From 2009 to 2011, Todd was a legislative assistant on the staff of Senator Herb Kohl of Wisconsin, handling agriculture and agriculture appropriations for Senator Kohl. He then served as special assistant in the Office of Congressional Relations at the Department of Agriculture, and since 2012, Todd has been senior advisor to the Secretary of Agriculture. In this role, he provides strategic advice and guidance to the Secretary regarding USDA's budget, legislative, and regulatory agenda.

Given Todd's strong personal qualities, experience, and proven abilities, I could not have been happier when I learned that President Obama had chosen him to serve as Assistant Secretary of Agriculture. I look forward to continuing to work with Todd and know that he will do a tremendous job in this new role.

VOTE ON MCCORD NOMINATION

The PRESIDING OFFICER. Under the previous order, if there is no further debate, the question is, Will the Senate advise and consent to the nomination of Michael J. McCord, of Ohio, to be Under Secretary of Defense (Comptroller)?

The nomination was confirmed.

VOTE ON CHU NOMINATION

The PRESIDING OFFICER. If there is no further debate, the question is, Will the Senate advise and consent to the nomination of R. Jane Chu, of Missouri, to be Chairperson of the National Endowment for the Arts?

The nomination was confirmed.

VOTE ON BATTA NOMINATION

The PRESIDING OFFICER. If there is no further debate, the question is, Will the Senate advise and consent to the nomination of Todd A. Batta, of Iowa, to be an Assistant Secretary of Agriculture?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, with respect to the nominations just confirmed, the motions to reconsider are considered made and laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session and be in a period of morning business until 1:45 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

The Senator from Michigan.

TAX TREATIES

Mr. LEVIN. Madam President, the unanimous consent proposal that I just made a few moments ago that was objected to by the Senator from Kentucky related to the need of the Senate to take up the ratification of five tax treaties that were approved by the Committee on Foreign Relations on a unanimous voice vote, including a revised U.S.-Switzerland tax treaty that was amended in 2009, with a protocol enabling the United States to obtain more information—more information from Switzerland about U.S. taxpayers with hidden Swiss bank accounts.

We have been trying to close down these offshore tax havens and the way in which they aid and abet American tax avoidance for years. Here we have a tax treaty which will help us get more information about the American taxpayers who are trying to avoid paying their taxes to Uncle Sam, and we get an objection to the ratification, even to taking up the ratification of this treaty.

American taxpayers have had it. I would say have had it up to here, except that will not come across on the record. They have had it with profitable corporations and wealthy individuals avoiding taxes through the use of tax havens, shell companies, and tax avoidance schemes. The American people want us to end it. We ought to legislate an end to it.

By the way, it is long overdue. We ought to close the tax loopholes which are used so the most profitable corporations in this country avoid paying taxes by shifting their intellectual property to shell corporations that they create in tax havens or by other kinds of tax dodging.

We can put an end to it. We can close those tax loopholes. We ought to do it but that is not what should be before us today. What should be before us today but for that objection we had from the Senator from Kentucky, are the tax treaties which have been approved by our Foreign Relations Committee, one of which was signed 4 years ago.

We have all heard about Swiss bank accounts that are used to hide money from Uncle Sam. Back in 2008, in a bipartisan report I issued with then the ranking Republican on the Permanent Subcommittee on Investigations, Norman Coleman, with bipartisan support, we disclosed that UBS, the largest bank in Switzerland, had opened as many as 52,000 bank accounts, with about $20 billion in assets, for U.S. citizens who had hidden their accounts from our Treasury.

UBS later signed a deferred prosecution agreement with the U.S. Treasury and the Department of Justice in which they admitted helping; that is, aiding and abetting, U.S. clients evade U.S. taxes. We are talking about UBS now. They paid a $750 million fine. They turned over the names of about 4,700 U.S. clients who had hidden accounts in that bank.

UBS was not alone. Earlier this year in a bipartisan report—this is not a partisan issue—in another bipartisan report that I issued with my current ranking member, Senator MCCAIN, the Subcommittee showed that Credit Suisse, Switzerland's second largest bank, had been engaged in the same type of aiding and abetting. Credit Suisse had opened about 22,000 Swiss bank accounts for U.S. account holders, with up to $12 billion in assets, that were undisclosed to U.S. tax authorities. After its wrongdoing was exposed, Credit Suisse pled guilty to facilitating U.S. tax evasion and paid a fine of about $2.6 billion.

