percent, not cutting it in half—would reduce gross domestic product growth by .5 percent in 2012.

So instead of having positive growth, he is saying that if we don't enact and extend the payroll tax cut from last year, at a minimum we would be losing a half point of growth. That would be devastating to this economy.

Goldman Sachs has said similar things. They put the negative impact on GDP growth at as much as two-thirds of 1 percent in 2012. Most economists are in that range in terms of the adverse impact. RBC Capital Markets concludes that the hit to GDP next year of failing to act would be a full 1 percent.

So you have economists saying half a percent adverse consequence, two-thirds maybe, but at least among others saying a full percentage point. That would be devastating when we need to see growth at above 2 and hopefully even above 3. But that has been very hard to reach in the last couple of months.

I put this chart up on my left to highlight what Mark Zandi said. Here is his warning when discussing what could happen on the current payroll tax cut in effect right now, the 4.2 level that we are at right now from the cut from last year:

We'd be in recession right now without it.

That is what he said about what we did last year in a bipartisan way. I would hope we could end this year on a high note, on a bipartisan note, and make sure we cut the payroll tax again and put more take-home pay in people's pockets.

Then here is Mark Zandi talking about if we don't extend, what could happen into the near future:

We'll likely go into recession.

So says Mark Zandi. We can't afford to do that. The payroll tax cut has helped sustain the economic recovery this year, and it will strengthen the economy in 2012 if we reduce it again.

My bill not only extends it but increases it so that the per worker take-home pay increase, instead of being around $1,000, would be approximately $1,500.

We also know that cutting the tax leads to job growth. We know this from our experience, and we know this from recent history. At the end of 2010, Congress enacted the current payroll tax, cutting it from 6.2 to 4.2, and it took effect at the beginning of the year.

As we look at private sector job growth in 2011, we can see some of the impact of the cut. As we can see on the chart, if you look at the first couple of bars—even if you can't read the smaller print here—this depicts starting in January of 2011 what was the monthly change in private payrolls, meaning private sector job growth. January was only 94,000, not that great of a month in January 2011. But look at February: 261,000 private sector jobs added. Look at March: 219,000 private sector jobs added. And then April: 241,000. So you had an average of about 240,000 private sector jobs growing in those 3 months. When we got to May and June, of course, a lot of things happened which took that number way down. It slowed for a lot of reasons. One of them was the spike in oil prices, another was the effect on gas prices, and, finally, the earthquake in Japan had a terrible effect on our economy.

I am wrapping up here, but I want to make one more point about this. The American people are looking at us right now, watching what we do, and they are saying basically two things to us—at least the people in Pennsylvania, to me. They ask me one basic question: What are you doing to grow the economy and create jobs? What are you doing as an individual Member of the Senate? One of the ways I can respond affirmatively and positively is to say we have come together to reduce the payroll tax even more than we did last year to help you in your bottom line, so you have more take-home pay for you and your family.

The second thing they ask is, what are you doing to try to bring people together, to try to reach a bipartisan consensus? We have all got to try do that in our own way. This is about take-home pay and peace of mind. We need this tax cut in place to boost consumer spending, to create jobs, and accelerate economic growth.

I want to conclude with one thought about Social Security, because I know it has been raised by a number of folks the last couple of days.

I ask unanimous consent to have printed in the RECORD a letter addressed to Secretary of the Treasury Geithner and Director, Office of Management and Budget, Jacob Lew, dated December 6, 2011. It is signed by Steven C. Gross, Chief Actuary of the Social Security Administration.

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

SOCIAL SECURITY ADMINISTRATION,
OFFICE OF THE CHIEF ACTUARY,
Baltimore, MD, December 6, 2011.

Hon. TIMOTHY F. GEITHNER,
Secretary of the Treasury, Washington, DC.
Hon. JACOB J. LEW,
Director, Office of Management and Budget, Washington, DC.

