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House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, November 10, 2011, at 2:30 p.m.

Senate

TUESDAY, NOVEMBER 8, 2011

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Sovereign God and ultimate ruler of this Nation, as our lawmakers remember their accountability to You, use them to protect the blessing of liberty. Continue to provide encouragement and support to the members of their staffs, who help provide for the security and well-being of the citizens of this land.

Lord, cover us all with Your protection and providence, and may Your gracious benediction give us peace this day and evermore. Keep our thoughts clear, our words wise, and our hearts pure.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 8, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business for 1 hour, with the majority controlling the first half and the Republicans controlling the final half. Following morning business, we will resume consideration of the motion to proceed to H.R. 674. At noon, the Senate will be in executive session to consider the nomination of Evan Wallach to be U.S. Circuit Judge for the Federal Circuit. At 12:15 p.m., the Senate will vote on confirmation of the Wallach nomination. Following that vote, the Senate will be in recess until 2:15 p.m. to allow for our weekly caucus meetings. We expect to begin consideration of H.R. 674 today. Senators will be notified when additional votes are scheduled.

MEASURES PLACED ON THE CALENDAR—H.R. 2930 AND H.R. 2940

Mr. REID. Madam President, there are two bills at the desk. They are both due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 2930) to amend the securities laws to provide for registration exemptions for certain crowdfunded securities, and for other purposes.

A bill (H.R. 2940) to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D.

Mr. REID. Madam President, I object to any further proceedings with respect to these two bills.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar under rule XIV.

VOW TO HIRE HEROES LEGISLATION

Mr. REID. Madam President, yesterday my friend the Republican leader ticked off a list of bills on which he believes Democrats and Republicans can agree. I couldn't help but notice that the VOW to Hire Heroes legislation that would give tax cuts to companies to hire out-of-work and disabled veterans wasn't on that list he ticked off.

The bill I just referred to, the VOW to Hire Heroes legislation, ought to be free of even a whiff of controversy. House Republicans already voted for the major components of that bill—a plan to give older veterans access to job training so they can keep up with the rapidly changing workplace and to help young veterans transition from Active-Duty service to the civilian workplace.

The bill wouldn't add a dime to the deficit, so there should be no objection there. It is paid for with a noncontroversial extension of an existing fee on VA-backed mortgages. It is a version of the same bill for which House Republicans already voted. Republicans have voted for tax credits for companies that hire out-of-work and disabled veterans in the past, so that can't be the holdup. We will pass this important legislation as an amendment to a bill sent over from the House to repeal a 3 percent withholding provision from government contractors. Republicans have been chomping at the bit to pass this measure, so the House vehicle for VOW to Hire Heroes is not the source of their radio silence, I am sure.

There are no procedural or philosophical hurdles to passing this bill. But don't take my word for it, Madam President. JEFF MILLER, the Republican chairman of the House Veterans' Affairs Committee, said this about this bipartisan legislation yesterday:

> Today, we are putting aside politics and putting America's veterans first. This is how the process should work. The VOW Act, which passed the House with overwhelming bipartisan support, provides the framework for this legislation and gets to the root of many of the employment problems our veterans face.

With nearly a quarter of a million Iraq and Afghanistan veterans unemployed, this legislation can't come a moment too soon. Yet Senate Republicans remain curiously silent on this legislation.

It is inconceivable that my Republican colleagues perceive this legislation to be unnecessary, but it also seemed unthinkable that Republicans would unanimously oppose legislation to create hundreds of thousands of jobs for teachers, firefighters, and construction workers.

Here is what is at stake. The number of unemployed post-9/11 veterans has gone up by 30,000 in the last year alone. Nearly 250,000 men and women who volunteered to fight overseas for the flag and the privileges and freedoms it represents can't find a job here at home. That number will only grow as the two wars draw to a close. One in five young veterans—veterans under age 25—is unemployed. On any given night, at least 75,000 veterans, including 2,500 in Nevada, sleep on the streets. They are homeless. We should all be able to agree that even 1 night is too many for our Nation's heroes to pass without a roof over their head. Young veterans are more than twice as likely as their peers to be homeless and four times as likely to live in poverty. During tough economic times, when some young people join the military for a way to escape the cycle of poverty, this statistic is shocking and disheartening.

I call on the minority leader and the rest of my Republican colleagues to break their silence. Where do they stand on the VOW to Hire Heroes Act? I ask my Republican colleagues, do you believe we should lend a hand to those who defend our freedom? Of course. Or do you think this Nation's responsibility to its veterans ends the day they take off that uniform?

Andrew Carnegie once said that the older he got, the less mind he paid to what men say. ''I just watch what they do,'' he said. So I remind my Republican friends that the men and women of the U.S. Armed Forces—those who wear the uniform today and those who wore it once—are watching what my Republican colleagues do.

RECOGNITION OF THE MINORITY LEADER

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

TACKLING THE JOBS CRISIS

Mr. MCCONNELL. Madam President, it has now been 2 months since the President came before Congress and outlined his plan for tackling the jobs crisis—a plan that can best be described as a rehash of the same failed policies of the past few years disguised as a bipartisan overture, a political strategy masquerading as a serious legislative proposal. The President put this plan together knowing the Republicans would oppose it. In other words, it was actually designed to fail, as the White House aides have readily admitted to reporters for weeks. This was not, I repeat, a serious effort to do something about jobs and the economy. It was a serious effort to help the President's reelection campaign by making Republicans in Congress look intransigent.

So what I have been saying for the past few weeks is let's put the political games aside. We will have time for the election next year. The American people want us to do something about jobs right now.

Well, it appears the message may be finally breaking through. I was just listening to my friend the majority leader talking about the measure before us—something we support and look forward to passing. It has been championed by Senator SCOTT BROWN of Massachusetts as something that would help contractors who do business with the government. I was also glad to see that the Veterans bill, which contains many provisions supported by Republicans, will be the first amendment. So maybe we are making some progress. This is just the kind of thing we have been calling for, just the kind of thing we should be doing a lot more of around here because there is a lot we can agree on when it comes to jobs legislation, and that is where the focus should actually be.

While the President has been out on bus tours, Republicans in the House have been debating and passing bipartisan legislation aimed at making it easier for businesses across the country to grow and to create jobs. Over the past 2 weeks, I have highlighted some of their good work.

Yesterday, I mentioned in particular a bill the House passed just last week called the Small Company Capital Formation Act, H.R. 1070, a bill that received 421 votes, including 183 Democratic votes. Only 1 person of the entire 435-Member House of Representatives voted against the bill—just 1. And President Obama endorsed the idea contained in this bill in his jobs speech a couple of months ago. The question is, Why in the world wouldn't the Democratic majority take it up and pass it right here in the Senate? If Democrats are more interested in passing legislation that helps put Americans back to work than they are in raising taxes, they should at least work with us to pass the bills the President himself has endorsed.

This morning, I want to say again how pleased I am we will be taking up Senator BROWN's 3 percent withholding bill to help ease the burden on government contractors and that we will have a vote on and hopefully debate the Veterans bill. I would like to call on the Democratic majority in the Senate to keep it up by taking up H.R. 1070 or its bipartisan Senate companion bill, S. 1544, sponsored by Senators TOOMEY and TESTER.

Take up this legislation that has already passed the House with the support of almost everybody over there and show the American people that you care more about creating jobs than creating campaign slogans. Let's not make the bills we will be voting on today the exception but the rule around here. Why don't we just keep it up?

Right now, small, growing businesses aren't expanding their businesses through a public offering because they simply can't afford the high cost of the government paperwork they are required to manage. Instead of going out there and raising money to grow and hire, they are holding back. They are not expanding. And if they are not expanding, they are not hiring. This bill would remove some of that burden from smaller businesses and help them gain access to new capital that they can invest in their businesses and their employees.

Yesterday, I mentioned the CEO of a pharmaceutical company in Pennsylvania who says that he has a promising new drug for treating chronic kidney disease actually in the pipeline but that he can't take it to the next level because of all the regulatory costs his company is too small to afford right

now. We should be removing barriers for smaller companies such as his. Nearly 200 House Democrats agree with that, and so does President Obama. As I said yesterday, this bill is about as bipartisan as it gets. The only thing standing in the way of passing it in the Senate is the Democrats who schedule legislation around here, and the only reason they could have for blocking it is that it steps on their campaign strategy.

I think that is a mistake. I think the American people can see Republicans in the House passing all these bipartisan bills aimed at spurring job creation, and they wonder why Senate Democrats won't actually take them up.

This should be easy. They have already done the hard work of finding jobs bills that we know can pass both Chambers and that the President would probably sign. Let's take up the bipartisan companion bill of Senators TOOMEY and TESTER to the House bill—their bill is S. 1544—and let's pass it, and then let's send it to the President for his signature so it can become law.

If you are for creating jobs, you should be for this bill. As the AP put it last month:

> Companies use the cash they raise to grow—and that means hiring people . . . and at a time when 14 million Americans are looking for work and the unemployment rate has been stuck near 9 percent for two years, the last thing the economy needs is for one engine of hiring to stall.

A recent report by NASDAQ of companies that went public from 2001 to 2009 found that those companies increased their collective workforce by 70 percent after making the initial public offering—a 70-percent increase in employment after making an initial public offering.

What this bill does is enable more companies to take that leap and start hiring once they have. This is the kind of thing we should be doing more of in the Senate. Let's put the partisan bills aside and let's focus on bipartisan legislation. Instead, why don't we shoot for success.

DETAINING ENEMY COMBATANTS

Last week, the White House announced that Prime Minister Nouri al-Maliki of Iraq will be meeting with the President here on December 12. This meeting comes at an important time, as our own military forces will be drawing down their presence within Iraq, and the future of our bilateral security relationship remains very uncertain. But our withdrawal from Iraq raises another important matter I hope the President will raise with Prime Minister Maliki and which highlights some of the difficulties that will result from the military drawdown there, and eventually in Afghanistan, as well, both of these drawdowns the President has ordered. What I am referring to is the law of war detention.

In July of this year, Senate Republicans wrote to Secretary of Defense Panetta concerning the custody of Ali Mussa Daqduq, the senior Hezbollah operative currently in our joint custody in Iraq. Daqduq is in joint custody in Iraq between the United States and the Iraqi Government.

In 2005, Daqduq was directed by senior Hezbollah leaders to travel to Iran, where he trained Iraqi extremists in the use of explosively formed penetrators, mortars, and other terrorist tactics. Among other things, Daqduq is suspected of orchestrating a kidnapping in Karbala, Iraq, 4 years ago that resulted in the murder of five U.S. military personnel. It is a safe bet that if Daqduq is transferred to Iraqi control, he will return to the fight against the United States. President Obama should insist in his meeting with Prime Minister Maliki that U.S. forces retain custody of Daqduq and transport him to the detention facility at Guantanamo Bay.

The detention of Daqduq touches on three important issues in the ongoing war on terror. First, with the withdrawal of our military presence from Iraq, the United States will lose the ability to detain enemy combatants such as Daqduq in Iraq. Current plans are for the U.S. military to have completed our transition to the security forces of Afghanistan by the end of 2014, and we should expect that we will lose the ability to detain enemy combatants there as well. Our military commanders in Afghanistan should therefore anticipate losing the ability to detain enemy combatants by that date. As we saw in the capture of Abdul Warsame, the Somali terrorist accused of providing materiel support to al-Qaida in the Arabian Peninsula and Al Shaabab and detained on a U.S. Navy ship at sea, there remains a strong likelihood that our military and intelligence community will need a secure detention facility to house these foreign fighters. The issue is, what are you going to do with them.

Rather than being kept in military custody overseas, Warsame was flown to the United States and placed in the civilian system. But the logical place for long-term or indefinite detention of foreign fighters such as Warsame is not on a ship at sea or in our private prison system but rather, as I have said many times before, at the secure detention facility at Guantanamo.

Second, it is worth noting that the Obama administration has tied its own hands in the matter of indefinite detention of enemy combatants. The administration's plan to buy a prison in Illinois for conversion to a military detention facility makes clear that the President does not oppose law of war detention. He is fine with bringing foreign fighters into the United States and indefinitely detaining them in military facilities inside our borders, and yet he opposes detaining them indefinitely at the military facility in Guantanamo, where they will benefit from humane treatment but they won't enjoy the legal rights of detainees who are brought here, including the possibility of release into the United States.

Third, the Executive orders signed by the President in January in 2009 were issued with an eye toward fulfilling candidate Obama's campaign promises, rather than after conducting a serious review of sound counterterrorism policy. Now, 3 years after taking office, the President has had enough firsthand experience dealing with terrorism to know that many of the terrorists held at Guantanamo can't be sent back to places such as Yemen, where they are likely to return to the fight. But the President's own Executive orders have denied our military commanders and our intelligence community the certainty they need when they capture, detain, and interrogate terrorist suspects. His early Executive orders, for instance, ended the CIA's detention program and directed the closing of Guantanamo. The order to close Guantanamo makes little sense.

It is not Republicans who are tying the President's hands in prosecuting the war on terror. He did that himself with the shortsighted Executive orders he signed during his first days in office. As our country withdraws from Iraq and transitions further responsibilities to the Afghan security forces in Afghanistan, we will need a place to send foreign fighters such as Warsame and Daqduq. That place is the military detention facility at Guantanamo Bay in Cuba.

In his discussions with Prime Minister Maliki, the President should, of course, discuss the role the U.S. military will play in Iraq after the end of this year and how our two countries can work together to preserve the gains made through the sacrifice of so many brave Americans, and to combat Iranian influence. But in addition to these important matters, the President should also insist that the Prime Minister retain custody of Daqduq and send him to Guantanamo as soon as possible.

Madam President, I yield the floor.

RESERVATION OF LEADERSHIP TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Illinois.

MILITARY DRAWDOWN IN IRAQ

Mr. DURBIN. Madam President, I listened carefully to the statement made

by the minority leader, Senator MCCONNELL, the Republican leader. His last statement was about the military drawdown in Iraq.

There were some of us on the Senate floor who were here 10 years ago when the vote was taken on the invasion of Iraq, and 23 of us voted no—1 Republican and 22 Democrats—because we felt the focus of American military power and energy should be to avenge what happened on 9/11 by focusing our resources on the great men and women in uniform in Afghanistan and al-Qaida and Osama bin Laden. President Bush and his supporters believed otherwise. They called for a war in another country, in Iraq, a country which was not implicated in any way with what happened on 9/11. Twenty-three of us thought that was a mistake.

Well, here we are almost 10 years later. We have spent $1 trillion in Iraq, we have lost over 4,400 of our brave men and women who served in uniform, and now we have a leadership in Iraq which is suspect. Maliki, the leader, has shown in the past to be close to the Iranians—not our friends and not the friends of Western values. I am unhappy with that outcome. But when you deal with democracy or some form of it, the people of a country choose their leaders. That is the reality.

President Bush, before he left office, negotiated a timetable to bring American troops home from Iraq, and the timetable called for that to happen by the end of this year. What President Obama did when he came into office was to take this planned withdrawal of American troops by President Bush and implement it. There came a question at the end whether all of the troops would leave or some would stay. What President Obama tried to negotiate was a guarantee that if American troops stayed in Iraq, they would not be charged and tried in Iraqi courts; that they would be subject to punishment for wrongdoing but it would be under the premise, as it would in most cases, that it would be done under American military law. Mr. Maliki and the Iraqis said no, and the President said we are not going to leave our men and women in uniform in Iraq subject to a government and courts that may not treat them justly or fairly.

I think the President made the right decision. I think if he had made the other decision and said, Leave them there and let the Iraqi prosecutors do what they wish, we would have heard speeches on the floor from the other side about what an outrage it is to put American soldiers in harm's way, in jeopardy of an Iraqi military justice system or justice system that may be unfair and unjust. The President said, no, our troops will come home.

Now comes the criticism from the Republican side of the aisle that we are leaving under a timetable established by President George W. Bush, leaving because President Obama could not get a guarantee of fair treatment of American soldiers if they stayed. What else would a President do?

Then the argument is made, well, the problem we have is that we may reach a point where some of the people accused of terrorism now being held in Iraq—we are not certain what is going to happen with them now. That is a good question, and I don't know the answer to it. But Senator MCCONNELL—he is consistent—believes we should not ever consider bringing such a foreign person accused of terrorism into America's judicial and court system. He argues that since this is a war and these are terrorists involved in the war, these people should all be directed to military courts in the United States, military tribunals. We have had that argument on the floor. In fact, we had the debate when we had the vote, when Senator AYOTTE offered it 1 or 2 weeks ago.

The majority sentiment in the Senate reflects a reality, and here is the reality: Since 9/11, 2001, more than 230 terrorists have been successfully prosecuted in the article III criminal courts of America. So even those who are foreign born, such as the most recent one, the Underwear Bomber—do you remember the story? He was on a plane headed to Detroit, tried to detonate a bomb, his clothes caught on fire, they put out the fire and arrested him. He pled guilty a few weeks ago in America's criminal courts. He was prosecuted by the Department of Justice, investigated by the Federal Bureau of Investigation, and pled guilty. He wasn't the first. In fact, since 9/11 more than 300 accused terrorists have been successfully prosecuted in our courts, the same courts Senator MCCONNELL questions whether they could adequately protect America. Three hundred times accused terrorists have gone to jail. How many have been prosecuted in military tribunals in that same period of time? Three. Three. Three hundred to three, if you are keeping score.

What I say is this or any other President should have the power to make the right decision as to where someone should be prosecuted. If it is in our court system, so be it. There is ample evidence that the FBI and our prosecutors are up to that task. If it is in the military tribunal, so be it. Let the President make that decision.

Senator MCCONNELL sees it otherwise, and he believes it is a mistake to go to our criminal courts. I would ask him, if he believes that, to explain the score 300 to 3 over the last 10 years.

One last point. This notion that we cannot safely incarcerate convicted terrorists in American prisons has been proven wrong 300 times since 9/11. These men have been sent to American prisons all around the United States, including Marion, IL, where we house convicted terrorists. I have been to southern Illinois recently, and people are not running screaming in the streets because four or five people convicted of terrorism are sitting in the Marion Federal penitentiary. Our people who work there will take care of those folks, and the folks who live around that community have no fear.

I might add that Senator MCCONNELL is mistaken in referring to the Thomson prison. Let me say a brief word about something that means a lot to me. Ten years ago, my State built a prison in Thomson, IL, and then didn't have enough money to open it. It has been sitting there largely empty for a decade. Now the State of Illinois is prepared to sell it to the Federal Bureau of Prisons. The Federal Bureau of Prisons negotiated a good price—good for the State of Illinois and good for us—and saves us about $35 million over building a new prison. So we get a pretty good deal as Federal taxpayers and Illinois gets sold a 10-year-old prison it is not using. That is pretty good and creates a lot of local jobs.

This has the support not only of myself but the Republican Senator from Illinois, Mr. MARK KIRK, and Republican Congressmen who represent this area. We all support this issue. The notion that Guantanamo detainees are coming to Thomson is a dead issue. The President proposed it initially. I had no objection to it, but it was clear the political sentiment on Capitol Hill opposed it. I accepted that, I accepted political defeat, if you will, on this issue, and said: So be it. No Guantanamo detainees can ever go to the Thomson prison if that is what it takes to close the deal.

The President agreed to it. Attorney General Eric Holder sent a letter upholding it. Senator KIRK, who felt very strongly about this, acknowledged that this letter made it clear this administration was not going to transfer those prisoners to Thomson. Here it comes back on the Senate floor today.

I can just say to my friend Senator MCCONNELL I hope he will sit down with Senator KIRK who will explain this is no longer an issue. I am not fighting this issue, the President is not fighting it, there will be no Guantanamo detainees at Thomson. Let's do something right for our Bureau of Prisons and right, I hope, for my home State of Illinois.

VETERANS EMPLOYMENT

On a separate issue, we are going to consider a Veterans bill today on veterans unemployment, and we will vote on it soon, in the next day or two. It is a bipartisan bill, and it should be. It is a bill that is based on President Obama's jobs bill, which said in addition to all the other unemployed in America, we should give special help to our returning veterans.

I remember the President's speech at the joint session of Congress. Members on the Republican side did not jump up and applaud very often, but they sure did when the President said we ought to help our veterans: They fought for America; they should not have to come back home and fight for a job. Let's give them a helping hand. Everyone stood up and applauded, as they should have.

This bill provides incentives for people to hire unemployed veterans—we

estimate there are about 240,000 of these veterans—and the tax credits and all the other counseling and assistance is paid for in the bill. It appears now that this bill—inspired by President Obama's jobs bill and added to it, I might add, the work of the Senate Veterans' Affairs Committee under Senator PATTY MURRAY—is likely to pass on a bipartisan basis, and it should, in time for Veterans Day.

Let me add another point, if I can. I want to help these 240,000 veterans and all veterans go to work. That is something we have a duty to do, a solemn moral duty to see happen. But don't forget there are 14 million unemployed Americans. President Obama's bill goes beyond veterans and says there are many other people needing a helping hand. Help the veterans first—OK, I am for that; I sign up—but keep on the topic, keep on the subject of putting America back to work.

Unfortunately, now, on three separate occasions we have called up President Obama's jobs bill on the Senate floor, and we could not get one single Republican Senator to vote for it—not one. Their reason is very clear, and they are very explicit about it. President Obama pays for his jobs bill by imposing a surtax on those making over $1 million a year. In other words, if someone is making more than $20,000 a week in income in America, they are going to pay a little more—it is about 5 percent—for the money earned over $1 million. The Republicans have come to the floor and said clearly: No deal. We will not agree to any jobs bill that imposes any new tax burden on the wealthiest people in America.

That is their position. They are very open about that position.

Who disagrees with that? Virtually everyone in this country. An overwhelming majority of Democrats and Independents and a majority of Republicans and tea party members say it is not unfair to ask the wealthiest to pay a little more in taxes to get the American economy working again and to get people back to work. That is what the President proposes.

As we pass this Veterans bill this week, remember it started in the President's jobs bill. It is now bipartisan, as it should be, and we should not stop here. We need to continue the effort. Last week we tried to put money into rebuilding America, infrastructure across America—roads, highways, airports, mass transit. We could not get a single Republican to support us—not one. A week before that we said: Let's try to focus on teachers, policemen, and firefighters who are losing their jobs. Let's try to make sure they do not lose as many as might happen if we do not act. We could not get a single Republican to support that either.

They will not support any provision in the President's jobs bill that adds one penny in new taxes to a millionaire in America. That is their standard. That is what they are using.

The Veterans bill does not do that, so they said they will go along with it. But it begs the question: If we are serious about dealing with this recession and putting people back to work, let's not stop with the veterans of America. Let's start with the veterans of America, and let's do the right thing by them and the rest of this country. A payroll tax cut for working Americans struggling paycheck to paycheck so they have more money, more money to get by, makes sense. They will spend that money—they will need to—on the necessities of life and the purchase of goods and services that will create more jobs; second, tax credits to hire those unemployed; third, make certain we invest in infrastructure, not only what I mentioned, roads and highways, but school buildings and community colleges. Also, make sure we do our best for the policemen, firefighters, and teachers who are facing layoffs all across America.

Those ought to be priorities. They are the President's priorities. They should be our priorities in the Senate. The President has strong bipartisan support for what he is setting out to do. The sad reality is we have little or no support when it comes to votes in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

(The remarks of Mr. WHITEHOUSE on the introduction of S. 1829 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WHITEHOUSE. I thank the chair and yield the floor and note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Madam 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.

NET NEUTRALITY

Mr. WARNER. Madam President, I rise in opposition to S.J. Res. 6. This resolution would basically roll back the FCC's compromise over what we have all been debating: net neutrality. This is a subject area I have more than a passing interest in. It is a subject I had the good fortune to be involved in during the practice of my business for over 20 years before I got involved full time in politics and public service.

I, and I know the Presiding Officer and probably all of us in this body, recognize that the power of telecommunications and the power of the Internet to transform people's lives has been remarkable. Demand for Internet use is growing dramatically. Today, nearly 2 billion people use the Internet. By 2015—and that is a mere 4 years from now—that number is expected to reach 2.7 billion.

That is pretty significant: 2.7 billion people using the Internet out of a total worldwide population of 7 billion folks. We are rapidly hitting the point where nearly half the world will use the Internet in one form or another to communicate, to effect commerce, to socially interact. This is a tool. Making sure this tool, this network, this technology, this transformative field truly remains open, free, and available to all and is not unduly hindered by government regulation is something we all aspire to. Yet even as we see this tremendous growth in the Internet, we see constraints—constraints put on by spectrum resources and access to high-speed broadband. Mobile app providers seem to be multiplying exponentially day by day. There are already over 600,000 applications or ''apps'' for the iPhone. Android—a more recent entrant into the market—now has over 500,000 ''apps.''

One of the most incredible things is that the United States lays claim to inventing the Internet which was developed by government research linking a whole series of computer networks back in the late 1980s and into the early 1990s. While the United States has been at the forefront of Internet development, unfortunately due to broadband constraints and spectrum constraints, the United States, which used to be a leader, is no longer in that leadership role. For example, homes in South Korea have greater access to faster, more advanced wireless networks and broadband than we do.

So the question in the resolution we are debating is: How do we make sure we continue to grow access to broadband? How do we make sure the Internet, with all its wonderful new applications, is available in the most open and technology-neutral way?

The FCC has wrestled with this issue for some time, and the FCC is the appropriate place to be wrestling with this issue. Last December, the FCC came out with an order—an order that reached some level of compromise between a series of very strong competing interests. By no means do I believe the FCC December 2010 order is perfect. But it does represent a dramatic step forward in that a majority of the players, candidly, in the industry have reached some accommodation.

I do not believe this order in itself is a sufficient answer. I do believe we in Congress are going to need, at some point, to come back and review the Telecommunications Act of 1996. While that offered great promise—and I was someone who was still in the private sector at that moment in time, someone who thought we were going to see true interconnection opportunities for truly local competitive access in terms of telephone services—that did not come to pass. As a matter of fact, I have a number of companies that went down the tubes that I invested in that assumed that 1996 Act would open those kinds of activities. It did not come to pass.

But having Congress revisit the 1996 Telecommunications Act is not what is being debated today. What is being debated is whether we go ahead and allow the FCC's compromise proposition to move forward or whether we introduce further politics into this issue when we ought not let politics stand in the way of technology and innovation moving forward.

I know some of my colleagues on the other side of the aisle who feel otherwise. They think the FCC's compromise order puts too much government regulation on innovation. I must respectfully disagree. If we were talking about too much government regulation of innovation, I would be strongly standing with those colleagues saying that is not what we ought to be doing.

What we are doing, as we debate this so-called net neutrality issue, is talking about the rights and responsibilities of network owners and operators to manage the Internet and, quite honestly, to allow them to run successful businesses in a free and open way.

We are also talking about the rights of consumers to have access to lawful content on the Internet without any prejudice. Without having that network provider choose one content provider over another in terms of who gets first dibs, first access to their network.

This issue has been debated on and off not just this year but for a number of years. In many ways, the current history on this issue goes back to 2005, when both the Federal Communications Commission and the Supreme Court determined separately that broadband services should be reclassified as information services under the 1996 Telecommunications Act instead of as telecommunications services.

For those who do not live within the rather esoteric world of telecom regulations, what does this mean in plain English? Information services have always had a lighter touch of regulation than have telecommunications services.

Think about the original regulation of telecommunications services going back almost to the 1934 act, when we had, in effect, one telecommunications provider. It was Ma Bell. We could pick our phone of any type, as long as it was black, and everybody paid the same access fee. When we had that kind of monopolistic situation telecommunications had to be regulated in a more appropriate way to make sure the consumers were protected.

As we saw the evolution of telecom services and the breakup of Ma Bell and a move to multiple providers, telecom services still have required a slightly heavier hand of regulation than for information services.

Back in 2005, the Supreme Court and the FCC said that because we have this brand new area of broadband—an area that in 2005 we did not fully realize the potential of, frankly, even in 2011, I am not sure we fully realize the potential—we are going to view this as information services and, consequently, have less regulation. That should be viewed as a good sign.

Contrary to what some in this debate say, there has never been a time when the management of the Internet or the telecommunications networks—which make up, in effect, the backbone of our Internet system—has not been regulated. Again, as I mentioned earlier, networks—whether they are passing voice, data, now video or others—all have had some form of regulation going back to the Telecommunications Act of 1934.

The question we are asked here today is: What kind of rules do we want to have as a society to make sure everyone can have free and unfettered access to the Internet and to lawful content in a way that is not biased or prejudiced by the telecommunications provider in the background?

To me, that means Internet service providers have the right to manage the networks as best they can. That means network providers have to have the ability to manage some level of traffic so they can generate enough revenues to continue to build out their networks, particularly so rural communities can have access to these services.

I know the Acting President pro tempore knows of parts of northern New Hampshire where there are still areas that do not have full high-speed broadband Internet access. I know in my State of Virginia there are parts of Southside and southwest that do not have access to full high-speed broadband connections.

While broadband connectivity does not guarantee economic success, it is a prerequisite for any community in the 21st century if they are even going to get looked at as a possible location for new jobs. So we have to make sure all communities get access to broadband. That means we have to allow the network providers at least enough of a rate of return to give them the incentive to build out their networks.

But it also means that while they have to be able to manage their networks, these Internet service providers, cannot discriminate against content providers' access to networks. It does not mean a network provider ought to be able to say: I like this content more than that type of content, particularly if the network provider happens to own that content and somehow moves it to the front of the line. That goes against the grain of everything that has been about providing telecommunications in this country since the 1934 Act.

If this was a simple matter, the industry, the FCC, and others would not have been wrestling with it as dramatically as they have over the last 5 or 6 years. The fact is, network management is increasingly complicated. So complicated that sometimes it is hard to tell exactly what is going on behind the scenes.

As a former telecommunications executive and somebody who spent 20 years being involved in helping to try to build out at least part of the wireless network in this country—but as somebody who also is at this point falling behind on all the current technological innovations—I would like to comment I was very current circa 1999, which puts me a bit behind in 2011. While behind, I do recognize and understand that network management in 2011 is extraordinarily challenging.

New technologies that allow for prioritization of network traffic, deep packet inspection, and the increasing use of metered services and usage-based pricing—all these factors, combined with an effort to make sure we are technology neutral in how we get this high-speed broadband information—whether it is wired, wireless, satellites or otherwise. This all makes these issues extraordinarily difficult for policymakers to wrestle with.

It was in that vein that the FCC conducted a 2-year process to address concerns about maintaining competitively neutral access to the Internet. So in December of 2010, the FCC adopted an Open Internet Order which is expected to be implemented on November 20th of this year, 2011. As I said at the outset, the order they put forward is not perfect. There are many in the industry who have a partial bone to pick with various technical components. But the fact is I give Chairman Genachowski great credit for managing to thread the needle in way that while no one is totally happy, no one is totally unhappy. The issue of net neutrality has been dealt with by the order and we can move on to the next step of the debate. That is, we can turn to making sure we actually complete the buildout of broadband networks, particularly to the rural communities around America.

What does the FCC order do? It basically sets three basic rules for how network owners, ISPs, must handle Internet traffic.

First, it offers greater transparency about fixed and mobile network management practices to both consumers and content providers. This is terribly important. Without that transparency, without that knowledge, to see what we are getting as a consumer—or if you are a content provider, making sure your traffic is not being bumped out of line by some large network operator—is terribly important.

Second, it prevents fixed and mobile network providers from blocking traffic generated by competitors to varying degrees. What does this mean? It means if you are a network manager, if you are a network provider—and many network providers are now starting to also own content as well—you have to make sure that competitors are treated fairly. If you are a competitor in terms of being a content provider, you want to be sure the network you may be putting your traffic on that has its own set of content is not allowing its network-owned content to get priority, to get an unfair advantage.

If the networks are going to be open and accessible, neutral networks that we have all come to expect from our telecommunications networks in the past, we have to make sure there is no bias.

The second part of the FCC order tries to make sure these fixed and mobile network providers aren't able to block traffic and give their own content priority.

Third, it prohibits fixed broadband providers from unreasonable, discriminatory practices. Again, this is about content, but it also tries to get at that issue of how do we deal with those folks who have huge amounts of content that can clog the network. We have to make sure that we have open access, but we cannot have people overwhelm the network with their particular content without the ability to price that into the network provider's basic service offerings.

I know many of my colleagues' eyes are starting to glaze. I even see some of the pages' eyes are starting to glaze as we dive into some of the intricacies of telecommunications practices. But at the end of the day, what the FCC did in 2010 will be implemented later this month—unless the Senate rejects it and throws all the work out the window and says let's go back to square one. I think would actually do great harm to the progress made and provide even greater uncertainty to one of the fastest growing areas of our economy, telecommunications and broadband.

If we reject this S.J. Res. 6, which I hope we will, and allow this compromise that the FCC worked out to move forward, I believe it will allow the kind of broadband growth, the kind of Internet growth we have all come to expect. And it will help create new jobs in this country.

A couple final points. The wireless issues are a particularly challenging policy area still to be addressed. Wireless is a newer technology. The FCC decided in the Order to adopt a lighter hand of regulation rather than the more strict, full telecommunications regulation of the 1996 Act. This is because of the tremendous growth in the nascent area of mobile services. As of December 2010, 26 percent of U.S. households were wireless only, compared to about 8 percent of the households 5 years ago. The point here is a dramatic one. I think about my kids who, as they start to move into their own homes or even into college, don't even have a phone in their apartment at college. They rely entirely on wireless. We have to make sure we can continue to build out these wireless networks in the most robust way possible. I think the FCC basically got it right by not putting any more heavy-handed regulation on wireless.

In closing, the real issue is how do we ensure that consumers and content providers are treated fairly. The Internet was designed as an open medium, where every service and Web site had an opportunity to gain a following and to be successful. This philosophy allows bloggers to compete with mainstream media and entrepreneurs across all sectors to compete globally. Small and medium businesses that rely heavily on Web technologies grow and export two times as much as businesses that don't, according to McKinsey.

Some have argued that neither the Congress nor the FCC should do anything in this area because there isn't a widespread problem currently. It is important to remember that the reason the Internet has been so successful has been the fact that no one has been able to control it—no network provider alone, no content provider alone. I hope that never changes.

I do believe the FCC Order should be allowed to be implemented. It helps set minimum rules of the road that will allow Internet growth, broadband growth, mobile growth, all areas where the United States can regain the lead and continue to create jobs and advance prosperity.

With that, I yield the floor and suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

HONORING OUR ARMED FORCES

SPECIALIST SARINA BUTCHER

Mr. PRYOR. Mr. President, we are considering some veterans legislation this week. I rise to recognize the men and women who have selflessly served our Nation as part of the Armed Forces.

Veterans Day is approaching. It is one way to remind ourselves of the sacrifices so many have made and continue to make for our country.

We pay tribute to individuals such as SPC Sarina Butcher. For the past 18 months, she served with valor and distinction in Afghanistan as an automated logistical specialist with the Army National Guard. She earned awards, including the National Defense Service Medal, Army Service Ribbon, and the Oklahoma Good Conduct Medal. She dreamed of becoming a nurse, joining the Guard to help her along that path to support her 2-year-old daughter.

Last week, at 19 years old, Specialist Butcher paid the ultimate sacrifice. Specialist Butcher was the first female Oklahoma National Guard soldier to be killed during wartime and the youngest Guard member to die in combat in Iraq and Afghanistan. I spoke to her mother, a resident of El Dorado, AR, and she stressed how her daughter loved serving our Nation. All our prayers are with this family.

CORPORAL DAVID BIXLER

I also wish to recognize CPL David Bixler of Harrison, AR. I recently had the chance to meet David, one of five servicemembers chosen by the USO for bravery and sacrifice. While on foot patrol in Afghanistan, Corporal Bixler stepped on an explosive device while saving the lives of his team members. The explosion resulted in the loss of both his legs. He was awarded the Silver Star for his actions. I was moved by his unwavering strength and courage. I spoke with his young daughter, and it was easy to see the pride she has for her father.

These two heroes, Sarina and David, are part of a long list of Arkansans throughout our State's history who answered the call to serve. Their resolve—that same dedication and love of country that brought down Osama bin Laden—was passed down through generations before them. They join the ranks of 2LT John Alexander of Helena, the second African-American graduate from West Point; BG William Darby of Fort Smith, the first commander of the U.S. Army Rangers; and Captain Maurice Britt of Carlisle, the first to receive the military's three highest medals for bravery for a single conflict.

Arkansans serving in the military have never wavered when their country called. Whether Active, Guard or Reserves, they have participated in our current efforts abroad and countless previous ones. These efforts continue to this day. For example, the Arkansas National Guard's Agriculture Development Team works with the farmers and herdsmen of southern Afghanistan. The 77th Theater Aviation Brigade worked in Iraq with command and control assets in the south. Little Rock Air Force Base continues to support tactical mobility operations around the globe while training our future airlifters.

Today, our country is facing many challenges, from rising unemployment among veterans to ever-tightening budgets. We should not let our current financial difficulties take away the support we owe those who serve. When looking for DOD savings, we must keep in mind that when these individuals joined the service, both sides made a commitment. We must honor these commitments.

When looking for ways to save, we should put our focus on improving processes and capitalize on efficiencies where we can. For example, I recently introduced the Veterans Relief Act, designed to reduce the backlog at the Court of Appeals for Veterans Claims. I will continue to look for similar ways to streamline processes, improve efficiencies, and honor the obligations of those who have served.

Today, I look at veterans and say: Thank you. Thank you for your service, thank you for your sacrifice, and thank you for your dedication to our country. It is impossible for me to articulate the scale of my gratitude, and I will continue to support measures that honor the veterans of yesterday, today, and tomorrow.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMENDING THE ST. LOUIS CARDINALS

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 315, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 315) commending the St. Louis Cardinals on their hard-fought World Series victory.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MCCASKILL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any related statements be printed in the RECORD.

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

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 315

Whereas, on October 28, 2011, the St. Louis Cardinals won the 2011 World Series with a 6-2 victory over the Texas Rangers in Game 7 of the series at Busch Stadium in St. Louis, Missouri;

Whereas the Cardinals earned a postseason berth by clinching the National League Wild Card on the last day of the regular season;

Whereas the Cardinals defeated the heavily favored Philadelphia Phillies and Milwaukee Brewers to advance to the World Series;

Whereas the Cardinals celebrated an incredible come-from-behind victory in Game 6 of the World Series, which will long be remembered as one of the most dramatic games in the history of the World Series;

Whereas Cardinals All-Star Albert Pujols put on a historic hitting display in Game 3 of the World Series, with 5 hits, 3 home runs, and 6 runs batted in;

Whereas Cardinals star pitcher Chris Carpenter started 3 games in the World Series, allowing only 2 runs in Game 7 after only 3 days of rest and earning the win in the decisive game;

Whereas David Freese, a native of St. Louis, won the World Series Most Valuable Player Award;

Whereas Manager Tony LaRussa won his second World Series title with the Cardinals, his third overall, and remains one of only 2 managers to win World Series titles as the manager of a National League and an American League team;

Whereas the Cardinals won the 11th World Series championship in the 129-year history of the team;

Whereas the Cardinals have won more World Series championships than any other team in the National League;

Whereas the Cardinals once again proved to be an organization of great character, dedication, and heart, a reflection of the city of St. Louis and the State of Missouri; and

Whereas the St. Louis Cardinals are the 2011 World Series champions: Now, therefore, be it

Resolved, That the Senate—

(1) commends the St. Louis Cardinals on their 2011 World Series title and outstanding performance during the 2011 Major League Baseball season;

(2) recognizes the achievement of the players, coaches, management, and support staff, whose dedication and resiliency made victory possible;

(3) congratulates the city of St. Louis, Missouri, and St. Louis Cardinals fans everywhere; and

(4) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the Honorable Francis Slay, Mayor of the city of St. Louis, Missouri;

(B) Mr. William Dewitt, President, St. Louis Cardinals; and

(C) Mr. Tony LaRussa, Manager, St. Louis Cardinals.

Mrs. MCCASKILL. Mr. President, in St. Louis this fall, we had much that was special and different. We had the rally squirrel that ran through one of the playoff games. We had the saying ''happy flight,'' and ''happy flight'' became synonymous with a team that was chocking up improbable victories night after night, day after day.

I am going to term this speech a ''happy speech.'' I have had to give a number of speeches on the floor of the Senate since I have been blessed enough to be given this opportunity to serve my State. Sometimes I come to the floor angry. Sometimes I come to the floor frustrated or upset. Sometimes I come with a passion for a piece of policy that I think is essential in terms of our government operating the way we would want it to operate. Today, I just come happy. I just come happy with the notion that our team provided the kinds of thrills that baseball yearns for in this country—especially at these moments when many families are faced with long days and tough decisions as they try to right the ship as we travel through a very difficult economy.

The 2011 World Series was an unlikely one for our Cardinals. It wasn't supposed to happen. Bookies made a lot of money off the World Series this year because the Cardinals weren't supposed to be in it. The Cardinals were 10½ games out with 30 days to go. In fact, the Cardinals secured their wild card berth on the last day of the season at the eleventh hour. As a wild card team, they weren't supposed to do well. They weren't supposed to defeat Philadelphia. That just wasn't going to happen. Philadelphia has one of the top three payrolls in baseball, right? That wasn't going to happen.

Well, it did. We won against Philadelphia and then took on the mighty Brewers, the winner of our division, and, of course, we won that also. Then it was on to the Texas Rangers, who were supposed to win this year because they had won last year, and we weren't supposed to be able to compete with the depth and breadth of the Texas lineup. Well, as everyone now knows, that is not how the story ended.

This was a special World Series. It was a unique World Series. It was competitive. It was fun. And I was lucky enough to be at some of the games. In fact, I was at game 3 when Albert Pujols put on a show for the world. He showed everyone why he is the best player in baseball—three towering home runs in one World Series game. All of a sudden his name was being used in the same sentence as Lou Gehrig.

It was a special night to watch the Cardinals pound the Rangers in Arlington, TX, but the Rangers came back the next night to win and the next night after that. So the Cardinals returned to St. Louis once again with their backs against the wall. Once again, everyone assumed it was over because all the Rangers had to do was win one game. And that is when game 6 occurred. I was fortunate enough to be at game 6, and I am saving my ticket stub for generations to come. People in St. Louis are going to claim they were at game 6, so I am going to save the proof. None of us will ever forget game 6.

At our eleventh hour, trying to win our 11th world championship, in the year 2011, our hometown guy—right from St. Louis, graduated from Lafayette High School—walked to the plate in the 11th inning, after the Cardinals twice, with two outs and two strikes, saved the game by getting a hit—twice; not once but twice—so there we were in the bottom of the 11th with the score tied, and our hometown guy, at the eleventh hour, in the 11th inning, in the year 2011, cracked the bat, and that ball sailed out for a home run, and suddenly we had secured the most improbable and exciting victory in World Series history. Now, maybe that is hyperbole, but, honestly, I don't think so. Find someone who watched that game who knows baseball, and they will tell you that was among one of the very best World Series games in the history of American baseball. And what a history that is. With that one crack of the bat, Cardinal Nation became Cardinal World, and all of the world stood in amazement as we cheered like crazy for our Cardinals.

What did this team do this year? We had a masterful manager whom we will miss very much. We had David Freese, our hometown guy, who rose to the occasion when we needed him. We had Albert Pujols. We had Carp, who was amazing as a pitcher. We had a bullpen that rose to the occasion when necessary, after they had been maligned through most of the season. We had Yadi, we had Craig, and we had so many of our players who did what had to be done when it had to be done to deliver a World Series championship to a city that loves them more than we love the arch and more than we love our beer.

For years now, young people will hear over and over that old cliche about refusing to quit. You can never give up. And I have to tell you the truth, it is a cliche I have used with my kids when they were moping around and grumbling: Oh my life is horrible. You say to them: You can't quit. You can't give up. Well, this team is going to allow parents in St. Louis and beyond for many years to say: See. See what happens when you don't give up. See what happens when you refuse to quit. You can win a championship if you just refuse to die. And that is exactly what our Cardinals did.

On behalf of Cardinal Nation and thousands of people around this country who were proud of what St. Louis represented—a fall classic with our classic Cardinals bringing home the victory for a city that loves them—God bless them all. And God bless the fans who understand it is okay to cheer for a sac fly, who understand baseball better than most fans around the country. They will now wait anxiously for spring training so we can begin once again our love affair with the St. Louis Cardinals.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Maine.

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

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

EXECUTIVE SESSION

NOMINATION OF EVAN J. WALLACH TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT

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

The assistant editor of the Daily Digest read the nomination of Evan J. Wallach, of New York, to be United States Circuit Judge for the Federal Circuit.

The PRESIDING OFFICER. Under the previous order, there is 15 minutes of debate equally divided and controlled between the Senator from Vermont and the Senator from Iowa, or their designees.

The Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, I thank the majority leader for pressing forward to secure a vote on another of the 25 judicial nominees ready for Senate consideration. I am disappointed that the Senate Republican leadership would only agree to vote on 1 of the 25 judicial nominees ready and waiting for final Senate action. All 25 of the nominees are qualified and have the support of their home state Senators, Republican and Democratic. Twenty-one of these judicial nominations were unanimously approved by the Judiciary Committee. Senate Democrats are prepared to have votes on all these important nominations. I know of no good reason why the Republican leadership is refusing to proceed on 24 of the 25 nominations stalled before the Senate. At a time when the vacancy rate on Federal courts throughout the country remains near 10 percent, the delay in taking up and confirming these consensus judicial nominees is inexcusable.

I know that Senator REID is especially pleased that the Senate has the opportunity for a final vote on the nomination of Judge Evan Wallach to fill a vacancy on the Federal Circuit. Judge Wallach is an experienced jurist with a distinguished record who has been serving on the U.S. Court of International Trade. He received the highest possible rating from the American Bar Association's Standing Committee on the Federal Judiciary, unanimously ''well qualified.''