In both those cases, the Swiss banks had quietly sent Swiss bankers to do business on U.S. soil, opening accounts, sometimes in the name of offshore shell corporations, arranging all of that; bringing in cash, by the way, from Switzerland; and slipping account statements between magazine pages to their U.S. clients. In order that there not be anything visible at an airport or wherever, they put the statement of their U.S. account holder in a Sports Illustrated magazine and would hand the magazine to their clients. How surreptitious can you get?

We also heard about how U.S. clients who visited Credit Suisse in Switzerland rode in a secret, remotely controlled elevator to a room with no windows and reviewed documents that were then shredded. Why? Why all of that secrecy and surreptitiousness? They wanted to show those U.S. clients, to dramatize, just how secretly the Swiss banks operate and how those Swiss bank accounts would be hidden from U.S. authorities.

But after years and years of effort, we found out what was going on, and we made it public. Even Switzerland could not defend what its banks were doing.

So in 2009, Switzerland agreed to strengthen the U.S.-Swiss tax treaty to enable us to obtain more information about secret Swiss bank accounts opened by U.S. taxpayers.

It is still not voluminous information which we are going to get under that tax treaty, but it is more information. It would give us a better chance of finding the tax dodgers, those U.S. citizens who try to avoid paying their share of taxes and dumping the tax load on all of their fellow citizens, by the way, who have to pick up the added burden.

So with the existing U.S. treaty—we already have a tax treaty with Switzerland, the one that we want to amend—it requires us to establish something which is very difficult to prove; that is, tax fraud, before Switzerland would hand over the information on U.S. account holders with Swiss bank accounts.

We have treaties with all kinds of countries. No other treaty we have has that standard; that we have to show tax fraud before we can get information from a foreign bank. So the revised tax treaty, approved by the Foreign Relations Committee, again unanimously, would enable the United States to obtain information from Switzerland that ''may be relevant'' to

the ''administration or enforcement'' of U.S. tax laws.

That is the same standard, ''may be relevant,'' that has been in effect for decades in the United States when the Treasury seeks to obtain information in a tax inquiry about American citizens from their own banks. That standard has been upheld by the U.S. Supreme Court.

I am not going to go through all of the cases that have upheld this standard but there are two direct Supreme Court opinions on the subject that say it is proper for Congress to legislate a standard of Treasury getting information from banks about our people that ''may be relevant'' to the requirement that taxes be paid.

The standard comes from a 1954 Federal statute that authorizes the IRS, for the purpose of examining a tax return or determining a person's tax liability, ''to examine any books, papers, records, or other data which may be relevant or material to such inquiry.'' The statute is 26 U.S.C. Section 7602(a)(1).

Thirty years ago, the Supreme Court upheld that standard in a 1984 case called United States v. Arthur Young & Co., 465 U.S. 805. The Supreme Court wrote:

> In seeking access to [a corporation's] tax accrual workpapers, the IRS exercised the summons power conferred by Code § 7602, which authorizes the Secretary of the Treasury to summon and 'examine any books, papers, records, or other data which may be relevant or material' to a particular tax inquiry. . . .
>
> The language 'may be' reflects Congress' express intention to allow the IRS to obtain items of even potential relevance to an ongoing investigation, without reference to its admissibility. The purpose of Congress is obvious: the Service can hardly be expected to know whether such data will in fact be relevant until it is procured and scrutinized. As a tool of discovery, the § 7602 summons is critical to the investigative and enforcement functions of the IRS. . . .

In short, the Supreme Court upheld the authority of the IRS to request information that ''may be relevant'' to a tax inquiry, and described the ability to examine that information as ''critical to the investigative and enforcement functions of the IRS.''

Last week Senator PAUL indicated on the floor that the IRS can obtain information from a U.S. bank only when it establishes ''probable cause'' that the accountholder was cheating on their taxes. In fact, the U.S. Supreme Court rejected that approach over 50 years ago in a 1964 case called United States v. Powell, 379 U.S. 48, in which the Court wrote: ''[T]he [IRS] Commissioner need not meet any standard of probable cause to obtain enforcement of his summons.''

The revised U.S.-Swiss tax treaty would instead apply the same statutory standard to Americans with bank accounts in Switzerland as already applies to Americans with bank accounts in the United States. Using the same standard makes perfect sense. Otherwise Americans with Swiss bank accounts would have a greater right to stymie IRS information requests than Americans with U.S. bank accounts.

