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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

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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

WEDNESDAY, NOVEMBER 9, 2011

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Almighty and everlasting God, increase our faith, hope, and love.

Give our lawmakers more faith to trust You when the skies are dark and to believe that in everything You are working for the good of those who love You. Give them more hope to refuse to despair, to accept disappointments without cynicism, and to experience failure yet try again. Give them also more love to be loyal to You, to persevere, though pressed by many a foe, and to do unto others as they would have others do unto them.

We pray in Your merciful Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, November 9, 2011.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
*President pro tempore.*

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

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

## SCHEDULE

Mr. DURBIN. Madam President, following leader remarks, the Senate will be in morning business for 70 minutes, with the Republicans controlling the first 40 minutes and the majority controlling the final 30 minutes. Following morning business, the Senate will consider the motion to proceed to S.J. Res. 6, regarding net neutrality, with up to 4 hours of debate. Upon the use or yielding back of time, the Senate will resume debate on H.R. 674, the 3% Withholding Repeal and Job Creation Act with the veterans jobs amendment.

Madam President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

## RECOGNITION OF THE MINORITY LEADER

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

## NET NEUTRALITY REGULATIONS

Mr. MCCONNELL. Madam President, later today the Senate will take up S.J. Res. 6, Senator HUTCHISON's resolution of disapproval of the FCC's net neutrality regulations. I would like to start by thanking Senator HUTCHISON for her leadership on this important issue.

While we all understand the importance of an open Internet, I think we can also agree that the growth of the Internet in the last 15 years is an American success story that occurred absent any—any—heavyhanded regulation here in Washington. We should think long and hard before we allow unelected bureaucrats to tinker with it now.

Everywhere I go in Kentucky, I hear from businesses large and small that they are struggling to comply with the mountains of rules and regulations coming out of Washington. At a time when the private sector would like to create jobs and grow the economy, it

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

seems as if too many here in Washington want to create regulations and grow government. So, like many Americans, I was heartened 2 months ago when the President came to the Capitol and laid out a very specific test for judging the merits of Federal regulation. Like most of my colleagues, I applauded when the President told us that ''we should have no more regulation than the health, safety and security of the American people require. Every rule should meet that commonsense test.''

As it turns out, the FCC didn't get the memo. The net neutrality regulations we are debating today clearly fail that commonsense test. They are a solution in search of a problem. It is an overreaching attempt to fix the Internet when the Internet is not broken. According to the FCC's own data, 93 percent of broadband subscribers are happy with their service. If Americans weren't happy with their provider or felt the provider was favoring some form of content over others, they could switch providers. But now the FCC says its regulations are necessary because of what might happen in the future—what might happen in the future—if broadband providers have incentives to favor one type of content over another, despite the fact that after 15 years, there is no evidence of this occurring in any significant way. If Internet providers were so interested in doing this, wouldn't they have done it by now? Instead, the FCC has exceeded its authority to grow the reach of government under the guise of fixing a problem that doesn't even exist.

So why should this matter to anyone? Simply, the growth of the Internet is one of the great success stories of our lifetime. Just 15 years ago, the thought that you could read a book, watch a ball game, and video conference with your kids all on a device the size of a magazine would have been something from science fiction. Today, it is reality. The Internet has transformed society precisely because people have been able to create and innovate largely free from government intrusion.

Businesses are free to invest and grow on the Internet, safe in the knowledge that consumers and technology will determine their fate, not the whims of Washington regulators. This investment in broadband infrastructure is the cornerstone of our high-tech economy, which employs nearly 3.5 million Americans. But the FCC's regulations could jeopardize its future growth by dictating what sort of return businesses can earn on their investment. As my colleague Senator HUTCHISON and I recently noted, ''Lower returns mean less investment, which in turn means fewer jobs.'' Some estimates suggest we could lose 300,000 jobs as a result of these rules.

Thankfully, it is not too late to act. A bipartisan majority in the House voted to overturn these rules earlier this year. The Senate should take the opportunity to do the same. In order to protect the growth of the Internet and its ability to create the jobs of the future, I would encourage my colleagues to support the Hutchison resolution.

BIPARTISAN JOBS CREATION

Madam President, I wish to speak now on another issue.

When something good happens here in the Senate, I think it is important that we all acknowledge it. So I would like to start this morning by thanking our friends on the other side for finally agreeing to join us in making some progress on the nearly two dozen bipartisan jobs bills the House has already passed, and I want to urge them to keep at it, to keep pressing ahead with jobs bills both parties will actually support. That way, we will show the American people we are capable of accomplishing something together up here when it comes to jobs.

For months, House Republicans have been executing on a plan to identify ideas which would not only help spur private sector job creation but which would also attract strong bipartisan support. For weeks, I have been urging the Democratic majority in the Senate to take up these bills so they can become law.

