of dogs instead led him to become the lead dog handler serving with an East Coast-based Navy SEAL unit.

Johnny earned numerous decorations throughout his five overseas tours, including the Bronze Star with ''V'' device, Joint Service Commendation Medal with ''V'' device, Army Commendation Medal, Presidential Unit Citation, Good Conduct Medal, Rifle Marksmanship Medal, and the Pistol Marksmanship Medal, among others.

The son of Laotian immigrants, Sengchanh and Phouthasith Douangdara, Johnny was never outspoken about his career. He was a humble man, a man doing a job he loved and a job in which he believed strongly. And in that belief, he and his dog, Bart, selflessly climbed aboard a Chinook with 29 other U.S. service members and 8 Afghans, rushing to help a band of Army Rangers pinned down by enemy fire. That helicopter was shot down in what has become the single deadliest incident for the U.S. military in this 10-year operation.

Johnny knew the dangers he faced and the risks he took working with the Navy's elite SEALs. He also knew the importance of the work he did in the Navy on behalf of his fellow Americans. He risked—and ultimately sacrificed—his own life so that people a world away could have the chance to enjoy the freedoms he and his family had found in America.

PO Johnny Douangdara and Bart made the ultimate and most valiant sacrifice in service to their country, and my condolences and prayers go out to Johnny's family and friends. His heroism and selflessness will remain an inspiration for all of us.

STAFF SERGEANT PATRICK HAMBURGER

Mr. President, I also rise today to honor a true American hero, SSG Patrick Hamburger of Lincoln, NE, who was tragically killed on August 6, 2011, when the CH–47 Chinook helicopter in which he was a passenger was shot down in Wardak Province, Afghanistan.

Sergeant Hamburger was born in Sioux City, IA, on Memorial Day, May 25, 1981. In 1985 his family moved to Lincoln, NE, where Patrick graduated from Lincoln Southeast High School in 1999. While still attending school, Patrick chose to use his talents and serve his fellow citizens as a member of the Nebraska National Guard.

Patrick met Candie Reagan and her daughter, Veronica, in 2005. In 2008 the three of them moved to Grand Island, NE, where Patrick served as a full-time helicopter flight engineer with the 2–135th General Support Aviation Battalion. In January 2009, Candie gave birth to their daughter, Payton. There is no doubt that while Patrick loved being a soldier, he loved his family more.

Patrick was less than 2 weeks into his deployment when he selflessly climbed aboard a Chinook with 29 other U.S. service members and 8 Afghans, rushing to help a band of Army Rangers pinned down by enemy fire. The helicopter was shot down in what has become the single deadliest incident for the U.S. military in this 10-year operation.

Patrick knew the dangers he faced and the risks he took. He also knew the importance of the work he did in the Army on behalf of his fellow Americans. He risked—and ultimately sacrificed—his own life so that people a world away could have the chance to enjoy the freedoms he had found in America.

Patrick is survived by his girlfriend, Candie Reagan; her daughter, Veronica Reagan; their daughter, Payton; his mother and stepfather, Joyce and DeLayne Peck of Lincoln; father and stepmother, Douglas and Shaune Hamburger of Knoxville, TN; brothers, Michael of New York, NY, and Christopher of St. Louis, MO; grandparents, Willard and Jacque Hamburger of Omaha; stepsiblings Jessica, Jeremy, and Joshua Francis of Knoxville, TN; and numerous other family members and friends.

Sergeant Patrick Hamburger made the ultimate and most valiant sacrifice in service to his country, and my condolences and prayers go out to his family and friends. His heroism and selflessness will remain an inspiration for all of us.

SERGEANT JOSHUA J. ROBINSON

Mr. President, I further rise today to honor a true American hero, SGT Joshua J. Robinson of Nebraska, who was tragically killed on August 7, 2011, in Helmand Province, Afghanistan.

Joshua grew up on a 100-acre farm near Oak, NE, where he would spend his days hunting and tracking in the back pasture. Joshua took the skills he learned in his early years with him into the Marine Corps, where he quickly excelled and became an instructor, teaching younger marines how to track the enemy and survive in the mountains. Joshua even developed an enemy-tracking course which is believed to be the first of its kind.

Joshua deployed three times to Iraq before being sent to Afghanistan, leaving at home his wife, Rhonda, and two sons, Wyatt and Kodiak. Although he was a proud, smart, tough marine, he was first and foremost a loving father and husband.

I offer my most sincere condolences to the family and friends of Sergeant Robinson. He made the ultimate and most courageous sacrifice for our Nation, and his sons will grow up knowing their father was truly a hero. I join all Americans in grieving the loss of this remarkable young man and know that Sergeant Robinson's passion for serving, his leadership, and his selflessness will remain a source of inspiration for us all.

INAUGURATION OF DR. LOBSANG SANGAY

Mr. LIEBERMAN. Mr. President, on August 8, 2011, in the small town of Dharamsala in northern India, a modest ceremony was held to inaugurate the new Prime Minister of the Central Tibetan Administration. The new Prime Minister's name is Dr. Lobsang Sangay, and I had the opportunity, together with some of my distinguished colleagues, to meet him last month.

Dr. Sangay assumes office at an important moment in Tibetan history. Indeed, his election marks a significant milestone in the advancement of Tibetan democracy, as His Holiness the Dalai Lama earlier this year announced his decision to devolve fully his political authority to the elected leadership, now led by Dr. Sangay.

At a time when dictators in many parts of the world have proven themselves willing to slaughter their own people rather than cede an iota of power, the decision of His Holiness the Dalai Lama to surrender his political authority in favor of democracy is both inspiring and significant. It was also a wise decision that will strengthen the legitimacy of the Tibetan cause among the international community and sustain it for decades to come.

The election that brought Dr. Sangay to power involved voting by tens of thousands of Tibetans living in exile in over 30 countries, from Belgium to Bhutan. In my home State of Connecticut, nearly 100 Tibetan Americans took part in this election.

Dr. Sangay, a 43-year-old academic who holds a doctorate from Harvard Law School, was elected Prime Minister with 55 percent of the vote. Now the executive authority of the Central Tibetan Authority rests solely on his shoulders.

I came away from my conversation with Dr. Sangay deeply impressed. He is a young man of considerable intellect and accomplishment, and I am certain that he will prove to be a leader of courage and conviction. The Tibetan people have chosen wisely in electing him as their Prime Minister.

During our meeting, Dr. Sangay affirmed his commitment to the Dalai Lama's ''Middle Way Approach,'' which seeks genuine autonomy for Tibet, not independence, and I was encouraged by his determination to meet the challenge of finding a solution for the Tibet issue.

Unfortunately, the situation for the 6 million Tibetans living under Chinese rule today remains deeply troubling. This is a community that has never been permitted to participate in a free and fair election of the sort that just took place among Tibetans in exile. In fact, this is a community that is governed by authorities who have deemed that carrying a copy of the Universal Declaration of Human Rights or a simple photograph of his Holiness the Dalai Lama to be illegal and punishable acts. It is a community that has faced brutal repression and violence and that has, for decades, been denied their fundamental rights, including the freedoms of expression, assembly, and association.

I hope that the self-fulfillment of democratic governance exercised by Tibetan refugees can provide hope and inspiration to those in Tibet and China who yearn for the fundamental freedom to choose their own government and leaders.

While the U.S. government does not officially recognize the Central Tibetan Administration, we do work with them though a variety of programs to help Tibetan refugees. As the United States continues its outreach to civil society and nongovernmental groups, and its promotion of democracy around the world, I hope we should enhance our engagement with the Central Tibetan Administration and Dr. Sangay.

Moreover, when Lobsang Sangay returns to Washington this fall, I hope many doors will be open to him. What the Dalai Lama and his fellow Tibetan refugees have accomplished is worthy and deserving of our attention and respect.

FREEDOM IN CUBA

Mr. RUBIO. Mr. President, I ask unanimous consent to have printed in the RECORD the following articles highlighting the resilience and strength of the Cuban people as they continue to struggle under an oppressive regime. These stories and videos which continue to surface out of Cuba have underlined the Cuban Government's inhumane actions against its people. Santa Maria Fonseca is one of these brave ''Ladies in White'' who continue to peacefully fight for liberty in Cuba. She explained, ''Our objective is that one day the people will join us.'' Ms. Fonseca and the Cuban people deserve our unyielding support in their courageous efforts to reclaim freedom in Cuba.