In addition, the Senate has already approved other U.S. tax treaties using the relevance standard. They include a 1999 tax treaty with Denmark, a 2007 tax treaty with Belgium, and a 2008 tax treaty with Canada, among others. Those tax treaties already treat Americans abroad in the same way as Americans at home.

In contrast, Switzerland has long been an exception in need of correction. Back in the 1950s, the Swiss somehow managed to get the United States to agree to make it harder for the IRS to scrutinize Americans with Swiss bank accounts than Americans with U.S. bank accounts, which helps explain why so many hidden bank accounts ended up in Switzerland.

The UBS and Credit Suisse bank scandals show it is long past time to end the Swiss exception.

So if we just keep this current treaty, without modifying it, we are actually giving a standard to the Swiss that would allow them to keep information away from our Treasury that is not permitted in our own banks or to banks in any other country that we have a tax treaty with.

Why would we want to preserve a treaty standard that the Swiss themselves have already agreed to replace with a better standard in terms of tax collection? I mean, if the Swiss agree to a standard which gives us better information, why would we want to keep in place a treaty which denies us that information, denies revenue to the Treasury, creates a double standard? If you want to avoid paying taxes, go to Switzerland and you will have a better chance of evading your taxes than if you stay in the United States. Why would we want to give an incentive like that?

That is what we are doing. As long as we have the current treaty in place and do not ratify the proposed treaty, that is exactly what we are doing.

It is so unfair to give special treatment to Americans who send their money to Switzerland, compared to Americans who keep their money right here at home. It is one thing to advocate lower taxes—that is one thing—but it is quite another to advocate policies that would help U.S. taxpayers use Swiss bank accounts to hide their assets and to offload their tax burdens onto the U.S. taxpayers who are not trying to dodge paying taxes.

It has been now 3 years, as Senator MENENDEZ has pointed out, since the U.S. Senate has ratified a tax treaty. Ratifying this treaty would finally bring the Swiss into alignment with U.S. policy and U.S. tax treaties with other countries. Once ratified, it will take effect from the date it was signed in order to help stop tax dodging from 2009 forward. It is long overdue that we ratify this.

I am very disappointed there has been another objection by Senator PAUL to proceeding to ratify—or to at least consider the ratification of this treaty. I believe Senator MCCAIN will try to come later, if he can, to also speak in support of bringing up these treaties for debate.

I yield the floor.

SWISS TAX PROTOCOL

Mr. MCCAIN. Madam President, I am pleased to join Senator LEVIN today in calling on the Senate to take up and pass by unanimous consent the Swiss tax protocol and other tax treaties pending before the Senate. The importance of these treaties cannot be overstated. They would aid U.S. companies by allowing for certainty in tax treatment when those companies engage in international commerce and trade by preventing double taxation and ensuring they have the backing of the Treasury Department in the case of conflicts with foreign tax authorities. Furthermore, they would allow our government to be on stronger footing in holding tax cheats accountable, an issue Senator LEVIN and I are particularly familiar with given our recent investigation, as chairman and ranking member on the Permanent Subcommittee on Investigations, into offshore tax schemes carried out by Credit Suisse. On the heels of that investigation, Credit Suisse recently paid a $2.6 billion fine and pled guilty to criminal charges, admitting to facilitating tax evasion for their U.S. clients.

Taking advantage of Switzerland's opaque banking practices, Credit Suisse became a safe haven for tax evasion. The clients seeking these services and the bank itself believed that they were, and would remain, outside the reach of U.S. tax authorities. The recent guilty plea proves that this belief was at least partly mistaken. This criminal penalty was a welcome development, but it was also lacking in several ways, including that, as part of the agreement, the U.S. government did not require the bank to turn over the names of the U.S. clients holding secret bank accounts with Credit Suisse. With more than 20,000 unidentified Americans having held accounts at Credit Suisse in Switzerland during the relevant period (most of whom never disclosed their accounts as required by U.S. law) this agreement provided no direct accountability for those taxes owed.

We need to ensure this does not happen again. The Swiss tax protocol we are discussing today would make it easier to get those names and account information. Working under the assumption that the United States would be unable to pierce the veil of Swiss bank secrecy, U.S. persons have secreted their money away in countries such as Switzerland for far too long. Passing this treaty is necessary to prove this assumption wrong and to deter future attempts at tax evasion. It will send a strong message to those