I am delighted that Judge Wallach's nomination has not been delayed as long as others. This nomination was reported by the Judiciary Committee on October 6. There is no good reason why all judicial nominations are not considered within a month of being reported, especially the consensus nominees reported unanimously by the Judiciary Committee. It is my hope that this timeline can be an example and set the standard for action on other nominations, as well. When the Senate approved the nomination of Judge Zipps of Arizona less than 1 month after it was reported by the committee, we showed that there is no need for additional delay. These needless delays perpetuate vacancies and deny the American people the judges needed in our courts to provide justice.

What is disappointing is that the Senate Republican leadership has yet to agree to votes on the long-pending nominations of Judge Chris Droney of Connecticut to fill a judicial emergency vacancy on the Second Circuit, Morgan Christen to fill one of several judicial emergency vacancies on the Ninth Circuit, or Judge Adalberto Jordan to fill a judicial emergency vacancy on the Eleventh Circuit. The Droney nomination has been stalled for 3½ months despite there being no opposition. The Christen nomination has been pending a month longer than Judge Wallach's and was also reported unanimously. Judge Jordan's nomination is approaching 1 month on the Senate Executive Calendar despite his being a consensus nominee supported by both his Democratic and Republican home State Senators. Also pending is the nomination of Stephanie Thacker to fill a vacancy on the Fourth Circuit. All of these consensus circuit court nominations should be considered and approved without further delay. In addition, the Senate should give consideration to Caitlin Halligan's nomination. Her nomination to the DC Circuit was approved by the committee in March.

Judge Wallach is only the seventh of President Obama's circuit court nominations the Senate has considered this year, compared to 12 at this point in President Bush's third year. We are not doing nearly as well despite five additional circuit court nominations on the Senate Calendar awaiting a vote. By this point in the third year of President Bush's administration, the Senate had confirmed 29 of his circuit court nominees. By comparison, the Senate has confirmed only 22 of President Obama's circuit court nominees. By this point in the Bush administration, vacancies had been reduced to 42. By comparison, today they stand at 83. By this point in President Bush's first 3 years, the Senate had confirmed 167 of his Federal circuit and district court nominees. So far in the 3 years of the Obama administration, that total is only 115.

During President Bush's first 4 years, the Senate confirmed a total of 205 Federal circuit and district court judges. As of today, we would need another 90 confirmations over the next 12 months to match that total. That means a faster confirmation rate for the next 12 months than in any 12 months of the Obama administration to date. That would require Senate Republicans to abandon their delaying tactics. I hope they will. This is an area where the Senate must come together to address the serious judicial vacancies crisis on Federal courts around the country that has persisted for well over 2 years. We can and must do better for the millions of Americans being made to suffer by these unnecessary Senate delays.

More than half of all Americans—over 162 million—live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations now pending on the Senate calendar. As many as 24 States are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. The Republican leadership should explain why they will not consent to vote on the qualified, consensus candidates nominated to fill these extended judicial vacancies.

Senator GRASSLEY and I have worked together to ensure that each of the 25 nominations on the Senate Calendar was fully considered by the Judiciary

Committee after a thorough but fair process, including completing our extensive questionnaire and questioning at a hearing. This White House has worked with the home state Senators, Republicans and Democrats, and each of the judicial nominees being delayed from a Senate vote is supported by both home State Senators. The FBI has conducted a thorough background review of each nominee. The ABA's Standing Committee on the Federal Judiciary has conducted a peer review of their professional qualifications. When the nominations are then reported unanimously by the Judiciary Committee, there is no reason for months and months of further delay before they can start serving the American people.

No resort to percentages of nominees ''processed'' or ''positive action'' by the committee can excuse the lack of real progress by the Senate. In the past, we were able to confirm consensus nominees more promptly, often within days of being reported to the full Senate. They were not forced to languish for months. The American people should not have to wait weeks and months for the Senate to fulfill its constitutional duty and ensure the ability of our Federal courts to provide justice to Americans around the country.

The American people need functioning Federal courts with judges, not vacancies. Though it is within the Senate's power to take significant steps to address this problem, refusal by Senate Republicans to consent to vote on consensus judicial nominations has kept judicial vacancies high for years. The number of judicial vacancies has been near or above 90 for over 2½ years. A recent report by the nonpartisan Congressional Research Service found that these delays have resulted in the longest period of historically high vacancy rates on Federal district courts in the last 35 years. These needless delays do nothing to help solve this serious problem and are damaging to the Federal courts and the American people who depend on them.

Mr. GRASSLEY. Mr. President, today the Senate will confirm Judge Evan Jonathan Wallach to be a U.S. circuit judge for the Federal Circuit. With this vote, we will have confirmed 54 article III judicial nominees during this Congress, and 18 in just over a month. In only eight sessions of Congress in the past 30 years has the Senate confirmed more judicial nominees.

Our progress extends beyond the Senate floor and into the Judiciary Committee, where 88 percent of President Obama's judicial nominees have had their hearing. That is compared to only 76 percent of President Bush's nominees at a comparable point in his Presidency, in the 108th Congress. To date, 72 percent of the judicial nominations made by President Obama have been confirmed. Overall, we have made real progress on 85 percent of the judicial nominees submitted this Congress.

Furthermore, these nominees have been processed in a very fair manner. Circuit nominees have had a hearing within 66 days after nomination, on average. President Bush's nominees were forced to wait 247 days. The same can be said of President Obama's district court nominees, who had their hearings, on average, in just 79 days. President Bush's district court nominees waited 120 days, on average, for a hearing.

President Obama's circuit and district nominees have been reported faster than those of President Bush—in fact, almost 35 percent faster. I would hope that my colleagues on the other side of the aisle would acknowledge this cooperation, and they sometimes do. But it is important to remind everyone that our duty as U.S. Senators is not to rubberstamp the President's nominees. We must carefully examine the records and qualifications of each nominee before us to determine if they are fit to serve the public for lifetime positions. I don't believe my constituents would expect any less.

The fact that we are here, confirming the 54th article III judicial nominee, shows we have been performing our due diligence. However, we will continue to hold quality confirmed over quantity confirmed.

I would like to say a few words about Judge Wallach.

Judge Wallach presently serves as a judge of the U.S. Court of International Trade. He was appointed to that court by President Clinton in 1995, following confirmation by the Senate.

I would note that the Federal Circuit, the court to which Judge Wallach is nominated, is the appellate court for the Court of International Trade. In addition to international trade, the court hears cases on patents, trademarks, government contracts, certain money claims against the U.S. Government, veterans' benefits, and public safety officers' benefits claims. Of particular interest to me, this court has exclusive jurisdiction over cases related to Federal personnel matters. That includes exclusive jurisdiction over appeals from the Merit Systems Protection Board, MSPB, which hears whistleblower cases under the Whistleblower Protection Act.

Evan Wallach received a bachelor of arts from the University of Arizona in 1973, his juris doctorate from University of California Boalt Hall School of Law in 1976, and his bachelor of laws from the University of Cambridge in 1981.

Judge Wallach began his legal career as an associate attorney with Lionel Sawyer & Collins where he eventually made partner. Over time, the emphasis of his practice became media law. He also defended libel actions and represented newspapers on day to day issues, including employee grievances, collection actions, and copyright protection.

While he remained with Lionel Sawyer & Collins, he took several leaves of absences. From 1987 to 1988, Judge Wallach worked as a general counsel and public policy adviser to Senator HARRY REID. He also served as a judge advocate for the Nevada Army National Guard from 1989 to 1995. In 1991, Judge Wallach was called up to active duty to serve as an attorney in the Office of the Judge Advocate General of the Army-International Affairs Division during the first gulf war.

The American Bar Association Standing Committee on the Federal Judiciary has rated Judge Wallach with a unanimous ''Well Qualified'' rating.

Mr. REID. Mr. President, Judge Evan Wallach has been my friend for a very long time.

I have known him since he was a lawyer in Nevada. He worked at Lionel Sawyer & Collins for almost 2 decades.

He is a good man and a good jurist, and I believe he is a wonderful nominee for the U.S. Court of Appeals for the Federal Circuit.

He is also a scholar. Judge Wallach graduated from the University of Arizona and then got his law degree from UC Berkeley. But one law degree wasn't enough, so he went on to get another degree at the renowned University of Cambridge Law School in England.

Now he passes on that great wealth of knowledge to others. Since 1997, he has served as an adjunct law professor, teaching the law of war and other courses at Brooklyn Law School, New York Law School and several other worthy institutions.

Judge Wallach is also a patriot with a long history of serving his country in our armed forces.

He and his two older brothers volunteered to serve in Vietnam, and Judge Wallach was awarded the Bronze Star.

But his service to his country didn't end there. My friend served in the Nevada Army National Guard from 1989 until 1995 as an attorney-advisor.

During the Gulf War, in 1991, he took a leave of absence from his law practice—where he was a partner—to serve as an active-duty attorney-advisor. He served in the Office of the Judge Advocate General of the Army at the Pentagon.

He has also served as a Circuit Court judge in the 2nd, 3rd and 9th Circuits, and as a District Court judge in Nevada, New York and the District of Columbia. He even heard a patent case in Nevada and he wrote hundreds of opinions as a judge for the U.S. Court of International Trade.

Judge Evan Wallach served his country bravely at war. I know he will serve it well once again as a judge on the U.S. Court of Appeals for the Federal Circuit.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all time be yielded back.

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

The question is, Will the Senate advise and consent to the nomination of

Evan Jonathan Wallach, of New York, to be United States Circuit Judge for the Federal Circuit?

Mr. GRASSLEY. I ask for the yeas and nays.

Is there a sufficient second? There appears to be.

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 199 Ex.]

YEAS—99

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

NOT VOTING—1

Sessions

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

3% WITHHOLDING REPEAL AND JOB CREATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 674, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I ask unanimous consent to speak as in morning business.

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

IRAN

Mr. KIRK. Mr. President, I rise to talk about two entirely different subjects; first, on the subject of Iran, the subject of a critical International Atomic Energy Agency report that will be issued likely tomorrow.

Credible press reports on the United Nations document tell us an important thing. Remember, it was the IAEA that urged caution with regard to the weapons of mass destruction program in Iraq. The record shows that the IAEA was largely correct on its determination there. Based on that credibility, we should listen to the IAEA and what they say in this groundbreaking report.

Their report makes six very important conclusions according to credible press reports: No. 1, the Islamic Republic of Iran has used military people to procure dual-use nuclear material; No. 2, they have developed an undeclared nuclear material production line separate from their commitments under the Nuclear Non-Proliferation Treaty; No. 3, they have now acquired outside international information on the development of nuclear weapons; No. 4, they have begun work on an indigenous design for a nuclear weapon; and, No. 5, they are already substantially in excess of the 3-percent enrichment for uranium-235 necessary to run a nuclear reactor as they originally claimed.

The sixth conclusion, though, appears to be the most important. The International Atomic Energy Agency concludes they may have also begun work on a new payload for their Shahab-3 missile. This is a missile that largely comes from North Korea called the No Dong and is able to hit U.S. bases in the Persian Gulf and our allies in Israel. According to the reports on this U.N. document, it says the Shahab-3 payload has the correct mass for a nuclear weapon; it has a generator aboard the warhead that would be necessary to initiate a nuclear detonation; it is designed for an airburst to make that detonation most effective; the weapon has multiple detonators in it—I think this is a key conclusion because a conventional munition only requires one detonator, but a nuclear weapon requires multiple detonators; and this has it—it does not issue any submunitions, all the warhead is contained in one critical mass; and the Iranians have now prepared a 400-meter test shaft likely for a nuclear test shot.

If this is not a smoking gun, I do not know what is. I do not know what the word for ''smoking gun'' in Farsi is, but clearly the United Nations, not known for speaking clearly on many topics, is now telling us one clear thing: the Islamic Republic of Iran is designing and moving toward building nuclear weapons.

If we look at their record, we will see the Islamic Republic of Iran has transferred nearly every one of its advanced munitions it currently owns to terrorist organizations, including antishipping cruise missiles, which the Iranians transferred to Hezbollah.

We have also known several dangerous—actually, dangerously weird—things going on in the Islamic Republic of Iran, such as sentencing an Iranian actress to 90 lashes for appearing in an Australian film simply on the crime of not having her head covered—luckily, because the International Campaign for Human Rights in Iran called attention to this, apparently that sentence may be in abeyance—or credible reports this weekend that the Islamic Republic of Iran, under President Ahmadinejad, has arrested 70 fashion designers for anti-Islamic activity.

What we know for a fact is that the Islamic Republic of Iran has been a state sponsor of terror, as certified by Presidents Carter, Reagan, Bush, Clinton, Bush 2, and President Obama under Secretary of State Clinton. We know they are the leading paymasters for Hezbollah and Hamas.

What we can see clearly from this report is that this year, or likely the year after, they will have nuclear weapons. I think it is quite likely they would then transfer those nuclear weapons directly to Hezbollah and Hamas. This is something we cannot allow to happen, which is why action in the Senate and in the executive branch should occur on collapsing the Central Bank of Iran. We already have 92 Senators who have agreed, even in these partisan times, to collapse the Central Bank of Iran. Ninety-two Senators have signed on to the Kirk-Schumer letter to call for this action. This action was also just recommended in an overwhelmingly bipartisan fashion in the House Foreign Affairs Committee under the leadership of Congressman BERMAN to recommend this also in the House. I think the administration—that has leaked several times to the New York Times that they have this under consideration—should move in this direction.

For those countries that substantially purchase oil from the Islamic Republic of Iran, we should work with our Saudi allies to make sure their needs are met so we can go ahead and collapse the Central Bank of Iran and the Iranian currency, especially in the wake of this report.

Remember, this is the government that, according to Attorney General

Eric Holder, led a plot to blow up a Georgetown restaurant, possibly involving the death of many Americans, including, they described, Senators, in an effort to kill the Saudi Arabian Ambassador to the United States. This is singularly irresponsible activity and one that now, coupled with this IAEA report on nuclear weapons, should not be tolerated.

PROTECTING PRIVACY RIGHTS

Mr. President, I also rise to speak about another topic; which is that today the Supreme Court has agreed to hear oral arguments on the case of United States v. Jones. The case concerns our rights to privacy as American citizens. As an American, I believe our government is the greatest government for the potential of every human being and the dignity of that human being. Under our Constitution, we had the first of any major government in the world to begin to protect that right of privacy, even against the government. It is enshrined in the fourth amendment to the Constitution.

As the Founding Fathers defined it, I think our 18th century fourth amendment privacy rights—which are covered, including our house and our place of business—are well defined and well protected under our law.

The question is this: What about our rights to privacy in the 21st century? What about the mobile device we carry, the tablet computer, the GPS in our car, and the various other computer devices we have? Do we have a reasonable expectation of privacy with regard to this data or can the government access this data and decide they can find out where we have been, whom we have been with, and how long we have been there without a warrant?

Given the fact that the Supreme Court has just taken up oral arguments in this case, I think it is important for the Senate to back the Wyden-Kirk GPS Act. This is an act that basically says we should protect our rights of privacy in the 21st century as well as the 18th, 19th, and 20th centuries, that we should not only be secure in our house and our papers, but we should be secure in our GPS data as well; that if the government seeks to find out where we have been and whom we have been with, at least it needs a warrant—our right as an American citizen protected in that privacy before having access to that information.

I hope we consider this legislation as early as next year because I think we rise to our greatest potential in the Senate when we update our rights as Americans, to protect them not just in the 20th century but in the 21st century.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IAEA REPORT

Mr. LIEBERMAN. Mr. President, today the International Atomic Energy Agency has issued its latest report on the nuclear weapons development program of the Islamic Republic of Iran.

This latest IAEA report is the clearest warning about a potentially catastrophic threat to the United States since the Hart-Rudman Commission in January of 2001 predicted a major terrorist attack on our homeland, which, of course, occurred about 9 months later.

The IAEA's message today is similarly stark. The extremist terrorist regime that rules Iran is actively working to possess nuclear weapons, and the time to stop them is running out. The Obama administration deserves credit for rallying the international community to put unprecedented diplomatic and economic pressure on the Iranian regime. But the sad fact is nothing the United States and our international partners have done has changed Iran's egregious, threatening, and in many cases murderous behavior, its pursuit of nuclear weapons, its sponsorship of terrorism, its infiltration of neighboring countries, its responsibility for training and equipping terrorists and extremists who have killed literally hundreds of American citizens in Iraq and throughout the Middle East or its repression of its own people.

On the contrary, in all of these areas, notwithstanding the increasing international diplomatic and economic pressure on the regime in Iran, that regime's behavior has only grown more emboldened and more reckless.

I know some have argued that the United States and our international partners can live with a nuclear Iran and that we can contain it. But the recent discovery of an Iranian terrorist plot, which was to be carried out on U.S. soil, killing the Saudi Ambassador here, targeting Members of Congress, and perhaps eventually the Israeli Ambassador and Embassy provide the clearest possible evidence of why we cannot hope to contain a regime as fanatical, expansionist, and brutal as the one that now rules Iran, particularly when it has the fearsome club of nuclear weapons capacity.

If the Iranian regime acquires a nuclear weapons capability, it will be because the world, including us, allowed that to happen. It is still within our power to stop it. But it will require, in my opinion, more than further incremental pressure—which is to say more of what we have already been doing, which clearly has not changed the behavior of the regime in Tehran.

It is time for the United States and our international partners to undertake what I would call nonincremental measures against the Iranian regime, and among those I would include tough sanctions on its central bank. It is also time for Congress to pass the new and tougher Iran sanctions legislation, which is in the Banking Committee and which over three-fourths of the Senate, in a very strong bipartisan statement, has cosponsored. There is no reason we cannot pass that bill before the end of this calendar year.

Finally, it is time for the United States and our international partners to move beyond the formulation that has grown routine—and I am afraid ultimately hollow—which is that ''all options are on the table'' when it comes to Iran's nuclear weapons development program and its terrorist actions. It is time for an unequivocal declaration—all the more so in response to the IAEA report today—that we will stop Iran from acquiring nuclear weapons capability, we and our international partners—by peaceful means, if we possibly can, but with military force if we absolutely must.

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

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

The legislative clerk proceeded to call the roll.

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

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

ENERGY PRODUCTION

Mr. VITTER. Mr. President, several weeks ago, on September 28 of this year, I joined three of my Senate colleagues—Senators SHELBY, CORNYN, and HUTCHISON—in requesting from the Obama administration and its Interior Department a detailed plan about what their new 5-year energy lease plan was going to be, as well as their plans for moving forward with scheduled leasing. We finally got some of the answers to that today as the administration released its new 5-year oil and gas lease plan. I guess that is the good news—we finally got our questions answered. There is a lot more bad news, unfortunately, which is what those answers are.

It is deeply disappointing that we are not moving forward in a far more aggressive and positive way in developing our own domestic energy resources. As I said, today Secretary Salazar introduced President Obama's plan for the next 5 years of energy production, specifically on the Outer Continental Shelf. For those Members in the Senate and for others who are not as familiar with energy production on the Outer Continental Shelf, this is basically the 5-year strategy for us as a nation in terms of oil and gas production domestically—what we are going to do in these next 5 years to produce more of our own energy.

The opportunity was enormous. As you remember, a few years ago, in 2008, there was a bipartisan agreement to lift the decades-long ban on new offshore drilling and to open new areas off the Atlantic coast, off the Pacific Coast, and off the Arctic coast. Those

opportunities were enormous. This map illustrates what the opportunities were given that 2008 lifting of the moratorium.

Previously, this had been off limits, this had been off limits—much of this had been off limits. But in 2008, on a bipartisan basis, Congress—even a Democratic Congress—heard the cry of the American people and said we need to develop more domestic energy resources, so we opened all of these possibilities.

Unfortunately, President Obama chose not to take advantage of those opportunities because this map represents his new 5-year plan announced today—the entire Atlantic coast, off limits; the entire Pacific Coast, off limits; much of the Alaska coast, off limits; the western gulf of Mexico, where there has traditionally been significant activity, of course, is still there, but even the eastern gulf has been withdrawn under related Federal law until 2022. That is deeply disappointing.

Put another way, in the previous 5-year lease plan, there were about 30 sale areas that were outlined to have lease sales, 30 specific areas around our Outer Continental Shelf. That was the previous 5-year plan. That plan existed when President Obama took office. One of the first things he did in the energy area, with his Secretary of Interior Ken Salazar was to throw that plan out the window almost immediately. This was well before the BP disaster. It was not in reaction to that disaster or anything else specific; they just threw that 5-year lease plan out the window. In this new 5-year lease plan—their first in the Obama administration, which they are announcing today—instead of 30 different areas, there are about 15. So they moved backward, cutting in half the number of lease sales that were planned in the 5-year plan.

Put another way, instead of having about six lease sales per year, there are only going to be three. As any fourth grader can tell you, doing that simple math, that is moving backward by a lot. That is going from about 30 lease sales to half that number—15. That is going from about six a year to half that number—three.

Our energy needs are not moving backward. Our desire and need for increased energy independence is not moving backward. Yet our effort and our ability to access our own domestic oil and gas on our own Outer Continental Shelf under this Obama plan is doing exactly that—it is moving backward.

Let me put it a different way. The Outer Continental Shelf of the United States is about 1.76 billion acres, almost 2 billion acres. But of all that vast expanse, only 38 million acres are actually leased. That is 2.16 percent of our entire Outer Continental Shelf. This new 5-year plan increases that a tiny amount at the margin. It keeps it under 3 percent. With a vast, energy-rich Outer Continental Shelf, we are still 3 percent or under of what we could access under this new plan.

Again, we are moving backward from the previous 5-year plan that President Obama threw out quickly upon taking office. That is deeply disappointing. If I am disappointed, I know there are some folks who are even more disappointed, including our colleagues in Virginia. Some select production and lease-sale activity off the Virginia coast was planned in the previous 5-year plan. That is out the window. As you can see, nothing can go on off the Atlantic. Also, four geologic basins off southern California and one geologic basin off northern California were in the previous 5-year plan. That is out the window. That is barred. There is nothing that can happen off the Pacific coast. Even in Alaska, the North Aleutian Basin and the Cook Inlet were in the previous 5-year plan. That is zeroed out. That is out the window. That is not in this new 5-year plan.

My basic question on this disappointing announcement is simple: How does excluding all of these areas and how does cutting back the previous 5-year plan to half that amount best meet our national energy needs? It seems to me it is clear it does not. In fact, it eliminates incredible job and revenue opportunities as well as our ability to increase energy independence, to produce more domestic energy, all of which we desperately need to do.

As the National Ocean Industries Association puts it:

> A 5-year plan for the Outer Continental Shelf is the most important and defining action an administration takes in providing new oil and gas resources for building economic prosperity in this country.

They are right. It is the single most defining action with regard to Outer Continental Shelf energy production.

So with this action today, what is President Obama saying? What is his Interior Secretary saying? He is saying we are moving backward. He is saying we are going to do about half of what we were going to do in the previous 5-year plan which he canceled immediately upon taking office. That is very disappointing. It is disappointing for our energy picture. It is disappointing in terms of our need to lessen our reliance on foreign sources. It is also sadly disappointing in terms of the job picture because every lease sale that happens is thousands upon thousands of great American jobs to help build the economy and help to get us back out of this horrible recession.

Finally, it is even deeply disappointing with regard to our challenge of lowering the deficit and debt. You know what. With energy production, the more we do, the more revenue we bring into the Federal Treasury to lower deficit and debt. In fact, after the Federal income tax, this is the single biggest category of Federal revenue into the Federal Treasury—royalties on domestic energy production.

So it is domestic energy, it is great American jobs, and it is lowering the deficit and debt with more revenue. President Obama today has said no to all of that. He has taken an enormous step backward. He has said, compared to the previous 5-year plan, that we are only doing half. He said that we are shutting off the Atlantic coast, we are shutting off the Pacific coast, and much of the coast off Alaska.

Today, I have written Secretary Salazar and expressed these concerns. I have asked the Secretary if they will reconsider this step backward because our country cannot afford it. We cannot afford it in energy terms. We cannot afford it in jobs terms. We cannot afford it in revenue terms when we need more revenue to lower deficit and debt. I will be following up aggressively on that letter, trying to understand the rationale behind this step backward and trying to get the Obama administration to reconsider.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection.

JOBS CREATION

Mr. DURBIN. This last Sunday I was watching an ABC morning news show, and Christiane Amanpour was interviewing the Speaker of the House, JOHN BOEHNER of Ohio. Speaker BOEHNER was asked a number of questions. The one he clearly wanted to focus on is what he called the Republican jobs program. He handed to Ms. Amanpour a laminated card which he said was the Republican jobs program that had passed the House of Representatives and was dying in the Senate. It has never been called for passage. It struck me as odd because I missed that during the course of this last year that there was a Republican jobs program, and I was a little bit worried because we are looking for every opportunity we can to create jobs.

So I came back and said to my staff, can you get a copy of this laminated card? I want to see what is written on it. They produced the card for me, and I took a look at it. As a result, I would have to say the Republican view on how to create jobs and move the economy forward is considerably different than my own and considerably different than the views of most Americans. What Republicans have proposed doing is eliminating rules and regulations. They believe that is what is holding back the growth of the American economy. One of the areas they particularly focused on is known as the Dodd-Frank bill, the Wall Street reform bill.

Some of us are not suffering from political amnesia. We can recall what

happened just a few years ago all across America when at the end of the Bush administration we faced some of the worst choices I have ever heard when we were presented an opportunity by the Chairman of the Federal Reserve, Ben Bernanke, and the Secretary of the Treasury, Mr. Paulson, to literally bail out the Wall Street banks and major institutions to the tune of almost $800 billion from the mistakes they had made. So we were given an ultimatum: If we didn't do it, we could see a collapse of our American economy and the global economy. Reluctantly, many of us voted for that, believing that we had no choice. What we did was to send billions of dollars to banks on Wall Street that had made serious mistakes, creating credit default swaps and derivatives, creating offices in London that could skirt the American laws and, literally, hanging the American economy out to dry. The net result of that, of course, is that people suffered all across America. Individuals lost their savings and their retirements. Families were facing hardship when they were laid off and faced unemployment. Businesses closed and restructured and downsized. The whole economy suffered because of what was clearly wrongdoing on the part of our financial communities. As a result of that, President Obama said, We need to change the rules and laws in America so there will be adequate oversight so that we never get in this mess again.

The first amendment on the Dodd-Frank bill in the Senate was offered by Senator BOXER of California, which said this is the end of too big to fail. We are never walking down this path again. So we put the financial institutions and corporations of America on notice that we were not going to bail them out in the future, should they make another colossal mistake, at the expense of workers and families and businesses across America.

Then we went through the entire regulatory law as it related to Wall Street, including the stock exchanges and all of the exchanges across America, and said, What do we need to do to make certain there is transparency, to make certain the banks that were overleveraged and loaning far more than they should are in a position where they are fiscally sound, financially sound, and how do we put cops on the beat on Wall Street through the Securities and Exchange Commission and the Commodities Futures Trading Commission to guard against this ever occurring again? We offered that as Wall Street reform, with the support of President Obama, but with the support of only three Republican Senators: Senators BROWN, SNOWE, and COLLINS. The majority of Republican Senators and Congressmen would not support us in this effort. We passed it anyway. The President signed it. It is now being implemented, moving forward and, I think, long overdue.

It turns out that is one of the first things the Republicans now want to eliminate in their effort to build the American economy. I can tell my colleagues we would be building the American economy on a foundation of sand if we did that. If we ignored the experience we had a few years ago when we were forced into this bailout situation, sending billions to the biggest bankers in America, and having them turn around and declare bonuses for their top officers and employees—if we ignore that reality and that history and say we were going to follow the Republican lead and eliminate this oversight of Wall Street, it would invite another economic disaster. Yet, that is one of the House Republican plans for rebuilding the American economy.

The financial crisis of 2008 wiped out 8 million jobs in America. Twenty-four million Americans today are still suffering—unemployed or underemployed. Millions of families have lost their homes. A report in the Chicago newspapers this morning was stunning and troubling. Almost 50 percent of the homes in our region in Chicago are under water. What it means is families have borrowed more in their mortgages than their home is currently valued. That is a troubling development, but it is a reality. It reflects what happened when the overanxious and overinflated real estate market got out of hand. We don't want that to happen again. If we are going to avoid it, we have to have appropriate oversight and regulation.

Many families have seen their home values plummet, not just in Chicago but nationwide. Their retirement savings have been cut in half over the last 4 years. In Illinois and across America, solid, well-run companies, many in business for decades, have been shaken to the core for the lack of credit and the lack of customers.

So what do our Republican colleagues offer as a solution? What is the Republican jobs plan? Incredibly, they have responded to America's economic crisis not by rethinking their deregulation dogma, but by doubling down. Let me explain.

In addition to repealing Wall Street reform, Republicans are trying to change the most basic protections we have in America for clean air and pure drinking water. Think about this: The Republican majority in the House has voted 168 times this year—168 times—to undercut clean air and clean water laws and to block efforts to limit global warming, protect public health, protect the public lands we have been left by previous generations, and guard against things such as future oilspills. They voted 168 times just this year, and they are not finished.

Our colleagues on the other side of the aisle have attached more than 50 anti-environmental policy riders so far to spending bills for next year. They are unrelenting. I won't go into all of the environmental and public health protections the Republicans are trying to block. Let me focus on two. Republicans have used the Senate's expedited procedures to place bills blocking these two new rules directly on the Senate calendar rather than going through the regular order.

It is their right to do that. They are saying, in effect, we don't have time for the normal rules. We don't have time to hear from scientists or the American people. We need to bury these rules right now.

The first rule they want to delay is the boiler MACT rule. It is an acronym that stands for maximum achievable controlled technology. The boiler MACT rule would reduce the amount of mercury, dioxins, acid gases, and other toxic pollutants that can be emitted by large industrial boilers and solid waste incinerators. Is that the key to building jobs in America, large industrial boilers spewing more toxic chemicals into the air, solid waste incinerators burning without the regulations to protect the people who happen to live downwind? These chemicals can cause cancer, heart, lung, and kidney disease, damage to eyes and skin, impair brain development in children and babies, and learning ability, and they can kill people. That is a fact.

The other new clean air rule in the crosshairs from the Republicans is the so-called cross-State air pollution rule. It would require significant reductions in two toxic chemicals—sulfur dioxide and nitrogen oxide—released by electric powerplants. These chemicals not only cause sickness and death, they can spread hundreds of miles downwind and across State lines.

Many States can't develop new jobs and industries because they have reached their air pollution limits under national clean air standards, not because of what they are doing in their States, but rather for the wind that is blowing from other States with pollution. It puts them over the limit for emissions that travel from old coal-burning powerplants in other States. That is not right, and it is not fair.

The cross-State air pollution rule would set new limits on sulfur dioxide and nitrogen oxide emissions and establish an emissions cap-and-trade system for 31 Eastern States and the District of Columbia. It is a reasonable, market-based solution to a serious public health threat. The Republicans would abolish it.

Both the boiler MACT rule and the cross-State air pollution rule replace rules that were developed by the EPA as far back as the Bush administration—rules that were stricken by the DC Circuit Court. In both cases, the court ordered the EPA to come up with a new rule. House Republicans have already passed a bill to delay these new air pollution quality standards for at least 15 months, and here in the Senate, they would delay them for up to 5 years. As for the cross-State air pollution rule, Senator RAND PAUL of Kentucky has introduced a resolution of disapproval to kill it altogether so there will be no standard, so if a person happens to live downwind from a polluting powerplant and that person's

State is trying to do its best to clean up its act, it is to no avail. The air pollution quality will be so bad in that State because of the neighboring State that people will face serious problems and restrictions in their own development.

The House has taken an even more radical approach. They voted almost entirely along party lines, passing a Republican bill called the TRAIN Act, that would delay indefinitely the cross-State air pollution rule, and another lifesaving rule, the mercury and air toxics standard. The TRAIN Act would also overturn the legal requirement that EPA's public health rules be based on the best advice of scientists, not the demands of politicians or their donors. It is the most serious attack on the Clean Air Act since the law was passed 40 years ago under Republican President Richard M. Nixon.

President Obama has already said he is going to veto any bills that would delay the new clean air rules. Our Republican colleagues know they don't have the votes to override his veto, so once again they are forcing the Senate to debate measures they know have no chance—zero chance—of becoming law.

And that is the Republican jobs plan.

Republicans say Federal agencies should analyze the cost of business of every new regulation, whether it is meant to protect against Wall Street recklessness, offshore oil disasters, lead-based toys, or killer cantaloupes. If a regulation hurts the corporate bottom line, the Republicans argue it shouldn't be passed.

I have a counterproposal for my colleagues on the other side of the aisle. Any politician who proposes deregulating an industry ought to be required to tell the public how much money deregulation would cost, how many jobs might be lost, how many lives may be cut short, how many children and other members of our families may end up in the hospital, and how much of our Nation's natural treasures may be scarred or destroyed. Let's have an honest assessment on both sides of the ledger.

When I travel across my State, much like in the Presiding Officer's State, we have big cities and small towns. I go to schools and talk to kids, and usually they have the common questions—do you have a limousine, how much money do you make—things that kids ask. So I ask questions back to them. One question I have started asking in every school is the following: How many of you know someone who is suffering from asthma? Without fail, more than half the hands will go up. In Mount Sterling, IL, a small farm town down in Brown County in downstate Illinois, half the hands went up. I guarantee that in every classroom in the city of Chicago, more than half of the hands will go up. Asthma has become an epidemic in America and is related to many things, including the quality of the air we breathe. On the South Side of Chicago, it is hard to find a child who doesn't suffer from asthma.

In 2007, the cost of asthma-related hospitalizations in Illinois totaled $280 million. The average stay costs $15,000 for an asthma case, and nearly 60 percent of those hospital costs were paid for by taxpayers through Medicaid and Medicare. Air pollution makes asthma worse. If we reduce air pollution we can reduce asthma attacks, asthma-related deaths, and save taxpayers tens of billions of dollars a year just for the cost of treating that single disease. That is something we never hear when the disciples of deregulation start preaching.

Here are some other facts we won't hear about deregulation from the deregulation devotees. The new boiler MACT rule will create jobs, not eliminate them. It would prevent between 2,500 and 6,500 premature deaths each year, and it would save between $22 billion and $54 billion a year in health care costs.

The cross-State air pollution rule, which they would also abolish, would also net thousands of new jobs, prevent 400,000 cases of aggravated asthma and 34,000 premature deaths each year, and save $280 billion in health care costs. In my State alone, the cross-State rule will save 1,500 lives a year and provide enough public health benefits to save our State $12 billion. Twelve billion dollars in Illinois—that is more than Illinois spent on health, hospitals, and highways combined in the year 2009.

Deregulation is a costly gamble even for businesses that are deregulated. During the last administration, oil companies were allowed to self-regulate under the Bush administration. How did that work in the Gulf of Mexico with British Petroleum? The gulf oilspill is the worst industrial environmental disaster in U.S. history. Congratulations, self-regulators.

Local businesses suffered $4 billion to $12 billion in lost income because of self-regulation by a major oil company. BP alone is likely to spend $40 billion in claims, fines, and other expenses from this historic, awful spill.

Those who push for deregulation tell us environmental rules are job killers and nothing but a burden on businesses and consumers. They are wrong. Regulations that are well designed are, to borrow a phrase from our Republican friends, job creators. They can spur innovation and create new products, new jobs, even whole new industries. A study published by the Political Economy Research Institute at the University of Massachusetts-Amherst estimates that new air pollution rules for electric powerplants ''will provide long-term economic benefits across much of the United States in the form of highly skilled, well-paid jobs through infrastructure investment.''

Specifically, researchers found that clean air investments could create 1.5 million new jobs in 2015 right here at home. Let me bring this story closer to home. Recently I made a trip in Illinois to a new coal-fired plant. It is a plant that is amazing. It is called the Prairie State Energy Campus and it is owned by a number of electric cooperatives. It has a $1 billion investment in the clean use of coal to produce electricity. They took a look at the law, and instead of hiring lawyers to fight it, they hired engineers to comply with it.

The plant is up and running. It is a marvel to behold. Right across from this plant is a coal mine, and the coal that is drawn from that mine goes into this plant and meets all the specifications required today by the EPA. The people who are running this plant are not whining and crying and begging for relief. They rolled up their sleeves and built a plant much cleaner than anything that existed in the United States, and they are proving it can be profitable.

I wish my Republican friends would come to the Prairie State Energy Campus. They should see and know that 4,000 union jobs were created for the construction of this plant, and they expect to have 500 permanent local jobs to boost the Illinois economy by $785 million a year with our own local coal.

The campus includes two generators that will produce 1,600 megawatts of clean, low-cost energy for more than 2.5 million customers in the Midwest. It is going to go online by the end of this year.

By using the latest technology, the plant's carbon dioxide emissions will be 15 percent lower than what is typically discharged from U.S. coal-fired powerplants.

In addition, the plant is going to save an estimated 200,000 tons of carbon dioxide each year by using coal from an adjacent mine instead of mining it in some other place and shipping it to the site of the power generation.

One hundred-sixty coal miners are working in the adjacent mine. I went there. It was not my first visit to a coal mine, but it is always an eye-opener to go in and see how they mine coal today. Two weeks ago, Prairie State announced plans to hire even more miners.

In Illinois, incidentally, coal miners make a pretty decent wage, $65,000 a year. So these are good jobs, right here in America, mining coal to be used in a clean coal plant. It can be done. The Republicans ought to acknowledge it can be done, and new jobs are being created in the process, while we are reducing air pollution.

In a recent survey, two out of three Americans say they support new clean air rules and oppose what the Republicans are trying to do in the name of job creation. Nearly 90 percent of all Americans—nearly 60 percent of Republicans and conservatives, I might add—said Congress should not prevent the EPA from enforcing the new rules. I wish my Republican friends, who are so dead set on eliminating these standards for air and water pollution, would listen to the people across America who want cleaner air and purer drinking water and are willing to see reasonable regulations to reach those goals.

The push to kill the new clean air rules is not coming from the American

people. It is part of a huge power grab. The U.S. Chamber of Commerce and Republicans in Congress have launched an unprecedented antiregulation campaign. The Chamber is reportedly spending millions of dollars to push the message that regulations are job killers. Their goal is to roll back existing environmental, health, financial, and other regulatory protections and to block any new protections. They are using the American jobs crisis to try to push through an agenda that will increase our deficit, actually take away jobs in America, and cause thousands of Americans to get sick and some to die.

Just cut taxes on millionaires and billionaires and get rid of government regulation and, they believe, we can get the economy humming again. That is their credo. If that were true, the last administration would have been the most prosperous in our history because that is the message and philosophy and agenda that guided the Bush administration. Instead, in the words of the Wall Street Journal—not exactly a Democratic publication—George Bush's administration produced ''the worst jobs record on record.''

We have tried this. It does not work. We have seen this movie. We know how it ends. This notion of protecting millionaires from any taxes and repealing any laws related to the regulation of our economy did not work under the Bush administration and should not be tried again.

The reason 2 million Americans are out of work has nothing to do with excessive financial or environmental regulation. If anything, our economy is hurting because we do not have the appropriate regulation in place now to avoid the excesses of the past.

To say we cannot create jobs without allowing dangerous levels of toxic chemicals into our air and water is an absolutely false choice. We have to find an approach that protects the health of American families and balances the needs of business and is based on the reality of science.

For 40 years, Democrats and Republicans used to work together on this agenda. We need to do it again. In the meantime, if our Republican colleagues want to create good middle-class jobs here at home, let's pass the President's American Jobs Act. This will not only create jobs, it will fund infrastructure and road repairs. It will cut payroll taxes for working families, saving the average family about $1,500 a year, and extend badly needed unemployment benefits for those out of work. It will keep hundreds of thousands of teachers in the classroom and cops and firefighters on the job in our neighborhoods and communities.

That is the way to create good jobs. America does not need dirty water and dirty air to create good-paying jobs. I hope the Republican agenda, even if it is laminated on a card passed out by Speaker JOHN BOEHNER, will realize we can do better in this country by not compromising our public health and the great Nation in which we live.

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

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

The legislative clerk proceeded to call the roll.

Mr. BOOZMAN. Madam 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.

VETERANS SUPPORT

Mr. BOOZMAN. Madam President, I would like to take a moment to honor and thank those who have earned the noble title of ''veteran.''

The 11th hour of the 11th day of the 11th month marked the end of World War I. Since then, this date has been celebrated first as Armistice Day and now as Veterans Day, but no matter what we call it, it serves the purpose of honoring our Nation's heroes—those who have served in the military, our veterans.

As the son of a World War II veteran who served as a waist gunner on B–17s, I grew up in a family with values rooted in military tradition. My father remained in the military until he retired from the Air Force as a master sergeant after 20 years of service. At an early age, my brother, my sister, and I were taught about the sacrifices our men and women in uniform make. Growing up in this environment gave us an understanding of the unique challenges military families face—an understanding that guides my efforts today.

My mom would continually remind me of my responsibility as a public servant to keep our promises to those who served our Nation in uniform. Up until her recent passing, one of the first questions she would ask whenever I saw her would inevitably be: What have you done for veterans lately?

I was always able to answer that question with a clean conscience while serving in the House and now in the Senate. Despite how divided we can be on other issues, Democrats and Republicans come together—more often than not—to pass policies that will enhance the quality of life for both our veterans and their families.

Today, in the Senate Veterans' Affairs Committee, we are working to secure the benefits our veterans deserve and improve existing benefits to meet the needs of more than 23 million American veterans, including 257,000 who call Arkansas home.

It is most important for all of us to remember the reason we are working to improve veterans' benefits: the men and women of our Armed Forces and their families. Through their selfless sacrifice, we are protected from our enemies. They make the United States a safer place to live. They have heard our Nation's call and met the challenge with their service. It is now up to us to ensure our veterans have access to all the opportunities our great Nation has to offer.

Taking care of our veterans is the responsibility of every American.

It is important that we all continue to serve our veterans and reflect on those who served in conflicts around the globe, as well as those who are serving today in support of the war on terror in Iraq and Afghanistan. Let's also reflect on the sacrifices of those who have given their last full measure of devotion.

In September I came to the Senate floor to honor the lives of five Arkansans who were killed in action this year. Last week, sadly, we lost a sixth member from Arkansas this year, SPC Sarina N. Butcher, who followed in the footsteps of her grandfather and brother and joined the military in April 2010. As a member of the Oklahoma National Guard, she served as an automated logistical specialist, but her ultimate goal was to become a nurse.

At the tender age of 19, this Crossett, AR, native and mother to a beautiful little girl was killed in an IED explosion in Afghanistan on November 1. We are grateful for her service and her sacrifice. We are forever indebted to her and to every American who has worn the uniform and sacrificed their own safety and security for that of the American people.

Every day the men and women of our Armed Forces stand in defense of our Nation and our cherished way of life. They do so regardless of costs, fully aware they may be called to pay the ultimate price for their country.

This week, communities across the country gather to express our undying gratitude for those who have worn our Nation's uniform. Let's always honor the service of those who have served and those on the front lines as we address the important challenges facing the Nation.

To all of our veterans and their families, I say thank you on behalf of a grateful nation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

POSTAL SERVICE

Mr. SANDERS. Madam President, there are two issues I would like to touch upon this afternoon which I think are significantly important to the people of our country.

On Sunday, 2 days ago, I held a town meeting in Montpelier, VT, on the issue of saving the Postal Service. Frankly, I was stunned by the number of people who came. As you know, Vermont is not the largest State in the Nation, and yet we had about 350 people crowding into the cafeteria at Montpelier High School to say very clearly that they do not want to see the Postal Service dismembered. They do not want to see policies develop that will create a death spiral for the post offices of America.

We heard a lot of testimony from many people, and the bottom line is that everybody in that room thought it

was terribly wrong that in the midst of a recession the post office is talking about cutting 120,000 good-paying jobs in our country. It didn't make sense to anybody in that room.

I find it ironic that at a moment when, appropriately enough—and I strongly support the effort—we are talking about creating jobs for veterans who are coming home from Iraq and Afghanistan, with high unemployment rates, many of the people who work in the post office are, in fact, veterans. On one hand, we are trying to create jobs for veterans; on the other hand, if the Postal Service does what it wants, we may end up losing 120,000 jobs, including many veterans.

I wanted to touch on some of the important issues that I think we have to deal with regarding the Postal Service. I want to just go over a letter that Senators LEAHY, GILLIBRAND, WYDEN, and myself sent to the chairpeople and ranking members of the Committee on Homeland Security and the subcommittee as well; that is, Senators LIEBERMAN, COLLINS, CARPER, and SCOTT BROWN. These are the points we made in the letter. These are points that will be incorporated into legislation that I will be introducing this week—legislation that I think is commonsense legislation, legislation that will help us create a business model so the Postal Service can be successful, legislation that will save 120,000 jobs.

This is what we wrote in the letter to the Homeland Security Committee. A lot of people don't know this. They say correctly that the Postal Service is having problems because we are in a digital age, and first class mail is going down because people are e-mailing. That is true.

Second, we are in the midst of a recession and many businesses are facing problems. But the most important financial problems facing the post office today are not those issues; they are the issues of accounting approaches that have done great disservice to the Postal Service.

The U.S. Postal Service uniquely has been forced to prefund 75 years' worth of future retiree health benefits in just 10 years. There is no other agency of government that comes close to that onerous requirement, nor do we believe there are any companies in the private sector that have been asked to do that. We are asking the Postal Service to come up with a huge amount of money and put it into a fund in a way that no other agency of government—and we think no other private company—has been forced to do.

This mandate costs the Postal Service between $5.4 billion and $5.8 billion per year, and it accounts for 100 percent of the Postal Service's $20 billion debt. Without that onerous requirement, the USPS would still have significant borrowing authority with the U.S. Treasury to ride out the tough economic times we are seeing in the recession.

Furthermore, it is not only future retiree health benefits they are being asked to come up with and fund, but the USPS needs to recoup the overpayments it has made to the CSRS and FERS, the Federal retirement system. According to studies by the Hay Group and the Segal Company, USPS has overpaid the CSRS by between $50 billion and $75 billion. If we look at those two issues, if we can deal with those issues and treat the Postal Service fairly, we will have gone a very long way toward addressing the immediate financial crisis the Postal Service is facing.

