

McConnell. They listened to what the Greater Providence Chamber of Commerce had to say. To quote from the National Association of Mutual Insurance Companies' letter:

Upon further consideration and consultation with our member companies in Rhode Island, and after evaluating support for Mr. McConnell from the local business community and former Rhode Island Attorneys General Arlene Violet and Jeffrey Pine, NAMIC withdraws its opposition to his nomination. . . .

Again, those who have carefully considered Jack McConnell have acknowledged that he will bring no personal agenda to the courtroom, as he has testified truthfully and accurately.

Another insinuation is that Mr. McConnell has not comported himself in an ethical manner. This is a serious charge. If any Senator is going to level this kind of assertion, they have to have clear and compelling facts on their side.

Indeed, in his over two decades of practice, Mr. McConnell has never had an ethics complaint alleged or filed against him. He has never had a malpractice claim alleged or filed against him. He has never had a rule 11 motion filed against him.

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

Mr. REED. Madam President, I ask unanimous consent for 2 more minutes.

Mr. ALEXANDER. Madam President, reserving the right to object, then we would need to add 2 minutes to the Republican side, and I ask unanimous consent for that.

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

Mr. REED. There is a third claim against Mr. McConnell regarding the State of Rhode Island's lawsuit against a number of companies which, at one time, manufactured lead paint. Let me state for the record that this process had its start under a Republican Attorney General, Jeffrey Pine, and then continued under two succeeding attorneys general.

The lawsuit had precedent under Rhode Island law. While it was a lengthy and difficult trial, Judge Silverstein, a State superior court judge who oversaw this trial and was responsible for the court's business calendar, had nothing but praise for Mr. McConnell's involvement and that of his opposing counsels. Again, Judge Silverstein is one of our most respected judges by all sides and by the entire Rhode Island bar for his judgment, integrity, and his skill. He had nothing but praise for Mr. McConnell's involvement.

A fourth claim is an insinuation that Mr. McConnell received some kind of favoritism when the state selected a legal firm to bring the lead paint lawsuit. The facts are again different from the claim. First, Mr. McConnell and former Attorney General Pine discussed this issue within the context of the global tobacco litigation. Attorney

General Pine then asked Mr. McConnell to provide a legal memo on this matter. Attorney General Pine reviewed the materials and believed the case was solid but did not want to undertake the case due to the end of his term. In 1999, AG Pine's successor, who happened to be Senator WHITEHOUSE, asked to be briefed on the matter. Then Attorney General WHITEHOUSE, asked another firm, DeCof and DeCof, to review the case, and this firm found the merits of the case to be factually and legally sound under Rhode Island law. The case was then actively litigated by the state under AG WHITEHOUSE's tenure. It was then reviewed by AG WHITEHOUSE's successor, who decided after much deliberation to continue the case. So there you have it. A Republican Attorney General chose Mr. McConnell more or less and his Democratic successors retained his firm.

I am also told this proposed arrangement was submitted to the court, the court reviewed it, and did not object to it. I am also told by Senator WHITEHOUSE that, indeed, the judge had the final approval of any type of payments made. That is the type of arrangement I think is well within the consistency and ethics of procedures within Rhode Island and across the Nation.

I could go on and on. I conclude by saying this: This is an individual of integrity, character, decency, education, talent, and skill. Today, we are on the verge, I hope, of confirming a district court judge nominee. If we reject this person through a cloture fight, we are setting up an extraordinarily dangerous precedent that in the future could be used to prevent individuals of character and talent from serving on the bench.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that over the next 30 minutes Republican Senators led by the Senator from Ohio, Mr. PORTMAN, and including the Senator from Wyoming, Mr. BARRASSO, Senator CORNYN from Texas, Senator HOEVEN from North Dakota, and myself be permitted to engage in a colloquy.

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

#### RIGHT-TO-WORK LAW

Mr. ALEXANDER. Madam President, it seems as if every day there is some new action by the Obama administration that throws a big wet blanket over job creation in America. Republicans haven't been hesitant to point this out and talk about too many taxes, too many regulations, too much debt, higher gasoline prices, higher health care costs, and the health care law.