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

[From the Wall Street Journal, Aug. 29, 2011]

CASTRO VS. THE LADIES IN WHITE

(By Mary Anastasia O'Grady)

Rocks and iron bars were the weapons of choice in a government assault on a handful of unarmed women on the outskirts of Santiago de Cuba on the afternoon of Aug. 7. According to a report issued by the Paris-based International Federation for Human Rights (FIDH), the beatings were savage and ''caused them injuries, some considerable.''

It was not an isolated incident. In the past two months, attacks on peaceful women dissidents, organized by the state security apparatus, have escalated. Most notable is the intensity with which the regime is moving to try to crush the core group known as the Ladies in White.

This is not without risk to the regime, should the international community decide to pay attention and apply pressure on the white-elite regime the way it did in opposition to apartheid in South Africa. But the decision to take that risk suggests that the 52-year-old dictatorship in Havana is feeling increasingly insecure. The legendary bearded macho men of the ''revolution,'' informed by the trial of a caged Hosni Mubarak in an Egyptian courtroom, apparently are terrified by the quiet, prayerful, nonviolent courage of little more than 100 women. No totalitarian regime can shrug off the fearless audacity these ladies display, or the signs that their boldness is spreading.

The Castro brothers' goons are learning that they will not be easily intimidated. Take, for example, what happened that same Aug. 7 morning in Santiago: The women, dressed in white and carrying flowers, had gathered after Sunday Mass at the cathedral for a silent procession to protest the regime's incarceration of political prisoners. Castro supporters and state security officials, ''armed with sticks and other blunt objects,'' according to FIDH, assaulted the group both physically and verbally. The ladies were then dragged aboard a bus, taken outside the city and dropped off on the side of a highway.

Some of them regrouped and ventured out again in the afternoon, this time to hold a public vigil for their cause. That's when they were met by another Castro onslaught. On the same day thugs set upon the homes of former political prisoner José Daniel Ferrer and another activist. Six people, including Mr. Ferrer's wife and daughter, were sent to the hospital with contusions and broken bones, according to FIDH.

The Ladies in White first came on the scene in the aftermath of the infamous March 2003 crackdown in which 75 independent journalists and librarians, writers and democracy advocates were rounded up and handed prison sentences of six to 28 years. The wives, mothers and sisters of some of them began a simple act of protest. On Sundays they would gather at the Havana Cathedral for Mass and afterward they would march carrying gladiolas in a silent call for the prisoners' release.

In 2005, the Ladies in White won Europe's prestigious Sakharov prize for their courage. Cellphones that caught the regime's brutality against them on video helped get their story out. By 2010, they had so embarrassed the dictatorship internationally that a deal was struck to deport their imprisoned loved ones along with their family to Spain.

But some prisoners refused the deal and some of the ladies stayed in Cuba. Others joined them, calling themselves ''Ladies in Support.'' The group continued its processions following Sunday Mass in Havana, and women on the eastern end of the island established the same practice in Santiago.

Laura Pollan, whose husband refused to take the offer of exile in Spain and was later released from prison, is a key member of the group. She and her cohorts have vowed to continue their activism as long as even one political prisoner remains jailed. Last week I spoke with her by phone in Havana, and she told me that when the regime agreed to release all of the 75, ''it thought that the Ladies in White would disappear. Yet the opposite happened. Sympathizers have been joining up. There are now 82 ladies in Havana and 34 in Santiago de Cuba.'' She said that the paramilitary mobs have the goal of creating fear in order to keep the group from growing. But the movement is spreading to other parts of the country, places where every Sunday there are now marches.

This explains the terror that has rained down on the group in Santiago and surrounding suburbs on successive Sundays since July and on other members in Havana as recently as Aug. 18.

Last Tuesday, when four women dressed in black took to the steps of the capitol building in Havana chanting ''freedom,'' a Castro bully tried to remove them. Amazingly, the large crowd watching shouted for him to leave them alone. Eventually uniformed agents carried them off. But the incident, caught on video, is evidence of a new chapter in Cuban history, and it is being written by women. How it ends may depend heavily on whether the international community supports them or simply shields its eyes from their torment.

[From the Wall Street Journal, Aug. 26, 2011]

ON CUBA'S CAPITOL STEPS

The four Cuban women who took to the steps of the capitol in Havana last week chanting ''liberty'' for 40 minutes weren't exactly rebel forces. But you wouldn't know that by the way the Castro regime reacted. A video of the event shows uniformed state security forcibly dragging the women to waiting patrol cars. They must have represented a threat to the regime because they were interrogated and detained until the following day.

The regime's bigger problem may be the crowd that gathered to watch. In a rare moment of dissent in that public square, the crowd booed, hissed and insulted the agents who were sent to remove the women.

One of the four women, Sara Marta Fonseca, gave a telephone interview to the online newspaper Diario de Cuba, based in Spain, as she made her way home after being freed. Ms. Fonseca, who is a member of the Rosa Parks Feminist Movement for Civil Rights, said that the group was demanding ''that the government cease the repression against the Ladies in White, against the opposition and against the Cuban people in general.'' The Ladies in White are dissidents who demand the release of all political prisoners.

Yet as Ms. Fonseca explained, the group wasn't really addressing the government. ''Our objective is that one day the people will join us,'' she said. ''Realistically we do not have the strength and the power to defeat the dictatorship. The strength and the power are to be found in the unity of the people. In this we put all our faith, in that this people will cross the barrier of fear and join the opposition to reclaim freedom.''

Ms. Fonseca said her group chose the capitol because the area is crowded with locals and tourists and they wanted to ''draw attention to the people of Cuba.'' In the end, she said that they were satisfied with the results because she heard the crowd crying ''abuser, leave them alone, they are peaceful and they are telling the truth.'' This reaction, the seasoned dissident said, ''was greater'' than in the past. ''I am very happy because in spite of being beaten and dragged we could see that the people were ready to join us.''

For 52 years the Cuban dictatorship has held power through fear. The poverty, isolation, broken families and lost dreams of two generations of Cubans have persisted because the regime made dissent far too dangerous. If that fear dissipates, the regime would collapse. Which is why four women on the capitol steps had to be gagged.

ADDITIONAL STATEMENTS

LAUREL SENIOR LEAGUE CHAMPIONS

• Mr. CARPER. Mr. President, today I wish to congratulate the world champion Laurel Senior League Softball team, led by manager Brad Lee, and by coaches Bo Collins and Kevin Green. By winning the Senior League Softball World Series, the young women on the team demonstrated that success comes from hard work, perseverance, and teamwork, with the help of dedicated coaching and the support of community, parents, and fans.

This spring when the softball season opened, more than 2.5 million girls around the world dreamed of winning the Senior League Softball World Series. Among them were 14 girls from the town of Laurel in Sussex County, DE, who—after suffering a heartbreaking loss in the 2010 championship game—vowed that 2011 would be their year. And that is exactly what happened.

The players are Alison Pusey, Alexis Hudson, Logan Green, Sara Jo Whaley, Whitney Toadvine, Emily Pusey, Regan Green, Erin Johnson, Kortney Lee, Kristen Collins, Nicole Ullman, Alyssa Givens, Bethany Wheatley, and Bree Venables. Led by manager Brad Lee and coaches Bo Collins and Kevin Green, these young women worked hard all season to improve their hitting, fielding, pitching, and base running.

In its 38th year, the Senior League Softball Little League division for girls ages 14 to 16 is a worldwide tournament with teams traveling to compete from as far away as Italy and the Philippines. The Senior League Softball World Series has been held for 8 years in Sussex County, DE. As the host, Delaware's top team gets a berth in the tournament, and Laurel has captured that spot 7 of the past 8 years.

While the Laurel girls have served as excellent hosts and ambassadors for Delaware and for the United States of America during those 7 years, they fell just short of the championship year after year.

The championship title almost slipped again from Laurel's grasp—not once, but twice—during the 2011 tournament. In two of the playoff games, the team came from behind in the bottom of the final inning to win. While the championship game proved to be a pitching match, clearly the many hours of practice at the plate paid off.

On August 13, under the threat of rain, 16-year-old Logan Green took the

mound against the Latin America team and pitched a three-inning no-hitter. Laurel scored in the first inning when first-baseman Bree Venables was hit by a pitch with the bases loaded. Logan's sister, 14-year-old Regan Green, took over the mound in the fourth inning and gave up four hits—but no runs—over the last four innings to secure the final win and the championship.

Regan Green recalled her nervousness during that final game but said that her fellow players' teamwork gave her the confidence she needed on the mound. ''It's always good knowing they have my back,'' she said.

Alyssa Givens set the stage for the ''safety run'' with a well-hit double in the sixth inning and then stole home from third base. Regan Green and the fielders took care of five batters in the seventh inning.