Second, what we want to be very careful about as we develop business models for the future is to not start cutting, cutting, cutting, and creating a Postal Service that will no longer have customer support and lay the groundwork for literally a death spiral and the destruction and demise of the Postal Service in years to come.

I come from a rural State. Post Offices are extremely important to the people of small towns above and beyond getting mail. They become, in a sense, in some ways, the identifying feature of a small town. It is where people come together and talk. It is very important, in my mind, that we not start cutting pell-mell hundreds and hundreds of small post offices in rural America. I think the legislation we will be offering this week addresses that problem in a sensible and reasonable way.

Second of all, the Postal Service can never be competitive if when you drop a letter into a postal box it takes 5 days for that letter to get to its destination. One of the ideas that the Postal Service is talking about is making very significant cuts in what they call processing centers. That is where the mail is gathered and forwarded. If we cut those centers—in my State, we have two that are on the line, Essex Junction and Wright River Junction. If we cut those and other processing centers all over the country, what will happen is that when we drop that letter into a mailbox, it could take up to 5 days for that letter to reach its destination. When we have that poor service, people are simply going to stop using the post office, and that continues the death spiral. People are not going to want to use the service.

Thirdly, and in the same vein, the Postal Service is now talking about cutting Saturday delivery. Again, that means there are a whole lot of folks who get prescription drugs on Saturday, and a whole lot of people who get a magazine or newspapers on Saturday—if we cut that back, people are going to say: No, I don't want to deal with the post office anymore. It is not worth it.

So it seems to me the choice we have is to do what the Postal Service is now talking about; that is, cut and eliminate rural post offices, end Saturday mail delivery, cut and eliminate significant numbers of processing centers, which will slow down the delivery of mail—that is one approach—and lay off, by the way, some 120,000 American workers, including many veterans. That is a very bad idea.

The other approach is to come up with a business model that recognizes that we are in the 21st century; that the post office has to evolve and change and give the post office the freedom to compete in a way that addresses the needs of its customers. I will give an example.

The Presiding Officer comes from a rural State, as I do. A lot of people in our States want to get fishing licenses or hunting licenses. If they walked into a post office in rural New Hampshire or rural Vermont and said: Hey, can I fill out an application to get a fishing or hunting license, the post office would say they we don't do that, they are not permitted to do that.

If an individual literally wants to walk into a post office—and postmasters tell me this happens every day—and say: I have a letter, and I want it notarized, they may be a notary public, but they are not allowed by law to notarize that.

The issue of the digital revolution is obviously impacting post offices not only in the United States but around the world. Other countries are looking at these challenges in a way that we are not. I will give one more example.

For a lot of reasons—legal and otherwise—there are people who would like to see a document delivered to somebody in writing and not simply in e-mail. There are post offices now in other countries where one can send an e-mail, say, from Vermont to California, it gets printed, and on the same day that document gets delivered to a business or a home. The post office in America is not allowed to do that. So by law our post office is restricted from entering the 21st century.

If somebody walks into a post office now and says they want to print up 10 copies of a document, so where is the copying machine, the postmaster would say they don't have one, that they are not allowed to have a copy machine.

There are a lot of ideas out there that people are talking about as to how the Postal Service can address the needs of customers in the 21st century.

Last, but not least, on this issue, one of the people at the town meeting on Sunday got up and said: I want to say this. In our town, we know our letter carrier very well. Our letter carrier noticed that mail remained in the mail box of an elderly person, and the mailman got on the phone and called the police department because he suspected that something was wrong.

It turns out that something was wrong and that person's life was saved. I expect that happens all over this country. We have hundreds of thousands of letter carriers who know people, interact with people. They do play and can more so play an important role in providing services.

Bottom line, Madam President, I think it is a bad idea in the midst of a

recession to slash 120,000 jobs, including jobs of many of our veterans. Second, I do believe if we use our brains and entrepreneurial spirit, we can create a post office that is very relevant and can be profitable in the 21st century.

We will be introducing legislation addressing all of these issues, and I hope very much that my colleagues will cosponsor that legislation.

TAX FAIRNESS

Madam President, there is another issue I want to talk about, and that is the work of the supercommittee. This country has a recordbreaking deficit. It has a $14-plus trillion national debt, and I think all of the American people—or virtually all—want to see the supercommittee come up with a proposal which makes sense and which helps us address our deficit crisis. My suggestion to the supercommittee is that they, in fact, can do that by simply doing what the American people want them to do.

I have heard some of the ideas out there, where members of the supercommittee are talking about cutting Social Security, which has not contributed one nickel to our deficit and has a $2½ trillion surplus, and another idea being that we have to cut Medicare and Medicaid. Well, we have 50 million people without any health insurance. I don't think it is a brilliant idea to throw more and more people off health insurance. So I think those are bad ideas, and every single poll I have seen tells me the American people agree those are dumb ideas.

Meanwhile, I have seen and talked to a whole lot of people who are asking me this question: How is it, when the wealthiest people in this country are becoming much wealthier, when the effective tax rates of the top 2 percent are the lowest in decades, that we are not asking those people who are doing phenomenally well to start paying their fair share of taxes?

This is not just a progressive idea and it is not just a Democratic idea. The polls suggest that all across the political spectrum, the American people are saying: Yes, it is right and appropriate that the wealthiest people in this country start paying their fair share of taxes.

I will just mention an ABC News-Washington Post October 5, 2011, poll reflecting that 75 percent of Independents support raising taxes on millionaires. In that same poll, 57 percent of Republicans support raising taxes on millionaires. In that same poll, 55 percent of tea party supporters—supposedly the extreme rightwing who want to abolish Social Security and Medicare and Medicaid, which turns out not to be the case at all—agree with raising taxes on millionaires. According to a June 2011 Washington Post poll, 72 percent of Americans support raising taxes on incomes over $250,000.

So I think we know what the American people want. They do not want, in poll after poll, to cut Social Security, Medicare, and Medicaid because they know how vitally important those programs are to the well-being of tens of millions of Americans. For example, according to a February 2011 NBC News-Wall Street Journal poll, 77 percent of Americans are opposed to cutting Social Security to reduce the deficit.

So where are we as a country? We are pretty united. We are in agreement. What the American people are saying is that the rich are getting richer, their effective real tax rates have gone down, and they have to pay more in taxes to help us through deficit reduction and to create jobs.

The American people also understand there are huge corporate loopholes out there, with oil companies making money hand over fist and getting huge tax breaks and Wall Street getting huge tax breaks. We lose $100 billion a year because large companies and the wealthy put their money into tax havens in the Cayman Islands, in Bermuda, and in Panama. The people of this country know that is wrong.

I hope very much that the supercommittee will do nothing more than listen to the American people. That is all. If they do that, they will do the right thing. They will not suggest that we cut Social Security, Medicare, and Medicaid, but they will suggest that the wealthiest people in this country start paying their fair share of taxes. They will recommend that we do away with these outrageous loopholes large profitable corporations enjoy. If they do that, we will, in fact, come up with an agreement that will help us reduce the deficit, and we will win the support of Democrats, Republicans, and Independents.

With that, Madam 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 assistant editor of the Daily Digest proceeded to call the roll.

Mr. WICKER. Madam 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.

Mr. WICKER. I ask unanimous consent to speak as if in morning business.

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

HUMAN RIGHTS IN RUSSIA

Mr. WICKER. Madam President, I have come to the floor on a number of occasions to voice my concern about the deteriorating rule of law and the lack of respect for human rights in Russia, primarily highlighting the cases of Mikhail Khodorkovsky and Platon Lebedev.

The fact that Khodorkovsky and Lebedev remain in jail is deplorable. But I rise to speak about another case, in which a man who opposed the government not only went to jail but died there. I choose my words carefully this afternoon, knowing that they will be disturbing to many and that a number of people within the Russian Government will take great offense. But I want everyone within the sound of my voice to know that I am choosing my words carefully.

Sergei Magnitsky was a lawyer and a partner with an American-owned law firm based in Moscow. He was married, with two children. His clients included the Hermitage Fund, which is the largest foreign portfolio investor in Russia.

Through Sergei Magnitsky's investigative work on behalf of Hermitage, it was discovered that Russian Interior Ministry officers, tax officials, and organized criminals worked together to steal $230 million in public funds, orchestrating the largest tax rebate fraud in Russian history. As Magnitsky would come to find out, this group had fraudulently reregistered three investment companies of the Hermitage Fund and embezzled from the Russian Treasury all of the profits, taxes, that these companies had paid, and did so under the guise of a tax refund.

In October of 2008, Magnitsky voluntarily gave sworn testimony against officials from the Interior Ministry, against Russian tax departments, and the private criminals who he found had perpetrated the fraud. A month later, Interior Ministry officers came to his Moscow apartment, arrested him in front of his wife and two children, and threw him in pretrial detention.

At the same time, the Russian Federal Security Service claimed there was evidence that Magnitsky had applied for a U.K. visa and that he was considered a flight risk. The Russian courts used this to prolong the term of his detention without a trial to 12 months. I should note that the British Embassy in Moscow has confirmed that Mr. Magnitsky had not applied for a U.K. visa since the year 2002, and so the pretrial detention was based on a fabrication.

Once in custody, Magnitsky was pressured and tortured by officials, hoping he would withdraw his testimony, and asking him to falsely incriminate himself and his client. They placed Mr. Magnitsky in an overcrowded cell with no heat, no window panes, no toilet, and kept lights on all night in order to deprive him of sleep. Each time he refused to withdraw his testimony against the officials, his conditions worsened—as did his health. He lost 40 pounds and developed severe pancreatitis and gallstones.

On July 25, 2009, 1 week before a planned operation by detention center doctors, Mr. Magnitsky was transferred to a maximum security detention center with no medical facilities. He spent the next 4 months of his life without any medical care. All of his requests for medical examination and surgery were denied by the Russian Government officials.

The Interior Ministry officials managing Magnitsky's detention refused

family visits as ''inexpedient to the investigation.'' From the time of his arrest, Magnitsky saw his wife only once. He never saw his children again after his arrest.

During his 358 days in detention, Mr. Magnitsky wrote more than 450 petitions requesting medical attention and challenging his cruel treatment, the denial of legal remedies, and protesting his being taken hostage by the very Interior Ministry officials he had testified against. Every petition filed was either ignored or rejected by Russian authorities.

On November 13, 2009, Sergei Magnitsky's condition worsened dramatically. Doctors saw him on November 16, when he was transferred to a Moscow detention center that had medical facilities. Instead of being delivered to the detention center hospital and actually treated immediately, Mr. Magnitsky was placed in an isolation cell, reportedly handcuffed, beaten, and he died in that cell.

On the day following Mr. Magnitsky's death, detention center officials informed his lawyers that he had died from a rupture of his abdominal membrane and toxic shock. That same day, although detention center facilities had said abdominal membrane and toxic shock, the official cause of his death was changed to heart failure. Indeed.

Two requests by his family for an independent autopsy were rejected by Russian authorities. A week after Mr. Magnitsky's death, senior Russian Interior Officials publicly claimed that Magnitsky was not sick at all in detention. Seven months after his death, Interior Ministry officials claimed they were not aware of Magnitsky's complaints and requests for medical assistance. Ten months after his death, the Russian state investigative committee claimed that Magnitsky was not pressured and tortured but died naturally of heart disease. His death, the committee claimed, was ''nobody's fault.'' Nearly 2 years after Magnitsky's death, not a single person has been prosecuted for his false arrest, for his torture, for his murder in custody, or for the $230 million theft he exposed.

Some may question the facts I have outlined today. Are they in dispute? I would point out that on November 23, 2009, 1 week after Mr. Magnitsky's death, the chair of President Medvedev's Human Rights Council publicly raised Magnitsky's death with President Medvedev. The following day, President Medvedev ordered the General Prosecutor and the Justice Minister of Russia to investigate the death. The investigation was limited and did not result in any criminal prosecutions.

However, on December 28, 2009, the Moscow Public Oversight Commission, an independent watchdog mandated under Russian law to monitor human rights abuses in Moscow prisons and detention centers, issued its conclusions on the Magnitsky case. The report stated that in detention, Magnitsky had been subjected to torturous conditions, physical and psychological pressure, and was denied medical care. Moreover, the members of this courageous Commission concluded that his right to life had been violated by the Russian State—by the Russian State. These conclusions were sent to the Russian General Prosecutor's Office, the Russian State Investigative Committee, the Russian Ministry of Justice, the Presidential Administration, and the Federal Penitentiary Service. None of the government agencies responded to any of the report's conclusions.

Then, on July 5, 2011—this year—the Russian President's Human Rights Council issued its independent expert findings on the Magnitsky case. The report found the following: that Mr. Magnitsky was arrested on trumped-up charges in breach of Russian law and the European Human Rights Convention; that his prosecution was unlawful; that he was systematically denied medical care; that he was beaten in custody, which was a proximate cause of his death; that his medical records were falsified; and that there is an ongoing coverup and resistance by all government bodies to investigate. Thank heaven for the intrepid members of the Russian President's Human Rights Council.

While little has been done inside Russia regarding that case, action has been taken here in the United States. In May 2011, I joined Senator BEN CARDIN in introducing the Sergei Magnitsky Rule of Law Accountability Act. The bill extends the application of visa and economic sanctions to officials in the Magnitsky case and in other cases of gross human rights abuses. The legislation currently has 23 sponsors, and I urge all of my colleagues to consider joining us on this bill. Join us on this bill today.

On September 16, 2011, 15 leading human rights activists and representatives of the Russian civil society issued an open letter urgently calling on this Congress to pass this legislation. The letter states:

> Sergei Magnitsky has become a victim of the inhumane Russian justice system. Many Russian citizens are unlawfully deprived of liberty due to the travesties of this system. The impunity of those who have fabricated the case against Magnitsky and have persecuted him opens the door for other officials who enrich themselves with stolen property and target political opponents of the regime. . . .

The letter goes on to say:

> The consistent application of international pressure on corrupt members of the ruling establishment would significantly support our civil society and those honest individuals inside the Russian power structures who are trying to revamp and reform the existing government institutions.

The letter concludes:

> We urge you—

They urge us, the Members of Congress—to adopt the ''Sergei Magnitsky Rule of Law Accountability Act of 2011'' without any delay.

We in the Senate should be standing in support of the principled, fearless Russian citizens who have the courage to expose these corrupt abuses, to expose the brutality and thuggery of their own Russian Government.

I urge President Obama and I urge Secretary Clinton to make human rights and rule of law in Russia a central part of our efforts to reset bilateral relations. Without commitment to these basic principles, our efforts to find common ground on other issues of mutual concern will continue to be undermined.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Ms. AYOTTE. Mr. President, I ask unanimous consent to speak as if in morning business.

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

CROSS-STATE AIR POLLUTION RULE

Ms. AYOTTE. Mr. President, I rise to discuss S.J. Res. 27, a resolution of disapproval of the cross-State air pollution rule. I appreciate my friend, the Senator from Kentucky, for bringing his concerns forward through this resolution. However, this is an issue I have been extensively involved in as New Hampshire's former attorney general, and I believe this resolution is misguided. This issue requires a balanced approach, and when looking at environmental regulations, we must review each on a case-by-case basis. In that vein, I cannot support this resolution.

The cross-State air pollution rule is designed to control emissions of air pollution that cause air quality problems in downwind States—and New Hampshire is a downwind State—and is estimated to reduce powerplant sulfur dioxide emissions by 73 percent and emissions from nitrogen oxides by 54 percent from 2005 levels.

It is important to note that similar pollution standards have been in place for 6 years—first implemented by the Bush administration in 2005—and many utilities have already taken steps to comply with the rule.

The rule encourages the use of the best technology available so downwind States such as New Hampshire will be able to achieve national clean air standards. Without this rule in place, New Hampshire will be unable to achieve national clean air standards due to air pollution that is outside the State's regulatory control and comes from other States.

In New Hampshire, we have a long, bipartisan tradition of working to advance commonsense, balanced environmental protections. That is the perspective from which I approach this

resolution. From my time as the State's attorney general, I understand well that New Hampshire is one of several downwind States in what is infamously known as ''America's tailpipe.'' For far too long, air pollution generated by Midwestern coal-fired powerplants has been allowed to flow into the jetstream unabated and to settle in New England, leading to diminished air quality in my home State of New Hampshire.

As attorney general, I worked to protect Granite State residents and our environment from air pollutants generated by Midwest coal-fired powerplants. The reality is that air pollution does not stop at State borders, and New Hampshire should not be the tailpipe for pollutants from out-of-State powerplants. It is a matter of common sense to ensure that one State's emissions of pollutants do not unduly harm another State's air quality.

I urge my colleagues to oppose the resolution of disapproval.

Ms. SNOWE. Mr. President, I rise to express support for the pending legislation on a critical issue that addresses the burdensome cost of compliance with the Tax Code. H.R. 674 is modeled after bipartisan legislation Senator BROWN and I introduced earlier this year to repeal the 3 percent withholding on government contractors that was enacted in 2005.

I thank Senator BROWN for his steadfast and persistent leadership on this issue as well as Senators AYOTTE, BARRASSO, BLUNT, BURR, CHAMBLISS, INHOFE, JOHANNS, BOOZMAN, and RISCH who are also cosponsors of the legislation.

The 3 percent withholding provision mandates that Federal, State, and local governments withhold 3 percent of their payments to private contractors, including Medicare provider payments, farm payments, defense contracts and certain grants.

According to the National Federation of Independent Business, ''the 3 percent withholding provision puts both an administrative burden on all parties involved and a strain on the daily operating cash flow of the businesses entering into these contracts.'' This provision would deduct 3 percent from those payments and send the cash to the IRS for what can be considered a downpayment on taxes. The following year, absent any outstanding tax liability, the contractors, or doctors in the case of Medicare, would then get the payment rebated to them. This forces legitimate small businesses who pay their taxes in a timely manner to loan the government 3 percent of a total contract.

The American Medical Association supports repealing the 3 percent withholding because it is an additional tax on physicians who already are facing a 29.5 percent cut in Medicare payments on January 1 of next year. According to the AMA Physician Practice Information Survey, 78 percent of office-based physicians in the United States are in practices of nine physicians and under, with the majority of those physicians being in either solo practice or in practices of between two and four physicians. Withholding 3 percent of Medicare payments for services furnished by physician practices will create a difficult cash flow problem for physician practices as small businesses.

This is another example of good intentions having unintended consequences and originated as a result of very legitimate efforts to address the tax gap—the difference between what is owed in taxes and the amount that the IRS is able to collect.

At first glance, it may seem reasonable to withhold a portion of payments to contractors, until they pay taxes on the earnings. However, the problem with this approach is that it assumes that contractors will not pay their taxes and, regrettably, small businesses suffer as a result of this faulty assumption.

Because this mandate withholds 3 percent of payments to contractors, it is a serious problem for small businesses for whom such a withholding from cash-flow would make bidding on contracts cost prohibitive. As such, this mandate threatens to stifle the economy at a time when we cannot afford any unnecessary obstacles in the road to recovery.

Everyone agrees that Americans should pay their taxes in full and none of us supports tax cheats, yet there are already extensive penalties including monetary and even criminal for tax delinquency. The unfortunate fact is that the 3 percent withholding provision will cost far more to implement than will be collected in tax revenue.

As a senior member of the Senate Finance Committee, I remain committed to exploring alternative means to ensure government contractors are indeed paying their taxes in full while working to mitigate the costs of compliance. On November 1, the Senate passed the Agriculture appropriations bill which included a provision prohibiting agencies from awarding contracts to companies with unpaid Federal taxes.

Additionally, that legislation barred any contract over $5 million from being awarded if a company cannot certify it has paid its taxes in the last 3 years. Unfortunately, the Obama administration has criticized this provision as having ''unintended consequences'' and that the bill as written would hurt contracting decisions. I believe the legislation should have gone even further and forced all contractors to certify that their taxes are up to date. The bottom line is the Federal Government should not be contracting with those who fail to meet their tax obligations and it is imperative this administration develop a coordinated process to not only punish fraudulent contractors but ensure tax compliance before contracts are awarded.

That said, our country is in no place to stifle already anemic economic recovery and disappointing job growth numbers that have plagued the Nation for 3 years now. According to data released Friday by Bureau of Labor Statistics, the unemployment rate remains persistently high at 9 percent.

About 45 percent of the unemployed have been out of work for at least 6 months—a level previously unseen in the six decades since World War II. At a time when 14 million Americans are still unemployed, and have been so for the longest period since record keeping began in 1948, our government should be taking every possible step to ease the burden on job creators. We need to offer the American people solutions that help grow jobs, not provisions that prevent it.

Compliance with this law will impose billions of dollars of cost on both the public and private sectors, with a disproportionate impact on small businesses. These compliance costs will far exceed projected tax collections.

For instance, just one Federal agency, the Department of Defense, estimated that it would cost over $17 billion in the first 5 years to comply, and the revenue estimate in 2005 projected that only $6.977 billion would be collected over a 10 year window.

Even if that DOD estimate is inflated, as some charge, the Congressional Budget Office projects costs of $12 billion just to implement this provision at the Federal level. There are similar costs imposed across all of the Nation's State and local governments, making this provision simply an unfunded mandate on State and local governments. This is a case of spending a dollar to collect a dime, which is counterproductive for addressing the Nation's deficits.

As ranking member of the Senate Committee on Small Business, I have heard from many businesses across the country that the 3 percent withholding amount will exceed their profit on a given contract and will prevent them from being able to make payroll, forcing them to borrow from banks just to pay their employees.

This is not the way to encourage jobs and business growth but rather the way to stifle it. This 3 percent withholding provision would increase the tax and regulatory burdens on our businesses—precisely the wrong policy potion for these troubled times.

Given the record deficits and budgetary crisis in this country, it is imperative that the Congress find funds to offset the repeal provision. The President and the House of Representatives both agreed that a proper way to pay for repeal would be to retract a poorly drafted provision from the new health care law—a provision that would have added people who do not meet the income requirements on to the already-strained Medicaid Program which provides health care to the indigent.

As a strong supporter of Medicaid, I know it is important to keep the program narrowly targeted at those populations most in need, and if doing so in

this case allows us to repeal the damaging 3 percent withholding rule, then so much the better.

At a time when the American people are extremely frustrated with the partisan gridlock and Congress' inability to pass meaningful legislation, this bipartisan bill would provide small businesses with much needed certainty and relief.

I yield the floor.

I suggest the absence of a quorum.

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

Mr. REID. Mr. President, I ask unanimous consent that the motion to proceed to H.R. 674 be adopted; that after the motion is adopted, the majority leader be recognized to offer amendment No. 927 on behalf of Senator TESTER and others; that when the Senate resumes consideration of the bill on Wednesday, November 9, Senator MCCAIN or his designee be recognized to offer a second-degree amendment, No. 928; that no other amendments, points of order, or motions be in order to either amendment or the bill prior to the votes other than budget points of order and the applicable motions to waive; that following morning business on Wednesday, November 9, the Senate proceed to the consideration of the motion to proceed to S.J. Res. 6, as provided under the previous order; that upon the use or yielding back of time, the Senate resume consideration of H.R. 674; further, that at 10 a.m. Thursday, November 10, the Senate proceed to the consideration of the motion to proceed to S.J. Res. 27 as provided under the previous order; that at noon, the Senate resume consideration of the motion to proceed to S.J. Res. 6 and there be up to 5 minutes of debate, equally divided between the two leaders or their designees, prior to a vote on the motion to proceed to S.J. Res. 6; that following the vote, the Senate then proceed to vote on the motion to proceed to S.J. Res. 27; that there be 2 minutes equally divided between the votes; that if either or both motions to proceed are agreed to, then further debate and votes on the joint resolutions be deferred until 2:15 p.m. on Tuesday, November 15, with all other provisions of the previous orders regarding the joint resolutions remaining in effect; that at 2:15 on Thursday, November 10, the Senate resume consideration of H.R. 674; that there be up to 15 minutes of debate on the bill and amendments to run concurrently, with the time equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendments to H.R. 674 in the following order: McCain amendment No. 928 and Reid for Tester amendment No. 927; that the McCain and Reid for Tester amendments be subject to a 60-vote affirmative vote threshold; that upon the disposition of the amendments, the bill be read a third time and the Senate proceed to vote on passage of the bill, as amended, if amended; that upon disposition of H.R. 674, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 2354, the Energy and Water appropriations bill.

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

3% WITHHOLDING REPEAL AND JOB CREATION ACT

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility to certain health-care related programs, and for other purposes.

AMENDMENT NO. 927

(Purpose: To amend the Internal Revenue Code of 1986 to permit a 100 percent levy for payments to Federal vendors relating to property, to require a study on how to reduce the amount of Federal taxes owed but not paid by Federal contractors, and to make certain improvements in the laws relating to the employment and training of veterans)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. TESTER, for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN of Massachusetts, proposes an amendment numbered 927.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 157, H.R. 2354.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to proceed to H.R. 2354, an Act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

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

The legislative 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. 157, H.R. 2354, an act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

Harry Reid, Amy Klobuchar, Dianne Feinstein, Patrick J. Leahy, Richard J. Durbin, John F. Kerry, Charles E. Schumer, Al Franken, Tom Udall, Richard Blumenthal, Kirsten E. Gillibrand, Carl Levin, Jeff Merkley, Ron Wyden, Thomas R. Carper, Daniel K. Inouye, Benjamin L. Cardin.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. REID. Mr. President, I now withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

MORNING BUSINESS

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

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

TRIBUTE TO MR. LEDFORD STEPHENS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a respectable Kentucky veteran, Mr. Ledford ''Led'' Stephens. Ledford, who recently celebrated his 90th birthday, still remembers vividly the time he spent serving overseas in Europe during World War II.

Led grew up across the creek from Lower Cal Hill Cemetery in Pine Knot, KY. When he was 18 years old, he enlisted in the U.S. Army. After passing two physicals, Led was allowed to spend 2 weeks at home before he boarded a train at Stearns station to Fort Thomas. There he received his clothes and was then shipped to Fort Wheeler, GA, for basic training. After completing basic training, Led spent a short time at Camp New Jersey where he received his ''impregnated clothes,'' which were outfits that protected soldiers from gas—this was a clear indicator that he would eventually be shipped overseas.

A short time later, Led remembers boarding a ship in New York that sailed for 14 days and nights before finally reaching Casablanca, North Africa. After arriving, Led and his group were placed with the 3rd Division and sent to assist in the Invasion of Sicily. Led was assigned to the position of 30-caliber machine gunner on his team.

''From there, I went on to the Invasion of Italy. We went in there on a beach and fought our way up,'' Led recalls. ''I met a fellow from Frazer, Kentucky, and we both promised that we

would find each other's people back home if anything happened to either of us. It ended up that he was killed . . . I tried to find his people when I came back home, but I never could find them.''

The toil of war eventually took a toll on Led as well. During a battle, ''a shell went off close to me, and it did something to my ears,'' Led says. ''My face was numb . . . they loaded me into an ambulance and took me to the 106 Hospital in Naples, Italy.'' After that, Led spent time recovering in a rest camp and was taken out of combat and was assigned to a port battalion where he loaded and unloaded supplies.

After the war, Led received many medals and ribbons, including the Bronze Star for his service. Once he returned home to Kentucky, Led began a career as a coal-truck driver—he is also an ordained minister in his spare time. Around his 70th birthday, Led fell in love with Lois Neal, a girl he had known from his childhood. The two have been married now for over 18 years and reside happily together in their home in Pine Knot, KY.

I would like to ask that my Senate colleagues join me in thanking Mr. Ledford ''Led'' Stephens for his patriotism and selflessness. I commend Ledford for his service and accomplishments throughout his life—he is a true inspiration to Kentuckians everywhere. The McCreary County Voice in Whitley City, KY, recently published an article highlighting Ledford's honorable life and service. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the McCreary County Voice, Aug. 11, 2011]

MEMORIES OF A SOLDIER

(By Eugenia Jones)

As a youngster, growing up across the creek from Lower Cal Hill Cemetery, Ledford ''Led'' Stephens never dreamed that he would someday travel to distant lands to serve his country. The American war veteran, who just recently celebrated his 90th birthday, has vivid memories of his time spent in World War II.

He recalls, ''When I was 18, I registered for the Army. Next thing I knew, I got a call to go in and get two physicals. I passed the first physical they gave me at Stearns, and then I had to go all the way to Cincinnati for the second one. When I was there in Cincinnati, they told us to say, 'Home' if we wanted to go back home for fourteen days. Me and a buddy wanted to go back home for two weeks. After we got those days at home, I caught a train at the station at Stearns to go back to the Army. There were many people at the station, and they were crying as we headed off for the war. I ended up at Fort Thomas where they issued my clothes. I went on to Fort Wheeler, Georgia, for basic training and then to Camp New Jersey. A buddy of mine from home was there with me. He had his guitar, and one night, he started picking a song about going back home. All at once, he told me that he wanted to go home, but I told him that they would kill us if we took off. They issued us our impregnated clothes there. Those types of clothes protect the soldiers from gas. We just knew that being issued those clothes meant that we were going overseas for sure.''

The hunch about going overseas was correct, and Stephens can still remember leaving the U.S. ''From New Jersey, I went to New York where we loaded a ship and sailed for fourteen days and nights. We ended up in Casablanca, North Africa. We spent a couple of weeks there and were put in the 3rd Division. Right about that same time, there was a surrender, and I thought we might get to go home. Instead, we ended up in the Invasion of Sicily. I was the first scout in the town of Messina, Sicily, and, from there, I went on to the Invasion of Italy. We went in there on a beach and fought our way up. I met a fellow from Frazer, Kentucky, and we both promised that we would find each other's people back home if anything happened to either of us. It ended up that he was killed. I was a 30-caliber machine gunner, and he was an assistant with another gunner. That is how he was killed. I tried to find his people when I came back home, but I never could find them.''

The war eventually took a physical toll on Stephens. He explains, ''The Germans came in shelling us. A shell went off close to me, and it did something to my ears. My face was numb. They wanted me to wait to go to the hospital until the 36th Division could relieve us. When I did go to the medics, they were in a long hospital tent. A fellow looked at me and loaded me into an ambulance. They took me to the 106 Hospital in Naples, Italy. After that, I went to a rest camp and some other hospitals. I ended up being taken out of combat and was assigned to a port battalion where I loaded and unloaded supplies.''

Stephens did have some fun times while he was overseas. His face lights up with a grin as he tells about the two girls he met while in Europe. ''While I was there in Italy, I was sent to a rest camp. I could go to town whenever I wanted. Me and a buddy met two girls in town one day. We went for a ride with them, and I started seeing the girl named Connie quite regularly. I went for a time without seeing her and decided I would go to her house and find her. I went up the stairs and knocked on the door, and an old woman came to the door. She spoke English and said, ''Stephens, come in!'' The old woman was Connie's mom. She and Connie were glad to see me. When we shipped out, Connie wanted to go. I went back later to see her, and, this time, there she was! She was locked in the arms of a sailor! Of course, that was the end of our friendship!''

''I met Esther when I was in France. When I first saw her, she was crocheting, and she spoke English. Her sister's name was Julie, and I told my buddy about Julie. The Germans had taken their parents. One day, me and my buddy went and visited. Julie's boyfriend came while we were there. Julie was dating a boy named Scott from Tennessee. She was seeing Scott and my buddy both at the same time. When I left France, I told Esther that someday I would be back for her. When I got back to the States, I planned to go back overseas, but Mrs. Harmon of the draft board thought I should wait awhile. I had already been overseas for thirty months and ten days. I ended up never going back overseas, and I never saw Esther again.''

After returning to the States, Stephens, the recipient of many medals and ribbons, including the Bronze Star, spent his life working as a coal-truck driver and, for a few years, he worked in Indiana. At the age of 62, he began working for the Forest Service where he remained for more than three years. Stephens also was an ordained minister.

In his golden years, when he was about 70, Stephens fell in love with Lois Neal. Lois, who, for many years, owned and operated a grocery store at the top of Davis Hill in Pine Knot, recalls, ''When Led started coming to the store, he came regularly!'' ''Led'' adds with a chuckle, ''I enjoyed helping her in the store. It sure wasn't the store that I was after. It was Lois! I had my eye on her, and, then, she sent me some roses! We had known each other when we were growing up. Before I went overseas, I remember taking her for a ride in a Model A. I was singing, I'm Sitting on Top of the World' when we went for that ride.'' The two have now been married for 18 years.

When ''Led'' finishes telling the stories about his days in WW II, it is easy to see that this man who traveled the world serving his country as a young man is now happy to be ''sitting on top of the world'' with his lovely wife Lois at their home in Pine Knot, Kentucky.

VETERANS DAY

Mr. UDALL of Colorado. Mr. President, I rise to speak on an important holiday we will recognize later this week. Veterans Day is a time we have set aside to pause and remember the veterans who have sacrificed so much for our country. We honor them for their courage and dedication in helping secure our freedom. It is without saying that we are all indebted to these men and women and we celebrate them and their selfless service on behalf of every American.

Last month the celebration of Hispanic Heritage Month came to a close, but as Veterans Day nears, I believe that it is timely and fitting to call attention to the contributions of the American Latinos who have served in every major war of the United States and continue to be an invaluable part of America's military.

Approximately 1.3 million of America's current 22.7 million veterans are of Hispanic origin. In Colorado, each of these veterans deserves our recognition and continued support. Due to the sacrifice of so many from our state, such as Medal of Honor recipient Joe P. Martinez, who was laid to rest in 1943 in Ault, CO, our country has been made stronger.

Other veterans, such as Albert Gonzales, a Colorado Springs resident who currently serves as the national commander of the American G.I. Forum and was recently appointed by President Obama as a member of the National Selective Service Appeal Board, demonstrate the ongoing commitments of Colorado's veterans. Albert represents another example of the thousands of exemplary Coloradan Hispanic veterans.

In Colorado, paying tribute to the State's Hispanic veterans is a strong part of our effort to support all veterans. In the small southeastern Colorado agricultural town of Avondale, which has come to call itself the ''Pueblito of Heroes,'' it has become an annual tradition to recognize the many veterans who have served from this small community. Just this year, they honored long-time resident Eutimio Sandoval who received a Bronze Star,

Korean Service Medal, Japan Service Medal and a 50th anniversary medal for his service.

Many humble men and women who have served in our military are celebrated in communities across Colorado, and I wish to join them to express my appreciation and highlight the contributions of servicemembers of all backgrounds that make up the larger family of veterans who have given so much.

This November 11, I encourage everyone to take the time to thank a veteran and servicemember for his or her involvement in protecting America and the principles for which we stand.

TRIBUTE TO SERGEANT THOMAS R. GDOVIN

Mr. PORTMAN. Mr. President, on this week of Veteran's Day, I rise today to recognize SGT Thomas R. Gdovin, of Cleveland, OH, for the exceptional bravery he displayed in combat on March 8, 1968, in Vietnam while assigned to the U.S. Army's 101st Airborne Division. Earlier today I presented the Silver Star, one of our Nation's highest honors for gallantry in military service, to former SGT Thomas Gdovin here in Washington, DC.

SGT Thomas R. Gdovin enlisted into the U.S. Army on July 5, 1966, and served in the 101st Airborne Division. Today, during a ceremony over 40 years in the making, he received the Silver Star for his bravery during the Vietnam war when he risked his own life to save a wounded soldier during combat. I was honored to have Mr. Dan Phillips, the soldier rescued, attend the ceremony alongside Mr. Gdovin's family and friends in celebration of this well deserved honor.

I am honored to read the Silver Star Citation detailing Sergeant Gdovin's brave actions into the RECORD.

The President of the United States of America, authorized by Act of Congress, 9 July 1918, has awarded the Silver Star to: Sergeant Thomas R. Gdovin, 502d Infantry Regiment, 2d Brigade, 101st Airborne Division (Airmobile) For Gallantry: in action on 8 March 1968, while serving as Squad Leader with 1st Platoon, Company D, 1st Battalion, 502d Infantry Regiment, 2d Brigade, 101st Airborne Division (Airmobile) in support of operations in the Republic of Vietnam. Sergeant Gdovin's squad became the company's lead element during an attack on enemy forces when they received intense automatic weapons and rocket fire. The lead Soldier in the formation was severely wounded and was unable to move in an area open to enemy fire. Sergeant Gdovin placed the squad into defensive positions and suppressed enemy fire. He then left the defensive position and with complete disregard for his own personal safety and advanced across open terrain toward the wounded soldier, exposing himself to intense enemy fire. Sergeant Gdovin then reached the wounded soldier and under continued fire, brought him back to safety of the squad's position, where we was further evacuated. Sergeant Gdovin's actions are in keeping with the finest traditions of military service and reflect great credit upon himself, the 101st Airborne Division (Airmobile) and the United States Army.

This is truly an exceptional story and I was honored to play a small role in recognizing Sergeant Gdovin. This ceremony was an opportunity to say thank you to all veterans. We can never forget that they gave their time, risked their health, and even placed their lives on the line. This not only means honoring their sacrifices, but also honoring our promises and commitments to them as well. Let us ensure that we honor and remember all our veterans, not just this week but throughout the days and years to come. Their commitment to this Nation is a shining example to all of us.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. PETER STANG

● Mr. LEE. Mr. President, I wish to formally congratulate Dr. Peter Stang of the University of Utah for being awarded the National Medal of Science, the highest honor bestowed by the United States upon scientists.

Dr. Stang has been a pioneer in his field, developing methods of creating molecular nano-devices that construct themselves from combinations of chemical building blocks. These devices hold the promise of eventually being used in many revolutionary ways, from enabling artificial photosynthesis to delivering medicine directly to specific individual cells in the human body.

In 1957, Dr. Stang's family fled to the United States from Hungary to escape the violent clashes between Hungarians and the Soviet Union. The greatness of the American spirit is reflected in the fact that this young immigrant became one of the nation's top scientists and is now being recognized by the leader of the free world.

I thank Dr. Stang for his tremendous efforts to improve our way of life.●

TRANSCONTINENTAL OVERLAND TELEGRAPH LINE

● Mr. LEE. Mr. President, on October 24, the Sons of Utah Pioneers celebrated the 150th anniversary of the final connecting of the Transcontinental Overland Telegraph Line in Salt Lake City, establishing the first coast-to-coast electronic communications system in American history.

Much like the Transcontinental Railroad revolutionized transportation in this country, the Transcontinental Telegraph Line revolutionized communication. Sending messages from Washington, DC to California, which had previously taken weeks, took mere seconds after completion of the line.

President of the Church of Jesus Christ of Latter-day Saints Brigham Young sent the first message to President Abraham Lincoln, which confirmed that Utah was still loyal to the United States and not allied with the Confederacy. The line is credited with helping to ensure that most of the West sided with the Union in the Civil War.

Congratulations to the citizens of Utah for marking the anniversary of an accomplishment that helped to hold this country together.●

ST. GEORGE, UTAH

● Mr. LEE. Mr. President, 150 years ago, 309 families founded the city of St. George in southern Utah. It would become the main city in a region known as ''Utah's Dixie'' because of the cotton farms that were established in response to the cotton shortage of the Civil War.

To celebrate this important milestone, several hundred people participated in a reenactment of the 100-mile journey of the original settlers, from the city of Parowan to the eventual location of St. George. The trek featured wagons, livestock, and many other aspects of life in the 19th century.

Today, St. George is a city of over 70,000 people, and is the seat of Washington County. Congratulations to Mayor Dan McArthur and the people of St. George for reaching the 150-year milestone.●

TRIBUTE TO EDIE DAHLSTEN

● Mr. ROBERTS. Mr. President, you have heard me speak many times about the importance of agriculture to my home State. It is a critical industry in Kansas and forms the backbone of our economy. Within the field of agriculture are many dedicated and talented leaders who serve and have served Kansans with distinction. I have had the privilege to know and work with many of them over the years, but there is one in particular I would like to highlight today. Edie Dahlsten currently serves as the vice president of the Kansas Farm Bureau. For nearly a decade, Edie has served in this role with distinction and this November she will retire at the end of her term.

The Farm Bureau is truly a grassroots organization that begins with a single farmer, who joins together with his neighbors to form an organization that represents their way of life. Edie and Larry Dahlsten have been engaged in every aspect of that organization, beginning with their service on the McPherson County Farm Bureau Board near their home in central Kansas.

Mr. MORAN. Mr. President, for Edie and Larry, farming is more than just a way to make a living it is a way of life. Together they make a great team, and their commitment to the Farm Bureau and the values it represents is widely known. Edie and Larry's leadership and service together began more than 20 years ago when they served on the State Young Farmers and Ranchers Committee. As an Outstanding Young Farm Family, they have represented their fellow producers on numerous committees over the years to advocate on behalf of producers at the local, State, and national level.

Edie's leadership and advocacy began with humble beginnings on the soil of a

rural Kansas farm. In 1976, she was selected as a Farm Bureau leader to represent her district on the State Women's Committee. In 1989, she was elected to the Kansas Farm Bureau Board of Directors, and in 2002 she was elected as vice president of the Kansas Farm Bureau. Edie's career has taken her around the world to convey the importance of agriculture and to share her passion for the special way of life so many Kansans love.

Edie Dahlsten embodies many traits we can all admire—a deep love for the great State of Kansas, gratitude for the many hard-working families who daily provide the food, fuel, and fiber Americans rely on, and the respect of her peers across the nation.

I would now like to ask my colleagues to join us in recognizing Edie for her dedication, passion, and many years of service.●

CLOSE UP FOUNDATION

● Mr. VITTER. Mr. President, today I recognize the Close Up Foundation on the occasion of its 40th anniversary.

The Close Up Foundation has had a widespread impact on teachers and students around the nation, and I applaud their efforts to educate and inspire young people and provide teachers with valuable resources to take back to their classrooms.

Since 1971, the Close Up Foundation has been committed to promoting responsible and informed participation in our republic through experiential education programs that provide students with the knowledge and skills to be involved in our democratic process.

Close Up's partnerships with government agencies, the media, private businesses, and our capital's historic sites provide interactive classrooms to reinforce the links between our history and our current policy debates, giving students a better understanding of the concepts and institutions of America's constitutional government.

Again, I am proud to honor the Close Up Foundation and congratulate them for their many contributions towards educating America's youth.●

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 nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2930. An act to amend the securities laws to provide for registration exemptions for certain crowdfunded securities, and for other purposes.

H.R. 2940. An act to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D.

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–3855. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Bromeliad Plants in Growing Media From Belgium, Denmark, and the Netherlands'' ((RIN0579–AD36)(Docket No. APHIS–2010–0005)) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3856. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Mitchell H. Stevenson, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–3857. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Fire-Resistant Fiber for Production of Military Uniforms'' ((RIN0750–AH22)(DFARS Case 2011–D021)) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Armed Services.

EC–3858. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Simplified Acquisition Threshold for Humanitarian or Peacekeeping Operations'' ((RIN0750–AH29)(DFARS Case 2011–D032)) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Armed Services.

EC–3859. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Representation Relating to Compensation of Former DoD Officials'' ((RIN0750–AG99)(DFARS Case 2010–D020)) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Armed Services.

EC–3860. A communication from the Senior Counsel for Regulatory Affairs, Office of Financial Stability, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''TARP Conflicts of Interests'' (RIN1505–AC05) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3861. A communication from the Chief Counsel of the Fiscal Service, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Offering of United States Savings Bonds, Series EE; Regulations Governing Definitive United States Savings Bonds, Series EE and HH; Offering of United States Savings Bonds, Series I; Regulations Governing Definitive United States Savings Bonds, Series I; Final Rule'' (31 CFR Parts 351, 353, 359, and 360) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3862. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tribal Economic Development Bonds—Request for Public Comment on Volume Cap Allocation Process and Optional Extension of Deadline to Issue Bonds'' (Announcement 2011–71) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Finance.

EC–3863. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''O'Donnabhain v. Commissioner, 134 T.C. 34 (2010)'' (AOD–2011–47) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Finance.

EC–3864. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extending Religious and Family Member FICA and FUTA Exceptions to Disregarded Entities'' ((RIN1545–BJ07)(TD 9554)) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Finance.

EC–3865. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law , the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Libya and UNSCR 2009'' (RIN1400–AC97) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Foreign Relations.

EC–3866. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Filing, Retention, and Return of Export Licenses and Filing of Export Information'' (RIN1400–AC91) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Foreign Relations.

EC–3867. A communication from the Assistant General Counsel for Regulatory Services, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Priorities, Requirements, and Selection Criteria; Charter Schools Program (CSP) Grants for Replication and Expansion of High-Quality Charter Schools'' (RIN1855–ZA08) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3868. A communication from the Assistant General Counsel for Regulatory Services, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Promise Neighborhoods Program'' (RIN1855–ZA07) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3869. A communication from the Assistant General Counsel for Regulatory Services,

Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Investing in Innovation Fund'' (34 CFR Chapter II) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3870. 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; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022) received in the Office of the President of the Senate on November 3, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3871. 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 ''Beverages: Bottled Water Quality Standard; Establishing an Allowable Level for di(2-ethylhexyl)phthalate'' (Docket No. FDA–1993–N–0259) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3872. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled ''U.S. Office of Personnel Management (OPM) Annual Privacy Activity Report to Congress for Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–3873. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on November 2, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3874. A communication from the Acting Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Nebraska Advisory Committee; to the Committee on the Judiciary.

EC–3875. A communication from the Acting Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the California Advisory Committee; to the Committee on the Judiciary.

EC–3876. A communication from the Chairman, Board of Trustees, John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, a report relative to the Center's financial statements, supplemental schedules of operations, and independent auditor's report for years ended October 3, 2010 and September 27, 2009; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 1487, a bill to authorize the Secretary of Homeland Security, in coordination with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes (Rept. No. 112–92).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 363. A bill to authorize the Secretary of Commerce to convey property of the National Oceanic and Atmospheric Administration to the City of Pascagoula, Mississippi, and for other purposes.