Yesterday, Senators GRAHAM and DEMINT and I introduced legislation to reaffirm section 14(b) of the Taft-Hartley Act to permit States, if they so

chose, to have a right-to-work law, creating a competitive environment in which we can create more jobs in this country. This is in reaction to the action by the National Labor Relations Board that would basically say the Boeing Company could not expand into a nonunion State.

I ask unanimous consent to have printed in the RECORD an editorial in the Wall Street Journal today called "Congress vs. the NLRB."

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

#### CONGRESS VS. THE NLRB

President Obama's National Labor Relations Board has spent the year thumbing its nose at Congress by reinterpreting longstanding labor law on behalf of union friends. Congress is finally fighting back.

Tennessee GOP Senator Lamar Alexander along with South Carolina Senators Lindsey Graham and Jim DeMint are this week introducing legislation to rein in the labor board's latest assault on business. The board's complaint against Boeing, filed last month, is the first shot in a new union war on federal right-to-work law, a policy shift that is every bit as threatening as the drive to get rid of secret ballots in union elections.

Boeing decided 17 months ago to invest \$2 billion building a new production plant for its 787 Dreamliner in South Carolina. It made the decision only after talks broke down with the International Association of Machinists and Aerospace Workers, whose members wanted the work at a unionized plant in Washington state. The union's many strikes over the years have cost Boeing a bundle. South Carolina, like 21 other states, has a right-to-work law, which forbids compulsory unionism.

The Obama NLRB nonetheless chose to make Boeing a whipping boy in a new offensive against right-to-work states. It filed a complaint demanding that an administrative law judge halt the South Carolina plant (set to open in July), and force Boeing to move production to Washington.

This despite the fact that Boeing made clear this is a new production facility or that it has added 12,000 jobs in Washington since announcing the South Carolina move.

No matter. The complaint's real target is the federal right-to-work guarantee. Among the most celebrated provisions of the 1947 Taft-Hartley Act is what's known as 14(b)—the section that allows states to pass right-to-work laws. The Boeing complaint guts that guarantee by effectively requiring companies to continue manufacturing in union states—or be found guilty of a rights violation. This is a union dream come true, on par with "card check."

As Senator Alexander tells us, this is a direct attack on a right-to-work law that was "thoroughly debated" by Congress in 1947 and "remains clear today." The Alexander-Graham-DeMint legislation would clarify the existing provision, ensuring that state right-to-work laws cannot be pre-empted by the NLRB or union contracts. We're assuming the 11 Democratic Senators from right-to-work states will stand up for their non-unionized workers—if Senator Majority Harry Reid (from right-to-work Nevada) allows a vote.

Boeing will fight the NLRB complaint, though that might mean a protracted court fight. It also means more uncertainty for every business considering a move of future production facilities to a right-to-work state. Many of them may simply relocate manufacturing overseas.

This is the latest gambit from an Administration that has been ramping up its regulatory and enforcement powers on behalf of special-interest allies such as unions. The only check against this is Congress, so we're glad to see Members speaking up.

Mr. ALEXANDER. Madam President, as important as it is to say what we don't like about the Obama administration's job policy, it is even more important for us to say what Republicans will do to create an environment to make it easier and cheaper to create private sector jobs.

Senator PORTMAN of Ohio has a strong background as a budget director, as a Congressman, and as a trade negotiator in the Bush administration, and he has a good understanding, representing one of our largest and most important manufacturing States, of exactly what kind of policy it takes to create an environment for job growth. He has been working with Republican Senators so that we can clearly state our progrowth plan. We would like to discuss that.

I ask Senator PORTMAN, what would be the keys to the Republican plan to make it easier and cheaper to create private sector jobs?

Mr. PORTMAN. I thank my colleague from Tennessee. I happen to have the answer to his question. Yesterday—he is correct—we did propose a jobs plan, which is a series of commonsense proposals to get our economy back on track and create jobs across our country.

