

CONGRESS OF THE UNITED STATES,
Washington, DC, April 30, 2011.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the State of Tennessee, we respectfully request that you declare a federal disaster in Bradley, Greene, Hamilton, and Washington counties as a result of the severe storms, flash flooding and tornadoes that struck the state beginning on April 25, 2011.

Governor Bill Haslam has requested federal disaster assistance to respond to the devastation caused throughout Tennessee due to this historic tornado outbreak, and we expect a separate request will be forthcoming to respond to the flooding along the Mississippi River and its tributaries. Flooding in many of our communities will only get worse in the coming days, and the unprecedented river stages are threatening the entire levee system.

State and local officials are only beginning to be able to assess the level of damage to infrastructure, private property and our economy. Many of the communities affected by these storms and rising flood waters are the same areas devastated by the May 2010 floods. In addition to all of the homes and businesses destroyed by the tornadoes, the flooding along the Mississippi River is forecast to exceed the great flood of 1937 in some areas, and reach the third highest level on record in Memphis by May 10.

Federal assistance is critical to help our state and local governments initiate recovery efforts and to start repairing infrastructure. Like so many areas throughout the Southeast ravaged by these storms, our communities are overwhelmed by the destruction and need federal assistance. Public and Individual Assistance in Bradley, Greene, Hamilton, and Washington counties will help communities with debris removal and make victims eligible for a number of vital disaster assistance programs. The Tennessee delegation and state and local officials stand ready to work together with federal officials to make sure that Tennesseans receive the help they need to get back on their feet.

Thank you for your expedited consideration of our State's request, and we will provide you with more information about our State's needs as information is available.

Sincerely,

LAMAR ALEXANDER,
U.S. Senator.
BOB CORKER,
U.S. Senator.
STEVE COHEN,
Congressman.
MARSHA BLACKBURN,
Congressman.
JIM COOPER,
Congressman.
CHUCK FLEISCHMANN,
Congressman.
STEPHEN L. FINCHER,
Congressman.
DIANE BLACK,
Congressman.
SCOTT DESJARLAIS,
Congressman.
JOHN J. DUNCAN, Jr.,
Congressman.
PHIL ROE,
Congressman.

CONGRESS OF THE UNITED STATES,
Washington, DC, April 27, 2011.

Maj. Gen. MICHAEL J. WALSH,
President, Mississippi River Commission, Vicksburg, MS.

DEAR MAJOR GENERAL WALSH: We urgently request you take every action possible to protect communities in Tennessee and throughout the Mississippi River Valley

from rising floodwaters. The State of Tennessee has already declared a State of Emergency, and if necessary, we implore you to take preventative action rather than wait until it is too late to act.

The rising flood waters in the Mississippi River are historical in context, threatening approximately 110 miles of Tennessee riverbank. If the Mississippi River overtops or breaches the levees along Tennessee's river banks, thousands of people and acres of farmland are at tremendous risk of flooding.

We understand the Governor of Missouri, Jay Nixon, is seeking a temporary restraining order in the U.S. District Court to prevent the U.S. Army Corps of Engineers from artificially crevassing the levee at Birds Point and using the Birds Point-New Madrid Floodway.

While we understand that you are facing an extremely difficult decision, we are concerned about the potential devastation that could be felt by nearly 160,000 Tennesseans. It is our understanding that the 8th Circuit Court of Appeals in the case of *Story v. Marsh*, 732 F.2d 1375, 1383 (8th Cir. 1984), regarding the operation of the Birds Point-New Madrid floodway, stated that the operation of the floodway is within the discretion of the U.S. Army Corps of Engineers. We hope that the U.S. Army Corps of Engineers will move forward with crevassing the levee, if such a decision becomes necessary.

It is our sincere hope that there will not be a need to artificially crevasse the Birds Point levee, but we urge you not to delay and to take appropriate actions to protect the people and property of Tennesseans that live along the Mississippi River, as well as those throughout the Mississippi Valley.

Sincerely,

SENATOR LAMAR
ALEXANDER.
SENATOR BOB CORKER.
CONGRESSMAN STEPHEN L.
FINCHER.