Finally, after years of coming close, the Laurel Senior League Softball team claimed the World Championship title.

Team Manager Brad Lee credited the victory to players' hard work and expressed the pride of his hometown. ''There's nothing like playing for your hometown. This is something that these young ladies will remember forever, and to bring the trophy home to Laurel for the first time is an unbelievable feeling.''

The State of Delaware—and especially the town of Laurel—share Manager Lee's sentiment.

Today, we congratulate the Laurel Senior League Softball team, manager Lee, and coaches Collins and Green. Through their commitment to excellence, perseverance, hard work and team work, they made their dreams come true and accomplished something that no other Delaware team, male or female, has ever done. In doing so, they have not only made the town of Laurel and its citizens proud; they have made all Delawareans proud.●

TRIBUTE TO SECOND LIEUTENANT VICKI ALTHAGE

● Mr. JOHANNS. Mr. President, today I wish to acknowledge an important life milestone for a very patriotic young woman. On September 10, Officer Candidate Vicki Althage in the Nebraska Army National Guard will become 2LT Vicki Althage.

The Army commissions around 7,500 new officers every year, each and every one is a volunteer. Like most of her fellow lieutenants, Vicki did not have to follow this path. She has a college degree and a burgeoning career in public service. From the time she entered high school, the Nation has been at war in our struggle to defeat terrorism.

Vicki enrolled in the Army National Guard Officer Candidate School knowing that she will likely be called upon to serve overseas, perhaps in Iraq or Afghanistan. She also knows that upon becoming an officer, the welfare and lives of soldiers will become her direct responsibility.

The Nation pays frequent tribute to those who served in World War II—we call them the ''greatest generation.'' On September 10, Officer Candidate Vicki Althage will take the oath of office and become an Army officer in what many today describe as the ''next greatest generation.''

Proud parents, other family members, and a fiance will be on hand to witness her commissioning. Another group will also be thinking of her on that day. Vicki happens to be a member of my staff in Nebraska. I can assure you that the entire JOHANNS office will be cheering loudly and filled with a sense of pride as Vicki accepts this new responsibility.

We hold our heads high when we talk about the strong tradition of military service in our great State. Today I am proud to salute this outstanding member of my staff and dedicated public servant. May God bless 2LT Vicki Althage and her family as she pursues a military career in the Nebraska Army National Guard.●

DELMONT, SOUTH DAKOTA

● Mr. JOHNSON of South Dakota. Mr. President, today I pay tribute to the 125th anniversary of the founding of the community of Delmont, SD. I am proud to honor the people of Delmont and extend my congratulations to them on this memorable occasion.

Delmont was a railroad town along the Milwaukee Road even before South Dakota achieved statehood. An investor named Thomas Ball built the town at the top of a hill overlooking the East Choteau Creek Valley. Its railroad depot served the people of Douglas County.

Many of the people who originally settled Delmont were Germans from Russia. Today they still celebrate their heritage with the annual Old-time Harvest Festival. The residents use the celebration to honor their heritage with kuchen, a sweet German pastry with a custard topping, South Dakota's official dessert. This year's festival will be special in honor of the 125th anniversary. The 2-day festivities will include tractor pulls, demonstrations of frontier-era harvesting equipment, fireworks, and plenty of kuchen.

A hundred twenty-five years after its founding, Delmont continues to celebrate its rich heritage through the Old-time Harvest Festival. Though the railroad is gone, the community remains an important historical and cultural asset to South Dakota. I am proud to honor the achievements of Delmont on this memorable occasion.●

REMEMBERING MICHAEL GARAFANO

● Mr. SANDERS. Mr. President, I wish to pay tribute to an authentic hero, Michael Garafano, who died tragically in Rutland, VT on August 28, 2011, during Tropical Storm Irene.

Michael Garafano was the water treatment and resource manager in the Rutland City Department of Public Works, a position he held since 1981. He was known by his coworkers as someone who always went above and beyond the call of duty, and his work ethic was second to none. He took his responsibilities of protecting the Rutland water supply very seriously. He was a model of a dedicated public servant.

So it was not unusual that the night of August 28, as the heavy rains from Tropical Storm Irene started assaulting Rutland, Mr. Garafano, went to check on the city reservoir one more time, looking out for his fellow citizens as he had done so often, and so well, and with such dedication, over three decades. Tragically, his life was taken by the raging storm. Compounding his tragedy is another: Michael Garafano took his son Michael Jr. to check the city reservoir when he went out that night. Michael Garafano Jr. never returned from that journey and is still missing.

Alan Shelvey, Rutland Commissioner of Public Works, said of Michael Garafano, ''He was doing what he always did—trying to make sure everything was right and the water supply was protected. We're going to miss him tremendously. He can't be replaced. People say that about people—in this case that's true.''

Michael Garafano represented what is best about Vermont and about America: he worked hard and with great dedication, he loved his work, he cared about those who lived in the community where he lived. When there was a job to be done, a responsibility to be met, he responded with generosity and directness. He was the epitome of public service, and lost his life doing the job he cared so deeply about.

Michael Garafano was devoted to his family, and he was a friend to many who knew they could count on him when they were most in need.

It is people like Michael Garafano who make our communities and our entire Nation work and prosper, who make our cities and towns into communities and not just random groups of people. The State of Vermont grieves the loss of one of its unsung heroes.

He will be sorely missed by his family, by the city of Rutland, and by the many people whose lives he touched and enriched.●

MESSAGE FROM THE HOUSE

At 3:45 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 74. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time, and placed on the calendar:

H.J. Res. 66. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

MEASURES READ THE FIRST TIME

The following joint resolution was read the first time:

S.J. Res. 26. Joint resolution expressing the sense of Congress that Secretary of the Treasury Timothy Geithner no longer holds the confidence of Congress or of the people of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2912. A communication from the Acting Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order'' (Doc. No. AMS–FV–10–0015; FR) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2913. A communication from the Acting Administrator of the National Organic Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Organic Program (NOP); Sunset Review (2011)'' (Doc. No. AMS–TM–07–0136; TM–07–14FR) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2914. A communication from the Acting Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Washington; Modifications of the Rules and Regulations'' (Doc. No. AMS–FV–11–0024; FV11–946–3–FIR) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2915. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Dairy Promotion and Research Program; Final Rule on Amendments to the Order'' (Doc. No. DA–08–07: AMS–DA–08–0050) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2916. A communication from the Acting Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Veterinary Accreditation Program; Currently Accredited Veterinarians Performing Accredited Duties and Electing to Participate'' (Doc. No. APHIS–2006–0093) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2917. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Swap Data Repositories: Registration Standards, Duties and Core Principles'' ((17 CFR Part 49) (RIN3038–AD20)) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2918. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tetraconazole; Pesticide Tolerances'' (FRL No. 8885–1) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2919. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Emergency Restoration Plan (ERP)'' (RIN0572–AC16) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2920. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Agricultural Swaps'' ((17 CFR Part 35) (RIN3038–AD21)) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2921. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of Agriculture's Rural Utilities' Distance Learning, Telemedicine, and Broadband Program; to the Committee on Appropriations.

EC–2922. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Defense Health Program, Operation and Maintenance account and at the Madigan Army Medical Center (MAMC), Tacoma, WA and was assigned Army case number 10–05; to the Committee on Appropriations.

EC–2923. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (6) officers authorized to wear the insignia of the grade of rear admiral (lower half), in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–2924. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Mark D. Shackelford, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–2925. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, the Defense Environmental Programs report for fiscal year 2010; to the Committee on Armed Services.

EC–2926. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Display of Department of Defense Inspector General Fraud Hotline Posters'' ((RIN0750–AG98) (DFARS Case 2010–D026)) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Armed Services.

EC–2927. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Admiral Michael G. Mullen, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

EC–2928. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Defense Cargo Riding Gang Member'' ((RIN0750–AG25) (DFARS Case 2007–D002)) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Armed Services.

EC–2929. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was originally declared in Executive Order 13338 of May 11, 2004 and expanded in Executive Order 13572 of April 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2930. A communication from the Under Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 13224 of September 23, 2001, with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–2931. A communication from the Under Secretary, Department of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Libya that was originally declared in Executive Order 13566 of February 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2932. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2933. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2934. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2935. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2936. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2937. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving Citibank, N.A. of New York, NY and The Boeing Company of Chicago, Illinois; to the Committee on Banking, Housing, and Urban Affairs.

EC–2938. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Kazakhstan; to the Committee on Banking, Housing, and Urban Affairs.