DEAR MR. GEITHNER AND MR. LEW: We have reviewed the language in the ''Middle Class Tax Cut Act of 2011'' (S. 1944), introduced yesterday by Senator Casey. We estimate that the enactment of this bill would have a negligible effect on the financial status of the Old Age and Survivors Insurance and Disability Insurance (OASDI) program in both the near term and the long term. We estimate that the projected level of the OASI and DI Trust Funds would be unaffected by enactment of this provision.

Section 2 of the bill would make the following changes for payroll tax rates and OASDI financing: (1) for wages and salaries paid in calendar year 2012 and self-employment earnings in calendar year 2012, reduce the OASDI payroll tax rate by 3.1 percentage points, (2) transfer revenue from the General Fund of the Treasury to the OASI and DI Trust Funds so that total revenue for trust funds would be unaffected by this provision, and (3) credit earnings to the records of workers for the purpose of determining future benefits payable from the trust funds so that such benefits would be unaffected by this provision. For wage and salary earnings, the 3.1–percent rate reduction would apply to the employee share of the payroll tax rate. For self-employment earnings, the personal income tax deduction for the OASDI payroll tax would be 66.67 percent of the portion of such taxes attributable to self-employment earnings for 2012. Other sections of the bill would have no direct effects on the OASDI program.

Sincerely,

STEPHEN C. GOSS,
Chief Actuary.

The PRESIDING OFFICER. The Senator's time has expired.

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

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

Mr. CASEY. The point of this letter is very simple. I won't read the whole letter, but here is the pertinent part of this letter from the Social Security Administration.

We estimate that the projected level of the OASDI and DI Trust Funds would be unaffected by enactment of this provision.

What he is talking about there is Social Security would be unaffected. The trustee said last year the same thing. I won't add all this to the RECORD, but read the one sentence. This is page 33 of a report from last year:

Therefore, this payroll tax cut is estimated to have no financial impact on these same trust accounts.

So it is abundantly clear that there is no impact on Social Security and, secondly, it is abundantly clear that passing a payroll tax cut again will boost job growth, strengthen the economy, grow the economy, and give American families some measure of peace of mind as we head into the holidays and head into the year 2012.

Mr. President, I yield the floor.

ATF'S LANNY BREUER

Mr. GRASSLEY. The Alcohol, Tobacco, Firearms is a division of the Justice Department. I have been investigating Alcohol, Tobacco, Firearms' Operation Fast and Furious for almost 11 months now. It is past time for accountability at the senior levels of the Justice Department. That accountability needs to start with the head of the criminal division, Lanny Breuer. I believe it is time for him to go, and I wish to explain why I have come to that conclusion.

The Justice Department denied, in a letter to me on February 4, 2011, that ATF had ever walked guns. Mr. Breuer had been consulted in the drafting of that erroneous letter of February 4, this year.

On May 2, 2011, rather than acknowledging the increasingly obvious facts and apologizing for its February letter, the Justice Department reiterated its denial on May 2, this year, the same denial of February 4th.

Thus, when the Justice Department revealed on October 31 of this year that

Breuer had known as far back as April 2010 about gunwalking at ATF, I was astounded. That was a shocking revelation.

The controversy about gunwalking in Fast and Furious has been escalating steadily for 10 months now. The Justice Department had publicly denied to Congress that ATF would ever walk guns. Yet, the head of the criminal division, Mr. Breuer, knew otherwise and said nothing. He knew the same field division was responsible for walking guns in a 2006–2007 case, and that case was called Wide Receiver.

But the real shock was how Mr. Breuer had responded within his own department when that earlier gunwalking was first brought to his attention in April 2010. He didn't tell the Attorney General. He didn't tell the Attorney General's Chief of Staff. He didn't tell the Deputy Attorney General. He didn't tell the inspector general. Instead, he simply told his deputies to meet with ATF leadership and inform them of the gunwalking:

> . . . so they know the bad stuff that could come out.

Later, his deputy outlined a strategy to:

> . . . announce the case without highlighting the negative part of the story and risking embarrassing ATF.

Think about that. In that case, saving face was more important than the bad policy.