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. HELLER:

S. 1817. A bill to amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the Federal Communications Commission; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW:

S. 1818. A bill to amend SAFETEA–LU to ensure that projects that assist the establishment of aerotropolis transportation systems are eligible for certain grants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL (for himself and Ms. MIKULSKI):

S. 1819. A bill to amend the Older Americans Act of 1965 to improve programs and services; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND (for herself and Mr. BLUNT):

S. 1820. A bill to authorize the Secretary of Defense to provide assistance to State National Guards to provide counseling and reintegration services for members of reserve components of the Armed Forces ordered to active duty in support of a contingency operation, members returning from such active duty, veterans of the Armed Forces, and their families; to the Committee on Armed Services.

By Mr. COONS (for himself, Mr. ISAKSON, Mr. BURR, Mr. GRAHAM, Mr. CARPER, Mrs. HAGAN, Mr. ALEXANDER, and Mr. HELLER):

S. 1821. A bill to prevent the termination of the temporary office of bankruptcy judges in certain judicial districts; to the Committee on the Judiciary.

By Mr. HELLER (for himself, Mr. BOOZMAN, and Mr. BROWN of Massachusetts):

S. 1822. A bill to provide for the exhumation and transfer of remains of deceased members of the Armed Forces buried in Tripoli, Libya; to the Committee on Armed Services.

By Mr. BLUNT (for himself and Mrs. GILLIBRAND):

S. 1823. A bill to amend title 38, United States Code, to provide for employment and reemployment rights for certain individuals ordered to full-time National Guard duty, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TOOMEY (for himself, Mr. CARPER, Mr. WARNER, and Mr. JOHANNS):

S. 1824. A bill to amend the securities laws to establish certain thresholds for shareholder registration under that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON of Florida:

S. 1825. A bill to amend title 36, United States Code, to grant a Federal charter to the American Military Retirees Association, and for other purposes; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. CARPER, and Mr. CASEY):

S. 1826. A bill to provide for the availability of self-employment assistance to individuals receiving extended compensation or emergency unemployment compensation; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. GRAHAM):

S. 1827. A bill to establish a Trade Enforcement Division in the Office of the United States Trade Representative, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 1828. A bill to increase small business lending, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. WHITEHOUSE (for himself, Mr. LEVIN, Mr. BEGICH, Mr. FRANKEN, Mr. REED, Mr. DURBIN, Mr. SANDERS, and Mr. MERKLEY):

S. 1829. A bill to amend the Truth in Lending Act to empower the States to set the maximum annual percentage rates applicable to consumer credit transactions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW:

S. 1830. A bill to improve enforcement of intellectual property rights, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MCCASKILL (for herself and Mr. BLUNT):

S. Res. 315. A resolution commending the St. Louis Cardinals on their hard-fought World Series victory; considered and agreed to.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. KERRY):

S. Res. 316. A resolution expressing the sense of the Senate regarding Tunisia's peaceful Jasmine Revolution; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. MCCAIN, and Mr. LIEBERMAN):

S. Res. 317. A resolution expressing the sense of the Senate regarding the liberation of Libya from the dictatorship led by Muammar Qaddafi; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 227

At the request of Ms. COLLINS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 431

At the request of Mr. PRYOR, the names of the Senator from Missouri (Mr. BLUNT) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 431, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th

anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

S. 933

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 933, a bill to amend the Internal Revenue Code of 1986 to extend and increase the exclusion for benefits provided to volunteer firefighters and emergency medical responders.

S. 951

At the request of Mrs. MURRAY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 951, a bill to improve the provision of Federal transition, rehabilitation, vocational, and unemployment benefits to members of the Armed Forces and veterans, and for other purposes.

S. 960

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 960, a bill to provide for a study on issues relating to access to intravenous immune globulin (IVG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVG in the home.

S. 1106

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1106, a bill to authorize Department of Defense support for programs on pro bono legal assistance for members of the Armed Forces.

S. 1107

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1107, a bill to authorize and support psoriasis and psoriatic arthritis data collection, to express the sense of the Congress to encourage and leverage public and private investment in psoriasis research with a particular focus on interdisciplinary collaborative research on the relationship between psoriasis and its comorbid conditions, and for other purposes.

S. 1251

At the request of Mr. CARPER, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1251, a bill to amend title XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

S. 1380

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1380, a bill to suspend until January 21, 2013, certain provisions of Federal immigration law, and for other purposes.

S. 1421

At the request of Mr. PORTMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1440

At the request of Mr. BENNET, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

At the request of Mr. ALEXANDER, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1440, supra.

S. 1527

At the request of Mrs. HAGAN, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Rhode Island (Mr. REED), the Senator from Nebraska (Mr. NELSON), the Senator from Wisconsin (Mr. KOHL), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Indiana (Mr. LUGAR), the Senator from Arizona (Mr. MCCAIN), the Senator from Maine (Ms. COLLINS), the Senator from Wyoming (Mr. BARRASSO), the Senator from Ohio (Mr. PORTMAN), the Senator from South Dakota (Mr. THUNE), the Senator from Mississippi (Mr. WICKER), the Senator from Texas (Mrs. HUTCHISON), the Senator from Texas (Mr. CORNYN), the Senator from North Dakota (Mr. HOEVEN), the Senator from Wyoming (Mr. ENZI), the Senator from Wisconsin (Mr. JOHNSON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Arkansas (Mr. PRYOR), the Senator from Massachusetts (Mr. KERRY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. BROWN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Indiana (Mr. COATS), the Senator from Tennessee (Mr. CORKER), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. KYL), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Pennsylvania (Mr. TOOMEY) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 1527, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

At the request of Mr. REID, his name was added as a cosponsor of S. 1527, supra.

S. 1575

At the request of Mr. CARDIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1575, a bill to amend the Internal Revenue Code of 1986 to modify the depreciation recovery period for energy-efficient cool roof systems.

S. 1576

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 1576, a bill to measure the progress of relief, recovery, reconstruction, and development efforts in Haiti following the earthquake of January 12, 2010, and for other purposes.

S. 1651

At the request of Mr. SESSIONS, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. ISAKSON) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 1651, a bill to provide for greater transparency and honesty in the Federal budget process.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1720

At the request of Mr. MCCAIN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1720, a bill to provide American jobs through economic growth.

S. 1733

At the request of Mr. TESTER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1733, a bill to establish the Commission on the Review of the Overseas Military Facility Structure of the United States.

S. 1756

At the request of Mrs. HAGAN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1756, a bill to extend HUBZone designations by 3 years, and for other purposes.

S. 1762

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 1762, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities and to amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs.

S. 1763

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1763, a bill to decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise the sovereign authority of Indian tribes to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for that criminal behavior, and for other purposes.

S. 1790

At the request of Ms. AYOTTE, the name of the Senator from Oklahoma

(Mr. COBURN) was added as a cosponsor of S. 1790, a bill to modify the Financial Improvement and Audit Readiness Plan to provide that the full statement of budget resources of the Department of Defense is complete and validated by not later than September 30, 2014.

S. 1808

At the request of Mr. COONS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1808, a bill to amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time to file a petition and appear for an interview to remove the conditional basis for permanent resident status, and for other purposes.

S.J. RES. 27

At the request of Mr. PAUL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S.J. Res. 27, a joint resolution disapproving a rule submitted by the Environmental Protection Agency relating to the mitigation by States of cross-border air pollution under the Clean Air Act.

S.J. RES. 29

At the request of Mr. UDALL of New Mexico, the names of the Senator from Rhode Island (Mr. REED) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S.J. Res. 29, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 241

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. Res. 241, a resolution expressing support for the designation of November 16, 2011, as National Information and Referral Services Day.

S. RES. 274

At the request of Mr. WHITEHOUSE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 274, a resolution expressing the sense of the Senate that funding for the Federal Pell Grant program should not be cut in any deficit reduction program.

S. RES. 302

At the request of Ms. LANDRIEU, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. Res. 302, a resolution expressing support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging the people of the United States to secure safety, permanency, and well-being for all children.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Ms. MIKULSKI).

S. 1819. A bill to amend the Older Americans Act of 1965 to improve programs and services; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. 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. 1819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Strengthening Services for America's Seniors Act''.

SEC. 2. STANDARDIZED ASSESSMENT OF NEEDS OF FAMILY CAREGIVERS.

(a) IN GENERAL.—Section 373 (42 U.S.C. 3030s–1) is amended—

(1) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively;

(2) in subsection (d), as so redesignated, by striking ''subsection (b)'' and inserting ''subsection (c)'';

(3) in subsection (e), as so redesignated, by striking ''subsection (b)'' and inserting ''subsection (c)''; and

(4) by inserting after subsection (a) the following:

''(b) ASSESSMENT PROGRAM OF NEEDS OF FAMILY CAREGIVERS.—

''(1) IN GENERAL.—The Assistant Secretary may make grants to States to establish a program, in accordance with the program requirements described in paragraph (5), to assess the needs of family caregivers for targeted support services described in paragraph (5)(C).

''(2) APPLICATION BY STATES.—Each State seeking a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.

''(3) GRANT AMOUNT.—The amount of a grant to a State under this subsection shall be determined according to such methodology as the Assistant Secretary determines appropriate.

''(4) PROGRAM ADMINISTRATION.—A State receiving a grant under this subsection may enter into an agreement with area agencies on aging in the State, or an Aging and Disability Resource Center in the State, to administer the program, using such grant funds.

''(5) PROGRAM REQUIREMENTS.—

''(A) STANDARDIZED ASSESSMENT.—Assessments under a program established under paragraph (1)—

''(i) shall be conducted by social workers, care managers, nurses, or other appropriate professionals; and

''(ii)(I) shall be conducted with a standardized instrument to identify family caregiver needs; and

''(II) in a State in which an area agency on aging or an Aging and Disability Resource Center is using such an instrument on the date of enactment of the Strengthening Services for America's Seniors Act, may continue to be conducted with that instrument.

''(B) QUESTIONNAIRE.—

''(i) IN GENERAL.—Subject to clause (ii), assessments under a program established as described in paragraph (1) shall include asking the family caregiver relevant questions in order to determine whether the family caregiver would benefit from any targeted support services described in subparagraph (C).

''(ii) COMPLETION ON A VOLUNTARY BASIS.—The answering of questions under clause (i) by a family caregiver shall be on a voluntary basis.

''(iii) ADDRESSING DIVERSE CAREGIVER NEEDS AND PREFERENCES.—The questionnaire under this subparagraph shall be designed in a manner that accounts for, and aims to ascertain, the varying needs and preferences of family caregivers, based on the range of their capabilities, caregiving experience, and other relevant personal characteristics and circumstances.

''(C) TARGETED SUPPORT SERVICES DESCRIBED.—The following targeted support services are described in this subparagraph:

''(i) Information and assistance (including brochures and online resources for researching a disease or disability or for learning and managing a regular caregiving role, new technologies that can assist family caregivers, and practical assistance for locating services).

''(ii) Individual counseling (including advice and consultation sessions to bolster emotional support for the family caregiver to make well-informed decisions about how to cope with caregiver strain).

''(iii) Support groups, including groups which provide help for family caregivers to—

''(I) locate a support group either locally or online to share experiences and reduce isolation;

''(II) make well-informed caregiving decisions; and

''(III) reduce isolation.

''(iv) Education and training (including workshops and other resources available with information about stress management, self-care to maintain good physical and mental health, understanding and communicating with individuals with dementia, medication management, normal aging processes, change in disease and disability, the role of assistive technologies, and other relevant topics).

''(v) Respite care and emergency back-up services (including short-term in-home care services that gives the family caregiver a break from providing such care).

''(vi) Chore services (such as house cleaning) to assist the individual receiving care.

''(vii) Personal care (including outside help) to assist the individual receiving care.

''(viii) Legal and financial planning and consultation (including advice and counseling regarding long-term care planning, estate planning, powers of attorney, community property laws, tax advice, employment leave advice, advance directives, and end-of-life care).

''(ix) Transportation (including transportation to medical appointments) to assist the individual receiving care.

''(x) Other targeted support services, as determined appropriate by the State agency and approved by the Assistant Secretary.

''(D) REFERRALS.—In the case where a questionnaire completed by a family caregiver under subparagraph (B) indicates that the family caregiver would benefit from 1 or more of the targeted support services described in subparagraph (C), the agency administering the program shall provide referrals to the family caregiver for State, local, and private-sector caregiver programs and other resources that provide such targeted support services to such caregivers.

''(E) TARGETING AND TIMING OF ASSESSMENTS.—Assessments under the program established under paragraph (1) may be conducted—

''(i) when an individual who is being assisted by a family caregiver transitions from one care setting to another;

''(ii) upon referral from a social worker, care manager, nurse, physician, or other appropriate professional; or

''(iii) according to circumstances determined by the State and approved by the Assistant Secretary.

''(F) COORDINATION WITH OTHER ASSESSMENT.—Assessments under the program established under paragraph (1) may be conducted separately or as part of, or in conjunction with, eligibility or other routine assessments of an individual who is being (or is going to be) assisted by a family caregiver.

''(G) FOLLOWUP SERVICES.—As the Assistant Secretary determines appropriate, a State with a program described in paragraph (1) shall conduct followup activities with caregivers who have participated in an assessment to determine the status of the caregiver and whether services were provided.

''(H) REPORTING REQUIREMENT.—Each State with a program described in paragraph (1) shall periodically submit to the Assistant Secretary a report containing information on the number of caregivers assessed under the program, information on the number of referrals made for targeted support services under the program (disaggregated by type of service), demographic information on caregivers assessed under the program, and other information required by the Assistant Secretary.''.

(b) STANDARDIZED ASSESSMENT OF NEEDS OF INFORMAL CAREGIVERS.—Section 202 (42 U.S.C. 3012) is amended—

(1) in subsection (b)(8)—

(A) in subparagraph (D), by striking ''and'';

(B) in subparagraph (E), inserting ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(F) which may carry out the informal caregiver assessment program described in subsection (g);''; and

(2) by adding at the end the following:

''(g) STANDARDIZED ASSESSMENT OF NEEDS OF INFORMAL CAREGIVERS.—

''(1) IN GENERAL.—Aging and Disability Resource Centers implemented under subsection (b)(8) may carry out an assessment program with respect to informal caregivers and care recipients. Such assessment program shall be modeled on the family caregiver assessment program established under section 373(b).

''(2) DEFINITIONS.—For purposes of an informal caregiver assessment carried out in accordance with paragraph (1), the following definitions shall apply:

''(A) CARE RECIPIENT.—The term 'care recipient' means—

''(i) an older individual;

''(ii) an individual with a disability; or

''(iii) an individual with a special need.

''(B) INDIVIDUAL WITH A SPECIAL NEED.—The term 'individual with a special need' means an individual who requires care or supervision to—

''(i) meet the individual's basic needs;

''(ii) prevent physical self-injury or injury to others; or

''(iii) avoid placement in an institutional facility.

''(C) INFORMAL CAREGIVER.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'informal caregiver' means an adult family member, or another individual, who is an informal provider of in-home and community care to a care recipient.

''(ii) ALTERNATE DEFINITION.—A State that has a State law with an alternate definition of the term 'informal caregiver' for purposes of a program described in paragraph (1)) may use that definition (with respect to caregivers for care recipients) for purposes of provisions of this Act that relate to that program, if such alternative definition is broader than the definition in clause (i), and subject to approval by the Assistant Secretary.''.

(c) CONFORMING AMENDMENT.—Section 631(b) (42 U.S.C. 3057k–11(b)) is amended by striking ''subsections (c), (d), and (e)'' and inserting ''subsections (d), (e), and (f)''.

SEC. 3. ADVISORY COMMITTEE TO ASSESS, COORDINATE, AND IMPROVE LEGAL ASSISTANCE ACTIVITIES.

(a) IN GENERAL.—Title II of the Older Americans Act of 1965 is amended—

(1) in section 215(j) (42 U.S.C. 3020e–1(j)), by striking ''section 216'' and inserting ''section 217'';

(2) by redesignating section 216 (42 U.S.C. 3020f) as section 217; and

(3) by inserting after section 215 (42 U.S.C. 3020e–1) the following:

''SEC. 216. ADVISORY COMMITTEE TO ASSESS, COORDINATE, AND IMPROVE LEGAL ASSISTANCE ACTIVITIES.

''(a) ESTABLISHMENT.—There is established an Advisory Committee to Assess, Coordinate, and Improve Legal Assistance Activities (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Committee shall be composed of 9 members—

''(A) with expertise with existing State legal assistance development programs carried out under section 731 and providers of State legal assistance under subtitle B of title III and title IV; and

''(B) of whom—

''(i) 6 individuals shall be appointed by the Assistant Secretary—

''(I) 1 of whom shall be a consumer advocate;

''(II) 1 of whom shall be a professional advocate from a State agency or State Legal Services Developer; and

''(III) 4 of whom shall be representatives from collaborating organizations under the National Legal Resource Center of the Administration; and

''(ii) 3 individuals shall be appointed by the Comptroller General of the United States.

''(2) DATE.—The appointments of the members of the Committee shall be made not later than 9 months after the date of enactment of the Strengthening Services for America's Seniors Act.

''(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Committee shall select a Chairperson and Vice Chairperson from among its members.

''(c) INITIAL MEETING.—The Committee shall hold its first meeting not later than 9 months after the date of enactment of the Strengthening Services for America's Seniors Act.

''(d) DUTIES OF THE COMMITTEE.—

''(1) DEFINITION.—In this subsection, the term 'assistance activities' includes—

''(A) legal assistance made available to older individuals in social or economic need under this Act;

''(B) activities of the National Legal Resource Center carried out under section 420(a);

''(C) State legal assistance developer activities carried out under section 731; and

''(D) any other directly related activity or program as determined appropriate by the Assistant Secretary.

''(2) STUDY.—

''(A) IN GENERAL.—The Committee shall design, implement, and analyze results of a study of—

''(i) the extent to which State leadership is provided through the State legal assistance developer in States to enhance the coordination and effectiveness of legal assistance activities across the State;

''(ii) the extent to which—

''(I) there is data collection and reporting of information by legal assistance providers in States;

''(II) there is uniform statewide reporting among States; and

''(III) the value and impact of services provided is being captured at the State or local level; and

''(iii) the mechanisms to organize and promote legal assistance development and services to best meet the needs of older individuals with greatest social and economic need.

''(B) CONSIDERATIONS.—In carrying out subparagraph (A)(i), particular attention shall be given to—

''(i) State leadership on targeting limited legal resources to older individuals in greatest social and economic need; and

''(ii) State leadership on establishing priority legal issue areas in accordance with section 307(a)(11)(E).

''(3) RECOMMENDATIONS.—After completion and analysis of study results under paragraph (2), the Committee shall develop recommendations for the establishment of guidelines for—

''(A) enhancing the leadership capacity of the State legal assistance developers to carry out statewide coordinated legal assistance service delivery, with particular focus on enhancing leadership capacity to—

''(i) target limited legal resources to older individuals in greatest social and economic need; and

''(ii) establish priority legal issue areas in accord with priorities set forth in section 307(a)(11)(E);

''(B) developing a uniform national data collection system to be implemented in all States on legal assistance development and services; and

''(C) identifying mechanisms for organizing and promoting legal assistance activities to provide the highest quality, impact, and effectiveness to older individuals with the greatest social and economic need.

''(4) REPORT.—Not later than 1 years after the date of the establishment of the Committee, the Committee shall submit to the President, Congress, and the Assistant Secretary a report that contains a detailed statement of the findings and conclusions of the Committee, together with the recommendations described in paragraph (3).

''(e) DUTIES OF THE ASSISTANT SECRETARY.—Not later than 180 days after receiving the report described in subsection (d)(4), the Assistant Secretary shall issue regulations or guidance, taking into consideration the recommendations described in subsection (d)(3).

''(f) POWERS.—

''(1) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Committee, the head of such department or agency shall furnish such information to the Committee.

''(2) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(g) PERSONNEL AND ADMINISTRATION.—

''(1) TRAVEL EXPENSES.—The members of the Committee shall not receive compensation for the performance of services for the Committee, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee. Notwithstanding section 1342 of title 31, United States Code, the Secretary may

accept the voluntary and uncompensated services of members of the Committee.

''(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(3) ADMINISTRATIVE AND SUPPORT SERVICES.—The Assistant Secretary shall provide administrative and support services to the Committee.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''(h) EXEMPTION FROM TERMINATION REQUIREMENTS.—Section 14 of the Federal Advisory Committee Act shall not apply to the Committee.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 217 of the Older Americans Act of 1965, as redesignated by subsection (a), is amended by adding at the end the following:

''(d) ADVISORY COMMITTEE TO ASSESS, COORDINATE, AND IMPROVE LEGAL ASSISTANCE ACTIVITIES.—There is authorized to be appropriated to carry out section 216, $300,000 for fiscal year 2012.''.

SEC. 4. IMPROVING THE STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.

(a) NATIONAL OMBUDSMAN RESOURCE CENTER.—Section 202(a)(18)(B) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(18)(B)) is amended by striking ''make available'' and all that follows and inserting ''reserve and provide, for the funding of the National Ombudsman Resource Center (which may include enabling the center to collaborate and participate with the Centers for Medicare & Medicaid Services in providing training for State survey agencies with an agreement in effect under section 1864 of the Social Security Act (42 U.S.C. 1395aa) or, in the case of States without such an agency, work with the Administrator for the Centers for Medicare & Medicaid Services to improve the investigative processes used by the center to address complaints by residents of long-term care facilities)—

''(i) for fiscal year 2012, not less than $2,000,000; and

''(ii) for each subsequent fiscal year, not less than the sum of—

''(I) $100,000; and

''(II) the amount made available under this subparagraph for the fiscal year preceding the year for which the sum is determined;''.

(b) FUNCTIONS OF PROGRAM.—

(1) PRIVATE AND UNIMPEDED ACCESS TO OMBUDSMAN SERVICES.—Section 712(b)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3058g(b)(1)(A)) is amended by striking ''access'' and inserting ''private and unimpeded access''.

(2) OMBUDSMAN DEVELOPMENT OF RESIDENT AND FAMILY COUNCILS.—Section 712(a)(3)(H)(iii) of such Act (42 U.S.C. 3058g(a)(3)(H)(iii)) is amended by striking ''provide technical support for'' and inserting ''actively encourage and assist in''.

(3) LOCAL ENTITY DEVELOPMENT OF RESIDENT AND FAMILY COUNCILS.—Section 712(a)(5)(B)(vi) of such Act (42 U.S.C. 3058g(a)(5)(B)(vi)) is amended by striking ''support'' and inserting ''actively encourage and assist in''.

(c) OMBUDSMAN AUTHORITY WITH RESPECT TO HIPAA.—Section 712(b) of the Older Americans Act of 1965 (42 U.S.C. 3058g(b)) is amended—

(1) in paragraph (1)(B)(i) by striking ''the medical and social records of a'' and inserting ''all records concerning a''; and

(2) by adding at the end the following:

''(3) For purposes of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (including regulations issued under that section) (42 U.S.C. 1320d–2 note), the Ombudsman and a representative of the Office shall be considered a 'health oversight agency,' so that release of residents' individually identifiable health information to the Ombudsman or representative is not precluded in cases in which the requirements of clause (i) or (ii) of paragraph (1)(B) are otherwise met.''.

(d) DISCLOSURE AND CONFIDENTIALITY.—Section 712(d) of the Older Americans Act of 1965 (42 U.S.C. 3058g(d)) is amended—

(1) in paragraph (1), by striking ''files'' and inserting ''information''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by striking ''IDENTITY OF COMPLAINANT OR RESIDENT'' and inserting ''PROCEDURES'';

(B) in subparagraph (A)—

(i) by striking ''files or records'' the first place it appears and inserting ''information (including files or records)''; and

(ii) by striking ''disclose'' and all that follows and inserting ''disclose such information);'';

(C) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking ''files or records'' and inserting ''information''; and

(ii) in clause (iii), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(C) require that the Ombudsman and each representative of the Office hold in strict confidence all communications with individuals seeking assistance under this Act, and take all reasonable steps to safeguard the confidentiality of information provided to the Ombudsman or a representative of the Office under this title by a complainant or resident.''.

By Mr. BLUNT (for himself and Mrs. GILLIBRAND):

S. 1823. A bill to amend title 38, United States Code, to provide for employment and reemployment rights for certain individuals ordered to full-time National Guard duty, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BLUNT. Mr. President, I join with my friend from New York to discuss the needs of our National Guard. We are introducing two important pieces of legislation today that I believe will help address those needs.

I have always been a strong supporter of our brave men and women of the Missouri National Guard, who contribute greatly to the safety and security of our country. Those who serve or who have served deserve America's deepest respect and must receive the resources they need when they come home.

Since the events of September 11, 2001, the men and women of the Missouri National Guard have answered the call of our Nation by volunteering to go into harm's way. Many of our soldiers and airmen in the National Guard have been deployed numerous times, working and training side by side with our active duty members. As you can imagine, multiple deployments take a toll on both our guardsmen and women and their families.

The Missouri National Guard is an emergency response force for disasters readiness and relief. They have responded to a wide range of State and national emergencies including flooding, tornadoes and even hurricanes on the Gulf Coast. During the historic floods this summer, the Missouri Guard had more than 600 guardsmen serving 14 counties across Missouri to assist with flood relief. After the devastating tornado in Joplin, MO, the 1–138 Infantry Regiment helped to remove debris and assisted in gathering and provided information for those seeking local, State and Federal resources. Members of 1139 Military Police Battalion helped to aid law enforcement officers with traffic control and security.

As part of their Federal mission, from 2008–2009 our Missouri National Guard deployed more than 1,000 citizen-soldiers to Kosovo, and in 2009 we deployed 2,352 soldiers and 1,670 Airmen to support overseas contingency operations in Iraq and Afghanistan. Currently 1,101 Missouri Guardsmen are deployed. After serving admirably in their tours, our Guardsmen and women return home, yet they do not always receive the resources they need to provide for themselves and their families. The National Guard Outreach Act of 2011, introduced by Senator GILLIBRAND, will help to correct this deficiency.

The active Army health plans only cover service men and women for 6 months after they have returned from their deployments. For many, this time period is spent simply adjusting back to civilian life. Studies show the real stress of combat and separation from one's family takes its toll on our service members and their loved ones for up to two years after they return home. Over the past several years, Congress has extended the coverage for returning National Guard soldiers with money from Overseas Contingency Operations funding, better known around here as supplementals. Since this funding is being normalized, I believe it's important that we continue to provide for the needs of our returning citizen-soldiers.

The National Guard Outreach Act of 2011 would help to provide those returning home with secure health services, marriage and financial counseling, substance abuse treatment and other services necessary to aid in a smooth transition for those returning home from Iraq and Afghanistan. Undiagnosed illnesses, left untreated, have long-lasting social, emotional and financial impacts long after service members are reintegrated into a community. Many Guardsmen and women today lack health insurance and go without health care as well as behavioral health care. I thank Senator GILLIBRAND for introducing this legislation and for working with me on the bill.

I am also introducing the National Guard Employment Protection Act of 2011 to amend the Uniformed Services Employment and Reemployment Rights Act of 1994, USERRA, to authorize the Secretary of Defense to include

Full Time National Guard Duty for possible exemption from the USERRA 5-year limit on service. These exemptions cover service during a time of war or national emergency, support of missions where others have been ordered to duty under an involuntary call-up authority, and for other critical missions or requirements.

Usually, certain types of active duty service are exempted from the five-year reemployment limit under USERRA. However, the needs of today have left our Guardsmen and women performing duties which are not covered under the USERRA, forcing Guard units to return to duty much sooner than usual. This, in turn, keeps service members away for longer periods of time, often beyond the 5-year limit. When National Guardsmen and women are working side by side with their Active Duty counterparts supporting critical active duty missions, they should not be forced to decide between keeping their civilian jobs and supporting critical national security missions.

At no time in America's history has the National Guard played such a critical role in the defense and security of our homeland, both as partners with our active forces and allies on the continuing War on Terror and as a critical component of homeland emergency preparedness and disaster response. We must make sure all of our Nation's heroes can fulfill their missions without worrying about supporting their families when returning home.

As a Nation, we must honor our men and women in uniform, providing them with the resources they need, both in combat and when they return home to their families and civilian lives. This is why I am proud to play a lead role in supporting the National Guard Employment Protection Act of 2011 and the National Guard Outreach Act.

By Mr. WYDEN (for himself, Mr. CARPER, and Mr. CASEY):

S. 1826. A bill to provide for the availability of self-employment assistance to individuals receiving extended compensation or emergency unemployment compensation; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today on behalf of myself, Senator CARPER and Senator CASEY to introduce the Startup Technical Assistance for Reemployment Training and Unemployment Prevention Act of 2011, or the STARTUP Act. This bill would allow unemployed Americans to use the unemployment insurance, UI, system to create jobs for themselves and for others.

In too many cases, the current unemployment assistance programs allow the experience and expertise of America's unemployed workers to sit on the sidelines. The STARTUP Act promotes an alternative approach that gives the unemployed the ability to start their own businesses and get in the game, self-employment assistance, SEA.

In Oregon, we have got this program up and running and think other states should be encouraged to do the same. By failing to take advantage of self-employment assistance, we are missing an opportunity to not only help currently unemployed workers but also to help our economy grow and create more jobs. I know this program works, its record in Oregon is strong and can be found in letters and testimony from individuals who have used the program.

Take, for example, software developers Adam Lowry and Michael Richardson who joined the ranks of the unemployed when the tech startup they worked at went under in 2009. With little capital, they turned to Oregon's self-employment assistance program which allowed them to draw unemployment benefits while they and two friends launched the mobile software development company Urban Airship, which is now one of the best-known technology startups to emerge in Oregon in recent years. Just yesterday, Urban Airship announced $15.1 million in strategic investment from Salesforce.com and Verizon, among others. Last week an additional acquisition brought the company's total payroll to 51 employees and an additional 22 open positions. At the root of Urban Airship's success are four entrepreneurial-minded individuals and a jump start from self-employment assistance.

Expanding self-employment assistance is a creative way to use the current unemployment insurance structure to create new businesses and additional jobs beyond that of the immediate beneficiary. We often talk about the benefits of small businesses in this country, yet our unemployment insurance programs actually prevent aspiring entrepreneurs from putting their ideas to work. Under the unemployment insurance systems in most states, if you stop looking for a job or you turn down a job, you lose your unemployment benefit even if you are working to start your own business. States with active self-employment assistance programs, like Oregon, allow a small percent of the unemployed to focus full time on starting their own business while drawing down their unemployment benefits in the form of self-employment assistance. Anyone who has started a new business knows that getting it off the ground is a full time job in and of itself, and allowing would-be UI recipients to focus full-time on their new business vastly increases their likelihood of success. Rather than rely on others to create jobs for them, self-employment assistance allows determined entrepreneurs to create jobs for themselves and others.

The President's proposal in the American Jobs Act is a step in the right direction; it allows states to quickly enter into an agreement with the Department of Labor and allow the long-term unemployed, those on extended unemployment compensation, to draw down their UI benefits in the form of self-employment assistance. However, this does little to encourage states to make self-employment assistance a part of their permanent strategy. We must be more far-sighted. We ought to provide states with a little assistance so that they can start self-employment programs of their own, not just for periods of extended unemployment compensation.

I want to be clear: this is no giveaway. In order to get this benefit, unemployed workers have to meet the same wage and hour requirements as they would to receive UI and they must prove they have a viable business plan. The beneficiaries of self-employment assistance really have something to offer, they have solid work experience and solid ideas; and put into action, that combination can snowball into a successful business with multiple employees.

There are 2.5 million micro businesses in the U.S., representing 88 percent of all businesses. They generate $2.4 trillion in receipts, account for 17 percent of GDP, and employ more than 13 million people. If one out of every three of these businesses hired just one additional employee, the U.S. economy would achieve full employment. Expanding self-employment assistance helps us get there.

A study by the Department of Labor found that self-employment participants were 19 times more likely than eligible non-participants to be self-employed at some point after being unemployed. Moreover, they were four times more likely to obtain employment of any kind. The average cost to create each of those jobs is $3,350. According to estimates from Princeton economist and former Federal Reserve Board Vice Chairman Alan Blinder, it takes about $93,000 worth of garden-variety fiscal stimulus to create an average job. It is not hard to see that job creation through SEA is an incredible bargain.

This program has been creating jobs and businesses in Oregon for nearly two decades. Earlier this year, Pat Sanderlin, who coordinates Oregon's program, conducted an informal ''census'' of enrollees since 2004. He found that 77 percent of businesses started by SEA beneficiaries are still up and running. According to Mr. Sanderlin, the companies' combined annual payroll totals $7,888,210.

Despite widespread support for self-employment and entrepreneurial programs, only a handful of states offer SEA, and those that do take advantage of it typically administer benefits to a small share of the unemployed. Only about 2,400 Oregonians have used the program since its inception in 1995. Though states currently have the option of taking advantage of self-employment assistance, the administrative costs to start a new program often prevent them from doing so. Because Federal law prevents self-employment benefits from being paid out while an individual is in a period of extended unemployment, the long-term unemployed cannot take advantage of the program.

The STARTUP Act encourages states to utilize self-employment assistance by: allowing the long-term unemployed who remain eligible for regular or extended unemployment benefits to draw down those benefits in the form of self-employment assistance; providing technical assistance and model language from the Department of Labor for states that create new self-employment programs; and providing financial assistance to aid states in establishing, implementing, improving and/or administering self-employment programs.

Self-employment benefits can serve as a guaranteed source of startup capital for businesses. And unlike traditional unemployment insurance, workers who successfully exit this program by starting their own business can create more new jobs as business expands. When unemployment is high and workers face extended periods of joblessness, this is exactly the type of program we should embrace.

I encourage my colleagues to support this legislation to expand self-employment assistance programs so that more unemployed workers have an opportunity to create jobs for themselves and for others.

By Mr. KERRY:

S. 1828. A bill to increase small business lending, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, once again, too many of our Nation's small businesses are facing difficulty in gaining access to capital. That is why today I am introducing the Increasing Small Business Lending Act to increase access to capital for our Nation's small businesses to help them sustain and build their businesses, create jobs and expand our economy.

In October 2008, markets froze. Credit lines were cut. A lending gap was created in the market. Even Small Business Administration guaranteed loans, that help reduce risk for lenders, were stalled. Congress stepped up and enacted temporary measures to help fill the gaps in small business lending, saving nearly 90,000 small businesses.

One such business is LazerCraze in North Andover, Massachusetts that received an SBA loan to expand to a second location and purchase state-of-the-art equipment that allowed them to hire an additional 37 full time employees.

SBA, administrator Karen Mills has said that the previous temporary changes to the SBA loan programs were a success, ''In short, it worked. We engineered a turnaround in SBA lending even though conventional credit was, and still is to some extent, very tight. Taxpayers got a big bang for the buck. With just over a billion dollars in total subsidy, we supported about $42 billion in lending. In fact, SBA had its highest-ever weekly loan volume the week before Christmas when we supported nearly 2 billion dollars in lending, 10 billion total last quarter. Here is the headline: overall, that is nearly 90,000 small businesses that are not surviving this recession, but growing and creating jobs.

Unfortunately, the temporary small business loan provisions ran out of funding in January 2011, ahead of the authorization which expired in March 2011. Since then, small business lending has declined, making it more difficult for small businesses to create jobs and for our economy to emerge from our economic downturn.

The legislation I am introducing today is similar to the Small Business Lending Market Stabilization Act, which I introduced in 2008 that was included in both the American Recovery and Reinvestment Act of 2009, P.L. 111–5, and extended in the Small Business jobs Act, P.L. 111–240. The Increasing Small Business Lending, Act will eliminate for one year the fees for 7(a) and 504 Small Business Administration loans and increase SBA loan guarantee of 90 percent, policies that were started as part of the American Recovery and Reinvestment Act and extended in the Small Business Jobs Act.

According to the SBA, total small business loans outstanding, loans under $1 million, actually declined during the first half of 2011 after the temporary provisions ended. Loans outstanding to small businesses at the end of the second quarter totaled only $607 billion, which is the slowest since the economic downturn began in 2008.

We can't afford to have our economic progress reversed by a decline in access to capital for small businesses. Since the increased guarantee and reduced fees have expired, our economic recovery could be impeded if we don't act to continue the policies that we know work. By extending key provisions to bolster access to capital, small businesses will have the assurance and support they need to put their innovative ideas into practice and get more Americans back to work.

My legislation will complement the existing Small Business Lending Fund that encourages lending to small businesses through smaller community banks. Small businesses are the backbone of our economy and I ask all Senators to support job growth and small businesses by supporting this legislation.

By Mr. WHITEHOUSE (for himself, Mr. LEVIN, Mr. BEGICH, Mr. FRANKEN, Mr. REED, Mr. DURBIN, Mr. SANDERS. and Mr. MERKLEY):

S. 1829. A bill to amend the Truth in Lending Act to empower the States to set the maximum annual percentage rates applicable to consumer credit transactions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WHITEHOUSE. Mr. President, I was here last week in this Chamber to discuss a variety of areas in which the American people are not getting a straight deal compared to special interests and folks who have a lot of power for themselves and their industries in Washington. In that speech I proposed a number of concrete steps we could take to help restore the balance of power in our Nation between ordinary Americans on the one hand and the giant corporations and special interests that give themselves special deals and privileges that the American people do not share on the other hand.

Today I am here to introduce legislation to take one of those steps; that is, to protect ordinary consumers from runaway interest rates on credit cards from Wall Street banks. This is something that has gone unchecked for far too long. In the last Congress we passed two pieces of banking legislation. We passed the Credit Card Act, which ended some of the worst tricks and traps hidden in credit card contracts, and we passed the Dodd-Frank Act, which restructured our system of financial regulation and created a new agency to protect consumers from hazardous mortgages and credit cards.

Regrettably, one particularly bad practice was not addressed in either of those two pieces of legislation: the runaway credit card interest rates with which families are too often burdened. I will add it is not just families. I went through Olneyville in Providence about 2 weeks ago and spoke to a small business owner who was having tough times. His bank had pulled his line of credit, so he was having to fund his business off his credit card, and they had bumped up his credit card rate to—you guessed it—30 percent.

The Empowering States' Right to Protect Consumers Act, which I am introducing today, would pick up where the Credit Card Act and Dodd-Frank left off by restoring to our 50 sovereign States the power which they have properly had through the vast bulk of the history of this Republic to protect their home State consumers with limits on credit card and other loan interest rates. This is not a new power to States. This is not a new principle or idea. This is the restoration of a historic States right which was just eliminated a few decades ago.

When you and I were growing up, a credit card offer with a 20-percent or 30-percent interest rate might be something to bring to the attention of law enforcement. Such interest rates were illegal under most State laws. Today, in contrast, credit card companies routinely charge rates of 30 percent or more. We may not know, going through our credit card agreement, that is where we are going to end up. They may have a teaser rate up front that is a lower rate. But make one of those mistakes in that 20-page-long contract that is full of tricks and traps, and, pow, there we are at 30 percent.

What happened between our childhood when a 30-percent interest rate was something to bring to the attention of law enforcement, and now, when ordinary families are bedeviled

with 30 percent interest rates on their credit cards? Before 1978—which is for the first 202 years of the American Republic—each State had the ability to enforce usury laws, interest rate limits to protect their citizens. Our economy grew and flourished during those two centuries, and lenders profited while complying with the laws in effect where they operated.

Then came 1978 and a seemingly uneventful Supreme Court case. It was little noticed at the time. It was decided in Marquette National Bank of Minneapolis v. First of Omaha Service Corporation. The Supreme Court had to decide what State's law to apply when the bank was domiciled in one State but the customer lived in a different State.

The Court looked at the word ''located'' in the National Bank Act of 1863, and it decided it meant the location of the bank and not the location of the customer. They did not get it right away, but it did not take long before some big banks spotted the opportunity. They could avoid interest rate restrictions by reorganizing as national banks and moving to States that had weak interest rate protections and comparatively weak consumer protections. The proverbial race to the bottom followed as a small handful of States eliminated interest rate caps and degraded consumer protection in order to attract lucrative credit card business and related tax revenue to their States.

That is why the credit card divisions of major banks are based in just a few States and why consumers in other States are often denied protection from outrageous interest rates and fees, even though those outrageous interest rates and fees are against the law of the consumer's home State.

My bill would reinstate the historic longstanding powers of States to set interest rate caps that protect their own citizens.

Let me be clear about what this bill would not do. It would not prescribe or recommend any interest rate caps nor would it impose any other lending limitations. It is pure States rights. It would restore to the States the power they enjoyed for over 200 years from the founding of the Republic: the power to say enough, the power to say that 30 percent or 50 percent or whatever the State deems appropriate should be the limit on interest charged to their people.

The current system is not only unfair to consumers, it is unfair to our local lenders and retailers who continue to be bound by the laws of the State in which they are located. This is a special privilege for big national banks that can move their offices to whatever State will give them the best deal in terms of lousy consumer protection and unlimited interest rates. A small local lender has to play by the rules of fair interest rates. Gigantic credit card companies can avoid having any rules at all. We need to level the playing field to eliminate this unfair and lucrative advantage for Wall Street banks against our local credit unions and other small lenders.

When we pass this bill, States can dust off or reenact their usury statutes—most of which still limit interest rates to 18 percent or less—and once again begin protecting their consumers from excessive interest rates. This is the historic norm in our constitutional Republic. It is the 30-percent and over interest rates that are the recent anomaly that are the historic peculiarity. We should go back to the historic States rights norm, the way the Founding Fathers saw things under the doctrine of federalism and close this modern bureaucratic loophole that allows big Wall Street banks a special deal to gouge our constituents.

As I close, I thank Senators LEVIN, DURBIN, BEGICH, FRANKEN, REED of Rhode Island—most significantly my senior Senator—SANDERS, and MERKLEY for their cosponsorship of this bill. In the past, similar legislation has garnered bipartisan support. It did so as an amendment to Dodd-Frank, and I hope my Republican colleagues will consider giving this bill a close look and join with us. This is purely an issue of restoring the balance of power to the States and to the people of those States as voters—federalism, something I know many Republicans support in other contexts.

I ask all of my colleagues for their consideration and support.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 315—COMMENDING THE ST. LOUIS CARDINALS ON THEIR HARD-FOUGHT WORLD SERIES VICTORY

Mrs. MCCASKILL (for herself and Mr. BLUNT) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas, on October 28, 2011, the St. Louis Cardinals won the 2011 World Series with a 6-2 victory over the Texas Rangers in Game 7 of the series at Busch Stadium in St. Louis, Missouri;

Whereas the Cardinals earned a postseason berth by clinching the National League Wild Card on the last day of the regular season;

Whereas the Cardinals defeated the heavily favored Philadelphia Phillies and Milwaukee Brewers to advance to the World Series;

Whereas the Cardinals celebrated an incredible come-from-behind victory in Game 6 of the World Series, which will long be remembered as one of the most dramatic games in the history of the World Series;

Whereas Cardinals All-Star Albert Pujols put on a historic hitting display in Game 3 of the World Series, with 5 hits, 3 home runs, and 6 runs batted in;

Whereas Cardinals star pitcher Chris Carpenter started 3 games in the World Series, allowing only 2 runs in Game 7 after only 3 days of rest and earning the win in the decisive game;

Whereas David Freese, a native of St. Louis, won the World Series Most Valuable Player Award;

Whereas Manager Tony LaRussa won his second World Series title with the Cardinals, his third overall, and remains one of only 2 managers to win World Series titles as the manager of a National League and an American League team;

Whereas the Cardinals won the 11th World Series championship in the 129-year history of the team;

Whereas the Cardinals have won more World Series championships than any other team in the National League;

Whereas the Cardinals once again proved to be an organization of great character, dedication, and heart, a reflection of the city of St. Louis and the State of Missouri; and

Whereas the St. Louis Cardinals are the 2011 World Series champions: Now, therefore, be it

Resolved, That the Senate—

(1) commends the St. Louis Cardinals on their 2011 World Series title and outstanding performance during the 2011 Major League Baseball season;

(2) recognizes the achievement of the players, coaches, management, and support staff, whose dedication and resiliency made victory possible;

(3) congratulates the city of St. Louis, Missouri, and St. Louis Cardinals fans everywhere; and

(4) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the Honorable Francis Slay, Mayor of the city of St. Louis, Missouri;

(B) Mr. William Dewitt, President, St. Louis Cardinals; and

(C) Mr. Tony LaRussa, Manager, St. Louis Cardinals.