You will recall that a few years ago there was a stimulus effort in the Congress—the President's \$800 billion stimulus plan—that was passed. The idea was to get the economy back on track. There were estimates that it would have a big impact on job growth and, in fact, reduce our unemployment numbers significantly. That didn't happen.

One of the reasons that didn't happen is because it relied too much on government providing the resources for jobs. Government doesn't create jobs, but government can create the climate for job growth. Our view is that we need to take a different approach. That approach is to stimulate private sector job growth and create that pro-growth environment.

The seven proposals we announced yesterday as part of our jobs plan include being sure that we do indeed deal with the deficit and debt because that is a negative impact today on our economy. In fact, there are economic studies out there showing that our GDP is much smaller than it would otherwise be but for the deficit and debt. Also, we need to reform the Tax Code to spur economic growth. Economists across the spectrum agree that we can stimulate economic growth by having a Tax Code that makes more sense for job creation.

Regulation is a major issue. We will hear from our colleagues who want to make sure we have regulatory relief for small businesses which are not able to create jobs because of the increased regulations coming from Washington.

We need a workforce that is more competitive, and that requires the Federal Government to do a better job on workforce development. Also, there is the need to increase and expand exports. The President has talked about that. We are eager to get trade agreements in Congress. We can create hundreds of thousands of new jobs immediately through expanding markets.

We also talked yesterday about energy. This is important. There are things we can do right now to get America less dependent upon foreign oil and use our own resources in this country more effectively. Then in terms of the health care circumstances—we will talk about this in a moment—every person I have talked to in Ohio, and I have been on over 200 factory visits in the last couple years—tells me the cost of health care is going up not down, which is making it harder to create jobs. We will talk about the need to reduce health care costs.

This is a commonsense, seven-point plan to get the economy moving and create jobs. It is incredibly important to get the unemployment numbers down and to be sure American families have opportunities. It is also very important, though, in terms of dealing with the debt and deficit because, although we need to restrain spending—and Congress is beginning to take small steps in that regard—we also need to grow the economy.

When we have 1.8 percent economic growth, which we had in the last quarter, which is anemic, weak, and not something we should be satisfied with, it is difficult to create that economic growth to help deal with this huge overhang of deficits and debts.

As the Senator from Tennessee said, we have other colleagues with us today, and Senator JOHN HOEVEN from North Dakota will talk about these issues, as will Senator BARRASSO from Wyoming. Senator CORNYN from Texas has just joined us.

I ask Senator HOEVEN, a former Governor of North Dakota—where there is about 3.6 percent unemployment and is a State that is producing domestic energy to help meet our needs and is a big State for exports—if he will talk about his ideas on job growth and how it fits into this job plan.

Mr. HOEVEN. Madam President, I say to my colleagues, Senators PORTMAN, ALEXANDER, BARRASSO, and CORNYN, that it is great to be here this morning to engage in this colloquy. I want to follow up on the points that my esteemed colleague referred to on both energy and trade. They are very important in terms of job creation for our country.

If I could, I will start for a minute on the comprehensive nature of this jobs plan that Republicans have put together. If we look at it, we will see that it is truly comprehensive. It is about living within our means, about reforming our Tax Code, without raising taxes, to create a progrowth environment, create jobs, and get our economy

moving. It is about unburdening our economy from the overregulation that is hurting job creation. It is about helping to create a more competitive workforce to compete in a global economy. It is about increasing our exports, and it is about a truly comprehensive approach to energy that will help us develop all of our sources of energy, both traditional and renewable. It is also about commonsense health care reform. We need to do that because we have more than 15 million people who are unemployed. Every day they are unemployed is one day too many. We also have to get on top of this deficit and debt we face. That means controlling our spending, reducing our spending, but it also means growing our economy. That is the way to not only get people back to work but reduce the debt and deficit.

If we look at the 1990s when we were in a somewhat similar situation, that is exactly what we did. We need to go back and do that. North Dakota is a large energy-producing State—oil, gas, clean coal technology, and also the renewables, biofuels, and wind. But the way we did it wasn't through government spending. It was through creating a legal, tax and regulatory environment and creating certainty so that companies and entrepreneurs could invest in energy and advanced manufacturing and technology—the whole gamut. But there are hundreds of millions to billions of dollars today that would go into investments all over this country in the energy patch, both traditional sources and renewable sources of energy, with the latest, greatest technology—more energy, more dependable, and cost effective, with better environmental stewardship.