EC–2939. A communication from the Chairman and President of the Export-Import

Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2940. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–2941. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Interim Rule; Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2942. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2943. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2944. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2945. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure'' (RIN2590–AA14) received during recess of the Senate in the Office of the President of the Senate on August 11, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2946. A communication from the Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Suspension of the Duty to File Reports for Classes of Asset-Backed Securities under Section 15(d) of the Securities Exchange Act of 1934'' (RIN3235–AK89) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2947. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Final Rules for Implementing the Whistleblower Provisions of Section 23 of the Commodity Exchange Act'' ((17 CFR Part 165) (RIN3038–AD04)) received during recess of the Senate in the Office of the President of the Senate on August 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2948. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2949. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2950. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Privacy Act Implementation'' (RIN2590–AA46) received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–2951. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to material violations or suspected material violations of regulations relating to Treasury auctions and other Treasury securities offerings for the period of January 1, 2010 through December 31, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–2952. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, an annual report for the period of January 1, 2010 through December 31, 2010 relative to any exceptions granted by the Secretary of the Treasury to the prohibition against favored treatment of a government securities broker or government securities dealer; to the Committee on Banking, Housing, and Urban Affairs.

EC–2953. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to a significant modification to the auction process for issuing United States Treasury obligations; to the Committee on Banking, Housing, and Urban Affairs.

EC–2954. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, the Uniform Resource Locator (URL) for a report entitled '''Enforcement First' for Removal Actions'' received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2955. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; Control of Emissions of Organic Materials that are Not Regulated by Volatile Organic Compound Reasonably Available Control Technology Rules'' (FRL No. 9451–4) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2956. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Update to Materials Incorporated by Reference'' (FRL No. 9454–1) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2957. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revised Definitions; Construction Permit Program Fee Increases; Regulation 3'' (FRL No. 9454–3) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2958. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Large Appliance and Metal Furniture Coatings'' (FRL No. 9453–7) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2959. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Nitrogen Oxides Emissions from Glass Melting Furnaces'' (FRL No. 9453–9) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2960. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to Clean Air Interstate Rule Emissions Trading Program'' (FRL No. 9453–6) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2961. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York Reasonable Further Progress Plans, Emissions Inventories, Contingency Measures and Motor Vehicle Emissions Budgets'' (FRL No. 9453–2) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2962. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions and Additions to Motor Vehicle Fuel Economy Label; Correction'' (FRL No. 9459–8) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2963. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Kentucky; Ohio; Huntington-Ashland Nonattainment Area; Determinations of Attainment of the 1997 Annual Fine Particulate Standards'' (FRL No. 9459–4) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2964. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Kentucky and Indiana; Louisville; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards'' (FRL No. 9459–5) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2965. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Georgia: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule and Fine Particulate Matter Revision'' (FRL No. 9458–1) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2966. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas'' (FRL No. 9459–1) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2967. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama, Tennessee, and Georgia: Chattanooga and Macon; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards'' (FRL No. 9459–2) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2968. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Rome; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards'' (FRL No. 9459–3) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Environment and Public Works.

EC–2969. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, the Uniform Resource Locator (URL) for a report entitled ''Memorandum: Issuance of 2011 Word Version of CERCLA Model Remedial DesignJRemedial Action Consent Decree'' received during recess of the Senate in the Office of the President of the Senate on August 17, 2011; to the Committee on Environment and Public Works.

EC–2970. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Withdrawal of Direct Final Rule Revising the California State Implementation Plan, South Coast Air Quality Management District'' (FRL No. 9457–6) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Environment and Public Works.

EC–2971. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Change to the Reporting Date for Certain Data Elements Required Under the Mandatory Reporting of Greenhouse Gases Rule'' (FRL No. 9456–3) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Environment and Public Works.

EC–2972. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL No. 9455–3) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Environment and Public Works.

EC–2973. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; Infrastructure State Implementation Plan Requirement to Address Interstate Transport for the 2006 24-Hour PM2.5 NAAQS'' (FRL No. 9457–2) received during recess of the Senate in the Office of the President of the Senate on August 22, 2011; to the Committee on Environment and Public Works.

EC–2974. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Review of National Ambient Air Quality Standards for Carbon Monoxide'' (FRL No. 9455–2) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2975. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles'' (FRL No. 9455–1) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2976. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, National Wildlife Refuge System, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''2011–2012 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018-AX54) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Environment and Public Works.

EC–2977. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Branded Prescription Drug Fee'' (RIN1545-BK34) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2978. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Timely Mailing Treated as Timely Filing'' (RIN1545-BA99) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2979. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure Under Section 263(a) Regarding the Capitalization or Deduction of Electric Utility Transmission and Distribution Costs'' (Rev. Proc. 2011–43) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2980. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Interest and Penalty Suspension Provisions Under Section 6404(g) of the Internal Revenue Code'' (RIN1545-BG75) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2981. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''United States Income Tax Treaties That Meet the Requirements of Section 1(h)(11)(C)(i)(II)'' (Notice 2011–64) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2982. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definition of Solid Waste Disposal Facilities for Tax-Exempt Bond Purposes'' (RIN1545-BD04) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2983. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—September 2011'' (Rev. Rul. 2011–20) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2984. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Elections Regarding Start-up Expenditures, Corporation Organizational Expenditures, and Partnership Organizational Expenses'' (RIN1545-BE77) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2985. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annuity and Life Insurance Contracts with a Long-Term Care Insurance Feature'' (Notice 2011–68) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2986. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Credibility of U.K. Remittance Basis Charge'' (Rev. Rul. 2011–19) received during recess of the Senate in the Office of the President of the Senate on August 23, 2011; to the Committee on Finance.

EC–2987. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Election to Expense Certain Refineries'' (RIN1545-BF05) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Finance.

EC–2988. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Documentation Requirements Under Section 6050W for U.S. Payors Making Payment Outside the United States to an Offshore Account'' (Notice 2011–71) received during recess of the Senate in the Office of the President of the Senate on August 31, 2011; to the Committee on Finance.

EC–2989. A communication from the Deputy Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule'' (RIN0625-AA66) received during recess of the Senate in the Office of the President of the Senate on August 29, 2011; to the Committee on Finance.

EC–2990. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Protecting the Public and Our Personnel to Ensure Operational Effectiveness'' (RIN0960-AH35) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Finance.

EC–2991. A communication from the Director of Regulations and Disclosure Law, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Rules of Origin for Imported Merchandise'' (RIN1515-AD53) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Finance.

EC–2992. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Changes to the Electronic Prescribing (eRx) Incentive Program'' (RIN0938-AR00) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Finance.

EC–2993. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Revisions to the Medicare Advantage and Prescription Drug Benefit Programs'' (RIN0938-AP24 and RIN0938-AP52) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Finance.

EC–2994. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the activities of the Office of the Medicare Ombudsman; to the Committee on Finance.

EC–2995. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Medicare Competitive Acquisition Ombudsman's 2009 Annual Report to Congress; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KOHL, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 2112. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes (Rept. No. 112–73).

By Ms. LANDRIEU, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 2017. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2012, and for other purposes (Rept. No. 112–74).

By Mrs. FEINSTEIN, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 2354. A bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes (Rept. No. 112–75).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*Constance Smith Barker, of Alabama, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2016.

*Robert J. Zimmer, of Illinois, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2016.

*Arnold F. Stancell, of Connecticut, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2014.

*Walter A. Barrows, of Virginia, to be a Member of the Railroad Retirement Board for a term expiring August 28, 2014.

*Charles R. Korsmo, of New York, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 2011.

*Charles R. Korsmo, of New York, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 2017.

*John H. Yopp, of Kentucky, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 2011.

*John H. Yopp, of Kentucky, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 2017.

*Marcos Edward Galindo, of Idaho, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring April 17, 2014.

*Maria E. Rengifo-Ruess, of Virginia, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring February 4, 2014.

*Robert C. Granger, of New Jersey, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2014.

*Anthony Bryk, of California, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2015.

