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Senate

The Senate met at 9:32 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Almighty God, by whose providence our forebears brought forth this country, hallowed be Your Name. We thank You for a new day of service to You and our Nation.

Lord, forgive us when our lives contribute to the problems and not the solutions. Keep us from obstructing the doing of Your will. Make us better that we may do better.

Today, attune the will of our lawmakers to Your purposes, providing for them the stamina that comes from above. Lord, give them the strength to be productive in service, to live above daily trifles, and to surrender to Your will and love.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

DISCLOSE ACT OF 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 446, S. 3369, the DISCLOSE Act.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The bill clerk read as follows:

Motion to proceed to S. 3369, a bill to amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements of corporations, labor organizations, Super PACs, and other entities, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, the next hour will be equally divided between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

Last evening I filed cloture on the Landrieu substitute amendment to S. 2237, the Small Business Jobs and Tax Relief Act. Under the rule the cloture votes would be on Friday. I will work on that with the Republican leader—we already have a general agreement—and we will try to schedule the vote sometime today.

TAX RATES

Mr. REID. Mr. President, this week Republicans continued to make the case that millionaires and billionaires cannot afford to pay even a penny more in taxes. Meanwhile, a new report shows average tax rates are at the lowest level in decades.

The nonpartisan Congressional Budget Office reported this week that in 2009 rates fell to their lowest level in more than three decades, 30 years. Much of that decline is thanks to President Obama, who has consistently fought to lower taxes for middle-class families over the last 2½ years.

The average tax rate in this country fell to the lowest rate since 1979—17.4 percent. Of course, that is still higher than what Mitt Romney paid in the only year for which he has been willing to disclose his tax return. I am confident the reason he hasn't disclosed his tax returns in the years people want to know—remember, he disclosed 1 year. His father George Romney set the precedent that people running for President would file their tax returns and let everybody look at them. But Mitt Romney cannot do that because he has basically paid no taxes in the prior 12 years.

Again, the average tax rate in this country is the lowest it has been since 1979—17.4 percent. But I repeat, that is still much higher than what Mitt Romney pays.

Most Americans don't have the benefit of Swiss bank accounts or tax shelters in the Cayman Islands or Bermuda and who knows what else. We cannot see those tax returns.

As our economy continues to recover, it is critical we keep tax rates low for the middle class people who are struggling to pay their mortgage, send their kids to college, and save for retirement.

That is why President Obama and Democrats in Congress want to extend tax cuts for 98 percent of American families.

But there is one group that is not struggling: Mitt Romney and the rest of the top 2 percent of Americans.

My Republican friends can come out and talk and say it is terrible and all we are trying to do is raise taxes on small businesses. The President's legislation raises taxes on 2 percent of wealthy people and about 2.5 percent of businesses. This is no crush for small

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

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businesses. It seems to me the 2 percent at the top can contribute a little bit more to deficit control.

Yet Republicans are prepared to block tax cuts for 98 percent of families, unless Democrats agree to even more giveaways for the richest of the rich.

As Republicans continue to argue that the wealthiest 2 percent cannot contribute even a little more, I urge them to talk to the three-quarters of Americans who disagree. I urge them to talk to the almost 60 percent of Republicans who believe the wealthiest Americans should shoulder their fair share of the responsibility for getting the deficit under control. Almost 60 percent of the Republicans agree with what the President is doing; that the top 2 percent should pay a little more.

I urge my Republican friends to talk to a few of the more than 135 million taxpayers who are waiting to see whether Republicans will continue holding hostage their tax cuts.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MINORITY LEADER

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

HARD VOTES

Mr. MCCONNELL. Mr. President, yesterday, something truly remarkable happened right here in the Senate. First, Democrats blocked a vote that the President of their own party called for just 2 days earlier.

Last night, the majority leader moved to shut down a debate on taxes that hadn't even begun.

Earlier this week, President Obama issued an outrageous ultimatum to Congress: Raise taxes on about 1 million business owners and I promise not to raise taxes on anybody else.

At a moment when the American people are reeling from the slowest recovery in modern times, when the percentage of those who could work are working is at a three-decade low, and just 5 months away from the economic body blow that will result if tax rates spike, as scheduled on January 1, the President's solution is to take away more money from the very business folks we are counting on to create jobs we need, presumably so he can spend it on solar companies and stimulus bills.

This was the President's brilliant economic solution to the mess we are in.

Naturally, Republicans oppose this. The way we see it, nobody should see an income tax hike right now, not small businesses, not individuals, nobody. Nobody should get a tax hike right now. The problem isn't that Washington taxes too little but that it spends too much. Rather than just talk about it, we thought we should actually take a vote on it.

After all, the President himself boasted Monday that he would sign a bill to raise taxes on small businesses right away if we pass it. So we suggested two votes, one on the President's plan—once it is actually written—and one on ours. But the majority leader in the Senate blocked it from happening. Why? Because, as usual, Democrats want to have it both ways.

Two years ago, when the economy was growing faster than it is now, 40 Democrats in the Senate voted to do precisely what Republicans are proposing right now: keep everybody's taxes right where they are and do no harm. The President apparently doesn't want any of them to vote that way now.

In other words, he doesn't want to do what is right for the economy and jobs. He wants to do what he thinks is good for his reelection campaign. For some reason, his advisers think it helps him to take more money away from small, already-struggling businesses and spend it on more government. That is the plan anyway, and he wants to stick with it.

Yesterday, the Democratic majority leader did what the President told him to. He made sure there wasn't a vote on a proposal the President of his own party demanded 2 days earlier. My friend, the majority leader, made sure there wasn't a vote on the plan the President asked for just 2 days ago. Then he offered a vote on a bill today that isn't even written and only if Democrats and Republicans give up their ability to offer amendments to the bill we haven't seen yet.

This is the kind of absurdity we get when we have a governing party that is more concerned with winning an election than facing the consequences of the President's failed economic policies. But it actually gets even more absurd because the majority leader didn't just block us yesterday from having votes on whether to raise taxes, he wouldn't even let us have a debate about it—don't have the vote and don't have the debate.

Senators on both sides of the aisle have proposals that would help the American people weather the economic crisis we are in. Senator HUTCHISON has an amendment that would extend the relief from the blow of the marriage penalty. Senator HELLER has a plan to extend the deduction of sales tax in Nevada. Senator SCOTT BROWN and a whole host of other Republicans have a proposal to repeal the potentially devastating tax on medical devices that is being used to help fund ObamaCare. Senators CORNYN and CRAPO have amendments that would lessen the blow of the tax hikes on investments—tax hikes that will directly affect job creation and harm those, such as our seniors, who are living on fixed incomes.

As for the Democrats, well, even they have some ideas that might do some good for the country. Senator BROWN of Ohio has an amendment to extend the research and development credit, which I know has bipartisan support even if Republicans might differ in his approach. Senator BEGICH has an amendment that would extend the popular tax breaks for investments by small businesses. I don't fully endorse the specific approach taken by these two, but if they had a chance to offer and debate them, I think we might be able to work out an agreement and actually get a result. But we can't even have a debate or get a vote on these Democratic amendments because of the politics.

Personally, I can't imagine why Democratic Senators would tolerate this kind of authoritarian approach. It seems to me that if Senator BROWN of Ohio and Senator BEGICH really believe in their amendments, they would fight for a vote on them. It is hard to believe their constituents sent them here to rubberstamp everything the party leader puts out there regardless of the impact on their States. We would probably have these votes later today if these Democratic Senators vote to cut off debate. I will leave it up to them to explain to their constituents why they didn't think these amendments deserved votes.

But the larger issue is this: All of these petty political maneuvers betray an astounding lack of concern about not only the economic crisis we are in but the threat that is posed by the fiscal cliff we all know is looming in January. A New York Times article from just this morning suggests that one reason the economy has slowed down so much is that businesses are reacting to the uncertainty about what will happen at the end of the year. Well, of course that is the case. We hear it from everyone. Yet here is a Democratic-controlled Senate blocking votes, blocking debate, and hosting private meetings with the President's political advisers on strategy instead of working on serious bipartisan solutions.

Last night Democratic leaders admitted that the bill they wanted Republicans to turn to hasn't even been written yet. Think about that. The proposal the President announced Monday with so much fanfare hasn't even been put on paper. Yet Democrats wanted us to move to it. Move to what? What is it? We haven't seen it. I think it hasn't been written. You can't move to a speech. This is the level of seriousness we are seeing from the Democratic-controlled Senate right now. This is how seriously they take this economic crisis. It is nothing but one political game after another. If the President has a proposal, we will be happy to send an intern down to the White House to pick it up, but we can't vote on a speech. Frankly, we can't continue like this.

It is long past time Democrats in the White House and in the Senate took the lives and challenges of working Americans as seriously as they take their politics. It is time to put childish things aside and get down to serious business for the American people.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the following hour will be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Colorado.

WIND PRODUCTION TAX CREDIT

Mr. UDALL of Colorado. Mr. President, I rise today, as I have been every day, to urge my colleagues to work with me and to work with the Presiding Officer to extend the production tax credit for wind. The PTC, as it is known, has broad economic effects, positive effects all across our great country.

I am going to talk today, as I have each day, about an individual State that is known for its wind resources, and today that is the great State of Kansas. Kansas is already known as a national leader in both wind manufacturing and production. In fact, Kansas has the most wind projects under construction, as we sit here today, and is on track to almost double their installed wind energy capacity.

We can see from this map of Kansas that there is a lot of activity. For example, there is construction currently underway in what will be the largest wind farm in Kansas, which is located just southwest of Wichita, in south central Kansas. The Flat Ridge 2 Wind Farm will cover about 66,000 acres, and it should be up and running by the end of the year.

The two companies running the project—BP Wind Energy and Sempra U.S. Gas & Power—have invested over $800 million and have employed 500 construction workers. Those are impressive numbers wherever you might find them. But that is not all. Once this project is done and operating, the local community should receive over $1 million annually in tax payments from the project. There are some 200 property owners who own the land under the turbines, and they will receive a similar amount in royalty payments. That is real money for real Americans, all thanks to wind energy and the production tax credit.

These are jobs and investments that are created here at home, and they create good-paying jobs in Kansas, helping the local economy and providing critical income for rural communities. I have to say this is especially important as the drought takes a steep toll on farmers across the Midwest this year. Wind power, if you think about it, is a cash crop that always ripens and always returns the investment in the marketplace.

This is just one project in Kansas that isn't even completed yet, so let me talk about the overall effect of wind energy in Kansas.

The wind energy industry in Kansas supports 3,000 jobs, it results in $3.7 million in property taxes from wind projects that go to local communities, and 8 percent of Kansas's power comes from wind. Those are impressive numbers, and they would only grow as Kansas invests.

There are thousands of Kansas wind energy jobs supporting millions of dollars of local tax revenue and, as I pointed out here, almost one-tenth of Kansas's total power needs. This harnessing of the wind has truly become an economic driver, and it presents enormous opportunity for this important Midwestern State.

I would like to focus on one county. Lane County's economic development operation is headed up by Dan Hartman. Dan moved to western Kansas 5 years ago, in large part because he wanted to live in the heart of rural America, but he also wanted to help create a better, more secure energy future for America, with Kansas playing a central role. Since then, Dan has been working with counties, farmers, and landowners to bring as much wind energy as possible to western Kansas, and I think those possibilities are almost unlimited because there is enough potential wind power in Kansas to meet the needs of Kansas some 90 times over.

That brings me to the point I wish to make today, and it is why I keep coming to the floor. The uncertainty we have created by failing to extend the wind production tax credit, unfortunately, has sidelined roughly $3.5 billion in wind energy investments. That just defies common sense. Back home in my State of Colorado, I keep hearing from my fellow Coloradans: Why the heck aren't you in Congress working to save wind energy jobs right now? To Dan Hartman, the solution seems simple, and I want to quote him. He said:

> I look at the wind energy industry as a matter of survival and our future in Kansas. If we don't extend the PTC, we're throwing away our future. We need it badly. If you really look at the money, the PTC cost is dwarfed by the capital investment it encourages.

Dan has it right, and we should listen here in the Congress. If we refuse to develop our wind energy resources, there are a lot of countries that are willing to outcompete us—take China, for example. We have to work to keep these jobs and that investment here in the United States, and that is why the Congress must extend the production tax credit as soon as possible.

Mr. President, you also know we have bipartisan support. This isn't solely a Republican or a Democratic issue. Senator MORAN from Kansas, my good friend, has joined me and others to make this happen. We have offered an amendment to the bipartisan small business lending bill that would extend the PTC by 2 years, until the end of 2014.

We need the PTC. It equals jobs. We need to pass it as soon as possible. I want to ask my colleagues again, as I have every day, to join Senator MORAN, Senator UDALL of New Mexico, Senator THUNE, and others to help pass this much needed, commonsense, bipartisan amendment or find another way to extend the PTC to ensure that more investment and more jobs in States such as Kansas, Colorado, and others all across our country will be the result.

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

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

The bill clerk proceeded to call the roll.

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

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

SMALL BUSINESS JOBS AND TAX RELIEF ACT

Mr. REED. Mr. President, I rise today in support of the Small Business Jobs and Tax Relief Act. This is a tough economy for a lot of people across the United States. It is especially difficult in my home State of Rhode Island, and that is why I support the legislation before us today. It will help small businesses to hire new workers and to expand their payroll or invest in new capital equipment. This is a commonsense step to encourage growth and create jobs.

These tax cuts are cost-effective and have been estimated by the CBO as having some of the biggest bang for the buck compared to other fiscal policies that directly benefit businesses. It is especially important to pass cost-effective policies because we are in the midst of a global slowdown that is hurting job creation and lowering government revenue.

In contrast, the other body—the House—has been intent upon repealing the Affordable Care Act, rolling back regulations on firms that pollute, or providing tax windfalls to special interests. That approach will not provide the real economic growth we need today to put people to work. In fact, it will exacerbate our deficit, and it will hurt the middle class of the United States.

The targeted tax cuts in the legislation we propose, the Small Business Jobs and Tax Relief Act, stand in stark contrast to the approach taken by the House Republicans in their Small Business Tax Cut Act, which is in many respects just another way to provide huge tax benefits to the wealthiest Americans instead of doing what we should be doing—providing jobs for all Americans. Proposals such as the House Republican bill will only generate 30 cents for every Federal dollar spent as compared to the $1.30 and $1.10 multiplier for tax cuts for job creation and investments in new equipment, respectively, that are included in our bill.

Even more disturbing with the House proposal is that nearly half of the $46 billion in tax cuts would go to the wealthiest Americans—millionaires and billionaires—without having to create one single job.

In contrast, our bill provides a targeted 10-percent income tax credit for

businesses that increase their payroll by hiring new workers or raising wages this year. So there is a direct link between the tax credit and creating new jobs or raising wages for working men and women. This is a tax credit that is directly linked to this job creation effort, and the credit is targeted to increasing middle-class job wages because the credit only applies to the first $110,000 in wages for any individual employee. So we are looking to target this as closely and precisely as we can to be both effective and prudent with our resources.

The tax credit is further targeted to small businesses because it only applies to the first $5 million in new payroll, effectively capping the maximum tax credit to any business to $500,000.

The bill also extends bonus depreciation through 2012 for businesses that invest in new capital. Bonus depreciation has proved to be an effective incentive for businesses to pull forward capital purchases and invest in the near term, offsetting some of the weak aggregate demand that has held back our economic recovery.

In 2011, bonus depreciation accelerated $150 billion in tax cuts to 2 million businesses and generated an estimated $50 billion in added investment.

In total, the Small Business Jobs and Tax Relief Act is estimated to create about 1 million jobs nationally and over 3,500 jobs in my State of Rhode Island. We desperately need these jobs, and we need them as quickly as possible. This bill is a responsible, cost-effective, and fair way to generate growth.

Before us today is yet another example of my colleagues in the Democratic caucus putting forth reasonable solutions that have been analyzed by economists and determined to provide immediate help to millions of out-of-work Americans. But my fear is that my colleagues on the other side will again filibuster and oppose this effort, like others we have made, while only offering proposals that promise great things but in reality contribute very little to putting people to work quickly. And that is our challenge.

The damage caused by the refusal of many of my colleagues to support these legitimate job proposals and their efforts to actively unwind Federal support for our recovery is hard to overstate. Their narrowly focused economic proposals, in which a vast portion of their tax cuts flow to millionaires and billionaires or corporations that send jobs overseas, doesn't help our middle class, doesn't help our economy, doesn't help our Nation's fiscal health. Republican proposals do not respond to our immediate crisis.

The legislation before us does respond to that crisis by creating jobs for middle-class working Americans right now. And it does not give large additional tax cuts for the wealthiest of Americans.

So I hope we can move forward. I hope we can bridge the differences and pass this legislation. It is legislation that has been looked at by economists and has been determined to provide real benefits. For every dollar we invest, we will get more than that in terms of economic productivity in the economy. Again, this is in stark contrast to simply proposing to cut taxes for the wealthiest Americans and assume that would put people to work. That was the essence of the Bush economic policies, and at the end of 8 years we were in one of the deepest economic crises, losing hundreds of thousands of jobs per month.

We pulled back from that brink, but in order to go forward, and go forward with momentum and confidence, we have to pass legislation such as the legislation we have proposed today: targeted efforts to put people to work, to move our economy forward, to move the Nation forward. This will help millions of Americans who are impacted by this tough economy in the most meaningful way—and that is simply by getting them back to work. When we do, this country will do great things, as it always has done. I urge my colleagues to support this measure.

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

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

The bill clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. HELLER. Mr. President, last week's jobs report reinforces what many of us have known for some time. Unlike what the President would like you to believe, the private sector is not doing fine and this administration's policies are not providing effective solutions to our Nation's problems. The health of our economy hinges upon job growth, and it clearly has not received the attention it deserves. Our Nation has no roadmap, and it is past time for a genuine effort to work in a bipartisan manner to create the certainty and stability that will allow American businesses and families to thrive.

Every morning Nevadans wake up and grab their hometown newspaper or turn on their local news. Some are getting ready to go to work, while others start another day trying to find a job. These Nevadans have become all too familiar with headlines of Nevada leading the country in unemployment and foreclosures.

For the Nevadans who are going to their job, these headlines create fear and uncertainty about their future. For the Nevadan who is unemployed, these headlines are another blow to their hopes of finding work. That is what many Nevadans have had to live with for far too long.

I read and see the latest unemployment statistics just like everyone else, but I know that behind these numbers are real people struggling to make ends meet. Being home in Nevada I have met the unemployed mechanic, the unemployed computer engineer, and the unemployed waitress. Blue collar and white collar workers alike continue to pay the price because of the poor decisions by Wall Street and Washington.

Nevadans did not want the Wall Street bailout—but Washington did it anyway. Nevadans did not want the trillion dollar stimulus bill—but Washington did it anyway. Nevadans did not want the President's health care bill—but Washington did it anyway.

When I am in places such as Reno, Las Vegas, Henderson, or Elko I often ask people to raise their hand if the bailout has helped them find a job. No one raises their hand. I ask did the stimulus bill help them find a job. No one raises their hand. Finally, I ask them if the health care bill has helped them find a job and still no one raises their hand.

In January 2009, President Obama was inaugurated and Democrats controlled both the House and the Senate. Nevada's unemployment rate was at 9.4 percent.

Nearly 4 years later Nevada's unemployment rate is 11.6 percent. Too many people in Nevada are unemployed, have stopped looking for jobs or worse, left the State for employment elsewhere.

With over 23 million Americans out of work or underemployed I think it is past time to ask the President and this Congress is this working?

Nevadans have seen the effects of higher Washington spending, higher regulations, and higher debt and they know these policies have failed. They deserve solutions. Instead of having more show votes, Congress needs to focus on pro-growth policies that eliminate burdensome regulations, reform the tax code and help struggling homeowners. It is my hope that our economy will improve as the year goes on, but Washington must take action.

There are small commonsense measures that we can pass right now if given the opportunity. I continually come here to the Senate floor to offer solutions that will provide our Nation's job creators with the tools to provide for long-term economic growth. I have crafted three housing bills to help those foreclosed upon to stay in their home, shorten the short-sale process, and ensure homeowners who get mortgage relief are not hit with additional taxes. I have offered legislation that would require Washington bureaucrats at agencies to take into account jobs when issuing regulations or to streamline permitting for energy-related projects on public lands or even something as simple as combining annual reports submitted to Congress. These are small measures that if passed would make a big difference to our Nation's job creators. Unfortunately, all too often we find ourselves taking political show votes instead of debating

commonsense solutions. The bill we have before us on the floor is a perfect example. I filed two amendments to this bill that would help ease the stress of taxes on middle-class Nevadans and one to help underwater homeowners. Both are bipartisan proposals. Yet once again we find ourselves in a position where we cannot have an open debate on amendments.

These are not partisan issues, these are American issues. If any Member of Congress commits themselves to spending reform, tax reform, regulation reform, and finding solutions to fix the housing crisis, then they will have me as an ally.

Nevadans deserve better than what they have gotten from this Congress and White House, which is why I will continue to keep coming to this floor to raise my voice for the citizens of Nevada and I will fight every day to create jobs and get Nevadans back to work.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERTS. I ask to be recognized for 15 minutes.

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

KU CANCER CENTER CONGRATULATIONS

Mr. ROBERTS. Mr. President, I come to the floor today to congratulate the University of Kansas on its prestigious designation as a National Cancer Institute Cancer Center.

I do regret I can't be at the KU ceremony today to mark this designation by the NCI because of anticipated votes in the Senate, but I am certainly there in spirit.

This designation of '' cancer center'' is such an important development for my state and others in our region because it means that many Kansans and their families who have faced frightening diagnoses—and trying treatments—will no longer have to seek cures all the way down to Texas or up to Minnesota.

They can, and will be able to, stay closer to home and their support systems. Simply put, it's great news for Kansas cancer patients in the region.

I am personally gratified by this designation because it represents more than a decade of work with so many outstanding partners. It has truly been a team effort to achieve this important Federal designation.

When I was first elected to this body in 1996, I created a blue ribbon committee of Kansas leaders in government, academia and the private sector to advise me on the State's science and technology needs. The goal was to make us more competitive in a global marketplace increasingly reliant on research and technology and to provide economic opportunity to stop out-migration of our best and brightest young people.

The Roberts advisory committee set out to implement policies and secure Federal investments to further the research goals of Kansas State University in plant and animal science, Wichita State University in composite and aviation research and the University of Kansas in life science research.

I personally took this goal to the Kansas legislature in 2001 and again in 2002 encouraging my colleagues in the Kansas State legislature to help promote State investment in research infrastructure—to be part of it.

At the time, I spoke about how the statistics showed that Kansas was lagging behind other States in the race for Federal and private research dollars.

In response, the Kansas legislature more than stepped up to the plate with special thanks to leaders like Representative Kenny Wilk, Senator Kent Glasscock, Representative Nick Jordan and Senator Dave Kerr.

The legislature voted in favor of bonding authority—and we constructed and invested in buildings at the KU Cancer Center and the Biosecurity Research Institute at K-State. Likewise, Wichita State's work in composite research is now revolutionizing industries from aircraft to health care. And about this same time, Stowers Biomedical Research Institute came into existence, which provided a key private source of research excellence.

Our Kansas motto is ''To the stars through difficulty.'' Well, in short, the stars aligned.

KU's then-Chancellor Bob Hemenway and I sought out other opportunities to help raise KU's research profile.

In 2004, we invited then-NIH Director Elias Zerhouni to KU for a tour and discussion about KU Medical Center's research facilities.

Dr. Zerhouni recognized—as many Federal research directors do—that there is great promise in research conducted at Kansas universities.

Chancellor Hemenway and I worked in concert to design congressionally directed programs to supplement KU's internal NIH cancer research successes. This included those won by Dr. Jeff Aube, who leads one of four NIH drug discovery centers.

Furthermore, this coordinated effort with Chancellor Hemenway and his leadership team also provided KU with the flexibility to recruit new cancer research faculty who brought considerable expertise and NCI cancer research programs to KU.

In 2006, with the critical mission of the National Cancer Institute in mind, from my post on the Senate Health Committee, we fought to reauthorize funding for National Institutes of Health which oversee the National Cancer Institute.

This reform bill reaffirmed the various centers of NIH including the Cancer Institutes and reauthorized their funding.

In fact, this was a continuation of Congressional efforts from 1999, when we were successful at doubling NIH funding over 5 years, at a time when many wanted to divert Federal funds to other research.

My then-partner in the Senate, Sam Brownback, now our State's Governor, and I worked together to advance this push.

In 2009, Senator Brownback and I secured $5.5 billion in Federal investments for the University of Kansas to purchase equipment needed to further its cancer research. Sam's leadership, both then and now, is immeasurable.

Over those 10 years, there were many other excellent team members supporting this effort who should be recognized. I apologize I will not be able to name everyone who played such a big and important role.

First, Dr. Howard Mossberg, dean emeritus of the KU School of Pharmacy. He was the force behind the regular meetings of our Science and Technology Advisory Committee. Howard, who lives in Lawrence, home of KU, did this work for free because he recognized the opportunity to use the advisory committee to provide us with key facts to support our research and technology initiatives. KU, in fact, hosted many of our advisory committee meetings down through the years. I truly appreciate that.

Riding shotgun back in Kansas on this effort has been my tireless staff member Harold Stones. Harold provided the hard work of collecting and then distilling and providing to everyone concerned the valuable contributions among our technology leaders for more than a decade, helping me turn them into policy and progress.

Credit must also go to former KU research directors Dr. Bob Barnhill and Dr. Michael Welch. They were instrumental in my research about the KU Cancer Center. Jim Roberts, who sadly passed away from cancer himself, was a valuable KU adviser to me, as is Steve Warren today.

I have appreciated getting to know Dr. Roy Jensen, who leads the KU Cancer Center. I know Roy will continue to stay in close touch with me and the entire Kansas delegation about the KU Cancer Center as it continues to progress. Our work is ongoing. It is not done.

I would also be remiss not to mention the contributions of my former legislative director, Mr. Keith Yehle. Keith was the point person for KU to contact, whether it was about the KU Cancer Center, the advancements in special education or the Hoglund Brain Imaging Center, where we also secured $1.8 million in Federal investment for renovation and equipment. Keith went on to work at KU for Chancellor Hemenway to help him and our current Chancellor Gray-Little navigate the corridors of Capitol Hill.

My former chief of staff Leroy Towns, former deputy legislative director Jennifer Swenson, and my current

senior health care policy adviser Jennifer Boyer round out the list of the Roberts team who spent countless hours working on behalf of the University of Kansas—whether it is the cancer center designation or any other of KU's initiatives.

Let me stress that my current colleagues in Congress, Senator JERRY MORAN, Congresswoman LYNN JENKINS, and Congressman KEVIN YODER, have each carved out important initiatives to promote this designation and have helped make this day possible. This partnership will continue for KU.

We could not have accomplished something this encompassing without strong public support. In this regard, I also wish to thank the publisher and the editor of the Lawrence Journal-World, Mr. Dolph Simons, Jr., for his comprehensive coverage with regard to all these initiatives over the years.

What we have with the NCI designation is proof of what I said to the Kansas State legislature back in 2001; that public and private and academic partnerships are critical to developing our State's economy over the long term. I applaud the generosity of the Kansas Masonic Foundation, Annette Gloch, the Hall Family Foundation, and others for their key contributions to this effort.

In the Senate this week, we have talked a lot about the need for job growth—jobs, jobs, jobs. According to the University of Kansas, since 2006, the National Cancer Institute's designation pursuit alone has created 1,123 jobs and had a regional economic impact of $453 million. We can only expect, with the announcement of the cancer center designation today, that these numbers will grow jobs, jobs, jobs.

Our work does not end today. We will always be focused on ensuring a better treatment of cancer victims. A great thanks go to so many—past and present. I am honored to have been there at the beginning, but in some ways I believe you ain't seen nothing yet. Congratulations to the University of Kansas and to the entire State of Kansas.

''Rock Chalk Jayhawk.'' Well done, KU.

MEDICAL DEVICE TAX

Mr. BROWN of Massachusetts. Mr. President, I rise to discuss the small business tax bill currently before the Senate, one of which I hope we have an opportunity to debate openly and fairly and allow amendments. I am not quite sure if that is going to happen, which is frustrating because the American people deserve better. When we allow the process to work and we allow everybody to have their say in the process, we ultimately get a good bill. I am hopeful we can do the same on this one.

It is good we are finally working on jobs, but I believe we should be working in a more bipartisan way, as we did with the insider trading bill, crowdfunding, the Arlington Cemetery bill, the 3-percent withholding, and many other bills. We need to work on a bill where all Members are offered an opportunity to have their votes on job-creating ideas.

I don't think one party has the monopoly on how to create jobs in this country. I think we can actually get together in a room and hammer it out and try to work to help protect the middle-class and everybody in America who wants to get out and work.

We have worked together, as I have said, on a whole host of bills. I forgot the hire a hero tax credit, which is clearly a jobs bill. I worked with Senator BENNET and Senator MERKLEY on that. It is a very important piece of legislation. With that type of success, I don't understand why we don't try that more often.

The new medical device tax is one more example of a policy we all know is bad for jobs and, in fact, bad for our economy. The House has already voted to repeal this job-killing tax. I am disappointed to say the Senate has not taken the time to work to repeal it in a truly bipartisan manner.

For those who don't know what the medical device tax is or why we should even care, let me explain. In Massachusetts, we have over 400 medical device companies employing tens of thousands of people. This 2.3 percent tax on medical device sales will cost our economy thousands of jobs and limit Americans access to the most groundbreaking, state-of-the-art medical devices.

For example, Covidien, a medical device company with 2,000 employees in my home State, has estimated that taxable medical devices represent approximately 30 to 40 percent of the total net sales in 2011. What that means in plain language is that will cost Covidien between $80 million and $107 million annually. From where is that money going to come? Will it come from R&D, expansion, hiring or expanding their workforce?

Over the last 5 years, Covidien has more than doubled its R&D investment and launched more than 100 new products. One of those products is a device that restores blood flow in patients who have suffered from a stroke by mechanically removing blood clots from blocked vessels. Obviously, that is a very important device that would actually help save people's lives and save costs. Another product provides the first safe and effective treatment for large or giant wide-neck brain aneurysms available on the market, but losing $80 million to $107 million in revenue each year will put Covidien's continuing growth in very real jeopardy.

Another medical device company, Stryker Corporation, said late last year they would begin cutting 5 percent of their workforce in response to the tax. That is 1,000 jobs that will be gone as a result of this tax. Stryker expects the device tax to cost them $130 million to $150 million in the first year alone. These are just two examples. As I said, in Massachusetts we have over 400 medical device companies.

The Massachusetts medical device industry employs nearly 25,000 workers in Massachusetts and contributes over $4 billion to our economy. Massachusetts alone is expected to lose over 2,600 jobs. As a direct result of this tax, around 10 percent of our device manufacturing workforce will be affected. The bottom line is we can't have that kind of job loss in a sector of our economy that is still struggling.

Yesterday, I, along with others, introduced an amendment to repeal this job-killing medical device tax. It is a tax which will drive up the cost of care for patients and make our workers and our companies less competitive.

Some say it is time to move on from the health care bill to work on the jobs legislation. With all due respect, working on job growth means repealing the health care bill and its 18 new job-destroying taxes along with one-half trillion in Medicare cuts.

A lot of these things haven't clicked in and the American public isn't quite aware they are soon going to be affected by 18 new taxes associated with the Federal health care bill and a one-half trillion in Medicare cuts. It is time to get rid of the medical device tax before it does even more damage, not only to Massachusetts but other States that have a large medical device industry.

I urge my colleagues to get behind this effort in a truly bipartisan, bicameral manner.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Should we go to the bill?

The PRESIDING OFFICER. The Senate is considering the motion to proceed on S. 3369.

ESTATE TAX

Mr. HATCH. Mr. President, I find it ironic that we are debating a bill called the Small Business Jobs and Tax Relief Act when that bill does absolutely nothing to address the death tax, one of the biggest threats to our small businesses in our country.

Again, while Republicans are being accused of not wanting to move legislation to help grow the economy and develop jobs, it was interesting to read this morning that my Democratic friends still do not have any agreement among themselves on how to proceed on a number of tax issues—including the death tax. They need to get moving over there.

Next year, unless Congress does something, the death tax will come roaring back at a much higher rate of 55 percent and a much lower exemption amount of $1 million next year, though those who promote the death tax characterize it as impacting only Daddy Warbucks, the Monopoly Man, and Montgomery Burns. The data does not bear out this cartoonish characterization.

The death tax does not just hit those at higher income tax brackets; it has an effect well beyond small business owners and adversely impacts middle-

class jobs and wages. Call it what you will, the estate tax or the death tax, but in the end it is a tax that is antismall business and antijob creation and antiwage increase.

We are in the midst of another Senate floor show of pursuing legislation that will give the President and his allies campaign talking points but will do absolutely nothing to spur economic growth and job creation. Meanwhile, the Senate has failed to take action on estate tax reform. This is beyond irresponsible.

I have been a long-time proponent of repealing the death tax. Not only is it double taxation and a deterrent to savings, but it also sucks up capital in the marketplace. To be clear, this is capital that could be used to hire more workers or expand small businesses or any business for that matter. This is a basic economic concept that seems lost on our current President, President Obama.

During last year's deficit reduction talks, President Obama argued on behalf of tax increases saying:

> I do not want, and I will not accept a deal in which I am asked to do nothing, in fact, I'm able to keep hundreds of thousands of dollars in additional income that I don't need.

Income that I don't need? This is a point that could only be made by a person with a very loose understanding of how business and entrepreneurs operate. The President seems to think this so-called excess income does no good. In fact, however, it will be invested or it would be invested in new business ventures, new hires, and better wages.

If these entrepreneurs with all this excess income did nothing but put that money into a savings account, it would benefit individuals looking to buy a house, buy a car or start their own business, but the President does not seem to grasp this. So it is no surprise that he and his Democratic allies have done nothing to address this job-killing death tax increase looming on the horizon.

The President claims he is interested in job creation. He certainly should be after last month's anemic jobs report. Well, he need look no further than death tax repeal. I know his liberal base might not appreciate it, but the rest of the country, which is less interested in class warfare talking points and more interested in getting the economy moving again, would embrace it.

The death tax adds inefficiency to our economy. It is what economists refer to as deadweight loss. In other words, it creates another burden on our free market system and prevents the full potential of economic growth.

For instance, many small businesses have to purchase insurance in order to prepare for paying the death tax so they do not end up having to sell the business just to pay the death tax. This added cost is embedded into the cost of goods when sold. In other words, American consumers, American workers, or Americans looking for work are those who will ultimately have to pay the death tax.

Consider also that heirs are often forced to sell an asset of the business or the business itself in order to meet this arbitrary tax due date. These assets are likely generating revenue and could be a vital part of the business. But because the tax man cometh, small businesses are forced to sell these assets to pay the death tax.

We ought to repeal the death tax, plain and simple. We actually don't get that much revenue from the death tax to justify its existence. It has been a pain in the neck from the beginning.

In 2010 the death tax was temporarily repealed, but in a few months the law will take a sharp turn for the worse. Back in 2010 Senators KYL and Lincoln offered a compromise that gained bipartisan support which eventually became law. Under title III of the Tax Relief Act—a law signed by President Obama—the death tax and the gift tax are unified with a $5 million exemption amount and a tax rate of 35 percent. Under current law, however, in 2013 we will once again have a 55-percent estate tax due within 9 months of death, and in some cases the tax will reach 60 percent. The exemption amount could be as low as $1 million.

That is not right. How does it benefit our economy to have small businesses and farmers wondering whether they have to sell their business or literally sell the farm to pay for an uncertain amount of taxes? It creates an accounting and financial nightmare.

The estate tax is not about making the Tax Code more progressive. The estate tax is not about more redistribution. It is not about deficit reduction. It is class warfare, and while it might stir up some votes, it has an outsized and detrimental impact on our economy.

Many do not realize the enormous impact the death tax has on rural America. I am not only talking about farmers and ranchers; I am also talking about small family-owned businesses that generate economic growth in smaller towns—and even larger towns. If we do not address the death tax, some businesses with assets over $1 million could be susceptible to the death tax.

I know for a small business $1 million in assets is a pretty low threshold. That is why I care about this death tax debate: because of real people, real Utahans, in real communities, who will be upended if this tax increase is allowed to go into effect.

When we hear about the number of individuals impacted by the death tax, that statistic actually understates the sweep of this intrusion by the Federal Government. The estate tax return is filed by the representative of the deceased. That return does not take into account the dead person's family, employees, or neighbors. All of those folks are affected if the death tax burdens that particular family business or farm.

There seems to be a strategy by the Democratic leadership to drag its feet in coming up with a resolution to this impending problem. What they fail to realize is this strategy is only adding to the cloud of uncertainty—economic uncertainty—over our country and over our economy. Will Congress keep the rates and exemption amounts the same? Will Congress increase them? What do I need to do as a small business owner to better prepare my business from withstanding a tax increase?

These are the types of questions more and more small business owners and farmers are continuing to ask. The uncertainty these questions generate is holding back investment, job creation, and wage growth. Yet policies to promote economic growth have, unfortunately, taken a back seat to Presidential talking points that campaign advisers think will generate votes. Attack the rich. Promise more spending.

As a candidate, President Obama promised in 2008 that Washington needed to spread the wealth around. That is one promise the President has kept. In spite of an economy that demands a focus on job creation, the President and his liberal allies have spent the last year coming up with even more intensive redistributionist schemes.

Recently, the Joint Committee on Taxation released an estimate on how many more taxable estates, farming taxable estates, and small business taxable estates would be affected by the increase in the death tax over the next 10 years. The numbers are truly astonishing. If Congress does not act, we will see more than a 1,000-percent increase in the number of taxable estates, a 2,300-percent increase in the number of farming taxable estates, and a 1,000-percent increase in the number of small business taxable estates. The reach of the death tax is growing, and it is going to hit not just the so-called rich but current employees and, for that matter, entire communities.

Let's take a look at the tax year of 2013. It arrives in a little over 7 months, by the way. Under current law, 46,700 estates will be taxable. If we extend the Lincoln-Kyl compromise, 3,600 estates would be taxable. Now, let me refer to the Joint Committee on Taxation estate tax data chart. It is the second column on the chart. When we think about it, under current law the path on which we seem to be slow-walking means more than 10 times the number of estates will be hit by the tax. The Lincoln-Kyl compromise means only the top 10 percent—the wealthiest estates—would be hit by the death tax.

If we project out the 8 years of current law over 10 years, we will find that roughly 570,000 estates will be taxable over that period. Under the Lincoln-Kyl compromise, which is the current estate tax regime, roughly 41,000 estates would be taxable over that period. So 570,000 estates under the law that many Democrats would want or only 41,000 estates would be taxed under the Lincoln-Kyl compromise.

In a recent interview with the Associated Press, Secretary of Agriculture Kathleen Merrigan described an epidemic of sorts that is hitting our farmlands across the United States. She did not talk about rising fuel prices or droughts. Instead, Secretary Merrigan discussed how our country's farmers and ranchers are getting older, and fewer young people are taking their places. I have heard time and time again that the death tax is the No. 1 reason family farms and businesses fail to pass down to the next generation.

If Congress does not act soon, the Joint Committee on Taxation estimates that another 2,000 farming estates will be hit by the death tax next year. Keep in mind farmers sometimes carry debt. That would reduce the value of the farm, but on the other hand farmers have other farm-related assets such as combines and other equipment that are not included in the figures I cited.

This data shows the failure to address the estate tax cliff will undermine many family farms. For those folks who are working this land, this is an unwelcome uncertainty. As I indicated earlier, the tax is an impediment to passing on the family business, in this case the family farm. A much higher death tax, apparently supported by many Members on the other side, will undermine many family farms and small businesses. Yet these family farms and small businesses form the economic backbone of their communities.

Do we really want to send the signal that those who work hard, save, and want to pass something on to their families exist solely to fund bloated Federal programs? Why work hard? Why save? Why not work less? Instead, if the President is just going to spread the wealth around, it might just be easier to go into debt and live beyond one's means.

There is something fundamentally unjust about the estate tax. Contrary to the claims of the President and his most liberal supporters, a person's wealth is the result of his or her labor. When one builds a business, one puts their sweat and ingenuity into it. To then be punished for this—to have it taken away at the moment of death by the Federal Government—is an assault on personal liberty and freedom.

John Locke, the great philosopher, understood this. America's Founding Fathers understood this, and they would no doubt be appalled to know that behind the Grim Reaper now stands an IRS agent waiting to collect and deliver the government's share. But today's so-called liberals have abandoned this classical liberal philosophy—the philosophy of natural rights and liberties upon which our Nation was founded—in favor of a redistributionist philosophy that undermines rights and undermines our economy.

Time is running out. We cannot continue this cycle of passing temporary tax relief and then waiting until the very last minute to decide what to do next. We owe it to family farms and small businesses to figure out a way to pass a permanent solution so each year businesses are not left wondering whether they will have to shut their doors in order to pay the death tax.

Also, for those who love to raise taxes on small businesses, keep in mind these small businesses pay a lot of income tax each year into the Treasury's coffers. Do we want to kill the goose that is laying the golden eggs? If we are serious about providing true tax relief that will help small businesses grow, we can sit here and debate whether a bandaid will be the cure to our ailing economy, or we can begin the debate over how to prevent historic tax increases from hammering our small businesses and farms.