Mr. ALEXANDER. 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.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF ROY BALE DALTON, JR., TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA

NOMINATION OF KEVIN HUNTER SHARP TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Roy Bale Dalton, Jr., of Florida, to be U.S. District Judge for the Middle District of Florida, and Kevin Hunter Sharp, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate, equally divided and controlled between the two leaders or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, as we return from Easter recess, judicial vacancies around the country remain at historically alarming levels, as they have for the last 3 years. With 1 out of every 9 Federal judgeships still vacant, and judicial vacancies around the country remaining at 95, we have serious work to do.

I thank the majority leader for scheduling votes on two more nominations to fill judicial emergency vacancies. Roy Bale Dalton, Jr., has been nominated to fill a judgeship in the Middle District of Florida and Kevin Hunter Sharp has been nominated to fill a judgeship in the Middle District of Tennessee. Each nomination was reported unanimously by the Judiciary Committee more than a month ago. They both could be confirmed unanimously.

With cooperation from both sides of the aisle, the Senate could consider the additional 13 judicial nominees ready for final Senate action. I had hoped that the Senate would have considered a number of them before taking its Easter recess 2 weeks ago. Among those nominees are another five to fill additional judicial emergency vacancies, three of them reported by the Judiciary Committee with bipartisan support, including one which was reported unanimously but remains stalled on the calendar awaiting final action.

We should certainly have proceeded with the judicial nominees for whom there is no opposition and no reason for delay. That would have allowed us to confirm another seven nominees. They have all been thoroughly reviewed by the members of the Judiciary Committee in a hearing and have all been recommended to the Senate unanimously. They are Arenda L. Wright Allen to fill a vacancy in the Eastern District of Virginia; Michael Francis Urbanski, to fill a vacancy in the Western District of Virginia; Clair C. Cecchi to fill a vacancy in New Jersey; Esther Salas to fill another vacancy in New Jersey; Paul Oetken and Paul Engelmayer to fill vacancies in the Southern District of New York; and Ramona Manglona to fill a vacancy in the Mariana Islands. The Virginia nominees have been waiting for final consideration longer than those nominees who are being allowed to be considered today.

Two of the nominees currently awaiting a Senate vote have twice been considered by the Judiciary Committee and have twice been reported with

strong bipartisan support, first last year and again in February. They are Susan Carney of Connecticut to fill a judicial emergency vacancy on the United States Court of Appeals for the Second Circuit, and Michael Simon to fill a judicial emergency vacancy on the District Court in Oregon. Two of the nominations have been reported favorably by the Committee three times—that of Goodwin Liu to fill a judicial emergency vacancy on the Ninth Circuit and that of Jack McConnell, reported with bipartisan support to fill a vacancy for the District of Rhode Island. Another currently pending nomination has been reported favorably four times, that of Judge Edward Chen to a judicial emergency vacancy on the Northern District of California. All of these nominations have long been ready for a Senate vote. So is the nomination of Caitlin Halligan to fill a judicial vacancy on the DC Circuit.

All 15 of the pending nominees have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution. All should have an up-or-down vote after being considered by the Judiciary Committee, and without weeks and months of needless delay.

If we join together, we can make real progress by considering all of the judicial nominations now on the Senate's Executive Calendar. If the Senate were to take favorable action on the 15 judicial nominations currently pending and awaiting final Senate consideration, we could reduce vacancies to below 90. In fact, we would be able to reduce them to 80 for the first time since July 2009.

Federal judicial vacancies around the country still number too many, and they have persisted for too long. Whereas the Democratic majority in the Senate reduced vacancies from 110 to 60 in President Bush's first 2 years, judicial vacancies still number 95 more than 26 months into President Obama's term. By now, judicial vacancies should have been cut in half, but we have barely kept up with attrition.

Regrettably, the Senate has not reduced vacancies dramatically as we did during the Bush administration. In fact, the Senate has reversed course during the Obama administration, with the slow pace of confirmations keeping judicial vacancies at crisis levels. Over the 8 years of the Bush administration, from 2001 to 2009, we reduced judicial vacancies from 110 to a low of 34. That has now been reversed, with vacancies staying above 90 since August 2009. The vacancy rate—which we reduced from 10 percent at the end of President Clinton's term to 6 percent by this date in President Bush's third year, and ultimately to less than 4 percent in 2008—has now swelled to nearly 11 percent.

The two nominations we consider today demonstrate that there is no reason the Senate cannot consider and confirm the President's nominations to the Federal bench in a timely manner. Both nominees show President Obama's commitment to working with home State Senators of both parties to

identify superbly qualified nominees in districts with vacancies. I thank Senators NELSON, RUBIO, ALEXANDER and CORKER for working with President Obama on these nominations and congratulate them along with the nominees and their families.