*Matan Aryeh Koch, of New York, to be a Member of the National Council on Disability for a term expiring September 17, 2013.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MENENDEZ:

S. 1516. A bill to establish a program under which the Administrator of the Environmental Protection Agency shall provide grants to eligible State consortia to establish and carry out municipal sustainability certification programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. HARKIN, Mr. SANDERS, Mr. BLUMENTHAL, and Mr. REED):

S. 1517. A bill to provide for the creation of jobs; to the Committee on Finance.

By Mr. MANCHIN (for himself, Mr. HOEVEN, Mr. KIRK, and Mr. SCHUMER):

S. 1518. A bill to require a jobs score for each spending bill considered in Congress; to the Committee on the Budget.

By Mr. UDALL of New Mexico (for himself and Mrs. GILLIBRAND):

S. 1519. A bill to strengthen Indian education, and for other purposes; to the Committee on Indian Affairs.

By Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. SCHUMER, and Mrs. GILLIBRAND):

S. 1520. A bill to ensure the continued investigation of terrorist attacks against the United States attributable to the government of Muammar Qaddafi; to the Committee on Foreign Relations.

By Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. 1521. A bill to provide assistance for agricultural producers adversely affected by damaging weather and other conditions relating to Hurricane Irene; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BLUMENTHAL (for himself, Mr. SCHUMER, Mr. WHITEHOUSE, Mr. BEGICH, Mr. MANCHIN, Mr. BROWN of Ohio, and Mr. FRANKEN):

S. 1522. A bill to establish a joint select committee of Congress to report findings and propose legislation to restore the Nation's workforce to full employment over the period of fiscal years 2012 and 2013, and to provide for expedited consideration of such legislation by both the House of Representatives and the Senate; to the Committee on Rules and Administration.

By Mr. PAUL:

S.J. Res. 26. A joint resolution expressing the sense of Congress that Secretary of the Treasury Timothy Geithner no longer holds the confidence of Congress or of the people of the United States; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself, Mr. ALEXANDER, Mr. ENZI, Mr. WHITEHOUSE, Mr. WEBB, Mr. BEGICH, Mr.

JOHNSON of South Dakota, Ms. STABENOW, Mr. CARDIN, Mr. CASEY, Ms. MURKOWSKI, and Ms. MIKULSKI):

S. Res. 258. A resolution supporting the designation of National Adult Education and Family Literacy Week; considered and agreed to.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. PRYOR, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 496

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 496, a bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish.

S. 624

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 624, a bill to authorize the Department of Housing and Urban Development to transform neighborhoods of extreme poverty into sustainable, mixed-income neighborhoods with access to economic opportunities, by revitalizing severely distressed housing, and investing and leveraging investments in well-functioning services, educational opportunities, public assets, public transportation, and improved access to jobs.

S. 634

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 634, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 800

At the request of Mr. HARKIN, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 800, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 829

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 829, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 891

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 891, a bill to amend title XVIII of the Social Security Act to provide for the recognition of attending physician assistants as attending physicians to serve hospice patients.

S. 968

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 968, a bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes.

S. 986

At the request of Mr. MENENDEZ, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 986, a bill to amend the Internal Revenue Code of 1986 to regulate the subsidies paid to rum producers in Puerto Rico and the Virgin Islands, and for other purposes.

S. 1025

At the request of Mr. LEAHY, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 1025, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1048

At the request of Mr. MENENDEZ, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1048, supra.

S. 1232

At the request of Ms. AYOTTE, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1232, a bill to modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans.

S. 1273

At the request of Mr. CASEY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1273, a bill to amend the Fair Labor Standards Act with regard to certain exemptions under that Act for direct care workers and to improve the systems for the collection and reporting of data relating to the direct care workforce, and for other purposes.

S. 1299

At the request of Mr. MORAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1308

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1308, a bill to amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

S. 1356

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1356, a bill to amend title XIX of the Social Security Act to encourage States to increase generic drug utilization under Medicaid, and for other purposes.

S. 1369

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1369, a bill to amend the Federal Water Pollution Control Act to exempt the conduct of silvicultural activities from national pollutant discharge elimination system permitting requirements.

S. 1376

At the request of Mr. ENZI, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1376, a bill to conform income calculations for purposes of eligibility for the refundable credit for coverage under a qualified health plan and for Medicaid to existing Federal low-income assistance programs.

S. 1381

At the request of Mr. BLUMENTHAL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1381, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne disease, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1395

At the request of Mr. BARRASSO, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1395, a bill to ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act.

S. 1427

At the request of Mr. LUGAR, the names of the Senator from Indiana (Mr. COATS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1427, a bill to amend the Food, Conservation, and Energy Act of 2008 to authorize producers on a farm to produce fruits and vegetables for processing on the base acres of the farm.

S. 1438

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1438, a bill to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

S. 1440

At the request of Mr. ALEXANDER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1454

At the request of Mr. DURBIN, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1454, a bill to amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients and other renal dialysis provisions.

S. 1463

At the request of Mr. MERKLEY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1463, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers and to provide for reasonable break time for nursing mothers.

S. 1467

At the request of Mr. BLUNT, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1467, a bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services.

S. 1508

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1508, a bill to extend loan limits for programs of the Federal Housing Administration, the government-sponsored enterprises, and the Department of Veterans Affairs, and for other purposes.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S.J. RES. 19

At the request of Mr. HATCH, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 25

At the request of Mr. RISCH, his name was added as a cosponsor of S.J. Res. 25, a joint resolution relating to the disapproval of the President's exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on August 2, 2011.

S. RES. 132

At the request of Mr. NELSON of Nebraska, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. Res. 132, a resolution recognizing and honoring the zoos and aquariums of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. UDALL of New Mexico (for himself and Mrs. GILLIBRAND):

S. 1519. A bill to strengthen Indian education, and for other purposes; to the Committee on Indian Affairs.

Mr. UDALL of New Mexico. Mr. President, I rise today to discuss the issue of tribal education; an issue of great importance to Indian Country, but one that does not receive the attention it should from the rest of the nation.

Native students' academic outcomes show the worst achievement gaps in the country. Graduation rates for American Indians and Alaska Natives are lower than the graduation rates for all other racial and ethnic groups. American Indian and Alaska Native students have a lower average score in reading than other students. Sadly there's been little improvement to these statistics over the past 80 years.

I hear often from many of the tribal school districts in my State, and the issues they face in providing quality education to their students are numerous. Aging infrastructure badly in need of renovation. Difficulties in recruiting trained, Native teachers and administrators. Chronic underfunding and late payments of Impact Aid. The failure of No Child Left Behind requirements to address tribal needs and learning styles especially related to language and culture. All are impediments to the goal of improving educational outcomes of Native American youth.

To try and help address these issues, I rise today to introduce the Building upon the Unique Indian Learned and Development, or BUILD, Act. This legislation is an important step towards improving the conditions and teaching for Native American students.

In general, our Nation's schools are aging and in a state of disrepair. But this is especially true of BIE schools, where over half of the almost 4,500 education buildings are over 30 years old, and more than 20 percent are more than 50 years old. It is reprehensible that any child is being subjected to learning conditions that are literally a danger to them. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over $500 million and increasing annually. How can we expect our students to succeed academically when we fail to provide them with a proper environment to achieve success?

That is why the BUILD Act includes a School Facility Innovation Contest, which would allow students and faculty who learn and work in these old school buildings, as well as engineering and architecture students and faculty nationwide to propose creative ways to improve tribal school facilities through a national competition. It is time for bold, new ideas to renovate or replace these old facilities, and there's no one better to contribute than those who use the buildings most often, and some of the brightest architectural and engineering minds in the country.

In addition to infrastructure needs, a major concern is the achievement gap of Native American students. So many of them are not reaching their academic potential. These students need to be inspired and shown the possibilities in their future. One way to do so is to expose them to successful members of their own communities and cultural backgrounds. These kids must have role models, mentors, and teachers, from their community and culture. Unfortunately, today, while American Indians are 11 percent of the student population, less than 3 percent of their teachers, counselors or principals are also Native American.

New Mexico has already developed some programs to increase the pipeline for Native American teachers and leaders, both in its tribal colleges and nontribal colleges. These local programs are models for what can be expanded in New Mexico and nationwide. We need many more programs growing local leaders to meet the needs of the tribal schools.

For example, Southwestern Indian Polytechnic Institute offers an Early Childhood Associate Degree program, which works closely with the surrounding tribal communities to meet the Office of Head Start standards for certified Early Childhood educators in their classrooms.

New Mexico State University offers an American Indian Education Doctoral Program in its College of Education, where the majority of students stay to work in NM.

The University of New Mexico offers an Institute for American Indian Education to encourage upper-level Native American undergraduates to consider teaching, and helps paraprofessionals from tribal communities receive their teaching certification. In addition, it offers Native Language teachers professional development and training for language revitalization and immersion style teaching.

At the Zuni Pueblo's ''Grow your Own'' program, started in 1980, tribal members attend Saturday school to produce Zuni-certified teachers, meeting the state's alternative certification.