I urge my friends in the Democratic leadership to put the death tax on the Senate's radar screen.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

SMALL BUSINESS JOBS AND TAX RELIEF ACT

Mr. BLUMENTHAL. Mr. President, I am reminded today of the old saying that we campaign in poetry but we govern in prose. We are in the midst of a campaign season when we hear a lot of rhetoric perhaps posing as poetry, but we have an obligation to govern. I rise today in support of S. 2337, which is most certainly simple, straightforward prose in dedication to the art of government. It is the Small Business Jobs and Tax Relief Act. It is about as simple and straightforward as it possibly could be.

It has two compelling, concise concepts. The first is a tax credit of 10 percent on new payroll. It can be either new hiring or increased wages in 2012 as compared to 2011, and it is capped at $500,000—pretty simple, straightforward prose in aid of jobs, in aid of employment.

It also extends for 1 year the 100-percent bonus depreciation allowance to stimulate economic investment—again, to create jobs. It is a very simple and straightforward extension of the accelerated depreciation that boosts gross domestic product and will benefit 2 million businesses—it is estimated 2 million businesses—most of them small businesses across the United States. In fact, this measure is very specifically targeted and aimed at small businesses creating jobs. They are the backbone of our economy. They are the source of the majority of new jobs.

It economizes, very prudently and practically, the aid that is designed to boost new jobs, as well as overall output in our economy.

It is supported by a broad consensus of economists, including Alan Blinder, who has endorsed this idea as a job creator, saying:

> The basic idea is to offer firms that boost their payrolls a tax break. As one concrete example, companies might be offered a tax credit equal to 10% of the increase in their wage bills. . . . No increase, no reward.

That is the concept: ''No increase, no reward.'' But the reward and the incentive are a powerful potential driving force to aid small businesses in increasing the numbers of jobs they provide.

I thank Leader HARRY REID for this very targeted and profoundly meaningful proposal. But when I think about the impact of this legislation, I do not think of the folks who are gathered in this Chamber. I think of people in Connecticut—13,000 people in Connecticut—who will have jobs if we move forward on this bill.

I think of a man named Hector Hernandez. I met Hector at a jobs fair I hosted in East Hartford this past September. After 25 years of working for the same company—as they say, working hard and playing by the rules—Hector lost his job. He is willing to do most anything to find a new job, but he cannot find one. There are simply no jobs for Hector. This measure will help to provide him one.

At that same jobs fair I met Ty Wagner. Ty took a very smart path. He decided he was going to get all the education that could possibly be accessible to him. He got a technical degree from a top university. He wanted to work in the State when he graduated. His dream job was to give back, to provide public service. He has not been able to find any job, let alone his dream job, and he is every bit as lost as Hector Hernandez.

That situation faced by Hector and Ty is only one aspect of the crisis in America's job market. I think of Jodey Lazarus who moved to Stamford 5 years ago in search of economic opportunity. She put her two kids in local schools, signed up for college classes, started to get her finances in order, and today she makes barely enough to feed her family. She receives no benefits. She has been looking for a job that will pay her more and give her more security, but in this economy her efforts have come to nothing. Every week she hopes and prays her income will be enough to provide food for her family. People like Jodey and Hector and Ty deserve better.

As I travel across Connecticut, I hear often that there are jobs and employers cannot find people with the skills to fill them. We need to provide those skills to develop our workforce, to make sure education and training are available so people have skills to fill the jobs that exist.

Washington can do more for them. This kind of targeted, practical approach—not Republican or Democrat, not conservative or progressive—simply provides the tools small businesses need: a 10-percent payroll tax cut, accelerated depreciation—simple,

straightforward prose, not poetry, prose—that will put people back to work in Connecticut and around the country.

I urge that my colleagues come together—as the American people want us to do desperately, are seeking for us to do—and to govern in prose that makes a practical difference in their lives, a tool for small business—not as a panacea but as a practical aid so small businesses can put people back to work across the State of Connecticut and the country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, first, let me thank my colleague from Connecticut, Senator BLUMENTHAL, for his comments. I must tell the Senator, listening to him account to the people in Connecticut, to the individuals who are struggling in this economy, I can tell the Senator we have the same exact circumstances happening in Maryland.

This past weekend I was with some small business owners who were telling me their plans for opening a new restaurant and opening a new gasoline station, telling me of the struggles they are having in getting financing. There are community banks that have money, but they cannot make the loans because of the new rating system, and it is very difficult to get the capital to get the type of expansions they need today to start a new business.

In my State of Maryland, the high-tech and cybersecurity areas where we have small companies that are starting up to help our country, to help our country answer the problems of cybersecurity, help our country develop the type of biotech discoveries that will make our health care system more cost effective, are having a very difficult time putting together the capital in order to be able to move forward with job creation.

The Senator and I know 60 percent of our job creation will come from small businesses. We also know innovation is more likely to come from small companies that find ways to work more cost effectively. Today in this economy it is a challenge for small business owners to be able to put together the business financing to create the jobs we need for our economy.

The Senator also understands if we are going to balance our budget, if we are going to be able to move forward, we have to have more people working. A lot of people are looking for work and cannot find a job. We want more people working to fuel our economy. Also, by the way, they also pay taxes and help us bring our budget into balance.

So I could not agree with the Senator more that we need to get Democrats and Republicans working together. Here we have a bill on the Senate floor that helps small businesses. Let's not filibuster this bill. Let's at least bring it up for an up-or-down vote. I thought in a democracy majority rules. Let's bring it up. Let's have a vote. Let's keep it to the small business issues.

We all talk about our support for small businesses. Let's keep it to the issue before us: to create jobs, to help small businesses do that.

The underlying bill—and I thank Senator REID for the underlying bill—says to small businesses: If you add to our economy, if you create more jobs, if you increase your payroll, then we have tax help for you to do that.

I must tell you, I think this is exactly what we need. We know businesses cannot get all the financing they need. They need some help in order to be able to put together new job opportunities. This bill provides that with a 10-percent credit on the cost of a new hire. That gives an incentive for the small business owner. It may be the difference between setting up that new restaurant or moving forward to add that employee that will not only help our economy but will help that company discover the way in which we can deal with the cyber threats to this country. So it helps our country, it creates the jobs, and this underlying bill should be discussed on the floor of the Senate without filibusters that deny us that chance.

I also thank Senator LANDRIEU. Senator LANDRIEU, the chair of the Small Business Committee, has put forward a series of amendments. I am proud to have worked with her on the amendment she has brought forward that adds some provisions that are extremely important.

I know in the underlying bill, working with Senator LANDRIEU, we have also the expensing provision. That is an important provision. As I am sure the Senator from Connecticut understands, that provision allows a business owner to go out and make a capital investment, to buy a piece of equipment. Rather than having to write it off over 3 years or 5 years or 10 years, they can write it off immediately, having the ability to buy that piece of equipment, to grow their business, and to be able to then write off the cost. It is just a timing issue for the businessperson, but it is the difference between making the investment or not making the investment, creating a job or not creating a job.

By the way, by buying that piece of equipment, that business owner is also helping another business owner who is selling that piece of equipment, to get our economy back moving again. It is those types of commonsense provisions that have always enjoyed broad bipartisan support in the Senate—always. These are provisions we have had Democrats and Republicans working on together. We need to do that today.

Let's move on with the bill. We have had it on the floor of the Senate now a couple days. Let's move on and start voting, but do not filibuster. Let's vote on relevant amendments. Can't we just stick with the small business issues and vote on that in order to help our economy grow?

I am also pleased about another provision that is in the Landrieu amendment and the underlying bill now that we could have a chance to vote on that increases the surety bond limits for small businesses. This was passed by the Senate and incorporated into law in February 2009. I was proud to be the sponsor of this amendment that increased the surety bond limit from $2 million to $5 million.

The reason this becomes important is, for a small business owner to be able to get a government contract of over $100,000, they need to have a surety bond. In order to get that surety bond, the small business owner has to take, usually, for security, some of their assets and pledge them for the surety bond rather than using them for the credit of the company, which is really a catch-22 situation.

Increasing the limit from $2 million to $5 million frees up some of that ability because the government comes in, the Small Business Administration comes in and helps them with that surety bond. So if you are a construction contractor trying to get a Federal contract, the difference between $2 million and $5 million is a huge difference in the type of contracts that you can compete for.

It is interesting that when we looked at it, we had projected it would generate about $147 million in additional bonding activity for projects of over $2 million, and we found that, in fact, it increased activity by $360 million.

So the need was there. It generated strong activity. Democrats and Republicans supported it. I was proud of the support of Senator LANDRIEU and Senator SNOWE.

This is not a controversial issue. The only way we are going to get that increase—that expired in 2010. It is no longer part of the law. We are back to $2 million. So small business owners are at a disadvantage. We just have not had a chance to extend that. It is not controversial. It brings money into the economy. It is not scored.

So we need to be able to get that done. If we cannot get to this bill, I do not know when we will get that increase in the surety bond limit. So that is another reason I urge my colleagues to let us vote on this bill to help small businesses in our community. It has always enjoyed bipartisan support.

Here is what we are asking. My colleagues, we all talk about we want to create more jobs. We all talk about supporting small businesses because we know small businesses are the growth engine of America. We all know small businesses create more of the new patents, more of the new innovations per employee than the larger companies do. Let's put our action where our words are. We can do that today by allowing the Senate to move forward to consider amendments on the Reid bill that is before us—the Landrieu amendments. Let's move forward with that bill. Let's take up relevant amendments that deal with small business

issues. Let's vote them up or down by a majority vote of the Senate. And then I am sure, at the end of the day when we put that bill up for final passage, it will enjoy broad support by the Members of this body. And it gives the American people confidence that we indeed are focused on job creation for America.

I urge my colleagues to let us move forward on this bill. Let's take up the Landrieu amendments, take up the underlying bill. Let's do something that can help small businesses, help job growth, help our economy, and restore confidence to the American people that we are indeed dealing with the agenda they want us to do—moving our country forward, moving our economy forward by creating more jobs in our economy.

I thank my friend from Connecticut.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

PROGROWTH TAX REFORM

Mr. HOEVEN. Mr. President, I rise today to speak on the need for progrowth tax reform.

Recently, President Obama—in fact, on Monday—in a speech proposed a plan to raise tax rates rather than continuing the current tax rates. That means raising taxes on individuals and small businesses and raising the capital gains tax on investment—not only the income tax, but also the capital gains tax on small businesses, individuals, capital gains tax on investments. It also means raising the death tax on American families—the estate tax.

He made that proposal even though he has repeatedly said we cannot raise taxes in a recession. He has made that statement repeatedly in recent years, that we cannot raise taxes in a recession because it would hurt the economy, and raising taxes would hurt job creation.

But here we were on Monday, and he proposed we raise the tax rates. This is at a time when we have 8.2 percent unemployment; in fact, we have been over 8 percent unemployment for 41 straight months. We have 13 million people who are unemployed whom we want to get back to work, and we have another 10 million who are underemployed. On the order of 23 million people are either unemployed or underemployed.

Since this administration has taken office, middle-class income has declined from approximately $55,000 to about $50,000. The number of people on food stamps has grown from 32 million recipients to 46 million recipients. Home values have dropped from an average of about $169,000 to an average of about $148,000. In the area of economic growth, GDP growth is the weakest of any recovery post-World War II. The last quarter, it was reported that it was about a 1.9-percent increase over the prior quarter.

In the area of job creation, the report for June, as far as the number of jobs gained in the month, came out last week. In June, we gained about 80,000 jobs. That is far short of the 150,000 jobs we need to grow each month just to keep up with population growth.

So now the President says the solution is to raise taxes on our job creators. This week, after the President's speech—as I said, he spoke on Monday—I received a letter from a small business owner in my State of North Dakota. I know this individual. In fact, he has a hardware store in Bismarck. I have often gone there for items I need when I am working on my home. In fact, last year, when we had terrible flooding throughout North Dakota, in Minot and other communities—we had flooding in Bismarck, and my home is along the Missouri River and was in the way of the flood—I often went there to get needed items. He runs a good business, a good small business, and it is very helpful. He sent me this letter after the President's speech on Monday. I will read it. It is short:

Senator HOEVEN:

The president's recent comments on raising taxes on high income earners concern me greatly. Perhaps he just doesn't understand that for people like me, who own a business, the bulk of those earnings actually go to the bank payments for what I borrowed to be here. I am actually in danger of being taxed to a point of no living wage for myself. The taxes and bank payments come first. Out of an income that classifies me as rich, I actually take $40,000 home to my family. How much more do they want?

John, you've shopped in my store, you've seen all how we have grown, and you know people like me would use every available dime to grow more. This president's programs not only limit my company's potential to grow, but they destroy any incentive to work and hire more people. I just don't know if he doesn't understand what he's doing, or just doesn't care.

Please, Senator HOEVEN, share with your partners in the Senate how critical an issue this is for small business owners like me. Oh, and Thanks for Shopping at Ace when you're home in Bismarck.

Jeffrey Hinz, Kirkwood Ace Hardware.

I think Jeff sums it up well—better than I could. Jeff represents millions of small businesses across this country that are the very backbone of our economy. They hire the people, they pay the wages, they pay the taxes. They fuel the growth and the dynamism of our economy. In short, they make our economy go. Small business in this country makes our economy go.

Yet the President's proposal would raise taxes on about 1 million business owners, hurting their ability to grow our economy, hurting our ability to get those 13 million unemployed people back to work.

That is not the way to go. Very clearly, that is not the way to go. This administration's policies are making it worse. But the President says everyone needs to pay their fair share. How many times have you heard him say that? Well, of course, everyone needs to pay their fair share. But the way to do it is with progrowth tax reform and closing loopholes, not by raising taxes on some people, some businesses, and not others.

That is what we have proposed. We have proposed progrowth tax reform and closing loopholes. Let's extend the current tax rates for 1 year and set up a process to pass progrowth tax reforms that lower rates, close loopholes, are fair, simpler, and will generate the revenue to reduce our debt and deficit, along with savings and spending less—controlling government spending, but that will generate the economic growth to drive revenue, not higher taxes.

The reality is that is the only way to get on top of our debt and deficit and to get people back to work. We need economic growth to reduce the debt and deficit, along with more savings at the Federal level, controlling spending, and we need economic growth to get people working again.

That is why we have put forward our approach—a simple approach—to extend the current tax rates for another year and set up a process for comprehensive progrowth tax reform. That is the right approach. From 2000 to 2010, I served as the Governor of my State. That is the approach we took. Look at the results in our State of North Dakota. Look at the results in States such as Indiana, where that approach has been taken. It works at the State level. It will work at the Federal level. We need to do it.

I call on President Obama, as well as my colleagues, to engage in this vital effort now for the good of the American people.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from Ohio, Mr. BROWN, be recognized following my remarks.

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

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. MCCAIN. Mr. President, this body for 50 years has passed the National Defense Authorization Act, and for 50 years, after conference, it has reached the President's desk and been signed by the President of the United States.

There are many pressing issues that confront the Senate, the Congress, and the Nation. But I don't think we should forget that our first obligation is to secure the safety of our citizens, and that can only be done by training, arming, and equipping the men and women who are serving in the military.

Mr. President, a couple of months ago, through the Senate Armed Services Committee, we passed the National Defense Authorization Act, and it has some very important components in it to continue to support the men and women who are serving, and their families, and to provide them with the equipment and training they need to defend this Nation.

We are still in conflict in Afghanistan. We are on the brink of a crisis with Iran over nuclear weapons. We have adjusted our presence in Asia in response to the rising influence of China. The uprising in Syria threatens to spill over into neighboring countries. And, of course, the situation in Egypt is clearly one of significant question as to how the Egyptian Government and people will progress. Some would argue that in many respects the State of Israel is under more threat than at any time since perhaps the 1973 war. So we live in a dangerous world. We live in a very uncertain time. And it seems to me our priorities should be to bring the national defense authorization bill to the floor.

The bill received a unanimous vote in committee by both Republicans and Democrats. I am proud of the relationship the chairman and I have developed over many years of working together. I am confident that despite the fact there will be hundreds of amendments filed, we can work through those and work through the process, as we have in the past, and bring the Defense authorization bill to a conclusion and to conference with the House and then signed by the President of the United States. We owe this to the men and women who are serving in the military. It is not our right, it is our obligation to get the authorization bill to the President's desk.

We may have significant disagreements, but for 50 years this body has passed the Defense authorization bill and it has been signed by the President of the United States. We are in some danger of not getting this done this year when we look at the remaining weeks we have in session and the number of challenges that are before us. So I think it is time we step back and look at the requirement to pass this legislation.

I have some sympathy for the majority leader in that there is great difficulty in the way we are doing business nowadays. But I hope my colleagues on both sides of the aisle will all recognize the importance of this legislation. We must urge Members on both sides to set aside their own personal agendas and do what is necessary for the defense of this Nation.

The bill provides $525 billion for the base budget of the Defense Department, $88 billion for operations in Afghanistan and around the world, and $17.8 billion to maintain our nuclear deterrent. The bill authorizes $135 billion for military personnel, including the cost of pay, allowances, bonuses, and a 1.7-percent across-the-board pay increase for all members of the uniformed services—something I think all of us would agree is well-earned. That is, by the way, also the President's request. It improves the quality of life for the men and women in the Active and Reserve components of the All-Volunteer Force and helps to address the needs of the wounded servicemembers and their families.

As we and our NATO partners reduce operations in Afghanistan, the importance of transitioning responsibility to Afghan forces increases, as does the need to provide for the protection of our deployed troops. This legislation provides our service men and women with the resources, training, equipment, and authorities they need to succeed in combat and stability operations. It enhances the capability of U.S. forces to support the Afghan National Security Forces and Afghan local police as they assume responsibility for security throughout Afghanistan by the year 2014.

Weapons systems modernization is essential to the future viability of our national security strategy, and this legislation provides for substantial improvement of legacy ships, aircraft, and vehicles, while authorizing research and development investments to ensure our troops remain the best equipped in the world. The bill authorizes the President's request for missile defense and accelerates support for our allies, including the joint U.S.-Israeli cooperative missile defense programs, such as the Arrow weapon system and the David's Sling short-range missile defense system. It also provides multiyear procurement authority for the Chinook helicopters, V–22 aircraft, Virginia-class submarines, and Arleigh Burke-class destroyers, reflecting estimated savings of more than $7 billion over 5 years. And none of this can take place unless we pass the authorization bill.

The committee also sought to improve the ability of the armed services to counter nontraditional threats, including terrorism, cyber warfare, and the proliferation of weapons of mass destruction. I believe the key battlefield of the 21st century will be cyber warfare, and I am concerned about our ability to fight and win in this new domain. To improve the Defense Department's cyber capabilities, this legislation consolidates defense networks to improve security and management, which will permit personnel to be reassigned to support offensive cyber missions, which are understaffed.

The issue of nuclear proliferation is addressed, and other programs to counter the flow of improvised explosive devices and curtail the trade of worldwide narcotics are authorized in this bill.

Especially important are provisions to enhance the capability of the security forces of allied and friendly nations to defeat al-Qaida, its affiliates, and other violent extremist organizations. The Armed Services Committee extended the Defense Department's authority to train and equip forces in Yemen to counter al-Qaida in the Arabian Peninsula and forces in east Africa to counter al-Qaida affiliates and elements of al-Shabaab.

To ensure proper stewardship of taxpayer dollars and compliance with law and regulation, the bill promotes aggressive and thorough oversight of the Department's programs and activities. This includes adding funding for the Department of Defense inspector general. The Department of Defense inspector general reviews resulted in an estimated $2.6 billion in savings in 2011—a return on investment of more than $8 for every $1 spent. The committee mark also codifies the 2014 goal for the Department of Defense to achieve an auditable statement of budgetary resources.

Further, it improves the cost-effectiveness of DOD contracting by limiting the use of cost-type contracts for the production of major weapons systems. In addition, the bill includes a series of wartime contracting provisions drawn from the McCaskill-Webb bill implementing the recommendations of the Commission on Wartime Contracting. In that vein, the bill enhances protections for contractors that blow the whistle on waste, fraud, and abuse in defense contracts.

Finally, this legislation requires the Secretary of Defense to submit a detailed report to Congress on the impact budget sequestration will have on military readiness and national security. Similar legislative language has been passed twice by this body and by the House of Representatives. The Congress does not yet have an accurate understanding of the implications of sequester beyond an assertion that the cuts would be ''devastating,'' which is the word used by Secretary of Defense Leon Panetta and nearly every other defense official we have queried. We must have this information as we begin the work of developing a balanced approach to deficit reduction that replaces sequestration with a responsible plan for getting our Nation's finances in order.

I want to repeat, Mr. President, that for 50 years, I am proud to say—and in the years I have been in this, obviously—we have successfully authorized the programs and policies of the Department of Defense. I am proud of what this committee has done. I am proud of what the Senate has done. I am proud of what the Congress has done and the Presidents these pieces of legislation have come before for their signature. Let's not allow the anticipation of an election to hinder our ability to act in the interests of the men and women who are so bravely serving our Nation.

I hope the majority leader, in consultation with the Republican leader, will come to an agreement so that we can have a date certain. And I can assure the leadership on both sides that Senator LEVIN and I will again be able to expedite this process, allowing amendments and debate as they are called for and at the same time come to a successful conclusion and make this the 51st year we have succeeded in doing what is necessary to fulfill our most solemn and important obligation, which is to do everything within our power to ensure the security of this Nation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

VETERANS RETRAINING ASSISTANCE PROGRAM

Mr. BROWN of Ohio. Madam President, I rise to address a problem facing too many communities across the country, including small towns and big cities, suburbs and remote rural areas.

Servicemembers who have risked their lives protecting our Nation shouldn't have to wonder whether they will be able to find a job when they leave the service. Unfortunately, far too many do.

On Monday, I was in Youngstown in northeast Ohio speaking to Army veteran Pedro Colon. He is one of the first Mahoning County area veterans to be approved for VRAP.

VRAP is a particularly important program for veterans in this country. It stands for Veterans Retraining Assistance Program. We just authorized it under the VOW to Hire Heroes Act. I am the first Ohio Senator ever to sit on the Veterans' Committee for a full term, and I take that responsibility seriously. One of the outreach training efforts put together by Senator MURRAY in the Veterans' Committee is VRAP.

Mr. Pedro Colon, Jr., is a high school graduate in his early fifties. Even though he served in an Army medical laboratory as a specialist, civilian employers wouldn't accept his military training experience. As the Presiding Officer knows, having such a huge military presence in her State, in many cases employers are reluctant to hire veterans. Perhaps they are afraid they haven't been tested for PTSD or, for whatever reason, employers far too often seem reluctant to hire veterans. We know the unemployment levels are higher among veterans than they are the rest of the population. We know there is a particular problem for veterans who are a little bit older, who, as in the case of Mr. Colon, are middle-aged. We also know sometimes veterans, particularly if they came out of high school and went directly into service, might not know when leaving the service how to apply for a job, how to do a resume, all the things people learn to do when they are stateside in the civilian workforce.

Because of VRAP, Mr. Colon will study at the Mahoning County Career and Technical Center, beginning in September, to train to become a medical assistant—something he knows something about from his military service but was not certified and, unfortunately, unemployable in that field.

We have a responsibility to the Pedro Colons of the world to do something about these thousands of older veterans who are jobless or unemployed. VRAP is for veterans 35 to 60. The GI bill—which most of us in this Chamber supported earlier—helped those returning servicemembers a little bit younger than 35, not as much as it should have but in a significant way. But for many who, similar to Mr. Colon, are older than that, the opportunity to benefit from much of the GI bill has expired.

As we invest in our servicemembers in times of war, we should do so when they return to their communities, when they hang up their uniforms, and when they embark in the next phase of their lives.

We have a role to play, and this is a case where government can step in and help the private sector do what is right to serve those veterans who served us. That is why the Veterans Retraining Assistance Program—which is a joint Department of Veterans Affairs and Department of Labor training initiative—is so important.

Last year Congress passed and President Obama signed into law the VOW to Hire Heroes Act, which honors our government's obligation to our veterans. VRAP, a component of that law, provides unemployed veterans between the ages of 35 and 60 the opportunity to pursue training for new careers in high-demand occupations.

As of July 12, some 33,000 applications have been received nationally for the VRAP. The program was limited to 99,000 participants through March 31, 2014. All of us must do everything we can to spread the word to eligible veterans. The number was restricted to 99,000 and the expiration date was set at March 31, in large part, so we could see how this program worked, we could measure it and we could reintroduce it and continue it, if it is as effective as I and as most of us on the Veterans' Committee think it will be.

Tony Blankenship, another Ohioan from Martins Ferry in Belmont County on the Ohio River in eastern Ohio, across from Wheeling, WV, was an unemployed iron worker and plans to study at Belmont College for a career as a medical assistant.

There are hundreds of different kinds of jobs and tens of thousands of slots for people to sign up. In my State, they can go to the Veterans Service Commission. Ohio is one of those lucky States—not every State does this—that has a Veterans Service Commission funded by taxpayers in local communities. Every county seat, I believe, has a veterans service officer and a Veterans Service Commission, the chief function of which is to serve returning veterans with health care, education, and a whole host of issues, such as job training, for instance, that a veteran might deal with.

So programs such as VOW to Hire a Heroes Act and VRAP are not only about opportunities for veterans; they are about helping businesses strengthen our economy by meeting the demand for high-skilled workers. We are seeing businesses leverage public and private resources to hire veterans and expand operations. I met with veterans and veterans advocates from Dayton and Dublin to Mansfield, Chillicothe, Cleveland and Columbus and lots of places around my State to talk to them about how we can partner to help businesses hire unemployed veterans.

In North Canton I worked with the Chesapeake Energy Corporation to convene a job fair for Ohio veterans seeking employment as equipment operators, truckdrivers, electronic technicians, and other high-demand careers, perhaps in the shale development industry.

In Cleveland State University's SERV Program, staff discussed their national model of helping servicemembers and veterans transition to civilian life through education and workforce training.

At a roundtable I did on Veterans Day at Cleveland State 4 or 5 years ago, I talked to veterans and to school administrators about the importance of integrating service men and women who have recently left the military back into the classroom, thinking about the 25-year-old young man or woman who had been in combat in Iraq sitting in class next to an 18-year-old suburban young man or young woman who had no idea of the kind of life experiences the veteran, only 6 or 7 years older chronologically but much older in what he or she had seen in combat. Cleveland State has figured this out, as has Youngstown State, and they have been national models for ways of integrating these service men and women back into the classroom to be able to go out into the workforce.

In Columbus, where I held a field hearing on veterans unemployment in December, the Solar by Soldiers Program is hiring veterans to install energy technology.

We need to spread the word about training programs, such as VRAP, that will help provide our veterans with the necessary skills to find good-paying jobs. It is part of our job to serve those who have served us so faithfully and so well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. RUBIO. Madam President, it is always good to see the gallery full, people in town visiting this process, this week in the Senate. We have actually had a pretty interesting week. We have had a chance to talk about the economy and taxes, something I wish we had spent more time talking about in the months since I got elected last year to the Senate. In a few moments, later this afternoon we will have a vote on a

bill that has been called a tax cut bill. The problem with it—and I want people watching here who are maybe not fully familiar with the process, a process I am still learning, to understand—what is going to happen is Republicans had a bunch of ideas we wanted included. We probably were not going to win those votes. We are not the majority. But we wanted those ideas to be discussed, and instead we have been told that cannot happen, that the majority is going to pick which of our ideas they want to listen to and the others will be put aside.

The problem with that is the people of Florida sent me here and, just like there are 99 other people who serve here, they have a right to have their voice heard. Unfortunately some of the ideas we have offered will not get a vote, and therefore we will not be able to move forward on that bill as a result. One of the only things the minority party can do in this process here in the Senate to ensure our voices are heard is ensure we are not going to allow legislation to move forward unless the rights of the minority are respected because, after all, we represent Americans as well who have different ideas than the majority and have a right to have their voices heard. I hope we get back to a point where the Senate works the way it was designed to work—the Senate I ran to be a part of, not the Senate we are part of here today.

I do think what has been good about this week is we have had a chance to talk about the economy. I know people at home are hearing a lot about the economy, about jobs and about the debt, so I am trying to make some sense of it for folks calling our office. One of the best ways to do that is come here on the floor of the Senate and be able to speak about these issues, not just to the people sitting here today but to the folks who are going to watch back at home or later on on YouTube or wherever this video might be available to them.

What I want to talk a little bit about today is the debt and what that means. What it basically means is the Government of the United States borrows money to pay for our costs because we spend more money than we take in. The Federal Government, your government, spends more money every year than it takes in in taxes and other fees. The only way it can get the money to pay for these things is they have to borrow it by selling something called bonds. They sell this debt that we have to pay back over the years. That is how we fund our Government. Unfortunately, almost a third is funded in that way. What has happened over the years is because we have spent consistently more than we have taken in—that is called the deficit. Every year when you spend more than what you take in, the annual amount you owe is called the deficit, but it starts building up something called the national debt. Today we owe about just over $15 trillion of money that we are going to have to pay back. Let me correct that—that you are going to have to pay back through your taxes now and in the future. In fact, your great-grandchildren are going to have to pay it back. That is the national debt. The problem with the national debt is it has become an enormous part of our national economy. It has grown to a very dangerous level as a percentage of our overall economy.

What is the way to solve it? The only way to solve it is growth. The only way to solve this problem is to grow our economy. If our economy grows, then the debt becomes smaller as a percentage of our overall economy. Think of it almost as a pie. If the pie gets bigger, the slice gets smaller if you keep it constant. It is the same thing with the debt. If we can keep the debt constant and we can grow the economy, then our debt becomes less problematic. That is the solution to this problem.

As a point of emphasis, let me tell you, let's suppose we wanted to get back to what our debt was in 2007. We want our debt to be what it was in 2007. In order to do that, we would have to come up with over $1 trillion this year to get us back to what our debt was as a percentage back in 2007. It basically means we would have to come up with that permanently. The functional reality is that to do that we would either have to double everybody's taxes or we would have to cut close to a third of our budget right now.

The point is, we cannot tax our way out, cut our way out of this issue. Definitely there have to be cuts. But we cannot cut our way out of this and we certainly cannot tax our way out of it. If you double the tax rates in this country, which is what you would have to do to get us back to 2007, No. 1, you would trigger a massive recession. I mean the economy would stop. But, No. 2, it would be impossible to collect it. It is unrealistic.

I am citing those numbers to give an example of why we cannot raise taxes. We cannot tax our way out of this problem and we cannot simply cut our way out of it either. The only solution is growth, dynamic growth—not slow growth, big growth. That is the only solution because if the economy grows, more jobs are created. If more jobs are created, you have more taxpayers. If someone is unemployed right now, they are not paying income tax. Now they get a job or get a raise at their job. Even if the rates stay the same, they are paying more taxes. Now the government has more money to pay down the debt—if it doesn't grow the government. And that has been the problem over the last few years. Our revenue has grown. The amount of money coming into the government has actually gone up. But the spending has gone up even more and that is why the deficit grows and why the debt grows. That is how growth would solve this problem. If the economy grows, more people have jobs and they get raises at their jobs. That means people get more money which leads to more growth because they spend that money and invest that money, but it also means they are generating more, but for government, and now the government has more to pay down the debt and they have to borrow less. So that is the solution. Growth is the solution, growing the economy.

How do we grow the economy faster? The economy grows because of the private sector, that is how. Real growth comes from businesses, it comes from private sector growth, from small businesses and from big businesses, from dry cleaners, from gas stations, from convenience stores, from the guy who cuts your yard and your lawn—that is growth, private sector growth.

Here is the truth. If you look at the statistics, it is undeniable. The bigger the government the smaller the private sector—because there is only so much money in the world. And the only place government gets its money is either it has to tax or borrow it from the private sector. That is—unless it is going to print more money which has a whole other set of problems we will talk about 1 day—the only way your government can get more money to grow, if it takes it from you, from the private sector. It either has to tax you or it has to borrow the money from you. Either way, it is money that the government has to take out of the private world to grow the government.

Here is what happens when you take money out of the private world. That money is no longer available to save, because if you save it you are putting it in a bank and the bank can now use that money to give you a mortgage. Or that is money you no longer have to spend, which means businesses have fewer customers and the customers they do have are spending less money.

Let me tell you the functional application of that. If you are a waiter or waitress at a restaurant and people are not spending as much because they do not have the money, they are spending it in taxes, this means they are going to restaurants less, which means you are going to make less money in both tips and wages. It may even mean your hours get cut. Millions of Americans know this reality. This is not a theory, this is a reality. If people have less money to spend, they cannot spend it at the place where you work, and if they do not have the money to spend at the place where you work, you will make less money, you will work less hours, and you may even lose your job.

The other thing the private sector can do with this money is invest it, and that is when you get growth in the economy. When a business or business man or woman makes some money and they take the money and decide, you know what I am going to do this with money? I am going to use it to grow my business or I am going to use it to start a new business. The problem is, if government takes some of this money from them, they can't do that. That is

why the bigger the government, the smaller the private sector, and the smaller the private sector, the smaller the growth, which is our only solution. That is not a theory, that is a reality. Statistics prove that the bigger the government, the higher the unemployment rate. I should have brought the chart I have that shows that every time government size and spending go up, the unemployment rate goes up. Why? For the reasons I just explained. That money the government used to grow came out of the private sector. That is money businesses now don't have to invest or spend.

Let me talk about another place where it hurts. The higher the government, the worse the stock market does. Why is that? I will explain why. People buy stock on the hope that they can make a profit on that stock in the future. The problem is that the more the government spends, the higher the taxes will have to be in the future to pay for that. So if people think taxes in the future are going to be higher and therefore their chances for making money on stock are going to be less, they are not going to buy stock.

Here is the problem. When people buy shares of stock, what they are basically doing is investing money in companies. They are investing money in companies so that the company can grow and make more money, and then the company pays back a profit. But if people are no longer willing to invest money in companies, those companies cannot grow. If those companies cannot grow, that is where people become unemployed, that is where people's hours get cut, and that is where new jobs are not created. It is also why kids who are graduating from college can't find a job. The money has to come from somewhere, and the bigger the government, the less that is available in the private sector to grow. These are facts.

Now, what are the arguments around here? Well, the Bush tax cuts are the existing Tax Code. The Bush tax cuts led to this debt. Well, George Bush cut taxes, and as result the government didn't generate enough money, and that is why we have this debt.

That is false. Our government has grown impressively over the last decade. The problem is that the amount of money we spent has grown even faster.

Listen, it doesn't matter if you get a raise. If you get a raise but your spending grows by even more, you are not going to notice the difference. If you get a $10,000 raise but you buy something that costs $20,000 more than what you are spending now, you are going to owe more money. That is what we have done here in Washington—certainly before I got here.

By the way, both parties are to blame. Unfortunately, this is a bipartisan debt, and what has happened is that even though the government has generated more money, it has spent even more. So it is not the Bush tax cuts. That is just not true.

The fact is we have a spending problem. Let me explain what is so dangerous about this spending problem. The Federal Government has grown fast in the past. We have had periods like this before. Let me tell you when they were: the Revolutionary War, the Civil War, World War I, and World War II. During those four periods, government spending grew really fast. But here is the difference: When the war was over, the war was over. The war happened, we won World War II, and things went back to normal. The difference now is that this is not because of a war, this is because we have grown the government. This is permanent. That is the difference between the spike in spending and the other spending in the past. This spike in spending is permanent. That means it is here to stay unless we change. There is no going back to normal.

We have a serious problem, and I have explained why the debt hurts everyone at home. If you are unemployed, if you are underemployed, if you are working twice as hard and making half as much, the debt is part of the problem because the government has taken money out of the private sector. It is money that used to go to you and is now going to the government now and in the future. So the debt is part of the reason why the economy is not growing and why jobs are not being created.

At the end of the day, we cannot tax and simply cut our way out of this. Let me be clear. There are places to save money. I promise, the Federal Government wastes money. We should find that, and we should eliminate it. It is never a good idea to waste money. But we can't just cut our way out, and we certainly can't tax our way out of this debt problem. We have to grow our way out of this debt problem. We have to grow our economy out of it, not our government out of it. The only way to grow our economy is for the private sector to grow, but the evidence is clear that the bigger the government, the smaller the private sector. So therein lies the answer.

When we talk about holding constant and lowering the size of government, it is not some ideological talking point. This is not some conservative-versus-liberal talking point. This is evidence-based. This a fact, and the statistics are clear that the bigger the government, the higher the unemployment rate. The bigger the government, the worse the stock market performs. The bigger the government, the less money there is available to create jobs in the private sector, start new businesses, or grow existing businesses. That is why we have to shrink the size of our government. The sooner we do it, the better we are going to be, and that is what I hope we will work on here in a bipartisan fashion. Both parties helped to create this situation, and now I hope both parties will help to work to solve it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. The majority leader is recognized.

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

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

SMALL BUSINESS JOBS AND TAX RELIEF ACT

Mr. REID. Madam President, I ask unanimous consent that the Senate now resume consideration of S. 2237, the Small Business Jobs and Tax Relief Act; that the time until 2 p.m. be equally divided between the two leaders or their designees; that at 2 p.m. the Senate proceed to a vote in relation to amendment No. 2524; that immediately following the disposition of amendment No. 2524, the Senate proceed to vote on the motion to invoke cloture on the substitute amendment No. 2521; that if cloture is not invoked on the substitute amendment, the Senate then proceed to vote on the motion to invoke cloture on S. 2237; that if cloture is invoked on the substitute amendment, all postcloture time be yielded back, the substitute amendment be agreed to, and the Senate proceed to vote on the motion to invoke cloture on S. 2237; that if cloture is invoked on the bill, all postcloture time be yielded back and the Senate proceed to vote on passage of the bill, as amended, if amended; that if cloture is not invoked on S. 2237, the bill be returned to the calendar; further, that there be no other amendments or motions in order to the amendments or the bill prior to the votes other than motions to waive or motions to table; that there be 2 minutes equally divided between the votes and all after the first vote be 10-minute votes; and finally, that the Senate then resume the motion to proceed to Calendar No. 446, S. 3369.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2237) to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

Pending:

Reid (for Landrieu) amendment No. 2521, in the nature of a substitute.

Reid amendment No. 2522 (to amendment No. 2521), to change the enactment date.

Reid amendment No. 2523 (to amendment No. 2522), of a perfecting nature.

Reid amendment No. 2524 (to the language proposed to be stricken by amendment No. 2521), of a perfecting nature.

Reid amendment No. 2525 (to amendment No. 2524), to change the enactment date.

Reid motion to commit the bill to the Committee on Finance, with instructions, Reid amendment No. 2526, to change the enactment date.

Reid amendment No. 2527 (to (the instructions) amendment No. 2526), of a perfecting nature.

Reid amendment No. 2528 (to amendment No. 2527), of a perfecting nature.

Mr. REID. I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against the proponents and opponents.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRANSPARENCY IN GOVERNMENT

Mr. GRASSLEY. Madam President, President Obama and his administration claim to be open and above board in their actions. As recently as July 1, the White House Chief of Staff, Jack Lew, told a television audience:

> This administration has been the most transparent administration ever.

So I come to the floor now to say that is simply not the case, and I am going to highlight an outstanding example of how it is not the case.

Last month, an attorney with the Department of Justice from the Civil Rights Division attended a public meeting in Louisiana—a public meeting in her official capacity. Before the meeting began, this attorney, Rachel Hranitzky, reportedly asked whether any representatives of the media were present at this meeting. A reporter from the Daily Iberian identified himself. This Justice Department attorney then announced: ''You can quote those who speak, but you can't quote me.''

On what basis does the Justice Department presume to tell a reporter who can be quoted at a public meeting? The reporter had the same question. It has been reported that he asked her to cite legal authority which would support her claim that he could not quote a Justice Department attorney at a public meeting. Ms. Hranitzky provided no such law. She did say the Justice Department has special rules on how its attorneys can be quoted. She did not back up that statement, however. So here is a public meeting anyone could attend and hear a lawyer from their government speak on civil rights enforcement. Yet a representative of that government claimed that it was the policy of the Justice Department that the press would have fewer rights than the general public to quote what that government representative said at that public meeting. This undercuts the claim that ''[t]his Administration has been the most transparent administration ever,'' going back to the quote of the Chief of Staff.

This refusal to allow the public to know how government officials are performing their job is totally unacceptable—and I hope to everybody it would be unacceptable.

As appalling as this reported action was, what followed was even worse. Ms. Hranitzky tried to kick the reporter out of an open meeting because he questioned her. She relented after he said—regrettably but understandably, in my view—that he would not quote her.

Then the Justice Department attorney totally abused her power, according to press reports. She told the reporter she could have the Justice Department call the newspaper's publishers or editors and say something such as this: You don't want to get on the Department of Justice's bad side.

That statement represents a raw abuse of power.

We expect the Justice Department to investigate law-breaking and pursue appropriate cases without regard to politics. Threatening to use the power to bring a criminal case or civil action against any entity because it had the temerity to insist that the Department of Justice obey the first amendment is outrageous.

The newspaper has protested to the Justice Department and has not, to my knowledge, received any response. The Department's public comment on the incident does not deny that any of the reported statements were made.

That the Civil Rights Division and the Department of Justice have not committed to allowing the press to quote its attorneys at public meetings a month after one of its attorneys has claimed that it is the Department's policy not to permit such reporting is completely unacceptable. It leads one to ask: What does the Civil Rights Division wish to hide?

I have received many complaints concerning the enforcement actions of the Civil Rights Division. When the division's attorneys will not allow themselves to be quoted, we can only conclude that they are saying things about enforcing the law that the American people would never accept.