For 18 months, the embarrassing truth about ATF gunwalking in Wide Receiver and Breuer's knowledge of it was successfully hidden. It only came out because of the congressional investigation into gunwalking in Fast and Furious.

The public outrage over Fast and Furious comes from the average American who cannot understand why their very own government would intentionally allow criminals to illegally buy weapons for trafficking into Mexico.

Next week, it will be 1 year since Border Patrol Agent Brian Terry was murdered by bandits armed with guns as a direct result of this policy of letting guns walk. The Terry family, and all Americans who sympathize with their loss, are rightfully outraged and astonished at their very own government doing such a thing. Yet, when Mr. Breuer learned of a case where ATF walked guns in a very similar way, all he did was give ATF a heads up. There seems to be a vast gulf between what outrages the American people and what outrages Lanny Breuer.

Mr. Breuer showed a complete lack of judgment by failing to object to the gunwalking that he knew about in April 2010, 9 months before I was ever aware of Fast and Furious. If Mr. Breuer had reacted to gunwalking in Wide Receiver the way most Americans reacted to gunwalking in Fast and Furious, he would have taken steps to stop it and hold accountable everyone involved. Consequently, Fast and Furious might have been stopped in its tracks and Brian Terry might be alive.

When Mr. Breuer came before the Senate Judiciary Subcommittee on Crime and Terrorism the day after those revelations, I gave him a chance to explain himself. I listened to what he had to say. He told us that he:

> . . . thought that . . . dealing with the leadership of ATF was sufficient and reasonable.

Clearly, it was not sufficient. Mr. Breuer even admitted as much, saying:

> I regret that I did not alert others within the leadership of the Department of Justice to the tactics used in Operation Wide Receiver when they first came to my attention.

He regrets not bringing gunwalking in Wide Receiver to the attention of the Attorney General. But what about bringing it to the attention of Congress? He didn't even step forward to express his regret until e-mails that detailed his knowledge were about to be produced under congressional subpoena.

It is astounding then that it took the public controversy over Fast and Furious to help the chief of the criminal division realize that walking guns is unacceptable. Yet he had had 9 months after the February 4 letter to step forward, correct the record, and come clean with the American public. He had 18 months, after learning of gunwalking in Wide Receiver, to put a stop to it and hold people accountable. He failed to do so.

During his testimony, I asked him pointblank if he reviewed that letter of February 4 before it was sent to me. His misleading answers to these questions formed the basis for my second reason for calling on Mr. Breuer to resign. He responded that he could not say for sure but suggested that he did not review the letter. He said, ''[A]t that time, I was in Mexico dealing with the very real issues that we are all so committed to.''

Last Friday, the Justice Department withdrew their February 4 letter to me because of its inaccuracies—and the word ''inaccuracy'' is their word. The Department also turned over documents under subpoena about who participated in the drafting and the reviewing of the letter. One can imagine my surprise when I discovered from documents provided Friday night that Mr. Breuer was far more informed during the drafting of that letter than he admitted before the Judiciary Committee. In fact, Mr. Breuer got frequent updates on the status of the letter while he was in Mexico.

He was sent versions of the letter four times. Two versions were e-mailed to Mr. Breuer on February 4, after he returned from Mexico, including the version of the letter that was ultimately sent to me that day. At that time, he forwarded the letter to his personal e-mail account. Mr. Breuer's Deputy also sent him two drafts of the letter while he was in Mexico, and he also forwarded one of those to his personal e-mail account. We do not know whether he did that in order to access it on a larger screen than the Government-issued BlackBerry or whether he engaged in any further discussion about the letter in his nongovernment e-mail account. However, we do know, in response to the draft received in Mexico, he wrote to one of the main drafters of the letter: ''As usual, great work.''

The Justice Department excluded Breuer's compliment about the context of the draft from the set of e-mails it released to the press on Friday, before they released those documents to this Senator.

That evening, Mr. Breuer submitted answers to written questions. He wrote:

> I have no recollection of having [seen the letter] and, given that I was on official travel that week and given the scope of my duties as Assistant Attorney General, I think it is exceedingly unlikely that I did so.