That is what this is about, creating the right environment. By the same token, we are looking at three different trade agreements: the South Korea Free Trade Agreement, the Colombia Free Trade Agreement, and the Panama Free Trade Agreement. These would create more economic activity. The Korea agreement alone is expected to increase U.S. exports to South Korea by \$10 billion a year. We are talking hundreds of thousands of jobs.

We need to be working on those free-trade agreements right now, today, to approve them. I urge our leadership and the administration to work with us to get those trade agreements to the floor and get them approved as part of this comprehensive jobs plan.

I thank my esteemed colleagues again, and I commend Senator PORTMAN for his outstanding work on this plan. I thank all of the members of our caucus for the contributions they have made to this plan. Also, again, I express our desire to go to work with our friends across the aisle on all of these provisions for the benefit of all of those who are looking for work, for the benefit of our economy, and for the important role that economic growth, along with spending restraint, will play in helping us get on top of our debt and deficit.

With that, I turn the colloquy back over to Senator PORTMAN for his additional remarks.

Mr. PORTMAN. Madam President, I thank my colleague from North Dakota. He makes great points about the need for us to use our resources at home on energy and for us to expand exports because that immediately creates jobs in this country. He has done it. As a Governor, he rolled up his sleeves and got directly involved in economic development. He knows what it takes. The fact that he has been a champion of this plan and helped put it together gives me confidence that this is going to work.

We need to work on a bipartisan basis. We are reaching out to our colleagues on the other side of the aisle and the administration. So much of this is common sense. These are things we should do now.

We are also joined by our colleague from Wyoming. He is Wyoming's doctor. He is also a leader in the Senate and has taken the lead on a number of issues related to jobs, two of which are part of our jobs plan. One is, of course, the regulatory front, where he has taken the time to really dig into how these regulations affect business growth. He may have comments on that issue today.

I would like to hear Dr. BARRASSO on that point but also on the health care front where, as a doctor, he looked into what the impact of health care reform will be on jobs. This is something that perhaps does not get talked about enough. Unless we figure out a way to get health care costs under control, it will be harder for us to create opportunities in this country because the costs embedded in hiring a new employee under health care alone are so high that many companies are simply not hiring. I would love to hear his thoughts.

Mr. BARRASSO. Madam President, I thank Senator PORTMAN for the incredible job he has been doing as a champion of efforts to create more private sector jobs in this country, to make it easier and cheaper to create private sector jobs, for the private sector to create the jobs we need. Senator PORTMAN showed significant leadership in his campaign last year in Ohio developing the Portman jobs plan. He went to factories and small businesses all across the State of Ohio because he knows small businesses are the engines that drive the economy.

Seventy percent of the jobs created in this country are created by our small businesses one at a time. When there are government rules, regulations, redtape, and increased expenses, it makes it much harder because it does not provide the certainty the small businesses of this country need to create those new jobs. They may not be willing to take the additional risk and additional expense because of the unknown concerns.

I think that is one of the points that is highlighted in this wonderful plan

Senator PORTMAN has put together, along with the members of the Republican Party. A big part of this plan has to do with the rules and regulations that come out of Washington, DC—rules and regulations that may not even be connected to laws that were passed in this body but rules and regulations put forward by this administration, by people who have a different view of how America works.

I was encouraged over 100 days ago when the President said he had an Executive order that would try to eliminate some of the redtape. Here we are 100 days later, and it is just another broken promise from this administration. The redtape continues to hold American small businesses hostage.

We are trying to cut through that redtape. The American people realize it. The administration may not realize it, but the American people realize it. When the American people were questioned just this last month about whether there are too few regulations or too many regulations and the impact on business, a majority said there are too many regulations on our businesses.