There are no statutes that deny the media the right to quote statements of Justice Department officials that are made at public meetings. If there were, they would violate the first amendment's protection of freedom of speech as well as protection of freedom of the press. There should be no Justice Department policies to that effect either, and for the very same reason.

This administration says it is transparent. It wants people to believe that, but then it wants to prevent the press from reporting what it says in public. To carry out that plan, it threatens those reporters with a politically motivated legal action. That is thuggish, not transparent.

To the extent the Department has a policy of preventing the press from quoting the statements of its attorneys at public meetings, that policy should be reversed immediately to comply with the first amendment. Whether it has a policy or not, the attorney who claimed that such a policy existed and tried to expel the reporter from a public meeting because he might quote her, and threatened the reporter for getting on the Department of Justice's bad side, should be appropriately disciplined.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mrs. HAGAN. Madam President, I rise today to speak in support of the Small Business Tax Cut and Job Creation Act.

Families throughout North Carolina are facing a difficult economy right now. I have said repeatedly that the people of our State cannot wait until after the election for Congress to work on solutions to speed up our economic recovery. That is why I am pleased the Senate has agreed to consider this small business legislation.

This is a bill that will help North Carolinians get back to work this year in industries such as health care, finance, construction, manufacturing, and retail.

This legislation supports businesses that expand payroll or invest in new equipment, and there are estimates that it will put 27,000 unemployed people in my State back to work. It does this by creating an incentive for North Carolina small businesses to add new jobs in 2012 by giving businesses a 10-percent income tax credit on new payroll.

And it encourages businesses to make new investment by extending the 100-percent business deduction on qualified property. Providing real tax relief that lowers the cost of doing business should be a bipartisan idea and it is one I will support.

I also want to express my deep appreciation to the Small Business Committee chair, Senator LANDRIEU, for including a proposal of mine in her SUCCESS Act amendment. This amendment would put us on the path to establishing a common application for small businesses to apply for Federal assistance across agencies, across departments, and programs with a single application.

Frequently I hear from small business owners who tell me that government redtape is preventing them from growing their businesses and creating jobs. We need to slim down this bureaucratic redtape. I believe our small business should not have to be responsive to the whims of the Federal bureaucracy. The Federal Government needs to be responsive to the needs of our small businesses.

In February, I introduced the Small Business Common Application Act, which would establish a common application that allows small business owners to apply for grants, seek technical assistance, and bid on contracts from the Federal Government with a single form. It would function much like the common application students use today to apply to multiple colleges and universities.

Senator LANDRIEU's amendment would put us on the path toward creating a common application by establishing an interagency executive committee with representatives from 12 different agencies and departments that will report back to Congress and the SBA within 270 days on whether a common application is feasible.

This is a commonsense bill that I believe both sides of the aisle can agree to to cut the paperwork burden on our small business owners.

I ask unanimous consent that all time spent in quorum calls be equally divided.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THUNE. Madam President, before too long here we are going to be voting. We are going to have three votes, I think, on whether we are going to move forward on a tax bill. I frankly think there are things in the underlying bill that is before us today that would do some good. The bonus depreciation provision is something many of us have supported in the past. We think that is good tax policy with regard to encouraging small businesses to invest, by giving them a quicker way to write off those capital investments. So there are some things in the underlying bill that make some sense.

But the whole exercise we are going through here is a charade for a couple of reasons. One, you cannot originate revenue measures in the Senate. That is something that has to happen in the House of Representatives. So anything that comes out of here, if it were to pass, would be blue-slipped by the House of Representatives. You have a constitutional issue to deal with here in the first place.

Secondly, you have a procedure, a process set up whereby there is not an opportunity for us to offer amendments. We put a tax bill on the floor, a piece of legislation, a vehicle that ought to be open to amendment. There are many of us with ideas about things that we think would promote economic growth and create jobs in our economy, but we are not going to have the opportunity to offer those amendments.

Frankly, a tax debate is something that many of us welcome. We think that talking about taxes is certainly something that, if you are someone who is concerned about the economy, if you are someone who is concerned about getting Americans back to work, certainly talking about the Tax Code and its impact on our economy is a very relevant debate. Frankly, we ought to be headed toward a reform of our Tax Code which today is way too complicated and, frankly, it needs to be overhauled.

But in the interim, we have coming up now on January 1 of next year a bunch of tax provisions, current tax policy, that expires. In anticipation of that, we have a lot of businesses that are very concerned. There is uncertainty out there among job creators in our economy about what is going to happen on January 1, and is Congress going to act to put off these tax increases that will occur on January 1 or are they going to allow them go into effect, in which case many businesses would be dramatically impacted by having higher tax burdens, making it more difficult for them to create jobs.

I do not think there is anybody out there, those who study economics, even those of us who do not, just as a matter of common sense, on a very practical level, who would think that raising taxes on people who create jobs, on small businesses, would be something that would be good in an economy that you are trying to get back on its feet, trying to get to recover.

In fact, the President of the United States in 2010 said it would be a blow to our economy if tax rates went up on small businesses. Well, that was back at a time when economic growth was a little over 3 percent. Here we are 2 years later. Economic growth is much slower. We are growing at a more sluggish rate, about 2 percent. There is a concern that even that is going to slow down as we approach the end of the year.

And yet we have this threat hanging out there on the horizon, looming, of higher taxes on small businesses, the very people we rely upon to get Americans back to work, to create jobs, and to get this economy growing again.

What we ought to be thinking about is what can we do to promote economic growth. We ought to be thinking about what are those tax policies we can put in place. I hope that will be the purpose of tax reform when we get there. I hope that is soon as well. As I said before, I think tax reform is critical if we are going to see economic growth and if we are going to do away with the complex Tax Code we have today and replace it with something that makes much more sense, it is more clear, more simple, more fair for American businesses and people across this country who are filing their tax returns every year.

But we ought to be looking at what can we do to promote economic growth. All of our tax policy ought to be oriented around getting this economy growing and expanding again, because in so many ways that helps address many of the other problems we are confronting. We have this huge out-of-control debt problem. Obviously it needs to be addressed through spending reductions, trying to make government more efficient, smaller, more limited, rather than the government we have seen here the last few years that continues to grow as a percentage of our economy. The government as a percentage of our economy today is at the highest level we have seen literally since the end of World War II. We are at about—24 or 25 percent of our entire GDP now is represented by Federal spending. So we have got to get government under control, which means we have got to address some of the drivers of Federal spending, including Medicare, Medicaid, Social Security. That means these entitlement programs so many people rely upon, in order to save them, have to be reformed. If we are going to get them on a sustainable fiscal path, if we are going to make sure they are there for future generations, we have got to reform our entitlement programs and get the government spending back at a more reasonable level, more consistent with what we have seen historically, which is about 20 to 21 percent of our entire economy.

So it starts there. But then you have to couple the reductions in government spending with economic growth. The way ultimately that we get to where we need to be as a Nation is we have to get the economy growing and expanding again. It is counterintuitive to me and to most Americans, I think, to suggest that the way to do that would be to raise taxes on the very people you are looking to to create jobs and to grow this economy. Those are our small businesses. So when the President came out earlier this week and suggested we ought to allow the tax rates to expire for people who make more than $250,000, what he was talking about, according to the Joint Committee on Taxation, was almost 1 million small businesses, almost 1 million small businesses, if we do not take steps to avert it on January 1. They are going to see their taxes go up. Those small businesses I am referring to employ 25 percent of the American workforce. Most of them are small businesses organized as subchapter S corporations, LLCs, which means their income flows through to their individual tax returns and they pay at the individual rate level.

So as a consequence, when you start raising taxes for people above $250,000, you are hitting 1 million—almost 1 million, I should say—of those small businesses that are going to be faced with higher tax burdens and higher tax liabilities. That to me is completely counterintuitive to what we ought to be thinking if we are interested in getting the economy growing again. We should not be making it more difficult, more expensive for small businesses to create jobs, we ought to be looking at what we can do to lessen the burden on our small businesses and to keep that tax burden, that regulatory burden, at a level that does not create impediments and barriers to them going out and investing and creating jobs.

The President's proposal is exactly the opposite of what we should be doing. And 53 percent of the income I mentioned—these companies that are organized, small businesses as S corporations, LLCs—53 percent of that income would be faced with a higher tax

burden come January 1 unless we take steps to avert it. What the President proposed essentially was allowing taxes to go up on those very small businesses.

So I hope not only will we turn down the President's proposal, but that we will be thinking about what we can be doing to simplify the Tax Code, that would lower rates businesses in this country pay, and provide incentives for them to get people back to work. Again, by that I mean policies that promote economic growth.

There are so many things we ought to be doing that we are not doing now that I think would provide the necessary policies to encourage and enable small businesses to grow their business, make those investments, and put people back to work. There are a number of things that our small businesses face that are not directly related to the Tax Code but indirectly related: regulatory burdens and more agencies spending time on more regulations making it difficult and more expensive to create jobs.

Regulatory reform ought to be part of an agenda here. If we are serious about policies that will grow the economy, we ought to deal with the overreaching regulations that create excessive burdens for the small businesses and couple that with tax reform.

One of the burdens we have placed on small businesses of late is the ObamaCare legislation we passed a few years ago. There has been some debate about the question of whether the individual mandate is a penalty or a tax. We know one thing: It is a cost that will be borne by a lot of people across this country. We also have the mandate or requirements imposed upon small business—employer mandates that will increase the cost of our small businesses—the cost of doing business for them out there.

All of these things that have been put in place drive up the cost of doing business, make it more difficult and expensive to create jobs in this country—rather than looking at what we can do to make it less expensive and less difficult to create jobs.

Regarding the health care bill, we talked about the individual mandate and who is impacted. By the way, according to the Joint Committee on Taxation, 77 percent of the people who would be impacted by the individual mandate tax are people who make less than $120,000 a year. The President promised, when he was running for office, he would not raise taxes on anybody who makes less than $250,000 a year. Clearly, one of the many broken promises in the health care bill was the individual mandate and its impact on the very people on whom he said he would not raise taxes—middle-income Americans who make less than $120,000 a year. According to the Joint Committee on Taxation, 77 percent of those people would see higher taxes.

It is a significant amount of tax, $54 billion over the next 10 years. If you think about the amount of revenue raised by the individual mandate tax, it is actually more in revenue than would have been raised by the so-called Buffet tax designed to get millionaires in this country to pay more in taxes. So we are levying a tax on middle-income Americans that actually is going to exceed in revenue the amount raised by the so-called tax on millionaires. It is ironic, but that is exactly what the ObamaCare bill will do.

In addition to that there are a series of other taxes that are imposed on people across this country. Many of them strike at middle-income Americans. There are about $250 billion in taxes that are imposed on our economy that will be passed on, in many cases, to consumers, and the impact is to raise the cost of health care. Taxes on health insurance plans, taxes on pharmaceuticals, taxes on medical devices, self-insured health plans—a whole range of taxes that are included in the ObamaCare legislation, are going to hit middle-income Americans squarely in the face. Not only do we have the individual mandate tax but all these others that are included in the ObamaCare legislation that will hit working people across this country.

Look at all the burdens associated with those taxes and the regulations that are coming out of many of the agencies in our government now, and all you see, if you are a small business, is a higher cost of doing business, more uncertainty about what is going to happen in the future, and it is just that much more difficult when it comes to making determinations about growing your business or starting a new business and creating the jobs that are so important to our economy.

When we talk about the economic circumstances that we are in today, everybody focuses on the unemployment rate, of course. We have now had more than 8 percent unemployment for 41 straight months. We have 23 million Americans who are either jobless or underemployed in our economy. And 5.4 million Americans have been unemployed for a long period of time. We have the weakest recovery, literally, since the end of World War II.

Yet what is the prescription that the President and many of his allies in Congress have for that? Higher taxes. It is higher taxes on the people who create jobs. Can you think of anything that makes less sense if you are really interested in economic growth and creating jobs? That is absolutely the opposite of what we ought to be doing. We should not be raising taxes on those 1 million small businesses—subjecting them and the 25 percent of the workforce who work for them to the possibility that there will be higher taxes. Their jobs can be in jeopardy.

We ought to look for ways to provide certainty, and we should extend the existing rates so small businesses out there trying to make decisions about what they are going to do in the future can know for sure what the rules are, but, more importantly, also know that their taxes will not go up on January 1.

There is a Congressional Budget Office analysis out there which suggests that come January 1, when we hit the so-called fiscal cliff, which includes the increase in the tax rates as well as the sequester on spending that was put into place as part of the Budget Control Act, that if nothing is done to avert that fiscal cliff, in the first 6 months of next year we will see up to 1.3 percent less economic growth. But just as important, not only is that a factor we deal with next year, it is also something that impacts us right now, today, because the CBO also found it could cost a half point of economic growth this year, right now. It is because of this uncertainty, because of the specter of tax rates going up on small businesses come January 1 of next year.

What we ought to be doing instead of talking about what we are going to do or raising taxes on small businesses in this economy is looking to extend the rates that exist today so those rates don't go up, giving businesses certainty, and then following up on that next year with tax reform which broadens the tax base, lowers rates, gets us more competitive in the global marketplace, and is more clear, more simple and fair for American businesses.

Until that happens, the very worst we could be doing now, in my opinion, is raising taxes, for all of the reasons I just mentioned. It creates uncertainty, obviously, and raises the cost of doing business in this country. It hits the very people we are hoping are going to lead us out of this economic malaise we are in today.

Again, I also say with regard to this issue, the issue of taxes is so important to businesses. The issue of regulations is so important to businesses. Those are things, if we are serious about an agenda to get Americans back to work, we ought to be focused on.

That is why we ought to be repealing ObamaCare. That $248 billion in taxes—that is not the total amount of taxes; it is over $500 billion in taxes that will be imposed as a result of ObamaCare. These are the taxes that hit middle-income Americans, according to the Joint Economic Committee. Not only do we have the $248 billion or $250 billion that hits middle-income Americans, we have an additional 3.8 percent tax on unearned income that would hit high-end earners, as well as a new Medicare tax on high-end earners. We have so many taxes coming at this economy now it is hard to fathom.

That should not be complicated by doubling down with our small businesses and essentially telling them that come January they are going to see their rates go up. For the people paying the 35-percent rate today, it would go up to 39.6 percent. Capital gains will go up from 15 to 20 percent. Dividend rates are going up from 15 to 39.6 percent. This is a very real issue, a real-time issue. It is having an impact

on the economy today. We should do everything we can to avoid that.

I hope when we are through with what is a charade, and we have the votes on this bill—which, as I said, because the revenue measures don't originate in the Senate; they originate in the House, they would be blue-slipped if it passed here because this is a process where Republicans are not allowed to offer amendments. This is a tax vehicle on the Senate floor. But in the terms we use in the Senate, the majority leader has ''filled the amendment tree,'' making it virtually impossible for Republicans to offer amendments that we would like to see debated and voted on.

When this charade is completed, I hope the majority leader will decide we need to have a debate about taxes and what we can do to promote economic growth, a debate on whether we are going to extend the rates that will expire January 1, meaning higher taxes for nearly 1 million small businesses to whom we are looking to get us out of this recession and get Americans back to work. I hope that will be the debate and vote we will ultimately have when this particular political exercise is completed today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2524

Mr. BAUCUS. Madam President, I would like to say a few words about the next vote, which is the Cantor amendment.

The Cantor amendment, just to review, would give a 20-percent deduction to all businesses that employ fewer than 500 people. The 20-percent deduction is calculated on U.S. source business income and is limited to 50 percent of the W–2 wages paid. In other words, the business must be paying at least twice the amount of the deduction in wages. In addition, taxpayers cannot get both this deduction and the 90-percent manufacturing deduction; the main point being this Cantor bill is a gross giveaway. It gives businesses a 20-percent deduction for simply earning income. They do not have to do anything, just earn income and get a 20-percent deduction.

The amendment allows businesses to avoid paying taxes on about one-fifth of their profits as long as they employ fewer than 500 people. That is virtually 99 percent of all American companies. Worse still, it provides a temporary reduced tax rate. This would incentivize businesses to defer making investments, hiring new employees or increasing wages in order to increase profits. That is because the larger the profits, the larger the tax deduction under this bill.

Rather than creating jobs or investing in business, the Cantor bill incentivizes the opposite. It incentivizes businesses to sit and wait rather than to invest in people or equipment. It does not make any sense to spend $46 billion for only 1 year of the provision, as proposed in this bill.

This is a giveaway, frankly, to almost all companies—99.6 percent of the companies in the United States—to hedge funds, to partnerships, and private equity firms. Almost all employ fewer than 500 employees. It is absolutely the wrong policy for this Nation to adopt.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SANDERS). Under the previous order, the question is on agreeing to amendment No. 2524.

A motion to table has been made. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. UDALL) is necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. UDALL) would vote ''aye.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Kansas (Mr. MORAN).

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

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—73

Akaka	Enzi	Murray
Alexander	Feinstein	Nelson (NE)
Ayotte	Franken	Nelson (FL)
Barrasso	Gillibrand	Portman
Baucus	Graham	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Risch
Blumenthal	Johanns	Rockefeller
Boxer	Johnson (SD)	Rubio
Brown (OH)	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Landrieu	Stabenow
Chambliss	Lautenberg	Tester
Coats	Leahy	Thune
Coburn	Levin	Toomey
Conrad	Lieberman	Udall (CO)
Coons	Manchin	Warner
Corker	McCaskill	Webb
Cornyn	Menendez	Whitehouse
Crapo	Merkley	Wyden
DeMint	Mikulski	
Durbin	Murkowski	

NAYS—24

Blunt	Heller	McCain
Boozman	Hoeven	McConnell
Brown (MA)	Hutchison	Paul
Burr	Inhofe	Roberts
Cochran	Isakson	Shelby
Collins	Kyl	Snowe
Grassley	Lee	Vitter
Hatch	Lugar	Wicker

NOT VOTING—3

Kirk	Moran	Udall (NM)

The motion was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I yield to my distinguished colleague. Mr. MCCONNELL.

The PRESIDING OFFICER. The Republican leader.

SENATOR COLLINS' 5,000TH CONSECUTIVE ROLLCALL VOTE

Mr. MCCONNELL. Mr. President, the Senator from Maine, Ms. COLLINS, has just passed an important milestone, her 5,000th consecutive rollcall vote, a tenacious accomplishment indeed that represents the work ethic and dedication Senator COLLINS has for the people of Maine and for the Senate. We all know she is one of the hardest working Members of the Senate.

Listen to this. Since she was sworn in, in January, January 3 of 1997, she has been present for every single rollcall vote. That is over 15 consecutive years, never missing a vote.

Senator COLLINS is actually in quite an elite company. Recently, she passed Senator Byrd and is now third all time behind Senator CHUCK GRASSLEY and the late Bill Proxmire from Wisconsin. I know she took great pride also in being in the company of her role model, a woman who played a major role in her decision to run for public office in the first place, fellow Maine Senator Margaret Chase Smith, who is currently No. 5 on the list.

On behalf of the entire Senate, I congratulate Senator COLLINS for this milestone.

(Applause, Senators rising.)

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this is a remarkable accomplishment. I hope I do not get her into trouble with her colleagues, but I truly like her. I appreciate her capability to work with us, work with everybody. She is somebody whom we never have to guess where she stands on an issue and I admire and appreciate her so much for that. I have worked with her on issues going back for many years and I again say I appreciate what she has done.

She has great genes. Her mother and father each served as mayor of a small town in Maine, a place called Caribou. I don't have fond memories of Caribou because in my, I think, 1998 race, there was a great mailing we did. One of my consultants from—not from Nevada, that is for sure—instead of having deer, they had caribou on my campaign literature. It took me a while to figure that one out. I am sure the town of Caribou was bigger than my campaign spot.

Her family ran a lumber business. Her father was also a State senator.

I am confident Susan has learned to be the Senator she is because of Bill Cohen. I had the pleasure of serving with him. He is a good man—from Maine. I served as a junior Member when he was chairman of the Aging Committee and he was such a wonderful man. I still talk to Bill Cohen. She has many of his traits. As we know, she worked for him. He has been a great Secretary of Defense. He has just been a good person, and I am confident her ability to be the legislator she is, a lot of it is attributed to him.

She has always been known for her ability to compromise. Legislation is

the art of compromise, and she works with all Members.

I think the tone she has set working with JOE LIEBERMAN is magnificent. They have run that committee with dignity and on a totally bipartisan basis.

Five thousand votes—frankly, a number of us have cast 5,000 votes, but it is ridiculous, the example she has set, never missing a vote. I wish her the very best and many years to serve in the future of the Senate.

(Applause.)

Ms. MIKULSKI. Mr. President, I want to take this opportunity to honor Senator COLLINS, a colleague and dear friend, on her landmark 5,000th consecutive vote.

Since becoming a Senator in 1997, Senator COLLINS has never missed a single vote. This is a sign of her commitment to the people of Maine and the entire country. The commitment began in her home. Her parents taught her what it meant to work hard and serve the people, both in the family-owned lumber business and both as mayors of her hometown of Caribou, ME. She has carried on their legacy and deep commitment to public service.

I stand here in recognition of Senator COLLINS because her 5,000 votes have stood not only for the people of Maine, but for our great Nation. She has stood for science, innovation and research, women's equality and veterans. Her voice and her votes have shaped and will continue to shape our Nation.

Let me tell you a little bit about what her votes have accomplished. Senator COLLINS is a fighter for funding for science, innovation and research. Together we cosponsored the Spending Reductions through Innovations in Therapies (SPRINT) Act which would spur improvement in research and drug development for chronic health conditions such as Alzheimer's.

When I reach across the aisle, I know Senator COLLINS is there to find a sensible center that will be good for America.

Her leadership has extended beyond her bipartisan efforts. She continues to serve as a role model for young women nationwide. As a fellow Girl Scout, we both learned that determination, principles and respect for others are the foundation for a productive future. We designated 2012 the ''Year of the Girl,'' in support of Girl Scouts and the organization's lasting lessons.

Today we celebrate Senator COLLINS' record of integrity, unsurpassed work ethic, and a steadfast commitment to the people of Maine. Her voting record is exemplary of the fact that we are continuing to crack the marble ceiling. Not only are women getting elected to the Senate, we are raising hell, holding powerful leadership positions and taking on America's biggest issues.

She is a valued Member, colleague and dear friend. Congratulations Senator COLLINS on your 5,000th vote and your extraordinary commitment to the people of Maine and our great Nation.

Mr. DURBIN. Mr. President, I am delighted to add my voice to this chorus of congratulations for our colleague on her singular and remarkable achievement.

It seems fitting that Senator COLLINS would reach this historic milestone just after the All Star Game because this really is a Hall of Fame sort of accomplishment.

With that 5,000th consecutive vote she cast moments ago, Senator COLLINS now holds the third-longest voting streak in Senate history. In the entire history of the United States Senate, the only Members with longer unbroken voting streaks are William Proxmire, who is way out front with 10,252 consecutive votes, and Senator GRASSLEY, with 6,393 consecutive votes.

But here is the thing about Senator COLLINS: She is the only Senator who has ever hit that mark without missing a single vote—the only perfect voting record among the 5,000-consecutive votes Hall of Famers.

Senator COLLINS' historic voting record is a reflection of her dedication to the hardworking people of Maine and a testament to her respect for this Senate.

We have heard about some of the lengths Senator COLLINS has gone to to preserve her unbroken voting streak, including how she once twisted her ankle running in high heels to cast a vote.

That vote was to protect the State Children's Health Insurance Program, and working parents and their children in my State of Illinois and throughout America are grateful to her for her pains.

That is the other remarkable thing about Senator COLLINS' voting record. It is laudatory not only for the number of consecutive votes Senator COLLINS has cast but also for the courage behind many of those votes.

Senator COLLINS and I were elected to the Senate in the same year, 1996. As freshman Senators, we cosponsored a successful bill to repeal a $50 billion tax break for the tobacco industry.

We have worked together to combat Medicaid fraud and improve food safety.

Along with Senator SNOWE, Senator COLLINS voted for Wall Street reform and for the economic recovery plan that may well have kept America from tipping into a depression.

She voted for the Lily Ledbetter Fair Pay Act, and she voted to confirm both Sonya Sotomayor and Elena Kagan to the U.S. Supreme Court.

I hope I don't get her into trouble with this list.

Her voting record is in keeping with Maine's tradition for independent thinking.

When SUSAN COLLINS was a senior in high school, she came to Washington and had an amazing experience. She was able to talk to her hero and home State Senator, Margaret Chase Smith, for nearly 2 hours in her office.

Senator COLLINS later told a reporter: ''I remember leaving her office thinking that women can do anything and that women can get to the highest levels of government and make a difference.''

Years earlier, Margaret Chase Smith had made history of her own when she delivered her famous ''Declaration of Conscience'' speech. In that speech, she urged Senators to reject the destructive anti-communist hysteria being whipped up by Joe McCarthy.

Senator Smith said then: ''As an American, I want to see our nation recapture the strength and unity it once had when we fought the enemy instead of ourselves.''

We can hear echoes of that famous plea in an op-ed Senator COLLINS wrote for The Washington Post a few months ago.

As Senator COLLINS wrote: ''[N]either party has a monopoly on good ideas. The challenges we face will not be met by those who believe compromise is a dirty word. . . . The center will hold only if we put the same effort into unity that partisans put into division.''

She is right.

On a more personal note I want to say that not only does Senator COLLINS have one of the best voting records in this Senate, she also has the best taste in books of just about anyone I know. She reads constantly, and I am grateful to her for the many good books and talented authors she has introduced me to.

A year ago, some gay veterans and other Mainers hosted a reception to thank Senator COLLINS for her courageous cosponsorship, with Senator LIEBERMAN, of the bill to allow gay men and lesbians to serve openly in America's Armed Forces.

At that reception, a Navy veteran who spent her time in the service hiding her sexual orientation presented Senator COLLINS with one of her ship's coins, which are awarded to Navy personnel for going beyond their duty.

And an 80-year-old man and lifelong independent voter praised her by saying, ''Senator COLLINS is . . . filling the high heels of Margaret Chase Smith wonderfully.''

We know that even when those high heels cause her to twist her ankle, they cannot keep her from casting her vote and making history.

Once again, I congratulate Senator COLLINS on this singular achievement.

And looking forward to the happy milestone she will celebrate next month, Loretta and I give Senator COLLINS and her husband-to-be our best wishes for many years of happiness together.

AMENDMENT NO. 2521

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided.

Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I think we are on the Landrieu amendment.

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. Mr. President, I discussed this amendment in great detail yesterday, so there is no reason to review it. I thank many Members of the Small Business Committee on both sides of the aisle for putting forth some terrific, very popular, and effective ideas for small business: 100 percent exclusion of capital gains, decreased deductions for startup expenditures, S corporation holding period reductions, carryback on business credits, and expensing of 179—all very familiar to this body and absolutely critical for investing in our small business. The bill only costs $4 billion compared to some of the other numbers that are being thrown around here. We think it is very cost effective, and I ask for the support of the body.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. HATCH. Mr. President, I yield back time.

CLOTURE MOTION

The PRESIDING OFFICER. All time is yielded back. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 2521 to S. 2237, the Small Business Jobs and Tax Relief Act.

Harry Reid, Mary L. Landrieu, Kirsten E. Gillibrand, Barbara A. Mikulski, Carl Levin, Frank R. Lautenberg, Barbara Boxer, Mark Udall, Mark Begich, Sheldon Whitehouse, Richard Blumenthal, Al Franken, Patrick J. Leahy, Tom Udall, Max Baucus, Benjamin L. Cardin, Richard J. Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 2521, offered by the Senator from Nevada, Mr. REID, for Ms. LANDRIEU, to S. 2237 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—57

Akaka	Cardin	Hagan
Baucus	Carper	Harkin
Begich	Casey	Heller
Bennet	Collins	Inouye
Bingaman	Conrad	Johnson (SD)
Blumenthal	Coons	Kerry
Boxer	Durbin	Klobuchar
Brown (MA)	Feinstein	Kohl
Brown (OH)	Franken	Landrieu
Cantwell	Gillibrand	Lautenberg
Leahy	Nelson (FL)	Stabenow
Levin	Pryor	Tester
Lieberman	Reed	Udall (CO)
McCaskill	Reid	Udall (NM)
Menendez	Rockefeller	Vitter
Merkley	Sanders	Warner
Mikulski	Schumer	Webb
Murray	Shaheen	Whitehouse
Nelson (NE)	Snowe	Wyden

NAYS—41

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Murkowski
Blunt	Hatch	Paul
Boozman	Hoeven	Portman
Burr	Hutchison	Risch
Chambliss	Inhofe	Roberts
Coats	Isakson	Rubio
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Corker	Kyl	Thune
Cornyn	Lee	Toomey
Crapo	Lugar	Wicker
DeMint	Manchin	

NOT VOTING—2

Kirk Moran

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

There will now be 2 minutes of debate equally divided.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I think minds are made up. I just suggest that both sides yield back the remainder of the time and vote.

The PRESIDING OFFICER. Without objection, all time is yielded back.

CLOTURE MOTION

The cloture motion having been presented under rule XXII, the chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2237, the Small Business Jobs and Tax Relief Act.

Harry Reid, Max Baucus, Mary L. Landrieu, Kirsten E. Gillibrand, Barbara A. Mikulski, Carl Levin, Frank R. Lautenberg, Barbara Boxer, Mark Udall, Mark Begich, Sheldon Whitehouse, Richard Blumenthal, Al Franken, Patrick J. Leahy, Tom Udall, Benjamin L. Cardin, Richard J. Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—53

Akaka	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Begich	Heller	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Kerry	Rockefeller
Brown (MA)	Klobuchar	Sanders
Brown (OH)	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	

NAYS—44

Alexander	Enzi	McConnell
Ayotte	Graham	Murkowski
Barrasso	Grassley	Paul
Blunt	Hatch	Portman
Boozman	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	Manchin	Wicker
DeMint	McCain	

NOT VOTING—3

Boxer Kirk Moran

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, S. 2237 is returned to the calendar.

Mrs. MCCASKILL. Madam President, today I voted in support of invoking cloture on Senate Amendment 2521 to S. 2237, offered by Senator LANDRIEU. I supported cloture on this substitute amendment because, overall, Senator LANDRIEU's legislation would help our Nation's small businesses grow and find new markets. However, I had some concerns with aspects of the legislation that would increase sole-source contracting. In general, we need to ensure that where noncompetitive contracting programs are authorized, they are narrow and fair. In light of the fact that cloture was not invoked on the amendment, I look forward to working with Senator LANDRIEU on her legislation in the future.

DISCLOSE ACT OF 2012—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of the motion to proceed to S. 3369.

The Senator from Louisiana.

SUCCESS ACT

Ms. LANDRIEU. Madam President, before we end the debate on the small business tax relief bills, I want to thank the 57 Members of this Senate who voted for the SUCCESS Act. The SUCCESS Act has been building support, strong support across the aisle

now for about 3 to 4 weeks. It is an outgrowth of not one, not two, but three very successful, high-profile roundtables the Small Business Committee in the Senate has conducted over the course of the spring, coming into the summer, in hopes that we could present a bill that could give a boost in the middle of this summer period to the small businesses that are really struggling to hire and to get stronger as this economy gains strength. Unfortunately, we fell only three votes short just a few minutes ago.

This bill is primarily a tax cut—very targeted, very specific, and very effective—to the small businesses we are counting on to grow and to accelerate the potential high-growth businesses, not just any startups but those that really have the capacity to grow.

We were hoping that despite the partisan posturing, we could have received the 60 votes to give this effort some more life. But we are not going to be discouraged.

I want to particularly thank Senator SHAHEEN, the Presiding Officer, for her help. I want to specifically thank Senator CARDIN and Senator HAGAN for spending time on the floor for the provision of streamlining applications for small businesses. That is in this bill.

I want to thank Senator VITTER, Senator HELLER, and Senator COLLINS particularly for their support today. I want to briefly, for another minute, mention a few of the organizations that are supporting this effort, which is only a $4 billion cost. It has a $12 billion immediate impact but only a $4 billion score. It was very effectively written to create a score like that. I am proud of the staff work that went into this effort.

The American Farm Bureau Federation, the American Lighting Association, the Rental Association, Association of Builders and Contractors, Association of Equipment Manufacturers, Automotive Aftermarket Industry Association, Financial Executives, Metal Services Institute, Independent Community Bankers—and just to name a few more—the National Beer Wholesalers, National Association of Home Builders, Printing Industry of America, Small Business & Entrepreneurship Council, the U.S. Black Chamber of Commerce, many women's organizations, Women Construction Owners, Women's Business Enterprise, et cetera, et cetera.

We are very proud to be building in the U.S. Chamber of Commerce a very broad coalition that can see the value. Perhaps we cannot find common ground on a $40 billion tax cut bill or a $50 billion tax cut bill or even $20 billion. But I think we could find common ground on a bill that only scores and costs the Federal Government $4 billion has a $12 billion impact.

It is $4 billion over 10 years, but the benefit is right now, the way that we have structured it, to extend these tax credits and tax extenders for about a year and 3 months which would give us time as we move forward to revise the Tax Code and to see how we can reduce and eliminate our deficit and make our Tax Code more fair. At least it would give a strong signal to many of these small businesses they can count on the tax cuts that are in this bill.

So I am going to, on behalf of the 57 Members who voted for this bill today, file a stand-alone bill. It is going to be called the SUCCESS Act of 2012. I am going to ask all of those who voted today to join me as a cosponsor of the legislation. And let's see, we still have some time left in the summer before we leave. Perhaps, with the administration's support—and they do support the provisions of this—and with the leadership shown by some of the Republican Senators today, who knows, we might be able to get something done.

Finally, we are working closely with the House leadership on the Small Business Committee. I am working very closely with Chairman GRAVES. They have passed some of this already through the House. So perhaps if we stay focused and work a little bit harder, we might be able to squeeze out another piece of legislation that will help the small businesses of America.

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

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

TAX RATES

Mr. GRASSLEY. Madam President, I come to the floor at this point to counteract and add substance to something the majority leader said today in regard to taxes.

Recently, the Congressional Budget Office released an update to its report on average effective tax rates. Several of my colleagues on the other side of the aisle have pounced on this report claiming that tax rates are at historic lows.

In a floor speech just this morning the majority leader said the lowest tax rates in 30 years was ''thanks to President Obama, who has consistently fought to lower taxes for the middle-class families over the last 3½ years.'' However, the majority leader and others of his political party are only telling half the story. The report also shows that incomes of households in all income groups have declined by an average of 12 percent since 2007. This means, then, that Americans are 12 percent poorer than they were in 2007.

Now, should we also thank President Obama for this reduction in income? Essentially, this is what the majority leader is doing when he thanks President Obama for lower tax rates because when individuals have less income, they pay less in taxes. Now, isn't that common sense?

Millions of Americans are out of work and have very little or no income. You would have better luck getting blood out of a turnip than collecting income taxes from someone who has no income.

Over the past weeks and months we have heard a lot about income inequality. Occupy Wall Street has been very vocal on this issue. Many Members of Congress have also expressed concern that income inequality is ever increasing. The Finance Committee, of which I am a member, just recently had a hearing on this very topic. This most recent CBO data shows that income inequality is at the lowest point in more than a decade. The share of income held by the top 1 percent has shrunk by 28 percent. At the same time, the bottom 60 percent of households saw their share of income increase by an average 11 percent.

So perhaps my friends on the other side of the aisle do have reason to cheer: The rich are much less rich but, of course, the poor are poorer as well. It is just that those in the lower incomes did not see their income shrink by as much as higher income people.

Of course, those in the bottom 60 percent of households are not better off today than they were when income inequality was greater. In fact, they are poorer and struggling more than ever. So I just hope my colleagues on the other side of the aisle keep that in mind as we try to create a better future, and do it for everyone.

Reduction in income inequality should not be a goal in and of itself. What really matters is individual well-being and opportunity for everybody to succeed. This is best achieved, then, through progrowth policies aimed at growing the economic pie, not by targeting certain unpopular groups for tax hikes.

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

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

The assistant bill clerk proceeded to call the roll.

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

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

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise today to speak about the DISCLOSE Act of 2012. This is legislation that will shine a bit of needed light into the flood of secret money in our elections. I would like to start with particular thanks to Senators CHUCK SCHUMER, MICHAEL BENNET, AL FRANKEN, JEFF MERKLEY, JEANNE SHAHEEN, and TOM UDALL for their hard work on developing the legislation. I look forward to joining them as this debate goes forward.

This morning the majority leader moved to proceed to this vital piece of legislation. I thank him. I and many of my colleagues are looking forward to the opportunity to make the case in

this Chamber for this important piece of legislation. In a sense, that case has already been made. As anyone who watches television knows, our airwaves are filled with negative political attack ads. The organizations that pay for these negative political attack ads all have patriotic-sounding names dotted with words like ''prosperity,'' ''freedom,'' and ''future.'' The names sound harmless, but they are phony. All too often the ads are paid for by secret special interests, billionaires, and wealthy corporations seeking special secret influence in our democracy and drowning out the voices of middle-class American families.

As USA Today put it just last week in an editorial supporting this DISCLOSE Act, ''Everybody's watching what's expected to be by far the most expensive presidential campaign in history, and not without a dose of horror. Freed by the Supreme Court from spending limits, all manner of special interests are opening the spigots to buy influence.'' That is exactly right, ''All manner of special interests are opening the spigots to buy influence,'' and because their money is secret, the American public doesn't even know who is behind the negative political attack ads other than the phony name.

Here is how my home State paper, the Providence Journal, reacted to the original Citizens United decision that has unleashed this torrent of secret special interest money:

> The [Citizens United] ruling will mean that, more than ever, big-spending economic interests will determine who gets elected. More money will especially pour into relentless attack campaigns. Free speech for most individuals will suffer because their voices will count for even less than they do now. They will simply be drowned out by the big money.

The Providence Journal could not have been proven out more correctly by the events that have taken place since.

Senator JOHN MCCAIN said earlier this year:

> I predicted when the United States Supreme Court, with their absolute ignorance of what happens in politics, struck down [the McCain-Feingold campaign finance law], that there would be a flood of money into campaigns, not transparent, unaccounted for, and this is exactly what is happening.

Senator MCCAIN was right. Campaigns are no longer waged by candidates and parties fighting over ideas; they are now waged by shadowy political attack groups posing as social welfare organizations, run by political operatives, linked to specific candidates, and fueled by millions of undisclosed dollars from secret special interests. When these secretive special interests take over our elections, it puts in jeopardy the key supports of a strong middle class, supports such as Social Security, Medicare, Pell grants, a progressive tax system, and things that have paved the way for generations to achieve the American dream.

Why do I say that? I say that because these special interests have motives to spend this kind of money. If those motives were good for America, would they be so desperate to keep what they are doing secret? I don't think so.

Americans who worry now that Washington listens too much to the special interests, strap in, look out, and hang on to your wallet because a secret special interest avalanche is underway. According to a study in April, 90 percent of the money being spent by super PACs, nonprofits, and other outside groups to elect the President of the United States is coming from secret sources, secretive corporations, and billionaires whose names and motives the voters may never know and who will have no accountability for how that money is spent.

When there is no accountability for how money is spent because the phony front organization that purports to be spending it isn't real and the real party and interest has hidden behind a veil of secrecy, then there is no limit on what people will say. It is accountability that keeps public dialog in reasonable check. That is why you and I, Mr. President, are obliged at the end of our campaign advertisements to say: I am Senator WHITEHOUSE, and I approve this message. I am Senator COONS, and I approve this message.

Well, relieved from that accountability, about 70 percent of the ads in this election cycle have been negative. That is up from 9 percent in 2008. I will say it again: 70 percent, up from 9 percent, as this flood of secret special interest money has hit.

Even worse, if we look at the four top-spending political 501(c)(4)s—the secret organizations, the ones that hide their donors—and what they have done in the last 6 months, an estimated 85 percent of their election spending was spent on ads that contained deceptions, according to a recent analysis by the Annenberg Public Policy Center. So we unhinge any real person from accountability for this spending. The special interests behind it remain secret, and the ads become virtually exclusively negative attack ads and they are riddled with deception.

This is what the Supreme Court thought free speech looked like. This is all the result of that disastrous decision by the Supreme Court in Citizens United v. Federal Election Commission which opened the floodgates of secret, anonymous special interest money. I think it was a deliberate decision, but that is a discussion for another day. For today, our purpose is to point out that the campaign finance system, as a result, is broken and it lends itself to corruption in new and unprecedented ways.

The Supreme Court, in the Citizens United decision, in its blissful ignorance, never even considered what happens behind the scenes. They talked only about the public debate and the public expenditure of this money. They assumed it would be independent of the candidates, and they were wrong. They assumed it would be transparent as to who was behind it, and they were wrong. They also assumed that what was put on the air was the end of the issue. They took no consideration of the behind-the-scenes meeting where the special interest comes in to meet the Congressman and doesn't spend $5 million in secretly funded negative attack ads but threatens to. And if the threat works, they buy the vote, nobody ever sees an ad, and the institution of government is corrupted.

It is one thing if it is a company and they say: Well, I am going to be against you, and my CEO is going to have a party and raise money in $5,000 increments against you, and our PAC is going to give a $10,000 check to your opponent. We are going to tell our workers that you are not a good person for our industry.

OK, that is not great, but it is nowhere near as dangerous as being able to say: We are going to put $5 million into a secret campaign of negative attack ads against you, and nobody is going to know it is us. If you play right and do what you are told, we will lay off, but otherwise, look out, we are coming after you. It will be hidden, it will be negative, and it will be nasty.