I have thanked the Ranking Republican on the Judiciary Committee, Senator GRASSLEY, for his cooperation this year. I am glad to see him echo my call to turn the page and end the days of tit for tat on judicial nominations. That is what I did from the first days of the Bush administration in spite of how President Clinton's nominees had been treated.

My friend from Iowa often speaks about the positive action we are taking on nominations. In order to make these statements meaningful, the Senate needs to consider and confirm the 15 judicial nominations that are awaiting final consideration and action by the Senate. That the Senate Judiciary Committee is doing its work is good, but to send judicial nominations to the Senate is not enough. It means nothing if they are not considered by the Senate. More than a dozen continue to languish without positive action by the Senate. Some have been stalled since last year and one from two years ago. They all are waiting for what I would call "positive action."

I ask unanimous consent that a column by Ashley Belleau, the National President of the Federal Bar Association be printed in the RECORD at the end of my statement, which, in part, says:

The business of America is business, and when business can't figure out if their patents are good, their contracts are good, they can't figure out what to do about their tax situation, things bog down. Businesses need a strong rule of law and prompt rulings by judges. Vacancies desperately need to be filled; new judges desperately need to be added. We owe that to our citizens. We owe that to our Constitution. We owe that to the rule of law. And we owe it to the cause of justice.

Prompt and thoughtful justice, not endless delay, is what the American people expect from their legal system. It is what we deserve. It is what due process requires. And it is the most cost-efficient approach to the resolution of lawsuits in our nation's courts.

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

(See exhibit 1.)

Mr. LEAHY. I also ask unanimous consent that an editorial from the Arizona Range News entitled "Lack of Federal Judges a Serious Issue" be printed in the RECORD at the end of my statement. It mentions a resolution by the Phoenix Chapter of the Federal Bar Association urging Arizona's congressional representatives to work to fill the vacancies plaguing the Arizona courts.

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

(See exhibit 2.)

Mr. LEAHY. The Senate must do better. We must work together to ensure that the Federal judiciary has the judges it needs to provide justice to

Americans in courts throughout the country. Judicial vacancies throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court in a timely fashion. This is unacceptable. That is why Chief Justice Roberts, Attorney General Holder, and the President of the United States have spoken out and urged the Senate to act.

Just before the Senate adjourned for its two-week Easter recess, the White House Counsel spoke to the American Bar Association about the need for a sense of greater urgency in filling these judicial vacancies. I hope that we will follow this advice and make real progress to ensure that the Federal courts are able to function for all Americans.

We have a long way to go to do as well as we did during President Bush's first term, when we confirmed 205 of his judicial nominations, bringing the vacancy rate down from 10 percent to 4 percent. We confirmed 100 of those judicial nominations during the 17 months I was Chairman during President Bush's first 2 years in office. So far, well into President Obama's third year in office, the Senate has only been allowed to consider 79 of President Obama's Federal circuit and district court nominees. We remain well short of the benchmarks we set during the Bush administration; 79 is well short of 205.

EXHIBIT 1

[From the Atlanta Journal-Constitution, Apr. 27, 2011]

BUSINESS, DEFENDANTS HARMED IN COST-CUTTING AT FEDERAL COURTS

(By Ashley L. Belleau)

Just as budgets matter, so does justice. The two are connected. Making sure we have enough judges in our federal courts will save dollars, not waste them.

The insufficient number of judges in our federal courts is costing our country in dollars and protracted litigation. Manpower and money are foolishly wasted. Record case-loads in many federal judicial districts cause trials to be delayed, especially civil cases. This is not good for the state of justice in our nation.

The fact that we don't have enough judges to decide promptly the federal civil and criminal lawsuits in our country owes itself to the Congress and the president. Both have failed to create enough judgeships in high-caseload areas of the country, like California and the border courts in Texas. Both have failed to keep the process moving by timely providing capable, qualified individuals to fill judgeships as they open up due to retirement, death or resignations.

As a result our federal court system is bursting at the seams. With 12 percent of judgeships vacant, temporary judgeships expiring, and more courts in emergency mode than ever, there is an unprecedented crisis in our third branch of government. The phrase "justice delayed is justice denied" describes the dire situation in many federal court-houses. Judicial vacancies plainly undermine the capacity of our courts to render justice within a reasonable period of time.