How much money does Washington spend on regulations? I will tell you, Madam President. Government spent a record \$55 billion developing and enforcing rules last year—\$55 billion developing and enforcing rules last year. That is just the spending of government. What is the impact on businesses around the country? For every \$1 the government spends to put forth and enforce these rules, it costs businesses of this country \$30. That is over \$1.5 trillion expended by businesses across the country. That is a drag on our economy, making it harder for them—not easier but harder and more expensive for the private sector to create jobs. There is \$30 of business expense for every \$1 spent on rules and regulations out of Washington.

People are worried because it is going to get worse. There are still 224 rules in the pipeline that have been labeled as “economically significant.” What is an economically significant rule? It is a rule that has an impact on the economy of over \$100 million. There are 224 of them coming down the line. Is it a surprise that the unemployment rate continues to be so high? It is because of the rules and regulations of this administration.

What do the American people believe about this situation? Over 70 percent of the American people believe several different things about the effect of the rules. I will tell my colleagues what they are. This is polling from just last month. They will tell you that additional environmental regulation increases the price of energy for items such as gasoline and electricity. Seventy percent of Americans believe the rules coming out of Washington increase the costs of items such as gasoline and electricity—the energy issues. How much is the pain at the pump costing the American family this year?

About \$800 per family this year in higher gasoline rates than last year. If you are a family, that has an impact on your quality of life. It has an impact if you are trying to deal with bills, kids, and a mortgage. But there are a lot of regulations out there. The American people see this.

Also, over 70 percent of the American people know in their hearts and believe that small businesses—the job creators of this country—are impacted much more than the large businesses of the country. But it is the small businesses we want to help.

The other point that more than 70 percent of the American people believe, in a poll by the Tarrance Group, is that if regulations make it too expensive to keep jobs in America, businesses will continue to move overseas. Businesses will continue to move overseas.

There is so much uncertainty with the rules and regulations coming out of this town that it is paralyzing the rest of our country. That is just on the rules and regulations aspect that people can see. There are so many rules and regulations that are still coming.

I was at a hospital in Cody, WY, talking about health care. I practiced medicine for 27 years, taking care of families all across the Cowboy State. I was visiting a hospital in Cody, WY, and they said they were trying to figure out one aspect of the health care law—accountable care organizations. It is 6 pages of the 2,700-page law that was crammed through in the middle of the night, with Americans saying: No we don't want this. The people who do regulations took 6 pages of the law and came up with over 400 pages of regulations. They just came out about a month ago. The hospital administrator said: We are having to take money away from patient care, from helping with nurses and therapists to pay for consultants to try to explain these rules and regulations to us so we can abide by them.

Those are the kinds of regulations and rules on steroids that I continued to hear about as I traveled in the last week or so at home visiting with people, visiting the communities, listening to what people have to say and the concern and the uncertainty because what is coming out of Washington is a drag on our economy. It is preventing us from making it easier and cheaper for the private sector to create more jobs.

People all across the country are concerned, and that is why I am so happy to be here with Senator PORTMAN today and his efforts, his leadership on a jobs plan that is one that focuses fundamentally on the things that will get government off the backs of the American people and let the American people get back to work. I thank Senator PORTMAN for his leadership at a time when we see a government that is borrowing too much, spending too much, and growing bigger every day. I am very appreciative of his efforts to get things back under control and get the decisionmaking out of

Washington and back to the home-towns and States across the country.

Mr. PORTMAN. Madam President, I thank Dr. BARRASSO. I appreciate the amount of time he has put into this regulatory issue and the relief small businesses need on the regulatory front. It is obvious he is out talking to businesses, and it is directly related to jobs because we cannot get the jobs back unless we reduce the cost of doing business that comes from these regulations.

Madam President, how much time do we have remaining in this colloquy?

The ACTING PRESIDENT pro tempore. There is 12 minutes 7 seconds on the Republican side.

Mr. PORTMAN. I thank the Presiding Officer.

Madam President, as I said, we are also joined by Senator CORNYN of Texas. I am going to ask him in a minute to say a few words about the jobs plan. The input he has put into it has been terrific because he is the guy who understands, again, the importance of small business, the importance of us creating an environment through Washington laws and regulations that helps create jobs, and that it is not Washington that is going to create the jobs but the private sector that is going to do it.