SENATE RESOLUTION 316—EXPRESSING THE SENSE OF THE SENATE REGARDING TUNISIA'S PEACEFUL JASMINE REVOLUTION

Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 316

Whereas on January 14, 2011, a peaceful mass protest movement in Tunisia successfully brought to an end the authoritarian rule of President Zine el-Abidine Ben Ali;

Whereas Tunisia's peaceful ''Jasmine Revolution'' was the first of several movements throughout the Middle East and North Africa and inspired democracy and human rights activists throughout the region and around the world;

Whereas Tunisia, in the wake of Ben Ali's resignation, began a transition to democracy that has been broadly inclusive, consensus-based, and civilian-led;

Whereas on October 23, 2011, Tunisia conducted the first competitive, multi-party democratic election of the Arab Spring, which involved dozens of political parties and hundreds of independent candidates competing for a 217-member National Constituent Assembly;

Whereas more than 50 percent of all eligible voters and nearly 90 percent of registered voters participated in the October 23 election;

Whereas Tunisia's Independent Electoral Commission welcomed and accredited a robust domestic and international election observer presence, including 3 independent delegations from the United States;

Whereas election observers have broadly praised the October 23 election as free, fair, and consistent with international standards;

Whereas roughly 25 percent of the seat in the National Constituent Assembly were won by women;

Whereas the newly-elected National Constituent Assembly is tasked with drafting a new constitution to guide Tunisia's transition towards a representative democracy that reflects the aspirations of the Tunisian people;

Whereas the Jasmine Revolution was largely a reaction to long-accumulated economic grievances, ongoing high unemployment and poor economic conditions sustain the potential to drive future political protestations;

Whereas the United States and Tunisia have enjoyed friendly relations for more than 200 years; and

Whereas the United States was among the first countries to recognize Tunisian independence in 1956:

Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Tunisia for holding, on October 23, 2011, the first competitive, multi-party democratic elections since the outbreak of popular revolutions throughout the Middle East and North Africa in 2011;

(2) commends the Tunisian independent electoral commission for—

(A) successfully conducting a free, fair, transparent, and credible election on October 23, 2011; and

(B) welcoming independent international and domestic election observers and granting them unrestricted access to polling and counting stations;

(3) congratulates all newly-elected members, and the parties with which they are affiliated, of the National Democratic Constituent Assembly;

(4) affirms the national interest of the United States in a successful and irreversible transition to democracy in Tunisia, including—

(A) respect for the rule of law;

(B) independent media;

(C) a vibrant civil society; and

(D) universal rights and freedoms, including equal rights for all citizens, freedom of speech, and human rights;

(5) affirms the national interest of the United States in Tunisia's economic prosperity and development, including through increased foreign direct investment, tourism, entrepreneurship, technical cooperation, and strengthened trade ties;

(6) urges increased United States engagement and cooperation with the Tunisian government and people, including—

(A) Tunisia's democratic institutions;

(B) civil society;

(C) schools and universities;

(D) independent media; and

(E) the private sector; and

(7) reaffirms the unwavering friendship between the people of the United States and the people of Tunisia.

SENATE RESOLUTION 317—EXPRESSING THE SENSE OF THE SENATE REGARDING THE LIBERATION OF LIBYA FROM THE DICTATORSHIP LED BY MUAMMAR QADDAFI

Mr. KERRY (for himself, Mr. MCCAIN, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 317

Whereas peaceful demonstrations, which began in Libya on February 17, 2011, and were inspired by similar movements in Tunisia, Egypt, and elsewhere in the Middle East, quickly spread to cities throughout Libya and were met with military force by the government of Muammar Qaddafi, including the use of air power and foreign mercenaries;

Whereas Qaddafi stated that he would show ''no mercy'' to his opponents in Benghazi, and that his forces would go ''door-to-door'' to find and kill dissidents;

Whereas in response to Qaddafi's assault on civilians in Libya, a ''no-fly zone'' in Libya was called for by—

(1) the Gulf Cooperation Council on March 7, 2011;

(2) the Secretary-General of the Organization of the Islamic Conference on March 8, 2011; and

(3) the Arab League on March 12, 2011;

Whereas the United Nations Security Council passed—

(1) Resolution 1970 on February 26, 2011, which mandated international economic sanctions and an arms embargo; and

(2) Resolution 1973 on March 17, 2011, which authorized United Nations member states to take ''all necessary measures'' to protect civilians in Libya and to implement a ''no-fly zone'';

Whereas the United States Armed Forces, in cooperation with coalition partners, launched Operation Odyssey Dawn in Libya on March 19, 2011, to protect civilians in Libya from immediate danger and enforce an arms embargo and a ''no-fly zone'', which was transferred on March 31, 2011 to NATO command, with the mission continuing as Operation Unified Protector;

Whereas the National Transitional Council of Libya— ,

(1) formally convened in Benghazi on March 5, 2011 for the first time in support of the February 17 Revolution;

(2) formed an executive body on March 23, 2011; and

(3) was recognized by the United States as the ''legitimate governing authority for Libya'' on July 15, 2011;

Whereas the military offensive of forces loyal to the National Transitional Council against Qaddafi loyalists accelerated in June and July, and the Libyan capital, Tripoli, was declared liberated in August 2011;

Whereas the United Nations Security Council passed Resolution 2009 on September 16, 2011, creating the United Nations Support Mission in Libya (UNSMIL) to support Libyan national efforts to secure the country's political and economic transition;

Whereas on October 23, 2011, the National Transitional Council issued an historic Declaration of Liberation for Libya; and

Whereas on October 27, 2011, the United Nations Security Council unanimously passed Resolution 2016, which ended the mandate established by United Nations Security Council Resolution 1973 for international military intervention to protect Libyan citizens on October 31, 2011;

Whereas on October 28, 2011, NATO announced that Operation Unified Protector would end on October 31, 2011:

Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Libya for their tremendous courage and extraordinary resilience in liberating themselves from the despotic regime of Muammar Qaddafi;

(2) commends the men and women of the United States Armed Forces and their coalition partners who engaged in military operations to protect the people of Libya for their extraordinary bravery and professionalism;

(3) supports the legitimate aspirations of the people of Libya to form a democratic government that respects universal human rights and freedoms, and allows Libyans to build their lives free from fear;

(4) welcomes the October 23, 2011 Libyan Declaration of Liberation by the National Transitional Council;

(5) affirms the national interest of the United States in a successful and irreversible transition to democracy in Libya, including—

(A) respect for the rule of law;

(B) independent media;

(C) a vibrant civil society; and

(D) universal rights and freedoms, including equal rights for all citizens, freedom of speech, and human rights; and

(6) urges the swift establishment of a new interim transitional authority in Libya that is broadly inclusive and representative of the Libyan people and will—

(A) prepare for elections that are free, fair, transparent, credible, and meet international electoral standards, working with relevant international actors, including the United Nations;

(B) restore public security and promote the rule of law;

(C) promote and ensure compliance throughout Libya of international norms of justice and human rights, particularly with respect to detainees, individuals associated or suspected of association with the Qaddafi regime, internally displaced persons, refugees, third-country nationals, and other vulnerable communities;

(D) begin a process of national reconciliation and accountability for human rights abuses committed by all parties, including any committed by forces fighting against the Qaddafi regime; and

(E) work closely with the Organization for the Prohibition of Chemical Weapons and the International Atomic Energy Agency to eliminate remaining stockpiles of chemical weapon agents and secure existing nuclear materials and facilities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 925. Mr. MCCAIN (for himself, Mr. ROCKEFELLER, Mr. JOHANNS, Mr. BARRASSO, Mr. ENZI, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 674, to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes; which was ordered to lie on the table.

SA 926. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 674, supra; which was ordered to lie on the table.

SA 927. Mr. REID (for Mr. TESTER (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN of Massachusetts)) proposed an amendment to the bill H.R. 674, supra.

SA 928. Mr. MCCAIN (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr . COATS, Mr. COCHRAN, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KIRK, Mr. LEE, Mr. LUGAR, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. TOOMEY,

Mr. VITTER, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 927 proposed by Mr. REID (for Mr. TESTER (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN of Massachusetts)) to the bill H.R. 674, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 925. Mr. MCCAIN (for himself, Mr. ROCKEFELLER, Mr. JOHANNS, Mr. BARRASSO, Mr. ENZI, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 674, to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON EXECUTIVE COMPENSATION.

Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay compensation for senior executives at the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation in the form of bonuses, during any period of conservatorship for those entities on or after the date of enactment of this Act.

SA 926. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 674, to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—REPEAL OF CLASS PROGRAM

SEC. __. REPEAL OF CLASS PROGRAM.

(a) REPEAL.—Title XXXII of the Public Health Service Act (42 U.S.C. 300ll et seq.; relating to the CLASS program) is repealed.

(b) CONFORMING CHANGES.—

(1) Title VIII of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 119, 846–847) is repealed.

(2) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking paragraphs (81) and (82);

(B) in paragraph (80), by inserting ''and'' at the end; and

(C) by redesignating paragraph (83) as paragraph (81).

(3) Paragraphs (2) and (3) of section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) are amended to read as such paragraphs were in effect on the day before the date of the enactment of section 8002(d) of the Patient Protection and Affordable Care Act (Public Law 111–148). Of the funds appropriated by paragraph (3) of such section 6021(d), as amended by the Patient Protection and Affordable Care Act, the unobligated balance is rescinded.

SA 927. Mr. REID (for Mr. TESTER, (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN, of Massachusetts)) proposed an amendment to the bill H.R. 674, to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes; as follows:

Strike title II and insert the following:

TITLE II—VOW TO HIRE HEROES

SEC. 201. SHORT TITLE.

This title may be cited as the ''VOW to Hire Heroes Act of 2011''.

Subtitle A—Retraining Veterans

SEC. 211. VETERANS RETRAINING ASSISTANCE PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—Not later than July 1, 2012, the Secretary of Veterans Affairs shall, in collaboration with the Secretary of Labor, establish and commence a program of retraining assistance for eligible veterans.

(2) NUMBER OF ELIGIBLE VETERANS.—The number of unique eligible veterans who participate in the program established under paragraph (1) may not exceed—

(A) 45,000 during fiscal year 2012; and

(B) 54,000 during the period beginning October 1, 2012, and ending March 31, 2014.

(b) RETRAINING ASSISTANCE.—Except as provided by subsection (k), each veteran who participates in the program established under subsection (a)(1) shall be entitled to up to 12 months of retraining assistance provided by the Secretary of Veterans Affairs. Such retraining assistance may only be used by the veteran to pursue a program of education (as such term is defined in section 3452(b) of title 38, United States Code) for training, on a full-time basis, that—

(1) is approved under chapter 36 of such title;

(2) is offered by a community college or technical school;

(3) leads to an associate degree or a certificate (or other similar evidence of the completion of the program of education or training);

(4) is designed to provide training for a high-demand occupation, as determined by the Commissioner of Labor Statistics; and

(5) begins on or after July 1, 2012.

(c) MONTHLY CERTIFICATION.—Each veteran who participates in the program established under subsection (a)(1) shall certify to the Secretary of Veterans Affairs the enrollment of the veteran in a program of education described in subsection (b) for each month in which the veteran participates in the program.

(d) AMOUNT OF ASSISTANCE.—The monthly amount of the retraining assistance payable under this section is the amount in effect under section 3015(a)(1) of title 38, United States Code.

(e) ELIGIBILITY.—

(1) IN GENERAL.—For purposes of this section, an eligible veteran is a veteran who—

(A) as of the date of the submittal of the application for assistance under this section, is at least 35 years of age but not more than 60 years of age;

(B) was last discharged from active duty service in the Armed Forces under conditions other than dishonorable;

(C) as of the date of the submittal of the application for assistance under this section, is unemployed;

(D) as of the date of the submittal of the application for assistance under this section, is not eligible to receive educational assistance under chapter 30, 31, 32, 33, or 35 of title 38, United States Code, or chapter 1606 or 1607 of title 10, United States Code;

(E) is not in receipt of compensation for a service-connected disability rated totally disabling by reason of unemployability;

(F) was not and is not enrolled in any Federal or State job training program at any time during the 180-day period ending on the date of the submittal of the application for assistance under this section; and

(G) by not later than October 1, 2013, submits to the Secretary of Labor an application for assistance under this section containing such information and assurances as that Secretary may require.

(2) DETERMINATION OF ELIGIBILITY.—

(A) DETERMINATION BY SECRETARY OF LABOR.—

(i) IN GENERAL.—For each application for assistance under this section received by the Secretary of Labor from an applicant, the Secretary of Labor shall determine whether the applicant is eligible for such assistance under subparagraphs (A), (C), (F), and (G) of paragraph (1).

(ii) REFERRAL TO SECRETARY OF VETERANS AFFAIRS.—If the Secretary of Labor determines under clause (i) that an applicant is eligible for assistance under this section, the Secretary of Labor shall forward the application of such applicant to the Secretary of Veterans Affairs in accordance with the terms of the agreement required by subsection (h).

(B) DETERMINATION BY SECRETARY OF VETERANS AFFAIRS.—For each application relating to an applicant received by the Secretary of Veterans Affairs under subparagraph (A)(ii), the Secretary of Veterans Affairs shall determine under subparagraphs (B), (D), and (E) of paragraph (1) whether such applicant is eligible for assistance under this section.

(f) EMPLOYMENT ASSISTANCE.—For each veteran who participates in the program established under subsection (a)(1), the Secretary of Labor shall contact such veteran not later than 30 days after the date on which the veteran completes, or terminates participation in, such program to facilitate employment of such veteran and availability or provision of employment placement services to such veteran.

(g) CHARGING OF ASSISTANCE AGAINST OTHER ENTITLEMENT.—Assistance provided under this section shall be counted against the aggregate period for which section 3695 of title 38, United States Code, limits the individual's receipt of educational assistance under laws administered by the Secretary of Veterans Affairs.

(h) JOINT AGREEMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs and the Secretary of Labor shall enter into an agreement to carry out this section.

(2) APPEALS PROCESS.—The agreement required by paragraph (1) shall include establishment of a process for resolving disputes relating to and appeals of decisions of the Secretaries under subsection (e)(2).

(i) REPORT.—

(1) IN GENERAL.—Not later than July 1, 2014, the Secretary of Veterans Affairs shall,

in collaboration with the Secretary of Labor, submit to the appropriate committees of Congress a report on the retraining assistance provided under this section.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The total number of—

(i) eligible veterans who participated; and

(ii) associates degrees or certificates awarded (or other similar evidence of the completion of the program of education or training earned).

(B) Data related to the employment status of eligible veterans who participated.

(j) FUNDING.—Payments under this section shall be made from amounts appropriated to or otherwise made available to the Department of Veterans Affairs for the payment of readjustment benefits. Not more than $2,000,000 shall be made available from such amounts for information technology expenses (not including personnel costs) associated with the administration of the program established under subsection (a)(1).

(k) TERMINATION OF AUTHORITY.—The authority to make payments under this section shall terminate on March 31, 2014.

(l) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Veterans' Affairs and the Committee on Health, Education, Labor, and Pension of the Senate; and

(2) the Committee on Veterans' Affairs and the Committee on Education and the Workforce of the House of Representatives.

Subtitle B—Improving the Transition Assistance Program

SEC. 221. MANDATORY PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE TRANSITION ASSISTANCE PROGRAM OF DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Subsection (c) of section 1144 of title 10, United States Code, is amended to read as follows:

''(c) PARTICIPATION.—(1) Except as provided in paragraph (2), the Secretary of Defense and the Secretary of Homeland Security shall require the participation in the program carried out under this section of the members eligible for assistance under the program.

''(2) The Secretary of Defense and the Secretary of Homeland Security may, under regulations such Secretaries shall prescribe, waive the participation requirement of paragraph (1) with respect to—

''(A) such groups or classifications of members as the Secretaries determine, after consultation with the Secretary of Labor and the Secretary of Veterans Affairs, for whom participation is not and would not be of assistance to such members based on the Secretaries' articulable justification that there is extraordinarily high reason to believe the exempted members are unlikely to face major readjustment, health care, employment, or other challenges associated with transition to civilian life; and

''(B) individual members possessing specialized skills who, due to unavoidable circumstances, are needed to support a unit's imminent deployment.''.

(b) REQUIRED USE OF EMPLOYMENT ASSISTANCE, JOB TRAINING ASSISTANCE, AND OTHER TRANSITIONAL SERVICES IN PRESEPARATION COUNSELING.—Section 1142(a)(2) of such title is amended by striking ''may'' and inserting ''shall''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 222. INDIVIDUALIZED ASSESSMENT FOR MEMBERS OF THE ARMED FORCES UNDER TRANSITION ASSISTANCE ON EQUIVALENCE BETWEEN SKILLS DEVELOPED IN MILITARY OCCUPATIONAL SPECIALTIES AND QUALIFICATIONS REQUIRED FOR CIVILIAN EMPLOYMENT WITH THE PRIVATE SECTOR.

(a) STUDY ON EQUIVALENCE REQUIRED.—

(1) IN GENERAL.—The Secretary of Labor shall, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, enter into a contract with a qualified organization to conduct a study to identify any equivalences between the skills developed by members of the Armed Forces through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences and the qualifications required for various positions of civilian employment in the private sector.

(2) COOPERATION OF FEDERAL AGENCIES.—The departments and agencies of the Federal Government, including the Office of Personnel Management, the General Services Administration, the Government Accountability Office, the Department of Education, and other appropriate departments and agencies, shall cooperate with the contractor under paragraph (1) to conduct the study required under that paragraph.

(3) REPORT.—Upon completion of the study conducted under paragraph (1), the contractor under that paragraph shall submit to the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor a report setting forth the results of the study. The report shall include such information as the Secretaries shall specify in the contract under paragraph (1) for purposes of this section.

(4) TRANSMITTAL TO CONGRESS.—The Secretary of Labor shall transmit to the appropriate committees of Congress the report submitted under paragraph (3), together with such comments on the report as the Secretary considers appropriate.

(5) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on Veterans' Affairs, the Committee on Armed Services, and the Committee on Health, Education, Labor, and Pension of the Senate; and

(B) the Committee on Veterans' Affairs, the Committee on Armed Services, and the Committee on Education and the Workforce of the House of Representatives.

(b) PUBLICATION.—The secretaries described in subsection (a)(1) shall ensure that the equivalences identified under subsection (a)(1) are—

(1) made publicly available on an Internet website; and

(2) regularly updated to reflect the most recent findings of the secretaries with respect to such equivalences.

(c) INDIVIDUALIZED ASSESSMENT OF CIVILIAN POSITIONS AVAILABLE THROUGH MILITARY EXPERIENCES.—The Secretary of Defense shall ensure that each member of the Armed Forces who is participating in the Transition Assistance Program (TAP) of the Department of Defense receives, as part of such member's participation in that program, an individualized assessment of the various positions of civilian employment in the private sector for which such member may be qualified as a result of the skills developed by such member through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences. The assessment shall be performed using the results of the study conducted under subsection (a) and such other information as the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, considers appropriate for that purpose.

(d) FURTHER USE IN EMPLOYMENT-RELATED TRANSITION ASSISTANCE.—

(1) TRANSMITTAL OF ASSESSMENT.—The Secretary of Defense shall make the individualized assessment provided a member under subsection (a) available electronically to the Secretary of Veterans Affairs and the Secretary of Labor.

(2) USE IN ASSISTANCE.—The Secretary of Veterans Affairs and the Secretary of Labor may use an individualized assessment with respect to an individual under paragraph (1) for employment-related assistance in the transition from military service to civilian life provided the individual by such Secretary and to otherwise facilitate and enhance the transition of the individual from military service to civilian life.

(e) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of the enactment of this Act.

SEC. 223. TRANSITION ASSISTANCE PROGRAM CONTRACTING.

(a) TRANSITION ASSISTANCE PROGRAM CONTRACTING.—

(1) IN GENERAL.—Section 4113 of title 38, United States Code, is amended to read as follows:

''§ 4113. Transition Assistance Program personnel

''(a) REQUIREMENT TO CONTRACT.—In accordance with section 1144 of title 10, the Secretary shall enter into a contract with an appropriate private entity or entities to provide the functions described in subsection (b) at all locations where the program described in such section is carried out.

''(b) FUNCTIONS.—Contractors under subsection (a) shall provide to members of the Armed Forces who are being separated from active duty (and the spouses of such members) the services described in section 1144(a)(1) of title 10, including the following:

''(1) Counseling.

''(2) Assistance in identifying employment and training opportunities and help in obtaining such employment and training.

''(3) Assessment of academic preparation for enrollment in an institution of higher learning or occupational training.

''(4) Other related information and services under such section.

''(5) Such other services as the Secretary considers appropriate.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 of title 38, United States Code, is amended by striking the item relating to section 4113 and inserting the following new item:

''4113. Transition Assistance Program personnel.''.

(b) DEADLINE FOR IMPLEMENTATION.—The Secretary of Labor shall enter into the contract required by section 4113 of title 38, United States Code, as added by subsection (a), not later than two years after the date of the enactment of this Act.

SEC. 224. CONTRACTS WITH PRIVATE ENTITIES TO ASSIST IN CARRYING OUT TRANSITION ASSISTANCE PROGRAM OF DEPARTMENT OF DEFENSE.

Section 1144(d) of title 10, United States Code, is amended—

(1) in paragraph (5), by striking ''public or private entities; and'' and inserting ''public entities;'';

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5), the following new paragraph (6):

''(6) enter into contracts with private entities, particularly with qualified private entities that have experience with instructing

members of the armed forces eligible for assistance under the program carried out under this section on—

''(A) private sector culture, resume writing, career networking, and training on job search technologies;

''(B) academic readiness and educational opportunities; or

''(C) other relevant topics; and''.

SEC. 225. IMPROVED ACCESS TO APPRENTICESHIP PROGRAMS FOR MEMBERS OF THE ARMED FORCES WHO ARE BEING SEPARATED FROM ACTIVE DUTY OR RETIRED.

Section 1144 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) PARTICIPATION IN APPRENTICESHIP PROGRAMS.—As part of the program carried out under this section, the Secretary of Defense and the Secretary of Homeland Security may permit a member of the armed forces eligible for assistance under the program to participate in an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.), or a pre-apprenticeship program that provides credit toward a program registered under such Act, that provides members of the armed forces with the education, training, and services necessary to transition to meaningful employment that leads to economic self-sufficiency.''.

SEC. 226. COMPTROLLER GENERAL REVIEW.

Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the Transition Assistance Program (TAP) and submit to Congress a report on the results of the review and any recommendations of the Comptroller General for improving the program.

Subtitle C—Improving the Transition of Veterans to Civilian Employment

SEC. 231. TWO-YEAR EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO PROVIDE REHABILITATION AND VOCATIONAL BENEFITS TO MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.

Section 1631(b)(2) of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note) is amended by striking ''December 31, 2012'' and inserting ''December 31, 2014''.

SEC. 232. EXPANSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO PAY EMPLOYERS FOR PROVIDING ON-JOB TRAINING TO VETERANS WHO HAVE NOT BEEN REHABILITATED TO POINT OF EMPLOYABILITY.

Section 3116(b)(1) of title 38, United States Code, is amended by striking ''who have been rehabilitated to the point of employability''.

SEC. 233. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES WHO HAVE EXHAUSTED RIGHTS TO UNEMPLOYMENT BENEFITS UNDER STATE LAW.

(a) ENTITLEMENT TO ADDITIONAL REHABILITATION PROGRAMS.—

(1) IN GENERAL.—Section 3102 of title 38, United States Code, is amended—

(A) in the matter before paragraph (1), by striking ''A person'' and inserting the following:

''(a) IN GENERAL.—A person''; and

(B) by adding at the end the following new paragraph:

''(b) ADDITIONAL REHABILITATION PROGRAMS FOR PERSONS WHO HAVE EXHAUSTED RIGHTS TO UNEMPLOYMENT BENEFITS UNDER STATE LAW.—(1) Except as provided in paragraph (4), a person who has completed a rehabilitation program under this chapter shall be entitled to an additional rehabilitation program under the terms and conditions of this chapter if—

''(A) the person is described by paragraph (1) or (2) of subsection (a); and

''(B) the person—

''(i) has exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year;

''(ii) has no rights to regular compensation with respect to a week under such State or Federal law; and

''(iii) is not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

''(C) begins such additional rehabilitation program within six months of the date of such exhaustion.

''(2) For purposes of paragraph (1)(B)(i), a person shall be considered to have exhausted such person's rights to regular compensation under a State law when—

''(A) no payments of regular compensation can be made under such law because such person has received all regular compensation available to such person based on employment or wages during such person's base period; or

''(B) such person's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

''(3) In this subsection, the terms 'compensation', 'regular compensation', 'benefit year', 'State', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(4) No person shall be entitled to an additional rehabilitation program under paragraph (1) from whom the Secretary receives an application therefor after March 31, 2014.''.

(2) DURATION OF ADDITIONAL REHABILITATION PROGRAM.—Section 3105(b) of such title is amended—

(A) by striking ''Except as provided in subsection (c) of this section,'' and inserting ''(1) Except as provided in paragraph (2) and in subsection (c),''; and

(B) by adding at the end the following new paragraph:

''(2) The period of a vocational rehabilitation program pursued by a veteran under section 3102(b) of this title following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed 12 months.''.

(b) EXTENSION OF PERIOD OF ELIGIBILITY.—Section 3103 of such title is amended—

(1) in subsection (a), by striking ''in subsection (b), (c), or (d)'' and inserting ''in subsection (b), (c), (d), or (e)'';

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

''(e)(1) The limitation in subsection (a) shall not apply to a rehabilitation program described in paragraph (2).

''(2) A rehabilitation program described in this paragraph is a rehabilitation program pursued by a veteran under section 3102(b) of this title.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on June 1, 2012, and shall apply with respect to rehabilitation programs beginning after such date.

(d) COMPTROLLER GENERAL REVIEW.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a review of the training and rehabilitation under chapter 31 of title 38, United States Code; and

(2) submit to Congress a report on the findings of the Comptroller General with respect to the review and any recommendations of the Comptroller General for improving such training and rehabilitation.

SEC. 234. COLLABORATIVE VETERANS' TRAINING, MENTORING, AND PLACEMENT PROGRAM.

(a) IN GENERAL.—Chapter 41 of title 38, United States Code, is amended by inserting after section 4104 the following new section:

''§ 4104A. Collaborative veterans' training, mentoring, and placement program

''(a) GRANTS.—The Secretary shall award grants to eligible nonprofit organizations to provide training and mentoring for eligible veterans who seek employment. The Secretary shall award the grants to not more than three organizations, for periods of two years.

''(b) COLLABORATION AND FACILITATION.—The Secretary shall ensure that the recipients of the grants—

''(1) collaborate with—

''(A) the appropriate disabled veterans' outreach specialists (in carrying out the functions described in section 4103A(a)) and the appropriate local veterans' employment representatives (in carrying out the functions described in section 4104); and

''(B) the appropriate State boards and local boards (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) for the areas to be served by recipients of the grants; and

''(2) based on the collaboration, facilitate the placement of the veterans that complete the training in meaningful employment that leads to economic self-sufficiency.

''(c) APPLICATION.—To be eligible to receive a grant under this section, a nonprofit organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the information shall include—

''(1) information describing how the organization will—

''(A) collaborate with disabled veterans' outreach specialists and local veterans' employment representatives and the appropriate State boards and local boards (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801));

''(B) based on the collaboration, provide training that facilitates the placement described in subsection (b)(2); and

''(C) make available, for each veteran receiving the training, a mentor to provide career advice to the veteran and assist the veteran in preparing a resume and developing job interviewing skills; and

''(2) an assurance that the organization will provide the information necessary for the Secretary to prepare the reports described in subsection (d).

''(d) REPORTS.—(1) Not later than six months after the date of the enactment of the VOW to Hire Heroes Act of 2011, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the process for awarding grants under this section, the recipients of the grants, and the collaboration described in subsections (b) and (c).

''(2) Not later than 18 months after the date of enactment of the VOW to Hire Heroes Act of 2011, the Secretary shall—

''(A) conduct an assessment of the performance of the grant recipients, disabled veterans' outreach specialists, and local veterans' employment representatives in carrying out activities under this section, which assessment shall include collecting information on the number of—

''(i) veterans who applied for training under this section;

''(ii) veterans who entered the training;

''(iii) veterans who completed the training;

''(iv) veterans who were placed in meaningful employment under this section; and

''(v) veterans who remained in such employment as of the date of the assessment; and

''(B) submit to the appropriate committees of Congress a report that includes—

''(i) a description of how the grant recipients used the funds made available under this section;

''(ii) the results of the assessment conducted under subparagraph (A); and

''(iii) the recommendations of the Secretary as to whether amounts should be appropriated to carry out this section for fiscal years after 2013.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,500,000 for the period consisting of fiscal years 2012 and 2013.

''(f) DEFINITIONS.—In this section—

''(1) the term 'appropriate committees of Congress' means—

''(A) the Committee on Veterans' Affairs and the Committee on Health, Education, Labor, and Pension of the Senate; and

''(B) the Committee on Veterans' Affairs and the Committee on Education and Workforce of the House of Representatives; and

''(2) the term 'nonprofit organization' means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code.''.

(b) CONFORMING AMENDMENT.—Section 4103A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting ''and facilitate placements'' after ''intensive services''; and

(2) by adding at the end the following:

''(3) In facilitating placement of a veteran under this program, a disabled veterans' outreach program specialist shall help to identify job opportunities that are appropriate for the veteran's employment goals and assist that veteran in developing a cover letter and resume that are targeted for those particular jobs.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by inserting after the item relating to section 4104 the following new item:

''4104A. Collaborative veterans' training, mentoring, and placement program.''.

SEC. 235. APPOINTMENT OF HONORABLY DISCHARGED MEMBERS AND OTHER EMPLOYMENT ASSISTANCE.

(a) APPOINTMENTS TO COMPETITIVE SERVICE POSITIONS.—

(1) IN GENERAL.—Chapter 21 of title 5, United States Code, is amended by inserting after section 2108 the following:

''§ 2108a. Treatment of certain individuals as veterans, disabled veterans, and preference eligibles

''(a) VETERAN.—

''(1) IN GENERAL.—Except as provided under paragraph (3), an individual shall be treated as a veteran defined under section 2108(1) for purposes of making an appointment in the competitive service, if the individual—

''(A) meets the definition of a veteran under section 2108(1), except for the requirement that the individual has been discharged or released from active duty in the armed forces under honorable conditions; and

''(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

''(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be discharged or released from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

''(b) DISABLED VETERAN.—

''(1) IN GENERAL.—Except as provided under paragraph (3), an individual shall be treated as a disabled veteran defined under section 2108(2) for purposes of making an appointment in the competitive service, if the individual—

''(A) meets the definition of a disabled veteran under section 2108(2), except for the requirement that the individual has been separated from active duty in the armed forces under honorable conditions; and

''(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

''(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be separated from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

''(c) PREFERENCE ELIGIBLE.—Subsections (a) and (b) shall apply with respect to determining whether an individual is a preference eligible under section 2108(3) for purposes of making an appointment in the competitive service.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITIONS.—Section 2108 of title 5, United States Code, is amended—

(i) in paragraph (1), in the matter following subparagraph (D), by inserting '', except as provided under section 2108a,'' before ''who has been'';

(ii) in paragraph (2), by inserting ''(except as provided under section 2108a)'' before ''has been separated''; and

(iii) in paragraph (3), in the matter preceding subparagraph (A), by inserting ''or section 2108a(c)'' after ''paragraph (4) of this section''.

(B) TABLE OF SECTIONS.—The table of sections for chapter 21 of title 5, United States Code, is amended by adding after the item relating to section 2108 the following:

''2108a. Treatment of certain individuals as veterans, disabled veterans, and preference eligibles.''.

(b) EMPLOYMENT ASSISTANCE: OTHER FEDERAL AGENCIES.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''agency'' has the meaning given the term ''Executive agency'' in section 105 of title 5, United States Code; and

(B) the term ''veteran'' has the meaning given that term in section 101 of title 38, United States Code.

(2) RESPONSIBILITIES OF OFFICE OF PERSONNEL MANAGEMENT.—The Director of the Office of Personnel Management shall—

(A) designate agencies that shall establish a program to provide employment assistance to members of the Armed Forces who are being separated from active duty in accordance with paragraph (3); and

(B) ensure that the programs established under this subsection are coordinated with the Transition Assistance Program (TAP) of the Department of Defense.

(3) ELEMENTS OF PROGRAM.—The head of each agency designated under paragraph (2)(A), in consultation with the Director of the Office of Personnel Management, and acting through the Veterans Employment Program Office of the agency established under Executive Order 13518 (74 Fed. Reg. 58533; relating to employment of veterans in the Federal Government), or any successor thereto, shall—

(A) establish a program to provide employment assistance to members of the Armed Forces who are being separated from active duty, including assisting such members in seeking employment with the agency;

(B) provide such members with information regarding the program of the agency established under subparagraph (A); and

(C) promote the recruiting, hiring, training and development, and retention of such members and veterans by the agency.

(4) OTHER OFFICE.—If an agency designated under paragraph (2)(A) does not have a Veterans Employment Program Office, the head of the agency, in consultation with the Director of the Office of Personnel Management, shall select an appropriate office of the agency to carry out the responsibilities of the agency under paragraph (3).

SEC. 236. DEPARTMENT OF DEFENSE PILOT PROGRAM ON WORK EXPERIENCE FOR MEMBERS OF THE ARMED FORCES ON TERMINAL LEAVE.

(a) IN GENERAL.—The Secretary of Defense may establish a pilot program to assess the feasibility and advisability of providing to members of the Armed Forces on terminal leave work experience with civilian employees and contractors of the Department of Defense to facilitate the transition of the individuals from service in the Armed Forces to employment in the civilian labor market.

(b) DURATION.—The pilot program shall be carried out during the two-year period beginning on the date of the commencement of the pilot program.

(c) REPORT.—Not later than 540 days after the date of the commencement of the pilot program, the Secretary shall submit to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate and the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives an interim report on the pilot program that includes the findings of the Secretary with respect to the feasibility and advisability of providing covered individuals with work experience as described in subsection (a).

SEC. 237. ENHANCEMENT OF DEMONSTRATION PROGRAM ON CREDENTIALING AND LICENSING OF VETERANS.

(a) IN GENERAL.—Section 4114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''may'' and inserting ''shall'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''Assistant Secretary shall'' and inserting ''Assistant Secretary for Veterans' Employment and Training shall, in consultation with the Assistant Secretary for Employment and Training,'';

(ii) by striking ''not less than 10 military'' and inserting ''not more than five military''; and

(iii) by inserting ''for Veterans' Employment and Training'' after ''selected by the Assistant Secretary''; and

(B) in paragraph (2), by striking ''consult with appropriate Federal, State, and industry officials to'' and inserting ''enter into a contract with an appropriate entity representing a coalition of State governors to consult with appropriate Federal, State, and industry officials and''; and

(3) by striking subsections (d) through (h) and inserting the following:

''(d) PERIOD OF PROJECT.—The period during which the Assistant Secretary shall carry out the demonstration project under this section shall be the two-year period beginning on the date of the enactment of the VOW to Hire Heroes Act of 2011.''.

(b) STUDY COMPARING COSTS INCURRED BY SECRETARY OF DEFENSE FOR TRAINING FOR MILITARY OCCUPATIONAL SPECIALTIES WITHOUT CREDENTIALING OR LICENSING WITH COSTS INCURRED BY SECRETARY OF VETERANS AFFAIRS AND SECRETARY OF LABOR IN PROVIDING EMPLOYMENT-RELATED ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the conclusion of the period described

in subsection (d) of section 4114 of title 38, United States Code, as added by subsection (a), the Assistant Secretary of Labor of Veterans' Employment and Training shall, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, complete a study comparing the costs incurred by the Secretary of Defense in training members of the Armed Forces for the military occupational specialties selected by the Assistant Secretary of Labor of Veterans' Employment and Training pursuant to the demonstration project provided for in such section 4114, as amended by subsection (a), with the costs incurred by the Secretary of Veterans Affairs and the Secretary of Labor in providing employment-related assistance to veterans who previously held such military occupational specialties, including—

(A) providing educational assistance under laws administered by the Secretary of Veterans Affairs to veterans to obtain credentialing and licensing for civilian occupations that are similar to such military occupational specialties;

(B) providing assistance to unemployed veterans who, while serving in the Armed Forces, were trained in a military occupational specialty; and

(C) providing vocational training or counseling to veterans described in subparagraph (B).

(2) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the conclusion of the period described in subsection (d) of section 4114 of title 38, United States Code, as added by subsection (a), the Assistant Secretary of Labor of Veterans' Employment and Training shall submit to Congress a report on the study carried out under paragraph (1).

(B) ELEMENTS.—The report required by subparagraph (A) shall include the following:

(i) The findings of the Assistant Secretary with respect to the study required by paragraph (1).

(ii) A detailed description of the costs compared under the study required by paragraph (1).

SEC. 238. INCLUSION OF PERFORMANCE MEASURES IN ANNUAL REPORT ON VETERAN JOB COUNSELING, TRAINING, AND PLACEMENT PROGRAMS OF THE DEPARTMENT OF LABOR.

Section 4107(c) of title 38, United States Code, is amended—

(1) in paragraph (2), by striking ''clause (1)'' and inserting ''paragraph (1)'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period and inserting ''; and''; and

(4) by adding at the end the following new paragraph:

''(7) performance measures for the provision of assistance under this chapter, including—

''(A) the percentage of participants in programs under this chapter who find employment before the end of the first 90-day period following their completion of the program;

''(B) the percentage of participants described in subparagraph (A) who are employed during the first 180-day period following the period described in such subparagraph;

''(C) the median earnings of participants described in subparagraph (A) during the period described in such subparagraph;

''(D) the median earnings of participants described in subparagraph (B) during the period described in such subparagraph; and

''(E) the percentage of participants in programs under this chapter who obtain a certificate, degree, diploma, licensure, or industry-recognized credential relating to the program in which they participated under this chapter during the third 90-day period following their completion of the program.''.

SEC. 239. CLARIFICATION OF PRIORITY OF SERVICE FOR VETERANS IN DEPARTMENT OF LABOR JOB TRAINING PROGRAMS.

Section 4215 of title 38, United States Code, is amended—

(1) in subsection (a)(3), by adding at the end the following: ''Such priority includes giving access to such services to a covered person before a non-covered person or, if resources are limited, giving access to such services to a covered person instead of a non-covered person.''; and

(2) by amending subsection (d) to read as follows:

''(d) ADDITION TO ANNUAL REPORT.—(1) In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs. Such evaluation shall include—

''(A) an analysis of the implementation of providing such priority at the local level;

''(B) whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any; and

''(C) performance measures, as determined by the Secretary, to determine whether veterans are receiving priority of service and are being fully served by qualified job training programs.

''(2) The Secretary may not use the proportion of representation of veterans described in subparagraph (B) of paragraph (1) as the basis for determining under such paragraph whether veterans are receiving priority of service and are being fully served by qualified job training programs.''.

SEC. 240. EVALUATION OF INDIVIDUALS RECEIVING TRAINING AT THE NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICES INSTITUTE.

(a) IN GENERAL.—Section 4109 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Secretary shall require that each disabled veterans' outreach program specialist and local veterans' employment representative who receives training provided by the Institute, or its successor, is given a final examination to evaluate the specialist's or representative's performance in receiving such training.

''(2) The results of such final examination shall be provided to the entity that sponsored the specialist or representative who received the training.''.

(b) EFFECTIVE DATE.—Subsection (d) of section 4109 of title 38, United States Code, as added by subsection (a), shall apply with respect to training provided by the National Veterans' Employment and Training Services Institute that begins on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 241. REQUIREMENTS FOR FULL-TIME DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 4103A of title 38, United States Code, is amended by adding at the end the following new subsection:

''(d) ADDITIONAL REQUIREMENT FOR FULL-TIME EMPLOYEES.—(1) A full-time disabled veterans' outreach program specialist shall perform only duties related to meeting the employment needs of eligible veterans, as described in subsection (a), and shall not perform other non-veteran-related duties that detract from the specialist's ability to perform the specialist's duties related to meeting the employment needs of eligible veterans.

''(2) The Secretary shall conduct regular audits to ensure compliance with paragraph (1). If, on the basis of such an audit, the Secretary determines that a State is not in compliance with paragraph (1), the Secretary may reduce the amount of a grant made to the State under section 4102A(b)(5) of this title.''.

(b) LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 4104 of such title is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) ADDITIONAL REQUIREMENTS FOR FULL-TIME EMPLOYEES.—(1) A full-time local veterans' employment representative shall perform only duties related to the employment, training, and placement services under this chapter, and shall not perform other non-veteran-related duties that detract from the representative's ability to perform the representative's duties related to employment, training, and placement services under this chapter.

''(2) The Secretary shall conduct regular audits to ensure compliance with paragraph (1). If, on the basis of such an audit, the Secretary determines that a State is not in compliance with paragraph (1), the Secretary may reduce the amount of a grant made to the State under section 4102A(b)(5) of this title.''.

(c) CONSOLIDATION.—Section 4102A of such title is amended by adding at the end the following new subsection:

''(h) CONSOLIDATION OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND VETERANS' EMPLOYMENT REPRESENTATIVES.—The Secretary may allow the Governor of a State receiving funds under subsection (b)(5) to support specialists and representatives as described in such subsection to consolidate the functions of such specialists and representatives if—

''(1) the Governor determines, and the Secretary concurs, that such consolidation—

''(A) promotes a more efficient administration of services to veterans with a particular emphasis on services to disabled veterans; and

''(B) does not hinder the provision of services to veterans and employers; and

''(2) the Governor submits to the Secretary a proposal therefor at such time, in such manner, and containing such information as the Secretary may require.''.

Subtitle D—Improvements to Uniformed Services Employment and Reemployment Rights

SEC. 251. CLARIFICATION OF BENEFITS OF EMPLOYMENT COVERED UNDER USERRA.

Section 4303(2) of title 38, United States Code, is amended by inserting ''the terms, conditions, or privileges of employment, including'' after ''means''.

Subtitle E—Other Matters

SEC. 261. RETURNING HEROES AND WOUNDED WARRIORS WORK OPPORTUNITY TAX CREDITS.

(a) IN GENERAL.—Paragraph (3) of section 51(b) of the Internal Revenue Code of 1986 is amended by striking ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))'' and inserting ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I), $14,000 per year in the case of any individual who is a qualified veteran by reason of subsection

(d)(3)(A)(iv), and $24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II))''.

(b) RETURNING HEROES TAX CREDITS.—Subparagraph (A) of section 51(d)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''or'' at the end of clause (i),

(2) by striking the period at the end of clause (ii)(II), and

(3) by adding at the end the following new clauses:

''(iii) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months), or

''(iv) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.''.

(c) SIMPLIFIED CERTIFICATION.—Paragraph (13) of section 51(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) CREDIT FOR UNEMPLOYED VETERANS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), for purposes of paragraph (3)(A)—

''(I) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (ii)(II) or (iv) of such paragraph (whichever is applicable) if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date, and

''(II) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (iii) of such paragraph if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date.

''(ii) REGULATORY AUTHORITY.—The Secretary may provide alternative methods for certification of a veteran as a qualified veteran described in clause (ii)(II), (iii), or (iv) of paragraph (3)(A), at the Secretary's discretion.''.

(d) EXTENSION OF CREDIT.—Subparagraph (B) of section 51(c)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) after—

''(i) December 31, 2012, in the case of a qualified veteran, and

''(ii) December 31, 2011, in the case of any other individual.''.

(e) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—Subsection (c) of section 52 of the Internal Revenue Code of 1986 is amended—

(A) by inserting ''(1) IN GENERAL.—'' before ''No credit'', and

(B) by adding at the end the following new paragraph:

''(2) CREDIT MADE AVAILABLE TO QUALIFIED TAX-EXEMPT EMPLOYERS EMPLOYING QUALIFIED VETERANS.—In the case of a qualified tax-exempt employer (as defined in section 3111(e)(3)(A)), the credit otherwise allowed under this section by reason of subsection (d)(3) shall be allowed under section 3111(e) and not under this section.''.

(2) CREDIT ALLOWABLE.—Section 3111 of such Code is amended by adding at the end the following new subsection:

''(e) CREDIT FOR EMPLOYMENT OF QUALIFIED VETERANS.—

''(1) IN GENERAL.—If a qualified tax-exempt employer hires a qualified veteran with respect to whom a credit would be allowable under section 51 if the employer were not a qualified tax-exempt employer, then there shall be allowed as a credit against the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the employer during the applicable period an amount equal to the lesser of—

''(A) the credit which would be so allowable under section 51 with respect to wages paid to such qualified veteran during such period, or

''(B) the amount of the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the employer during such period.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any qualified veteran, the 1-year period beginning with the day such qualified veteran begins work for the employer.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'qualified tax-exempt employer' means an employer that is an organization described in section 501(c) and exempt from taxation under section 501(a), and

''(B) the term 'qualified veteran' has meaning given such term by section 51(d)(3).

''(4) LIMITATION.—This subsection shall apply only with respect to wages paid to a qualified veteran for services in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.''.

(3) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by paragraphs (1) and (2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(f) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to taxpayers of the possession by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the taxpayers of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under the amendments made by this section to section 51 or section 3111 of the Internal Revenue Code of 1986 to any person—

(A) to whom a credit is allowed against taxes imposed by the possession of the United States by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 52(c)(2) of the Internal Revenue Code of 1986 (as added by this section).

(g) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 262. EXTENSION OF REDUCED PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.

Section 5503(d)(7) of title 38, United States Code, is amended by striking ''May 31, 2015'' and inserting ''September 30, 2016''.

SEC. 263. REIMBURSEMENT RATE FOR AMBULANCE SERVICES.

Section 111(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(C) In the case of transportation of a person under subparagraph (B) by ambulance, the Secretary may pay the provider of the transportation the lesser of the actual charge for the transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395(l)) unless the Secretary has entered into a contract for that transportation with the provider.''.

SEC. 264. EXTENSION OF AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION FROM SECRETARY OF TREASURY AND COMMISSIONER OF SOCIAL SECURITY FOR INCOME VERIFICATION PURPOSES.

Section 5317(g) of title 38, United States Code, is amended by striking ''September 30, 2011'' and inserting ''September 30, 2016''.

SEC. 265. MODIFICATION OF LOAN GUARANTY FEE FOR CERTAIN SUBSEQUENT LOANS.

(a) IN GENERAL.—Section 3729(b)(2) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (iii), by striking ''November 18, 2011'' and inserting ''October 1, 2016''; and

(B) in clause (iv), by striking ''November 18, 2011'' and inserting ''October 1, 2016'';

(2) in subparagraph (B)—

(A) in clause (i), by striking ''November 18, 2011'' and inserting ''October 1, 2016'';

(B) by striking clauses (ii) and (iii);

(C) by redesignating clause (iv) as clause (ii); and

(D) in clause (ii), as redesignated by subparagraph (C), by striking ''October 1, 2013'' and inserting ''October 1, 2016'';

(3) in subparagraph (C)—

(A) in clause (i), by striking ''November 18, 2011'' and inserting ''October 1, 2016''; and

(B) in clause (ii), by striking ''November 18, 2011'' and inserting ''October 1, 2016''; and

(4) in subparagraph (D)—

(A) in clause (i), by striking ''November 18, 2011'' and inserting ''October 1, 2016''; and

(B) in clause (ii), by striking ''November 18, 2011'' and inserting ''October 1, 2016''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the later of—

(1) November 18, 2011; or

(2) the date of the enactment of this Act.