Research tells us that with incentives, we can increase the number of effective Native teachers and leaders in public and tribal schools. And all of these programs are a great example of it.

But more must be done, which is why the BUILD Act seeks to provide these incentives and expand the pipeline for Native American students to become teachers, principals and administrators. Strong classroom teachers and school leadership must be developed, not left to chance.

In addition to Native American students learning from Native American teachers and mentors, learning in their own language and culture has been shown to improve academic outcomes. Schools can succeed when they promote and maintainan overall educational climate that values and respects Native language and culture, and make the curriculum relevant to Native students' lives. Native American children who are proficient in their native language have higher proficiency in English and lower dropout rates.

My bill would strengthen language and culturally based education by allowing tribal leaders and elders to teach Native language in schools. School districts in New Mexico are piloting programs like these.

For example, the Mescalero Apache Schools developed a Native Language K–12 Curriculum aligned to New Mexico State Standards where tribal members are teaching in the school system.

The Central Consolidated School District is the first public school in the State to implement a language Immersion Program/Model in Navajo language.

The Pueblo of Jemez has created an Education Collaborative by coordinating effort between Tribal, Public, Charter and Bureau school educators and administrators to align curriculum and transitions from one school to the next, while supporting and honoring the Jemez language, culture and traditions.

Also related to this, the BUILD Act reauthorizes the Esther Martinez Act for native language immersion programs, and allows standards, assessments, and teaching strategies to accommodate diverse culture and language learning needs.

Last but not least, the BUILD Act calls for both full and forward funding of Impact Aid. Forward funding so that tribal school administrators will know before the school year begins what resources they have for salaries, for maintenance and utilities, and for supplies. Full funding so that school districts receive the funds they need to provide a quality education to all children.

For many of these local school districts responsible for educating children connected to federal land, Impact Aid represents the basic funding that supports their schools. Yet, Impact Aid appropriations have not matched the loss in property taxes that these communities would otherwise have been able to use to support their local schools. Impact Aid construction and facilities funds have been redirected to basic support, resulting in school buildings deteriorating and in such poor condition that no parent could expect their child to learn in them. Years of not fully funding Impact Aid has resulted in Indian Treaty Land school districts with insufficient resources to meet Average Yearly Progress under No Child Left Behind, including the difficulties to retain highly qualified teachers and purchase adequate computer equipment to educate its children, and an inability to renovate existing facilities and maintain adequate transportation fleets.

In developing the BUILD Act, I worked closely with many tribes, Indian Educators, and Indian institutes of higher education and am happy to have the support from many of them. Southwestern Indian Polytechnic Institute, Institute of American Indian Arts, Navajo Technical College, the NM Indian Education Advisory Council, the National Indian Education Association, American Indian Higher Education Consortium, and National Association of Federally Impacted Schools have all endorsed the BUILD Act. I would like to thank them for their support and collaboration.

I would also like to thank Senator AKAKA, my chairman on the Indian Affairs Committee, with whom I worked to include many of these provisions in the Native CLASS Act, which he introduced this past June. The Native CLASS Act is important legislation that will improve the Elementary and Secondary Education Act by including provisions to strengthen tribal control of education for Native American students through relationships between tribes and local education agencies and greater parental involvement with school districts; by providing alternatives to detention programs for at-risk Indian children; and by providing for alternative licensure and other incentives to increase the number of skilled native language teachers.

I look forward to working with Senator AKAKA and the rest of my colleagues to ensure that the provisions and ideas in the BUILD Act and Native CLASS Act are reflected in any ESEA Reauthorization legislation. Native American children are the future of their communities and our nation. They deserve equal access to resources, teachers, and safe schools. Unfortunately, to date, they have not been getting this. It is long past time for us to do something about it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 258—SUPPORTING THE DESIGNATION OF NATIONAL ADULT EDUCATION AND FAMILY LITERACY WEEK

Mrs. MURRAY (for herself, Mr. ALEXANDER, MR. ENZI, Mr. WHITEHOUSE, Mr. WEBB, Mr. BEGICH, Mr. JOHNSON of South Dakota, Ms. STABENOW, Mr. CARDIN, Mr. CASEY, Ms. MURKOWSKI, and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 258

Whereas the National Assessment of Adult Literacy reports that approximately 90,000,000 adults in the United States lack the literacy, numeracy, or English language skills necessary to succeed at home, in the workplace, and in society;

Whereas the literacy of the people of the United States is essential for the social and economic well-being of the United States, and literacy allows individuals to benefit from full participation in society;

Whereas the United States reaps the economic benefits from the efforts of individuals to raise their literacy, numeracy, and English language skills;

Whereas literacy and educational skills are a prerequisite to individuals reaping the full benefit of opportunities in the United States;

Whereas the economy and the position of the United States in the world marketplace depend on having a literate, skilled population;

Whereas the unemployment rate in the United States is highest among individuals without a high school diploma or an equivalent credential, indicating that education is key to economic recovery;

Whereas parents who are educated and read to their children directly impact the educational success of their children;

Whereas parental involvement is a key predictor of a child's success, and the level of parental involvement increases as the education level of the parent increases;

Whereas parents in family literacy programs become more involved in their children's education and gain the tools necessary to obtain a job or find better employment;

Whereas, as a result of family literacy programs, children's lives become more stable, and success in the classroom, and in all future endeavors, becomes more likely;

Whereas adults need to be part of a long-term solution to the education challenges of the United States;

Whereas many older people in the United States lack the reading, math, or English language skills necessary to read a prescription and follow medical instructions, endangering their lives and the lives of their loved ones;

Whereas many individuals who are unemployed, underemployed, or receive public assistance lack the literacy skills to obtain and keep a job to sustain their family, continue their education, or participate in job training programs;

Whereas many high school dropouts do not have the literacy skills to complete their education, transition to postsecondary education or career and technical training, or become employed;

Whereas a large percentage of individuals in prison have low educational skills, and prisoners without educational skills are more likely to return to prison once released;

Whereas many immigrants to the United States do not have the literacy skills necessary to succeed in the United States;

Whereas National Adult Education and Family Literacy week highlights the need to ensure that each and every citizen has the necessary literacy and educational skills to succeed at home, at work, and in society; and

Whereas the week beginning September 12, 2011, would be an appropriate week to designate as National Adult Education and Family Literacy Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of National Adult Education and Family Literacy Week,

including raising public awareness about the importance of adult education, workforce skills, and family literacy;

(2) encourages people across the United States to support programs to assist those in need of adult education, workforce skills upgrading, and family literacy programs; and

(3) recognizes the importance of adult education, workforce skills, and family literacy programs, and calls upon public, private, and non-profit stakeholders to support increased access to adult education and family literacy programs to ensure a literate society.

AMENDMENTS SUBMITTED AND PROPOSED

SA 594. Mr. JOHNSON of Wisconsin (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table.

SA 595. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, supra; which was ordered to lie on the table.

SA 596. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, supra; which was ordered to lie on the table.

SA 597. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, supra; which was ordered to lie on the table.

SA 598. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 1249, supra; which was ordered to lie on the table.

SA 599. Mr. COBURN (for himself, Mr. DEMINT, Mrs. FEINSTEIN, Mrs. BOXER, Mr. UDALL of Colorado, Mr. ENZI, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 1249, supra; which was ordered to lie on the table.

SA 600. Mr. SESSIONS (for himself, Mr. MANCHIN, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 1249, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 594. Mr. JOHNSON of Wisconsin (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. REGULATION MORATORIUM AND JOBS PRESERVATION ACT OF 2011.

(a) SHORT TITLE.—This section may be cited as the ''Regulation Moratorium and Jobs Preservation Act of 2011''.

(b) DEFINITIONS.—In this section—

(1) the term ''agency'' has the meaning given under section 3502(1) of title 44, United States Code;

(2) the term ''regulatory action'' means any substantive action by an agency that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking;

(3) the term ''significant regulatory action'' means any regulatory action that is likely to result in a rule or guidance that may—

(A) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities;

(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) raise novel legal or policy issues; and

(4) the term ''small entities'' has the meaning given under section 601(6) of title 5, United States Code.

(c) SIGNIFICANT REGULATORY ACTIONS.—

(1) IN GENERAL.—No agency may take any significant regulatory action, until the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(2) DETERMINATION.—The Secretary of Labor shall submit a report to the Director of the Office of Management and Budget whenever the Secretary determines that the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(d) WAIVERS.—

(1) NATIONAL SECURITY OR NATIONAL EMERGENCY.—The President may waive the application of subsection (c) to any significant regulatory action, if the President—

(A) determines that the waiver is necessary on the basis of national security or a national emergency; and

(B) submits notification to Congress of that waiver and the reasons for that waiver.