That is no way to run a democracy. So today the majority leader has moved to a bill that will bring at least transparency and accountability to our elections. At least these big special interests will have to say who they are. Then we as Americans can evaluate what their motives are, what the deal might be, whether we are actually aligned with their interests, and we can evaluate what they are saying about candidates. We will have more information. We will have a better quality of free speech. This is not a Democratic or Republican issue. In fact, disclosure has never before been a Republican or Democratic issue. This is about protecting our democratic process as Americans.

I really look forward to debating this important measure with my colleagues in the upcoming days. I am joined by Americans of all political stripes who are disgusted by the influence of this unlimited secret money pouring into our elections. We are disgusted by campaigns that succeed or fail, that last or don't last, depending on how many billionaires the candidate has funding their campaign through these special organizations. More and more around this country, particularly in Rhode Island—the people I hear from at home—people feel this government responds only to wealthy and corporate interests. They feel the middle class can't catch a break, that nobody is listening, that everything is done for the big guys. They see their jobs disappear. They see their wages stagnate. They see bailouts and special deals for the big guys, and they lose faith that their elected officials are actually listening to them. If we thought that was a problem before, when at least it was public and at least we knew who the registered lobbyists were and who had

made the campaign contributions and at least we knew there were some reasonable limits on all that—all those gates have been knocked down. It is the Wild West now, and it is secret.

Six in ten Americans say the middle class will not catch a break in this economy until we reduce the influence of lobbyists, big banks, and big donors. Guess what. With these fountains of secret money behind them, their influence isn't being reduced; it is going to be dramatically increased—and increased in ways that lend themselves to corruption.

One out of every four Americans actually says they are less likely to even vote because they believe big donors and super PACs have so much more influence over elected officials than they do that they feel pushed out of the process, so why bother. That is a terrible blow to American democracy.

Nearly 7 in 10 Americans, including a majority of Democrats and Republicans, agree with this proposition: New rules that let corporations, unions, and people give unlimited money to super PACs will lead to corruption. One would think that is a blindingly obvious proposition. It escaped the five conservative members of the Supreme Court who decreed that was not going to be the case. Seven out of ten Americans disagree with them. I disagree with them. The closer we get to elections, the more we see that proposition is foolhardy.

So we have the DISCLOSE Act, a bill that Republican and former Federal Election Commission Chairman Trevor Potter said is appropriately targeted, narrowly tailored, clearly constitutional, and desperately needed. I very much hope we can join in this debate; that we can get this bill passed in the Senate; that we can clean up our elections and begin to do something about this foul avalanche of negative attack ads—again, 85 percent of them containing deception—that are now polluting our public discourse.

Prior to the Citizens United decision and prior to the floodgates actually opening, there was a long and rich bipartisan tradition in this Senate of demanding disclosure of spending in elections. Many of our Republican colleagues in the Senate have loudly and clearly supported disclosure in the past, and I hope they will join us in passing this important piece of legislation. The fundamental principle of a government of the people, by the people, and for the people is a government that will listen to the people, not just to the big special interests that can afford massive secret money.

I urge my colleagues to support the DISCLOSE Act of 2012.

I thank the Presiding Officer.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

TRIBUTE TO LIEUTENANT GENERAL RONALD L. BURGESS

Mr. CHAMBLISS. Mr. President, I rise today to pay tribute to LTG Ronald L. Burgess, Jr., the current Director of the Defense Intelligence Agency, and one of the Nation's premier leaders in the intelligence community and in the United States military.

Lieutenant General Burgess retires this summer after a distinguished 38-year career. During his career, Lieutenant General Burgess has been recognized with numerous awards and decorations, which include the Defense Distinguished Service Medal, Defense Superior Service Medal with two oak leaf clusters, the Legion of Merit, Meritorious Service Medal with four oak leaf clusters, Joint Service Commendation Medal, United States Special Operations Command Medal, Army Commendation Medal, Army Achievement Medal, NATO Medal—Former Republic of Yugoslavia, Parachutist Badge, Joint Chiefs of Staff Identification Badge, and the Army Staff Identification Badge.

As a driving force in the intelligence community, General Burgess will soon conclude a career marked by exceptional leadership and strategic vision, both of which have significantly advanced U.S. national security interests while also strengthening our national intelligence and military intelligence capabilities during a very challenging period in our Nation's history.

Throughout his time in uniform, Lieutenant General Burgess has demonstrated an unyielding dedication to duty and an innate ability to inspire enthusiasm and commitment to serve those he leads. Lieutenant General Burgess's selfless service to country and his unparalleled personal drive have been instrumental in transforming defense intelligence into a more capable and cooperative enterprise, providing the critical intelligence required by military commanders and policymakers both at the defense and national levels.

Commissioned as a second lieutenant through the Auburn University ROTC Program in 1974, Lieutenant General Burgess began his career with a series of assignments in armor and military intelligence units in Germany and Ft. Stewart, GA, where he was directly responsible for planning multiple highly successful National Training Center rotations, numerous command post exercises, and an Army training and evaluation program.

Lieutenant General Burgess was recognized for his meticulous planning and forceful execution of operational procedures which contributed significantly to combat readiness. Later Lieutenant General Burgess held a variety of key staff and command positions, including Assistant Executive Officer to the Deputy Chief of Staff for Intelligence, Washington, DC in 1990, and as the battalion commander, 25th Infantry Division, from May 1993 to May 1994, at Schofield Barracks, HI.

From July 1995 to May 1997, Lieutenant General Burgess commanded the 470th Military Intelligence Brigade where he served with great distinction. As commander, he provided outstanding leadership which led to the unit's operational success in support of the Commanding General of the United State's Army South and the Commander U.S. Southern Command.

During this period, LTG Burgess skillfully integrated a multi-disciplined intelligence force into an extremely innovative war-fighting asset while also expanding the brigade's regional focus through more than 150 operational deployments across Latin America, the Caribbean, Europe, and Korea. While commanding the 470th, LTG Burgess also served as acting vice director of intelligence, and subsequently the acting director of intelligence for U.S. Southern Command. During this period LTG Burgess guided a continuous flow of intelligence analysis in support of the year-long Tupac Amaru Revolutionary Movement hostage crisis at the Japanese ambassador's residence in Lima. LTG Burgess's support was key to developing the detailed analysis required by U.S. military commanders, our ambassador to Peru and the President to make timely and informed decisions leading to the safe withdrawal of American hostages.

Following his assignment at U.S. Southern Command, LTG Burgess served as the Director of Intelligence (J–2) for the Joint Special Operations Command, JSOC, Fort Bragg, North Carolina, from May 1997 to May 1999. During this assignment, Ron's leadership was instrumental in supporting continuous global deployments as well as major exercises and highly complex joint-service training events.

Mr. President, in June 1999, Ron returned to the Southern Command as the Director of Intelligence, J–2. Among his achievements while serving in that position, LTG Burgess led an interagency intelligence effort to create a fused Colombian intelligence capability that enhanced military and police cooperation against illegal global drug networks. LTG Burgess led Southern Command's intelligence response to many challenges including potential migrant operations, tracking of Cuban exiles, hurricane and earthquake disaster relief, and sustained counterdrug operations in both the area of responsibility and throughout transit zones.

From June 2003 to July 2005, LTG Burgess served as the Director for Intelligence (J–2) for the Joint Chiefs of Staff, JCS. As the J–2, Ron directed

all-source intelligence analysis and reporting for the Chairman JCS, the Secretary of Defense, the Joint Staff, and Unified Commands. LTG Burgess served as the focal point for crisis intelligence support to military operations, indications and warning intelligence in the Department of Defense, and Unified Command intelligence requirements. Assuming control of intelligence operations only months after the United States and coalition forces invaded Iraq, LTG Burgess was at the forefront of providing timely and insightful intelligence for operational requirements in Iraq, Afghanistan, transnational terrorism, and all developing global issues affecting U.S. interests abroad.

In August 2005, LTG Burgess reported to the Office of the Director for National Intelligence, ODNI, where he served as the Deputy Director of National Intelligence for Customer Outcomes, Director of the Intelligence Staff, Acting Principal Deputy Director of National Intelligence, and acting Director of National Intelligence. During this period, LTG Burgess played a key role in developing and reforming the Intelligence Community during an unprecedented period of global change. During Ron's tenure at ODNI, his leadership was key during the revision of Executive Order 12333, which governs all intelligence activities, the development of the first-ever joint manning document for military personnel assigned to organizations outside of the Department of Defense, critical Intelligence Community managerial operations were overhauled, and innovative human capital practices were implemented under his watch.

After completing his ODNI assignment, LTG Burgess was appointed the 17th director of the Defense Intelligence Agency, DIA, in March 2009. As the Vice Chairman of the Senate Select Committee on Intelligence I have personally witnessed Ron's thoughtful and ambitious program to strengthen DIA's ability to address the ever-changing requirements of military commanders and policymakers at the defense and national levels. LTG Burgess has focused DIA on our nation's greatest challenges including Afghanistan-Pakistan, Iraq, Iran, transnational terrorism, and preventing strategic surprise elsewhere around the globe. In doing so, Ron has reinforced DIA's ability to surge in support of contingency operations and crises, successfully launching a 24/7 crisis analysis cell at the start of the Libyan crisis and establishing an Afghanistan-Pakistan Task Force that refined the agency's ability to support ongoing combat operations

As DIA was celebrating its 50th anniversary, LTG Burgess charted an innovative, five-year strategy to strengthen and unite the agency's core defense capabilities while also focusing the agency on warning, core mission areas, partnership, and performance. DIA's new strategy emphasizes best practices to support our warfighters and policy makers in an era of persistent conflict and enduring U.S. fiscal challenges and sets the path toward achieving the strategy's major theme of ''One Mission—One Team—One Agency.''

As Director of DIA, LTG Burgess has worked to strengthen and improve the Joint Worldwide Intelligence Communications System, JWICS, the secure backbone for much of the U.S. Intelligence Community, the White House, U.S. combatant commanders, and allies. Additionally, he has led the effort to establish the Defense Clandestine Service, DCS, which provides enhanced collection capabilities in support of the highest priority intelligence requirements of the Director of National Intelligence, the Secretary of Defense, the Secretaries of the Military Departments, and the Combatant Commanders.

No matter the range or complexity of the issues, Ron always kept himself, his colleagues and subordinates focused on the fundamental obligations and responsibilities borne by those entrusted with some of the Nation's most important and sensitive missions.

He frequently reminded DIA employees, ''While much of what we do is secret, our work is a public trust.''

And consistent with that view, Ron emphasized at every opportunity the non-negotiable need for intelligence professionals to always demonstrate the highest degree of integrity, both personal and professional. He often counseled new employees, senior managers and military attachés headed to new postings that ''integrity is needed most when it is hardest to maintain.''

Mr. President, while much of what is said behind closed doors at the Senate Intelligence Committee is classified, I can tell you, my colleagues and the American people, that DIA is held in high esteem by the Senate Intelligence Committee, due in no small part to Ron's leadership. DIA is an indispensable, principal member of the U.S. Intelligence Community and has strengthened its performance as the functional intersection between defense and national intelligence. LTG Burgess leaves behind a more flexible and adaptive agency, one that is much more capable of meeting our national security challenges. Under his leadership, DIA has earned even greater respect within the Intelligence Community and continues to warrant Congress' strong support and trust.

Mr. President, while the Army and Intelligence Community will be losing a leader who has answered the call time and again at such critical points in our Nation's history, I know that Ron will be happy to reclaim his Saturday afternoons in the fall to root for his Auburn Tigers, and that the Burgess family will cherish more time with a husband and father. Mr. President, I wish Ron and his wife Marta the very best as he enters retirement. On behalf of a grateful Nation and my colleagues in the U.S. Senate, I thank Ron and his family for his many years of faithful service and a job well done.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 16, at 5 p.m., the Senate proceed to executive session to consider the following nomination: Calendar No. 662; that there be 30 minutes for debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to a vote with no intervening action or debate on the nomination; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. REID. Mr. President, the Senate is currently on the motion to proceed to S. 3369; is that correct?

The PRESIDING OFFICER. The leader is correct.

CLOTURE MOTION

Mr. REID. That being the case, I have a cloture motion at the desk on the motion to proceed to that matter.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 446, S. 3369, a bill to amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

Harry Reid, Sheldon Whitehouse, Jack Reed, Joseph I. Lieberman, Jon Tester, Mark L. Pryor, Benjamin L. Cardin, Christopher A. Coons, Jeanne Shaheen, Daniel K. Akaka, Herb Kohl, Charles E. Schumer, Mark Begich, Tim Johnson, Robert Menendez, Frank R. Lautenberg, Mark Udall, Sherrod Brown.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum required under our rule XXII be waived, and that on Monday, July 16, following the vote on the McNulty nomination and the resumption of legislative session, there be up to 10 minutes of debate, equally divided between

the two leaders or their designees prior to a cloture vote on the motion to proceed to S. 3369.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO WILLIAM H. MEADOWS

Mr. REID. Mr. President, I recognize and honor William H. Meadows for his long and successful service from 1996 to 2012 as president of The Wilderness Society. Bill came to Washington, D.C. with his wife Sally to lead The Wilderness Society after years of working as a volunteer and then as a professional staff person for the Sierra Club. Since then, he has neither lost the passion that first made him a conservation activist nor the gracious Southern charm that came from his Tennessee upbringing.

Under his leadership, The Wilderness Society has maintained its focus on their core mission of protecting wilderness and inspiring Americans to care for our wild places. During his tenure, The Wilderness Society has had substantial success, helping Congress expand the National Wilderness Preservation System by nearly 6.5 million acres and establish the National Landscape Conservation System to increase protection for Bureau of Land Management lands. In that time, the organization has nearly doubled in size and they provide sound scientific, legal, and policy expertise on major issues relating to our Federal public lands better than ever.

I have had the good fortune of working with Bill and The Wilderness Society on legislation that impacts our Federal wild lands heritage. He and The Wilderness Society have been important partners in successful efforts to protect millions of acres of Nevada's finest wilderness in Clark, Lincoln, and White Pine counties, as well as establish the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area and Sloan Canyon National Conservation Area. I am tremendously proud of that legacy and Bill played a critical role in that effort. He never failed to understand the need to work closely with local communities and key stakeholders to find areas of common ground and to reach shared solutions. He brought to these conservation efforts a level headed, reasonable, thoughtful approach that helped move all the parties beyond the type of knee-jerk ideology that too often results in gridlock.

Bill has also been an important ally in many national debates about Federal public lands ranging from our energy policy to management of healthy forests to the protection of iconic wild lands like the Arctic National Wildlife Refuge. He and his organization were influential in the Clinton Administration's establishment of the Roadless Rule, which helps protect nearly 60 million acres of our most pristine national forests.

He has always been willing to meet with his opponents. At a time when many conservationists were at odds with the George W. Bush administration, Bill was able to establish and maintain a working relationship with the Undersecretary for Natural Resources in the Department of Agriculture. This big tent approach to conservation is one of the things that make Bill exceptional. He is further distinguished by his ability to clearly understand the dynamics of national and local politics without becoming cynical or losing his integrity. Thank you, Bill, for your tremendous service as an extraordinary conservation leader.

TRIBUTE TO DENNIS T. DORTON

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a good friend of mine and a good friend to the Commonwealth of Kentucky, Mr. Dennis T. Dorton. After a successful, lifelong career in banking culminating in his service as president and chief executive officer at Citizens National Bank, Mr. Dorton will retire this month.

A native of Paintsville, KY, Dennis Dorton has worked at Citizens National Bank for 42 years. He joined the bank in 1970 following his graduation from Morehead State University, where he earned a bachelor's degree in business administration. Dennis also attended Paintsville High School and is a graduate of National Investment School University of Oklahoma, National Trust School Northwestern University, and attended Stonier Graduate School of Banking at Rutgers University.

Dennis is well known and well regarded throughout the State's banking community for his career of accomplishment. He served as treasurer for the Kentucky Bankers Association and was that organization's chairman in 2007–08. He is also on the Board of Trustees for the Kentucky Hospital Association and the Highlands Regional Medical Center. His many other civic and community service efforts include his work as treasurer and board member of the Paintsville-Johnson County Chamber of Commerce, chairman of the Appalachian Artisan Center, treasurer of the Kentucky Historical Society Foundation, and vice chairman and board member of the Christian Appalachian Project Board. He also served for 15 years on the Paintsville City Council, 6 years on the Paintsville Independent School Board, and on a number of committees for Big Sandy Community & Technical College.

Mr. Dorton is also an active member of the First United Methodist Church in Paintsville, and has volunteered on missions to Belize and Costa Rica to help build church and school buildings. He has taught personal financial management courses at his church, and even taught at local elementary schools on subjects as varied as woodworking, banjos, and folk art.

Dennis and his wife, Jean, have a son, Andrew Trigg Dorton, who is married to Stephanie Stumbo. Dennis and Jean are the grandparents of Tristan Andrew and Ashton Warren. I am sure Dennis's family is very proud of him and all that he has accomplished.

At this time I ask my U.S. Senate colleagues to join me in commemorating Mr. Dennis T. Dorton for his decades of work and service to his loved ones, his employer, his community, and the Commonwealth. He has set a remarkable example to follow for those who know him. I congratulate him on his successes and wish him well upon his retirement.

TRIBUTE TO JUDGE GEORGE LEIGHTON

Mr. DURBIN. The Cook County Criminal Courts Building in Chicago is an imposing building at the intersection of 26th Street and California Avenue that has long been known by its address: 26th and Cal. Last month, the Criminal Courts Building was renamed the Honorable George N. Leighton Criminal Court Building in tribute to a remarkable man.

Judge George Leighton, who turns 100 years old this October, has excelled as a lawyer and judge and has embodied the ideals of the American dream.

George Leighton was born in 1912 in New Bedford, MA, to African immigrants. As a young boy, Judge Leighton picked fruit for several months each year to help support his family. Then just before he should have started seventh grade, he left school to take a job on an oil tanker in the Dutch West Indies.

George Leighton never finished grade school or high school, but he heard that a scholarship fund was offering a $200 scholarship for the winner of an essay contest, and he submitted the winning essay. In 1936, with his $200 scholarship, he hitchhiked to Washington, D.C., to attend college. He was granted conditional admittance to Howard University, where he graduated magna cum laude 4 years later.

In 1940, George Leighton joined the United States Army's 93rd Infantry Division. When he returned to the United States after the war, he was accepted at Harvard Law School. He graduated from Harvard and passed the Illinois State Bar Examination.

He then moved to Chicago because he was impressed that Chicago had elected an African American congressman, William Dawson. He set up a law practice next to the old Comiskey Park on

Chicago's South Side. And he began fighting courageously to break down barriers of racial discrimination in voting, housing and education.

In 1949, George Leighton became an Assistant Illinois Attorney General. When he advised one group of African-Americans that the law did not prohibit them from moving to the Cicero neighborhood, an all-white neighborhood at the time, race riots erupted. Judge Leighton was indicted for inciting the riot. An up-and-coming lawyer named Thurgood Marshall came to the defense of Judge Leighton, argued the case, and the indictment was dismissed.

In 1964, Mayor Daley asked Leighton to run for circuit court judge, and he won the election in a landslide. He then moved into his office at 26th and Cal, the Cook County Criminal Courts Building.

In 1969, Judge Leighton was appointed to the First District Appellate Court of Illinois, where he served as the first African-American judge on the Illinois Court of Appeals. Six years later, he was nominated by President Gerald Ford to serve as U.S. District court judge for the Northern District of Illinois.

George Leighton has been a life-long champion of civil rights and equality. There is no more fitting a tribute than to name the building in which Judge Leighton first began practicing law some 66 years ago in his honor.

Judge Leighton contributed to our understanding of justice. He stood up to powerful interests in defense of the truth and did not bend to pressure or prejudice in his pursuit of justice. He served the people of Illinois and the citizens of the United States proudly throughout his tenure on the bench.

I thank Judge George Leighton for his service and join the Chicago community in congratulating him on this new honor.

HUNGARY

Mr. CARDIN. Mr. President, a year ago, I shared with my colleagues concerns I had about the trajectory of democracy in Hungary. Unfortunately, since then Hungary has moved ever farther away from a broad range of norms relating to democracy and the rule of law.

On June 6, David Kramer, the President of Freedom House who served as Assistant Secretary of State for Democracy, Human Rights and Labor for President George W. Bush, summed up the situation. Releasing Freedom House's latest edition of Nations in Transit Kramer said: ''Hungarian Prime Minister Viktor Orbán and Ukrainian president Viktor Yanukovych, under the pretext of so-called reforms, have been systematically breaking down critical checks and balances. They appear to be pursuing the 'Putinization' of their countries.''

The report further elaborates, ''Hungary's precipitous descent is the most glaring example among the newer European Union (EU) members. Its deterioration over the past five years has affected institutions that form the bedrock of democratically accountable systems, including independent courts and media. Hungary's negative trajectory predated the current government of Prime Minister Viktor Orbán, but his drive to concentrate power over the past two years has forcefully propelled the trend.''

Perhaps the most authoritative voice regarding this phenomenon is the Prime Minister himself. In a February 2010 speech, Viktor Orbán criticized a system of governance based on pluralism and called instead for: ''a large centralized political field of power . . . designed for permanently governing.'' In June of last year, he defended his plan to cement economic policy in so-called cardinal laws, which require a two-thirds vote in parliament to change, by saying, ''It is no secret that in this respect I am tying the hands of the next government, and not only the next one but the following ten.''

Checks and balances have been eroded and power has been concentrated in the hands of officials whose extended terms of office will allow them to long outlive this government and the next. These include the public prosecutor, head of the state audit office, head of the national judicial office, and head of the media board. Those who have expressed concerns about these developments have good reason to be alarmed.

I am particularly concerned about the independence of the judiciary which, it was reported this week, will be the subject of infringement proceedings launched by the European Commission, and Hungary's new media law. Although there have been some cosmetic tweaks to the media law, the OSCE Representative on Freedom of the Media has argued that it remains highly problematic. Indeed, one expert has predicted that the most likely outcome of the new law will be to squeeze out reporting on corruption.

Hungary also adopted a new law on religion last year that had the stunning effect of stripping hundreds of religions of their legal recognition en masse. Of the 366 faiths which previously had legal status in Hungary, only 14 were initially granted recognition under the new law. Remarkably, the power to decide what is or is not a religion is vested entirely and exclusively in the hands of the legislature, making it a singularly politicized and arbitrary process. Of 84 churches that subsequently attempted to regain legal recognition, 66 were rejected without any explanation or legal rationale at all. The notion that the new framework should be acceptable because the faiths of most Hungarian citizens are recognized is poor comfort for the minority who find themselves the victims of this discriminatory process. This law also stands as a negative example for many countries around the world just now beginning tenuous movement towards democracy and human rights.

Finally, a year ago, I warned that ''[i]f one side of the nationalism coin is an excessive fixation on Hungarian ethnic identity beyond the borders, the other side is intolerance toward minorities at home.'' I am especially concerned by an escalation of anti-Semitic acts which I believe have grown directly from the government's own role in seeking to revise Hungary's past.

Propaganda against the 1920 Treaty of Trianon, which defines the current borders of Hungary, has manifested itself in several ways. Most concretely, the Hungarian government extended citizenship on the basis of ethnic or blood identity—something the government of Viktor Orbán promised the Council of Europe in 2001 that it would not do and which failed to win popular support in a 2004 referendum. Second, the government extended voting rights to these new ethnic citizens in countries including Romania, Serbia, Slovakia and Ukraine. This has combined with a rhetorical and symbolic fixation on ''lost'' Hungarian territories—apparently the rationale for displaying an 1848 map of Greater Hungary during Hungary's EU presidency last year. In this way, the government is effectively advancing central elements of the agenda of the extremist, anti-Semitic, anti-Roma Jobbik party. Moreover, implicitly—but unmistakably—it is sending the message that Hungary is no longer a civic state where political rights such as voting derive from citizenship, but where citizenship derives from one's ethnic status or blood identity.

The most recent manifestation of this revisionism includes efforts to rehabilitate convicted war criminal Albert Wass and the bizarre spectacle of the Hungarian government's role in a ceremony in neighboring Romania—over the objections of that country—honoring fascist writer and ideologue Joszef Nyiro. That event effectively saw the Speaker of the Hungarian Parliament, Laszlo Kover; the Hungarian State Secretary for Culture, Geza Szocs; and Gabor Vona, the leader of Hungary's most notoriously extremist party, Jobbik, united in honoring Nyrio. Several municipalities have now seen fit to erect statues honoring Miklos Horthy, Hungary's wartime leader, and the writings of Wass and Nyiro have been elevated onto the national curriculum.

It is not surprising that this climate of intolerance and revisionism has gone hand-in-hand with an outbreak of intolerance, such as the antiSemitic verbal assaults on a 90-year old Rabbi and on a journalist, an attack on a synagogue menorah in Nagykanizsa, the vandalism of a Jewish memorial in Budapest and monuments honoring Raoul Wallenberg, the Blood Libel screed by a Jobbik MP just before Passover, and the recent revelation that a Jobbik MP requested—and received—a certificate from a genetic diagnostic company attesting that the MP did not have Jewish or Romani ancestry.

We are frequently told that Fidesz is the party best positioned in Hungary to guard against the extremism of Jobbik. At the moment, there seems to be little evidence to support that claim. The campaign to rehabilitate fascist ideologues and leaders from World War II is dangerous and must stop. Ultimately, democracy and the rights of minorities will stand or fall together.

Hungary is not just on the wrong track, it is heading down a dangerous road. The rehabilitation of disgraced World War II figures and the exaltation of blood and nation reek of a different era, which the community of democracies—especially Europe—had hoped was gone for good. Today's Hungary demonstrates that the battle against the worst human instincts is never fully won but must be fought in every generation.

YUKOS OIL COMPENSATION

Mr. INHOFE. Mr. President, Russia's weak rule of law is bad for the people of Russia, of course, but it also harms American citizens. As Congress considers legislation directed at strengthening human rights and the rule of law in Russia, we also should address the economic impact on Americans, including those Americans who are owed $12 billion when Yukos Oil, in which they held 15 percent of its stock, was expropriated by the Russia Government. To date, none of the American owners of Yukos caught up in Russia's renationalization of this company has received any compensation for this unlawful taking. And without a bilateral investment treaty, BIT, with Russia, the only recourse available to U.S. investors is for our State Department to espouse the case of its wronged citizens. I support this course of action, and I ask unanimous consent to have printed in the RECORD a letter I wrote with Senator SCOTT BROWN to Secretary Clinton last October 27, 2011, that addresses this issue.

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

U.S. SENATE,
Washington, DC, October 27, 2011.

Hon. HILLARY RODHAM CLINTON,
Secretary of State, Department of State, C Street, NW., Washington, DC.

DEAR MADAM SECRETARY: We are writing to ask that you seek compensation from Russia on behalf of hundreds of thousands of U.S. investors who have lost approximately $12 billion as a result of Russia's expropriation of Yukos Oil Company. With all other avenues exhausted for American investors, only espousal by the United States can help to bring this matter to an appropriate resolution.

American investors collectively owned approximately 15 percent of Yukos at the time the Russian authorities began dismantling the company. The American investors in Yukos included several public pension funds and more than 70 institutional investors in at least 17 States. There also were over 20,000 individual American investors who owned Yukos shares directly, in addition to the hundreds of thousands who owned shares indirectly through mutual funds.

These investors have valid claims against Russia under international law, but they have no mechanism to assert these claims because there is no bilateral investment treaty (BIT) in force between the United States and Russia. Other foreign owners of Yukos have been able to initiate BIT claims, and a UK investor recently won such a case. In a unanimous decision, the arbitrators in the UK case concluded that Russia had expropriated Yukos and that compensation was due.

In June 2008, American investors formally petitioned the State Department to undertake government-to-government negotiations with Russia. We respectfully ask that you espouse the claims of these Americans and seek payment from the Government of Russia as soon as possible.

Thank you for your consideration of our concerns. We look forward to hearing from you.

Sincerely,

JAMES M. INHOFE,
U.S. Senator.
SCOTT BROWN,
U.S. Senator.

ADDITIONAL STATEMENTS

TRIBUTE TO JACK BOOKTER

• Mrs. BOXER. Mr. President, today I am honored to pay tribute to Jack Bookter for his 45 years of extraordinary service to the International Brotherhood of Teamsters in San Francisco. Throughout his career, Mr. Bookter has worked to ensure that the workers represented by his union have received just compensation under fair working conditions.

After serving in the U.S. Navy and as a police officer in San Bruno, CA, Jack became a driver for United Parcel Service, UPS, where he also served as a shop steward who represented the interests of his fellow drivers. For the past 36 years, he has served as secretary treasurer for Teamsters Local 278, which later became Local 2785. Jack Bookter has also served as chairman of the UPS Western Region Grievance Panel and as a member of the policy committee representing the Teamsters Joint Council 7 at the California Teamsters Public Affairs Council.

Mr. Bookter is part of a long and proud tradition of union leaders who fight to give workers and their families the rights and opportunities they need to achieve the American dream.

I join Mr. Bookter's friends and colleagues in celebrating his career and much deserved retirement. I wish him well in this next chapter of his life, and I hope that he enjoys many more years of happiness with his wife Yvonne, as well as his daughters, Cathy, Jill, and Yvette.•

TRIBUTE TO COLONEL DAVID E. ANDERSON

• Mr. CARDIN. Mr. President, today I wish to recognize Colonel David E. Anderson who will complete his 2-year tour of duty as commander and district engineer of the Baltimore District, Army Corps of Engineers, on July 20, 2012. Colonel Anderson will officially retire from the United States Army Corps of Engineers at the end of the year. Colonel Anderson's career has spanned 26 years of service where he has led both mechanized and airborne combat engineer units as well as commanding two USACE districts.

Colonel Anderson excelled as the commander of the Baltimore District in the North Atlantic Division. He directed the successful operation of flood risk mitigation, hurricane protection, environmental restoration, Federal navigation and other water resource work within a 49,000 square mile area and along 7,000 miles of the Chesapeake Bay's environmentally sensitive shoreline. Colonel Anderson led the district as it responded to the Nation's Base Realignment and Closure 2005 mission, which brought a $7.2 billion construction and engineering effort to the National Capital Region.

During his career he has served as the commander of the Honolulu District and two tours as a legislative assistant, including one tour as the legislative assistant to the Vice Chief of Staff of the Army, and one tour as the legislative assistant to the Secretary of the Army.

Colonel Anderson's dedication to duty, loyalty to the Nation, and personal engagement with soldiers, civilian personnel, and the public will be positively felt for years to come. His selfless service is in keeping with the highest traditions of the Corps of Engineers.

Kara Anderson, Colonel Anderson's wife of 24 years, and his three children, also warrant our thanks. In addition to her unfailing support for her husband, she has played an active role in every military community that Colonel Anderson's career has taken him. The entire family has made important sacrifices for our Nation and they, too, deserve our thanks.

I ask my colleagues to join me today in recognizing the contributions Colonel Anderson has made to the U.S. Army Corps of Engineers, Baltimore District and wish him and his family well in his retirement.•

CONGRATULATING 2012 OLYMPIC QUALIFIERS

• Mr. HELLER. Mr. President, today I wish to extend well-deserved congratulations to four Nevadans who have earned the unique distinction of being named to the 2012 United States Olympic Team. Amanda Bingson, Jake Dalton, Connor Fields, and Michael Hunter will be competing in hammer throw, gymnastics, BMX, and boxing at the Olympic Games in London. I am proud to recognize some of our nation's greatest athletes and members of Team USA who will represent the Silver State proudly.

A Silverado High School alumni and UNLV sophomore, Amanda Bingson,

finished second in the hammer throw at the U.S. Olympic Trials in Eugene, Oregon. An ambitious athlete, she is a three-time Mountain West hammer-throw champion, two-time national All-American honoree, and recently set a new UNLV hammer throw record.

Jake Dalton, a 2009 graduate of Spanish Spring High School, took victories in the floor exercise and vault in a combined points total from the VISA Championships and the Olympic Trials. He joins the rest of Team USA in the hopes of winning gold, a feat that has not been secured by men's gymnastics since 1984. Jake has won 4 individual NCAA titles, 13 All-American honors, and is believed to be Nevada's first male gymnast to make the Olympic team.

Green Valley High School alumni, Connor Fields, won the U.S. Men's BMX Time Trials in Chula Vista, California, earning a place on the three-man team for the 2012 London Games. This 19-year-old southern Nevada native is the first rider in BMX supercross history to win three straight World Cup final races.

Michael Hunter, Las Vegas heavyweight boxer, qualified for this summer's London Games with a semifinal victory in the AIBA Americas Olympic Qualifying Tournament in Rio de Janeiro. A three-time national champion, encouragement from Michael's family has always been paramount to reaching his Olympic dream.

I wish Amanda, Jake, Connor, and Michael the best of luck in London this summer and look forward to watching them compete. I ask my colleagues to join me in congratulating these four remarkable athletes as we show our pride and support for entire the U.S. Olympics Team.●

REMEMBERING TROOPER AARON BEASLEY

● Mr. LEE. Mr. President, on June 30, Trooper Aaron Beesley responded to a call to rescue two teenagers stranded on Mount Olympus in the Wasatch Mountains near Salt Lake City. As a part of the search and rescue helicopter unit, he helped load the two teenagers into the helicopter, ensuring their own safety before his own. When the helicopter pilot had secured the hikers, he went back for Trooper Beesley, only to find that he had fallen down the 60-foot cliff face. A hero fell from Mount Olympus. Someone once said, ''A hero is always remembered, but legends never die.'' Aaron Beesley woke up that morning already a hero in every sense of the word, and he fell that night into legend, a legend of service and sacrifice that will live far beyond his mortality.

His mother recalled that from the age of 5 Aaron had aspired to be a firefighter. His greatest ambition was to protect others from harm and danger. He attended the police academy after serving a LDS mission in Oakland, CA, and was then hired by the Utah Highway Patrol. There he committed to ''face danger with confidence, resolution and bravery'' and to ''meet the service needs of everyone encountered.'' These principles were a part of Aaron's nature long before he became a trooper. He may have fallen in the line of duty, but for him, this duty was his life. He saw the world through the lens of a hero, constantly seeking opportunities to help and serve others long after the workday ended. At his funeral service, Aaron's mother Laretta Beesley said, ''Aaron was a hero every day of his life.'' Based on his rescue record, lifesaving awards, medal of excellence, and the tremendous words of praise from his family and coworkers, I believe his mother's description is perfect.

Aaron will be remembered as a man of many hats. He is survived by his wife Christine and sons Austin, 7, and twins Derek and Preston, 4. They will remember him as a loving husband and father. His brother Arik remembers him as a hero, recalling the countless phone calls they shared in which Aaron provided a play-by-play account of his latest rescue. His parents remember him as a clever practical joker. As a child he once tricked a group of neighborhood boys into performing his loathed chore of stacking wood by telling them how much fun it would be. His mother lovingly remembers how he watched them do it for him with a sly smile, periodically expressing how much he would love to be stacking wood too. His coworkers and friends remember him as a genius who could fix anything, from neighbors' broken electronics to highway patrol communications equipment. Aaron was even able to perform the necessary maintenance on the patrol's air fleet, saving the department thousands of dollars. His colleague Steve Winward remembers him as an inventor, designing cell phone applications for helicopter flight navigation and field sobriety tests.

Mr. President I pay tribute today to Aaron Beesley not simply to mourn his loss but to celebrate his life, his willingness to perform his duty and serve others. Sharon and I extend our condolences to Christine, Austin, Derek and Preston and praise them for their courage at this difficult time. Aaron truly remembered service before self, as do all who wake up every morning prepared to give their lives for those they serve. I pray that his family, friends, and loved ones may feel an outpouring of love and support from grateful citizens around the country and that they may forever remember Aaron with the tremendous pride his legacy deserves.●

RECOGNIZING BRYAN ALMEIDA

● Mr. RUBIO. Mr. President, today I recognize Bryan Almeida, a spring press intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Bryan is a graduate of Belen Jesuit Preparatory School in Miami, FL. Currently, he is a sophomore at The George Washington University majoring in political communications. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Bryan for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING PAT BATEMAN

● Mr. RUBIO. Mr. President, today I recognize Pat Bateman, a spring intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Pat is a graduate of the University of Sydney, where he double-majored in law and government and international relations. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Pat for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING MEG C. HAMBY

● Mr. RUBIO. Mr. President, today I recognize Meg Casscells-Hamby, a summer intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Meg is a graduate of Trinity Preparatory High School in Winter Park, FL. Currently, she is a sophomore at Harvard University interested in psychology. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Meg for all the fine work she has done and wish her continued success in the years to come.●

RECOGNIZING CHARLES C. DAVIS III

● Mr. RUBIO. Mr. President, today I recognize Charles Carlton Davis III, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Chad is a graduate of Jesuit High School in Tampa, FL. Currently he is a junior at the University of Florida majoring in political science and minoring in history and religion. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Charles for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING CLAY McADAM DAVIS

• Mr. RUBIO. Mr. President, today I recognize Clay McAdam Davis, a summer intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Clay is a senior at the University of Virginia majoring in American studies and minoring in sociology. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Clay for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING ARREN DELATORRE

• Mr. RUBIO. Mr. President, today I recognize Arren Delatorre, a summer intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Arren is a graduate of Sandalwood High School in Jacksonville, FL. Currently she is a sophomore at the University of Florida majoring in advertising. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Arren for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING BILLY DONOVAN

• Mr. RUBIO. Mr. President, today I recognize Billy Donovan, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Billy is a graduate of Saint Francis High School in Gainesville, FL. Currently he is a junior at the University of Florida majoring in political science. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Billy for all the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING LAUREN FIELDS

• Mr. RUBIO. Mr. President, today I recognize Lauren Fields, a summer intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Lauren is a graduate of the Carrollton School of the Sacred Heart in Miami, FL. Currently, she is a junior at Johns Hopkins University majoring in international studies with a concentration in foreign relations. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Lauren for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING HUNTER GAYLOR

• Mr. RUBIO. Mr. President, today I recognize Hunter Gaylor, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Hunter is a graduate of Florida Air Academy in Melbourne, FL. He is a senior at Harvard University majoring in government. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Hunter for all the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING MARY C. GILLIGAN

• Mr. RUBIO. Mr. President, today I recognize Mary Catherine Gilligan, a spring intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Mary Catherine attends The George Washington University where she is majoring in International Affairs with a concentration in conflict resolution. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Mary Catherine for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING RACHEL GROCOCK

• Mr. RUBIO. Mr. President, today I recognize Rachel Grocock, a summer intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Rachel is a graduate of Winter Park High School in Winter Park, FL. Currently she is a junior at Georgetown University majoring in international politics with a concentration in international security. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Rachel for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING CRISTINA HACKLEY

• Mr. RUBIO. Mr. President, today I recognize Cristina Hackley, a summer press intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Cristina is a junior at Georgetown University majoring in international history. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Cristina for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING JAZMIN HERNANDEZ

• Mr. RUBIO. Mr. President, today I recognize Jazmin Hernandez, an intern in my Doral, FL office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Jazmin is a sophomore at the Florida International University in Miami. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Jazmin for all the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING MICHAEL HOFFMAN

• Mr. RUBIO. Mr. President, today I recognize Michael Hoffman, an intern in my Miami, FL office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Michael is a graduate of Stoneman Douglas High School in Parkland, Fl. He received his Bachelor's Degree in political science and international relations from the University of Central Florida in Orlando, FL. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

Michael is a Veteran of the U.S. Navy. He served 3 years in Japan in a F18 squadron and deployed on the USS Kitty Hawk. He then spent 1 year in Afghanistan as an individual Augmentee and as a Combat Master Driver for U.S. Forces. Michael was awarded two Navy and Marines Corps achievement medals and a Joint Service Commendation Medal as well as numerous other campaign medals. Also, in 2006, Michael was honored as Specific Fleet Filler of the Year.

I would like to extend my sincere thanks and appreciation to Michael for all the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING RANDALL JUDT

• Mr. RUBIO. Mr. President, today I recognize Randall Judt, a spring intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Randall is a graduate of Stetson University in Deland, FL, where he majored in political science. He recently graduated from George Mason University with his master's degree in international commerce and policy. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Randall for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING LUKE KILLAM

● Mr. RUBIO. Mr. President, today I recognize Luke Killam, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Luke is a graduate of Northview High School in Century, FL. Currently he is a senior at the University of Florida majoring in civil engineering. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Luke for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING BROOKE McBATH

● Mr. RUBIO. Mr. President, today I recognize Brooke McBath, a spring intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Brooke is a graduate of the University of Miami, where she majored in English and minored in psychology. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Brooke for all the fine work she has done and wish her continued success in the years to come.●

RECOGNIZING CARLOS MORALES

● Mr. RUBIO. Mr. President, today I recognize Carlos Morales, a spring law extern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Carlos is a graduate of Kings High School in Tampa, FL and the University of Florida, where he majored in history. Currently, he is in his third year at the George Washington University Law School. He is a dedicated and diligent worker who has been devoted to getting the most out of his externship experience.