TITLE III—OTHER PROVISIONS RELATING TO FEDERAL VENDORS

SEC. 301. ONE HUNDRED PERCENT LEVY FOR PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) IN GENERAL.—Section 6331(h)(3) of the Internal Revenue Code of 1986 is amended by striking ''goods or services'' and inserting ''property, goods, or services''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies issued after the date of the enactment of this Act.

SEC. 302. STUDY AND REPORT ON REDUCING THE AMOUNT OF THE TAX GAP OWED BY FEDERAL CONTRACTORS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury, or the Secretary's delegate, in consultation with the Director of the Office of Management and Budget and the heads of such other Federal agencies as the Secretary determines appropriate, shall conduct a study on ways to reduce the amount of Federal tax owed but not paid by persons submitting bids or proposals for the procurement of property or services by the Federal government.

(2) MATTERS STUDIED.—The study conducted under paragraph (1) shall include the following matters:

(A) An estimate of the amount of delinquent taxes owed by Federal contractors.

(B) The extent to which the requirement that persons submitting bids or proposals certify whether such persons have delinquent tax debts has—

(i) improved tax compliance; and

(ii) been a factor in Federal agency decisions not to enter into or renew contracts with such contractors.

(C) In cases in which Federal agencies continue to contract with persons who report having delinquent tax debt, the factors taken into consideration in awarding such contracts.

(D) The degree of the success of the Federal lien and levy system in recouping delinquent Federal taxes from Federal contractors.

(E) The number of persons who have been suspended or debarred because of a delinquent tax debt over the past 3 years.

(F) An estimate of the extent to which the subcontractors under Federal contracts have delinquent tax debt.

(G) The Federal agencies which have most frequently awarded contracts to persons notwithstanding any certification by such person that the person has delinquent tax debt.

(H) Recommendations on ways to better identify Federal contractors with delinquent tax debts.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Government Affairs of the Senate, a report on the study conducted under subsection (a), together with any legislative recommendations.

TITLE IV—MODIFICATION OF CALCULATION OF MODIFIED ADJUSTED GROSS INCOME FOR DETERMINING CERTAIN HEALTHCARE PROGRAM ELIGIBILITY

SEC. 401. MODIFICATION OF CALCULATION OF MODIFIED ADJUSTED GROSS INCOME FOR DETERMINING CERTAIN HEALTHCARE PROGRAM ELIGIBILITY.

(a) IN GENERAL.—Subparagraph (B) of section 36B(d)(2) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d)) which is not included in gross income under section 86 for the taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(c) NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury, or the Secretary's delegate, shall annually estimate the impact that the amendments made by subsection (a) have on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury or the Secretary's delegate estimates that such amendments have a negative impact on the income and balances of such trust funds, the Secretary shall transfer, not less frequently than quarterly, from the general fund an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of such amendments.

TITLE V—BUDGETARY EFFECTS

SEC. 501. STATUTORY PAY-AS-YOU-GO ACT OF 2010.

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 House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 928. Mr. MCCAIN (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COCHRAN, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KIRK, Mr. LEE, Mr. LUGAR, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 927 proposed by Mr. REID (for Mr. TESTER (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN of Massachusetts)) to the bill H.R. 674, to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs Through Growth Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—SPENDING REFORM

TITLE I—BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

SEC. 1101. BALANCED BUDGET AMENDMENT TO THE CONSTITUTION.

It is the sense of Congress that S.J. Res 10 should be passed and submitted to the states for ratification not later than 90 days after the date of enactment of this Act.

TITLE II—ENHANCED RESCISSION AUTHORITY

SEC. 1201. PURPOSES.

The purpose of this title is to create an optional fast-track procedure the President may use when submitting rescission requests, which would lead to an up-or-down vote by Congress on the President's package of rescissions, without amendment.

SEC. 1202. RESCISSIONS OF FUNDING.

The Impoundment Control Act of 1974 is amended by striking part C and inserting the following:

''PART C—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS

''SEC. 1021. APPLICABILITY AND DISCLAIMER.

''The rules, procedures, requirements, and definitions in this part apply only to executive and legislative actions explicitly taken under this part. They do not apply to actions taken under part B or to other executive and legislative actions not taken under this part.

''SEC. 1022. DEFINITIONS.

''In this part:

''(1) The terms 'appropriations Act', 'budget authority', and 'new budget authority' have the same meanings as in section 3 of the Congressional Budget Act of 1974.

''(2) The terms 'account', 'current year', 'CBO', and 'OMB' have the same meanings as in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 as in effect on September 30, 2002.

''(3) The term 'days of session' shall be calculated by excluding weekends and national holidays. Any day during which a chamber of Congress is not in session shall not be counted as a day of session of that chamber. Any day during which neither chamber is in session shall not be counted as a day of session of Congress.

''(4) The term 'entitlement law' means the statutory mandate or requirement of the United States to incur a financial obligation

unless that obligation is explicitly conditioned on the appropriation in subsequent legislation of sufficient funds for that purpose, and the Supplemental Nutrition Assistance Program.

''(5) The term 'funding' refers to new budget authority and obligation limits except to the extent that the funding is provided for entitlement law.

''(6) The term 'rescind' means to eliminate or reduce the amount of enacted funding.

''(7) The terms 'withhold' and 'withholding' apply to any executive action or inaction that precludes the obligation of funding at a time when it would otherwise have been available to an agency for obligation. The terms do not include administrative or preparatory actions undertaken prior to obligation in the normal course of implementing budget laws.

''SEC. 1023. TIMING AND PACKAGING OF RESCISSION REQUESTS.

''(a) TIMING.—If the President proposes that Congress rescind funding under the procedures in this part, OMB shall transmit a message to Congress containing the information specified in section 1024, and the message transmitting the proposal shall be sent to Congress not later than 45 calendar days after the date of enactment of the funding.

''(b) PACKAGING AND TRANSMITTAL OF REQUESTED RESCISSIONS.—Except as provided in subsection (c), for each piece of legislation that provides funding, the President shall request at most 1 package of rescissions and the rescissions in that package shall apply only to funding contained in that legislation. OMB shall deliver each message requesting a package of rescissions to the Secretary of the Senate if the Senate is not in session and to the Clerk of the House of Representatives if the House is not in session. OMB shall make a copy of the transmittal message publicly available, and shall publish in the Federal Register a notice of the message and information on how it can be obtained.

''(c) SPECIAL PACKAGING RULES.—After enactment of—

''(1) a joint resolution making continuing appropriations;

''(2) a supplemental appropriations bill; or

''(3) an omnibus appropriations bill;

covering some or all of the activities customarily funded in more than 1 regular appropriations bill, the President may propose as many as 2 packages rescinding funding contained in that legislation, each within the 45-day period specified in subsection (a). OMB shall not include the same rescission in both packages, and, if the President requests the rescission of more than one discrete amount of funding under the jurisdiction of a single subcommittee, OMB shall include each of those discrete amounts in the same package.

''SEC. 1024. REQUESTS TO RESCIND FUNDING.

''For each request to rescind funding under this part, the transmittal message shall—

''(1) specify—

''(A) the dollar amount to be rescinded;

''(B) the agency, bureau, and account from which the rescission shall occur;

''(C) the program, project, or activity within the account (if applicable) from which the rescission shall occur;

''(D) the amount of funding, if any, that would remain for the account, program, project, or activity if the rescission request is enacted; and

''(E) the reasons the President requests the rescission;

''(2) designate each separate rescission request by number; and

''(3) include proposed legislative language to accomplish the requested rescissions which may not include—

''(A) any changes in existing law, other than the rescission of funding; or

''(B) any supplemental appropriations, transfers, or reprogrammings.

''SEC. 1025. GRANTS OF AND LIMITATIONS ON PRESIDENTIAL AUTHORITY.

''(a) PRESIDENTIAL AUTHORITY TO WITHHOLD FUNDING.—Notwithstanding any other provision of law and if the President proposes a rescission of funding under this part, OMB may, subject to the time limits provided in subsection (c), temporarily withhold that funding from obligation.

''(b) EXPEDITED PROCEDURES AVAILABLE ONLY ONCE PER BILL.—The President may not invoke the procedures of this part, or the authority to withhold funding granted by subsection (a), on more than 1 occasion for any Act providing funding.

''(c) TIME LIMITS.—OMB shall make available for obligation any funding withheld under subsection (a) on the earliest of—

''(1) the day on which the President determines that the continued withholding or reduction no longer advances the purpose of legislative consideration of the rescission request;

''(2) starting from the day on which OMB transmitted a message to Congress requesting the rescission of funding, 25 calendar days in which the House of Representatives has been in session or 25 calendar days in which the Senate has been in session, whichever occurs second; or

''(3) the last day after which the obligation of the funding in question can no longer be fully accomplished in a prudent manner before its expiration.

''(d) DEFICIT REDUCTION.—

''(1) IN GENERAL.—Funds that are rescinded under this part shall be dedicated only to reducing the deficit or increasing the surplus.

''(2) ADJUSTMENT OF LEVELS IN THE CONCURRENT RESOLUTION ON THE BUDGET.—Not later than 5 days after the date of enactment of an approval bill as provided under this part, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise allocations and aggregates and other appropriate levels under the appropriate concurrent resolution on the budget to reflect the repeal or cancellation, and the applicable committees shall report revised suballocations pursuant to section 302(b), as appropriate.

''SEC. 1026. CONGRESSIONAL CONSIDERATION OF RESCISSION REQUESTS.

''(a) PREPARATION OF LEGISLATION TO CONSIDER A PACKAGE OF EXPEDITED RESCISSION REQUESTS.—

''(1) IN GENERAL.—If the House of Representatives receives a package of expedited rescission requests, the Clerk shall prepare a House bill that only rescinds the amounts requested which shall read as follows:

'' 'There are enacted the rescissions numbered [insert number or numbers] as set forth in the Presidential message of [insert date] transmitted under part C of the Impoundment Control Act of 1974 as amended.'

''(2) EXCLUSION PROCEDURE.—The Clerk shall include in the bill each numbered rescission request listed in the Presidential package in question, except that the Clerk shall omit a numbered rescission request if the Chairman of the Committee on the Budget of the House, after consulting with the Chairman of the Committee on the Budget of the Senate, CBO, GAO, and the House and Senate committees that have jurisdiction over the funding, determines that the numbered rescission does not refer to funding or includes matter not permitted under a request to rescind funding.

''(b) INTRODUCTION AND REFERRAL OF LEGISLATION TO ENACT A PACKAGE OF EXPEDITED RESCISSIONS.—The majority leader or the minority leader of the House or Representatives, or a designee, shall (by request) introduce each bill prepared under subsection (a) not later than 4 days of session of the House after its transmittal, or, if no such bill is introduced within that period, any member of the House may introduce the required bill in the required form on the fifth or sixth day of session of the House after its transmittal. If such an expedited rescission bill is introduced in accordance with the preceding sentence, it shall be referred to the House committee of jurisdiction. A copy of the introduced House bill shall be transmitted to the Secretary of the Senate, who shall provide it to the Senate committee of jurisdiction.

''(c) HOUSE REPORT AND CONSIDERATION OF LEGISLATION TO ENACT A PACKAGE OF EXPEDITED RESCISSIONS.—The House committee of jurisdiction shall report without amendment the bill referred to it under subsection (b) not more than 5 days of session of the House after the referral. The committee may order the bill reported favorably, unfavorably, or without recommendation. If the committee has not reported the bill by the end of the 5-day period, the committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

''(d) HOUSE MOTION TO PROCEED.—

''(1) IN GENERAL.—After a bill to enact an expedited rescission package has been reported or the committee of jurisdiction has been discharged under subsection (c), it shall be in order to move to proceed to consider the bill in the House. A Member who wishes to move to proceed to consideration of the bill shall announce that fact, and the motion to proceed shall be in order only during a time designated by the Speaker within the legislative schedule for the next calendar day of legislative session or the one immediately following it.

''(2) FAILURE TO SET TIME.—If the Speaker does not designate a time under paragraph (1), 3 or more calendar days of legislative session after the bill has been reported or discharged, it shall be in order for any Member to move to proceed to consider the bill.

''(3) PROCEDURE.—A motion to proceed under this subsection shall not be in order after the House has disposed of a prior motion to proceed with respect to that package of expedited rescissions. The previous question shall be considered as ordered on the motion to proceed, without intervening motion. A motion to reconsider the vote by which the motion to proceed has been disposed of shall not be in order.

''(4) REMOVAL FROM CALENDAR.—If 5 calendar days of legislative session have passed since the bill was reported or discharged under this subsection and no Member has made a motion to proceed, the bill shall be removed from the calendar.

''(e) HOUSE CONSIDERATION.—

''(1) CONSIDERED AS READ.—A bill consisting of a package of rescissions under this part shall be considered as read.

''(2) POINTS OF ORDER.—All points of order against the bill are waived, except that a point of order may be made that 1 or more numbered rescissions included in the bill would enact language containing matter not requested by the President or not permitted under this part as part of that package. If the Presiding Officer sustains such a point of order, the numbered rescission or rescissions that would enact such language are deemed to be automatically stripped from the bill and consideration proceeds on the bill as modified.

''(3) PREVIOUS QUESTION.—The previous question shall be considered as ordered on the bill to its passage without intervening motion, except that 4 hours of debate equally divided and controlled by a proponent and an opponent are allowed, as well as 1 motion to further limit debate on the bill.

''(4) MOTION TO RECONSIDER.—A motion to reconsider the vote on passage of the bill shall not be in order.

''(f) SENATE CONSIDERATION.—

''(1) REFERRAL.—If the House of Representatives approves a House bill enacting a package of rescissions, that bill as passed by the House shall be sent to the Senate and referred to the Senate committee of jurisdiction.

''(2) COMMITTEE ACTION.—The committee of jurisdiction shall report without amendment the bill referred to it under this subsection not later than 3 days of session of the Senate after the referral. The committee may order the bill reported favorably, unfavorably, or without recommendation.

''(3) DISCHARGE.—If the committee has not reported the bill by the end of the 3-day period, the committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

''(4) MOTION TO PROCEED.—On the following day and for 3 subsequent calendar days in which the Senate is in session, it shall be in order for any Senator to move to proceed to consider the bill in the Senate. Upon such a motion being made, it shall be deemed to have been agreed to and the motion to reconsider shall be deemed to have been laid on the table.

''(5) DEBATE.—Debate on the bill in the Senate under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours, equally divided and controlled in the usual form. Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to not more than 1 hour, to be equally divided and controlled in the usual form. A motion to further limit debate on such a bill is not debatable.

''(6) MOTIONS NOT IN ORDER.—A motion to amend such a bill or strike a provision from it is not in order. A motion to recommit such a bill is not in order.

''(g) SENATE POINT OF ORDER.—It shall not be in order under this part for the Senate to consider a bill approved by the House enacting a package of rescissions under this part if any numbered rescission in the bill would enact matter not requested by the President or not permitted under this Act as part of that package. If a point of order under this subsection is sustained, the bill may not be considered under this part.''.

SEC. 1203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the matter for part C of title X and inserting the following:

''PART C—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS

''Sec. 1021. Applicability and disclaimer.
''Sec. 1022. Definitions.
''Sec. 1023. Timing and packaging of rescission requests.
''Sec. 1024. Requests to rescind funding.
''Sec. 1025. Grants of and limitations on presidential authority.
''Sec. 1026. Congressional consideration of rescission requests.''.

(b) TEMPORARY WITHHOLDING.—Section 1013(c) of the Impoundment Control Act of 1974 is amended by striking ''section 1012'' and inserting ''section 1012 or section 1025''.

(c) RULEMAKING.—

(1) 904(a).—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking ''and 1017'' and inserting ''1017, and 1026''.

(2) 904(d)(1).—Section 904(d)(1) of the Congressional Budget Act of 1974 is amended by striking ''1017'' and inserting ''1017 or 1026''.

SEC. 1204. AMENDMENTS TO PART A OF THE IMPOUNDMENT CONTROL ACT.

(a) IN GENERAL.—Part A of the Impoundment Control Act of 1974 is amended by inserting at the end the following:

''SEC. 1002. SEVERABILITY.

''If the judicial branch of the United States finally determines that 1 or more of the provisions of parts B or C violate the Constitution of the United States, the remaining provisions of those parts shall continue in effect.''.

(b) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting at the end of the matter for part A of title X the following:

''Sec. 1002. Severability.''.

SEC. 1205. EXPIRATION.

Part C of the Impoundment Control Act of 1974 (as amended by this Act) shall expire on December 31, 2015.

DIVISION B—TAX REFORM

TITLE I—TAX REFORM FOR FAMILIES AND SMALL BUSINESSES

SEC. 2101. TAX REFORM FOR FAMILIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives shall report legislation that will lower, consolidate, and simplify the individual income tax system, with not more than 3 tax rates, the highest being 25 percent. Such legislation shall be reported not later than 60 days after the date of the enactment of this Act and shall be revenue neutral as scored by the Joint Committee on Taxation using a current policy baseline.

(b) LEGISLATION GOALS.—Such reported legislation shall be required to achieve the following:

(1) REDUCED TAX LIABILITY.—Lower the overall tax burden for the majority of American individual taxpayers.

(2) SIMPLIFICATION.—Close tax loopholes and eliminate frivolous deductions and certain tax credits, at the discretion of each Committee, in order to reduce tax expenditures and simplify the tax code.

(3) CONSOLIDATION.—Provide necessary changes in order to consolidate the individual income tax system consistent with the tax rates specified in subsection (a).

(4) STANDARD DEDUCTION AND PERSONAL EXEMPTIONS.—Revise the amount provided for the standard deduction and personal exemptions in conjunction with the elimination of certain deductions and credits in order to reduce the overall tax liability of the majority of American individual taxpayers.

(c) ADDITIONAL CHANGES.—Such Committees shall include in such legislation any further changes to the individual income tax system in order to ensure tax reductions and simplifications consistent with the goals of this Act.

TITLE II—TAX REFORM FOR EMPLOYERS

SEC. 2201. REDUCTION IN CORPORATE INCOME TAX RATES AND REFORM OF BUSINESS TAX.

(a) IN GENERAL.—The Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives shall report legislation that will lower, consolidate, and simplify the corporate income tax system, with a top tax rate of 25 percent and a consolidation of the system into 2 tax rates. Such legislation shall be reported not later than 60 days after the date of the enactment of this Act and shall be revenue neutral as scored by the Joint Committee on Taxation using a current policy baseline.

(b) LEGISLATION GOALS.—Such reported legislation shall be required to achieve the following:

(1) REDUCED TAX LIABILITY.—Lower the overall tax rates for American corporations and businesses.

(2) SIMPLIFICATION.—Close tax loopholes and eliminate industry specific deductions and certain tax credits, including the elimination of industry specific taxes, at the discretion of each Committee, in order to reduce tax expenditures and simplify the tax code.

(3) TERRITORIAL TAX SYSTEM.—Establishment of a territorial tax system, including strong incentives to repatriate overseas capital, in lieu of the current worldwide tax system.

(4) CONSOLIDATION.—Provide necessary changes in order to consolidate the corporate income tax system with a total of two tax rates, the top tax rate of 25 percent and a lower tax rate as determined by the Committees as specified in subsection (a).

(c) ADDITIONAL CHANGES.—Such Committees shall include in such legislation any further changes to the corporate income tax system in order to ensure tax reductions and simplifications consistent with the goals of this Act.

TITLE III—WITHHOLDING TAX RELIEF ACT OF 2011

SEC. 2301. SHORT TITLE.

This title may be cited as the ''Withholding Tax Relief Act of 2011''.

SEC. 2302. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

SEC. 2303. RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds, $39,000,000,000 in appropriated discretionary funds are hereby permanently rescinded.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under subsection (a) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under the preceding sentence.

(c) EXCEPTION.—This section shall not apply to the unobligated funds of the Department of Defense or the Department of Veterans Affairs.

DIVISION C—REGULATION REFORM

TITLE I—REPEALING THE JOB-KILLING HEALTH CARE LAW ACT

SEC. 3101. REPEAL OF THE JOB-KILLING HEALTH CARE LAW AND HEALTH CARE-RELATED PROVISIONS IN THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010.

(a) JOB-KILLING HEALTH CARE LAW.—Effective as of the enactment of Public Law 111–148, such Act is repealed, and the provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted.

(b) HEALTH CARE-RELATED PROVISIONS IN THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010.—Effective as of the enactment of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), title I and subtitle B of title II of such Act are repealed, and the provisions of law

amended or repealed by such title or subtitle, respectively, are restored or revived as if such title and subtitle had not been enacted.

SEC. 3102. BUDGETARY EFFECTS OF THIS SUBTITLE.

The budgetary effects of this title, 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 title, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, as long as such statement has been submitted prior to the vote on passage of this title.

TITLE II—MEDICAL CARE ACCESS PROTECTION ACT OF 2011

SEC. 3201. SHORT TITLE.

This title may be cited as the ''Medical Care Access Protection Act of 2011'' or the ''MCAP Act''.

SEC. 3202. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this title is to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3203. DEFINITIONS.

In this title:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care institution, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(8) HEALTH CARE INSTITUTION.—The term ''health care institution'' means any entity licensed under Federal or State law to provide health care services (including but not limited to ambulatory surgical centers, assisted living facilities, emergency medical services providers, hospices, hospitals and hospital systems, nursing homes, or other entities licensed to provide such services).

(9) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(10) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider or health care institution, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term ''health care provider'' means any person (including but not limited to a physician (as defined by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)), registered nurse, dentist, podiatrist, pharmacist, chiropractor, or optometrist) required by State or Federal law to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(B) TREATMENT OF CERTAIN PROFESSIONAL ASSOCIATIONS.—For purposes of this Act, a professional association that is organized under State law by an individual physician or group of physicians, a partnership or limited liability partnership formed by a group of physicians, a nonprofit health corporation certified under State law, or a company formed by a group of physicians under State law shall be treated as a health care provider under subparagraph (A).

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss

of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(15) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider or health care institution. Punitive damages are neither economic nor noneconomic damages.

(16) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(17) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 3204. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

(a) IN GENERAL.—Except as otherwise provided for in this section, the time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.

(b) GENERAL EXCEPTION.—The time for the commencement of a health care lawsuit shall not exceed 3 years after the date of manifestation of injury unless the tolling of time was delayed as a result of—

(1) fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

(c) MINORS.—An action by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that if such minor is under the full age of 6 years, such action shall be commenced within 3 years of the manifestation of injury, or prior to the eighth birthday of the minor, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care institution have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

(d) RULE 11 SANCTIONS.—Whenever a Federal or State court determines (whether by motion of the parties or whether on the motion of the court) that there has been a violation of Rule 11 of the Federal Rules of Civil Procedure (or a similar violation of applicable State court rules) in a health care liability action to which this Act applies, the court shall impose upon the attorneys, law firms, or pro se litigants that have violated Rule 11 or are responsible for the violation, an appropriate sanction, which shall include an order to pay the other party or parties for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorneys' fee. Such sanction shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the party or parties injured by such conduct.

SEC. 3205. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this Act shall limit the recovery by a claimant of the full amount of the available economic damages, notwithstanding the limitation contained in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—

(1) HEALTH CARE PROVIDERS.—In any health care lawsuit where final judgment is rendered against a health care provider, the amount of noneconomic damages recovered from the provider, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties other than a health care institution against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(2) HEALTH CARE INSTITUTIONS.—

(A) SINGLE INSTITUTION.—In any health care lawsuit where final judgment is rendered against a single health care institution, the amount of noneconomic damages recovered from the institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(B) MULTIPLE INSTITUTIONS.—In any health care lawsuit where final judgment is rendered against more than one health care institution, the amount of noneconomic damages recovered from each institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence, except that the total amount recovered from all such institutions in such lawsuit shall not exceed $500,000.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit—

(1) an award for future noneconomic damages shall not be discounted to present value;

(2) the jury shall not be informed about the maximum award for noneconomic damages under subsection (b);

(3) an award for noneconomic damages in excess of the limitations provided for in subsection (b) shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law; and

(4) if separate awards are rendered for past and future noneconomic damages and the combined awards exceed the limitations described in subsection (b), the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 3206. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—

(1) IN GENERAL.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants.

(2) CONTINGENCY FEES.—

(A) IN GENERAL.—In any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity.

(B) LIMITATION.—The total of all contingent fees for representing all claimants in a health care lawsuit shall not exceed the following limits:

(i) Forty percent of the first $50,000 recovered by the claimant(s).

(ii) Thirty-three and one-third percent of the next $50,000 recovered by the claimant(s).

(iii) Twenty-five percent of the next $500,000 recovered by the claimant(s).

(iv) Fifteen percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—

(1) IN GENERAL.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution.

(2) MINORS.—In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 3207. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits

to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 3208. PUNITIVE DAMAGES.

(a) PUNITIVE DAMAGES PERMITTED.—

(1) IN GENERAL.—Punitive damages may, if otherwise available under applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer.

(2) FILING OF LAWSUIT.—No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages.

(3) SEPARATE PROCEEDING.—At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; and

(B) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(4) LIMITATION WHERE NO COMPENSATORY DAMAGES ARE AWARDED.—In any health care lawsuit where no judgment for compensatory damages is rendered against a person, no punitive damages may be awarded with respect to the claim in such lawsuit against such person.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages under this section, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may not exceed an amount equal to two times the amount of economic damages awarded in the lawsuit or $250,000, whichever is greater. The jury shall not be informed of the limitation under the preceding sentence.

(c) LIABILITY OF HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a drug, biological product, or medical device approved by the Food and Drug Administration, for an approved indication of the drug, biological product, or medical device, shall not be named as a party to a product liability lawsuit invoking such drug, biological product, or medical device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug, biological product, or medical device.

(2) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans. The terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

SEC. 3209. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 3210. EFFECT ON OTHER LAWS.

(a) GENERAL VACCINE INJURY.—

(1) IN GENERAL.—To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) SMALLPOX VACCINE INJURY.—

(1) IN GENERAL.—To the extent that part C of title II of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a smallpox vaccine-related injury or death—

(A) this Act shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such part C shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a smallpox vaccine-related injury or death to which a Federal rule of law under part C of title II of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(c) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available, or any limitation on liability that applies to, a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 3211. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act shall preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits.

(b) PREEMPTION OF CERTAIN STATE LAWS.—No provision of this Act shall be construed to preempt any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 5(a).

(c) PROTECTION OF STATE'S RIGHTS AND OTHER LAWS.—

(1) IN GENERAL.—Any issue that is not governed by a provision of law established by or under this Act (including the State standards of negligence) shall be governed by otherwise applicable Federal or State law.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(A) preempt or supersede any Federal or State law that imposes greater procedural or substantive protections (such as a shorter statute of limitations) for a health care provider or health care institution from liability, loss, or damages than those provided by this Act;

(B) preempt or supercede any State law that permits and provides for the enforcement of any arbitration agreement related to a health care liability claim whether enacted prior to or after the date of enactment of this Act;

(C) create a cause of action that is not otherwise available under Federal or State law; or

(D) affect the scope of preemption of any other Federal law.

SEC. 3212. APPLICABILITY; EFFECTIVE DATE.

This title shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of enactment of this title shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

TITLE III—FINANCIAL TAKEOVER REPEAL

SEC. 3301. REPEAL.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is repealed, and the provisions of law amended by such Act are revived or restored as if such Act had not been enacted.

TITLE IV—REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY (REINS ACT)

SEC. 3401. SHORT TITLE.

This title may be cited as ''REINS Act''.

SEC. 3402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Section 1 of article I of the United States Constitution grants all legislative powers to Congress.

(2) Over time, Congress has excessively delegated its constitutional charge while failing to conduct appropriate oversight and retain accountability for the content of the laws it passes.

(3) By requiring a vote in Congress, this Act will result in more carefully drafted and detailed legislation, an improved regulatory process, and a legislative branch that is truly accountable to the people of the United States for the laws imposed upon them.

(b) PURPOSE.—The purpose of this Act is to increase accountability for and transparency in the Federal regulatory process.

SEC. 3403. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Chapter 8 of title 5, United States Code, is amended to read as follows:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§ 801. Congressional review

''(a)(1)(A) Before a rule may take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule;

''(iii) a classification of the rule as a major or nonmajor rule, including an explanation of the classification specifically addressing each criteria for a major rule contained within sections 804(2)(A), 804(2)(B), and 804(2)(C);

''(iv) a list of any other related regulatory actions intended to implement the same statutory provision or regulatory objective as well as the individual and aggregate economic effects of those actions; and

''(v) the proposed effective date of the rule.

''(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions pursuant to title 5 of the United States Code, sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions pursuant to title 2 of the United States Code, sections 1532, 1533, 1534, and 1535; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

''(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect upon enactment of a joint resolution of approval described in section 802 or as provided for in the rule following enactment of a joint resolution of approval described in section 802, whichever is later.

''(4) A nonmajor rule shall take effect as provided by section 803 after submission to Congress under paragraph (1).

''(5) If a joint resolution of approval relating to a major rule is not enacted within the period provided in subsection (b)(2), then a joint resolution of approval relating to the same rule may not be considered under this chapter in the same Congress by either the House of Representatives or the Senate.

''(b)(1) A major rule shall not take effect unless the Congress enacts a joint resolution of approval described under section 802.

''(2) If a joint resolution described in subsection (a) is not enacted into law by the end of 70 session days or legislative days, as applicable, beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), then the rule described in that resolution shall be deemed not to be approved and such rule shall not take effect.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a major rule may take effect for one 90-calendar-day period if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the major rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to any statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

''(A) in the case of the Senate, 60 session days, or

''(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress is scheduled to adjourn a session of Congress through the date on which the same or succeeding Congress first convenes its next session, sections 802 and 803 shall apply to such rule in the succeeding session of Congress.

''(2)(A) In applying sections 802 and 803 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register on—

''(I) in the case of the Senate, the 15th session day, or

''(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"§ 802. Congressional approval procedure for major rules

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced on or after the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress approves the rule submitted by the __ __ relating to __ __.' (The blank spaces being appropriately filled in).

''(1) In the House, the majority leader of the House of Representatives (or his designee) and the minority leader of the House of Representatives (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 legislative days after Congress receives the report referred to in section 801(a)(1)(A).

''(2) In the Senate, the majority leader of the Senate (or his designee) and the minority leader of the Senate (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 session days after Congress receives the report referred to in section 801(a)(1)(A).

''(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

''(2) For purposes of this section, the term 'submission date' means the date on which the Congress receives the report submitted under section 801(a)(1).

''(c) In the Senate, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 session days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th session day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

''(d)(1) In the Senate, when the committee or committees to which a joint resolution is referred have reported, or when a committee or committees are discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

''(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be

divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

''(e)(1) In the House of Representatives, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 legislative days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th legislative day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

''(2)(A) A motion in the House of Representatives to proceed to the consideration of a resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(B) Debate in the House of Representatives on a resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to reconsider the vote by which a resolution is agreed to or disagreed to.

''(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

''(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

''(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply with respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(1) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(2) the vote on final passage shall be on the joint resolution of the other House.

''(g) The enactment of a resolution of approval does not serve as a grant or modification of statutory authority by Congress for the promulgation of a rule, does not extinguish or affect any claim, whether substantive or procedural, against any alleged defect in a rule, and shall not form part of the record before the court in any judicial proceeding concerning a rule.

''(h) This section and section 803 are enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Congressional disapproval procedure for nonmajor rules

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the nonmajor rule submitted by the __ __ relating to __ __, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

''(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

''(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the nonmajor rule is published in the Federal Register, if so published.

''(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after the date of introduction of the joint resolution, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

''(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

''(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

''(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a nonmajor rule—

''(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

''(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

''(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

''(1) The joint resolution of the other House shall not be referred to a committee.

''(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''§ 804. Definitions

''For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1);

''(2) the term 'major rule' means any rule, including an interim final rule, that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

''(A) an annual effect on the economy of $100,000,000 or more;

''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets;

''(3) the term 'nonmajor rule' means any rule that is not a major rule; and

''(4) the term 'rule' has the meaning given such term in section 551, except that such term does not include—

''(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefore, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

''(B) any rule relating to agency management or personnel; or

''(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of nonagency parties.

''§ 805. Judicial review

''(a) No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''(b) Notwithstanding subsection (a), a court may determine whether a Federal

agency has completed the necessary requirements under this chapter for a rule to take effect.

''§ 806. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

''§ 807. Effective date of certain rules

''Notwithstanding section 801—

''(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or

''(2) any rule other than a major rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.''.

TITLE V—REGULATION MORATORIUM AND JOBS PRESERVATION ACT

SEC. 3501. SHORT TITLE.

This title may be cited as the ''Regulation Moratorium and Jobs Preservation Act''.

SEC. 3502. DEFINITIONS.

In this title—

(1) the term ''agency'' has the meaning given under section 3502(1) of title 44, United States Code;

(2) the term ''regulatory action'' means any substantive action by an agency that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking;

(3) the term ''significant regulatory action'' means any regulatory action that is likely to result in a rule or guidance that may—

(A) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities;

(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) raise novel legal or policy issues; and

(4) the term ''small entities'' has the meaning given under section 601(6) of title 5, United States Code.

SEC. 3503. SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—No agency may take any significant regulatory action, until the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(b) DETERMINATION.—The Secretary of Labor shall submit a report to the Director of the Office of Management and Budget whenever the Secretary determines that the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

SEC. 3504. WAIVERS.

(a) NATIONAL SECURITY OR NATIONAL EMERGENCY.—The President may waive the application of section 3 to any significant regulatory action, if the President—

(1) determines that the waiver is necessary on the basis of national security or a national emergency; and

(2) submits notification to Congress of that waiver and the reasons for that waiver.

(b) ADDITIONAL WAIVERS.—

(1) SUBMISSION.—The President may submit a request to Congress for a waiver of the application of section 3 to any significant regulatory action.

(2) CONTENTS.—A submission under this subsection shall include—

(A) an identification of the significant regulatory action; and

(B) the reasons which necessitate a waiver for that significant regulatory action.

(3) CONGRESSIONAL ACTION.—Congress shall give expeditious consideration and take appropriate legislative action with respect to any waiver request submitted under this subsection.

SEC. 3505. JUDICIAL REVIEW.

(a) DEFINITION.—In this section, the term ''small business'' means any business, including an unincorporated business or a sole proprietorship, that employs not more than 500 employees or that has a net worth of less than $7,000,000 on the date a civil action arising under this Act is filed.

(b) REVIEW.—Any person that is adversely affected or aggrieved by any significant regulatory action in violation of this Act is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(c) JURISDICTION.—Each court having jurisdiction to review any significant regulatory action for compliance with any other provision of law shall have jurisdiction to review all claims under this Act.

(d) RELIEF.—In granting any relief in any civil action under this section, the court shall order the agency to take corrective action consistent with this Act and chapter 7 of title 5, United States Code, including remanding the significant regulatory action to the agency and enjoining the application or enforcement of that significant regulatory action, unless the court finds by a preponderance of the evidence that application or enforcement is required to protect against an imminent and serious threat to the national security from persons or states engaged in hostile or military activities against the United States.

(e) REASONABLE ATTORNEY FEES FOR SMALL BUSINESSES.—The court shall award reasonable attorney fees and costs to a substantially prevailing small business in any civil action arising under this Act. A party qualifies as substantially prevailing even without obtaining a final judgment in its favor if the agency changes its position as a result of the civil action.

(f) LIMITATION ON COMMENCING CIVIL ACTION.—A person may seek and obtain judicial review during the 1-year period beginning on the date of the challenged agency action or within 90 days after an enforcement action or notice thereof, except that where another provision of law requires that a civil action be commenced before the expiration of that 1-year period, such lesser period shall apply.

TITLE VI—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES ACT OF 2011

SEC. 3601. SHORT TITLE.

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011''.

SEC. 3602. 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. 3603. 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. 3604. 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. 3605. 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 2011, 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 2011—

''(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 2011—

''(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. 3606. 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) by striking ''a covered agency'' the first place it appears 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), as amended by section 1100G(a) of Public Law 111–203 (124 Stat. 2112), and inserting the following:

''(d)(1)(A) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor shall be—

''(i) agencies designated under this subsection; and

''(ii) subject to the requirements of subsection (b).

''(B) On and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582), the Bureau of Consumer Financial Protection shall be—

''(i) an agency designated under this subsection; and

''(ii) 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 2011;

''(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 2011; 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 2011.

''(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, as added by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), 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''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and apply on and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582).

SEC. 3607. 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. 3608. 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 3 of this Act, 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. 3609. 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 2011, 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 2011, 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. 3610. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), 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. 3611. 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. 3612. 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. 3613. FUNDING AND OFFSETS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Small Business Administration, for any costs of carrying out this Act and the amendments made by this Act (including the costs of hiring additional employees)—

(1) $1,000,000 for fiscal year 2012;

(2) $2,000,000 for fiscal year 2013; and

(3) $3,000,000 for fiscal year 2014.

(b) REPEALS.—In order to offset the costs of carrying out this Act and the amendments made by this Act and to reduce the Federal deficit, the following provisions of law are repealed, effective on the date of enactment of this Act:

(1) Section 21(n) of the Small Business Act (15 U.S.C. 648).

(2) Section 27 of the Small Business Act (15 U.S.C. 654).

(3) Section 1203(c) of the Energy Security and Efficiency Act of 2007 (15 U.S.C. 657h(c)).

SEC. 3614. 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.''.

TITLE VII—UNFUNDED MANDATES ACCOUNTABILITY ACT

SEC. 3701. SHORT TITLE.

This title may be cited as the ''Unfunded Mandates Accountability Act''.

SEC. 3702. FINDINGS.

Congress finds the following:

(1) The public has a right to know the benefits and costs of regulation. Effective regulatory programs provide important benefits to the public, including protecting the environment, worker safety, and human health. Regulations also impose significant costs on individuals, employers, State, local, and tribal governments, diverting resources from other important priorities.

(2) Better regulatory analysis and review should improve the quality of agency decisions, increasing the benefits and reducing unwarranted costs of regulation.

(3) Disclosure and scrutiny of key information underlying agency decisions should make Government more accountable to the public it serves.

SEC. 3703. REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.

(a) REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.—Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 202. REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by striking subsection (a) and inserting the following:

''(a) DEFINITION.—In this section, the term 'cost' means the cost of compliance and any reasonably foreseeable indirect costs, including revenues lost as a result of an agency rule subject to this section.

''(b) IN GENERAL.—Before promulgating any proposed or final rule that may have an annual effect on the economy of $100,000,000 or more (adjusted for inflation), or that may result in the expenditure by State, local, and tribal governments, in the aggregate, of $100,000,000 or more (adjusted for inflation) in any 1 year, each agency shall prepare and publish in the Federal Register an initial and final regulatory impact analysis. The initial regulatory impact analysis shall accompany the agency's notice of proposed rulemaking and shall be open to public comment. The final regulatory impact analysis shall accompany the final rule.

''(c) CONTENT.—The initial and final regulatory impact analysis under subsection (b) shall include—

''(1)(A) an analysis of the anticipated benefits and costs of the rule, which shall be quantified to the extent feasible;

''(B) an analysis of the benefits and costs of a reasonable number of regulatory alternatives within the range of the agency's discretion under the statute authorizing the rule, including alternatives that—

''(i) require no action by the Federal Government; and

''(ii) use incentives and market-based means to encourage the desired behavior, provide information upon which choices can be made by the public, or employ other flexible regulatory options that permit the greatest flexibility in achieving the objectives of the statutory provision authorizing the rule; and

''(C) an explanation that the rule meets the requirements of section 205;

''(2) an assessment of the extent to which—

''(A) the costs to State, local and tribal governments may be paid with Federal financial assistance (or otherwise paid for by the Federal Government); and

''(B) there are available Federal resources to carry out the rule;

''(3) estimates of—

''(A) any disproportionate budgetary effects of the rule upon any particular regions of the Nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector; and

''(B) the effect of the rule on job creation or job loss, which shall be quantified to the extent feasible; and

''(4)(A) a description of the extent of the agency's prior consultation with elected representatives (under section 204) of the affected State, local, and tribal governments;

''(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency; and

''(C) a summary of the agency's evaluation of those comments and concerns.'';

(4) in subsection (d) (as redesignated by paragraph (2) of this subsection), by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(5) in subsection (e) (as redesignated by paragraph (2) of this subsection), by striking ''subsection (a)'' each place that term appears and inserting ''subsection (b)''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Unfunded Mandates Reform Act of 1995 is amended by striking the item relating to section 202 and inserting the following:

''Sec. 202. Regulatory impact analyses for certain rules.''.

SEC. 3704. LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.

Section 205 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1535) is amended by striking section 205 and inserting the following:

''SEC. 205. LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.

''Before promulgating any proposed or final rule for which a regulatory impact analysis is required under section 202, the agency shall—

''(1) identify and consider a reasonable number of regulatory alternatives within the range of the agency's discretion under the statute authorizing the rule, including alternatives required under section 202(b)(1)(B); and

''(2) from the alternatives described under paragraph (1), select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the statute.''.

SEC. 3705. INCLUSION OF APPLICATION TO INDEPENDENT REGULATORY AGENCIES.

(a) IN GENERAL.—Section 421(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(1)) is amended by striking '', but does not include independent regulatory agencies''.

(b) EXEMPTION FOR MONETARY POLICY.—The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.) is amended by inserting after section 5 the following:

''SEC. 6. EXEMPTION FOR MONETARY POLICY.

''Nothing in title II, III, or IV shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

SEC. 3706. JUDICIAL REVIEW.

The Unfunded Mandates Reform Act of 1995 is amended by striking section 401 (2 U.S.C. 1571) and inserting the following:

''SEC. 401. JUDICIAL REVIEW.

''(a) IN GENERAL.—For any rule subject to section 202, a party aggrieved by final agency action is entitled to judicial review of an agency's analysis under and compliance with sections 202 (b) and (c)(1) and 205. The scope of review shall be governed by chapter 7 of title 5, United States Code.

''(b) JURISDICTION.—Each court having jurisdiction to review a rule subject to section 202 for compliance with section 553 of title 5, United States Code, or under any other provision of law, shall have jurisdiction to review any claims brought under subsection (a) of this section.

''(c) RELIEF AVAILABLE.—In granting relief in an action under this section, the court shall order the agency to take remedial action consistent with chapter 7 of title 5, United States Code, including remand and vacatur of the rule.''.

SEC. 3707. EFFECTIVE DATE.

This title shall take effect 90 days after the date of enactment of this title.

TITLE VIII—GOVERNMENT LITIGATION SAVINGS ACT

SEC. 3801. SHORT TITLE.

This title may be cited as the ''Government Litigation Savings Act''.

SEC. 3802. MODIFICATION OF EQUAL ACCESS TO JUSTICE PROVISIONS.

(a) AGENCY PROCEEDINGS.—

(1) ELIGIBILITY PARTIES; ATTORNEY FEES.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by inserting after ''prevailing party'' the following: ''who has a direct and personal monetary interest in the adjudication, including because of personal injury, property damage, or unpaid agency disbursement,''; and

(B) in subsection (b)(1)—

(i) in subparagraph (A)(ii), by striking ''$125 per hour'' and all that follows through ''a higher fee'' and inserting ''$175 per hour''; and

(ii) in subparagraph (B), by striking ''; except that'' and all that follows through ''section 601''.

(2) REDUCTION OR DENIAL OF AWARDS.—Section 504(a)(3) of title 5, United States Code, is amended in the first sentence—

(A) by striking ''may reduce the amount to be awarded, or deny an award,'' and inserting ''shall reduce the amount to be awarded, or deny an award, commensurate with pro bono hours and related fees and expenses, or'';

(B) by striking ''unduly and''; and

(C) by striking ''controversy.'' and inserting ''controversy or acted in an obdurate, dilatory, mendacious, or oppressive manner, or in bad faith.''.

(3) LIMITATION ON AWARDS.—Section 504(a) of title 5, United States Code, is amended by adding at the end the following:

''(5) A party may not receive an award of fees and other expenses under this section—

''(A) in excess of $200,000 in any single adversary adjudication, or

''(B) for more than 3 adversary adjudications initiated in the same calendar year,

unless the adjudicative officer of the agency determines that an award exceeding such limits is required to avoid severe and unjust harm to the prevailing party.''.

(4) REPORTING IN AGENCY ADJUDICATIONS.—Section 504 of such title is amended—

(A) in subsection (c)(1), by striking '', United States Code''; and

(B) by striking subsection (e) and inserting the following:

''(e)(1) The Chairman of the Administrative Conference of the United States shall issue an annual, online report to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the nature of and claims involved in each controversy (including the law under which the controversy arose), and any other relevant information that may aid the Congress in evaluating the scope and impact of such awards. The report shall be made available to the public online, and contain a searchable database of the total awards given, and the total number of applications for the award of fees and other expenses that were filed, defended, and heard, and shall include, with respect to each such application, the following:

''(A) The name of the party seeking the award of fees and other expenses.

''(B) The agency to which the application for the award was made.

''(C) The names of the administrative law judges in the adversary adjudication that is the subject of the application.

''(D) The disposition of the application, including any appeal of action taken on the application.

''(E) The amount of each award.

''(F) The hourly rates of expert witnesses stated in the application that was awarded.

''(G) With respect to each award of fees and other expenses, the basis for the finding that the position of the agency concerned was not substantially justified.

''(2)(A) The report under paragraph (1) shall cover payments of fees and other expenses under this section that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is otherwise subject to nondisclosure provisions.

''(B) The disclosure of fees and other expenses required under subparagraph (A) does not affect any other information that is subject to nondisclosure provisions in the settlement agreement.''.