(2) ADDITIONAL WAIVERS.—

(A) SUBMISSION.—The President may submit a request to Congress for a waiver of the application of subsection (c) to any significant regulatory action.

(B) CONTENTS.—A submission under this paragraph shall include—

(i) an identification of the significant regulatory action; and

(ii) the reasons which necessitate a waiver for that significant regulatory action.

(C) CONGRESSIONAL ACTION.—Congress shall give expeditious consideration and take appropriate legislative action with respect to any waiver request submitted under this paragraph.

(e) JUDICIAL REVIEW.—

(1) DEFINITION.—In this subsection, the term ''small business'' means any business, including an unincorporated business or a sole proprietorship, that employs not more than 500 employees or that has a net worth of less than $7,000,000 on the date a civil action arising under this section is filed.

(2) REVIEW.—Any person that is adversely affected or aggrieved by any significant regulatory action in violation of this section is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(3) JURISDICTION.—Each court having jurisdiction to review any significant regulatory action for compliance with any other provision of law shall have jurisdiction to review all claims under this section.

(4) RELIEF.—In granting any relief in any civil action under this subsection, the court shall order the agency to take corrective action consistent with this section and chapter 7 of title 5, United States Code, including remanding the significant regulatory action to the agency and enjoining the application or enforcement of that significant regulatory action, unless the court finds by a preponderance of the evidence that application or enforcement is required to protect against an imminent and serious threat to the national security from persons or states engaged in hostile or military activities against the United States.

(5) REASONABLE ATTORNEY FEES FOR SMALL BUSINESSES.—The court shall award reasonable attorney fees and costs to a substantially prevailing small business in any civil action arising under this section. A party qualifies as substantially prevailing even without obtaining a final judgment in its favor if the agency changes its position as a result of the civil action.

(6) LIMITATION ON COMMENCING CIVIL ACTION.—A person may seek and obtain judicial review during the 1-year period beginning on the date of the challenged agency action or within 90 days after an enforcement action or notice thereof, except that where another provision of law requires that a civil action be commenced before the expiration of that 1-year period, such lesser period shall apply.

SA 595. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 119, strike line 21 and all that follows through page 125, line 11, and insert the following:

SEC. 18. TRANSITIONAL PROGRAM FOR COVERED BUSINESS-METHOD PATENTS.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this section language is expressed in terms of a section or chapter, the reference shall be considered to be made to that section or chapter in title 35, United States Code.

(b) TRANSITIONAL PROGRAM.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall issue regulations establishing and implementing a transitional post-grant review proceeding for review of the validity of covered business-method patents. The transitional proceeding implemented pursuant to this subsection shall be regarded as, and shall employ the standards and procedures of, a post-grant review under chapter 32, subject to the following exceptions and qualifications:

(A) Section 321(c) and subsections (e)(2), (f), and (g) of section 325 shall not apply to a transitional proceeding.

(B) A person may not file a petition for a transitional proceeding with respect to a covered business-method patent unless the person or his real party in interest has been sued for infringement of the patent or has been charged with infringement under that patent.

(C) A petitioner in a transitional proceeding who challenges the validity of 1 or more claims in a covered business-method patent on a ground raised under section 102 or 103 as in effect on the day prior to the date of enactment of this Act may support such ground only on the basis of—

(i) prior art that is described by section 102(a) (as in effect on the day prior to the date of enactment of this Act); or

(ii) prior art that—

(I) discloses the invention more than 1 year prior to the date of the application for patent in the United States; and

(II) would be described by section 102(a) (as in effect on the day prior to the date of enactment of this Act) if the disclosure had been made by another before the invention thereof by the applicant for patent.

(D) The petitioner in a transitional proceeding, or his real party in interest, may not assert either in a civil action arising in whole or in part under section 1338 of title 28, United States Code, or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground

that the petitioner raised during a transitional proceeding that resulted in a final written decision.

(E) The Director may institute a transitional proceeding only for a patent that is a covered business-method patent.

(2) EFFECTIVE DATE.—The regulations issued pursuant to paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all covered business-method patents issued before, on, or after such date of enactment, except that the regulations shall not apply to a patent described in section 6(f)(2)(A) of this Act during the period that a petition for post-grant review of that patent would satisfy the requirements of section 321(c).

(3) SUNSET.—

(A) IN GENERAL.—This subsection, and the regulations issued pursuant to this subsection, are repealed effective on the date that is 4 years after the date that the regulations issued pursuant to paragraph (1) take effect.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), this subsection and the regulations implemented pursuant to this subsection shall continue to apply to any petition for a transitional proceeding that is filed prior to the date that this subsection is repealed pursuant to subparagraph (A).

(c) REQUEST FOR STAY.—

(1) IN GENERAL.—If a party seeks a stay of a civil action alleging infringement of a patent under section 281 in relation to a transitional proceeding for that patent, the court shall decide whether to enter a stay based on—

(A) whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial;

(B) whether discovery is complete and whether a trial date has been set;

(C) whether a stay, or the denial thereof, would unduly prejudice the nonmoving party or present a clear tactical advantage for the moving party; and

(D) whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court.

(2) REVIEW.—A party may take an immediate interlocutory appeal from a district court's decision under paragraph (1). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedent, and such review may be de novo.

(d) DEFINITION.—For purposes of this section, the term ''covered business method patent'' means a patent that claims a method or corresponding apparatus for performing data processing operations utilized in the practice, administration, or management of a financial product or service, except that the term shall not include patents for technological inventions. Solely for the purpose of implementing the transitional proceeding authorized by this subsection, the Director shall prescribe regulations for determining whether a patent is for a technological invention.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as amending or interpreting categories of patent-eligible subject matter set forth under section 101.

SA 596. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 124, line 19, strike all through page 125, line 7, and insert the following:

(d) DEFINITION.—

(1) IN GENERAL.—For purposes of this section, the term ''covered business method patent''—

(A) means a patent that claims a method or corresponding apparatus for performing data processing operations utilized in the practice, administration, or management of a financial product or service;

(B) shall include only patents claiming abstract business concepts; and

(C) shall not include patents for technological inventions or inventions relating predominantly to nonfinancial goods or services.

(2) REGULATIONS.—To assist in implementing the transitional proceeding authorized by this subsection, the Director shall issue regulations for determining whether a patent is for a technological invention or inventions relating predominantly to nonfinancial good or services.

SA 597. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 119, strike line 21 and all that follows through page 125, line 11.

SA 598. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENSE OF CONGRESS.

It is the sense of Congress that Secretary of the Treasury Timothy Geithner no longer holds the confidence of Congress or of the people of the United States.

SA 599. Mr. COBURN (for himself, Mr. DEMINT, Mrs. FEINSTEIN, Mrs. BOXER, Mr. UDALL of Colorado, Mr. ENZI, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 137, line 1, strike all through page 138, line 9, and insert the following:

SEC. 22. PATENT AND TRADEMARK OFFICE FUNDING.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Patent and Trademark Office.

(2) FUND.—The term ''Fund'' means the public enterprise revolving fund established under subsection (c).

(3) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(4) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means an Act entitled ''Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'').

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for Intellectual Property.

(b) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund''; and

(B) in subsection (c), in the first sentence—

(i) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(ii) by striking ''shall be collected by and shall be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the later of—

(A) October 1, 2011; or

(B) the first day of the first fiscal year that begins after the date of the enactment of this Act.

(c) USPTO REVOLVING FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(2) DERIVATION OF RESOURCES.—There shall be deposited into the Fund on or after the effective date of subsection (b)(1)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund, provided, however, that no funds collected pursuant to section 9(h) of this Act or section 1(a)(2) of Public Law 111–45 shall be deposited in the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(d) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (f).

(e) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the

Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(f) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(g) BUDGET.—The Fund shall prepare and submit each year to the President a business-type budget in a manner, and before a date, as the President prescribes by regulation for the budget program.

(h) SURCHARGE.—Notwithstanding section 11(i)(1)(B), amounts collected pursuant to the surcharge imposed under section 11(i)(1)(A) shall be credited to the United States Patent and Trademark Office Public Enterprise Fund.

SA 600. Mr. SESSIONS (for himself, Mr. MANCHIN, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 1249, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 149, line 20, strike all through page 150, line 16.