I would like to extend my sincere thanks and appreciation to Carlos for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING STEVE NELSON

● Mr. RUBIO. Mr. President, today I recognize Steve Nelson, a spring intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Steve is a graduate of the United States Military Academy, where he majored in Middle Eastern area studies. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience

I would like to extend my sincere thanks and appreciation to Steve for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING SARAH POTTER

● Mr. RUBIO. Mr. President, today I recognize Sarah Potter, a spring intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Sarah is a junior at the George Washington University majoring in political science and anthropology. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Sarah for all the fine work she has done and wish him continued success in the years to come.●

RECOGNIZING JOANNA RODRIGUEZ

● Mr. RUBIO. Mr. President, today I recognize Joanna Rodriguez, a press intern in my Washington, DC office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Joanna is a graduate of Our Lady of Lourdes Academy in Coral Gables, FL. Currently, she is a junior at The George Washington University majoring in political communications. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Joanna for all the fine work she has done and wish her continued success in the years to come.●

RECOGNIZING SHAWN ROGERS

● Mr. RUBIO. Mr. President, today I recognize Shawn Rogers, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Shawn is a graduate of Durant High School in Plant City, FL. Currently, he is a junior at the United States Military Academy majoring in American politics and minoring in terrorism studies. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Shawn for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING NICHOLAS SCHER

● Mr. RUBIO. Mr. President, today I recognize Nicholas Scher, a summer intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

Nick is a graduate of Christopher Columbus High School in Miami, FL. Currently he is a senior at Florida State University majoring in political science and english with a concentration in literature. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Nick for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING JAMES WILLIAMS

● Mr. RUBIO. Mr. President, today I recognize James Williams, a spring intern in my Washington, DC office, for all of the hard work he has done for me, my staff and the people of the State of Florida.

James is a graduate of Gulliver Preparatory School in Miami, FL. Currently, he is a senior at Catholic University of America majoring in politics and minoring in philosophy and theology. He is a dedicated and diligent worker who has been devoted to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to James for all the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING CASSIE ZABALO

● Mr. RUBIO. Mr. President, today I recognize Cassie Zabalo, an intern in my Doral, FL office, for all of the hard work she has done for me, my staff and the people of the State of Florida.

Cassie is a senior at the Florida International University in Miami, FL majoring in political science with hopes of attending law school. She is a dedicated and diligent worker who has been devoted to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Cassie for all the fine work she has done and wish her continued success in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 9:59 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6079. An act to repeal the Patient Protection and Affordable Care Act and health care-related provisions in the Health Care and Education Reconciliation Act of 2010.

ENROLLED BILL SIGNED

The President pro tempore [Mr. INOUYE] reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 2061. An act to provide for an exchange of land between the Department of Homeland Security and the South Carolina State Ports Authority.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 6079. An act to repeal the Patient Protection and Affordable Care Act and health care-related provisions in the Health Care and Education Reconciliation Act of 2010.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6825. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Azoxystrobin; Pesticide Tolerances'' (FRL No. 9352–2) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6826. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dicloran and Formetanate; Tolerance Actions'' (FRL No. 9353–7) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6827. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide; Pesticide Tolerances'' (FRL No. 9354–1) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6828. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sulfentrazone; Pesticide Tolerances'' (FRL No. 9353–8) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6829. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pasteuria spp. (Rotylenchulus reniformis nematode)—Pr3; Exemption from the Requirement of a Tolerance'' (FRL No. 9353–5) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6830. A communication from the Secretary of Energy, transmitting, pursuant to 42 U.S.C. 2286e, a report entitled ''Department of Energy Activities Relating to the Defense Nuclear Facilities Safety Board Fiscal Year 2011''; to the Committees on Appropriations; and Armed Services.

EC–6831. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting a legislative proposal and accompanying report relative to the National Defense Authorization Act for Fiscal Year 2013; to the Committee on Armed Services.

EC–6832. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits'' (FRL No. 9690–1) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6833. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Chemical Reporting: Revisions to the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II)'' (FRL No. 9674–1) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6834. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard'' (FRL No. 9697–9) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6835. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nonattainment New Source Review; Fine Particulate Matter (PM2.5)'' (FRL No. 9698–2) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6836. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; Gila River Indian Community'' (FRL No. 9698–7) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6837. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State-initiated Changes and Incorporation by Reference of Approved State Hazardous Waste Management Program'' (FRL No. 9694–7) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Environment and Public Works.

EC–6838. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report on the activities of the U.S. Economic Development Administration (EDA), Department of Commerce, for fiscal year 2011; to the Committee on Environment and Public Works.

EC–6839. A communication from the Deputy Director for Policy, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Parts 4022 and 4044) received in the Office of the President of the Senate on June 28, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–6840. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Effective Date of Requirement for Premarket Approval for a Pacemaker Programmer'' (Docket No. FDA–2011–N–0526) received during adjournment of the Senate in the Office of the President of the Senate on July 2, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–6841. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Effective Date of Requirement for Premarket Approval for an Implantable Pacemaker Pulse Generator'' (Docket No. FDA–2011–N–0522) received during adjournment of the Senate in the Office of the President of the Senate on July 2, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–6842. A communication from the Railroad Retirement Board, transmitting, pursuant to law, a report entitled ''Twenty-Fifth Actuarial Valuation of the Assets and Liabilities Under the Railroad Retirement Acts as of December 31, 2010''; to the Committee on Health, Education, Labor, and Pensions.

EC–6843. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Feed Materials Production Center (FMPC) in Fernald, Ohio, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–6844. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Report to Congress on the Aging Services Technology Study''; to the Committee on Health, Education, Labor, and Pensions.

EC–6845. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''Annual Report for 2011 on Disability-Related Air Travel Complaints''; to the Committee on Health, Education, Labor, and Pensions.

EC–6846. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to

the Department of Defense (DoD) plan for complying with the Improper Payments Elimination and Recovery Act (IPERA) of 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6847. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''The Interagency Security Classification Appeals Panel (ISCAP) Bylaws, Rules, and Appeal Procedures'' (RIN3095–AB76) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–6848. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–385, ''Fiscal Year 2013 Budget Support Act of 2012''; to the Committee on Homeland Security and Governmental Affairs.

EC–6849. A communication from the General Counsel of the National Tropical Botanical Garden, transmitting, pursuant to law, a report relative to the Garden not being able to file its audit report within six months of the close of its fiscal year ending December 31, 2011; to the Committee on the Judiciary.

EC–6850. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to applications for delayed-notice search warrants and extensions during fiscal year 2011; to the Committee on the Judiciary.

EC–6851. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''2011 Annual Report of the National Institute of Justice''; to the Committee on the Judiciary.

EC–6852. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Statutory Amendments Requiring the Qualification of Manufacturers and Importers of Processed Tobacco and Other Amendments Related to Permit Requirements, and the Expanded Definition of Roll-Your-Own Tobacco'' (RIN1513–AB72) received during adjournment of the Senate in the Office of the President of the Senate on July 5, 2012; to the Committee on the Judiciary.

EC–6853. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''2011 Wiretap Report''; to the Committee on the Judiciary.

EC–6854. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to Implement Miscellaneous Post Patent Provisions of the Leahy-Smith America Invents Act'' (RIN0651–AC66) received in the Office of the President of the Senate on July 9, 2012; to the Committee on the Judiciary.

EC–6855. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to Implement the Preissuance Submissions by Third Parties Provision of the Leahy-Smith America Invents Act'' (RIN0651–AC67) received in the Office of the President of the Senate on July 9, 2012; to the Committee on the Judiciary.

EC–6856. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Dependency and Indemnity Compensation Payable to a Surviving Spouse with One or More Children Under Age 18'' (RIN2900–AO38) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Veterans' Affairs.

EC–6857. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Dependency and Indemnity Compensation (DIC) Benefits for Survivors of Former Prisoners of War Rated Totally Disabled at Time of Death'' (RIN2900–AO22) received in the Office of the President of the Senate on July 10, 2012; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 2218. A bill to reauthorize the United States Fire Administration, and for other purposes (Rept. No. 112–180).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1409. A bill to intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending (Rept. No. 112–181).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 2554, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2017 (Rept. No. 112–182).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 3902. A bill to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1744. A bill to provide funding for State courts to assess and improve the handling of proceedings relating to adult guardianship and conservatorship, to authorize the Attorney General to carry out a pilot program for the conduct of background checks on individuals to be appointed as guardians or conservators, and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Terrence G. Berg, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Jesus G. Bernal, of California, to be United States District Judge for the Central District of California.

Lorna G. Schofield, of New York, to be United States District Judge for the Southern District of New York.

Danny Chappelle Williams, Sr., of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself and Ms. SNOWE):

S. 3377. A bill to amend the Internal Revenue Code of 1986 to exempt private foundations from the tax on excess business holdings in the case of certain philanthropic enterprises which are independently supervised, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 3378. A bill to establish scientific standards and protocols across forensic disciplines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBERTS (for himself and Mr. ENZI):

S. 3379. A bill to standardize the definition of the term ''small business refiner'' for purposes of laws administered by the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. BLUMENTHAL (for himself, Mr. BEGICH, Mr. ISAKSON, Ms. SNOWE, Mr. RUBIO, and Mr. TESTER):

S. 3380. A bill to provide for the issuance of a Victory for Veterans stamp, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN (for himself, Mr. FRANKEN, Mr. HARKIN, Mr. WHITEHOUSE, and Mr. BROWN of Ohio):

S. 3381. A bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. KYL, Mr. CORNYN, Mr. LEE, Mr. PAUL, and Mr. COBURN):

S. 3382. A bill to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. VITTER (for himself and Mr. SESSIONS):

S. 3383. A bill to reject the final 5-year Outer Continental Shelf Oil and Gas Leasing Program for fiscal years 2012 through 2017 of the Administration and replace the plan with a 5-year plan that is more in line with the energy and economic needs of the United States; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. CONRAD, Mr. TESTER, and Mr. JOHNSON of South Dakota):

S. 3384. A bill to extend supplemental agricultural disaster assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 434

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 434, a bill to improve and expand geographic literacy among kindergarten

through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 971

At the request of Mr. WYDEN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 971, a bill to promote neutrality, simplicity, and fairness in the taxation of digital goods and digital services.

S. 1385

At the request of Mr. VITTER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1385, a bill to terminate the $1 presidential coin program.

S. 1744

At the request of Ms. KLOBUCHAR, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1744, a bill to provide funding for State courts to assess and improve the handling of proceedings relating to adult guardianship and conservatorship, to authorize the Attorney General to carry out a pilot program for the conduct of background checks on individuals to be appointed as guardians or conservators, and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons.

S. 1832

At the request of Mr. ENZI, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. AKAKA), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Minnesota (Mr. FRANKEN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1832, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 2374

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 2374, a bill to amend the Helium Act to ensure the expedient and responsible draw-down of the Federal Helium Reserve in a manner that protects the interests of private industry, the scientific, medical, and industrial communities, commercial users, and Federal agencies, and for other purposes.

S. 3204

At the request of Mr. JOHANNS, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3204, a bill to address fee disclosure requirements under the Electronic Fund Transfer Act, and for other purposes.

S. 3237

At the request of Mr. WHITEHOUSE, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 3237, a bill to provide for the establishment of a Commission to Accelerate the End of Breast Cancer.

S. 3252

At the request of Mr. PORTMAN, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. KOHL) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 3252, a bill to provide for the award of a gold medal on behalf of Congress to Jack Nicklaus, in recognition of his service to the Nation in promoting excellence, good sportsmanship, and philanthropy.

S. 3286

At the request of Mrs. MCCASKILL, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 3286, a bill to enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, and for other purposes.

S. 3319

At the request of Ms. KLOBUCHAR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3319, a bill to amend the National Trails System Act to revise the route of the North Country National Scenic Trail in northeastern Minnesota to include existing hiking trails along the north shore of Lake Superior, in the Superior National Forest, and in the Chippewa National Forest, and for other purposes.

S. 3323

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 3323, a bill to amend the Servicemembers Civil Relief Act to improve the protections for servicemembers against mortgage foreclosures, and for other purposes.

S. 3326

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3326, a bill to amend the African Growth and Opportunity Act to extend the third-country fabric program and to add South Sudan to the list of countries eligible for designation under that Act, to make technical corrections to the Harmonized Tariff Schedule of the United States relating to the textile and apparel rules of origin for the Dominican Republic-Central America-United States Free Trade Agreement, to approve the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. 3372

At the request of Mr. WEBB, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3372, a bill to amend section 704 of title 18, United States Code.

S.J. RES. 43

At the request of Mr. JOHANNS, his name was added as a cosponsor of S.J. Res. 43, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S.J. Res. 43, supra.

S.J. RES. 45

At the request of Mrs. HUTCHISON, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S.J. Res. 45, a joint resolution amending title 36, United States Code, to designate June 19 as ''Juneteenth Independence Day''.

S. CON. RES. 48

At the request of Mr. LEAHY, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Pennsylvania (Mr. TOOMEY) were added as cosponsors of S. Con. Res. 48, a concurrent resolution recognizing 375 years of service of the National Guard and affirming congressional support for a permanent Operational Reserve as a component of the Armed Forces.

S. CON. RES. 50

At the request of Mr. RUBIO, the names of the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Kansas (Mr. ROBERTS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. Con. Res. 50, a concurrent resolution expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived.

AMENDMENT NO. 2492

At the request of Mrs. HUTCHISON, the names of the Senator from Arkansas (Mr. BOOZMAN), the Senator from Oklahoma (Mr. COBURN), the Senator from North Carolina (Mr. BURR) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of amendment No. 2492 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2493

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 2493 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2499

At the request of Mr. CRAPO, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 2499 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2514

At the request of Mr. THUNE, the name of the Senator from Arizona (Mr. KYL) was withdrawn as a cosponsor of amendment No. 2514 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2516

At the request of Mr. FRANKEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 2516 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2518

At the request of Mr. THUNE, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from Arizona (Mr. KYL) were added as cosponsors of amendment No. 2518 intended to be proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

AMENDMENT NO. 2521

At the request of Ms. LANDRIEU, the names of the Senator from Delaware (Mr. COONS) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 2521 proposed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 3378. A bill to establish scientific standards and protocols across forensic disciplines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, the criminal justice system relies on forensic science to identify and prosecute criminals and exonerate the falsely accused. But in a pathbreaking 2009 report to Congress, the National Academy of Sciences found that the interpretation of forensic evidence is severely compromised by the lack of supporting science and standards. They concluded, ''The bottom line is simple: In a number of forensic science disciplines, forensic science professionals have yet to establish either the validity of their approach or the accuracy of their conclusions, and the courts have been utterly ineffective in addressing this problem.''

In a series of recent articles, the Washington Post reported on flawed forensic work that may be responsible for the wrongful convictions in thousands of criminal cases. An April Post editorial urged the Justice Department to conduct a full review of all cases that ended in conviction, and a July 11 story reports that the Justice Department and the FBI have now launched such a review. The National Academy of Sciences, the Washington Post, the Innocence Project, and the National Association of Criminal Defense Lawyers, among others, have all called for strengthened forensic science and standards.

The Forensic Science and Standards Act of 2012 responds to this call by promoting research. The bill would establish a National Forensic Science Coordinating Office, housed at the National Science Foundation, NSF, to develop a research strategy and roadmap and to support the implementation of that roadmap across relevant Federal agencies.

NSF would establish a forensic science grant program to award funding in areas specifically identified by the research strategy. NSF would be directed to award two grants to create forensic science research centers to conduct research, build relationships with forensic practitioners, and educate students. All agencies with equities in forensic science would be encouraged to use prizes and challenges to stimulate innovative and creative solutions to satisfy the research needs and priorities identified in the research strategy.

The bill requires standard development. The National Institute of Standards and Technology, NIST, would be directed to develop forensic science standards, in consultation with standards development organizations and other stakeholders. NIST could establish and solicit advice from discipline-specific expert working groups to identify standards development priorities and opportunities.

The bill requires implementing uniform standards. To advise on the application of the new standards, a Forensic Science Advisory Committee chaired by the Director of NIST and the Attorney General would be established. The Advisory Committee, composed of research scientists, forensic science practitioners, and users from the legal and law enforcement communities, would make recommendations to the Attorney General on adoption of standards. The Attorney General would direct the standards' implementation in Federal forensic science laboratories and would encourage adoption in non-Federal laboratories as a condition of Federal funding or for inclusion in national databases.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Forensic Science and Standards Act of 2012''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. National forensic science research program.
Sec. 5. Forensic science research grants program.
Sec. 6. Forensic science research challenges.
Sec. 7. Forensic science standards.
Sec. 8. Forensic science advisory committee.
Sec. 9. Adoption, accreditation, and certification.
Sec. 10. National Institute of Standards and Technology functions.

SEC. 2. FINDINGS.

Congress finds that—

(1) at the direction of Congress, the National Academy of Sciences led a comprehensive review of the state of forensic science and issued its findings in a 2009 report, ''Strengthening Forensic Science in the United States: A Path Forward'';

(2) the report's findings indicate the need for independent scientific research to support the foundation of forensic disciplines;

(3) the report stresses the need for standards in methods, data interpretation, and reporting, and the importance of preventing cognitive bias and mitigating human factors; and

(4) according to the report, forensic science research is not financially well supported, and there is a need for a unified strategy for developing a forensic science research plan across Federal agencies.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Forensic Science Advisory Committee established under section 8.

(2) COORDINATING OFFICE.—The term ''Coordinating Office'' means the National Forensic Science Coordinating Office established under section 4.

(3) FORENSIC SCIENCE.—

(A) IN GENERAL.—The term ''forensic science'' means the basic and applied scientific research applicable to the collection, evaluation, and analysis of physical evidence, including digital evidence, for use in investigations and legal proceedings, including all tests, methods, measurements, and procedures.

(B) APPLIED SCIENTIFIC RESEARCH.—In subparagraph (A), the term ''applied scientific research'' means a systematic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met.

(C) BASIC SCIENTIFIC RESEARCH.—In subparagraph (A), the term ''basic scientific research'' means a systematic study directed toward fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications towards processes or products.

(4) STANDARDS DEVELOPMENT ORGANIZATION.—The term ''standards development organization'' means a domestic or an international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate openness, a balance of interests, consensus, due process, and an appeals process.

SEC. 4. NATIONAL FORENSIC SCIENCE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—There shall be a national forensic science research program to improve, expand, and coordinate Federal research in the forensic sciences.

(b) NATIONAL ACADEMY OF SCIENCES REPORT ON FORENSIC SCIENCE.—The Director of the National Science Foundation shall contract

with the National Academy of Sciences to develop, not later than 180 days after the date of enactment of this Act, a report that—

(1) identifies the most critical forensic science disciplines, which may include forensic pathology and digital forensics, that require further research to strengthen the scientific foundation in those disciplines; and

(2) makes recommendations regarding research that will help strengthen the scientific foundation in the forensic science disciplines identified under paragraph (1).

(c) NATIONAL FORENSIC SCIENCE COORDINATING OFFICE.—

(1) ESTABLISHMENT.—There is established a National Forensic Science Coordinating Office, with a director and full time staff, to be located at the National Science Foundation. The Director of the Coordinating Office shall be responsible for carrying out the provisions of this subsection.

(2) UNIFIED FEDERAL RESEARCH STRATEGY.—The Coordinating Office established under paragraph (1) shall coordinate among relevant Federal departments, agencies, or offices—

(A) the development of a unified Federal research strategy that—

(i) specifies and prioritizes the research necessary to enhance the validity and reliability of the forensic science disciplines; and

(ii) is consistent with the recommendations in the National Academy of Sciences report on forensic science under subsection (b);

(B) the development of a 5-year roadmap, updated triennially thereafter, for the unified Federal research strategy under subparagraph (A) that includes a description of—

(i) which department, agency, or office will carry out each specific element of the unified Federal research strategy;

(ii) short-term and long-term priorities and objectives; and

(iii) common metrics and other evaluation criteria that will be used to assess progress toward achieving the priorities and objectives under clause (ii); and

(C) any necessary programs, policies, and budgets to support the implementation of the roadmap under subparagraph (B).

(3) ADDITIONAL DUTIES.—The Coordinating Office shall—

(A) evaluate annually the national forensic science research program to determine whether it is achieving its objectives; and

(B) report annually to Congress the findings under subparagraph (A).

(4) DEADLINES.—The Coordinating Office shall submit to Congress—

(A) not later than 1 year after the date of enactment of this Act, the unified Federal research strategy under paragraph (2)(A);

(B) not later than 1 year after the date of enactment of this Act, the initial 5-year roadmap under paragraph (2)(B); and

(C) not later than 1 month after the date it is updated, each updated 5-year roadmap under paragraph (2)(B).

SEC. 5. FORENSIC SCIENCE RESEARCH GRANTS PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the National Science Foundation shall establish a forensic science research grants program to improve the foundation and practice of forensic science in the United States based on the recommendations in the unified Federal research strategy under section 4.

(b) MERIT REVIEW.—Each grant under this section shall be awarded on a merit-reviewed, competitive basis.

(c) PUBLICATION.—The National Science Foundation shall support, as appropriate, the publication of research results under this section in scholarly, peer-reviewed scientific journals.

(d) FORENSIC SCIENCE RESEARCH CENTERS.—

(1) IN GENERAL.—As part of the forensic science research grants program under subsection (a), the Director of the National Science Foundation shall establish 2 forensic science research centers—

(A) to conduct research consistent with the unified Federal research strategy under section 4;

(B) to build relationships between forensic science practitioners and members of the research community;

(C) to encourage and promote the education and training of a diverse group of people to be leaders in the interdisciplinary field of forensic science; and

(D) to broadly disseminate the results of the research under subparagraph (A).

(2) TERMS OF DESIGNATION.—

(A) IN GENERAL.—The Director shall designate each forensic science research center for a 4-year term.

(B) REVOCATION.—The Director may revoke a designation under subparagraph (A) if the Director determines that the forensic science research center is not demonstrating adequate performance.

(C) AMOUNT OF AWARD.—Subject to subsection (f), the Director shall award a grant up to $10,000,000 to each forensic science research center. A grant awarded under this subparagraph shall be for a period of 4 years.

(D) LIMITATION ON USE OF FUNDS.—No funds authorized under this section may be used to construct or renovate a building or structure.

(3) REPORTS.—Each forensic science research center shall submit an annual report to the Director, at such time and in such manner as the Director may require, that contains a description of the activities the center carried out with the funds received under this subsection, including a description of how those activities satisfy the requirement under paragraph (2)(D).

(e) EVALUATION.—

(1) IN GENERAL.—The Director of the National Science Foundation shall conduct a comprehensive evaluation of the forensic science research grants program every 4 years—

(A) to determine whether the program is achieving the objectives of improving the foundation and practice of forensic science in the United States; and

(B) to evaluate the extent to which the program is contributing toward the priorities and objectives described in the roadmap under section 4(c)(2)(B).

(2) REPORT TO CONGRESS.—The Director of the National Science Foundation shall report to Congress the results of each comprehensive evaluation under paragraph (1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this section—

(1) $34,000,000 for fiscal year 2013;

(2) $37,000,000 for fiscal year 2014;

(3) $40,000,000 for fiscal year 2015;

(4) $43,000,000 for fiscal year 2016; and

(5) $46,000,000 for fiscal year 2017.

SEC. 6. FORENSIC SCIENCE RESEARCH CHALLENGES.

(a) PRIZES AND CHALLENGES.—

(1) IN GENERAL.—A Federal department, agency, or office may assist in satisfying the research needs and priorities identified in the unified Federal research strategy under section 4 by using prizes and challenges under the America COMPETES Reauthorization Act (124 Stat. 3982) or under any other provision of law, as appropriate.

(2) PURPOSES.—The purpose of a prize or challenge under this section, among other possible purposes, may be—

(A) to determine or develop the best data collection practices or analytical methods to evaluate a specific type of forensic data; or

(B) to determine the accuracy of an analytical method.

(b) FORENSIC EVIDENCE PRIZES AND CHALLENGES.—

(1) IN GENERAL.—A Federal department, agency, or office, or multiple Federal departments, agencies, or offices in cooperation, carrying out a prize or challenge under this section—

(A) may establish a prize advisory board; and

(B) shall select each member of the prize advisory board with input from relevant Federal departments, agencies, or offices.

(2) PRIZE ADVISORY BOARD.—The prize advisory board shall—

(A) identify 1 or more types of forensic evidence for purposes of a prize or challenge;

(B) using the samples under paragraph (3), recommend how to structure a prize or challenge that requires a competitor to develop a forensic data collection practice, an analytical method, or a relevant approach or technology to be tested relative to a known outcome or other proposed judging methodology; and

(C) through the Coordinating Office, advise relevant Federal departments, agencies, or offices in designing prizes or challenges that satisfy the research needs and priorities identified in the unified Federal research strategy under section 4.

(3) SAMPLES.—The National Institute of Standards and Technology or the Department of Justice shall provide or contract with a non-Federal party to prepare, for each type of forensic evidence under paragraph (2)(A), a sufficient set of samples, including associated digital data that could be shared without limitation and physical specimens that could be shared with qualified parties, for purposes of a prize or challenge.

(4) FINGERPRINT DATA INTEROPERABILITY.—At least 1 prize or challenge under this section shall be focused on achieving nationwide fingerprint data interoperability if the prize advisory board, the Coordinating Office, or a Federal department, agency, or office identifies an area where a prize or challenge will assist in satisfying a strategy related to this issue.

SEC. 7. FORENSIC SCIENCE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The National Institute of Standards and Technology shall—

(A) identify or coordinate the development of forensic science standards to enhance the validity and reliability of forensic science activities, including—

(i) authoritative methods, standards, and technical guidance, including protocols and best practices, for forensic measurements, analysis, and interpretation;

(ii) technical standards for products and services used by forensic science practitioners;

(iii) standard content, terminology, and parameters to be used in reporting and testifying on the results and interpretation of forensic science measurements, tests, and procedures; and

(iv) standards to provide for the interoperability of forensic science-related technology and databases;

(B) test and validate existing forensics standards, as appropriate; and

(C) provide independent validation of forensic science measurements and methods.

(2) CONSULTATION.—

(A) IN GENERAL.—In carrying out its responsibilities under paragraph (1), the National Institute of Standards and Technology shall consult with—

(i) standards development organizations and other stakeholders, including relevant

Federal departments, agencies, and offices; and

(ii) testing laboratories and accreditation bodies to ensure that products and services meet necessary performance levels.

(3) PRIORITIZATION.—When prioritizing its responsibilities under paragraph (1), the National Institute of Standards and Technology shall consider—

(A) the unified Federal research strategy under section 4; and

(B) the recommendations of any expert working group under subsection (b).

(4) REPORT TO CONGRESS.—The Director of the National Institute of Standards and Technology shall report annually, with the President's budget request, to Congress on the progress in carrying out the National Institute of Standards and Technology's responsibilities under paragraph (1).

(b) EXPERT WORKING GROUPS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology may establish 1 or more discipline-specific expert working groups to identify gaps, areas of need, and opportunities for standards development with respect to forensic science.

(2) MEMBERS.—A member of an expert working group shall—

(A) be appointed by the Director of the National Institute of Standards and Technology;

(B) have significant academic, research, or practical expertise in a discipline of forensic science or in another area relevant to the purpose of the expert working group; and

(C) balance scientific rigor with practical and regulatory constraints.

(3) FEDERAL ADVISORY COMMITTEE ACT.—An expert working group established under this subsection shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Institute of Standards and Technology to carry out this section—

(1) $5,000,000 for fiscal year 2013;

(2) $12,000,000 for fiscal year 2014;

(3) $20,000,000 for fiscal year 2015;

(4) $27,000,000 for fiscal year 2016; and

(5) $35,000,000 for fiscal year 2017.

SEC. 8. FORENSIC SCIENCE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the National Institute of Standards and Technology and the Attorney General, in collaboration with the Director of the National Science Foundation, shall establish a Forensic Science Advisory Committee.

(b) DUTIES.—The Advisory Committee shall provide advice to—

(1) the Federal departments, agencies, and offices implementing the unified Federal research strategy under section 4;

(2) the National Institute of Standards and Technology, including recommendations regarding the National Institute of Standards and Technology's responsibilities under section 7; and

(3) the Department of Justice, including recommendations regarding the Department of Justice's responsibilities under section 9.

(c) SUBCOMMITTEES.—The Advisory Committee may form subcommittees related to specific disciplines in forensic science or as necessary to further its duties under subsection (b). A subcommittee may include an individual who is not a member of the Advisory Committee.

(d) CHAIRS.—The Director of the National Institute of Standards and Technology and the Attorney General, or their designees, shall co-chair the Advisory Committee.

(e) MEMBERSHIP.—The Director of the National Institute of Standards and Technology and the Attorney General, in consultation with the Director of the National Science Foundation, shall appoint each member of the Advisory Committee. The Advisory Committee shall include balanced representation between forensic science disciplines (including academic scientists, statisticians, social scientists, engineers, and representatives of other related scientific disciplines) and relevant forensic science applications (including Federal, State, and local representatives of the forensic science community, the legal community, victim advocate organizations, and law enforcement).

(f) ADMINISTRATION.—The Attorney General shall provide administrative support to the Advisory Committee.

(g) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee established under this section shall not be subject to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. ADOPTION, ACCREDITATION, AND CERTIFICATION.

The Attorney General—

(1) shall promote the adoption of forensic science standards developed under section 7, including—

(A) by requiring each Federal forensic laboratory to adopt the forensic science standards;

(B) by encouraging each non-Federal forensic laboratory to adopt the forensic science standards;

(C) by promoting accreditation and certification requirements based on the forensic science standards; and

(D) by promoting any recommendations made by the Advisory Committee for adoption and implementation of forensic science standards; and

(2) may promote the adoption of the forensic science standards as a condition of Federal funding or for inclusion in national data sets.

SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY FUNCTIONS.

Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) in paragraph (12), by striking ''and'' after the semicolon;

(2) in paragraph (13), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(14) to identify and coordinate the development of forensic science standards to enhance the validity and reliability of forensic science activities.''.

By Mr. DURBIN (for himself, Mr. FRANKEN, Mr. HARKIN, Mr. WHITEHOUSE, and Mr. BROWN of Ohio):

S. 3381. A bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Protecting Employees and Retirees in Business Bankruptcies Act of 2012''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

Sec. 101. Increased wage priority.
Sec. 102. Claim for stock value losses in defined contribution plans.
Sec. 103. Priority for severance pay.
Sec. 104. Financial returns for employees and retirees.
Sec. 105. Priority for WARN Act damages.

TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

Sec. 201. Rejection of collective bargaining agreements.
Sec. 202. Payment of insurance benefits to retired employees.
Sec. 203. Protection of employee benefits in a sale of assets.
Sec. 204. Claim for pension losses.
Sec. 205. Payments by secured lender.
Sec. 206. Preservation of jobs and benefits.
Sec. 207. Termination of exclusivity.
Sec. 208. Claim for withdrawal liability.

TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

Sec. 301. Executive compensation upon exit from bankruptcy.
Sec. 302. Limitations on executive compensation enhancements.
Sec. 303. Assumption of executive benefit plans.
Sec. 304. Recovery of executive compensation.
Sec. 305. Preferential compensation transfer.

TITLE IV—OTHER PROVISIONS

Sec. 401. Union proof of claim.
Sec. 402. Exception from automatic stay.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Business bankruptcies have increased sharply in recent years and remain at high levels. These bankruptcies include several of the largest business bankruptcy filings in history. As the use of bankruptcy has expanded, job preservation and retirement security are placed at greater risk.

(2) Laws enacted to improve recoveries for employees and retirees and limit their losses in bankruptcy cases have not kept pace with the increasing and broader use of bankruptcy by businesses in all sectors of the economy. However, while protections for employees and retirees in bankruptcy cases have eroded, management compensation plans devised for those in charge of troubled businesses have become more prevalent and are escaping adequate scrutiny.

(3) Changes in the law regarding these matters are urgently needed as bankruptcy is used to address increasingly more complex and diverse conditions affecting troubled businesses and industries.

TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

SEC. 101. INCREASED WAGE PRIORITY.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) by striking ''$10,000'' and inserting ''$20,000'';

(B) by striking ''within 180 days''; and

(C) by striking ''or the date of the cessation of the debtor's business, whichever occurs first,'';

(2) in paragraph (5)(A), by striking—

(A) ''within 180 days''; and

(B) ''or the date of the cessation of the debtor's business, whichever occurs first''; and

(3) in paragraph (5), by striking subparagraph (B) and inserting the following:

''(B) for each such plan, to the extent of the number of employees covered by each such plan, multiplied by $20,000.''.

SEC. 102. CLAIM FOR STOCK VALUE LOSSES IN DEFINED CONTRIBUTION PLANS.

Section 101(5) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34))) for the benefit of an individual who is not an insider, a senior executive officer, or any of the 20 next most highly compensated employees of the debtor (if 1 or more are not insiders), if such securities were attributable to either employer contributions by the debtor or an affiliate of the debtor, or elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon, if an employer or plan sponsor who has commenced a case under this title has committed fraud with respect to such plan or has otherwise breached a duty to the participant that has proximately caused the loss of value.''.

SEC. 103. PRIORITY FOR SEVERANCE PAY.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''and'' at the end;

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(10) severance pay owed to employees of the debtor (other than to an insider, other senior management, or a consultant retained to provide services to the debtor), under a plan, program, or policy generally applicable to employees of the debtor (but not under an individual contract of employment), or owed pursuant to a collective bargaining agreement, for layoff or termination on or after the date of the filing of the petition, which pay shall be deemed earned in full upon such layoff or termination of employment; and''.

SEC. 104. FINANCIAL RETURNS FOR EMPLOYEES AND RETIREES.

Section 1129(a) of title 11, United States Code is amended—

(1) by adding at the end the following:

''(17) The plan provides for recovery of damages payable for the rejection of a collective bargaining agreement, or for other financial returns as negotiated by the debtor and the authorized representative under section 1113 (to the extent that such returns are paid under, rather than outside of, a plan).''; and

(2) by striking paragraph (13) and inserting the following:

''(13) With respect to retiree benefits, as that term is defined in section 1114(a), the plan—

''(A) provides for the continuation after its effective date of payment of all retiree benefits at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 at any time before the date of confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits, or if no modifications are made before confirmation of the plan, the continuation of all such retiree benefits maintained or established in whole or in part by the debtor before the date of the filing of the petition; and

''(B) provides for recovery of claims arising from the modification of retiree benefits or for other financial returns, as negotiated by the debtor and the authorized representative (to the extent that such returns are paid under, rather than outside of, a plan).''.

SEC. 105. PRIORITY FOR WARN ACT DAMAGES.

Section 503(b)(1)(A)(ii) of title 11, United States Code is amended to read as follows:

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay or damages attributable to any period of time occurring after the date of commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which the award is based or to whether any services were rendered on or after the commencement of the case, including an award by a court under section 2901 of title 29, United States Code, of up to 60 days' pay and benefits following a layoff that occurred or commenced at a time when such award period includes a period on or after the commencement of the case, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case under this title.''.

TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

SEC. 201. REJECTION OF COLLECTIVE BARGAINING AGREEMENTS.

Section 1113 of title 11, United States Code, is amended by striking subsections (a) through (f) and inserting the following:

''(a) The debtor in possession, or the trustee if one has been appointed under this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may reject a collective bargaining agreement only in accordance with this section. Hereinafter in this section, a reference to the trustee includes a reference to the debtor in possession.

''(b) No provision of this title shall be construed to permit the trustee to unilaterally terminate or alter any provision of a collective bargaining agreement before complying with this section. The trustee shall timely pay all monetary obligations arising under the terms of the collective bargaining agreement. Any such payment required to be made before a plan confirmed under section 1129 is effective has the status of an allowed administrative expense under section 503.

''(c)(1) If the trustee seeks modification of a collective bargaining agreement, then the trustee shall provide notice to the labor organization representing the employees covered by the agreement that modifications are being proposed under this section, and shall promptly provide an initial proposal for modifications to the agreement. Thereafter, the trustee shall confer in good faith with the labor organization, at reasonable times and for a reasonable period in light of the complexity of the case, in attempting to reach mutually acceptable modifications of such agreement.

''(2) The initial proposal and subsequent proposals by the trustee for modification of a collective bargaining agreement shall be based upon a business plan for the reorganization of the debtor, and shall reflect the most complete and reliable information available. The trustee shall provide to the labor organization all information that is relevant for negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the labor organization to evaluate the trustee's proposals and any application for rejection of the agreement or for interim relief pursuant to this section.

''(3) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications designed to achieve a specified aggregate financial contribution for the employees covered by the agreement (taking into consideration any labor cost savings negotiated within the 12-month period before the filing of the petition), and shall be not more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the employees covered by the agreement, either in the amount of the cost savings sought from such employees or the nature of the modifications.

''(d)(1) If, after a period of negotiations, the trustee and the labor organization have not reached an agreement over mutually satisfactory modifications, and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking rejection of the collective bargaining agreement after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the labor organization representing the employees covered by the agreement. Only the debtor and the labor organization may appear and be heard at such hearing. An application for rejection shall seek rejection effective upon the entry of an order granting the relief.

''(2) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, the court may grant a motion seeking rejection of a collective bargaining agreement only if, based on clear and convincing evidence—

''(A) the court finds that the trustee has complied with the requirements of subsection (c);

''(B) the court has considered alternative proposals by the labor organization and has concluded that such proposals do not meet the requirements of paragraph (3)(B) of subsection (c);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the labor organization are not likely to produce an agreement;

''(D) the court finds that implementation of the trustee's proposal shall not—

''(i) cause a material diminution in the purchasing power of the employees covered by the agreement;

''(ii) adversely affect the ability of the debtor to retain an experienced and qualified workforce; or

''(iii) impair the debtor's labor relations such that the ability to achieve a feasible reorganization would be compromised; and

''(E) the court concludes that rejection of the agreement and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term.

''(3) If the trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented

within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subsection (c)(3)(C).

''(4) In no case shall the court enter an order rejecting a collective bargaining agreement that would result in modifications to a level lower than the level proposed by the trustee in the proposal found by the court to have complied with the requirements of this section.

''(5) At any time after the date on which an order rejecting a collective bargaining agreement is entered, or in the case of an agreement entered into between the trustee and the labor organization providing mutually satisfactory modifications, at any time after such agreement has been entered into, the labor organization may apply to the court for an order seeking an increase in the level of wages or benefits, or relief from working conditions, based upon changed circumstances. The court shall grant the request only if the increase or other relief is not inconsistent with the standard set forth in paragraph (2)(E).

''(e) During a period in which a collective bargaining agreement at issue under this section continues in effect, and if essential to the continuation of the debtor's business or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by the collective bargaining agreement. Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee. The implementation of such interim changes shall not render the application for rejection moot.

''(f) Rejection of a collective bargaining agreement constitutes a breach of the agreement, and shall be effective no earlier than the entry of an order granting such relief. Notwithstanding the foregoing, solely for purposes of determining and allowing a claim arising from the rejection of a collective bargaining agreement, rejection shall be treated as rejection of an executory contract under section 365(g) and shall be allowed or disallowed in accordance with section 502(g)(1). No claim for rejection damages shall be limited by section 502(b)(7). Economic self-help by a labor organization shall be permitted upon a court order granting a motion to reject a collective bargaining agreement under subsection (d) or pursuant to subsection (e), and no provision of this title or of any other provision of Federal or State law may be construed to the contrary.

''(g) The trustee shall provide for the reasonable fees and costs incurred by a labor organization under this section, upon request and after notice and a hearing.

''(h) A collective bargaining agreement that is assumed shall be assumed in accordance with section 365.''.

SEC. 202. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting '', whether or not the debtor asserts a right to unilaterally modify such payments under such plan, fund, or program'' before the period at the end;

(2) in subsection (b)(2), by inserting after ''section'' the following: '', and a labor organization serving as the authorized representative under subsection (c)(1),'';

(3) in subsection (f), by striking ''(f)'' and all that follows through paragraph (2) and inserting the following:

''(f)(1) If a trustee seeks modification of retiree benefits, then the trustee shall provide a notice to the authorized representative that modifications are being proposed pursuant to this section, and shall promptly provide an initial proposal. Thereafter, the trustee shall confer in good faith with the authorized representative at reasonable times and for a reasonable period in light of the complexity of the case in attempting to reach mutually satisfactory modifications.

''(2) The initial proposal and subsequent proposals by the trustee shall be based upon a business plan for the reorganization of the debtor and shall reflect the most complete and reliable information available. The trustee shall provide to the authorized representative all information that is relevant for the negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the authorized representative to evaluate the trustee's proposals and an application pursuant to subsection (g) or (h).

''(3) Modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications that are designed to achieve a specified aggregate financial contribution for the retiree group represented by the authorized representative (taking into consideration any cost savings implemented within the 12-month period before the date of filing of the petition with respect to the retiree group), and shall be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the retiree group, either in the amount of the cost savings sought from such group or the nature of the modifications.'';

(4) in subsection (g)—

(A) by striking ''(g)'' and all that follows through the semicolon at the end of paragraph (3) and inserting the following:

''(g)(1) If, after a period of negotiations, the trustee and the authorized representative have not reached agreement over mutually satisfactory modifications and further negotiations are not likely to produce mutually satisfactory modifications, then the trustee may file a motion seeking modifications in the payment of retiree benefits after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the authorized representative. Only the debtor and the authorized representative may appear and be heard at such hearing.

''(2) The court may grant a motion to modify the payment of retiree benefits only if, based on clear and convincing evidence—

''(A) the court finds that the trustee has complied with the requirements of subsection (f);

''(B) the court has considered alternative proposals by the authorized representative and has determined that such proposals do not meet the requirements of subsection (f)(3)(B);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the authorized representative are not likely to produce a mutually satisfactory agreement;

''(D) the court finds that implementation of the proposal shall not cause irreparable harm to the affected retirees; and

''(E) the court concludes that an order granting the motion and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or a successor to the debtor) in the short term.