(5) ADJUSTMENT OF ATTORNEY FEES.—Section 504 of such title is amended by adding at the end the following:

''(g) The Director of the Office of Management and Budget may adjust the maximum hourly fee set forth in subsection (b)(1)(A)(ii) for the fiscal year beginning October 1, 2012, and for each fiscal year thereafter, to reflect changes in the Consumer Price Index, as determined by the Secretary of Labor.''.

(b) COURT CASES.—

(1) ELIGIBILITY PARTIES; ATTORNEY FEES; LIMITATION ON AWARDS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''in any civil action'' and all that follows through ''jurisdiction of that action'' and inserting ''in the civil action''; and

(II) by striking ''shall award to a prevailing party other than the United States'' and inserting the following: '', in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, shall award to a prevailing party who has a direct and personal monetary interest in the civil action, including because of personal injury, property damage, or unpaid agency disbursement, other than the United States,''; and

(ii) by adding at the end the following:

''(E) An individual or entity may not receive an award of fees and other expenses under this subsection in excess of—

''(i) $200,000 in any single civil action, or

''(ii) for more than 3 civil actions initiated in the same calendar year,

unless the presiding judge determines that an award exceeding such limits is required to avoid severe and unjust harm to the prevailing party.''; and

(B) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''$125 per hour'' and all that follows through ''a higher fee'' and inserting ''$175 per hour''; and

(ii) in subparagraph (B), by striking ''; except that'' and all that follows through ''section 601''.

(2) REDUCTION OR DENIAL OF AWARDS.—Section 2412(d)(1)(C) of title 28, United States Code, is amended—

(A) by striking '', in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award,'' and inserting ''shall reduce the amount to be awarded under this subsection, or deny an award, commensurate with pro bono hours and related fees and expenses, or'';

(B) by striking ''unduly and''; and

(C) by striking ''controversy.'' and inserting ''controversy or acted in an obdurate, dilatory, mendacious, or oppressive manner, or in bad faith.''.

(3) ADJUSTMENT OF ATTORNEY FEES.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

''(5) The Director of the Office of Management and Budget may adjust the maximum hourly fee set forth in paragraph (2)(A)(ii) for the fiscal year beginning October 1, 2012, and for each fiscal year thereafter, to reflect changes in the Consumer Price Index, as determined by the Secretary of Labor.''.

(4) REPORTING.—Section 2412(d) of title 28, United States Code, is further amended by adding at the end the following:

''(6)(A) The Chairman of the Administrative Conference of the United States shall issue an annual, online report to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the nature of and claims involved in each controversy (including the law under which the controversy arose), and any other relevant information that may aid the Congress in evaluating the scope and impact of such awards. The report shall be made available to the public online and shall contain a searchable database of total awards given and the total number of cases filed, defended, or heard, and shall include with respect to each such case the following:

''(i) The name of the party seeking the award of fees and other expenses in the case.

''(ii) The district court hearing the case.

''(iii) The names of the presiding judges in the case.

''(iv) The agency involved in the case.

''(v) The disposition of the application for fees and other expenses, including any appeal of action taken on the application.

''(vi) The amount of each award.

''(vii) The hourly rates of expert witnesses stated in the application that was awarded.

''(viii) With respect to each award of fees and other expenses, the basis for the finding that the position of the agency concerned was not substantially justified.

''(B)(i) The report under subparagraph (A) shall cover payments of fees and other expenses under this subsection that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is otherwise subject to nondisclosure provisions.

''(ii) The disclosure of fees and other expenses required under clause (i) does not affect any other information that is subject to nondisclosure provisions in the settlement agreement.

''(C) The Chairman of the Administrative Conference shall include in the annual report under subparagraph (A), for each case in which an award of fees and other expenses is included in the report—

''(i) any amounts paid from section 1304 of title 31 for a judgment in the case;

''(ii) the amount of the award of fees and other expenses; and

''(iii) the statute under which the plaintiff filed suit.

''(D) The Attorney General of the United States shall provide to the Chairman of the Administrative Conference of the United States such information as the Chairman requests to carry out this paragraph.''.

(c) EFFECTIVE DATE.—

(1) MODIFICATIONS TO PROCEDURES.—The amendments made by—

(A) paragraphs (1), (2), and (3) of subsection (a) shall apply with respect to adversary adjudications commenced on or after the date of the enactment of this Act; and

(B) paragraphs (1) and (2) of subsection (b) shall apply with respect to civil actions commenced on or after such date of enactment.

(2) REPORTING.—The amendments made by paragraphs (4) and (5) of subsection (a) and by paragraphs (3) and (4) of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 3803. GAO STUDY.

Not later than 30 days after the date of the enactment of this Act, the Comptroller General shall commence an audit of the implementation of the Equal Access to Justice Act for the years 1995 through the end of the calendar year in which this Act is enacted. The Comptroller General shall, not later than 1 year after the end of the calendar year in which this Act is enacted, complete such audit and submit to the Congress a report on the results of the audit.

TITLE IX—EMPLOYMENT PROTECTION ACT OF 2011

SEC. 3901. SHORT TITLE.

This title may be cited as the ''Employment Protection Act of 2011''.

SEC. 3902. IMPACTS OF EPA REGULATORY ACTIVITY ON EMPLOYMENT AND ECONOMIC ACTIVITY.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) DE MINIMIS NEGATIVE IMPACT.—The term ''de minimis negative impact'' means—

(A) with respect to employment levels, a loss of more than 100 jobs, subject to the condition that any offsetting job gains that result from the hypothetical creation of new jobs through new technologies or government employment may not be used to offset the job loss calculation; and

(B) with respect to economic activity, a decrease in economic activity of more than $1,000,000 during any calendar year, subject to the condition that any offsetting economic activity that results from the hypothetical creation of new economic activity through new technologies or government employment may not be used in the economic activity calculation.

(b) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOYMENT AND ECONOMIC ACTIVITY.—

(1) ANALYSIS.—Prior to promulgating any regulation or other requirement, issuing any policy statement, guidance document, or endangerment finding, implementing any new or substantially altered program, or denying any permit, the Administrator shall analyze the impact on employment levels and economic activity, disaggregated by State, of the regulation, requirement, policy statement, guidance document, endangerment finding, program, or permit denial.

(2) ECONOMIC MODELS.—

(A) IN GENERAL.—In carrying out paragraph (1), the Administrator shall use the best available economic models.

(B) ANNUAL GAO REPORT.—Not later than December 31, 2011, and annually thereafter, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the economic models used by the Administrator to carry out this subsection.

(3) AVAILABILITY OF INFORMATION.—With respect to any regulation, requirement, policy statement, guidance document, endangerment finding, program, or permit denial, the Administrator shall—

(A) post the analysis under paragraph (1) as a link on the main page of the public Internet website of the Environmental Protection Agency; and

(B) request that the Governor of any State experiencing more than a de minimis negative impact post the analysis in the Capitol of the State.

(4) CLEAN WATER ACT AND OTHER PERMITS.—Each analysis under paragraph (1) shall include a description of estimated job losses and decreased economic activity due to the denial of a permit, including any permit denied under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(c) PUBLIC HEARINGS.—

(1) IN GENERAL.—If the Administrator concludes under subsection (b)(1) that a regulation, requirement, policy statement, guidance document, endangerment finding, program, or permit denial will have more than a de minimis negative impact on employment levels or economic activity in a State, the Administrator shall hold a public hearing in each such State not less than—

(A) 30 days before the effective date of the regulation, requirement, policy statement, guidance document, endangerment finding, or program; or

(B) 48 hours before the denial of a permit.

(2) TIME, LOCATION, AND SELECTION.—

(A) IN GENERAL.—A public hearing required by paragraph (1) shall be held at a convenient time and location for impacted residents.

(B) LOCATION.—In selecting a location for a public hearing under subparagraph (A), the Administrator shall give priority to locations in the State that will experience the greatest number of job losses.

(3) CITIZEN SUITS.—

(A) IN GENERAL.—If a public hearing is required by paragraph (1) with respect to any State, and the Administrator fails to hold such a public hearing in accordance with paragraphs (1) and (2), any resident of the State may bring an action in any United States district court in the State to compel compliance by the Administrator.

(B) RELIEF.—If a resident prevails in an action against the Administrator under subparagraph (A), the United States district court—

(i) shall enjoin the regulation, requirement, policy statement, guidance document, endangerment finding, program, or permit denial that is the subject of the action; and

(ii) may award reasonable attorneys' fees and costs.

(C) APPEAL.—On appeal of an injunction issued under subparagraph (B)(i), a United States court of appeals—

(i) shall require the submission of briefs not later than 30 days after the date of filing of the appeal;

(ii) may not stay the injunction prior to hearing oral arguments; and

(iii) shall make a final decision not later than 90 days after the date of filing of the appeal.

(d) NOTIFICATION.—If the Administrator concludes under subsection (b)(1) that a regulation, requirement, policy statement, guidance document, endangerment finding, program, or permit denial will have more than a de minimis negative impact on employment levels or economic activity in any State, the Administrator shall provide a notice of the de minimis negative impact to the congressional delegation, Governor, and legislature of the affected State not later than—

(1) 45 days before the effective date of the regulation, requirement, policy statement, guidance document, endangerment finding, requirement, or program; or

(2) 7 days before the denial of the permit.

TITLE X—FARM DUST REGULATION PREVENTION ACT

SEC. 3931. SHORT TITLE.

This title may be cited as the ''Farm Dust Regulation Prevention Act''.

SEC. 3932. NUISANCE DUST.

Part A of title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY STATE, TRIBAL, AND LOCAL GOVERNMENTS.

''(a) DEFINITION OF NUISANCE DUST.—In this section, the term 'nuisance dust' means particulate matter—

''(1) generated from natural sources, unpaved roads, agricultural activities, earth moving, or other activities typically conducted in rural areas; or

''(2) consisting primarily of soil, windblown dust, or other natural or biological materials, or some combination of those materials.

''(b) APPLICABILITY.—Except as provided in subsection (c), this Act does not apply to, and references in this Act to particulate matter are deemed to exclude, nuisance dust.

''(c) EXCEPTION.—Subsection (b) does not apply with respect to any geographical area in which nuisance dust is not regulated under State, tribal, or local law to the extent that the Administrator finds that—

''(1) nuisance dust (or any subcategory of nuisance dust) causes substantial adverse public health and welfare effects at ambient concentrations; and

''(2) the benefits of applying standards and other requirements of this Act to nuisance dust (or such a subcategory of nuisance dust) outweigh the costs (including local and regional economic and employment impacts) of applying those standards and other requirements to nuisance dust (or such a subcategory).''.

SEC. 3933. TEMPORARY PROHIBITION AGAINST REVISING ANY NATIONAL AMBIENT AIR QUALITY STANDARD APPLICABLE TO COARSE PARTICULATE MATTER.

Before the date that is 1 year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency may not propose, finalize, implement, or enforce any regulation revising the national primary ambient air quality standard or the national secondary ambient air quality standard applicable to particulate matter with an aerodynamic diameter greater than 2.5 micrometers under section 109 of the Clean Air Act (42 U.S.C. 7409).

TITLE XI—NATIONAL LABOR RELATIONS BOARD REFORM

SEC. 3951. SHORT TITLE.

This title may be cited as the ''National Labor Relations Board Reform Act''.

SEC. 3952. AUTHORITY OF THE NLRB.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160) is amended by inserting before the period at the end the following: '': *Provided further*, That the Board shall have no power to order an employer (or seek an order against an employer) to restore or reinstate any work, product, production line, or equipment, to rescind any relocation, transfer, subcontracting, outsourcing, or other change regarding the location, entity, or employer who shall be engaged in production or other business operations, or to require any employer to make an initial or additional investment at a particular plant, facility, or location''.

SEC. 3953. RETROACTIVITY.

The amendment made by section 3952 shall apply to any complaint for which a final adjudication by the National Labor Relations Board has not been made by the date of enactment of this Act.

TITLE XII—GOVERNMENT NEUTRALITY IN CONTRACTING ACT

SEC. 3971. SHORT TITLE.

This title may be cited as the ''Government Neutrality in Contracting Act''.

SEC. 3972. PURPOSES.

It is the purpose of this title to—

(1) promote and ensure open competition on Federal and federally funded or assisted construction projects;

(2) maintain Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded or assisted construction projects;

(3) reduce construction costs to the Federal Government and to the taxpayers;

(4) expand job opportunities, especially for small and disadvantaged businesses; and

(5) prevent discrimination against Federal Government contractors or their employees based upon labor affiliation or the lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects.

SEC. 3973. PRESERVATION OF OPEN COMPETITION AND FEDERAL GOVERNMENT NEUTRALITY.

(a) PROHIBITION.—

(1) GENERAL RULE.—The head of each executive agency that awards any construction contract after the date of enactment of this Act, or that obligates funds pursuant to such a contract, shall ensure that the agency, and any construction manager acting on behalf of the Federal Government with respect to such contract, in its bid specifications, project agreements, or other controlling documents does not—

(A) require or prohibit a bidder, offeror, contractor, or subcontractor from entering into, or adhering to, agreements with 1 or more labor organization, with respect to that construction project or another related construction project; or

(B) otherwise discriminate against a bidder, offeror, contractor, or subcontractor because such bidder, offeror, contractor, or subcontractor—

(i) becomes a signatory, or otherwise adheres to, an agreement with 1 or more labor organization with respect to that construction project or another related construction project; or

(ii) refuses to become a signatory, or otherwise adheres to, an agreement with 1 or more labor organization with respect to that construction project or another related construction project.

(2) APPLICATION OF PROHIBITION.—The provisions of this section shall not apply to contracts awarded prior to the date of enactment of this Act, and subcontracts awarded pursuant to such contracts regardless of the date of such subcontracts.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a contractor or subcontractor from voluntarily entering into an agreement described in such paragraph.

(b) RECIPIENTS OF GRANTS AND OTHER ASSISTANCE.—The head of each executive agency that awards grants, provides financial assistance, or enters into cooperative agreements for construction projects after the date of enactment of this Act, shall ensure that—

(1) the bid specifications, project agreements, or other controlling documents for such construction projects of a recipient of a grant or financial assistance, or by the parties to a cooperative agreement, do not contain any of the requirements or prohibitions described in subparagraph (A) or (B) of subsection (a)(1); or

(2) the bid specifications, project agreements, or other controlling documents for such construction projects of a construction manager acting on behalf of a recipient or party described in paragraph (1) do not contain any of the requirements or prohibitions described in subparagraph (A) or (B) of subsection (a)(1).

(c) FAILURE TO COMPLY.—If an executive agency, a recipient of a grant or financial assistance from an executive agency, a party to a cooperative agreement with an executive agency, or a construction manager acting on behalf of such an agency, recipient, or party, fails to comply with subsection (a) or (b), the head of the executive agency awarding the contract, grant, or assistance, or entering into the agreement, involved shall take such action, consistent with law, as the head of the agency determines to be appropriate.

(d) EXEMPTIONS.—

(1) IN GENERAL.—The head of an executive agency may exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of 1 or more of the provisions of subsections (a) and (b) if the head of such agency determines that special circumstances exist that require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

(2) SPECIAL CIRCUMSTANCES.—For purposes of paragraph (1), a finding of ''special circumstances'' may not be based on the possibility or existence of a labor dispute concerning contractors or subcontractors that are nonsignatories to, or that otherwise do not adhere to, agreements with 1 or more labor organization, or labor disputes concerning employees on the project who are not members of, or affiliated with, a labor organization.

(3) ADDITIONAL EXEMPTION FOR CERTAIN PROJECTS.—The head of an executive agency, upon application of an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of any of such entities, may exempt a particular project from the requirements of any or all of the provisions of subsections (a) or (c) if the agency head finds—

(A) that the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of any of such entities had issued or was a party to, as of the date of the enactment of this Act, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions set forth in subsection (a)(1); and

(B) that one or more construction contracts subject to such requirements or prohibitions had been awarded as of the date of the enactment of this Act.

(e) FEDERAL ACQUISITION REGULATORY COUNCIL.—With respect to Federal contracts to which this section applies, not later than 60 days after the date of enactment of this Act, the Federal Acquisition Regulatory Council shall take appropriate action to amend the Federal Acquisition Regulation to implement the provisions of this section.

(f) DEFINITIONS.—In this section:

(1) CONSTRUCTION CONTRACT.—The term ''construction contract'' means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given such term in section 133 of title 41, United States Code, except that such term shall not include the Government Accountability Office.

(3) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

TITLE XIII—FINANCIAL REGULATORY RESPONSIBILITY ACT

SEC. 3981. SHORT TITLE.

This title may be cited as the ''Financial Regulatory Responsibility Act''.

SEC. 3982. DEFINITIONS.

As used in this title—

(1) the term ''agency'' means the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Financial Stability Oversight Council, the Office of the Comptroller of the Currency, the Office of Financial Research, the National Credit Union Administration, and the Securities and Exchange Commission;

(2) the term ''chief economist'' means—

(A) with respect to the Board of Governors of the Federal Reserve System, the Director of the Division of Research and Statistics, or an employee of the agency with comparable authority;

(B) with respect to the Bureau of Consumer Financial Protection, the Assistant Director for Research, or an employee of the agency with comparable authority;

(C) with respect to the Commodity Futures Trading Commission, the Chief Economist, or an employee of the agency with comparable authority;

(D) with respect to the Federal Deposit Insurance Corporation, the Director of the Division of Insurance and Research, or an employee of the agency with comparable authority;

(E) with respect to the Federal Housing Finance Agency, the Chief Economist, or an employee of the agency with comparable authority;

(F) with respect to the Financial Stability Oversight Council, the Chief Economist, or an employee of the agency with comparable authority;

(G) with respect to the Office of the Comptroller of the Currency, the Director for Policy Analysis, or an employee of the agency with comparable authority;

(H) with respect to the Office of Financial Research, the Director, or an employee of the agency with comparable authority;

(I) with respect to the National Credit Union Administration, the Chief Economist, or an employee of the agency with comparable authority; and

(J) with respect to the Securities and Exchange Commission, the Director of the Division of Risk, Strategy, and Financial Innovation, or an employee of the agency with comparable authority;

(3) the term ''Council'' means the Chief Economists Council established under section 9; and

(4) the term ''regulation''—

(A) means an agency statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the agency intends to have the force and effect of law;

(B) does not include—

(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

(ii) a regulation that is limited to agency organization, management, or personnel matters;

(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision;

(iv) a regulation that is certified by the agency to be an emergency action, if such certification is published in the Federal Register; or

(v) a regulation that is promulgated by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee under section 10A, 10B, 13, 13A, or 19 of the Federal Reserve Act, or any of subsections (a) through (f) of section 14 of that Act.

SEC. 3983. REQUIRED REGULATORY ANALYSIS.

(a) REQUIREMENTS FOR NOTICES OF PROPOSED RULEMAKING.—An agency may not issue a notice of proposed rulemaking unless the agency includes in the notice of proposed rulemaking an analysis that contains, at a minimum, with respect to each regulation that is being proposed—

(1) an identification of the need for the regulation and the regulatory objective, including identification of the nature and significance of the market failure, regulatory failure, or other problem that necessitates the regulation;

(2) an explanation of why the private market or State, local, or tribal authorities cannot adequately address the identified market failure or other problem;

(3) an analysis of the adverse impacts to regulated entities, other market participants, economic activity, or agency effectiveness that are engendered by the regulation and the magnitude of such adverse impacts;

(4) a quantitative and qualitative assessment of all anticipated direct and indirect costs and benefits of the regulation (as compared to a benchmark that assumes the absence of the regulation), including—

(A) compliance costs;

(B) effects on economic activity, net job creation (excluding jobs related to ensuring compliance with the regulation), efficiency, competition, and capital formation;

(C) regulatory administrative costs; and

(D) costs imposed by the regulation on State, local, or tribal governments or other regulatory authorities;

(5) if quantified benefits do not outweigh quantitative costs, a justification for the regulation;

(6) identification and assessment of all available alternatives to the regulation, including modification of an existing regulation or statute, together with—

(A) an explanation of why the regulation meets the objectives of the regulation more effectively than the alternatives, and if the agency is proposing multiple alternatives, an explanation of why a notice of proposed rulemaking, rather than an advanced notice of proposed rulemaking, is appropriate; and

(B) if the regulation is not a pilot program, an explanation of why a pilot program is not appropriate;

(7) if the regulation specifies the behavior or manner of compliance, an explanation of why the agency did not instead specify performance objectives;

(8) an assessment of how the burden imposed by the regulation will be distributed among market participants, including whether consumers, investors, or small businesses will be disproportionately burdened;

(9) an assessment of the extent to which the regulation is inconsistent, incompatible, or duplicative with the existing regulations of the agency or those of other domestic and international regulatory authorities with overlapping jurisdiction;

(10) a description of any studies, surveys, or other data relied upon in preparing the analysis;

(11) an assessment of the degree to which the key assumptions underlying the analysis are subject to uncertainty; and

(12) an explanation of predicted changes in market structure and infrastructure and in behavior by market participants, including consumers and investors, assuming that they will pursue their economic interests.

(b) REQUIREMENTS FOR NOTICES OF FINAL RULEMAKING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an agency may not issue a notice of final rulemaking with respect to a regulation unless the agency—

(A) has issued a notice of proposed rulemaking for the relevant regulation;

(B) has conducted and includes in the notice of final rulemaking an analysis that contains, at a minimum, the elements required under subsection (a); and

(C) includes in the notice of final rulemaking regulatory impact metrics selected by the chief economist to be used in preparing the report required pursuant to section 6.

(2) CONSIDERATION OF COMMENTS.—The agency shall incorporate in the elements described in paragraph (1)(B) the data and analyses provided to the agency by commenters during the comment period, or explain why the data or analyses are not being incorporated.

(3) COMMENT PERIOD.—An agency shall not publish a notice of final rulemaking with respect to a regulation, unless the agency—

(A) has allowed at least 90 days from the date of publication in the Federal Register of the notice of proposed rulemaking for the submission of public comments; or

(B) includes in the notice of final rulemaking an explanation of why the agency was not able to provide a 90-day comment period.

(4) PROHIBITED RULES.—

(A) IN GENERAL.—An agency may not publish a notice of final rulemaking if the agency, in its analysis under paragraph (1)(B), determines that the quantified costs are greater than the quantified benefits under subsection (a)(5).

(B) PUBLICATION OF ANALYSIS.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, the agency shall publish in the Federal Register and on the public website of the agency its analysis under paragraph (1)(B), and provide the analysis to each House of Congress.

(C) CONGRESSIONAL WAIVER.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, Congress, by joint resolution pursuant to the procedures set forth for joint resolutions in section 802 of title 5, United States Code, may direct the agency to publish a notice of final rulemaking notwithstanding the prohibition contained in subparagraph (A). In applying section 802 of title 5, United States Code, for purposes of this paragraph, section 802(e)(2) shall not apply and the term—

(i) ''joint resolution'' or ''joint resolution described in subsection (a)'' means only a joint resolution introduced during the period beginning on the submission or publication date and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ''That Congress directs, notwithstanding the prohibition contained in (3)(b)(4)(A) of the Financial Regulatory Responsibility Act of 2011, the ____ to publish the notice of final rulemaking for the regulation or regulations that were the subject of the analysis submitted by the ____ to Congress on ____.'' (The blank spaces being appropriately filled in.); and

(ii) ''submission or publication date'' means—

(I) the date on which the analysis under paragraph (1)(B) is submitted to Congress under paragraph (4)(B); or

(II) if the analysis is submitted to Congress less than 60 session days or 60 legislative days before the date on which the Congress adjourns a session of Congress, the date on which the same or succeeding Congress first convenes its next session.

SEC. 3984. RULE OF CONSTRUCTION.

For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), obtaining, causing to be obtained, or soliciting information for purposes of complying with section 3 with respect to a proposed rulemaking shall not be construed to be a collection of information, provided that the agency has first issued an advanced notice of proposed rulemaking in connection with the regulation, identifies that advanced notice of proposed rulemaking in its solicitation of information, and informs the person from whom the information is obtained or solicited that the provision of information is voluntary.

SEC. 3985. PUBLIC AVAILABILITY OF DATA AND REGULATORY ANALYSIS.

(a) IN GENERAL.—At or before the commencement of the public comment period with respect to a regulation, the agency shall make available on its public website sufficient information about the data, methodologies, and assumptions underlying the analyses performed pursuant to section 3 so that the analytical results of the agency are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(b) CONFIDENTIALITY.—The agency shall comply with subsection (a) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

SEC. 3986. FIVE-YEAR REGULATORY IMPACT ANALYSIS.

(a) IN GENERAL.—Not later than 5 years after the date of publication in the Federal Register of a notice of final rulemaking, the chief economist of the agency shall issue a report that examines the economic impact of the subject regulation, including the direct and indirect costs and benefits of the regulation.

(b) REGULATORY IMPACT METRICS.—In preparing the report required by subsection (a), the chief economist shall employ the regulatory impact metrics included in the notice of final rulemaking pursuant to section 3(b)(1)(C).

(c) REPRODUCIBILITY.—The report shall include the data, methodologies, and assumptions underlying the evaluation so that the agency's analytical results are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(d) CONFIDENTIALITY.—The agency shall comply with subsection (c) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

(e) REPORT.—The agency shall submit the report required by subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and post it on the public website of the agency. The Commodity Futures Trading Commission shall also submit its report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 3987. RETROSPECTIVE REVIEW OF EXISTING RULES.

(a) REGULATORY IMPROVEMENT PLAN.—Not later than 1 year after the date of enactment of this title and every 5 years thereafter, each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a plan, consistent with law and its resources and regulatory priorities, under which the agency will modify, streamline,

expand, or repeal existing regulations so as to make the regulatory program of the agency more effective or less burdensome in achieving the regulatory objectives. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

(b) IMPLEMENTATION PROGRESS REPORT.—Two years after the date of submission of each plan required under subsection (a), each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a report of the steps that it has taken to implement the plan, steps that remain to be taken to implement the plan, and, if any parts of the plan will not be implemented, reasons for not implementing those parts of the plan. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 3988. JUDICIAL REVIEW.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning on the date on which a notice of final rulemaking for a regulation is published in the Federal Register and ending 1 year later, a person that is adversely affected or aggrieved by the regulation is entitled to bring an action in the United States Court of Appeals for the District of Columbia Circuit for judicial review of agency compliance with the requirements of section 3.

(b) STAY.—The court may stay the effective date of the regulation or any provision thereof.

(c) RELIEF.—If the court finds that an agency has not complied with the requirements of section 3, the court shall vacate the subject regulation, unless the agency shows by clear and convincing evidence that vacating the regulation would result in irreparable harm. Nothing in this section affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground.

SEC. 3989. CHIEF ECONOMISTS COUNCIL.

(a) ESTABLISHMENT.—There is established the Chief Economists Council.

(b) MEMBERSHIP.—The Council shall consist of the chief economist of each agency. The members of the Council shall select the first chairperson of the Council. Thereafter the position of Chairperson shall rotate annually among the members of the Council.

(c) MEETINGS.—The Council shall meet at the call of the Chairperson, but not less frequently than quarterly.

(d) REPORT.—One year after the effective date of this title and annually thereafter, the Council shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Financial Services and the Committee on Agriculture of the House of Representatives a report on—

(1) the benefits and costs of regulations adopted by the agencies during the past 12 months;

(2) the regulatory actions planned by the agencies for the upcoming 12 months;

(3) the cumulative effect of the existing regulations of the agencies on economic activity, innovation, international competitiveness of entities regulated by the agencies, and net job creation (excluding jobs related to ensuring compliance with the regulation);

(4) the training and qualifications of the persons who prepared the cost-benefit analyses of each agency during the past 12 months;

(5) the sufficiency of the resources available to the chief economists during the past 12 months for the conduct of the activities required by this title; and

(6) recommendations for legislative or regulatory action to enhance the efficiency and effectiveness of financial regulation in the United States.

SEC. 3990. CONFORMING AMENDMENTS.

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking (2) and all that follows through ''light of—'' and inserting the following:

''(1) CONSIDERATIONS.—Before promulgating a regulation under this chapter or issuing an order (except as provided in paragraph (2)), the Commission shall take into consideration—'';

(3) in paragraph (1), as so redesignated—

(A) in subparagraph (B), by striking ''futures'' and inserting ''the relevant'';

(B) in subparagraph (C), by adding ''and'' at the end;

(C) in subparagraph (D), by striking ''and'' at the end; and

(D) by striking subparagraph (E); and

(4) by redesignating paragraph (3) as paragraph (2).

SEC. 3991. OTHER REGULATORY ENTITIES.

(a) SECURITIES AND EXCHANGE COMMISSION.—Not later than 1 year after the date of enactment of this title, the Securities and Exchange Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report setting forth a plan for subjecting the Public Company Accounting Oversight Board, the Municipal Securities Rulemaking Board, and any national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(a)) to the requirements of this title, other than direct representation on the Council.

(b) COMMODITY FUTURES TRADING COMMISSION.—Not later than 1 year after the date of enactment of this title, the Commodity Futures Trading Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report setting forth a plan for subjecting any futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) to the requirements of this title, other than direct representation on the Council.

SEC. 3992. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

An agency may perform the analyses required by this title in conjunction with, or as a part of, any other agenda or analysis required by any other provision of law, if such other analysis satisfies the provisions this Act.

SEC. 3993. SEVERABILITY.

If any provision of this title the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

TITLE XIV—REGULATORY RESPONSIBILITY FOR OUR ECONOMY ACT

SEC. 3994. SHORT TITLE.

This title may be cited as the ''Regulatory Responsbility for Our Economy Act''.

SEC. 3995. DEFINITIONS.

In this title—

(1) the term ''agency'' means any authority of the United States that is—

(A) an agency as defined under section 3502(1) of title 44, United States Code; and

(B) shall include an independent regulatory agency as defined under section 3502(5) of title 44, United States Code;

(2) the term ''regulation''—

(A) means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency; and

(B) shall not include—

(i) regulations issued in accordance with the formal rulemaking provisions of sections 556 and 557 of title 5, United States Code;

(ii) regulations that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services; or

(iii) regulations that are limited to agency organization, management, or personnel matters;

(3) the term ''regulatory action'' means any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking; and

(4) the term ''significant regulatory action'' means any regulatory action that is likely to result in a regulation that may—

(A) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligation of recipients thereof;

(D) add to the national debt; or

(E) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Act.

SEC. 3996. AGENCY REQUIREMENTS.

(a) FEDERAL REGULATORY SYSTEM.—The Federal regulatory system shall—

(1) protect the public health, welfare, safety, and the environment of the United States, especially those promoting economic growth, innovation, competitiveness, and job creation;

(2) be based on the best available science and information;

(3) allow for public participation and an open exchange of ideas;

(4) promote predictability and reduce uncertainty, including adherence to a clearly articulated timeline for the release of regulatory documents at all stages of the regulatory process;

(5) identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends;

(6) take into account benefits and costs, both quantitative and qualitative;

(7) ensure that regulations are accessible, consistent, written in plain language, and easy to understand; and

(8) measure, and seek to improve, the actual results of regulatory requirements.

(b) REQUIREMENTS.—Each agency shall—

(1) propose or adopt a regulation only upon a reasoned determination that the benefits of the regulation justify the costs of the regulation to the extent permitted by law;

(2) tailor regulations of the agency to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, the costs of cumulative regulations;

(3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits, including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity;

(4) specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities are required to adopt;

(5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public; and

(6) use the best available techniques to quantify anticipated present and future benefits and costs.

SEC. 3997. PUBLIC PARTICIPATION.

(a) IN GENERAL.—Regulations shall be—

(1) adopted through a process that involves public participation; and

(2) based, to the extent consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b) OPPORTUNITY TO PARTICIPATE.—Each agency shall—

(1) provide the public with an opportunity to participate in the regulatory process;

(2) as authorized by law, afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that shall begin on the date on which the proposed regulation is published in the Federal Register and be not less than 60 days, unless the relevant regulation is designated by the Administrator of the Office of Information and Regulatory Affairs to be an emergency rule;

(3) provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded; and

(4) for proposed rules, provide access to include, to the extent permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) SEEKING AFFECTED PARTIES.—Before issuing a notice of proposed rulemaking, each agency shall, where appropriate, seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

(d) DELAY OF IMPLEMENTATION.—

(1) IN GENERAL.—An agency shall delay implementation of an interim final rule until final disposition of a challenge is entered by a court in the United States, if—

(A) the agency excepted the rule from notice and public procedure under section 553(b)(B) of title 5, United States Code; and

(B) the agency exception of the rule described under paragraph (1) is challenged in a court in the United States.

(2) LENGTH OF DELAY.—If implementation of an interim final rule is delayed under paragraph (1), the delay shall continue until a final disposition of the challenge is entered by the court.

SEC. 3998. INTEGRATION AND INNOVATION.

(a) FINDINGS.—Congress finds that—

(1) some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping; and

(2) greater coordination across agencies should reduce these requirements, thus reducing costs and simplifying and harmonizing rules.

(b) PROMOTION OF INNOVATION.—In developing regulatory actions and identifying appropriate approaches, each agency shall—

(1) promote coordination, simplification, and harmonization; and

(2) identify means to achieve regulatory goals that are designed to promote innovation.

SEC. 3999. FLEXIBLE APPROACHES.

(a) IN GENERAL.—Each agency shall identify and consider regulatory approaches that reduce burdens, especially economic burdens, and maintain flexibility and freedom of choice for the public.

(b) CONTENTS.—The approaches described under subsection (a) shall include warnings, appropriate default rules, disclosure requirements, and the provision of information to the public in a form that is clear and intelligible.

SEC. 3999A. SCIENCE.

Each agency shall ensure the objectivity of any scientific and technological information and processes used to support the regulatory actions of the agency.

SEC. 3999B. RETROSPECTIVE ANALYSES OF EXISTING RULES.

(a) RETROSPECTIVE ANALYSES.—

(1) IN GENERAL.—To facilitate the periodic review of existing significant regulatory actions, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal such regulations in accordance with what has been learned.

(2) AGREEMENT.—Once every 5 years, each agency may enter into an agreement with a qualified private organization to conduct the retrospective analysis described in paragraph (1) of the agency.

(3) PUBLICATION ONLINE.—Any retrospective analyses conducted under this subsection, including supporting data, shall be published online.

(b) AGENCY PLANS.—

(1) PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, each agency shall develop and submit to the appropriate congressional committees a preliminary plan for reviewing significant regulatory actions issued by the agency, consistent with law, under which the agency shall review its existing significant regulatory actions once every 5 years to determine whether such regulations should be modified, streamlined, expanded, or repealed so as to make the regulatory program of the agency more effective or less burdensome in achieving the regulatory objectives.

(B) REPEAL.—If the plan described in subparagraph (A) includes suggestions for needed repeals a timeline for such repeals shall also be included in the plan.

(2) REPORT.—Upon completion of a review under a plan submitted under paragraph (1), each agency shall submit to the appropriate congressional committees a report that—

(A) describes the outcome of the review, including which regulations were modified, streamlined, expanded, or repealed;

(B) describes the reasons for the modifications, streamlining, expansions, or repeals described in subparagraph (A); and

(C) in any case where an agency did not take action, describes the reasons why the agency did not take action to modify, streamline, expand, or repeal any significant regulatory actions.

TITLE XV—REDUCING REGULATORY BURDENS ACT

SEC. 3999C. SHORT TITLE.

This title may be cited as the ''Reducing Regulatory Burdens Act''.

SEC. 3999D. USE OF AUTHORIZED PESTICIDES.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF AUTHORIZED PESTICIDES.—Except as provided in section 402(s) of the Federal Water Pollution Control Act, the Administrator or a State may not require a permit under such Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of such a pesticide, resulting from the application of such pesticide.''.

SEC. 3999E. DISCHARGES OF PESTICIDES.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(s) DISCHARGES OF PESTICIDES.—

''(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act, or the residue of such a pesticide, resulting from the application of such pesticide.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

''(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

''(i) the discharge would not have occurred but for the violation; or

''(ii) the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

''(B) Stormwater discharges subject to regulation under subsection (p).

''(C) The following discharges subject to regulation under this section:

''(i) Manufacturing or industrial effluent.

''(ii) Treatment works effluent.

''(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.''.

DIVISION D—DOMESTIC ENERGY JOB PROMOTION

TITLE I—DOMESTIC JOBS, DOMESTIC ENERGY, AND DEFICIT REDUCTION ACT

SEC. 4101. SHORT TITLE.

This title may be cited as the ''Domestic Jobs, Domestic Energy, and Deficit Reduction Act''.

Subtitle A—Outer Continental Shelf Leasing

SEC. 4111. LEASING PROGRAM CONSIDERED APPROVED.

(a) IN GENERAL.—The Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010–2015 issued by the Secretary of the Interior (referred to in this section as the ''Secretary'') under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is considered to have been approved by the Secretary as a final oil and gas leasing program under that section.

(b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—The Secretary is considered to have issued a final environmental impact statement for the program described in subsection

(a) in accordance with all requirements under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. 4112. LEASE SALES.

(a) IN GENERAL.—Except as otherwise provided in this section, not later than 180 days after the date of enactment of this Act and every 270 days thereafter, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a lease sale in each outer Continental Shelf planning area for which the Secretary determines that there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf.

(b) SUBSEQUENT DETERMINATIONS AND SALES.—If the Secretary determines that there is not a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in a planning area under this section, not later than 2 years after the date of enactment of the determination and every 2 years thereafter, the Secretary shall—

(1) determine whether there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in the planning area; and

(2) if the Secretary determines that there is a commercial interest described in subsection (a), conduct a lease sale in the planning area.

(c) EXCLUSION FROM 5-YEAR LEASE PROGRAM.—If a planning area for which there is a commercial interest described in subsection (a) was not included in a 5-year lease program, the Secretary shall include leasing in the planning area in the subsequent 5-year lease program.

(d) PETITIONS.—If a person petitions the Secretary to conduct a lease sale for an outer Continental Shelf planning area in which the person has a commercial interest, not later than 60 days after the date of receipt of the petition, the Secretary shall conduct a lease sale for the area.

(e) EXCEPTION.—Subsection (a) shall not apply to the North Atlantic Planning Area.

SEC. 4113. APPLICATIONS FOR PERMITS TO DRILL.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) APPLICATIONS FOR PERMITS TO DRILL.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall approve or disapprove an application for a permit to drill submitted under this Act not later than 20 days after the date the application is submitted to the Secretary.

''(2) DISAPPROVAL.—If the Secretary disapproves an application for a permit to drill submitted under paragraph (1), the Secretary shall—

''(A) provide to the applicant a description of the reasons for the disapproval of the application;

''(B) allow the applicant to resubmit an application during the 10-day period beginning on the date of the receipt of the description by the applicant; and

''(C) approve or disapprove any resubmitted application not later than 10 days after the date the application is submitted to the Secretary.''.

SEC. 4114. LEASE SALES FOR CERTAIN AREAS.

(a) IN GENERAL.—As soon as practicable but not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall hold—

(1) Lease Sale 216 for areas in the Central Gulf of Mexico;

(2) Lease Sale 218 for areas in the Western Gulf of Mexico;

(3) Lease Sale 220 for areas offshore the State of Virginia; and

(4) Lease Sale 222 for areas in the Central Gulf of Mexico.

(b) COMPLIANCE WITH OTHER LAWS.—For purposes of the Lease Sales described in subsection (a), the Environmental Impact Statement for the 2007-2015-Year OCS Plan and the applicable Multi-Sale Environmental Impact Statement shall be considered to satisfy the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) ENERGY PROJECTS IN THE GULF OF MEXICO.—

(1) JURISDICTION.—The United States Court of Appeals for the Fifth Circuit shall have exclusive jurisdiction over challenges to offshore energy projects and permits to drill carried out in the Gulf of Mexico.

(2) FILING DEADLINE.—Any civil action to challenge a project or permit described in paragraph (1) shall be filed not later than 60 days after the date of approval of the project or the issuance of the permit.

Subtitle B—Regulatory Streamlining

SEC. 4131. COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Subsection (e) of the Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005 (42 U.S.C. 15927(e)) is amended—

(1) in the first sentence, by striking ''Not later'' and inserting the following:

''(1) IN GENERAL.—Not later'';

(2) in the second sentence—

(A) by striking ''If the Secretary'' and inserting the following:

''(2) LEASE SALES.—

''(A) IN GENERAL.—If the Secretary''; and

(B) by striking ''may'' and inserting ''shall'';

(3) in the last sentence, by striking ''Evidence of interest'' and inserting the following:

''(B) EVIDENCE OF INTEREST.—Evidence of interest''; and

(4) by adding at the end the following:

''(C) SUBSEQUENT LEASE SALES.—During any period for which the Secretary determines that there is sufficient support and interest in a State in the development of tar sands and oil shale resources, the Secretary shall—

''(i) at least annually, consult with the persons described in paragraph (1) to expedite the commercial leasing program for oil shale resources on public land in the State; and

''(ii) at least once every 270 days, conduct a lease sale in the State under the commercial leasing program regulations.''.

SEC. 4132. JURISDICTION OVER COVERED ENERGY PROJECTS.

(a) DEFINITION OF COVERED ENERGY PROJECT.—In this section, the term ''covered energy project'' means any action or decision by a Federal official regarding—

(1) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(2) any action under such a lease, except that this section and Act shall not apply to a dispute between the parties to a lease entered into a provision of law authorizing the lease regarding obligations under the lease or the alleged breach of the lease.

(b) EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this section or any other Act that arise from any covered energy project.

(c) TIME FOR FILING COMPLAINT.—

(1) IN GENERAL.—Each case or claim described in subsection (b) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned.

(2) PROHIBITION.—Any cause or claim described in subsection (b) that is not filed within the time period described in paragraph (1) shall be barred.

(d) DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.—

(1) IN GENERAL.—Each proceeding that is subject to subsection (b) shall—

(A) be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(B) take precedence over all other pending matters before the district court.

(2) FAILURE TO COMPLY WITH DEADLINE.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this section, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(e) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court under this section may be reviewed by no other court except the Supreme Court.

(f) DEADLINE FOR APPEAL TO THE SUPREME COURT.—If a writ of certiorari has been granted by the Supreme Court pursuant to subsection (e), the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued.

SEC. 4133. ENVIRONMENTAL IMPACT STATEMENTS.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end the following:

''SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL IMPACT STATEMENTS.

''(a) COMPLETION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, each review carried out under section 102(2)(C) with respect to any action taken under any provision of law, or for which funds are made available under any provision of law, shall be completed not later than the date that is 270 days after the commencement of the review.

''(2) FAILURE TO COMPLETE REVIEW.—If a review described in paragraph (1) has not been completed for an action subject to section 102(2)(C) by the date specified in paragraph (1)—

''(A) the action shall be considered to have no significant impact described in section 102(2)(C); and

''(B) that classification shall be considered to be a final agency action.

''(3) UNEMPLOYMENT RATE.—If the national unemployment rate is 5 percent or more, the lead agency conducting a review of an action under this section shall use the most expeditious means authorized under this title to conduct the review.

''(b) LEAD AGENCY.—The lead agency for a review of an action under this section shall be the Federal agency to which funds are made available for the action.

''(c) REVIEW.—

''(1) ADMINISTRATIVE APPEALS.—There shall be a single administrative appeal for each review carried out pursuant to section 102(2)(C).

''(2) JUDICIAL REVIEW.—

''(A) IN GENERAL.—On resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

''(B) ADMINISTRATIVE RECORD.—An appeal to the court described in subparagraph (A) shall be based only on the administrative record.

''(C) PENDENCY OF JUDICIAL REVIEW.—After an agency has made a final decision with respect to a review carried out under this subsection, the decision shall be effective during the course of any subsequent appeal to a court described in subparagraph (A).

''(3) CIVIL ACTION.—Each civil action covered by this section shall be considered to arise under the laws of the United States.''.

SEC. 4134. CLEAN AIR REGULATION.

(a) REGULATION OF GREENHOUSE GASES.—Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended—

(1) by striking ''(g) The term'' and inserting the following:

''(g) AIR POLLUTANT.—

''(1) IN GENERAL.—The term'';

(2) by striking ''Such term'' and inserting the following:

''(2) INCLUSIONS.—The term 'air pollutant' ''; and

(3) by adding at the end the following:

''(3) EXCLUSIONS.—The term 'air pollutant' does not include carbon dioxide, methane from agriculture or livestock, or water vapor.''.

(b) EMISSION WAIVERS.—The Administrator of the Environmental Protection Agency shall not grant to any State any waiver of Federal preemption of motor vehicle standards under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)) for preemption under that Act for any regulation of the State to control greenhouse gas emissions from motor vehicles.

SEC. 4135. EMPLOYMENT EFFECTS OF ACTIONS UNDER CLEAN AIR ACT.

Section 321(b) of the Clean Air Act (42 U.S.C. 7621(b)) is amended—

(1) by designating the first through eighth sentences as paragraphs (1) through (8), respectively; and

(2) by adding at the end the following:

''(9) ECONOMIC ANALYSIS.—Not later than 30 days before conducting a public hearing or providing notice of a determination that a hearing is not necessary with respect to a requirement described in paragraph (1), the Administrator shall—

''(A) conduct a full economic analysis of the requirement; and

''(B) make the results of the analysis available to the public.