Sadly, few Americans understand the impact these judicial vacancies have on their lives. Those of us who try federal cases know

its impact in the continuance of cases for months, even years, without decision. Vacancies and delay add greater costs to already high litigation expenses. For business clients, these costs get passed on to customers. And when the United States is a party to the case, it means that the public is paying that higher tab.

For criminal defendants awaiting trial, it can mean more detention time, adding even more costs to the taxpayer. Just last year, the federal cost of pretrial detention alone was \$1.4 billion, according to the Department of Justice.

At a recent forum sponsored by the Federal Bar Association and the Brookings Institution, Federal District Judge Royal Furgeson commented on the enormous impact that vacancies on the federal bench have on the pace of litigation and ultimately the American economy: The business of America is business, and when businesses can't figure out if their patents are good, their contracts are good, they can't figure out what to do about their tax situation, things bog down. Businesses need a strong rule of law and prompt rulings by judges. Vacancies desperately need to be filled; new judges desperately need to be added. We owe that to our citizens. We owe that to our Constitution. We owe that to the rule of law. And we owe it to the cause of justice.

Prompt and thoughtful justice, not endless delay, is what the American people expect from their legal system. It is what we deserve. It is what due process requires. And it is the most cost-efficient approach to the resolution of lawsuits in our nation's courts.

EXHIBIT 2

[From the Arizona Range News, Apr. 27, 2011]

LACK OF FEDERAL JUDGES A SERIOUS ISSUE

At the beginning of the year, Judge John Roll, the presiding federal judge in Arizona, was seeking permission to delay bringing felons to trial from the usual 70-day requirement to up to 180 days. That's the same Judge Roll who was gunned down just days later in Tucson by a deranged assassin.

Roll termed the problem a "judicial emergency" prompted by the number of cases flooding the judicial docket in Arizona and the federal court's inability to handle them all in a speedy fashion.

The problem is and remains a lack of judges and court staff to handle the caseload.

According to news reports, based on its caseload, the judicial district of Arizona is eligible for five more judgeships. The state is authorized for 13, but has three vacancies, two in the Tucson division.

As a direct result of illegal immigration prosecutions, two years ago there were 3,023 felony cases filed in federal court in Arizona. That increased to 4,311 the next year and 5,219 last year. In just Tucson, felony filings went from 1,564 two years ago to 3,289 last year.

The power to appoint more judges lies with Congress, but our representatives and senators, while reportedly supportive, have not been proactive.

The problem prompted the Phoenix Chapter of the Federal Bar Association to issue last month a resolution to congressional members to get the vacancies filled and to add to the court staff and its facilities.

In fact, judicial vacancies are a problem across the nation. According to a CNN report, there are 99 vacancies in the 857 federal district and appeals court judgeships, amounting to about 12 percent of the judicial seats. Just 46 names have been put forth by President Obama to fill those openings. The Administrative Office of the U.S. courts predicts at least 15 more vacancies this year.

We urge you to contact your congressional members to champion a solution to the very

real needs of the judge and staff shortages facing the federal courts in Arizona.

And we would ask you to ask them to act not only for our state's sake, but in memory of Judge Roll who served his state and country well.

Mr. ALEXANDER. Mr. President, I rise today to support the nomination of Kevin Sharp to fill a judicial vacancy on the U.S. District Court for the Middle District of Tennessee. The Senate will be voting on the President's nomination within a few minutes. Kevin is an outstanding individual. I am pleased to be able to support his nomination today.

As a Governor, I appointed about 50 judges. I tried to determine in doing that if he or she had the character and the intelligence and the temperament to be a judge, whether that person would treat people before the bench with courtesy, and most important whether they were determined to be impartial to litigants before the court. I believe Kevin Sharp meets these qualifications, and I am pleased that he will bring that character and skill to his service on the bench. I congratulate the President for nominating him.

Kevin is a native of Tennessee. He is a founding partner of the national law firm of Drescher and Sharp where he has been an expert in employee law, employee benefits, and commercial disputes. He is a graduate of two Tennessee institutions of higher education. He earned his bachelor of science degree from Christian Brothers College, graduating summa cum laude. He earned his juris doctorate from Vanderbilt, where he was a Weldon B. White Scholar, an Associate Problem Editor on the Moot Court Board, a recipient of the Appellate Advocacy Award, and a research assistant on issues of constitutional law and habeas corpus.