''(3) If a trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly-compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subparagraph (f)(3)(C).''; and

(B) by striking ''except that in no case'' and inserting the following:

''(4) In no case''; and

(5) by striking subsection (k) and redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

SEC. 203. PROTECTION OF EMPLOYEE BENEFITS IN A SALE OF ASSETS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) In approving a sale under this subsection, the court shall consider the extent to which a bidder has offered to maintain existing jobs, preserve terms and conditions of employment, and assume or match pension and retiree health benefit obligations in determining whether an offer constitutes the highest or best offer for such property.''.

SEC. 204. CLAIM FOR PENSION LOSSES.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(l) The court shall allow a claim asserted by an active or retired participant, or by a labor organization representing such participants, in a defined benefit plan terminated under section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, for any shortfall in pension benefits accrued as of the effective date of the termination of such pension plan as a result of the termination of the plan and limitations upon the payment of benefits imposed pursuant to section 4022 of such Act, notwithstanding any claim asserted and collected by the Pension Benefit Guaranty Corporation with respect to such termination.

''(m) The court shall allow a claim of a kind described in section 101(5)(C) by an active or retired participant in a defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34))), or by a labor organization representing such participants. The amount of such claim shall be measured by the market value of the stock at the time of contribution to, or purchase by, the plan and the value as of the commencement of the case.''.

SEC. 205. PAYMENTS BY SECURED LENDER.

Section 506(c) of title 11, United States Code, is amended by adding at the end the following: ''If employees have not received wages, accrued vacation, severance, or other benefits owed under the policies and practices of the debtor, or pursuant to the terms of a collective bargaining agreement, for services rendered on and after the date of the commencement of the case, then such unpaid obligations shall be deemed necessary costs and expenses of preserving, or disposing of, property securing an allowed secured claim and shall be recovered even if the trustee has otherwise waived the provisions of this subsection under an agreement with the holder of the allowed secured claim or a successor or predecessor in interest.''.

SEC. 206. PRESERVATION OF JOBS AND BENEFITS.

Title 11, United States Code, is amended—

(1) by inserting before section 1101 the following:

"SEC. 1100. STATEMENT OF PURPOSE.

''A debtor commencing a case under this chapter shall have as its principal purpose the reorganization of its business to preserve going concern value to the maximum extent possible through the productive use of its assets and the preservation of jobs that will sustain productive economic activity.'';

(2) in section 1129(a), as amended by section 104, by adding at the end the following:

''(18) The debtor has demonstrated that the reorganization preserves going concern value to the maximum extent possible through the productive use of the debtor's assets and preserves jobs that sustain productive economic activity.'';

(3) in section 1129(c), by striking the last sentence and inserting the following: ''If the requirements of subsections (a) and (b) are met with respect to more than 1 plan, the court shall, in determining which plan to confirm—

''(1) consider the extent to which each plan would preserve going concern value through the productive use of the debtor's assets and the preservation of jobs that sustain productive economic activity; and

''(2) confirm the plan that better serves such interests.

A plan that incorporates the terms of a settlement with a labor organization representing employees of the debtor shall presumptively constitute the plan that satisfies this subsection.''; and

(4) in the table of sections for chapter 11, by inserting the following before the item relating to section 1101:

''1100. Statement of purpose.''.

SEC. 207. TERMINATION OF EXCLUSIVITY.

Section 1121(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) For purposes of this subsection, cause for reducing the 120-day period or the 180-day period includes the following:

''(A) The filing of a motion pursuant to section 1113 seeking rejection of a collective bargaining agreement if a plan based upon an alternative proposal by the labor organization is reasonably likely to be confirmed within a reasonable time.

''(B) The proposed filing of a plan by a proponent other than the debtor, which incorporates the terms of a settlement with a labor organization if such plan is reasonably likely to be confirmed within a reasonable time.''.

SEC. 208. CLAIM FOR WITHDRAWAL LIABILITY.

Section 503(b) of title 11, United States Code, as amended by section 103 of this Act, is amended by adding at the end the following:

''(11) with respect to withdrawal liability owed to a multiemployer pension plan for a complete or partial withdrawal pursuant to section 4201 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381) where such withdrawal occurs on or after the commencement of the case, an amount equal to the amount of vested benefits payable from such pension plan that accrued as a result of employees' services rendered to the debtor during the period beginning on the date of commencement of the case and ending on the date of the withdrawal from the plan.''.

TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

SEC. 301. EXECUTIVE COMPENSATION UPON EXIT FROM BANKRUPTCY.

Section 1129(a) of title 11, United States Code, is amended—

(1) in paragraph (4), by adding at the end the following: ''Except for compensation subject to review under paragraph (5), payments or other distributions under the plan to or for the benefit of insiders, senior executive officers, and any of the 20 next most highly compensated employees or consultants providing services to the debtor, shall not be approved except as part of a program of payments or distributions generally applicable to employees of the debtor, and only to the extent that the court determines that such payments are not excessive or disproportionate compared to distributions to the debtor's nonmanagement workforce.''; and

(2) in paragraph (5)—

(A) in subparagraph (A)(ii), by striking ''and'' at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting the following: ''; and

''(C) the compensation disclosed pursuant to subparagraph (B) has been approved by, or is subject to the approval of, the court as reasonable when compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 302. LIMITATIONS ON EXECUTIVE COMPENSATION ENHANCEMENTS.

Section 503(c) of title 11, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting '', a senior executive officer, or any of the 20 next most highly compensated employees or consultants'' after ''an insider'';

(B) by inserting ''or for the payment of performance or incentive compensation, or a bonus of any kind, or other financial returns designed to replace or enhance incentive, stock, or other compensation in effect before the date of the commencement of the case,'' after ''remain with the debtor's business,'';

and

(C) by inserting ''clear and convincing'' before ''evidence in the record''; and

(2) by amending paragraph (3) to read as follows:

''(3) other transfers or obligations, to or for the benefit of insiders, senior executive officers, managers, or consultants providing services to the debtor, in the absence of a finding by the court, based upon clear and convincing evidence, and without deference to the debtor's request for such payments, that such transfers or obligations are essential to the survival of the debtor's business or (in the case of a liquidation of some or all of the debtor's assets) essential to the orderly liquidation and maximization of value of the assets of the debtor, in either case, because of the essential nature of the services provided, and then only to the extent that the court finds such transfers or obligations are reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 303. ASSUMPTION OF EXECUTIVE BENEFIT PLANS.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''and (d)'' and inserting ''(d), (q), and (r)''; and

(2) by adding at the end the following:

''(q) No deferred compensation arrangement for the benefit of insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if a defined benefit plan for employees of the debtor has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, on or after the date of the commencement of the case or within 180 days before the date of the commencement of the case.

''(r) No plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if the debtor has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits or under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of active employees of the debtor, or reduced or eliminated health benefits for active or retired employees within 180 days before the date of the commencement of the case.''.

SEC. 304. RECOVERY OF EXECUTIVE COMPENSATION.

Title 11, United States Code, is amended by inserting after section 562 the following:

"SEC. 563. RECOVERY OF EXECUTIVE COMPENSATION.

''(a) If a debtor has obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, by which the debtor reduces the cost of its obligations under a collective bargaining agreement or a plan, fund, or program for retiree benefits as defined in section 1114(a), the court, in granting relief, shall determine the percentage diminution in the value of the obligations when compared to the debtor's obligations under the collective bargaining agreement, or with respect to retiree benefits, as of the date of the commencement of the case under this title before granting such relief. In making its determination, the court shall include reductions in benefits, if any, as a result of the termination pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time on or after 180 days before the date of the commencement of a case under this title. The court shall not take into account pension benefits paid or payable under of such Act as a result of any such termination.

''(b) If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, effective at any time on or after 180 days before the date of the commencement of a case under this title, but a debtor has not obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, then the court, upon motion of a party in interest, shall determine the percentage diminution in the value of benefit obligations when compared to the total benefit liabilities before such termination. The court shall not take into account pension benefits paid or payable under title IV of the Employee Retirement Income Security Act of 1974 as a result of any such termination.

''(c) Upon the determination of the percentage diminution in value under subsection (a) or (b), the estate shall have a claim for the return of the same percentage of the compensation paid, directly or indirectly (including any transfer to a self-settled trust or similar device, or to a nonqualified deferred compensation plan under section 409A(d)(1) of the Internal Revenue Code of 1986) to any officer of the debtor serving as member of the board of directors of the debtor within the year before the date of the commencement of the case, and any individual serving as chairman or lead director of the board of directors at the time of the granting of relief under section 1113 or 1114 or, if no such relief has been granted, the termination of the defined benefit plan.

''(d) The trustee or a committee appointed pursuant to section 1102 may commence an

action to recover such claims, except that if neither the trustee nor such committee commences an action to recover such claim by the first date set for the hearing on the confirmation of plan under section 1129, any party in interest may apply to the court for authority to recover such claim for the benefit of the estate. The costs of recovery shall be borne by the estate.

''(e) The court shall not award postpetition compensation under section 503(c) or otherwise to any person subject to subsection (c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate under this section.''.

SEC. 305. PREFERENTIAL COMPENSATION TRANSFER.

Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(j) The trustee may avoid a transfer to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy, or a transfer made in anticipation of bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor) made or incurred on or within 1 year before the filing of the petition. No provision of subsection (c) shall constitute a defense against the recovery of such transfer. The trustee or a committee appointed pursuant to section 1102 may commence an action to recover such transfer, except that, if neither the trustee nor such committee commences an action to recover such transfer by the time of the commencement of a hearing on the confirmation of a plan under section 1129, any party in interest may apply to the court for authority to recover the claims for the benefit of the estate. The costs of recovery shall be borne by the estate.''.

TITLE IV—OTHER PROVISIONS

SEC. 401. UNION PROOF OF CLAIM.

Section 501(a) of title 11, United States Code, is amended by inserting '', including a labor organization,'' after ''A creditor''.

SEC. 402. EXCEPTION FROM AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(29) of the commencement or continuation of a grievance, arbitration, or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of a case under this title, or the payment or enforcement of an award or settlement under such proceeding.''.

By Mr. GRASSLEY (for himself, Mr. KYL, Mr. CORNYN, Mr. LEE, Mr. PAUL, and Mr. COBURN):

S. 3382. A bill to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce important regulatory reform legislation.

Recently, when describing the state of our economy, President Obama said that the private sector was ''doing fine.''

I disagree. I think that the American people disagree with the President's statement.

There are 12.7 million Americans unemployed and another 8.2 million underemployed. 5.4 million Americans have been unemployed for 27 weeks or more.

That's not ''doing fine.''

The Federal Government needs to do everything possible to create an environment that will allow private sector employers to create jobs. To accomplish that, common sense would tell us that the government needs to remove barriers to job creation rather than erect new ones. The Federal Government needs to listen to employers so it can learn from them exactly what it can do to help.

Unfortunately, the Obama administration hasn't listened. In fact, unbelievably it is actually doing the opposite of what employers are saying they need.

Employers are saying that they need relief from job killing regulations.

For example, according to a Gallup survey, small-business owners in the United States are most likely to say that complying with government regulations is the biggest problem facing them today.

Indeed, the burden of regulations is overwhelming. Recently, the Small Business Administration estimated that the Federal regulatory burden has reached $1.75 trillion per year.

So what has the Obama administration's response been?

It is planning to increase the number of regulations.

The Obama administration's regulatory agenda has thousands of regulations in its production line, more than a hundred of which will have a major impact on the economy. Those are on top of more than one thousand regulations already completed.

I am sorry to say that the news gets even worse. On top of the thousands of new regulations it to impose, it appears that the administration is trying to get around the procedures governing how regulations are enacted.

In recent years, consent decrees and settlement agreements have been used to circumvent the laws and procedures that govern how regulations are enacted and to speed up the process in ways that limit the public's ability to fully participate and to exercise the rights guaranteed by our laws.

These consent decrees or settlement agreements may come as a surprise to the regulated industry and the public. They usually establish truncated deadlines for the agency to promulgate a regulation.

The lack of advance notice and the expedited schedule for the proposal and promulgation of regulations allows an agency to avoid the input that comes with meaningful public participation. It may also allow agencies to short-circuit the analytical requirements of regulatory process statutes, such as the Administrative Procedure Act. Expedited deadlines further allow agencies to undercut the review of proposed regulations by the Office of Management and Budget's Office of Information and Regulatory Affairs OIRA.

The practice of using consent decrees and settlement agreements to enact regulations has become known as ''sue-and-settle'' litigation.

The dangers of sue-and-settle litigation and of government by consent decree are not a new problem.

Nearly 30 years ago, Judge Malcom Wilkey of the D.C. Circuit warned about the dangers of collusive consent decrees. In his dissenting opinion in Citizens for a Better Environment v. Gorsuch, Judge Wilkey explained:

> Government by consent decree enshrines at its very center those special interest groups who are party to the decree. They stand in a strong tactical position to oppose changing the decree, and so likely will enjoy material influence on proposed changes in agency policy.
>
> As a policy device, then, government by consent decree serves no necessary end. It opens the door to unforeseeable mischief; it degrades the institutions of representative democracy and augments the power of special interest groups. It does all of this in a society that hardly needs new devices that emasculate representative democracy and strengthen the power of special interests.

Because the Obama administration is trying to dramatically increase the number of regulations, we must make sure that the laws and procedures governing rulemaking are followed and followed in a meaningful way.

The debate about sue-and-settle litigation is important because it raises questions about fairness, transparency and public participation in administrative rulemaking. It also raises the issue of whether meaningful judicial review is taking place.

Under the Administrative Procedure Act and other laws, the public and affected persons, in particular, have a right to adequate notice and an opportunity to comment on a proposed regulation. They also have a right to have their comments fully considered.

However, when sue-and-settle litigation is used real, public participation is effectively eliminated.

Generally speaking, the agreement on how to regulate is reached without the full input of the people and businesses that are affected. Discussions are held and agreements may be reached between government officials and special interest groups outside the public process. This is particularly true where career employees and political appointees at agencies share the agenda of the special interest group suing the agency and use the lawsuit as an opportunity to implement their common goals.

Also, the negotiated deadlines for creating the new regulation can be so accelerated that the public's comments might receive little or no true consideration.

Keep in mind that these regulations often involve complex scientific and

economic issues. Those issues cannot generally be fully and properly considered under a truncated time frame.

Another fundamental aspect of rulemaking is the opportunity to challenge a decision by participating as an intervenor. However, with sue-and-settle litigation, special interest groups and the government may reach an agreement before a lawsuit is even filed. This eliminates the opportunity for members of the public to intervene in the case to protect their interests.

Even where a settlement occurs after affected parties may have been granted intervention, these parties have little or no chance to participate in settlement discussions because they are not invited by the government and the special interest groups.

Moreover, when an agency creates a regulation through sue-and-settle litigation, it reorganizes its work by promising to take specific actions at specific times, before or instead of other projects that may be of greater benefit to the public.

Also, sue-and-settle litigation helps officials and administrations to avoid accountability. Instead of having to answer to the public for controversial regulations and policy decisions, officials are able to point to a court order and maintain that they were required or forced to promulgate a controversial regulation.

The case of American Nurses Association v. Jackson is an example of the sue-and-settle phenomenon.

In that case, a group of environmental organizations sued the Environmental Protection Agency, EPA, in December 2008, challenging the agency's failure to create emissions standards for pollutants from power plants under the Clean Air Act. Subsequently, the Utility Air Regulatory Group, UARG, representing the utility industry, intervened as a defendant in the case.

On October 22, 2009, the plaintiffs and the EPA filed a proposed consent decree. It was the result of a deal struck exclusively between them. They did not include the UARG in their discussions. Although the judge expressed concerns about the exclusion of the UARG from the settlement discussions, she was satisfied when the plaintiffs and the EPA informed her that this practice was the ''norm.''

Under the consent decree, the EPA conceded that it had failed to perform a mandatory duty under the Clean Air Act by failing to issue a ''maximum achievable control technology'', MACT, regulation for power plants. The EPA pledged that it would issue a proposed regulation by March 16, 2011 and a final regulation by November 16, 2011.

The UARG objected to the consent decree. It argued that the proposed decree improperly limited the government's discretion because it required the EPA to find that standards under 112(d) of the Clean Air Act were required. Consequently, the decree prevented the agency from either declining to issue standards or adopting other standards instead of the more burdensome MACT standard.

Although acknowledging the significance of the UARG's arguments, the judge nevertheless rejected them in its short opinion approving the consent decree.

As to the language limiting the EPA's discretion in the rulemaking, the judge stated that the EPA believed itself to be obligated to promulgate 112(d) standards and, ''and by entering this consent decree the Court [wa]s only accepting the parties' agreement to settle, not adjudicating whether EPA's legal position [wa]s correct.'' The judge simply believed that ''[i]f necessary, [the] UARG c[ould] challenge [the] EPA's final rule and its legal position.''

With regard to the UARG's argument that the time frame within which the EPA proposed to carry out the rulemaking was insufficient, the judge noted that she ''appreciate[d]'' the concern that the schedule was too short for the critical and expensive regulatory decisions that would be made. Nevertheless, she held that it was enough that the proposed consent decree allowed for a change of the schedule if needed.

The judge's reasoning on this point was interesting given that she acknowledged in a footnote that under the consent decree, the UARG could not petition for an extension of the deadlines.

In the end, the judge acknowledged that the concerns raised by the UARG were not insubstantial. However, she did not believe that she could gauge the adequacy, or lack thereof, of the schedule. Consequently, in a somewhat cavalier manner the judge concluded that: ''[s]hould haste make waste, the resulting regulations will be subject to successful challenge''. . . . If EPA needs more time to get it right, it can seek more time.''

Unfortunately, it appears that the EPA's proposed regulation contained significant errors. Indeed, the EPA did not analyze the impact of its regulation on electric reliability or provide sufficient time for industry to do so.

In November of 2011, the UARG brought its concerns to the judge, asking for relief from the consent decree.

In particular, it argued that more time was needed to respond to the voluminous comments submitted during the rulemaking process, to fix the serious flaws, and to then more carefully consider the promulgation of a rule with such serious and far-reaching consequences. For example, the schedule under the consent decree only allowed 104 days for the EPA to consider and respond to 20,000 unique, public comments received before it published the final rule. In total, there were 960,000 comments submitted.

The UARG's motion was supported by twenty-four states and Governor Terry Branstad on behalf of the people of Iowa. As part of their amicus brief, they pointed out that the American Coalition for Clean Coal Electricity, ACCCE, had estimated that the rule promulgated under the consent decree would result in the loss of 1.44 million jobs in the United States between 2013 and 2020. Because of the rule, the ACCCE also predicts national electricity price increases in 2016 to average 11.5 percent, with an increase of 23.5 percent in some regions.

The EPA issued a final rule on December 21, 2011, and has argued that the UARG's motion is moot.

As it stands, the rule is among the most costly of rules ever promulgated by the EPA with the agency estimating that the annualized cost at $9.6 billion in 2015. Industry estimates are even higher. Petitions for reconsideration of the rule are pending and more lawsuits are likely.

The EPA could have done it right the first time by crafting a sensible, workable rule that both protects the environment and can be implemented without causing unnecessary job losses or higher electricity prices for hard-working families. Instead, we have flawed, controversial regulation that may have to be rewritten.

Although we don't know how this will all turn out, we have to remember that the process by which this rule was created was the product of a consent decree.

In sum, when special interest groups and agencies engage in sue-and-settle litigation, the end product is a regulation that implements the priorities of the special interest groups. Moreover, these regulations are created under schedules that render notice-and-comment rights a mere formality, eliminating the opportunities for regulated entities, the public and the OIRA to have any input on the content of final regulations.

That is why I'm introducing the Sunshine for Regulatory Decrees and Settlements Act of 2012. Senators KYL, CORNYN, COBURN, LEE and PAUL are cosponsors of the bill.

Representative BENJAMIN QUAYLE of Arizona has introduced a companion bill in the House.

The Sunshine bill endeavors to solve the problems I have outlined. It does this by enacting reasonable pro-transparency measures. I'll just outline a few of those measures.

First, the Sunshine bill provides for greater transparency, requiring agencies publicly to post and report to Congress information on sue-and-settle complaints, decrees and settlements.

Second, the bill prohibits same-day filing of complaints and pre-negotiated consent decrees and settlement agreements in cases seeking to compel agency action. Instead, it requires that consent decrees and settlement agreements be filed only after interested parties have been able to intervene in the litigation and join settlement negotiations and only after any proposed decree or settlement has been published for notice and comment.

Third, the Sunshine bill requires courts considering whether to approve proposed consent decrees and settlement agreements to account for public comments and compliance with regulatory process statutes and executive orders. This bill would facilitate public participation by allowing comment on any issue related to the matters alleged in the complaint or addressed in the proposed agreement. Government agencies would be required to respond to comments, and the court would assess whether the proposed schedule allows sufficient time for real and meaningful, public comment on the regulation.

Fourth, the bill requires the Attorney General or, where appropriate, the defendant agency's head, to certify to the court that he or she has approved any proposed consent decree or settlement agreement that includes terms that: convert into a duty a discretionary authority of an agency to propose, promulgate, revise, or amend regulations, commit an agency to expend funds that have not been appropriated and budgeted, commit an agency to seek a particular appropriation or budget authorization, divest an agency of discretion committed to it by statute or the Constitution, or otherwise afford any relief that the court could not enter under its own authority.

Finally, the Sunshine bill makes it easier for succeeding administrations to successfully move the courts for modifications of a prior administration's consent decrees by providing for de novo review of motions to modify if the circumstances have changed.

Sue-and-settle litigation damages the transparency, public participation and judicial review protections Congress has guaranteed for all of our citizens in the rulemaking process.

Regulations are laws. The procedure and process used to create them are important. They are part of our system. The American system of lawmaking and judicial review is a model for the world. Our system should not be distorted or manipulated.

Regulations must be made in the open, through the procedures and processes established under our laws.

The Sunshine for Regulatory Decrees and Settlements Act will help to ensure that established and well-grounded protections remain in place, while maintaining the government's ability to enter into consent decrees and settlement agreements, when appropriate.

I urge all of my colleagues to work with me and to support this legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table.

SA 2533. Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2534. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2535. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2536. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2537. Mr. COBURN (for himself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2538. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2539. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2540. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2541. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2542. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2543. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2544. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2545. Mr. MANCHIN (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2546. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2547. Mr. ROBERTS (for himself, Mr. HATCH, Mr. RUBIO, Mr. BURR, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. COBURN, Mr. ALEXANDER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2548. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2549. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2550. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2551. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2552. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2553. Mr. REID (for Mrs. GILLIBRAND (for herself, Mr. ISAKSON, Mr. CHAMBLISS, and Mr. DURBIN)) proposed an amendment to the bill H.R. 2527, to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

TEXT OF AMENDMENTS

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.

Section 3506 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended by adding at the end the following:

''(j) SMALL BUSINESSES.—

''(1) SMALL BUSINESS CONCERN.—In this subsection, the term 'small business concern' has the same meaning given as in section 3 of the Small Business Act (15 U.S.C. 632).

''(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of the agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

''(A) the violation has the potential to cause serious harm to the public interest;

''(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

''(D) the violation was not corrected on or before the date that is 6 months after the date on which the small business concern receives notification of the violation in writing from the agency; or

''(E) except as provided in paragraph (3), the violation presents a danger to the public health or safety.

''(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

''(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the owner of the small business concern of notification of the violation in writing.

''(B) CONSIDERATIONS.—In determining whether to allow a small business concern 24 hours to correct a violation under subparagraph (A), the head of an agency shall take into account all of the facts and circumstances regarding the violation, including—

''(i) the nature and seriousness of the violation, including whether the violation is

technical or inadvertent or involves willful or criminal conduct;

''(ii) whether the small business concern has made a good faith effort to comply with applicable laws and to remedy the violation within the shortest practicable period of time; and

''(iii) whether the small business concern has obtained a significant economic benefit from the violation.

''(C) NOTICE TO CONGRESS.—In any case in which the head of an agency imposes a civil fine on a small business concern for a violation that presents a danger to the public health or safety and does not allow the small business concern 24 hours to correct the violation under subparagraph (A), the head of the agency shall notify Congress regarding the determination not later than 60 days after the date on which the civil fine is imposed by the agency.

''(4) LIMITED TO FIRST-TIME VIOLATIONS.—

''(A) IN GENERAL.—This subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by an agency if the small business concern previously violated any requirement regarding collection of information by the agency.

''(B) OTHER AGENCIES.—For purposes of making a determination under subparagraph (A), the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.''.

SA 2533. Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. PROTECTING PATIENTS FROM HIGHER PREMIUMS.

Section 9010 of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), is repealed.

SA 2534. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. NO MORTGAGE INTEREST DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 163(h)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(G) NO DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.—

''(i) IN GENERAL.—Except as provided in clause (ii), no deduction shall be allowed by reason of paragraph (2)(D) for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.

''(ii) TERMINATION.—Clause (i) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO RENTAL EXPENSE DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 212 of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''Paragraph (2) shall not apply for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year. The preceding sentence shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO GAMBLING LOSS DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 165(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''In the case of a taxpayer with an adjusted gross income equal to or greater than $1,000,000 for the taxable year, the preceding sentence shall not apply for any taxable year beginning before the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO DISCHARGE OF INDEBTEDNESS DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 108 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) NO DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no exclusion shall be allowed by reason of this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.

''(2) TERMINATION.—Paragraph (1) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO ELECTRIC PLUG-IN VEHICLE TAX CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 30D(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(8) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no credit described in subsection (c)(2) shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.

''(B) TERMINATION.—Subparagraph (A) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO HOUSEHOLD AND DEPENDENT CARE CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 21 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.

''(2) TERMINATION.—Paragraph (1) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 25D(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.

''(B) TERMINATION.—Subparagraph (A) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SA 2535. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REQUIRING HIGHER INCOME INDIVIDUALS TO PAY MORE FOR THEIR SHARE OF MEDICARE PART B.

(a) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(j) PAYMENT OF UNSUBSIDIZED PART B PREMIUM AMOUNT BY HIGHER INCOME INDIVIDUALS.—

''(1) IN GENERAL.—In the case of an individual whose modified adjusted gross income exceeds the applicable amount described in paragraph (2), the monthly premium determined under subsection (a) for a month after December 2012 shall be equal to the unsubsidized part B premium amount, adjusted as required in accordance with subsections (b), (c), and (f), and to reflect any credit under section 1854(b)(1)(C)(ii)(III).

''(2) APPLICABLE AMOUNT DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (C), the applicable amount described in this paragraph is $150,000.

''(B) JOINT RETURNS.—In the case of a joint return, subparagraph (A) shall be applied by substituting a dollar amount which is twice the dollar amount otherwise applicable under such subparagraph for the calendar year.

''(C) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2013, each dollar amount in this paragraph shall be increased as described in subsection (i)(5).

''(3) DEFINITIONS.—In this subsection:

''(A) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given such term in subparagraph (A) of subsection (i)(4), determined for the taxable year applicable under subparagraphs (B) and (C) of such section.

''(B) UNSUBSIDIZED PART B PREMIUM AMOUNT.—The term 'unsubsidized part B premium amount' means 200 percent of the monthly actuarial rate for enrollees age 65 and over (as determined under subsection (a)(1) for the year).''.

(b) CONFORMING AMENDMENTS.—(1) Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by inserting '', subject to subsection (j),'' before ''(without regard'' in the first sentence.

(2) The table in section 1839(i)(3)(C) of the Social Security Act (42 U.S.C. 1395r(i)(3)(C)) is amended—

(A) in the second line—

(i) by striking ''but not more than $150,000'' and inserting ''but not more than the applicable amount described in subsection (j)(2)''; and

(ii) by adding a period at the end; and

(B) by striking the third and fourth lines.

(3) Section 1844 of the Social Security Act (42 U.S.C. 1395w) is amended, in each of subsections (a)(1)(C) and (c), by striking ''section 1839(i)'' and inserting ''subsections (i) and (j) of section 1839''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 2012.

SEC. ___. REQUIRING HIGHER INCOME INDIVIDUALS TO PAY MORE FOR THEIR SHARE OF MEDICARE PART D.

(a) IN GENERAL.—Section 1860D–13(a) of the Social Security Act (42 U.S.C. 1395w–113(a)) is amended by adding at the end the following new paragraph:

''(8) PAYMENT OF UNSUBSIDIZED PART D PREMIUM AMOUNT BY HIGHER INCOME INDIVIDUALS.—

''(A) IN GENERAL.—In the case of an individual whose modified adjusted gross income exceeds the applicable amount described in section 1839(j)(2) (including application of subparagraph (C) of such section) for the calendar year, the monthly amount of the beneficiary premium applicable under this section for a month after December 2012 shall be equal to the unsubsidized part D premium amount.

''(B) DEFINITIONS.—In this paragraph:

''(i) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given such term in subparagraph (A) of subsection (i)(4), determined for the taxable year applicable under subparagraphs (B) and (C) of such section.

''(ii) UNSUBSIDIZED PART D PREMIUM AMOUNT.—The term 'unsubsidized part D premium amount' means the national average monthly bid amount (computed under paragraph (4)) for the month.''.

(b) CONFORMING AMENDMENTS.—Section 1860D–13(a)(1) of the Social Security Act (42 U.S.C. 1395w–113(a)(1)) is amended—

(1) in subparagraph (A), by striking ''The monthly'' and inserting ''Except as provided in paragraph (8), the monthly''; and

(2) in subparagraph (G), by inserting ''and paragraph (8)'' after ''and (F)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 2012.

SA 2536. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. PROHIBITION ON FEDERAL FINANCIAL ASSISTANCE BY PERSONS HAVING SERIOUSLY DELINQUENT TAX DEBTS.

(a) DEFINITION OF SERIOUSLY DELINQUENT TAX DEBT.—In this section:

(1) IN GENERAL.—The term ''seriously delinquent tax debt'' means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of that Code.

(2) EXCLUSIONS.—The term ''seriously delinquent tax debt'' does not include—

(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122 of Internal Revenue Code of 1986; and

(B) a debt with respect to which a collection due process hearing under section 6330 of that Code, or relief under subsection (a), (b), or (f) of section 6015 of that Code, is requested or pending.

(b) PROHIBITION.—

(1) GRANTS, CONTRACTS, LOANS, AND OTHER SUBSIDIES.—An individual or entity who has a seriously delinquent tax debt shall be ineligible to receive financial assistance (including any payment, loan, grant, contract, or subsidy) from the Federal government during the pendency of such seriously delinquent tax debt.

(2) TAX CREDITS.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subpart:

''Subpart K—Certain Taxpayers Ineligible for Credits

''Sec. 59AA. Certain taxpayers ineligible for credits.

''SEC. 59AA. CERTAIN TAXPAYERS INELIGIBLE FOR CREDITS.

''Notwithstanding any other provision of this part, no credit shall be allowed to a taxpayer under this part for any taxable year if such taxpayer has seriously delinquent tax debt on the last day of such taxable year.''.

(c) REGULATIONS.—The Secretary of Treasury shall issue such regulations as the Secretary considers necessary to carry out this section.

SA 2537. Mr. COBURN (for himself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF HEALTH INSURANCE TAX.

Section 9010 of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), is repealed.

SA 2538. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. 1-YEAR EXTENSION OF 2012 ESTATE AND GIFT TAX RULES.

(a) IN GENERAL.—Paragraph (2) of section 901(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''December 31, 2012'' and inserting ''December 31, 2013''.

(b) CONFORMING AMENDMENT.—Section 304 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is amended by inserting ''in the same manner and to the same extent such section applies to the amendments made by title V of such Act'' after ''title''.

SA 2539. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. PERMANENT EXTENSION OF 2012 ESTATE AND GIFT TAX RULES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to—

(a) title V of such Act (relating to estate, gift, and generation-skipping transfer tax provisions), or

(b) title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

SA 2540. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. MODIFICATIONS TO IMPLEMENTATION OF INCREASES IN TAX RATES ON INVESTMENT INCOME.

(a) RATES ON CAPITAL GAINS AND DIVIDENDS.—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended—

(1) by striking ''All'' and inserting the following:

''(a) IN GENERAL.—All'',

(2) by striking ''to taxable years beginning after December 31, 2012'' and inserting ''to the first termination taxable year and to all taxable years after such first termination taxable year'', and

(3) by adding at the end the following new subsection:

''(b) TERMINATION TAXABLE YEAR.—For purposes of this section—

''(1) IN GENERAL.—The term 'termination taxable year' means, with respect to any taxpayer, the later of—

''(A) the first taxable year beginning after December 31, 2012, or

''(B) the first taxable year ending after the date on which both the integrated capital gains rate and the integrated dividend rate do not exceed the average integrated OECD rate.

''(2) INTEGRATED CAPITAL GAINS RATE.—The term 'integrated capital gains rate' means the sum of—

''(A) the highest rate of tax imposed on corporations under section 11 of the Internal Revenue Code of 1986,

''(B) the average of the highest rate of tax imposed on corporations under the laws of the States,

''(C) the highest rate of tax imposed on capital gains under section 1 of such Code, and

''(D) the rate of tax imposed under section 1411 of such Code.

''(3) INTEGRATED DIVIDENDS RATE.—The term 'integrated dividends rate' means the sum of—

''(A) the highest rate of tax imposed on corporations under section 11 of the Internal Revenue Code of 1986,

''(B) the average of the highest rate of tax imposed on corporations under the laws of the States,

''(C) the highest rate of tax imposed on dividends under section 1 of such Code, and

''(D) the rate of tax imposed under section 1411 of such Code.

''(4) AVERAGE INTEGRATED OECD RATE.—The term 'average integrated OECD rate' means the average of the highest rates of tax imposed on corporations (including taxes imposed by regional, local, or sub-central authorities) by countries with membership in the Organisation of Economic Co-operation and Development.''.

(b) ADDITIONAL TAX ON UNEARNED INCOME.—Section 1411(e) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', or'', and by adding at the end the following new paragraph:

''(3) to any other taxpayer for any taxable year ending before the date on which both the integrated capital gains rate and the integrated dividend tax rate do not exceed the average integrated OECD rate (as such terms are defined under section 303(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003).''.

SA 2541. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. PERMANENT REPATRIATION OF FOREIGN EARNINGS TO THE UNITED STATES.

(a) REPATRIATION SUBJECT TO 5 PERCENT TAX RATE.—Subsection (a)(1) of section 965 of the Internal Revenue Code of 1986 is amended by striking ''85 percent'' and inserting ''85.7 percent''.

(b) PERMANENT EXTENSION TO ELECT REPATRIATION.—Subsection (f) of section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) ELECTION.—The taxpayer may elect to apply this section to any taxable year only if made on or before the due date (including extensions) for filing the return of tax for such taxable year.''.

(c) REPATRIATION INCLUDES CURRENT AND ACCUMULATED FOREIGN EARNINGS.—

(1) IN GENERAL.—Paragraph (1) of section 965(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) shall not exceed the sum of the current and accumulated earnings and profits described in section 959(c)(3) for the year a deduction is claimed under subsection (a), without diminution by reason of any distributions made during the election year, for all controlled foreign corporations of the United States shareholder.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 965(b) of such Code is amended by striking paragraphs (2) and (4) and by redesignating paragraph (3) as paragraph (2).

(B) Section 965(c) of such Code is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(C) Paragraph (3) of section 965(c) of such Code, as redesignated by subparagraph (B), is amended to read as follows:

''(3) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.''.

(d) CLERICAL AMENDMENTS.—

(1) The heading for section 965 of the Internal Revenue Code of 1986 is amended by striking ''**TEMPORARY**''.

(2) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking ''Temporary dividends'' and inserting ''Dividends''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(f) EMERGENCY RELIEF.—Section 125 of title 23, United States Code, as in effect on October 1, 2012, is amended by adding at the end the following:

''(h) EMERGENCY TRANSPORTATION SAFETY FUND.—

''(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Emergency Transportation Safety Fund' (referred to in this section as the 'Fund'), to be administered by the Secretary and to remain available without fiscal year limitation, for use in accordance with paragraph (3).

''(2) TRANSFERS TO FUND.—The Fund shall consist of amounts equal to 50 percent of the total revenues received in the Treasury resulting from the amendments made to section 965 of the Internal Revenue Code of 1986 by the Small Business Jobs and Tax Relief Act.

''(3) USE OF FUND.—

''(A) IN GENERAL.—Subject to subparagraph (E), the Secretary, in consultation with a representative sample of State and local government transportation officials, shall create a prioritized list of emergency transportation projects, which the Secretary shall use to provide funding to States to carry out those projects using amounts from the Fund.

''(B) CRITERIA.—In creating the list under subparagraph (A), the Secretary, in addition to any other criteria established by the Secretary, shall rank priorities in descending order, beginning with—

''(i) whether the project is part of the interstate highway system;

''(ii) whether the project is a road or bridge that is closed for safety reasons;

''(iii) the impact of the project on interstate commerce;

''(iv) the volume of traffic affected by the project; and

''(v) the overall value of the project or entity.

''(C) REPORT.—Not later than 120 days after October 1, 2012, the Secretary shall submit to Congress a report that includes—

''(i) a prioritized list of emergency transportation projects to be funded through the Fund; and

''(ii) a description of the criteria used to establish the list under this subsection.

''(D) QUARTERLY UPDATES.—Not less frequently than 4 times per year, the Secretary shall—

''(i) update the report submitted under subparagraph (C);

''(ii) send a copy of the updated report to Congress; and

''(iii) make a copy of the updated report available to the public on the website of the Department of Transportation.

''(E) USE OF AMOUNTS.—At the end of each fiscal year, the Secretary shall make available all unobligated amounts remaining in the Fund in excess of $500,000,000 to carry out the national highway performance program under section 119.

''(4) ANNUAL REPORTS ON FUND.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2013, the Secretary shall submit to Congress a report on the operation of the Fund during the fiscal year.

''(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

''(i) A statement of the amounts deposited into the Fund.

''(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

''(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.''.

SA 2542. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—FEDERAL RESERVE INDEPENDENCE

SEC. 701. SHORT TITLE.

This title may be cited as the ''Federal Reserve Independence Act''.

SEC. 702. FINDINGS.

Congress finds the following:

(1) In October 2011, the Government Accountability Office found the following:

(A) Allowing members of the banking industry to both elect and serve on the boards of directors of Federal reserve banks poses reputational risks to the Federal Reserve System.

(B) Eighteen former and current members of the boards of directors of Federal reserve banks were affiliated with banks and companies that received emergency loans from the Federal Reserve System during the financial crisis.

(C) Many of the members of the boards of directors of Federal reserve banks own stock or work directly for banks that are supervised and regulated by the Federal Reserve System. These board members oversee the operations of the Federal reserve banks, including salary and personnel decisions.

(D) Under current regulations, members of a board of directors of a Federal reserve bank who are employed by the banking industry or own stock in financial institutions can participate in decisions involving how much interest to charge to financial institutions receiving loans from the Federal Reserve System, and the approval or disapproval of Federal Reserve credit to healthy banks and banks in ''hazardous'' condition.

(E) Twenty-one members of the boards of directors of Federal reserve banks were involved in making personnel decisions in the division of supervision and regulation under the Federal Reserve System.

(F) The Federal Reserve System does not publicly disclose when it grants a waiver to its conflict of interest regulations.

(2) Allowing currently employed banking industry executives to serve as directors on the boards of directors of Federal reserve banks is a clear conflict of interest that must be eliminated.

(3) No one who works for or invests in a firm receiving direct financial assistance from the Federal Reserve System should be allowed to sit on any board of directors of a Federal reserve bank or be employed by the Federal Reserve System.

SEC. 703. END CONFLICTS OF INTEREST.

(a) CLASS A MEMBERS.—The tenth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class A) is amended by striking ''chosen by and be representative of the stockholding banks'' and inserting ''designated by the Board of Governors of the Federal Reserve System, from among persons who are not employed in any capacity by a stockholding bank''.

(b) CLASS B.—The eleventh undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class B) is amended by striking ''be elected'' and inserting ''be designated by the Board of Governors of the Federal Reserve System''.

(c) LIMITATIONS ON BOARDS OF DIRECTORS.—The fourteenth and fifteenth undesignated paragraphs of section 4 of the Federal Reserve Act (12 U.S.C. 303) (relating to Class B and Class C, respectively) are amended to read as follows:

''No employee of a bank holding company or other entity regulated by the Board of Governors of the Federal Reserve System may serve on the board of directors of any Federal reserve bank.

''No employee of the Federal Reserve System or board member of a Federal reserve bank may own any stock or invest in any company that is regulated by the Board of Governors of the Federal Reserve System, without exception.''.

SEC. 704. REPORTS TO CONGRESS.

The Comptroller General of the United States shall report annually to Congress beginning 1 year after the date of enactment of this Act to make sure that the provisions in this title are followed.

SA 2543. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FEDERAL RESERVE INDEPENDENCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Federal Reserve Independence Act''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) In October 2011, the Government Accountability Office found the following:

(A) Allowing members of the banking industry to both elect and serve on the boards of directors of Federal reserve banks poses reputational risks to the Federal Reserve System.

(B) Eighteen former and current members of the boards of directors of Federal reserve banks were affiliated with banks and companies that received emergency loans from the Federal Reserve System during the financial crisis.

(C) Many of the members of the boards of directors of Federal reserve banks own stock or work directly for banks that are supervised and regulated by the Federal Reserve System. These board members oversee the operations of the Federal reserve banks, including salary and personnel decisions.