I ask my colleague from Texas to say a few words about his thoughts.

Mr. CORNYN. Madam President, I say to my colleague from Ohio, what a welcome idea of refocusing on the No. 1 issue in America today, which is too many Americans out of work. Of course, we saw the growth numbers for the first quarter of this year: 1.8 percent—hardly vigorous enough to create the kind of economic expansion and job creation we need.

As we are dealing with the spending issue, we have to deal with growing the economy. That is exactly what the Senator from Ohio has proposed—a comprehensive plan to try to figure out how to get people back to work and to try to get the kind of economic growth that will help us deal with this debt crisis we are in.

The one thing I especially like about the plan, although I like all of it, is the embracing of a notion of a balanced budget amendment to the Constitution. The Senator from Ohio has had a distinguished career not only in the House but as U.S. Trade Representative and also as Director of the Office of Management and Budget. He knows the budget numbers and the intricacies of that better than just about anybody here. He knows the difficulty we have had, whether Republican administrations or Democratic administrations, of living within our means.

Now that we are spending so much money we do not have—about 40 cents on every dollar, with \$14.3 trillion in debt and huge deficits—we have to figure a way out of that situation. I think the best way to do that is to put this proverbial straitjacket on Congress and force us to do what every family and

every business and 49 States do, either because of constitutional or statutory provisions.

I wish to say in conclusion how much I appreciate the good work he has done. Senator PORTMAN has been here a short time, but he brings a lot of experience and a lot of wisdom on these issues, particularly on getting America back to work.

Mr. PORTMAN. Madam President, I thank my colleague from Texas. He is absolutely right. When we look at the budget deficit and the debt and the impact it is having on our economy today, it is clear we need constraints. Forty-nine States have a balanced budget requirement. When I am back home talking with people in our cities and counties, in their struggles with balancing their own budgets, they ask me: How can Washington continue to spend so much money it does not have? Forty cents of every dollar Washington spends today is borrowed money. Clearly that restraint is needed.

It is important to get the economy back on track. Often we talk about the record budget deficit and the \$14 trillion debt in terms of its impact on future generations. As the father of three, I am very concerned about that, as we all should be, because we are mortgaging their future, the excessive spending today that they are going to have to pay back.

It is not just what is going to happen in the future. Our deficits and debts have gotten so big that there is an impact on the economy. There was a study done recently by a couple of respected economists—Rogoff and Reinhart—which says, in looking around the world, where a country's debt is up to 90 percent of its total economy, you have about a 1-percent decline in the GDP or the growth in the economy. Our growth was only 1.8 percent last quarter. That means it should have been at least 2.8 percent but for our debt and deficit because now our gross debt is 100 percent of our economy. So we are over that 90-percent threshold, and we are impacting our economy today.

When we think about it, with all the government borrowing out there, it is crowding out private borrowing. There are fewer jobs being created in America because the government is playing a bigger and bigger role, crowding out the ability of small businesses to get a loan.

I also join a lot of other folks in this Chamber on both sides of the aisle in my deep concern about the possibility of a debt crisis if we do not deal with these historic deficits and debts. That could send our economy into a tailspin with sky-high interest rates, with inflation that is already rearing its ugly head again in this country. We need to address this issue because it is the right thing to do for future generations—it is really a moral issue—but also because it does impact what is going on today in our economy and our ability to get this economy back on

track and create jobs. It is so important to American families and, as I said earlier, so important for us dealing with the fiscal problems because we have to both restrain spending and grow the economy, increase economic activity, which will increase revenues.

Madam President, can you give me a warning when we have 5 minutes remaining in the colloquy today?

I would like to turn back to my colleague from Tennessee who started this off this morning talking about the importance of this job plan.

Mr. ALEXANDER. Madam President, would the Senator have some more comments on the plan and about what has been said by some of our other colleagues?

Mr. PORTMAN. I thank my colleague very much.