As a lawyer, Kevin Sharp has repeatedly earned recognition from his peers, being named one of the Nashville Business Journal's best of the bar in 2003, and each year from 2005 to 2009.

Prior to becoming a lawyer, Kevin served in the U.S. Navy as a flight crew member on the P-3 *Orion* operating in patrol/reconnaissance, and the antisubmarine warfare capacities as part of the U.S. Pacific fleet.

Kevin has broad support in Tennessee. Both the White House and my office and Senator CORKER's office have received numerous letters from Republicans, Democrats, and those who didn't indicate any sort of partisan leaning, which is the way it ought to be.

Although the President nominated Kevin on November 17 of last year for the first time, the seat that he has been nominated to fill is designated as a judicial emergency. It has been vacant for 4 years, since March 1, 2007. This is the third longest vacancy on the list of judicial emergencies, and the people of Tennessee deserve to have this vacancy filled.

I thank the President for the nomination and the Judiciary Committee's

prompt consideration of that nomination. I am grateful for the opportunity to join in support of the nomination of Kevin Sharp, and I encourage my colleagues to join me in supporting the nomination today.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today, the Senate will confirm two more of President Obama's judicial nominees. I continue to work with the chairman of the committee to ensure nominees are afforded a fair but thorough process and in a timely manner.

Today's vote marks the 19th nominee to be confirmed in just 42 days the Senate has been in session this Congress. The Judiciary Committee is holding a nominations hearing on Wednesday. On Thursday we will report additional judicial and executive nominees to the floor. Thus far we have taken positive action on 43 of 63 nominees submitted this Congress, or 68 percent of all nominees.

Let me repeat that, because I am going to say something that makes it very disgusting to me, some things that are coming out of the White House. Thus far we have taken positive action on 43 of 63 nominees submitted to this Congress, or 68 percent of the nominees. With this progress, I was then surprised at the recent remarks of the White House Counsel before the American Bar Association members this past April 14.

This counsel addressed the group and complained about the pace of judicial appointments. He encouraged the group to escalate the general sense of urgency regarding judicial appointments. Press reports indicate that he asked them to play a larger role to "bring home the impact or the effects of gridlock."

So, Mr. President, not only do I think these remarks are unjustified, given the pace of confirmations this year—and that is the 68 percent I have referred to—but they also reflect a failure on the part of the White House Counsel to acknowledge where the problem begins. It begins with the President of the United States and his staff—the White House Counsel particularly.

This brings me to the point: If we are acting so slowly, why has the President failed to send to the Senate a nomination for 55 percent of the current judicial vacancies? This statistic certainly does not indicate any sense of urgency on the part of the White House, and it brings further attention to the intellectual dishonesty of the White House in its speech to the ABA members that we are not acting fast enough on the Hill.

Well, having said that, I want to say a few words about the two nominees we are going to be voting on today. Roy Dalton, Jr. is nominated to be U.S. District Court judge for the Middle District of Florida. Mr. Dalton received

his BA with high honors and his JD from the University of Florida.

Following law school, he joined the firm of Dean, Ringers, Morgan & Lawton as an associate where he later became a principal of the firm.

In 1982, the nominee founded his first law firm, Roy B. Dalton, Jr., P.A. He would later form other practices where he would serve as a principal. In 1999 he began working as "of counsel" for the firm Gray, Harris & Robinson, where his practice area grew to include civil litigation, government relations, appellate practice, and business practice for individuals. As a former Senate staffer, Mr. Dalton spent most of 2005 serving as counsel to his former legal partner and U.S. Senator, Mel Martinez. Mr. Dalton has also practiced in appellate matters as "of counsel" for the Carlyle appellate law firm, a post he has held since 2004. The ABA Standing Committee on the Federal Judiciary gave him the rating of: substantial majority "Well Qualified"; minority "Qualified." I am pleased to support Mr. Dalton today.

I also rise in support of Kevin Sharp to be U.S. District Court Judge for the Middle District of Tennessee. Mr. Sharp enlisted in the U.S. Navy following high school and received an honorable discharge in 1986. The nominee received his B.S. from Christian Brothers College and a J.D. from Vanderbilt University School of Law. He began his legal career as an associate with the firm of Stokes & Bartholomew. After a yearlong stint working as an attorney for the U.S. Congressional Office of Compliance, Mr. Sharp returned to Stokes, Bartholomew, Evans & Petree, eventually making partner. Since 2003, he has been a shareholder and partner at Drescher & Sharp, where he has focused his legal practice on employment, labor, and disability law. The ABA Standing Committee on the Federal Judiciary has rated him "Qualified" and I urge my colleagues to support this nominee.