(D) Under current regulations, members of a board of directors of a Federal reserve bank who are employed by the banking industry or own stock in financial institutions can participate in decisions involving how much interest to charge to financial institutions receiving loans from the Federal Reserve System, and the approval or disapproval of Federal Reserve credit to healthy banks and banks in ''hazardous'' condition.

(E) Twenty-one members of the boards of directors of Federal reserve banks were involved in making personnel decisions in the division of supervision and regulation under the Federal Reserve System.

(F) The Federal Reserve System does not publicly disclose when it grants a waiver to its conflict of interest regulations.

(2) Allowing currently employed banking industry executives to serve as directors on the boards of directors of Federal reserve banks is a clear conflict of interest that must be eliminated.

(3) No one who works for or invests in a firm receiving direct financial assistance from the Federal Reserve System should be allowed to sit on any board of directors of a Federal reserve bank or be employed by the Federal Reserve System.

SEC. __03. END CONFLICTS OF INTEREST.

(a) CLASS A MEMBERS.—The tenth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class A) is amended by striking ''chosen by and be representative of the stockholding banks'' and inserting ''designated by the Board of Governors of the Federal Reserve System, from among persons who are not employed in any capacity by a stockholding bank''.

(b) CLASS B.—The eleventh undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class B) is amended by striking ''be elected'' and inserting ''be designated by the Board of Governors of the Federal Reserve System''.

(c) LIMITATIONS ON BOARDS OF DIRECTORS.—The fourteenth and fifteenth undesignated paragraphs of section 4 of the Federal Reserve Act (12 U.S.C. 303) (relating to Class B and Class C, respectively) are amended to read as follows:

''No employee of a bank holding company or other entity regulated by the Board of Governors of the Federal Reserve System may serve on the board of directors of any Federal reserve bank.

''No employee of the Federal Reserve System or board member of a Federal reserve bank may own any stock or invest in any company that is regulated by the Board of Governors of the Federal Reserve System, without exception.''.

SEC. __04. REPORTS TO CONGRESS.

The Comptroller General of the United States shall report annually to Congress beginning 1 year after the date of enactment of this Act to make sure that the provisions in this title are followed.

SA 2544. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VII—WIRELESS TAX FAIRNESS

SECTION 701. SHORT TITLE.

This title may be cited as the ''Wireless Tax Fairness Act of 2012''.

SEC. 702. FINDINGS.

Congress finds the following:

(1) It is appropriate to exercise congressional enforcement authority under section 5 of the 14th amendment to the Constitution of the United States and Congress' plenary power under article I, section 8, clause 3 of the Constitution of the United States (commonly known as the ''commerce clause'') in order to ensure that States and political subdivisions thereof do not discriminate against providers and consumers of mobile services by imposing new selective and excessive taxes and other burdens on such providers and consumers.

(2) In light of the history and pattern of discriminatory taxation faced by providers and consumers of mobile services, the prohibitions against and remedies to correct discriminatory State and local taxation in section 306 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 11501) provide an appropriate analogy for congressional action, and similar Federal legislative measures are warranted that will prohibit imposing new discriminatory taxes on providers and consumers of mobile services and that will assure an effective, uniform remedy.

SEC. 703. MORATORIUM.

(a) IN GENERAL.—No State or local jurisdiction shall impose a new discriminatory tax on or with respect to mobile services, mobile service providers, or mobile service property, during the 5-year period beginning on the date of enactment of this Act.

(b) DEFINITIONS.—In this title:

(1) MOBILE SERVICE.—The term ''mobile service'' means commercial mobile radio service, as such term is defined in section 20.3 of title 47, Code of Federal Regulations, as in effect on the date of enactment of this Act, or any other service that is primarily intended for receipt on, transmission from, or use with a mobile telephone or other mobile device, including but not limited to the receipt of a digital good.

(2) MOBILE SERVICE PROPERTY.—The term ''mobile service property'' means all property used by a mobile service provider in connection with its business of providing mobile services, whether real, personal, tangible, or intangible (including goodwill, licenses, customer lists, and other similar intangible property associated with such business).

(3) MOBILE SERVICE PROVIDER.—The term ''mobile service provider'' means any entity that sells or provides mobile services, but only to the extent that such entity sells or provides mobile services.

(4) NEW DISCRIMINATORY TAX.—The term ''new discriminatory tax'' means a tax imposed by a State or local jurisdiction that is imposed on or with respect to, or is measured by, the charges, receipts, or revenues from or value of—

(A) a mobile service and is not generally imposed, or is generally imposed at a lower rate, on or with respect to, or measured by, the charges, receipts, or revenues from other services or transactions involving tangible personal property;

(B) a mobile service provider and is not generally imposed, or is generally imposed at a lower rate, on other persons that are engaged in businesses other than the provision of mobile services; or

(C) a mobile service property and is not generally imposed, or is generally imposed at a lower rate, on or with respect to, or measured by the value of, other property that is devoted to a commercial or industrial use and subject to a property tax levy, except public utility property owned by a public utility subject to rate of return regulation by a State or Federal regulatory authority;

unless such tax was imposed and actually enforced on mobile services, mobile service providers, or mobile service property prior to the date of enactment of this Act.

(5) STATE OR LOCAL JURISDICTION.—The term ''State or local jurisdiction'' means any of the several States, the District of Columbia, any territory or possession of the United States, a political subdivision of any State, territory, or possession, or any governmental entity or person acting on behalf of such State, territory, possession, or subdivision that has the authority to assess, impose, levy, or collect taxes or fees.

(6) TAX.—

(A) IN GENERAL.—The term ''tax'' means a charge imposed by a governmental entity for the purpose of generating revenues for governmental purposes, and excludes a fee imposed on a particular entity or class of entities for a specific privilege, service, or benefit conferred exclusively on such entity or class of entities.

(B) EXCLUSION.—The term ''tax'' does not include any fee or charge—

(i) used to preserve and advance Federal universal service or similar State programs authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254);

(ii) specifically dedicated by a State or local jurisdiction for the support of E–911 communications systems; or

(iii) used to preserve and advance Federal telecommunications relay services or State programs implementing this Federal mandate pursuant to title IV of the Americans with Disabilities Act of 1990 (Public Law 101–336; 104 Stat. 327) and codified in section 225 of the Communications Act of 1934 (47 U.S.C. 225).

(c) RULES OF CONSTRUCTION.—

(1) DETERMINATION.—For purposes of subsection (b)(4), all taxes, tax rates, exemptions, deductions, credits, incentives, exclusions, and other similar factors shall be taken into account in determining whether a tax is a new discriminatory tax.

(2) APPLICATION OF PRINCIPLES.—Except as otherwise provided in this title, in determining whether a tax on mobile service property is a new discriminatory tax for purposes of subsection (b)(4)(A)(iii), principles similar to those set forth in section 306 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 11501) shall apply.

(3) EXCLUSIONS.—Notwithstanding any other provision of this title—

(A) the term ''generally imposed'' as used in subsection (b)(4) shall not apply to any tax imposed only on—

(i) specific services;

(ii) specific industries or business segments; or

(iii) specific types of property; and

(B) the term ''new discriminatory tax'' shall not include a new tax or the modification of an existing tax that—

(i) replaces one or more taxes that had been imposed on mobile services, mobile service providers, or mobile service property; and

(ii) is designed so that, based on information available at the time of the enactment of such new tax or such modification, the amount of tax revenues generated thereby with respect to such mobile services, mobile service providers, or mobile service property is reasonably expected to not exceed the amount of tax revenues that would have been generated by the respective replaced tax or taxes with respect to such mobile services, mobile service providers, or mobile service property.

SEC. 704. ENFORCEMENT.

Notwithstanding any provision of section 1341 of title 28, United States Code, or the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this title.

(1) JURISDICTION.—Such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this section.

(2) BURDEN OF PROOF.—The burden of proof in any proceeding brought under this title shall be upon the party seeking relief and shall be by a preponderance of the evidence on all issues of fact.

(3) RELIEF.—In granting relief against a tax which is discriminatory or excessive under this title with respect to tax rate or amount only, the court shall prevent, restrain, or terminate the imposition, levy, or collection of not more than the discriminatory or excessive portion of the tax as determined by the court.

SA 2545. Mr. MANCHIN (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend hours depreciation for an additional year, and for other purposes; which was ordered to lie on table; as follows:

At the end, add the following:

TITLE ____—COMMUNITY INVESTMENT AND JOB CREATION

SEC. __01 SHORT TITLE.

This title may be cited as the ''Community Investment and Job Creation Act of 2012''.

SEC. __02. SHORT FORM REPORTS OF CONDITION FOR CERTAIN COMMUNITY BANKS.

(a) IN GENERAL.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

''(12) SHORT FORM REPORTS OF CONDITION FOR COMMUNITY BANKS.—

''(A) IN GENERAL.—With respect to reports of condition required under paragraph (3) for each calendar quarter, an insured depository institution described in subparagraphs (A), (B), (C), and (D) of section 10(d)(4) may submit a short form of any such report of condition in 2 nonsequential quarters of any calendar year.

''(B) ASSET ADJUSTMENTS.—For purposes of this paragraph—

''(i) section 10(d)(4)(A) shall be applied by substituting '$10,000,000,000' for '$500,000,000'; and

''(ii) section 10(d)(4)(C) shall be applied by substituting '$1,000,000,000' for '$100,000,000'.

''(C) SHORT FORM DEFINED.—In this paragraph, the term 'short form' means a report of condition required under paragraph (3) that is in a format established by the appropriate Federal banking agency, after notice and opportunity for comment, that—

''(i) is significantly and materially less burdensome for the insured depository institution to prepare than the format of the report of condition otherwise required under paragraph (3); and

''(ii) provides sufficient material information for the appropriate Federal banking agency to assure the maintenance of the safe and sound condition of the depository institution and safe and sound practices.''.

(b) REGULATIONS.—Any regulation required to carry out section 7(a)(12) of the Federal Deposit Insurance Act, as added by subsection (a) of this section, shall be published in final form not later than 6 months after the date of enactment of this Act.

SEC. __03. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIREMENT UNDER THE GRAMM-LEACH-BLILEY ACT.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

''(f) EXCEPTION TO ANNUAL NOTICE REQUIREMENT.—A financial institution shall not be required to provide an annual disclosure under this section until such time as the financial institution—

''(1) fails to provide nonpublic personal information in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b);

''(2) shares information with affiliates described in section 603(d)(2)(A) of the Fair Credit Reporting Act; or

''(3) changes its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section.

''(g) EXCEPTION TO NOTICE REQUIREMENT.—A financial institution shall not be required to provide any disclosure under this section if—

''(1) the financial institution is licensed by a State and is subject to existing regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State, the District of Columbia, or any territory of the United States; or

''(2) the financial institution is licensed by a State and becomes subject to future regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State, the District of Columbia, or any territory of the United States.''.

SEC. __04. AGRICULTURE LOAN GUARANTEES.

(a) FEES.—Section 310B(g)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)(5)) is amended by inserting before the period the following: '', except that for a loan in an amount of less than $5,000,000, the Secretary may assess a 1-time fee of 1 percent or less of the guaranteed principal portion of the loan''.

(b) GUARANTEE AMOUNTS.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) by striking ''may'' and inserting ''shall''; and

(ii) by striking ''standards that are not less stringent than''; and

(B) in paragraph (4), by inserting before the period the following: '', except that the Secretary may guarantee not more than 90 percent of a loan made by a certified lender if such loan is in an amount of less than $5,000,000''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) in the absence of a demand for or experience with guaranteed loans made under a rural development program, proven experience in making small business loans.''; and

(B) in paragraph (5)(A), by inserting before the semicolon the following: '', except that the Secretary may guarantee not more than 90 percent of a loan made by a certified lender if such loan is in an amount of less than $5,000,000''.

SEC. __05. QUALIFYING INVESTMENTS IN SMALL BANK ISSUERS.

(a) GENERALLY.—The principles of Internal Revenue Service Notice 2010–2 shall apply to any qualifying investment by any person in a small bank issuer in the same manner as if such investment had been made by the Department of the Treasury pursuant to any of the Programs (as defined in Notice 2010–2).

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''qualifying investment'' means any investment in the equity of a small bank issuer that otherwise would have constituted an ownership change under section 382(g) of the Internal Revenue Code of 1986 (relating to limitations on net operating loss carry forward and certain built-in losses following an ownership change); and

(2) the term ''small bank issuer'' means any insured depository institution, as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)), which—

(A) was required under a prompt corrective action order issued pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), or a formal or informal enforcement order, to raise capital as a result of an examination that took place during calendar years 2008 through 2012 by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Federal Deposit Insurance Corporation; and

(B) at the time of the order referred to in subparagraph (A), had total consolidated assets of $10,000,000,000 or less.

SEC. __06. CAPITAL FORMATION FOR COMMUNITY BANKS.

Section 413(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77b note) is amended—

(1) by striking ''(a) IN GENERAL.—The'' and inserting the following:

''(a) ADJUSTMENTS.—

''(1) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(2) EXCEPTION FOR COMMUNITY BANK PURCHASES.—The Commission shall adjust its net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, by allowing for the inclusion of the value of the primary residence of the natural person, but only if the natural person is purchasing securities from a community bank.

''(3) DEFINITION.—As used in paragraph (2), the term 'community bank' means a depository institution having assets of less than $10,000,000,000.''.

SA 2546. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

DIVISION B—ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Energy Savings and Industrial Competitiveness Act of 2012''.

TITLE I—BUILDINGS

Subtitle A—Building Energy Codes

SEC. 2101. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) by striking paragraph (14) and inserting the following:

''(14) MODEL BUILDING ENERGY CODE.—The term 'model building energy code' means a voluntary building energy code and standards developed and updated through a consensus process among interested persons, such as the IECC or the code used by—

''(A) the Council of American Building Officials;

''(B) the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or

''(C) other appropriate organizations.''; and

(2) by adding at the end the following:

''(17) IECC.—The term 'IECC' means the International Energy Conservation Code.

''(18) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).''.

(b) STATE BUILDING ENERGY EFFICIENCY CODES.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

''SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

''(a) IN GENERAL.—The Secretary shall—

''(1) encourage and support the adoption of building energy codes by States, Indian tribes, and, as appropriate, by local governments that meet or exceed the model building energy codes, or achieve equivalent or greater energy savings; and

''(2) support full compliance with the State and local codes.

''(b) STATE AND INDIAN TRIBE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

''(1) REVIEW AND UPDATING OF CODES BY EACH STATE AND INDIAN TRIBE.—

''(A) IN GENERAL.—Not later than 2 years after the date on which a model building energy code is updated, each State or Indian tribe shall certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively.

''(B) DEMONSTRATION.—The certification shall include a demonstration of whether or not the energy savings for the code provisions that are in effect throughout the State or Indian tribal territory meet or exceed—

''(i) the energy savings of the updated model building energy code; or

''(ii) the targets established under section 307(b)(2).

''(C) NO MODEL BUILDING ENERGY CODE UPDATE.—If a model building energy code is not updated by a target date established under section 307(b)(2)(D), each State or Indian tribe shall, not later than 2 years after the specified date, certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively, to meet or exceed the target in section 307(b)(2).

''(2) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

''(A) determine whether the code provisions of the State or Indian tribe, respectively, meet the criteria specified in paragraph (1); and

''(B) if the determination is positive, validate the certification.

''(c) IMPROVEMENTS IN COMPLIANCE WITH BUILDING ENERGY CODES.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Not later than 3 years after the date of a certification under subsection (b), each State and Indian tribe shall certify whether or not the State and Indian tribe, respectively, has—

''(i) achieved full compliance under paragraph (3) with the applicable certified State and Indian tribe building energy code or with the associated model building energy code; or

''(ii) made significant progress under paragraph (4) toward achieving compliance with the applicable certified State and Indian tribe building energy code or with the associated model building energy code.

''(B) REPEAT CERTIFICATIONS.—If the State or Indian tribe certifies progress toward achieving compliance, the State or Indian tribe shall repeat the certification until the State or Indian tribe certifies that the State or Indian tribe has achieved full compliance, respectively.

''(2) MEASUREMENT OF COMPLIANCE.—A certification under paragraph (1) shall include documentation of the rate of compliance based on—

''(A) independent inspections of a random sample of the buildings covered by the code in the preceding year; or

''(B) an alternative method that yields an accurate measure of compliance.

''(3) ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to achieve full compliance under paragraph (1) if—

''(A) at least 90 percent of building space covered by the code in the preceding year substantially meets all the requirements of the applicable code specified in paragraph (1), or achieves equivalent or greater energy savings level; or

''(B) the estimated excess energy use of buildings that did not meet the applicable code specified in paragraph (1) in the preceding year, compared to a baseline of comparable buildings that meet this code, is not more than 5 percent of the estimated energy use of all buildings covered by this code during the preceding year.

''(4) SIGNIFICANT PROGRESS TOWARD ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State or Indian tribe—

''(A) has developed and is implementing a plan for achieving compliance during the 8-year-period beginning on the date of enactment of this paragraph, including annual targets for compliance and active training and enforcement programs; and

''(B) has met the most recent target under subparagraph (A).

''(5) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe

certification under paragraph (1), the Secretary shall—

''(A) determine whether the State or Indian tribe has demonstrated meeting the criteria of this subsection, including accurate measurement of compliance; and

''(B) if the determination is positive, validate the certification.

''(d) STATES OR INDIAN TRIBES THAT DO NOT ACHIEVE COMPLIANCE.—

''(1) REPORTING.—A State or Indian tribe that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

''(A) the status of the State or Indian tribe with respect to meeting the requirements and submitting the certification; and

''(B) a plan for meeting the requirements and submitting the certification.

''(2) FEDERAL SUPPORT.—For any State or Indian tribe for which the Secretary has not validated a certification by a deadline under subsection (b) or (c), the lack of the certification may be a consideration for Federal support authorized under this section for code adoption and compliance activities.

''(3) LOCAL GOVERNMENT.—In any State or Indian tribe for which the Secretary has not validated a certification under subsection (b) or (c), a local government may be eligible for Federal support by meeting the certification requirements of subsections (b) and (c).

''(4) ANNUAL REPORTS BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on—

''(i) the status of model building energy codes;

''(ii) the status of code adoption and compliance in the States and Indian tribes;

''(iii) implementation of this section; and

''(iv) improvements in energy savings over time as result of the targets established under section 307(b)(2).

''(B) IMPACTS.—The report shall include estimates of impacts of past action under this section, and potential impacts of further action, on—

''(i) upfront financial and construction costs, cost benefits and returns (using investment analysis), and lifetime energy use for buildings;

''(ii) resulting energy costs to individuals and businesses; and

''(iii) resulting overall annual building ownership and operating costs.

''(e) TECHNICAL ASSISTANCE TO STATES AND INDIAN TRIBES.—The Secretary shall provide technical assistance to States and Indian tribes to implement the goals and requirements of this section, including procedures and technical analysis for States and Indian tribes—

''(1) to improve and implement State residential and commercial building energy codes;

''(2) to demonstrate that the code provisions of the States and Indian tribes achieve equivalent or greater energy savings than the model building energy codes and targets;

''(3) to document the rate of compliance with a building energy code; and

''(4) to otherwise promote the design and construction of energy efficient buildings.

''(f) AVAILABILITY OF INCENTIVE FUNDING.—

''(1) IN GENERAL.—The Secretary shall provide incentive funding to States and Indian tribes—

''(A) to implement the requirements of this section;

''(B) to improve and implement residential and commercial building energy codes, including increasing and verifying compliance with the codes and training of State, tribal, and local building code officials to implement and enforce the codes; and

''(C) to promote building energy efficiency through the use of the codes.

''(2) ADDITIONAL FUNDING.—Additional funding shall be provided under this subsection for implementation of a plan to achieve and document full compliance with residential and commercial building energy codes under subsection (c)—

''(A) to a State or Indian tribe for which the Secretary has validated a certification under subsection (b) or (c); and

''(B) in a State or Indian tribe that is not eligible under subparagraph (A), to a local government that is eligible under this section.

''(3) TRAINING.—Of the amounts made available under this subsection, the State may use amounts required, but not to exceed $750,000 for a State, to train State and local building code officials to implement and enforce codes described in paragraph (2).

''(4) LOCAL GOVERNMENTS.—States may share grants under this subsection with local governments that implement and enforce the codes.

''(g) STRETCH CODES AND ADVANCED STANDARDS.—

''(1) IN GENERAL.—The Secretary shall provide technical and financial support for the development of stretch codes and advanced standards for residential and commercial buildings for use as—

''(A) an option for adoption as a building energy code by local, tribal, or State governments; and

''(B) guidelines for energy-efficient building design.

''(2) TARGETS.—The stretch codes and advanced standards shall be designed—

''(A) to achieve substantial energy savings compared to the model building energy codes; and

''(B) to meet targets under section 307(b), if available, at least 3 to 6 years in advance of the target years.

''(h) STUDIES.—The Secretary, in consultation with building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient residential and commercial buildings, code officials, and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of—

''(1) code improvements that would require that buildings be designed, sited, and constructed in a manner that makes the buildings more adaptable in the future to become zero-net-energy after initial construction, as advances are achieved in energy-saving technologies;

''(2) code procedures to incorporate measured lifetimes, not just first-year energy use, in trade-offs and performance calculations; and

''(3) legislative options for increasing energy savings from building energy codes, including additional incentives for effective State and local action, and verification of compliance with and enforcement of a code other than by a State or local government.

''(i) EFFECT ON OTHER LAWS.—Nothing in this section or section 307 supersedes or modifies the application of sections 321 through 346 of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.).

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section and section 307 $200,000,000, to remain available until expended.''.

(c) FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended by striking ''voluntary building energy code'' each place it appears in subsections (a)(2)(B) and (b) and inserting ''model building energy code''.

(d) MODEL BUILDING ENERGY CODES.—Section 307 of the Energy Conservation and Production Act (42 U.S.C. 6836) is amended to read as follows:

''SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY CODES.

''(a) IN GENERAL.—The Secretary shall support the updating of model building energy codes.

''(b) TARGETS.—

''(1) IN GENERAL.—The Secretary shall support the updating of the model building energy codes to enable the achievement of aggregate energy savings targets established under paragraph (2).

''(2) TARGETS.—

''(A) IN GENERAL.—The Secretary shall work with State, Indian tribes, local governments, nationally recognized code and standards developers, and other interested parties to support the updating of model building energy codes by establishing 1 or more aggregate energy savings targets to achieve the purposes of this section.

''(B) SEPARATE TARGETS.—The Secretary may establish separate targets for commercial and residential buildings.

''(C) BASELINES.—The baseline for updating model building energy codes shall be the 2009 IECC for residential buildings and ASHRAE Standard 90.1–2010 for commercial buildings.

''(D) SPECIFIC YEARS.—

''(i) IN GENERAL.—Targets for specific years shall be established and revised by the Secretary through rulemaking and coordinated with nationally recognized code and standards developers at a level that—

''(I) is at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective, while accounting for the economic considerations under paragraph (4);

''(II) is higher than the preceding target; and

''(III) promotes the achievement of commercial and residential high-performance buildings through high performance energy efficiency (within the meaning of section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

''(ii) INITIAL TARGETS.—Not later than 1 year after the date of enactment of this clause, the Secretary shall establish initial targets under this subparagraph.

''(iii) DIFFERENT TARGET YEARS.—Subject to clause (i), prior to the applicable year, the Secretary may set a later target year for any of the model building energy codes described in subparagraph (A) if the Secretary determines that a target cannot be met.

''(iv) SMALL BUSINESS.—When establishing targets under this paragraph through rulemaking, the Secretary shall ensure compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note; Public Law 104–121).

''(3) APPLIANCE STANDARDS AND OTHER FACTORS AFFECTING BUILDING ENERGY USE.—In establishing building code targets under paragraph (2), the Secretary shall develop and adjust the targets in recognition of potential savings and costs relating to—

''(A) efficiency gains made in appliances, lighting, windows, insulation, and building envelope sealing;

''(B) advancement of distributed generation and on-site renewable power generation technologies;

''(C) equipment improvements for heating, cooling, and ventilation systems;

''(D) building management systems and SmartGrid technologies to reduce energy use; and

''(E) other technologies, practices, and building systems that the Secretary considers appropriate regarding building plug load and other energy uses.

''(4) ECONOMIC CONSIDERATIONS.—In establishing and revising building code targets

under paragraph (2), the Secretary shall consider the economic feasibility of achieving the proposed targets established under this section and the potential costs and savings for consumers and building owners, including a return on investment analysis.

''(c) TECHNICAL ASSISTANCE TO MODEL BUILDING ENERGY CODE-SETTING AND STANDARD DEVELOPMENT ORGANIZATIONS.—

''(1) IN GENERAL.—The Secretary shall, on a timely basis, provide technical assistance to model building energy code-setting and standard development organizations consistent with the goals of this section.

''(2) ASSISTANCE.—The assistance shall include, as requested by the organizations, technical assistance in—

''(A) evaluating code or standards proposals or revisions;

''(B) building energy analysis and design tools;

''(C) building demonstrations;

''(D) developing definitions of energy use intensity and building types for use in model building energy codes to evaluate the efficiency impacts of the model building energy codes;

''(E) performance-based standards;

''(F) evaluating economic considerations under subsection (b)(4); and

''(G) developing model building energy codes by Indian tribes in accordance with tribal law.

''(3) AMENDMENT PROPOSALS.—The Secretary may submit timely model building energy code amendment proposals to the model building energy code-setting and standard development organizations, with supporting evidence, sufficient to enable the model building energy codes to meet the targets established under subsection (b)(2).

''(4) ANALYSIS METHODOLOGY.—The Secretary shall make publicly available the entire calculation methodology (including input assumptions and data) used by the Secretary to estimate the energy savings of code or standard proposals and revisions.

''(d) DETERMINATION.—

''(1) REVISION OF MODEL BUILDING ENERGY CODES.—If the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall make a preliminary determination not later than 90 days after the date of the revision, and a final determination not later than 15 months after the date of the revision, on whether or not the revision will—

''(A) improve energy efficiency in buildings compared to the existing model building energy code; and

''(B) meet the applicable targets under subsection (b)(2).

''(2) CODES OR STANDARDS NOT MEETING TARGETS.—

''(A) IN GENERAL.—If the Secretary makes a preliminary determination under paragraph (1)(B) that a code or standard does not meet the targets established under subsection (b)(2), the Secretary may at the same time provide the model building energy code or standard developer with proposed changes that would result in a model building energy code that meets the targets and with supporting evidence, taking into consideration—

''(i) whether the modified code is technically feasible and life-cycle cost effective;

''(ii) available appliances, technologies, materials, and construction practices; and

''(iii) the economic considerations under subsection (b)(4).

''(B) INCORPORATION OF CHANGES.—

''(i) IN GENERAL.—On receipt of the proposed changes, the model building energy code or standard developer shall have an additional 270 days to accept or reject the proposed changes of the Secretary to the model building energy code or standard for the Secretary to make a final determination.

''(ii) FINAL DETERMINATION.—A final determination under paragraph (1) shall be on the modified model building energy code or standard.

''(e) ADMINISTRATION.—In carrying out this section, the Secretary shall—

''(1) publish notice of targets and supporting analysis and determinations under this section in the Federal Register to provide an explanation of and the basis for such actions, including any supporting modeling, data, assumptions, protocols, and cost-benefit analysis, including return on investment; and

''(2) provide an opportunity for public comment on targets and supporting analysis and determinations under this section.

''(f) VOLUNTARY CODES AND STANDARDS.—Nothwithstanding any other provision of this section, any model building code or standard established under this section shall not be binding on a State, local government, or Indian tribe as a matter of Federal law.''.

Subtitle B—Worker Training and Capacity Building

SEC. 2111. BUILDING TRAINING AND ASSESSMENT CENTERS.

(a) IN GENERAL.—The Secretary of Energy shall provide grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and Tribal Colleges or Universities (as defined in section 316(b) of that Act (20 U.S.C. 1059c(b)) to establish building training and assessment centers—

(1) to identify opportunities for optimizing energy efficiency and environmental performance in buildings;

(2) to promote the application of emerging concepts and technologies in commercial and institutional buildings;

(3) to train engineers, architects, building scientists, building energy permitting and enforcement officials, and building technicians in energy-efficient design and operation;

(4) to assist institutions of higher education and Tribal Colleges or Universities in training building technicians;

(5) to promote research and development for the use of alternative energy sources and distributed generation to supply heat and power for buildings, particularly energy-intensive buildings; and

(6) to coordinate with and assist State-accredited technical training centers, community colleges, Tribal Colleges or Universities, and local offices of the National Institute of Food and Agriculture and ensure appropriate services are provided under this section to each region of the United States.

(b) COORDINATION AND NONDUPLICATION.—

(1) IN GENERAL.—The Secretary shall coordinate the program with the Industrial Assessment Centers program and with other Federal programs to avoid duplication of effort.

(2) COLLOCATION.—To the maximum extent practicable, building, training, and assessment centers established under this section shall be collocated with Industrial Assessment Centers.

TITLE II—BUILDING EFFICIENCY FINANCE

SEC. 2201. LOAN PROGRAM FOR ENERGY EFFICIENCY UPGRADES TO EXISTING BUILDINGS.

Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by adding at the end the following:

''SEC. 1706. BUILDING RETROFIT FINANCING PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) CREDIT SUPPORT.—The term 'credit support' means a guarantee or commitment to issue a guarantee or other forms of credit enhancement to ameliorate risks for efficiency obligations.

''(2) EFFICIENCY OBLIGATION.—The term 'efficiency obligation' means a debt or repayment obligation incurred in connection with financing a project, or a portfolio of such debt or payment obligations.

''(3) PROJECT.—The term 'project' means the installation and implementation of efficiency, advanced metering, distributed generation, or renewable energy technologies and measures in a building (or in multiple buildings on a given property) that are expected to increase the energy efficiency of the building (including fixtures) in accordance with criteria established by the Secretary.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—Notwithstanding sections 1703 and 1705, the Secretary may provide credit support under this section, in accordance with section 1702.

''(2) INCLUSIONS.—Buildings eligible for credit support under this section include commercial, multifamily residential, industrial, municipal, government, institution of higher education, school, and hospital facilities that satisfy criteria established by the Secretary.

''(c) GUIDELINES.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall—

''(A) establish guidelines for credit support provided under this section; and

''(B) publish the guidelines in the Federal Register; and

''(C) provide for an opportunity for public comment on the guidelines.

''(2) REQUIREMENTS.—The guidelines established by the Secretary under this subsection shall include—

''(A) standards for assessing the energy savings that could reasonably be expected to result from a project;

''(B) examples of financing mechanisms (and portfolios of such financing mechanisms) that qualify as efficiency obligations;

''(C) the threshold levels of energy savings that a project, at the time of issuance of credit support, shall be reasonably expected to achieve to be eligible for credit support;

''(D) the eligibility criteria the Secretary determines to be necessary for making credit support available under this section; and

''(E) notwithstanding subsections (d)(3) and (g)(2)(B) of section 1702, any lien priority requirements that the Secretary determines to be necessary, in consultation with the Director of the Office of Management and Budget, which may include—

''(i) requirements to preserve priority lien status of secured lenders and creditors in buildings eligible for credit support;

''(ii) remedies available to the Secretary under chapter 176 of title 28, United States Code, in the event of default on the efficiency obligation by the borrower; and

''(iii) measures to limit the exposure of the Secretary to financial risk in the event of default, such as—

''(I) the collection of a credit subsidy fee from the borrower as a loan loss reserve, taking into account the limitation on credit support under subsection (d);

''(II) minimum debt-to-income levels of the borrower;

''(III) minimum levels of value relative to outstanding mortgage or other debt on a building eligible for credit support;

''(IV) allowable thresholds for the percent of the efficiency obligation relative to the amount of any mortgage or other debt on an eligible building;

''(V) analysis of historic and anticipated occupancy levels and rental income of an eligible building;

''(VI) requirements of third-party contractors to guarantee energy savings that will result from a retrofit project, and whether financing on the efficiency obligation will amortize from the energy savings;

''(VII) requirements that the retrofit project incorporate protocols to measure and verify energy savings; and

''(VIII) recovery of payments equally by the Secretary and the retrofit.

''(3) EFFICIENCY OBLIGATIONS.—The financing mechanisms qualified by the Secretary under paragraph (2)(B) may include—

''(A) loans, including loans made by the Federal Financing Bank;

''(B) power purchase agreements, including energy efficiency power purchase agreements;

''(C) energy services agreements, including energy performance contracts;

''(D) property assessed clean energy bonds and other tax assessment-based financing mechanisms;

''(E) aggregate on-meter agreements that finance retrofit projects; and

''(F) any other efficiency obligations the Secretary determines to be appropriate.

''(4) PRIORITIES.—In carrying out this section, the Secretary shall prioritize—

''(A) the maximization of energy savings with the available credit support funding;

''(B) the establishment of a clear application and approval process that allows private building owners, lenders, and investors to reasonably expect to receive credit support for projects that conform to guidelines;

''(C) the distribution of projects receiving credit support under this section across States or geographical regions of the United States; and

''(D) projects designed to achieve whole-building retrofits.

''(d) LIMITATION.—Notwithstanding section 1702(c), the Secretary shall not issue credit support under this section in an amount that exceeds—

''(1) 90 percent of the principal amount of the efficiency obligation that is the subject of the credit support; or

''(2) $10,000,000 for any single project.

''(e) AGGREGATION OF PROJECTS.—To the extent provided in the guidelines developed in accordance with subsection (c), the Secretary may issue credit support on a portfolio, or pool of projects, that are not required to be geographically contiguous, if each efficiency obligation in the pool fulfills the requirements described in this section.

''(f) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive credit support under this section, the applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be necessary.

''(2) CONTENTS.—An application submitted under this section shall include assurances by the applicant that—

''(A) each contractor carrying out the project meets minimum experience level criteria, including local retrofit experience, as determined by the Secretary;

''(B) the project is reasonably expected to achieve energy savings, as set forth in the application using any methodology that meets the standards described in the program guidelines;

''(C) the project meets any technical criteria described in the program guidelines;

''(D) the recipient of the credit support and the parties to the efficiency obligation will provide the Secretary with—

''(i) any information the Secretary requests to assess the energy savings that result from the project, including historical energy usage data, a simulation-based benchmark, and detailed descriptions of the building work, as described in the program guidelines; and

''(ii) permission to access information relating to building operations and usage for the period described in the program guidelines; and

''(E) any other assurances that the Secretary determines to be necessary.

''(3) DETERMINATION.—Not later than 90 days after receiving an application, the Secretary shall make a final determination on the application, which may include requests for additional information.

''(g) FEES.—

''(1) IN GENERAL.—In addition to the fees required by section 1702(h)(1), the Secretary may charge reasonable fees for credit support provided under this section.

''(2) AVAILABILITY.—Fees collected under this section shall be subject to section 1702(h)(2).

''(h) UNDERWRITING.—The Secretary may delegate the underwriting activities under this section to 1 or more entities that the Secretary determines to be qualified.

''(i) REPORT.—Not later than 1 year after commencement of the program, the Secretary shall submit to the appropriate committees of Congress a report that describes in reasonable detail—

''(1) the manner in which this section is being carried out;

''(2) the number and type of projects supported;

''(3) the types of funding mechanisms used to provide credit support to projects;

''(4) the energy savings expected to result from projects supported by this section;

''(5) any tracking efforts the Secretary is using to calculate the actual energy savings produced by the projects; and

''(6) any plans to improve the tracking efforts described in paragraph (5).

''(j) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $400,000,000 for the period of fiscal years 2012 through 2021, to remain available until expended.

''(2) ADMINISTRATIVE COSTS.—Not more than 1 percent of any amounts made available to the Secretary under paragraph (1) may be used by the Secretary for administrative costs incurred in carrying out this section.''.

TITLE III—INDUSTRIAL EFFICIENCY AND COMPETITIVENESS

Subtitle A—Manufacturing Energy Efficiency

SEC. 2301. STATE PARTNERSHIP INDUSTRIAL ENERGY EFFICIENCY REVOLVING LOAN PROGRAM.

Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1) is amended—

(1) in the section heading, by inserting ''and industry'' before the period at the end;

(2) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (g) the following:

''(h) STATE PARTNERSHIP INDUSTRIAL ENERGY EFFICIENCY REVOLVING LOAN PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall provide grants to eligible lenders to pay the Federal share of creating a revolving loan program under which loans are provided to commercial and industrial manufacturers to implement commercially available technologies or processes that significantly—

''(A) reduce systems energy intensity, including the use of energy-intensive feedstocks; and

''(B) improve the industrial competitiveness of the United States.

''(2) ELIGIBLE LENDERS.—To be eligible to receive cost-matched Federal funds under this subsection, a lender shall—

''(A) be a community and economic development lender that the Secretary certifies meets the requirements of this subsection;

''(B) lead a partnership that includes participation by, at a minimum—

''(i) a State government agency; and

''(ii) a private financial institution or other provider of loan capital;

''(C) submit an application to the Secretary, and receive the approval of the Secretary, for cost-matched Federal funds to carry out a loan program described in paragraph (1); and

''(D) ensure that non-Federal funds are provided to match, on at least a dollar-for-dollar basis, the amount of Federal funds that are provided to carry out a revolving loan program described in paragraph (1).

''(3) AWARD.—The amount of cost-matched Federal funds provided to an eligible lender shall not exceed $100,000,000 for any fiscal year.

''(4) RECAPTURE OF AWARDS.—

''(A) IN GENERAL.—An eligible lender that receives an award under paragraph (1) shall be required to repay to the Secretary an amount of cost-match Federal funds, as determined by the Secretary under subparagraph (B), if the eligible lender is unable or unwilling to operate a program described in this subsection for a period of not less than 10 years beginning on the date on which the eligible lender first receives funds made available through the award.

''(B) DETERMINATION BY SECRETARY.—The Secretary shall determine the amount of cost-match Federal funds that an eligible lender shall be required to repay to the Secretary under subparagraph (A) based on the consideration by the Secretary of—

''(i) the amount of non-Federal funds matched by the eligible lender;

''(ii) the amount of loan losses incurred by the revolving loan program described in paragraph (1); and

''(iii) any other appropriate factor, as determined by the Secretary.

''(C) USE OF RECAPTURED COST-MATCH FEDERAL FUNDS.—The Secretary may distribute to eligible lenders under this subsection each amount received by the Secretary under this paragraph.

''(5) ELIGIBLE PROJECTS.—A program for which cost-matched Federal funds are provided under this subsection shall be designed to accelerate the implementation of industrial and commercial applications of technologies or processes (including distributed generation, applications or technologies that use sensors, meters, software, and information networks, controls, and drives or that have been installed pursuant to an energy savings performance contract, project, or strategy) that—

''(A) improve energy efficiency, including improvements in efficiency and use of water, power factor, or load management;

''(B) enhance the industrial competitiveness of the United States; and

''(C) achieve such other goals as the Secretary determines to be appropriate.

''(6) EVALUATION.—The Secretary shall evaluate applications for cost-matched Federal funds under this subsection on the basis of—

''(A) the description of the program to be carried out with the cost-matched Federal funds;

''(B) the commitment to provide non-Federal funds in accordance with paragraph (2)(D);

''(C) program sustainability over a 10-year period;

''(D) the capability of the applicant;

''(E) the quantity of energy savings or energy feedstock minimization;

''(F) the advancement of the goal under this Act of 25-percent energy avoidance;

''(G) the ability to fund energy efficient projects not later than 120 days after the date of the grant award; and

''(H) such other factors as the Secretary determines appropriate.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $400,000,000 for the period of fiscal years 2012 through 2021.''.

SEC. 2302. COORDINATION OF RESEARCH AND DEVELOPMENT OF ENERGY EFFICIENT TECHNOLOGIES FOR INDUSTRY.

(a) IN GENERAL.—As part of the research and development activities of the Industrial Technologies Program of the Department of Energy, the Secretary shall establish, as appropriate, collaborative research and development partnerships with other programs within the Office of Energy Efficiency and Renewable Energy (including the Building Technologies Program), the Office of Electricity Delivery and Energy Reliability, and the Office of Science that—

(1) leverage the research and development expertise of those programs to promote early stage energy efficiency technology development;

(2) support the use of innovative manufacturing processes and applied research for development, demonstration, and commercialization of new technologies and processes to improve efficiency (including improvements in efficient use of water), reduce emissions, reduce industrial waste, and improve industrial cost-competitiveness; and

(3) apply the knowledge and expertise of the Industrial Technologies Program to help achieve the program goals of the other programs.

(b) REPORTS.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to Congress a report that describes actions taken to carry out subsection (a) and the results of those actions.

SEC. 2303. REDUCING BARRIERS TO THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this section:

(1) INDUSTRIAL ENERGY EFFICIENCY.—The term ''industrial energy efficiency'' means the energy efficiency derived from commercial technologies and measures to improve energy efficiency or to generate or transmit electric power and heat, including electric motor efficiency improvements, demand response, direct or indirect combined heat and power, and waste heat recovery.

(2) INDUSTRIAL SECTOR.—The term ''industrial sector'' means any subsector of the manufacturing sector (as defined in North American Industry Classification System codes 31-33 (as in effect on the date of enactment of this Act)) establishments of which have, or could have, thermal host facilities with electricity requirements met in whole, or in part, by onsite electricity generation, including direct and indirect combined heat and power or waste recovery.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) REPORT ON THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing—

(A) the results of the study conducted under paragraph (2); and

(B) recommendations and guidance developed under paragraph (3).