Mr. ALEXANDER. To the Chair, if the 5-minute warning could be for the end of the 25 minutes because I intend to take 5 minutes after that.

The ACTING PRESIDENT pro tempore. There is 6 minutes remaining in total on the Republican side.

Mr. ALEXANDER. I will take 1 minute and then conclude. I wish to thank Senators PORTMAN, CORNYN, and BARRASSO for this. We will be hearing often from Republicans who want to make clear what we are for as well as what we are against, and I thank the Senator from Ohio for his leadership.

I wonder if, in the last 30 seconds or so, he wants to focus on trade and jobs, which has been his specialty.

Mr. PORTMAN. First of all, I thank my colleague from Tennessee for helping to promote this idea. Again, we are looking to reach out to Democrats in this Chamber, in the House, and working with the administration, to actually get this done. We need to get the American economy back on track.

I just heard the Senator talk about trade, and we talked about that earlier. But as was said earlier, we need to increase exports because exports equal jobs. If we look at these three pending trade agreements, which the administration has yet to send to Congress—and we can't move unless they do that—they would create, alone, between 250,000 and 380,000 jobs, depending on what numbers you look at. Think about that, hundreds of thousands of jobs are ready to be created right now by knocking down barriers to our workers, our farmers, and our service providers just in these three instances alone.

We also need to provide the President with the authority to knock down more barriers by giving him trade promotion authority. So I call on the administration to send us those agreements—free up those agreements—and allow us here in America to be able to create more jobs by expanding our exports, by leveling this playing field between these three countries—Panama, Korea, and Colombia—and then let us get busy on having the United States even more engaged in international trade, expanding exports and, therefore, creating jobs.

Let me review quickly these seven core areas and then turn it back to my colleague from Tennessee.

We do need to focus on the fiscal situation, as we have talked about, to be able to help the economy. Our Tax Code needs to be reformed to create economic growth. We can do that. We know there is a way to do it without raising taxes and by reforming the code and making it more progrowth; the regulations we talked about that are stifling so many small businesses in this country; the competitive workforce, retraining is critical, and we can do a much better job taking the existing Federal resources and directing them toward retraining for jobs that are actually there; expanding exports, we just talked about; of course, powering America's economy by using more of our own domestic resources—renewable but also traditional uses of energy; and, finally, getting health care costs down, as Senator BARRASSO talked about.

If we do these things, we will create more hope and opportunity at a time when it is so desperately needed. We should be able to do it because they are commonsense ideas.

I thank my colleagues.

#### NOMINATION OF JOHN MCCONNELL

Mr. ALEXANDER. Madam President, we have a vote at noon. I know there are a number of Senators who wish to speak. I will take about 5 minutes, I suspect Senator CORNYN wants to speak, and I know Senator GRASSLEY wants to speak. I also see Senator REID.

The Senate is a body of precedent. One important precedent is that never in the Senate history has a President's district court nomination, reported by the Judiciary Committee, been defeated because of a filibuster; that is, because of a cloture vote. Once a nominee for Federal district judge has gotten to the floor, the majority of Senators have made the decision in an up-or-down vote.

Therefore, I will vote for cloture in order to allow an up-or-down vote on the President's nomination of John McConnell, then I will vote "no" on confirmation because I believe he is a flawed nominee.

I know most of my Republican colleagues are going to register their opposition to Mr. McConnell by voting to deny an up-or-down vote. I respect their decision. I understand how they feel. I also was outraged in 2003 when Democratic Senators filibustered President Bush's circuit court nominees simply because they disagreed with their philosophies. I made my first speeches on the floor of the Senate arguing against such a change in precedent.

On February 27, 2003, I said on this floor:

When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide. In plain English, I will

not vote to deny a Democratic President's judicial nominee just because the nominee may have views more liberal than mine. That is the way judges have always been selected. That is the way they should be selected.

That is what I said in 2003.