NOTICES OF HEARINGS

JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

Mrs. MURRAY. Mr. President, I wish to announce that Joint Select Committee on Deficit Reduction will meet in open session on Thursday, September 8, 2011, at 10:30 a.m. in room 2123 of the Rayburn House Office Building, to consider proposed committee rules.

JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

Mrs. MURRAY. Mr. President, I wish to announce that Joint Select Committee on Deficit Reduction will meet in open session on Tuesday, September 13, 2011, at 10:30 a.m., in room 216 of the Hart Senate Office Building, to conduct a hearing entitled ''The History and Drivers of Our Nation's Debt and Its Threats.''

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Wednesday, September 14, 2011, at 10 a.m. in SD–430 to conduct a hearing entitled ''Securing the Pharmaceutical Supply Chain.''

For further information regarding this hearing, please contact Elizabeth Jungman of the committee staff on (202) 224–7675.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on September 7, 2011, at 10 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 7, 2011, at 10 a.m. to conduct a hearing entitled ''Defending the Nation Since 9/11: Successful Reforms and Challenges Ahead at the Department of Homeland Security.''

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on September 7, 2011, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Cybercrime: Updating the Computer Fraud and Abuse Act to Protect Cyberspace and Combat Emerging Threats.''

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on September 7, 2011, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

PRIVILEGES OF THE FLOOR

Mr. MERKLEY. Mr. President, I ask unanimous consent that my intern, Yan Perng, have the privilege of the floor for the balance of the day.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Madeleine Bien and Mandy McClure of my staff be granted floor privileges for the duration of today's proceedings.

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

PROVIDING FOR A JOINT SESSION OF CONGRESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 74.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 74) providing for a joint session of Congress to receive a message from the President.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, there be no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 74) was agreed to.

NATIONAL CELIAC DISEASE AWARENESS DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 219 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 219) designating September 13, 2011, as ''National Celiac Disease Awareness Day''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 219) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 219

Whereas celiac disease affects approximately 1 in every 130 people in the United States, for a total of 3,000,000 people;

Whereas the majority of people with celiac disease have yet to be diagnosed;

Whereas celiac disease is a chronic inflammatory disorder that is classified as both an autoimmune condition and a genetic condition;

Whereas celiac disease causes damage to the lining of the small intestine, which results in overall malnutrition;

Whereas when a person with celiac disease consumes foods that contain certain protein fractions, that person suffers a cell-mediated immune response that damages the villi of the small intestine, interfering with the absorption of nutrients in food and the effectiveness of medications;

Whereas such problematic protein fractions are found in wheat, barley, rye, and oats, which are used to produce many foods, medications, and vitamins;

Whereas because celiac disease is a genetic disease, there is an increased incidence of celiac disease in families with a known history of celiac disease;

Whereas celiac disease is underdiagnosed because the symptoms can be attributed to

other conditions and are easily overlooked by doctors and patients;

Whereas as recently as 2000, the average person with celiac disease waited 11 years for a correct diagnosis;

Whereas ½ of all people with celiac disease do not show symptoms of the disease;

Whereas celiac disease is diagnosed by tests that measure the blood for abnormally high levels of the antibodies of immunoglobulin A, anti-tissue transglutaminase, and IgA anti-endomysium antibodies;

Whereas celiac disease can be treated only by implementing a diet free of wheat, barley, rye, and oats, often called a ''gluten-free diet'';

Whereas a delay in the diagnosis of celiac disease can result in damage to the small intestine, which leads to an increased risk for malnutrition, anemia, lymphoma, adenocarcinoma, osteoporosis, miscarriage, congenital malformation, short stature, and disorders of the skin and other organs;

Whereas celiac disease is linked to many autoimmune disorders, including thyroid disease, systemic lupus erythematosus, type 1 diabetes, liver disease, collagen vascular disease, rheumatoid arthritis, and Sjogren's syndrome;

Whereas the connection between celiac disease and diet was first established by Dr. Samuel Gee, who wrote, ''if the patient can be cured at all, it must be by means of diet'';

Whereas Dr. Samuel Gee was born on September 13, 1839; and

Whereas the Senate is an institution that can raise awareness in the general public and the medical community of celiac disease: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 13, 2011, as ''National Celiac Disease Awareness Day'';

(2) recognizes that all people of the United States should become more informed and aware of celiac disease;

(3) calls upon the people of the United States to observe National Celiac Disease Awareness Day with appropriate ceremonies and activities; and

(4) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the Celiac Sprue Association, the American Celiac Society, and the Celiac Disease Foundation.

NATIONAL ADULT EDUCATION AND FAMILY LITERACY WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 258.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 258) supporting the designation of the ''National Adult Education and Family Literacy Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements on this matter be printed in the RECORD.

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

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

The resolution, and its preamble, reads as follows:

S. RES. 258

Whereas the National Assessment of Adult Literacy reports that approximately 90,000,000 adults in the United States lack the literacy, numeracy, or English language skills necessary to succeed at home, in the workplace, and in society;

Whereas the literacy of the people of the United States is essential for the social and economic well-being of the United States, and literacy allows individuals to benefit from full participation in society;

Whereas the United States reaps the economic benefits from the efforts of individuals to raise their literacy, numeracy, and English language skills;

Whereas literacy and educational skills are a prerequisite to individuals reaping the full benefit of opportunities in the United States;

Whereas the economy and the position of the United States in the world marketplace depend on having a literate, skilled population;

Whereas the unemployment rate in the United States is highest among individuals without a high school diploma or an equivalent credential, indicating that education is key to economic recovery;

Whereas parents who are educated and read to their children directly impact the educational success of their children;

Whereas parental involvement is a key predictor of a child's success, and the level of parental involvement increases as the education level of the parent increases;

Whereas parents in family literacy programs become more involved in their children's education and gain the tools necessary to obtain a job or find better employment;

Whereas, as a result of family literacy programs, children's lives become more stable, and success in the classroom, and in all future endeavors, becomes more likely;

Whereas adults need to be part of a long-term solution to the education challenges of the United States;

Whereas many older people in the United States lack the reading, math, or English language skills necessary to read a prescription and follow medical instructions, endangering their lives and the lives of their loved ones;

Whereas many individuals who are unemployed, underemployed, or receive public assistance lack the literacy skills to obtain and keep a job to sustain their family, continue their education, or participate in job training programs;

Whereas many high school dropouts do not have the literacy skills to complete their education, transition to postsecondary education or career and technical training, or become employed;

Whereas a large percentage of individuals in prison have low educational skills, and prisoners without educational skills are more likely to return to prison once released;

Whereas many immigrants to the United States do not have the literacy skills necessary to succeed in the United States;

Whereas National Adult Education and Family Literacy week highlights the need to ensure that each and every citizen has the necessary literacy and educational skills to succeed at home, at work, and in society; and

Whereas the week beginning September 12, 2011, would be an appropriate week to designate as National Adult Education and Family Literacy Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of National Adult Education and Family Literacy Week, including raising public awareness about the importance of adult education, workforce skills, and family literacy;

(2) encourages people across the United States to support programs to assist those in need of adult education, workforce skills upgrading, and family literacy programs; and

(3) recognizes the importance of adult education, workforce skills, and family literacy programs, and calls upon public, private, and non-profit stakeholders to support increased access to adult education and family literacy programs to ensure a literate society.

MEASURE READ FIRST TIME—S.J. RES. 26

Mr. REID. I understand there is a joint resolution at the desk due for its first reading.

The PRESIDING OFFICER. The clerk will report the joint resolution by title for the first time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 26) expressing the sense of the Congress that Secretary of the Treasury Timothy Geithner no longer holds the confidence of Congress or of the people of the United States.

Mr. REID. I now ask for its second reading, and in order to place the joint resolution on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The joint resolution will receive its second reading on the next legislative day.

AUTHORIZING APPOINTMENT OF ESCORT COMMITTEE

Mr. REID. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort President Obama into the House Chamber for the joint session at 7 p.m. on Thursday, September 8, 2011.

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

ORDERS FOR THURSDAY, SEPTEMBER 8, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, September 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half; and that following morning business, the Senate resume consideration of H.R. 1249.

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

PROGRAM

Mr. REID. Mr. President, we have reached an agreement to complete action on the bill, as I outlined earlier.

There will be four rollcall votes at approximately 4 p.m. on Thursday. Senators should gather in the Senate Chamber at 6:30 p.m. tomorrow to proceed to the House for the joint session. After the joint session, there will be an additional rollcall vote on the motion to proceed to S.J. Res. 25, a joint resolution of disapproval regarding the debt limit increase.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8 p.m., adjourned until Thursday, September 8, 2011, at 9:30 a.m.