(2) STUDY.—The Secretary, in coordination with the industrial sector, shall conduct a study of the following:

(A) The legal, regulatory, and economic barriers to the deployment of industrial energy efficiency in all electricity markets (including organized wholesale electricity markets, and regulated electricity markets), including, as applicable, the following:

(i) Transmission and distribution interconnection requirements.

(ii) Standby, back-up, and maintenance fees (including demand ratchets).

(iii) Exit fees.

(iv) Life of contract demand ratchets.

(v) Net metering.

(vi) Calculation of avoided cost rates.

(vii) Power purchase agreements.

(viii) Energy market structures.

(ix) Capacity market structures.

(x) Other barriers as may be identified by the Secretary, in coordination with the industrial sector.

(B) Examples of —

(i) successful State and Federal policies that resulted in greater use of industrial energy efficiency;

(ii) successful private initiatives that resulted in greater use of industrial energy efficiency; and

(iii) cost-effective policies used by foreign countries to foster industrial energy efficiency.

(C) The estimated economic benefits to the national economy of providing the industrial sector with Federal energy efficiency matching grants of $5,000,000,000 for 5- and 10-year periods, including benefits relating to—

(i) estimated energy and emission reductions;

(ii) direct and indirect jobs saved or created;

(iii) direct and indirect capital investment;

(iv) the gross domestic product; and

(v) trade balance impacts.

(D) The estimated energy savings available from increased use of recycled material in energy-intensive manufacturing processes.

(3) RECOMMENDATIONS AND GUIDANCE.—The Secretary, in coordination with the industrial sector, shall develop policy recommendations regarding the deployment of industrial energy efficiency, including proposed regulatory guidance to States and relevant Federal agencies to address barriers to deployment.

SEC. 2304. FUTURE OF INDUSTRY PROGRAM.

(a) IN GENERAL.—Section 452 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111) is amended by striking the section heading and inserting the following: ''future of industry program''.

(b) DEFINITION OF ENERGY SERVICE PROVIDER.—Section 452(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(a)) is amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (3):

''(5) ENERGY SERVICE PROVIDER.—The term 'energy service provider' means any private company or similar entity providing technology or services to improve energy efficiency in an energy-intensive industry.''.

(c) INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—

(1) IN GENERAL.—Section 452(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(e)) is amended—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting appropriately;

(B) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by inserting before the semicolon at the end the following: '', including assessments of sustainable manufacturing goals and the implementation of information technology advancements for supply chain analysis, logistics, system monitoring, industrial and manufacturing processes, and other purposes''; and

(D) by adding at the end the following:

''(2) CENTERS OF EXCELLENCE.—

''(A) IN GENERAL.—The Secretary shall establish a Center of Excellence at up to 10 of the highest performing industrial research and assessment centers, as determined by the Secretary.

''(B) DUTIES.—A Center of Excellence shall coordinate with and advise the industrial research and assessment centers located in the region of the Center of Excellence.

''(C) FUNDING.—Subject to the availability of appropriations, of the funds made available under subsection (f), the Secretary shall use to support each Center of Excellence not less than $500,000 for fiscal year 2012 and each fiscal year thereafter, as determined by the Secretary.

''(3) EXPANSION OF CENTERS.—The Secretary shall provide funding to establish additional industrial research and assessment centers at institutions of higher education that do not have industrial research and assessment centers established under paragraph (1), taking into account the size of, and potential energy efficiency savings for, the manufacturing base within the region of the proposed center.

''(4) COORDINATION.—

''(A) IN GENERAL.—To increase the value and capabilities of the industrial research and assessment centers, the centers shall—

''(i) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology;

''(ii) coordinate with the Building Technologies Program of the Department of Energy to provide building assessment services to manufacturers;

''(iii) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise and technologies of the National Laboratories for national industrial and manufacturing needs;

''(iv) increase partnerships with energy service providers and technology providers to leverage private sector expertise and accelerate deployment of new and existing technologies and processes for energy efficiency, power factor, and load management;

''(v) identify opportunities for reducing greenhouse gas emissions; and

''(vi) promote sustainable manufacturing practices for small- and medium-sized manufacturers.

''(5) OUTREACH.—The Secretary shall provide funding for—

''(A) outreach activities by the industrial research and assessment centers to inform small- and medium-sized manufacturers of the information, technologies, and services available; and

''(B) a full-time equivalent employee at each center of excellence whose primary mission shall be to coordinate and leverage the efforts of the center with—

''(i) Federal and State efforts;

''(ii) the efforts of utilities and energy service providers;

''(iii) the efforts of regional energy efficiency organizations; and

''(iv) the efforts of other centers in the region of the center of excellence.

''(6) WORKFORCE TRAINING.—

''(A) IN GENERAL.—The Secretary shall pay the Federal share of associated internship programs under which students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers.

''(B) FEDERAL SHARE.—The Federal share of the cost of carrying out internship programs described in subparagraph (A) shall be 50 percent.

''(C) FUNDING.—Subject to the availability of appropriations, of the funds made available under subsection (f), the Secretary shall use to carry out this paragraph not less than $5,000,000 for fiscal year 2012 and each fiscal year thereafter.

''(7) SMALL BUSINESS LOANS.—The Administrator of the Small Business Administration shall, to the maximum practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) to implement recommendations of industrial research and assessment centers established under paragraph (1).''.

SEC. 2305. SUSTAINABLE MANUFACTURING INITIATIVE.

(a) IN GENERAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341) is amended by adding at the end the following:

''SEC. 376. SUSTAINABLE MANUFACTURING INITIATIVE.

''(a) IN GENERAL.—As part of the Industrial Technologies Program of the Department of Energy, the Secretary shall carry out a sustainable manufacturing initiative under which the Secretary, on the request of a manufacturer, shall conduct onsite technical assessments to identify opportunities for—

''(1) maximizing the energy efficiency of industrial processes and cross-cutting systems;

''(2) preventing pollution and minimizing waste;

''(3) improving efficient use of water in manufacturing processes;

''(4) conserving natural resources; and

''(5) achieving such other goals as the Secretary determines to be appropriate.

''(b) COORDINATION.—The Secretary shall carry out the initiative in coordination with the private sector and appropriate agencies, including the National Institute of Standards and Technology to accelerate adoption of new and existing technologies or processes that improve energy efficiency.

''(c) RESEARCH AND DEVELOPMENT PROGRAM FOR SUSTAINABLE MANUFACTURING AND INDUSTRIAL TECHNOLOGIES AND PROCESSES.—As part of the Industrial Technologies Program of the Department of Energy, the Secretary shall carry out a joint industry-government partnership program to research, develop, and demonstrate new sustainable manufacturing and industrial technologies and processes that maximize the energy efficiency of industrial systems, reduce pollution, and conserve natural resources.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be to carry out this section $10,000,000 for the period of fiscal years 2012 through 2021.''.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part E of title III the following:

''Sec. 376. Sustainable manufacturing initiative.''.

SEC. 2306. STUDY OF ADVANCED ENERGY TECHNOLOGY MANUFACTURING CAPABILITIES IN THE UNITED STATES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study of the development of advanced manufacturing capabilities for various energy technologies, including—

(1) an assessment of the manufacturing supply chains of established and emerging industries;

(2) an analysis of—

(A) the manner in which supply chains have changed over the 25-year period ending on the date of enactment of this Act;

(B) current trends in supply chains; and

(C) the energy intensity of each part of the supply chain and opportunities for improvement;

(3) for each technology or manufacturing sector, an analysis of which sections of the supply chain are critical for the United States to retain or develop to be competitive in the manufacturing of the technology;

(4) an assessment of which emerging energy technologies the United States should focus on to create or enhance manufacturing capabilities; and

(5) recommendations on leveraging the expertise of energy efficiency and renewable energy user facilities so that best materials and manufacturing practices are designed and implemented.

(b) REPORT.—Not later than 2 years after the date on which the Secretary enters into the agreement with the Academy described in subsection (a), the Academy shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary a report describing the results of the study required under this section, including any findings and recommendations.

SEC. 2307. INDUSTRIAL TECHNOLOGIES STEERING COMMITTEE.

The Secretary shall establish an advisory steering committee that includes national trade associations representing energy-intensive industries or energy service providers to provide recommendations to the Secretary on planning and implementation of the Industrial Technologies Program of the Department of Energy.

Subtitle B—Supply Star

SEC. 2311. SUPPLY STAR.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

''SEC. 324B. SUPPLY STAR PROGRAM.

''(a) IN GENERAL.—There is established within the Department of Energy a Supply Star program to identify and promote practices, recognize companies, and, as appropriate, recognize products that use highly efficient supply chains in a manner that conserves energy, water, and other resources.

''(b) COORDINATION.—In carrying out the program described in subsection (a), the Secretary shall—

''(1) consult with other appropriate agencies; and

''(2) coordinate efforts with the Energy Star program established under section 324A.

''(c) DUTIES.—In carrying out the Supply Star program described in subsection (a), the Secretary shall—

''(1) promote practices, recognize companies, and, as appropriate, recognize products that comply with the Supply Star program as the preferred practices, companies, and products in the marketplace for maximizing supply chain efficiency;

''(2) work to enhance industry and public awareness of the Supply Star program;

''(3) collect and disseminate data on supply chain energy resource consumption;

''(4) develop and disseminate metrics, processes, and analytical tools (including software) for evaluating supply chain energy resource use;

''(5) develop guidance at the sector level for improving supply chain efficiency;

''(6) work with domestic and international organizations to harmonize approaches to analyzing supply chain efficiency, including the development of a consistent set of tools, templates, calculators, and databases; and

''(7) work with industry, including small businesses, to improve supply chain efficiency through activities that include—

''(A) developing and sharing best practices; and

''(B) providing opportunities to benchmark supply chain efficiency.

''(d) EVALUATION.—In any evaluation of supply chain efficiency carried out by the Secretary with respect to a specific product, the Secretary shall consider energy consumption and resource use throughout the entire lifecycle of a product, including production, transport, packaging, use, and disposal.

''(e) GRANTS AND INCENTIVES.—

''(1) IN GENERAL.—The Secretary may award grants or other forms of incentives on a competitive basis to eligible entities, as determined by the Secretary, for the purposes of—

''(A) studying supply chain energy resource efficiency; and

''(B) demonstrating and achieving reductions in the energy resource consumption of commercial products through changes and improvements to the production supply and distribution chain of the products.

''(2) USE OF INFORMATION.—Any information or data generated as a result of the grants or incentives described in paragraph (1) shall be used to inform the development of the Supply Star Program.

''(f) TRAINING.—The Secretary shall use funds to support professional training programs to develop and communicate methods, practices, and tools for improving supply chain efficiency.

''(g) EFFECT OF IMPACT ON CLIMATE CHANGE.—For purposes of this section, the impact on climate change shall not be a factor in determining supply chain efficiency.

''(h) EFFECT OF OUTSOURCING OF AMERICAN JOBS.—For purposes of this section, the outsourcing of American jobs in the production of a product shall not count as a positive factor in determining supply chain efficiency.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for the period of fiscal years 2012 through 2021.''.

Subtitle C—Electric Motor Rebate Program

SEC. 2321. ENERGY SAVING MOTOR CONTROL REBATE PROGRAM.

(a) ESTABLISHMENT.—Not later than January 1, 2012, the Secretary of Energy (referred to in this section as the ''Secretary'') shall establish a program to provide rebates for expenditures made by entities for the purchase and installation of a new constant speed electric motor control that reduces motor energy use by not less than 5 percent.

(b) REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including—

(A) demonstrated evidence that the entity purchased a constant speed electric motor control that reduces motor energy use by not less than 5 percent; and

(B) the physical nameplate of the installed motor of the entity to which the energy saving motor control is attached.

(2) AUTHORIZED AMOUNT OF REBATE.—The Secretary may provide to an entity that meets the requirements of paragraph (1) a rebate the amount of which shall be equal to the product obtained by multiplying—

(A) the nameplate horsepower of the electric motor to which the energy saving motor control is attached; and

(B) $25.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out this section $5,000,000 for each of fiscal years 2012 and 2013, to remain available until expended.

Subtitle D—Transformer Rebate Program

SEC. 2331. ENERGY EFFICIENT TRANSFORMER REBATE PROGRAM.

(a) DEFINITION OF QUALIFIED TRANSFORMER.—In this section, the term ''qualified transformer'' means a transformer that meets or exceeds the National Electrical Manufacturers Association (NEMA) Premium Efficiency designation, calculated to 2 decimal points, as having 30 percent fewer losses than the NEMA TP-1-2002 efficiency standard for a transformer of the same number of phases and capacity, as measured in kilovolt-amperes.

(b) ESTABLISHMENT.—Not later than January 1, 2012, the Secretary of Energy (referred to in this section as the ''Secretary'') shall establish a program to provide rebates for expenditures made by owners of commercial buildings and multifamily residential buildings for the purchase and installation of a new energy efficient transformers.

(c) REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a rebate under this section, an owner shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the owner purchased a qualified transformer.

(2) AUTHORIZED AMOUNT OF REBATE.—For qualified transformers, rebates, in dollars per kilovolt-ampere (referred to in this paragraph as ''kVA'') shall be—

(A) for 3-phase transformers—

(i) with a capacity of not greater than 10 kVA, $15;

(ii) with a capacity of not less than 10 kVA and not greater than 100 kVA, the difference between 15 and the quotient obtained by dividing—

(I) the difference between—

(aa) the capacity of the transformer in kVA; and

(bb) 10; by

(II) 9; and

(iii) with a capacity greater than or equal to 100 kVA, $5; and

(B) for single-phase transformers, 75 percent of the rebate for a 3-phase transformer of the same capacity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2012 and 2013, to remain available until expended.

TITLE IV—FEDERAL AGENCY ENERGY EFFICIENCY

SEC. 2401. ADOPTION OF PERSONAL COMPUTER POWER SAVINGS TECHNIQUES BY FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 360 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services, shall issue guidance for Federal agencies to employ advanced tools allowing energy savings through the use of computer hardware, energy efficiency software, and power management tools.

(b) REPORTS ON PLANS AND SAVINGS.—Not later than 180 days after the date of the issuance of the guidance under subsection (a), each Federal agency shall submit to the Secretary of Energy a report that describes—

(1) the plan of the agency for implementing the guidance within the agency; and

(2) estimated energy and financial savings from employing the tools described in subsection (a).

SEC. 2402. AVAILABILITY OF FUNDS FOR DESIGN UPDATES.

Section 3307 of title 40, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

''(d) AVAILABILITY OF FUNDS FOR DESIGN UPDATES.—

''(1) IN GENERAL.—Subject to paragraph (2), for any project for which congressional approval is received under subsection (a) and for which the design has been substantially completed but construction has not begun, the Administrator of General Services may use appropriated funds to update the project design to meet applicable Federal building energy efficiency standards established under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) and other requirements established under section 3312.

''(2) LIMITATION.—The use of funds under paragraph (1) shall not exceed 125 percent of the estimated energy or other cost savings associated with the updates as determined by a life-cycle cost analysis under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254).''.

SEC. 2403. BEST PRACTICES FOR ADVANCED METERING.

Section 543(e) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e) is amended by striking paragraph (3) and inserting the following:

''(3) PLAN.—

''(A) IN GENERAL.—Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

''(i) how the agency will designate personnel primarily responsible for achieving the requirements; and

''(ii) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

''(B) UPDATES.—Reports submitted under subparagraph (A) shall be updated annually.

''(4) BEST PRACTICES REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2012, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy use in Federal facilities, buildings, and equipment by Federal agencies.

''(B) UPDATING.—The report described under subparagraph (A) shall be updated annually.

''(C) COMPONENTS.—The report shall include, at a minimum—

''(i) summaries and analysis of the reports by agencies under paragraph (3);

''(ii) recommendations on standard requirements or guidelines for automated energy management systems, including—

''(I) potential common communications standards to allow data sharing and reporting;

''(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

''(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

''(iii) an analysis of—

''(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

''(II) existing techniques used within the private sector or other non-Federal government buildings.''.

SEC. 2404. FEDERAL ENERGY MANAGEMENT AND DATA COLLECTION STANDARD.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by redesignating the second subsection (f) (as added by section 434(a) of Public Law 110–140 (121 Stat. 1614)) as subsection (g); and

(2) in subsection (f)(7), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B)—

''(i) to certify compliance with the requirements for—

''(I) energy and water evaluations under paragraph (3);

''(II) implementation of identified energy and water measures under paragraph (4); and

''(III) follow-up on implemented measures under paragraph (5); and

''(ii) to publish energy and water consumption data on an individual facility basis.''.

SEC. 2405. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.

Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended—

(1) in subparagraph (A), by striking ''or'' after the semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) a measure to support the use of electric vehicles or the fueling or charging infrastructure necessary for electric vehicles.''.

SEC. 2406. FEDERAL PURCHASE REQUIREMENT.

Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

(1) in subsections (a) and (b)(2), by striking ''electric energy'' each place it appears and inserting ''electric, direct, and thermal energy'';

(2) in subsection (b)(2)—

(A) by inserting '', or avoided by,'' after ''generated from''; and

(B) by inserting ''(including ground-source, reclaimed, and ground water)''after ''geothermal'';

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following:

''(d) SEPARATE CALCULATION.—Renewable energy produced at a Federal facility, on Federal land, or on Indian land (as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501))—

''(1) shall be calculated (on a BTU-equivalent basis) separately from renewable energy used; and

''(2) may be used individually or in combination to comply with subsection (a).''.

SEC. 2407. STUDY ON FEDERAL DATA CENTER CONSOLIDATION.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study on the feasibility of a government-wide data center consolidation, with an overall Federal target of a minimum of 800 Federal data center closures by October 1, 2015.

(b) COORDINATION.—In conducting the study, the Secretary shall coordinate with Federal data center program managers, facilities managers, and sustainability officers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study, including a description of agency best practices in data center consolidation.

TITLE V—MISCELLANEOUS

SEC. 2501. OFFSETS.

(a) ZERO-NET ENERGY COMMERCIAL BUILDINGS INITIATIVE.—Section 422(f) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(f)) is amended by striking paragraphs (2) through (4) and inserting the following:

''(2) $50,000,000 for each of fiscal years 2009 through 2012;

''(3) $100,000,000 for fiscal year 2013; and

''(4) $200,000,000 for each of fiscal years 2014 through 2018.''.

(b) ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS.—Subsection (j) of section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1) (as redesignated by section 2301(2)) is amended—

(1) in paragraph (1), by striking ''through 2013'' and inserting ''and 2010, $100,000,000 for each of fiscal years 2011 and 2012, and $250,000,000 for fiscal year 2013''; and

(2) in paragraph (2), by striking ''through 2013'' and inserting ''and 2010, $100,000,000 for each of fiscal years 2011 and 2012, and $425,000,000 for fiscal year 2013''.

(c) WASTE ENERGY RECOVERY INCENTIVE PROGRAM.—Section 373(f)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6343(f)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by striking subparagraph (A) and inserting the following:

''(A) $100,000,000 for fiscal year 2008;

''(B) $200,000,000 for each of fiscal years 2009 and 2010;

''(C) $100,000,000 for each of fiscal years 2011 and 2012; and''.

(d) ENERGY-INTENSIVE INDUSTRIES PROGRAM.—Section 452(f)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(f)(1)) is amended—

(1) in subparagraph (D), by striking ''$202,000,000'' and inserting ''$102,000,000''; and

(2) in subparagraph (E), by striking ''$208,000,000'' and inserting ''$108,000,000''.

SEC. 2502. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 2503. ADVANCE APPROPRIATIONS REQUIRED.

The authorization of amounts under this division and the amendments made by this division shall be effective for any fiscal year only to the extent and in the amount provided in advance in appropriations Acts.

SA 2547. Mr. ROBERTS (for himself, Mr. HATCH, Mr. RUBIO, Mr. BURR, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. COBURN, Mr. ALEXANDER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111–148) and the amendments made by such section are repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SA 2548. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE ____—ENTREPRENEURIAL TRAINING

SEC. ___. RULEMAKING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Labor shall establish alternate guidelines for measuring State and local performance, under section 136 of the Workforce Investment Act of 1998 (42 U.S.C. 2871), regarding entrepreneurial training services, as authorized in section 134(d)(4)(D)(vi) of such Act (29 U.S.C. 2864(d)(4)(D)(vi)), and provide the State and local workforce investment boards with specific guidance on successful approaches to collecting performance information on entrepreneurial training, notwithstanding section 136(f)(2) of such Act (42 U.S.C. 2871(f)(2)).

(b) CONSIDERATIONS.—In determining the alternate guidelines, the Secretary shall consider utilizing authorities granted under the Workforce Investment Act of 1998, including a State's waiver authority, as authorized in section 189(i)(4) of such Act (29 U.S.C. 2939(i)(4)).

(c) REPORT.—Not later than 12 months after publication of the final rule establishing the guidelines, the Secretary shall issue a report on the progress of State and local workforce investment boards in implementing new entrepreneurial training programs and any ongoing challenges to offering entrepreneurial training programs, with recommendations to Congress on how best to address those challenges.

SA 2549. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES

SEC. __01. SHORT TITLE.

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

SEC. __03. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SEC. __04. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

SEC. __05. PERIODIC REVIEW.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b) Each plan established under subsection (a) shall provide for—

''(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

''(B) every 9 years thereafter; and

''(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the publication of the final rule in the Federal Register; and

''(B) every 9 years thereafter.

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the economic impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

''(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

''(B) notify the head of the agency of—

''(i) the results of the determination under subparagraph (A); and

''(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

''(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

''(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

''(i) determine whether the agency has addressed the issues identified in the notice; and

''(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

''(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

''(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).''.

SEC. __06. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''a covered agency'' and inserting ''an agency designated under subsection (d)''; and

(B) by striking ''a covered agency'' each place it appears and inserting ''the agency'';

(2) by striking subsection (d) and inserting the following:

''(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, the Environmental Protection Agency, the Bureau of Consumer Financial Protection, and the Occupational Safety and Health Administration of the Department of Labor shall be—

''(A) agencies designated under this subsection; and

''(B) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012;

''(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012; and

''(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012.

''(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.''; and

(3) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

SEC. __07. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. __08. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section __03 of this title, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. __09. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking ''Each agency'' and inserting the following:

''(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency''; and

(B) by adding at the end the following:

''(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.''; and

(2) in subsection (c)—

(A) by striking ''Agencies shall report'' and all that follows through ''the scope'' and inserting ''Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope''; and

(B) by striking ''and the total amount of penalty reductions and waivers'' and inserting ''the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)''.

SEC. __10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. __11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. __12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. __13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended, in the section heading, by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification.**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.'';

and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

SA 2550. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES

SEC. __01. SHORT TITLE.

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

SEC. __03. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SEC. __04. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

SEC. __05. PERIODIC REVIEW.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b) Each plan established under subsection (a) shall provide for—

''(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

''(B) every 9 years thereafter; and

''(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the publication of the final rule in the Federal Register; and

''(B) every 9 years thereafter.

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the economic impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

''(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

''(B) notify the head of the agency of—

''(i) the results of the determination under subparagraph (A); and

''(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

''(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

''(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

''(i) determine whether the agency has addressed the issues identified in the notice; and

''(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

''(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

''(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).''.

SEC. __06. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''a covered agency'' and inserting ''an agency designated under subsection (d)''; and

(B) by striking ''a covered agency'' each place it appears and inserting ''the agency'';

(2) by striking subsection (d) and inserting the following:

''(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, the Environmental Protection Agency, the Bureau of Consumer Financial Protection, and the Occupational Safety and Health Administration of the Department of Labor shall be—

''(A) agencies designated under this subsection; and

''(B) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012;

''(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012; and

''(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012.

''(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.''; and

(3) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

SEC. __07. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. __08. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section __03 of this title, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. __09. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking ''Each agency'' and inserting the following:

''(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency''; and

(B) by adding at the end the following:

''(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.''; and

(2) in subsection (c)—

(A) by striking ''Agencies shall report'' and all that follows through ''the scope'' and inserting ''Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope''; and

(B) by striking ''and the total amount of penalty reductions and waivers'' and inserting ''the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)''.

SEC. __10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including

an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. __11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. __12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. __13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended, in the section heading, by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification.**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.'';

and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

SA 2551. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7)(B), by striking the period at the end and inserting a semicolon;

(3) in paragraph (8)—

(A) by striking ''RECORDKEEPING REQUIREMENT.—The'' and inserting ''the''; and

(B) by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SA 2552. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7)(B), by striking the period at the end and inserting a semicolon;

(3) in paragraph (8)—

(A) by striking ''RECORDKEEPING REQUIREMENT.—The'' and inserting ''the''; and

(B) by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SA 2553. Mr. REID (for Mrs. GILLIBRAND (for herself, Mr. ISAKSON, Mr. CHAMBLISS, and Mr. DURBIN)) proposed an amendment to the bill H.R. 2527, to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Baseball Hall of Fame Commemorative Coin Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On June 12, 1939, the National Baseball Hall of Fame and Museum opened in Cooperstown, New York. Ty Cobb, Walter Johnson, Christy Mathewson, Babe Ruth, and Honus Wagner comprised the inaugural class of inductees. This class set the standard for all future inductees. Since 1939, just one percent of all Major League Baseball players have earned induction into the National Baseball Hall of Fame.

(2) The National Baseball Hall of Fame and Museum is dedicated to preserving history, honoring excellence, and connecting generations through the rich history of our national pastime. Baseball has mirrored our Nation's history since the Civil War, and is now an integral part of our Nation's heritage.

(3) The National Baseball Hall of Fame and Museum chronicles the history of our national pastime and houses the world's largest collection of baseball artifacts, including more than 38,000 three dimensional artifacts, 3,000,000 documents, 500,000 photographs, and 12,000 hours of recorded media. This collection ensures that baseball history and its unique connection to American history will be preserved and recounted for future generations.

(4) Since its opening in 1939, more than 14,000,000 baseball fans have visited the National Baseball Hall of Fame and Museum to learn about the history of our national pastime and the game's connection to the American experience.

(5) The National Baseball Hall of Fame and Museum is an educational institution, reaching 10,000,000 Americans annually. Utilizing video conference technology, students and teachers participate in interactive lessons led by educators from the National Baseball Hall of Fame Museum. These award-winning educational programs draw upon the wonders of baseball to reach students in classrooms nationwide. Each educational program uses baseball as a lens for teaching young Americans important lessons on an array of topics, including mathematics, geography, civil rights, women's history, economics, industrial technology, arts, and communication.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In recognition and celebration of the National Baseball Hall of Fame, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 50,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 400,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF-DOLLAR CLAD COINS.—Not more than 750,000 half-dollar coins which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half-dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent possible without significantly adding to the purchase price of the coins, the $1 coins and $5 coins minted under this Act should be produced in a fashion similar to the 2009 International Year of Astronomy coins issued by Monnaie de Paris, the French Mint, so that the reverse of the coin is convex to more closely resemble a baseball and the obverse concave, providing a more dramatic display of the obverse design chosen pursuant to section 4(c).

SEC. 4. DESIGN OF COINS.

(a) IN GENERAL.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the National Baseball Hall of Fame;

(B) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(b) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year ''2014''; and

(3) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(c) SELECTION AND APPROVAL PROCESS FOR OBVERSE DESIGN.—

(1) IN GENERAL.—The Secretary shall hold a competition to determine the design of the common obverse of the coins minted under this Act, with such design being emblematic of the game of baseball.

(2) SELECTION AND APPROVAL.—Proposals for the design of coins minted under this Act may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary. The Secretary shall encourage 3-dimensional models to be submitted as part of the design proposals.

(3) PROPOSALS.—As part of the competition described in this subsection, the Secretary may accept proposals from artists, engravers of the United States Mint, and members of the general public.

(4) COMPENSATION.—The Secretary shall determine compensation for the winning design under this subsection, which shall be not less than $5,000. The Secretary shall take into account this compensation amount when determining the sale price described in section 6(a).

(d) REVERSE DESIGN.—The design on the common reverse of the coins minted under this Act shall depict a baseball similar to those used by Major League Baseball.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2014.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $35 per coin for the $5 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(3) A surcharge of $5 per coin for the half-dollar coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Baseball Hall of Fame to help finance its operations.

(c) AUDITS.—The National Baseball Hall of Fame shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

SEC. 8. FINANCIAL ASSURANCES.

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

SEC. 9. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in

the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m. in room SR–253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''Medication and Performance Enhancing Drugs in Horse Racing.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on July 12, 2012, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on July 12, 2012, at 10:15 a.m. in room SD–406 of the Dirksen Senate Office Building to conduct a hearing entitled, ''The Latest Science on Lead's Impacts on Children's Development and Public Health.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 12, 2012, at 9 a.m. to hold a hearing entitled, ''Convention on the Rights of Persons with Disabilities (Treaty Doc. 112–7).''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 12, 2012, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled, ''Beyond Seclusion and Restraint: Creating Positive Learning Environments for All Students'' on July 12, 2012, at 10:30 a.m. in room SD–106 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 12, 2012, at 10 a.m. to conduct a hearing entitled, ''The Future of Homeland Security: The Evolution of the Homeland Security Department's Roles and Missions.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on July 12, 2012, in room SD–628 of the Dirksen Senate Office Building, at 2:15 p.m., to conduct a hearing entitled ''Federal Recognition: Political and Legal Relationship between Governments.''

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

COMMITTEE ON THE JUDICIARY

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 12, 2012, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m.

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

DISTRICT OF COLUMBIA SPECIAL ELECTION REFORM ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 448.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 3902) to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time and the Senate proceed to passage of the bill.

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

The bill (H.R. 3902) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Shall the bill pass?

The bill (H.R. 3902) was passed.

Mr. REID. I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

NATIONAL BASEBALL HALL OF FAME COMMEMORATIVE COIN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 2527 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2527) to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that a Gillibrand substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 2553) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the 'National Baseball Hall of Fame Commemorative Coin Act'.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On June 12, 1939, the National Baseball Hall of Fame and Museum opened in Cooperstown, New York. Ty Cobb, Walter Johnson, Christy Mathewson, Babe Ruth, and Honus Wagner comprised the inaugural class of inductees. This class set the standard for all future inductees. Since 1939, just one percent of all Major League Baseball players have earned induction into the National Baseball Hall of Fame.

(2) The National Baseball Hall of Fame and Museum is dedicated to preserving history, honoring excellence, and connecting generations through the rich history of our national pastime. Baseball has mirrored our Nation's history since the Civil War, and is now an integral part of our Nation's heritage.

(3) The National Baseball Hall of Fame and Museum chronicles the history of our national pastime and houses the world's largest collection of baseball artifacts, including more than 38,000 three dimensional artifacts, 3,000,000 documents, 500,000 photographs, and 12,000 hours of recorded media. This collection ensures that baseball history and its unique connection to American history will be preserved and recounted for future generations.

(4) Since its opening in 1939, more than 14,000,000 baseball fans have visited the National Baseball Hall of Fame and Museum to learn about the history of our national pastime and the game's connection to the American experience.

(5) The National Baseball Hall of Fame and Museum is an educational institution, reaching 10,000,000 Americans annually. Utilizing video conference technology, students and teachers participate in interactive lessons led by educators from the National Baseball Hall of Fame Museum. These award-winning educational programs draw upon the wonders of baseball to reach students in classrooms nationwide. Each educational program uses baseball as a lens for teaching young Americans important lessons on an array of topics, including mathematics, geography, civil rights, women's history, economics, industrial technology, arts, and communication.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In recognition and celebration of the National Baseball Hall of Fame, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 50,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 400,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF-DOLLAR CLAD COINS.—Not more than 750,000 half-dollar coins which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half-dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent possible without significantly adding to the purchase price of the coins, the $1 coins and $5 coins minted under this Act should be produced in a fashion similar to the 2009 International Year of Astronomy coins issued by Monnaie de Paris, the French Mint, so that the reverse of the coin is convex to more closely resemble a baseball and the obverse concave, providing a more dramatic display of the obverse design chosen pursuant to section 4(c).

SEC. 4. DESIGN OF COINS.

(a) IN GENERAL.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the National Baseball Hall of Fame;

(B) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(b) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year ''2014''; and

(3) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(c) SELECTION AND APPROVAL PROCESS FOR OBVERSE DESIGN.—

(1) IN GENERAL.—The Secretary shall hold a competition to determine the design of the common obverse of the coins minted under this Act, with such design being emblematic of the game of baseball.

(2) SELECTION AND APPROVAL.—Proposals for the design of coins minted under this Act may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary. The Secretary shall encourage 3-dimensional models to be submitted as part of the design proposals.

(3) PROPOSALS.—As part of the competition described in this subsection, the Secretary may accept proposals from artists, engravers of the United States Mint, and members of the general public.

(4) COMPENSATION.—The Secretary shall determine compensation for the winning design under this subsection, which shall be not less than $5,000. The Secretary shall take into account this compensation amount when determining the sale price described in section 6(a).

(d) REVERSE DESIGN.—The design on the common reverse of the coins minted under this Act shall depict a baseball similar to those used by Major League Baseball.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2014.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $35 per coin for the $5 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(3) A surcharge of $5 per coin for the half-dollar coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Baseball Hall of Fame to help finance its operations.

(c) AUDITS.—The National Baseball Hall of Fame shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

SEC. 8. FINANCIAL ASSURANCES.

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

SEC. 9. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2527), as amended, was read the third time and passed.

MEASURE READ THE FIRST TIME—H.R. 6079

Mr. REID. Mr. President, there is a bill at the desk due for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The bill clerk read as follows:

A bill (H.R. 6079) to repeal the Patient Protection and Affordable Care Act and health care-related provisions in the Health Care and Education Reconciliation Act of 2010.

Mr. REID. I now ask for a second reading, but in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for a second time on the next legislative day.

ORDERS FOR MONDAY, JULY 16, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 2 p.m., Monday, July 16, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; at that time that I be recognized; that at 5 p.m. the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. REID. Mr. President, there will be two rollcall votes on Monday evening. Beginning at 5:30, there will be a vote on the McNulty nomination. Following that vote, there will be 10 minutes of debate and then we will vote on cloture to S. 3369, the DISCLOSE Act.

ADJOURNMENT UNTIL MONDAY, JULY 16, 2012, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:48 p.m., adjourned until Monday, July 16, 2012, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

MARK A. BARNETT, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE JUDITH M. BARZILAY, RETIRED.

DEPARTMENT OF JUSTICE

ANGELA TAMMY DICKINSON, OF MISSOURI, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF FOUR YEARS, VICE MARY ELIZABETH PHILLIPS, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

JOELLE-ELIZABETH BEATRICE BASTIEN, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

ROSALYN ADAMS, OF CALIFORNIA
MIRIAM R. ASNES, OF MASSACHUSETTS
RICHARD A. BAKEWELL, OF VIRGINIA
WILLIAM D. BARRY, OF FLORIDA
JEN M. BAUER, OF MARYLAND
LINDA MARIE BLOUNT, OF VIRGINIA
KELLY HAMILTON BUSBY, OF VIRGINIA
GINA MARIELA CABRERA-FARRAJ, OF VIRGINIA
CHRISTIAN R. CALI, OF VIRGINIA
NORMAN LUCZON CAPISTRANO, OF CALIFORNIA
JANE CARTER, OF CALIFORNIA
CHRISTINA JEANNE CAVALLO, OF VIRGINIA
ALAN M. CLARK, OF FLORIDA
JORDANA MICHELLE COX, OF CALIFORNIA
SHAYNA COLLEEN CRAM, OF TEXAS
KELIA EILEEN CUMMINS, OF FLORIDA
PETER J. DAVIS, OF VIRGINIA
CHRISTIAAN EDWARD NICHOLAS DE LUIGI, OF VIRGINIA
JASON M. DEROSA, OF MASSACHUSETTS
PHILIP M. DIMON, OF GEORGIA
LAURA GAVINSKI DJURAGIC, OF PENNSYLVANIA
DAWN MARIE DOWLING, OF VIRGINIA
STEVEN JAMES DUBÉ, OF FLORIDA
KONSTANTIN DUBROVSKY, OF VIRGINIA
JAMES COE ECONOMOU, OF NEW YORK
STEPHANIE TERESA ESPINAL, OF THE DISTRICT OF COLUMBIA
SPENCER MICHAEL FIELDS, JR., OF VIRGINIA
JOHN H. FLETCHER, OF VIRGINIA
JENNIFER MARIE FOLTZ, OF MICHIGAN
GRETCHEN M. FRANKE, OF THE DISTRICT OF COLUMBIA
RUTH H. GALLANT, OF CALIFORNIA
NEIL H. GIBSON, OF VIRGINIA
COURTNEY C. GILLESPIE, OF TEXAS
TORREY ANDREW GOAD, OF WASHINGTON
BETTINA DANETTE GORCZYNSKI, OF VIRGINIA
SARAH MARIE GOURDE, OF OREGON
JASON H. GREEN, OF TENNESSEE
ANN DELONG GREENBERG, OF NEW HAMPSHIRE
JAMES RYAN GRIZZLE, OF VIRGINIA
GISCARD G. GUILLOTEAU, OF FLORIDA
STEPHANIE MARIE HACKENBURG, OF PENNSYLVANIA
MAXWELL J. HAMILTON, OF LOUISIANA
GRAHAM B. HARLOW, OF COLORADO
ROBIN A. HARTSELL, OF ILLINOIS
ROBERT B. HAWKINS III, OF CALIFORNIA
NICHOLAS WILLIAM HELTZEL, OF VIRGINIA
EILEEN T. HIGGINS, OF FLORIDA
BRADFORD HOPEWELL, OF VIRGINIA
ETHAN ROBERT HYCHE, OF CALIFORNIA
CHRISTIAAN K. JAMES, OF TEXAS
BLAKE A. JOHNSTON, OF COLORADO
C. MELORA JOHNSTON, OF COLORADO
TYLER JAMES JOHNSTON, OF FLORIDA
DAVID MAURICE JONES, OF ILLINOIS
SUSAN KOPP KEYACH, OF PENNSYLVANIA
JONATHAN LOREN KOEHLER, OF ILLINOIS
STEPHANIE KOTECKI-BONHOMME, OF WASHINGTON
KEITH ROBERT KRAUSE, JR., OF THE DISTRICT OF COLUMBIA
MARTIN L. LAHM III, OF NEW YORK
SCOTT JOHN LANG, OF ILLINOIS
LISA CHRISTINE LARSON, OF MINNESOTA
ELLISON S. LASKOWSKI, OF THE DISTRICT OF COLUMBIA
JANETTE ELISE LEHOUX, OF UTAH
ANDREA K.S. LINDGREN, OF MINNESOTA
SEAN PATRICK LINDSTONE, OF VIRGINIA
KENDRICK M. LIU, OF CALIFORNIA
CHRISTIE L. LIVINGSTON, OF NEW YORK
MARISA LEIGH MACISAAC, OF MAINE
JONATHAN JOSEPH MAGSAYSAY, OF THE DISTRICT OF COLUMBIA
BRIAN STEVEN MANNING, OF OKLAHOMA
ERIN NICHOLE MARKLEY, OF MISSOURI
NAOMI AMANDA MATTOS, OF VIRGINIA
STACEY L. MAUPIN, OF ILLINOIS
RUTH J. NEWMAN, OF COLORADO
VICTORIA LEIGH NIBARGER, OF KANSAS
PAUL M. NICHOLS, OF THE DISTRICT OF COLUMBIA
NICHOLAS R. NOVAK, OF WASHINGTON
ERIN T. O'CONNOR, OF TEXAS
ALETA TURNER OKEDIJI, OF THE DISTRICT OF COLUMBIA
DOUGLAS H. OSTERTAG, OF CALIFORNIA
JEFFREY L. OTTO, OF NEW YORK
LISA INGRID OVERMAN, OF FLORIDA
MARK SEBASTIAN PALERMO, OF THE DISTRICT OF COLUMBIA
JOHN REED PAYNE, OF TEXAS
RICHARD PAYNE—HOLMES, OF VIRGINIA
KIMBERLY MICHELLE PEREZ, OF TEXAS
JOSÉ FRANCISCO PEREZ ETRE, OF THE DISTRICT OF COLUMBIA
ANN PERRELLI, OF MARYLAND
DAVID CONRAD PETERSON, OF MISSOURI
JAMES D. PLASMAN, OF ILLINOIS
KATHERINE PARRINDER PLONA, OF MICHIGAN
PAMELA ROSS DIEFENDERFER PONTIUS, OF TEXAS
ERIK S. PUGNER, OF CALIFORNIA
MICHAEL JOHN RALLES, OF MINNESOTA
REBECCA CAROL RAMAN, OF TENNESSEE
ERIN BROOK RENNER, OF THE DISTRICT OF COLUMBIA
LUCY AVENT REYNO, OF VIRGINIA
JENNIFER A. RIZZOLI, OF TEXAS
BRETT ROSE, OF ARIZONA
STEPHANIE KYLEEN FAIN SANDOVAL, OF TEXAS
ROCCO CHRISTOPHER SANTORO, OF NEW YORK
SHELLEY WALKER SAXEN, OF FLORIDA
LUKE AARON SCHTELE, OF NEVADA
CHARLES FREDERICK SETEN, OF ILLINOIS
REBECCA ANN SEWERYN, OF PENNSYLVANIA
JENNIFER TERESE SIREGAR, OF FLORIDA
SARAH F. SKORUPSKI, OF THE DISTRICT OF COLUMBIA
JASON A. SMITH, OF VIRGINIA
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