So as late as last Friday night, Mr. Breuer was still trying to minimize his role in reviewing the letter, despite all the evidence to the contrary. Why would Mr. Breuer say ''great work'' to a staffer about a letter he claimed he had not read?

It is not credible that someone such as Mr. Breuer would forget about his involvement in a matter such as this. Mr. Breuer's failure to be candid and forthcoming before this body irreparably harms his credibility. His complete lack of judgment and failure to deal with gunwalking when he first learned of it in April 2010 was bad enough, but this is the final straw. Mr. Breuer has lost my confidence in his ability to effectively serve the Justice Department. If he cannot be straight with the Congress, he doesn't need to be running the Criminal Division. It is time to stop spinning and start taking responsibility.

I have long said the highest ranking individual who knew about gunwalking and Operation Fast and Furious needs to be held accountable. That standard applies no less to officials who knew about gunwalking in Operation Wide Receiver. Gunwalking is unacceptable no matter when it occurred. Documents made clear that Assistant Attorney General Breuer was the highest ranking official in the Justice Department who knew about gunwalking in Operation Wide Receiver. He did nothing to correct the problem, alert others to the issue, take responsibility or even admit what he knew until he was forced to do so by the evidence. Therefore, I believe the Attorney General needs to ask for Mr. Breuer's resignation or remove him from office if he refuses. If Mr. Breuer wants to do the honorable thing, he would resign.

I am not somebody who flippantly calls for resignations. I have done oversight for many years, and in all that time I don't ever remember coming across a government official who so blatantly placed sparing the agency embarrassment over protecting the lives of citizens. He has failed to do his job of ensuring that the government operates properly, including holding people accountable.

Because of that, Mr. Breuer needs to go immediately. Anything less will show the American people the Justice Department is not serious about being honest with Congress in our attempt to get to the bottom of this.

In regard to my attempt to get to the bottom, just last night the Justice Department sent a letter refusing to provide several Justice Department staff for transcribed interviews. The letter explicitly goes back on the assurances I received when I consented to proceed with the confirmation of three senior Justice Department officials, which I had held up to get an agreement to get the information Congress is entitled to.

One of my conditions for agreeing to proceed with those nominations was that officials who agreed to voluntary interviews in this investigation would have either a personal lawyer present or a Department lawyer present but not both. I personally met with the Attorney General, and he had the conditions listed on a piece of paper in front of him. It looked as if he had read it and was familiar with it. Yet he never objected to that condition.

Dozens of witness interviews have been conducted under that understanding with no problem. The only difference is that instead of ATF witnesses, we are now seeking to interview Justice Department witnesses. What is good for the goose is good for the gander. There is no reason to change the rules in the middle of the game. I was relying on the Attorney General and other officials at the Department to honor their agreement. Apparently, that is not going to happen.

Fortunately, Chairman ISSA has the ability to require the witnesses to appear via subpoena if they refuse to appear voluntarily under conditions that the Department previously agreed to with me. I am confident he will do that if it becomes necessary, and I will take whatever steps I have to take in the Senate to encourage the Department to reconsider and stick to its original agreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

THE CORDRAY NOMINATION

Mr. CARPER. Mr. President, I am delighted to stand before you on this Delaware Day, 2011. This is the anniversary of the day when, on December 7, 1787, Delaware became the first State to ratify the Constitution. For 1 week, Delaware was the entire United States of America. We opened up things in Pennsylvania and New Jersey, eventually New Mexico. For the most part, it has turned out well, especially the New Mexico part. We are happy to be here to celebrate this day with all our colleagues.

Later today, Senator COONS and I will return to regale our colleagues with more about what we started all those years ago and how it has turned out.

I wish to fast forward, if I could, though, to 2008. As the Presiding Officer will recall, during the aftermath of the 2008 financial crisis on Wall Street, one question which Congress repeatedly asked itself was: What can we do to prevent future harm from reaching Main Street? What can we do to prevent future harm from reaching Main Street?