In 2005, Republicans grew so upset with the Democrats' continued filibustering of President Bush's circuit nominees, the Republican majority leader threatened to eliminate the right to filibuster in connection with judicial nominations. That proposal was called the nuclear option because it was said if Republicans succeeded in abolishing the filibuster, their actions would "blow the place up." I suggested, in two Senate speeches, that a small group of Senators, equally divided by party, agree to oppose the filibustering of judges. The result of those remarks was the creation of the Gang of 14—the Gang of 14 Senators who preserved the tradition of up-or-down votes by agreeing to use the filibuster only in extraordinary cases. I have amended my own views to subscribe to the Gang of 14's standard for Supreme Court and circuit court judges.

It is true the Gang of 14 agreement didn't explicitly distinguish between circuit and district judges. But the debate then clearly was only about Supreme Court and circuit judges, and the Senate always thought of district judges differently. District judges are trial judges. Circuit judges also must follow precedent but have broader discretion in interpreting and applying the law. Circuit judges' jurisdictions are broader. Their attitudes and philosophies are much more consequential in the judicial process.

That is why the Senate has never allowed a Federal district court nomination to fail by denying cloture. According to the Congressional Research Service, in the history of the Senate—

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

Mr. ALEXANDER. I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, it is so ordered.

Mr. ALEXANDER. I thank the Chair.

According to the Congressional Research Service, in the history of the Senate, only three cloture motions have ever been filed on district judge nominations. In each case, the nomination eventually was confirmed.

In 1986 cloture was invoked by a vote of 64–33 on Sidney Fitzwater despite opposition to the nomination by Democratic senators. Mr. Fitzwater was then confirmed 52–42.

In 1999 cloture was not invoked by a vote of 55–44 on Brian Theodore Stewart's nomination because of Democrat opposition. He was confirmed two weeks later by a vote of 95–3.

In 2003 a cloture motion was filed on Marcia G. Cook's nomination but it was withdrawn and she was confirmed 96–0.

I certainly wish President Obama had nominated someone other than Mr. McConnell. During his confirmation hearings, questions arose about a possible role in stolen corporate documents, in soliciting contingency fee legal contracts, and about his judicial temperament. Some senators even feel misled by some of his statements. It was even said he is the only district judge to be opposed by the U.S. Chamber of Commerce in its 99-year history.

Well, the Senate has more than a 200-year history. And that history is not to use the filibuster to defeat a district judge nomination.

I am comfortable with the Gang of 14 precedent in the case of circuit justices and Supreme Court justices. I will continue to reserve the right to vote against allowing an up-or-down vote in an extraordinary case. I also understand the strategy of "They did it to us, so we will do it to them." Unfortunately, that strategy, I am afraid, will lead us to a new and bad precedent, one which will weaken the Senate as an institution and come back one day to bite those who establish it.

I thank the Chair and I yield the floor.

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

Mr. CORNYN. Will the Senator yield for a quick question?

Mr. SCHUMER. I will yield.

Mr. CORNYN. I know there are a number of us who would like to speak on the upcoming cloture vote at noon on the McConnell nomination. I know Senator GRASSLEY would; I presume the Senators from New York and Rhode Island would. I wonder if we could reach some unanimous consent agreement that would allow at least 5 minutes for each of us to speak.

I would pose that as a unanimous consent request; that for the Senators who are currently on the floor, the five of us, we be given up to 5 minutes to speak preceding the cloture vote.

Mr. SCHUMER. Might I ask a question of the Chair? What is the time status? There is 35 minutes until noon; is that divided?

The ACTING PRESIDENT pro tempore. Yes, the time is equally divided. The Democrats control 19 minutes, the Republicans control 18½ minutes.

Ms. LANDRIEU. Madam President, reserving the right to object, I wish to remind the Senators this isn't the only debate on the floor. We are having a cloture vote on SBIR, and we would like some time to close that debate as well. So I am open to work with the other Senators.

Mr. REED. Madam President, reserving my right to object, I would suggest, according to the request of the Senator from Texas, that the Senator from New York be recognized for 5 minutes, the Senator from Texas be recognized for 5 minutes, that I be recognized for 5 minutes, and then Senator GRASSLEY be recognized for 5 minutes.

The question then would be, Is there sufficient time for Senator LANDRIEU and, of course, Senator LEAHY?