''(10) ECONOMIC REVIEW BOARD.—

''(A) IN GENERAL.—Not later than 30 days after the date on which the Administrator makes the results of an economic analysis of a requirement available to the public under paragraph (9)(B), the Secretary of Commerce shall establish an economic review board consisting of a representative from each Federal agency with jurisdiction over affected industries to assess—

''(i) the cumulative economic impact of the requirement, including the direct, indirect, quantifiable, and qualitative effects;

''(ii) the cost of compliance with the requirement;

''(iii) the effect of the requirement on the retirement or closure of domestic businesses;

''(iv) the direct and indirect adverse impacts on the economies of local communities that are projected to result from the requirement;

''(v) energy sectors that could be expected to retire units as a result of the requirement;

''(vi) the impact of the requirement on the price of electricity, oil, gas, coal, and renewable resources;

''(vii) the economic harm to consumers resulting from the requirement;

''(viii) the impact of the requirement on the ability of industries and businesses in the United States to compete with industries and businesses in other countries, with respect to competitiveness in both domestic and foreign markets;

''(ix) the regions of the United States that are forecasted to be—

''(I) most affected from the direct and indirect adverse impacts of the requirement from the retirement of impacted units and increased prices for retail electricity, transportation fuels, heating oil, and petrochemicals; and

''(II) least affected from adverse impacts described in subclause (I) due to the creation of new jobs and economic growth that are expected to result directly and indirectly from energy construction projects;

''(x) the adverse impacts of the requirement on electric reliability that are expected to result from the retirement of electric generation;

''(xi) the geographical distribution of the projected adverse electric reliability impacts of the requirement;

''(xii) Federal, State, and local policies that have been or will be implemented to support energy infrastructure in the United States, including policies that promote fuel diversity, affordable and reliable electricity, and energy security; and

''(xiii) other direct and indirect impacts that are expected to result from the cumulative obligation to comply with the requirement.

''(B) REPORT.—Not later than 30 days after the date on which the economic review board completes the assessment of a requirement under subparagraph (A), the economic review board shall submit to Congress, the President, and the Secretary a report that describes the results of the assessment.

''(C) REGULATIONS.—The Administrator shall not promulgate regulations to implement a requirement described in paragraph (1) until at least 60 days after the date of submission of the report on the requirement under subparagraph (B).''.

SEC. 4136. ENDANGERED SPECIES.

(a) EMERGENCIES.—Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) EMERGENCIES.—On the declaration of an emergency by the Governor of a State, the Secretary shall, for the duration of the emergency, temporarily exempt from the prohibition against taking, and the prohibition against the adverse modification of critical habitat, under this Act any action that is reasonably necessary to avoid or ameliorate the impact of the emergency, including the operation of any water supply or flood control project by a Federal agency.''.

(b) PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.—

(1) IN GENERAL.—The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end the following:

''SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.

''(a) DEFINITION OF GREENHOUSE.—In this section, the term 'greenhouse gas' means any of—

''(1) carbon dioxide;

''(2) methane;

''(3) nitrous oxide;

''(4) sulfur hexafluoride;

''(5) a hydrofluorocarbon;

''(6) a perfluorocarbon; or

''(7) any other anthropogenic gas designated by the Secretary for purposes of this section.

''(b) IMPACT OF GREENHOUSE GAS.—The impact of greenhouse gas on any species of fish or wildlife or plant shall not be considered for any purpose in the implementation of this Act.''.

(2) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by adding at the end the following:

''Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

''Sec. 19. Prohibition of consideration of impact of greenhouse gas.''.

SEC. 4137. REISSUANCE OF PERMITS AND LEASES.

(a) ENVIRONMENTAL PROTECTION AGENCY.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environment Protection Agency shall approve the specification of the areas described in the notice entitled ''Final Determination of the Assistant Administrator for Water Pursuant to Section 404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, WV'' (76 Fed. Reg. 3126; January 19. 2011), with no further review or analysis.

(b) DEPARTMENT OF THE INTERIOR.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall issue or reissue, with no further review or analysis, each lease for the production of oil or gas in the State of Utah was cancelled during any of calendar years 2009 through 2011.

SEC. 4138. CENTRAL VALLEY PROJECT.

The Act of August 27, 1954 (68 Stat. 879, chapter 1012; 16 U.S.C. 695d et seq.) is amended by adding at the end the following:

''SEC. 9. EFFECT OF BIOLOGICAL OPINIONS.

''Notwithstanding any other provision of law, in connection with the Central Valley Project, the Bureau of Reclamation and an agency of the State of California operating a water project in connection with the Project shall not restrict operations of an applicable project pursuant to any biological opinion issued under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), if the restriction would result in a level of allocation of water that is less than the historical maximum level of allocation of water under the project.''.

SEC. 4139. BEAUFORT SEA OIL DRILLING PROJECT.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall issue a permit under the Clean Air Act (42 U.S.C. 7401 et seq.) to Shell Oil Company to permit the Company to drill for oil in the Beaufort Sea, with no further review or analysis.

SEC. 4140. ENVIRONMENTAL LEGAL FEES.

Section 504 of title 5, United States Code, is amended by adding at the end the following:

''(g) ENVIRONMENTAL LEGAL FEES.—Notwithstanding section 1304 of title 31, no award may be made under this section and no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay any legal fees of an environmental nongovernmental organization related to an action that (with respect to the United States)—

''(1) prevents, terminates, or reduces access to or the production of—

''(A) energy;

''(B) a mineral resource;

''(C) water by agricultural producers;

''(D) a resource by commercial or recreational fishermen; or

''(E) grazing or timber production on Federal land;

''(2) diminishes the private property value of a property owner; or

''(3) eliminates or prevents 1 or more jobs.''.

TITLE II—JOBS AND ENERGY PERMITTING ACT

SEC. 4201. SHORT TITLE.

This title may be cited as the ''Jobs and Energy Permitting Act''.

SEC. 4202. AIR QUALITY MEASUREMENT.

Section 328(a)(1) of the Clean Air Act (42 U.S.C. 7627(a)(1)) is amended in the second sentence by inserting before the period at the end the following: '', except that any air quality impact of any OCS source shall be measured or modeled, as appropriate, and determined solely with respect to the impacts in the corresponding onshore area''.

SEC. 4203. OUTER CONTINENTAL SHELF SOURCE.

Section 328(a)(4) of the Clean Air Act (42 U.S.C. 7627(a)(4)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''subsections (a) and (b)'' and inserting ''this subsection and subsections (b) and (d)''; and

(2) in subparagraph (C)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and by indenting the subclauses appropriately;

(B) by striking ''The terms'' and inserting ''(i) IN GENERAL.—The terms''; and

(C) by striking the undesignated matter following subclause (III) (as redesignated by subparagraph (A)) and inserting the following:

''(ii) OCS SOURCE ACTIVITY.—An OCS source activity includes platform and drill ship exploration, construction, development, production, processing, and transportation.

''(iii) EMISSIONS.—Emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source within 25 miles of the OCS source—

''(I) shall be considered direct emissions from the OCS source; but

''(II) shall not be subject to any emission control requirement applicable to the source under subpart 1 of part C of title I.

''(iv) PLATFORM OR DRILL SHIP EXPLORATION.—For platform or drill ship exploration, an OCS source is established at the point in time when drilling commences at a location and ceases to exist when drilling activity ends at that location or is temporarily interrupted because the platform or drill ship relocates for weather or other reasons.''.

SEC. 4204. PERMITS.

Section 328 of the Clean Air Act (42 U.S.C. 7627) is amended by adding at the end the following:

''(d) PERMIT APPLICATION.—In the case of a completed application for a permit under this Act for platform or drill ship exploration for an OCS source—

''(1) final agency action (including any reconsideration of the issuance or denial of the permit) shall be taken not later than 180 days after the date of filing the completed application;

''(2) the Environmental Appeals Board of the Environmental Protection Agency shall have no authority to consider any matter relating to the consideration, issuance, or denial of the permit;

''(3) no administrative stay of the effectiveness of the permit may extend beyond the date that is 180 days after the date of filing the completed application;

''(4) the final agency action shall be considered to be nationally applicable under section 307(b); and

''(5) judicial review of the final agency action shall be available only in accordance with section 307(b) without additional administrative review or adjudication.''.

TITLE III—AMERICAN ENERGY AND WESTERN JOBS ACT

SEC. 4301. SHORT TITLE.

This title may be cited as the ''American Energy and Western Jobs Act''.

SEC. 4302. RESCISSION OF CERTAIN INSTRUCTION MEMORANDA.

The following are rescinded and shall have no force or effect:

(1) The Bureau of Land Management Instruction Memorandum entitled ''Oil and Gas Leasing Reform—Land Use Planning and Lease Parcel Reviews'', numbered 2010–117, and dated May 17, 2010.

(2) The Bureau of Land Management Instruction Memorandum entitled ''Energy Policy Act Section 390 Categorical Exclusion Policy Revision'', numbered 2010–118, and dated May 17, 2010.

(3) Secretarial Order No. 3310 issued by the Secretary of the Interior on December 22, 2010.

SEC. 4303. AMENDMENTS TO THE MINERAL LEASING ACT.

(a) ONSHORE OIL AND GAS LEASE ISSUANCE IMPROVEMENT.—Section 17(b)(1)(A) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(A)) is amended in the seventh sentence, by striking ''Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year'' and inserting ''The Secretary of the Interior shall automatically issue a lease 60 days after the date of the payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year, unless the Secretary of the Interior is able to issue the lease before that date. The filing of any protest to the sale or issuance of a lease shall not extend the date by which the lease is to be issued''.

(b) JUDICIAL REVIEW.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

''(q) JUDICIAL REVIEW.—Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing for onshore Federal land shall be barred unless the action is brought in the appropriate district court of the United States by the date that is 60 days after the date on which there is published in the Federal Register the notice of the availability of the environmental impact statement.''.

(c) DETERMINATION OF IMPACT OF PROPOSED POLICY MODIFICATIONS.—The Mineral Leasing Act is amended by inserting after section 37 (30 U.S.C. 193) the following:

''SEC. 38. DETERMINATION OF IMPACT OF PROPOSED POLICY MODIFICATIONS.

''(a) DEFINITIONS.—In this section:

''(1) DEPARTMENT.—The term 'Department' means the Department of the Interior.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(b) DUTY OF SECRETARY.—

''(1) IN GENERAL.—Before the modification and implementation of any onshore oil or natural gas preleasing or leasing and development policy (as in effect as of January 1, 2010) or a policy relating to protecting the wilderness characteristics of public land, the Secretary shall—

''(A) complete an economic impact assessment in accordance with paragraph (2); and

''(B) issue a determination that the proposed policy modification would have the effects described in paragraph (2)(A).

''(2) REQUIREMENTS.—In carrying out an assessment to determine the impact of a proposed policy modification described in paragraph (1), the Secretary shall—

''(A) in consultation with the appropriate officials of each State (including political subdivisions of the State) in which 1 or more parcels of land subject to oil and natural gas leasing are located and any other appropriate individuals or entities, as determined by the Secretary—

''(i)(I) carry out an economic analysis of the impact of the policy modification on oil- and natural gas-related employment opportunities and domestic reliance on foreign imports of petroleum resources; and

''(II) certify that the policy modification would not result in a detrimental impact on employment opportunities relating to oil- and natural gas-related development or contribute to an increase in the domestic use of imported petroleum resources; and

''(ii) carry out a policy assessment to determine the manner by which the policy modification would impact—

''(I) revenues from oil and natural gas receipts to the general fund of the Treasury, including a certification that the modification would, for the 10-year period beginning on the date of implementation of the modification, not contribute to an aggregate loss of oil and natural gas receipts; and

''(II) revenues to the treasury of each affected State that shares oil and natural gas receipts with the Federal Government, including a certification that the modification would, for the 10-year period beginning on the date of implementation of the modification, not contribute to an aggregate loss of oil and natural gas receipts; and

''(B) provide notice to the public of, and an opportunity to comment on, the policy modification in a manner consistent with subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').''.

SEC. 4304. ANNUAL REPORT ON REVENUES GENERATED FROM MULTIPLE USE OF PUBLIC LAND.

(a) ANNUAL REPORT.—As part of the annual agency budget, the Secretary of the Interior (acting through the Director of the Bureau of Land Management) and the Secretary of Agriculture (acting through the Chief of the Forest Service) shall submit an annual report detailing, for each field office, the revenues generated by each use of public land.

(b) INCLUSIONS.—The report shall include—

(1) a line item for each use of public land, including use for—

(A) grazing;

(B) recreation;

(C) timber;

(D) leasable minerals, including a distinct accounting for each of oil, natural gas, coal, and geothermal development;

(E) locatable minerals;

(F) renewable energy sources, including a distinct accounting for each of wind and solar energy;

(G) the sale of land; and

(H) transmission; and

(2) identification of the total acres designated as wilderness, wilderness study areas, and wild lands.

(c) AVAILABILITY.—The Secretary of the Interior and the Secretary of Agriculture shall make the report prepared under this section publicly available on the applicable agency website.

SEC. 4305. FEDERAL ONSHORE OIL AND NATURAL GAS PRODUCTION GOAL.

(a) IN GENERAL.—The Secretary of the Interior shall establish a domestic strategic production goal for the development of oil and natural gas managed by the Federal Government.

(b) REQUIREMENTS.—In establishing the goal under subsection (a), the Secretary shall—

(1) ensure that the United States maintains or increases production of Federal onshore oil and natural gas;

(2) ensure that the 10-year production outlook for Federal onshore oil and natural gas be provided annually;

(3) examine steps to streamline the permitting process to meet the goal;

(4) include the goal in each resource management plan; and

(5) analyze each proposed policy of the Department of the Interior for the potential

impact of the policy on achieving the goal before implementation of the policy.

SEC. 4306. OIL SHALE.

(a) ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall hold a lease sale in which the Secretary of the Interior shall offer an additional 10 parcels for lease for research, development, and demonstration of oil shale resources in accordance with the terms offered in the solicitation of bids for the leases described in the notice entitled ''Potential for Oil Shale Development; Call for Nominations—Oil Shale Research, Development, and Demonstration (R, D, and D) Program'' (74 Fed. Reg. 2611).

(b) APPLICATION OF REGULATIONS.—The final rule entitled ''Oil Shale Management—General'' (73 Fed. Reg. 69414), shall apply to all commercial leasing for the management of federally owned oil shale and any associated minerals located on Federal land.

TITLE IV—MINING JOBS PROTECTION ACT

SEC. 4401. SHORT TITLE.

This title may be cited as the ''Mining Jobs Protection Act''.

SEC. 4402. PERMITS FOR DREDGED OR FILL MATERIAL.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORITY OF ADMINISTRATOR TO DISAPPROVE SPECIFICATIONS.—

''(1) IN GENERAL.—The Administrator, in accordance with this subsection, may prohibit the specification of any defined area as a disposal site, and may deny or restrict the use of any defined area for specification as a disposal site, in any case in which the Administrator determines, after notice and opportunity for public hearings and consultation with the Secretary, that the discharge of those materials into the area will have an unacceptable adverse effect on—

''(A) municipal water supplies;

''(B) shellfish beds and fishery areas (including spawning and breeding areas);

''(C) wildlife; or

''(D) recreational areas.

''(2) DEADLINE FOR ACTION.—

''(A) IN GENERAL.—The Administrator shall—

''(i) not later than 30 days after the date on which the Administrator receives from the Secretary for review a specification proposed to be issued under subsection (a), provide notice to the Secretary of, and publish in the Federal Register, a description of any potential concerns of the Administrator with respect to the specification, including a list of measures required to fully address those concerns; and

''(ii) if the Administrator intends to disapprove a specification, not later than 60 days after the date on which the Administrator receives a proposed specification under subsection (a) from the Secretary, provide to the Secretary and the applicant, and publish in the Federal Register, a statement of disapproval of the specification pursuant to this subsection, including the reasons for the disapproval.

''(B) FAILURE TO ACT.—If the Administrator fails to take any action or meet any deadline described in subparagraph (A) with respect to a proposed specification, the Administrator shall have no further authority under this subsection to disapprove or prohibit issuance of the specification.

''(3) NO RETROACTIVE DISAPPROVAL.—

''(A) IN GENERAL.—The authority of the Administrator to disapprove or prohibit issuance of a specification under this subsection—

''(i) terminates as of the date that is 60 days after the date on which the Administrator receives the proposed specification from the Secretary for review; and

''(ii) shall not be used with respect to any specification after issuance of the specification by the Secretary under subsection (a).

''(B) SPECIFICATIONS DISAPPROVED BEFORE DATE OF ENACTMENT.—In any case in which, before the date of enactment of this subparagraph, the Administrator disapproved a specification under this subsection (as in effect on the day before the date of enactment of the Jobs Through Growth Act) after the specification was issued by the Secretary pursuant to subsection (a)—

''(i) the Secretary may—

''(I) reevaluate and reissue the specification after making appropriate modifications; or

''(II) elect not to reissue the specification; and

''(ii) the Administrator shall have no further authority to disapprove the modified specification or any reissuance of the specification.

''(C) FINALITY.—An election by the Secretary under subparagraph (B)(i) shall constitute final agency action.

''(4) APPLICABILITY.—Except as provided in paragraph (3), this subsection applies to each specification proposed to be issued under subsection (a) that is pending as of, or requested or filed on or after, the date of enactment of the Jobs Through Growth Act''.

SEC. 4403. REVIEW OF PERMITS.

Section 404(q) of the Federal Water Pollution Control Act (33 U.S.C. 1344(q)) is amended—

(1) in the first sentence, by striking ''(q) Not later than'' and inserting the following:

''(q) AGREEMENTS; HIGHER REVIEW OF PERMITS.—

''(1) AGREEMENTS.—

''(A) IN GENERAL.—Not later than'';

(2) in the second sentence, by striking ''Such agreements'' and inserting the following:

''(B) DEADLINE.—Agreements described in subparagraph (A)''; and

(3) by adding at the end the following:

''(2) HIGHER REVIEW OF PERMITS.—

''(A) IN GENERAL.—Subject to subparagraph (C), before the Administrator or the head of another Federal agency requests that a permit proposed to be issued under this section receive a higher level of review by the Secretary, the Administrator or other head shall—

''(i) consult with the head of the State agency having jurisdiction over aquatic resources in each State in which activities under the requested permit would be carried out; and

''(ii) obtain official consent from the State agency (or, in the case of multiple States in which activities under the requested permit would be carried out, from each State agency) to designate areas covered or affected by the proposed permit as aquatic resources of national importance.

''(B) FAILURE TO OBTAIN CONSENT.—If the Administrator or the head of another Federal agency does not obtain State consent described in subparagraph (A) with respect to a permit proposed to be issued under this section, the Administrator or Federal agency may not proceed in seeking higher review of the permit.

''(C) LIMITATION ON ELEVATIONS.—The Administrator or the head of another Federal agency may request that a permit proposed to be issued under this section receive a higher level of review by the Secretary not more than once per permit.

''(D) EFFECTIVE DATE.—This paragraph applies to permits for which applications are submitted under this section on or after January 1, 2010.''.

TITLE V—ENERGY TAX PREVENTION ACT

SEC. 4501. SHORT TITLE.

This title may be cited as the ''Energy Tax Prevention Act''.

SEC. 4502. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

(a) IN GENERAL.—Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

''SEC. 330. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

''(a) DEFINITION.—In this section, the term 'greenhouse gas' means any of the following:

''(1) Water vapor.

''(2) Carbon dioxide.

''(3) Methane.

''(4) Nitrous oxide.

''(5) Sulfur hexafluoride.

''(6) Hydrofluorocarbons.

''(7) Perfluorocarbons.

''(8) Any other substance subject to, or proposed to be subject to, regulation, action, or consideration under this Act to address climate change.

''(b) LIMITATION ON AGENCY ACTION.—

''(1) LIMITATION.—

''(A) IN GENERAL.—The Administrator may not, under this Act, promulgate any regulation concerning, take action relating to, or take into consideration the emission of a greenhouse gas to address climate change.

''(B) AIR POLLUTANT DEFINITION.—The definition of the term 'air pollutant' in section 302(g) does not include a greenhouse gas. Nothwithstanding the previous sentence, such definition may include a greenhouse gas for purposes of addressing concerns other than climate change.

''(2) EXCEPTIONS.—Paragraph (1) does not prohibit the following:

''(A) Notwithstanding paragraph (4)(B), implementation and enforcement of the rule entitled 'Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards' (75 Fed. Reg. 25324 (May 7, 2010) and without further revision) and finalization, implementation, enforcement, and revision of the proposed rule entitled 'Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles' published at 75 Fed. Reg. 74152 (November 30, 2010).

''(B) Implementation and enforcement of section 211(o).

''(C) Statutorily authorized Federal research, development, and demonstration programs addressing climate change.

''(D) Implementation and enforcement of title VI to the extent such implementation or enforcement only involves one or more class I or class II substances (as such terms are defined in section 601).

''(E) Implementation and enforcement of section 821 (42 U.S.C. 7651k note) of Public Law 101–549 (commonly referred to as the 'Clean Air Act Amendments of 1990').

''(3) INAPPLICABILITY OF PROVISIONS.—Nothing listed in paragraph (2) shall cause a greenhouse gas to be subject to part C of title I (relating to prevention of significant deterioration of air quality) or considered an air pollutant for purposes of title V (relating to air permits).

''(4) CERTAIN PRIOR AGENCY ACTIONS.—The following rules, and actions (including any supplement or revision to such rules and actions) are repealed and shall have no legal effect:

''(A) 'Mandatory Reporting of Greenhouse Gases', published at 74 Fed. Reg. 56260 (October 30, 2009).

''(B) 'Endangerment and Cause or Contribute Findings for Greenhouse Gases under section 202(a) of the Clean Air Act' published at 74 Fed. Reg. 66496 (Dec. 15, 2009).

''(C) 'Reconsideration of the Interpretation of Regulations That Determine Pollutants

Covered by Clean Air Act Permitting Programs' published at 75 Fed. Reg. 17004 (April 2, 2010) and the memorandum from Stephen L. Johnson, Environmental Protection Agency (EPA) Administrator, to EPA Regional Administrators, concerning 'EPA's Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program' (Dec. 18, 2008).

''(D) 'Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 31514 (June 3, 2010).

''(E) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call', published at 75 Fed. Reg. 77698 (December 13, 2010).

''(F) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure to Submit State Implementation Plan Revisions Required for Greenhouse Gases', published at 75 Fed. Reg. 81874 (December 29, 2010).

''(G) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan', published at 75 Fed. Reg. 82246 (December 30, 2010).

''(H) 'Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 82254 (December 30, 2010).

''(I) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program', published at 75 Fed. Reg. 82430 (December 30, 2010).

''(J) 'Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule', published at 75 Fed. Reg. 82536 (December 30, 2010).

''(K) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program; Proposed Rule', published at 75 Fed. Reg. 82365 (December 30, 2010).

''(L) Except for action listed in paragraph (2), any other Federal action under this Act occurring before the date of enactment of this section that applies a stationary source permitting requirement or an emissions standard for a greenhouse gas to address climate change.

''(5) STATE ACTION.—

''(A) NO LIMITATION.—This section does not limit or otherwise affect the authority of a State to adopt, amend, enforce, or repeal State laws and regulations pertaining to the emission of a greenhouse gas.

''(B) EXCEPTION.—

''(i) RULE.—Notwithstanding subparagraph (A), any provision described in clause (ii)—

''(I) is not federally enforceable;

''(II) is not deemed to be a part of Federal law; and

''(III) is deemed to be stricken from the plan described in clause (ii)(I) or the program or permit described in clause (ii)(II), as applicable.

''(ii) PROVISIONS DEFINED.—For purposes of clause (i), the term 'provision' means any provision that—

''(I) is contained in a State implementation plan under section 110 and authorizes or requires a limitation on, or imposes a permit requirement for, the emission of a greenhouse gas to address climate change; or

''(II) is part of an operating permit program under title V, or a permit issued pursuant to title V, and authorizes or requires a limitation on the emission of a greenhouse gas to address climate change.

''(C) ACTION BY ADMINISTRATOR.—The Administrator may not approve or make federally enforceable any provision described in subparagraph (B)(ii).''.

SEC. 4503. PRESERVING ONE NATIONAL STANDARD FOR AUTOMOBILES.

Section 209(b) of the Clean Air Act (42 U.S.C. 7543) is amended by adding at the end the following:

''(4) With respect to standards for emissions of greenhouse gases (as defined in section 330) for model year 2017 or any subsequent model year for new motor vehicles and new motor vehicle engines—

''(A) the Administrator may not waive application of subsection (a); and

''(B) no waiver granted prior to the date of enactment of this paragraph may be considered to waive the application of subsection (a).''.

TITLE VI—REPEAL RESTRICTIONS ON GOVERNMENT USE OF DOMESTIC ALTERNATIVE FUELS

SEC. 4601. REPEAL OF UNNECESSARY BARRIER TO DOMESTIC FUEL PRODUCTION.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

TITLE VII—PUBLIC LANDS JOB CREATION ACT

SEC. 4701. SHORT TITLE.

This title may be cited as the ''Public Lands Job Creation Act''.

SEC. 4702. REVIEW OF CERTAIN FEDERAL REGISTER NOTICES.

If, by the date that is 45 days after the date on which a State Bureau of Land Management office has submitted a Federal Register notice to the Washington, DC, office of the Bureau of Land Management for Department of Interior review, the review has not been completed—

(1) the notice shall consider to be approved; and

(2) the State Bureau of Land Management office shall immediately forward the notice to the Federal Register for publication.

DIVISION E—EXPORT PROMOTION

SEC. 5001. SHORT TITLE.

This division may be cited as the ''Creating American Jobs through Exports Act of 2011''.

SEC. 5002. RENEWAL OF TRADE PROMOTION AUTHORITY.

(a) IN GENERAL.—Section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803) is amended—

(1) in subsection (a)(1), by striking subparagraph (A) and inserting the following:

''(A) may enter into trade agreements with foreign countries—

''(i) on and after the date of the enactment of the Creating American Jobs through Exports Act of 2011 and before June 1, 2013; or

''(ii) on and after June 1, 2013, and before December 31, 2013, if trade authorities procedures are extended under subsection (c); and'';

(2) in subsection (b)(1), by striking subparagraph (C) and inserting the following:

''(C) The President may enter into a trade agreement under this paragraph—

''(i) on and after the date of the enactment of the Creating American Jobs through Exports Act of 2011 and before June 1, 2013; or

''(ii) on and after June 1, 2013, and before December 31, 2013, if trade authorities procedures are extended under subsection (c).''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''before July 1, 2005'' and inserting ''on and after the date of the enactment of the Creating American Jobs through Exports Act of 2011 and before June 1, 2013''; and

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''after June 30, 2005, and before July 1, 2007'' and inserting ''on or after June 1, 2013, and before December 31, 2013''; and

(II) in clause (ii), by striking ''July 1, 2005'' and inserting ''June 1, 2013'';

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''April 1, 2005'' and inserting ''March 1, 2013'';

(C) in paragraph (3)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking ''June 1, 2005'' and inserting ''May 1, 2013''; and

(ii) in subparagraph (B)—

(I) by striking ''June 1, 2005'' and inserting ''May 1, 2013''; and

(II) by striking ''the date of enactment of this Act'' and inserting ''the date of the enactment of the Creating American Jobs through Exports Act of 2011''; and

(D) in paragraph (5), by striking ''June 30, 2005'' each place it appears and inserting ''May 31, 2013''.

(b) TREATMENT OF THE TRANS-PACIFIC PARTNERSHIP AGREEMENT AND CERTAIN OTHER AGREEMENTS.—Section 2106 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3806) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the comma at the end and inserting '', or'';

(B) by striking paragraphs (2), (3), and (4) and inserting the following:

''(2) establishes a Trans-Pacific Partnership,''; and

(C) in the flush text at the end, by striking ''the date of the enactment of this Act'' and inserting ''the date of the enactment of the Creating American Jobs through Exports Act of 2011''; and

(2) in subsection (b)(2), in the matter preceding subparagraph (A), by striking ''the enactment of this Act'' and inserting ''the date of the enactment of the Creating American Jobs through Exports Act of 2011''.

SEC. 5003. MODIFICATION OF STANDARD FOR PROVISIONS THAT MAY BE INCLUDED IN IMPLEMENTING BILLS.

Section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b)), as amended by section 5002(a), is further amended in paragraph (3)(B) by striking clause (ii) and inserting the following:

''(ii) provisions that are necessary to the implementation and enforcement of such trade agreement.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on November 8, 2011, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PRYOR. 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 November 8, 2011, at 10:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 8, 2011, at 10 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. PRYOR. 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 NCLB: Veiws on the Elementary and Secondary Education Reauthorization Act'' on November 8, 2011, at 10 a.m. in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. PRYOR. 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 November 8, 2011, at 2 p.m.

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

COMMITTEE ON THE JUDICIARY

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on November 8, 2011, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the U.S. Department of Justice.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 5, 2011, at 2:30 p.m.

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

RECOGNIZING AND HONORING THE ZOOS AND AQUARIUMS OF THE UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. Res. 132 and the Senate proceed to its consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 132) recognizing and honoring the zoos and aquariums of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 132) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 132

Whereas the 223 zoos and aquariums accredited by the Association of Zoos and Aquariums support more than 142,000 jobs nationwide, making such zoos and aquariums a valuable part of local and national economies;

Whereas according to the Association of Zoos and Aquariums, accredited zoos and aquariums generate more than $15,000,000,000 in economic activity in the United States annually;

Whereas according to the Association of Zoos and Aquariums, accredited zoos and aquariums attract more than 165,000,000 visitors each year and are a valuable part of regional, State, and local tourist economies;

Whereas according to the Association of Zoos and Aquariums, accredited zoos and aquariums have formally trained more than 400,000 teachers, and such zoos and aquariums support science curricula with effective teaching materials and hands-on opportunities and host more than 12,000,000 students annually on school field trips;

Whereas according to the Association of Zoos and Aquariums, accredited zoos and aquariums provide a unique opportunity for the public to engage in conservation and education efforts, and more than 60,000 people invest more than 3,000,000 hours per year as volunteers at such zoos and aquariums;

Whereas public investment in accredited zoos and aquariums has dual benefits, including immediate job creation and environmental education for children in the United States;

Whereas accredited zoos and aquariums focus on connecting people and animals, and such zoos and aquariums provide a critical link to helping animals in their native habitats;

Whereas according to the Association of Zoos and Aquariums, accredited zoos and aquariums have provided more than $90,000,000 per year over the past 5 years to support more than 4,000 field conservation and research projects in more than 100 countries; and

Whereas many Federal agencies have recognized accredited zoos and aquariums as critical partners in rescue, rehabilitation, confiscation, and reintroduction efforts for distressed, threatened, and endangered species: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the zoos and aquariums of the United States;

(2) commends the employees and volunteers at each zoo and aquarium for their hard work and dedication;

(3) recommends that people in the United States visit their local accredited zoo and aquarium and take advantage of the educational opportunities that such zoos and aquariums offer; and

(4) urges continued support for accredited zoos and aquariums and the important conservation, education, and recreation programs of such zoos and aquariums.

UNANIMOUS CONSENT AGREEMENT—S. 1280

Mr. REID. Mr. President, I ask unanimous consent that the amendment to the title of S. 1280 be engrossed, set out in the heading of amendment No. 668, be considered to have been proposed and adopted as such.

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

Mr. REID. Mr. President, the amendment to the title of S. 1280, as engrossed by the Senate was set out only in the heading of amendment No. 668, the substitute for the bill, and not in the text of amendment No. 668. It was not properly drafted as an amendment to the title of the bill. Unlike properly drafted title amendments, amendment headings are not printed in the CONGRESSIONAL RECORD, nor are they contained in online computer records. Therefore, this title amendment is first present in the engrossed Senate bill and is not otherwise reproduced as part of the legislative history of the bill. To clarify the Senate's intention to amend this title, the Senate agreed to this unanimous consent request.

ORDERS FOR WEDNESDAY, NOVEMBER 9, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Wednesday, November 9, 2011; 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; that following any leader remarks, the Senate be in a period of morning business for 70 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 40 minutes and the majority controlling the final 30 minutes; that following morning business, the Senate proceed to the consideration of S.J. Res. 6, under the previous order.

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

PROGRAM

Mr. REID. Mr. President, tomorrow we will debate S.J. Res. 6 regarding net neutrality and continue debate on H.R. 674, the 3% Withholding Repeal and Jobs Act, with the Veterans jobs amendment.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:12 p.m., adjourned until Wednesday, November 9, 2011, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

UNITED STATES INTERNATIONAL TRADE COMMISSION

MEREDITH M. BROADBENT, OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING JUNE 16, 2017 , VICE DEANNA TANNER OKUN, TERM EXPIRED.

DEPARTMENT OF STATE

ANNE CLAIRE RICHARD, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION), VICE ERIC P. SCHWARTZ, RESIGNED.

TARA D. SONENSHINE, OF MARYLAND, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, VICE JUDITH A. MCHALE.

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,

JASON P. JEFFREYS, OF MISSISSIPPI

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

CORINNA E. YBARRA ARNOLD, OF TEXAS

FOREIGN SERVICE OF THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ANDREA ARCILA, OF TEXAS
ANDREW J. AYLWARD, OF CALIFORNIA
KALA CARRUTHERS AZAR, OF VIRGINIA
BRANISLAVA BELL, OF VIRGINIA
JAMES CHARLES BENNETT, OF WISCONSIN
JOSHUA R. BENZ, OF MARYLAND
TIMOTHY JUDE BERTOCCI, OF VIRGINIA
ANNIKA R. BETANCOURT, OF CONNECTICUT
WILLIAM LEE BLACK II, OF VIRGINIA
PHILIPPE A. BOHEC, OF THE DISTRICT OF COLUMBIA
MATTHEW ANTHONY BOULLIOUN, OF VIRGINIA
CHARLES B. BOWERS, OF VIRGINIA
MICHEL C. BUEKENS, OF THE DISTRICT OF COLUMBIA
AARON PAUL BURGE, OF FLORIDA
ALLISON SUZANNE BYBEE, OF NEW JERSEY
CINDY H. CHEN, OF ILLINOIS
SHILIANG (THOMAS) CHEN, OF NEW YORK
DAHM CHOI, OF CALIFORNIA
KRISTOFER LEE CLARK, OF FLORIDA
PATRICK FRANCIS COLLINS, OF ILLINOIS
JESSI MARIE COPELAND, OF VIRGINIA
EMILY ANN CRACKNELL, OF VIRGINIA
EDWARD FRANCIS DANOWITZ III, OF GEORGIA
KRISTIE DILASCIO, OF THE DISTRICT OF COLUMBIA
ANDREW JOSEPH DILBERT, OF FLORIDA
REBECCA ANN DOFFING, OF MINNESOTA
ANDREW WEBER DUFF, OF THE DISTRICT OF COLUMBIA
SUSAN L. DUNATHAN, OF NORTH CAROLINA
WREN S. ELHAI, OF VIRGINIA
MICHAEL JARED FELDMAN, OF MARYLAND
JAMES PATRICK FELDMAYER, OF WASHINGTON
BETH RUSHFORD FERNALD, OF NEW HAMPSHIRE
CAITLIN FINLEY, OF OREGON
LIAM E. FITZGERALD, OF VIRGINIA
SACHA FRAITURE, OF MARYLAND
WILLIAM DAVID TUNGETT FROST, OF KENTUCKY
DORY GEDEON, OF VIRGINIA
LAUREN M. GIBSON, OF MARYLAND
NICHOLAS GRAY, OF WISCONSIN
MILES CHRISTIAN HANSEN, OF UTAH
MARK D. HARLAN, OF THE DISTRICT OF COLUMBIA
KIMBERLY REBECCA HARMON, OF SOUTH CAROLINA
JOHN HAZLETT, JR., OF MARYLAND
JEFFREY CLAIR HILLIARD, OF CALIFORNIA
COURTNEY W. HO, OF NEW JERSEY
REID STEVENSON HOWELL, OF OREGON
MAIETA HOWZE, OF THE DISTRICT OF COLUMBIA
JONATHAN HWANG, OF CALIFORNIA
KUMI T. IKEDA, OF CALIFORNIA
AMIRAH TAREK ISMAIL, OF ARIZONA
NILE JOHANNA JOHNSON, OF GEORGIA
JOAN KATO, OF IOWA
RICHARD THOMAS KERR, OF NEW HAMPSHIRE
AAMER ALAM KHAN, OF MASSACHUSETTS
JOSEPH KIM, OF VIRGINIA
JAN JERRY KRASNY, OF FLORIDA
JIN-FONG YASUO LAM, OF FLORIDA
FRANK LAVOIE, OF NEVADA
ROBERT P. LEFMAN, OF VIRGINIA
KELLY LORENZ, OF VIRGINIA
JACLYN LUO, OF GEORGIA
JAMES REID MACDONALD III, OF OREGON
EWAN JOHN MACDOUGALL, OF NEW YORK
ERICA MAGALLON, OF CALIFORNIA
DAN MARK, OF WASHINGTON
TRACY MARTIN, OF NEW YORK
VANESSA DANIELLE COLN MATOS, OF TEXAS
KEVIN E. MCCALL, OF MARYLAND
KRISTINE R. MCELWEE, OF HAWAII
DAVID MCWILLIAMS, OF TEXAS
MATTHEW MICHAEL, OF VIRGINIA
LITAH NICOLE MILLER, OF MISSOURI
JAMES J. MURPHY, OF VIRGINIA
CRISTINA MARIE NARVAEZ, OF MINNESOTA
CARLY SABRIA NASEHI, OF FLORIDA
TOBIN H. NELSON, OF CALIFORNIA
KATHERINE ADJOA NTIAMOAH, OF INDIANA
WILLIAM E. O'BRYAN, OF NEBRASKA
LARRY G. PADGET, JR., OF VIRGINIA
DAVID TODD PANETTI, OF MINNESOTA
MELISSA PAULSEN, OF GEORGIA
NICOLETTE L. PAYNE, OF MICHIGAN
AMY PETERSEN, OF THE DISTRICT OF COLUMBIA
SHANNON ELISABETH PETRY, OF CONNECTICUT
HEDAYAT KHALIL RAFIQZAD, OF VIRGINIA
CHRISTOPHER RAINS, OF CALIFORNIA
KAKOLI RAY, OF NEW JERSEY
JUSTIN REID, OF CALIFORNIA
SALINA RICO, OF CALIFORNIA
KAHINA MILDRANA ROBINSON, OF CALIFORNIA
JOHN RUNKLE, OF WASHINGTON
PHILLIP R. SALEH, OF VIRGINIA
LEILA SALIBA, OF THE DISTRICT OF COLUMBIA
WILLIAM C. SANDS, OF MICHIGAN
MIRIAM S. SCHIVE, OF MARYLAND
THOMAS SAMART SMITH, OF WYOMING
NOOSHIN SOLTANI, OF NEW YORK
PAUL A. ST. PIERRE II, OF VIRGINIA
JAMES V. STANG, OF CALIFORNIA
ELYSE STINES, OF NEW YORK
ELISABETH CARBIN STRATTON, OF THE DISTRICT OF COLUMBIA
KAREN TANG, OF VIRGINIA
ALEXANDRA JOLIE TAYLOR, OF PENNSYLVANIA
SEAN ANDREW THOMPSON, OF WASHINGTON
ELIZABETH B. THRELKELD, OF OKLAHOMA
BRIAN ANDREW TIMM-BROCK, OF PENNSYLVANIA
CAITLIN JANE TUMULTY, OF MASSACHUSETTS
NICHOLAS TYNER, OF MASSACHUSETTS
TIA H. VANNI, OF VIRGINIA
KAVEH VAMEGHI VESSALI, OF CALIFORNIA
ROBERT D. VITATOE, OF GEORGIA
HARLOW C. VOORHEES, OF THE DISTRICT OF COLUMBIA
DANIEL T. WEBBER, OF VIRGINIA
JOHN ALAN WEBER, OF WEST VIRGINIA
EILEEN WEDEL, OF FLORIDA
ERIC MICHAEL WILSON, OF THE DISTRICT OF COLUMBIA
COURTNEY J. WOODS, OF ARKANSAS

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE COMMISSIONED CORPS OF THE U.S. PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

To be surgeon

JOSE G. BAL
FATU M. FORNA
ERICA D. RADDEN

To be senior assistant medical officer

DEBORAH S. BELSKY
MARIA D. DEARMAN
SETH R. HECKMAN
JONATHAN R. KEVAN
SARAH E. NILES
ANGELA D. SHELTON
KIMBERLY A. SMITH

To be senior assistant dental officer

MELISSA L. ALYLWORTH
TARA L. RAGLAND

To be assistant dental officer

DAVID J. MCINTYRE

To be nurse officer

SAMUEL N. CARDARELLA

To be assistant nurse officer

JEFFREY M. BENZMILLER
TINA M. BRADS-PITT
TIMIKI A. BROWN
YANEKE T. DUFFUS
AMANDA H. FRISON
KAMAH A. HOWARD
VICTORIA E. MALEY
ERIN M. MCMAHON
ABBY L. MOZEKE-BAKER
JAMES A. NOWELL
RODNEY C. PERKINS
MARY LEE PETERSEN
MAHOGONY J. RAHMING
JESUS B. REYNA
KIMMALA S. ROUNDTREE
RANDAL A. SHERRON
JAMIE A. SMITH
DARLENE A. STEPHENS

To be junior assistant nurse officer

MALVIS N. ACHONDUH
ADEDOYIN A. ADEPOJU
SHEENA R. BAILEY
JOHNICE J. BARAJAS
NANCY R. BOGDANOVIC
DUSTIN V. BOWDEN
CARIN S. BUSCH
JAMES L. CARTER
CHRISTOPHER M. DAVIS
KATHRYN E. FAFORD
ALYSSA N. GIVENS
CRYSTAL N. HARRIS
REBECCA A. HAYNES
ASHLEY J. INNISS
LYNN C. JOHNSON
KELLIE LEVEILLE
VALERIE J. MARTIN
JENNIFER N. MORGAN
ALI A. PATINO, JR
JENNIFER L. RUNNELS
STEPHEN K. RUSSELL
CAITILIN M. WESKAMP
ERICA M. WILLIAMS
ERIC D. WILSON
SARAH R. YOUNGBAUER

To be assistant engineer officer

SHANE C. DECKERT
ABRAHAM MARRERO
MARTA MARTIN—MATOS
TRAVIS R. SPAETH
MICHAEL H. TOLLON
VIKY G. VERNA

To be junior asisstant engineer officer

KELLY R. HOEKSEMA
LYONEL A. JEAN—BAPTISTE, JR

To be assistant scientist officer

SARAH E. ANGSTMAN
ROBERT W. BINFORD
ADAM S. COLEMAN
CHRISTOPHER L. COOPER
BLAIR R. DANCY
ALYSON BETH S. EISENHARDT
BRUCE V. FIGUERRED
CAITILIN A. HAMILL
LUIS M. ITURRIAGA
ERIC F. KEBKER
YVETTE LAWRENCE—HOOD
MARK S. LEVI
ERICA L. MEDLOCK
JOHN T. PESCE
CHANDRA SPROLES
ASHLEY KAY S. WINKLEMAN
JULIANA A. ZUCCO

To be assistant veterinary officer

MICHAEL CHIU
WENDY B. CUEVAS—ESPELID
TORIA C. DAVIS—FOSTER
SANG H. LEE

To be assistant pharmacy officer

SAMUEL N. AREH
NEGASSI M. BIRE
MICHAEL O. BOLURO—AJAYI
GRACE P. CHAI
JENNY CHANG
SAMUEL E. CINCOTTA
DELLA C. CUTCHINS
ARIEL R. DAVIS
LAURA E. ENMAN
KATHERINE J. FREELING
TERESA R. GRUND
BRIAN D. HAMBURGER
MANDEL J. HEARNS
CHRISTOPHER JANIK
NINA M. JOHNSON—WHITENACK
SADHNA KHATRI
RANA KIM
JASON D. KINYON
KELLIE N. LE
JUNG E. LEE
ANDREW D. LESTER
FRANCELYSE A. LEVEILLE
EITHU Z. LWIN
ZIRNITA J. MALLORY
NIMMY MATHEWS
KRISTOPHER E. MOLLER
HENRY W. NETTLING
MUTIU O. OKANLAWON
BIBILOLA F. OMOLOJU
SOO J. PARK
AUSTEN L. PATTERSON
SOPHEAP PIN
DAVIDE PRESTON
GREGORY F. REESON
ANDREW K. SHIFLET
STEPHEN J. SMITH
FUNMILAYO SOTOLA
ANN C. TOBENKIN
FRANCIS P. VU
JOSEPH M. WEATHERSPOON
PHILIP L. WILLIAMS
PHILLIP A. WILLIAMS

To be junior assistant pharmacy officer

ODUN A. BALOGUN, JR
ERICA B. FLEURY
SHARLA L. JANSSEN
KELSEY R. LUCZAK
SANDRA M. MATHOSLAH
RACHAEL L. MEAD
ANTHONY C. SHELTON

To be assistant dietitian

NICOLE S. LAWRENCE
DANIELLE S. MEYER
ELLEN LAN T. NGUYEN
KRISTIE A. PURDY

To be assistant therapist

PETER J. ARROYO, JR
AMBER N. BECKER
SHARON X. JIA
JOHN K. KELLY
SHAWN M. SHERMER
CANDICE B. TURNER

To be assistant health services officer

ZARINAH ALI

JULIANA R. BERLIET
JILL E. BREITBACH
JENNIFER A. COCKRILL
ANDREW J. FELIX
KELLY A. HAINES
DONALD R. HOESCHELE III
DANIEL R. HOLLIMAN
KEVIN E. HORAHAN, JR
KIMBERLEY R. JONES
SHERRY J. MIYASATO
PAUL MOITOSO
CRISTINA E. MOSQUERA
KIRSTEN L. MUTCHLER
GINA C. ORTIZ
NICHOLAS J. SCIRE
MICHELLE L. SHEEDY
RENEE D. SMITH
NICOLE C. SOLOMAN
STEPHAN A. VILLAVICENCIO
DONNA M. WANSHON
MICAH S. WOODARD

To be junior assistant health services officer

CAMILLE F. A. AIKEN
PATRICK A. BLOECHER
GEOFFREY M. CARSON
GINA M. DAILEY
JASON T. GOLLOHER
KARI M. JONES
OLAOLUWA A. OLAIGBE
MISTIN L. RAY
SARAH SAFARI
YEE VANG
KENDRA J. VIEIRA

CONFIRMATION

Executive nomination confirmed by the Senate November 8, 2011:

THE JUDICIARY

EVAN JONATHAN WALLACH, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.