This theme continued as we considered and ultimately passed in 2010 comprehensive financial regulatory reform regulation, which fortunately the majority of us, including myself, supported, the legislation now known as the Dodd-Frank law.

While none of us were able to agree on each of the elements of the Dodd-Frank law, and while some of my colleagues did not support it in the end, most us could agree we needed to do more to help protect American families and businesses from bad actors.

As a result, the Consumer Financial Protection Bureau was created. For the first time in history, one agency would be charged with overseeing consumer protection for Main Street Americans within the financial industry.

In July of this year, 5 months ago, Richard Cordray was nominated to be Director of the Consumer Financial Protection Bureau. Richard Cordray served for many years as the president pro tem of the Delaware State Senate before retiring roughly 10 years ago—a man now probably in his mid-70s. I was shocked to hear he had been nominated to head this new agency. It turns out it is another Richard Cordray. This Richard Cordray had been the attorney general of Ohio for a number of years. He was well regarded. He helped protect consumers, investors, retirees, and business owners to ensure that Americans on Main Street got a fair deal. At the time of his nomination, he was leading the Consumer Financial Protection Bureau's enforcement efforts. Mr. Cordray, former AG, is someone who has been intimately involved in getting the new bureau stood up and running and who brings key expertise to the table.

When we first passed the law, I suggested to the President, to Secretary Geithner, and others—I said I think there are three models they could choose from to pick someone to nominate to head this new bureau. No. 1, they could pick an academician; No. 2, they could pick somebody who has been a regulator or, in this case, attorney, an Attorney General; and the third, I said they might want to try to find somebody in the private sector who has run a significant financial service company but had a great, impeccable record, that of a ''white hat'' for consumer protection, for looking out for consumers, somebody who believes one can do well and do good at the same time. I thought those were the models. The administration looked at people in all three categories, including the latter one and ultimately decided, within the Consumer Financial Protection Bureau, they had Mr. Cordray. He had a good track record, and he was the person the President wanted to nominate. I think he has made a very good choice.

I talked to a number of my colleagues who sat in on hearings where he testified on his nomination and for the most part got good reviews from Republicans and Democrats here.

As my colleagues and I debate this nomination and ask ourselves is he qualified to do the job, I think the answer is yes. My colleagues on the Senate Banking Committee agreed, and 37 attorneys general from across the country, both Republican and Democratic, agreed.

However, today's debate has not been about whether Mr. Cordray is qualified to do this job; instead, the debate has focused on the structure of the new Consumer Financial Protection Bureau. In May of this year, 44 of my colleagues from the other side of the aisle sent a letter to the President saying they would block any nominee until structural changes are made in the new agency. This is before the President ever nominated Mr. Cordray. My colleagues want to see changes made such as replacing the Director with a board structure and subjecting the Bureau to the appropriations process. My colleagues, 44 colleagues in any event, pointed out that these structural changes would model the Bureau after already-existing agencies, while some of my other colleagues have also made the point that there are already existing agencies not subject to the appropriations process, such as the FDIC and the Federal Reserve.

What we have is a disagreement, one where colleagues on both sides of the aisle have what I believe are legitimate points. The Consumer Bureau was created in Dodd-Frank through a series of compromises. Rarely is any compromise perfect. The Presiding Officer and I have been involved in enough compromises over the years to know if, in the end, neither side is fully satisfied with the compromise, maybe we struck a pretty good balance, and I think that is the case here.

But the point of the Bureau is to put the consumer first, and I will be the first to admit that there is no such thing as a perfect law. I assume my colleagues who are here and back in their offices and at committee hearings would agree with that. If there are aspects to Dodd-Frank that can be tweaked and approved, we ought to do that. But at the end of the day, we must put financial protection of consumers above our disagreements and our personal preferences.

The longer we continue to constrain the Bureau by denying it a leader and only discussing the structural changes that some Members would like to see made, the greater the disservice to consumers across America. The Bureau's authority was created so that it would not just be limited to banks since those institutions are already regulated, as