I note that the vacancy Mr. Sharp will fill was created by the retirement of Judge Echols in March of 2007. A few months later, on June 13, 2007, President Bush nominated Gus Puryear to fill the vacancy. Mr. Puryear waited 8 months before he had a hearing. That was the last action the committee took on the nomination. His nomination languished in committee for another 10 months before being returned to the President in January 2009, at the end of President Bush's term. It is both unfortunate and unnecessary that this seat has remained vacant for so long.

I congratulate each of these men for their achievements and commend them for the public service they have given and that they will provide to the people of this country, and particularly to their respective States in the future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. I yield back all remaining time.

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

Under the previous order, the Dalton nomination is confirmed.

The question now occurs on the Sharp nomination.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Kevin Hunter Sharp, of Tennessee, to be United States District Judge for the Middle District of Tennessee?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ), the Senator from Florida (Mr. NELSON), the Senator from Vermont (Mr. SANDERS), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. MORAN), the Senator from Florida (Mr. RUBIO), the Senator from Louisiana (Mr. VITTER), the Senator from Utah (Mr. HATCH), the Senator from Georgia (Mr. ISAKSON), and the Senator from Nevada (Mr. ENSIGN).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea."

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 62 Ex.]

YEAS—89

Akaka	Durbin	McConnell
Alexander	Enzi	Merkley
Ayotte	Feinstein	Mikulski
Barrasso	Franken	Murkowski
Baucus	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Paul
Bingaman	Hagan	Portman
Blumenthal	Harkin	Pryor
Blunt	Hoeven	Reed
Boozman	Hutchison	Reid
Boxer	Inhofe	Risch
Brown (MA)	Inouye	Roberts
Brown (OH)	Johanns	Rockefeller
Burr	Johnson (SD)	Schumer
Cantwell	Johnson (WI)	Sessions
Cardin	Kerry	Shaheen
Carper	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Kyl	Stabenow
Coats	Landrieu	Tester
Coburn	Lautenberg	Thune
Cochran	Leahy	Toomey
Collins	Lee	Udall (NM)
Conrad	Levin	Warner
Coons	Lieberman	Webb
Corker	Lugar	Whitehouse
Cornyn	Manchin	Wicker
Crapo	McCain	Wyden
DeMint	McCaskill	

NOT VOTING—11

Ensign	Menendez	Sanders
Hatch	Moran	Udall (CO)
Isakson	Nelson (FL)	Vitter
Kirk	Rubio	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table. The President will be immediately notified of the Senate's action, and the Senate will resume legislative session.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

SBIR/STTR REAUTHORIZATION ACT OF 2011

Mr. REID. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 493, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 493) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Pending:

Vitter amendment No. 178, to require the Federal Government to sell off unused Federal real property.

Cornyn amendment No. 186, to establish a bipartisan commission for the purpose of improving oversight and eliminating wasteful government spending.

Paul amendment No. 199, to cut \$200,000,000,000 in spending in fiscal year 2011.

Sanders modified amendment No. 207, to express the sense of the Senate that Social Security benefits for current and future beneficiaries should not be cut and that the Social Security program should not be privatized as part of any legislation to reduce the Federal deficit.

Hutchison amendment No. 197, to delay the implementation of the health reform law in the United States until there is final resolution in pending lawsuits.

Pryor amendment No. 229, to establish the Patriot Express Loan Program under which the Small Business Administration may make loans to members of the military community wanting to start or expand small business concerns.

Landrieu (for Cardin) amendment No. 240, to reinstate the increase in the surety bond guarantee limits for the Small Business Administration.

Landrieu (for Snowe) amendment No. 253, to prevent fraud in small business contracting.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. REID. Mr. President, at the beginning of this Congress, we entered into an agreement with the minority. One of the things we wanted to do was to make sure there was a process for allowing amendments to bills. We have had the small business jobs bill on the calendar for weeks. I believe this is the fifth week this bill has been around. We have had votes on a lot of amendments. But each time we think we can see the way to closure, my friends on the other