This week, Senate Democrats finally agreed to move ahead with two of these bipartisan proposals—a repeal of the 3-percent withholding rule that would ease the burden on government contractors and a veterans bill which not only helps returning service men and women find jobs but which also helps those who hire them. Neither of these bills is going to solve the jobs crisis, but they will help a lot of Americans who deserve it, and they will go a long way in showing the American people there is plenty we can agree on up here.

My suggestion now is that we don't stop there. Let's just keep it up. Let's take up and pass the rest of the bipartisan jobs bills House Republicans have already passed with bipartisan support right across the dome. I have highlighted one of those bills already this week, one that makes it easier for businesses to raise the capital they need to expand and create jobs. This morning, I would like to highlight another—the Shareholder Registration Thresholds Act, H.R. 1965. This is a bill that increases the number of shareholders who are allowed to invest in a community bank before that bank is required to shoulder costly new burdens from the SEC.

For 3 years now we have been talking about the urgent need for growing businesses to have access to capital so they can expand and hire. Yet, because of an outdated law, the smaller community banks that want to make loans to help these growing businesses are subject to burdensome regulations that shouldn't even apply to them. H.R. 1965 will increase the threshold of shareholders that triggers the requirement from 500 to 2,000. A companion bill in the Senate that would do the same thing is cosponsored on the Republican side by Senator HUTCHISON, among others, and on the Democratic side by Senator PRYOR, among others. And Senator TOOMEY has a bill—S. 1825—to expand this legislation by applying it to businesses other than banks.

Now, we should take up these bills in the Senate and pass them as soon as possible with the same show of bipartisan support the two parties mustered on behalf of H.R. 1965 last week. Just like the bipartisan House-passed jobs bill I highlighted yesterday, H.R. 1965 passed the House last week with nearly unanimous support. The vote was 420 to 2, with 184 Democrats voting in support. Only 2 people out of the entire 435-Member House voted against the bill.

The President's jobs council has endorsed the idea, and top Democrats have been vocal proponents of this legislation proposed by House Republicans.

Here is House minority leader Congressman HOYER on H.R. 1965 just last week:

> We need to see lending to small businesses and homeowners, but they're hamstrung in their attempt to raise capital by outdated SEC registration requirements.

I completely agree with STENY HOYER.

Here is Congresswoman SHEILA JACKSON LEE:

> Small businesses need access to loans and other lines of credit in order to build their businesses and to create jobs. Before us is a measure that would allow small businesses to get the support they need.

I completely agree with Congresswoman SHEILA JACKSON LEE. Look, it is not every day that Congresswoman JACKSON LEE and I agree on legislation. So I think we should lock this down. Let's pocket another bipartisan accomplishment right here and help the job creators who need it.

This is precisely the kind of approach we should be taking here in the Senate—putting aside these giant partisan bills that Democrats know Republicans won't support and focusing on smaller proposals that can actually garner support from nearly everyone and make it onto the President's for a signature.

These are small steps but they are progress. Let's keep at it.

Madam President, I yield the floor.

## RESERVATION OF LEADER 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 70 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the Republicans controlling the first 40 minutes and the majority controlling the final 30 minutes.

The Senator from Nebraska.

Mr. JOHANNS. Madam President, I ask unanimous consent to enter into a colloquy with my Republican colleagues, Senator GRASSLEY of Iowa and Senator COBURN of Oklahoma, for up to 30 minutes.

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

## HEALTH INSURANCE

Mr. JOHANNS. Recently, the Des Moines Register reported that an Iowa-based insurance company has decided to exit the health insurance market, abandoning insurance sales directly to individuals and families. So what is the net effect of all of that? Thirty-five thousand policyholders will lose their insurance. It calls to mind the famous promise by the President: If you like your plan, you can keep it.

The story doesn't stop there. It has an even more profound impact on the lives of real people. The impact goes on. One hundred ten employees will lose their jobs. Seventy of those employees are in Nebraska. That calls to mind Speaker PELOSI's broken promise: The law will create 4 million jobs—400,000 jobs almost immediately.

The driving factor for all of this is a Health and Human Services regulation required by the health care law which micromanages how insurance companies can spend their revenues.

Unfortunately, this job loss in Nebraska is not an anomaly. A recent survey of nearly 2,400 independent health insurance agents and brokers from all over came to this conclusion. One month after this HHS regulation took effect, more than 70 percent had experienced a decline in their revenues. And, more shocking, nearly 5 percent had lost their jobs.

The Government Accountability Office reported that most of the insurers they interviewed were reducing individuals' commissions. These are not the big insurance companies that were railed against in the health care debate. These are not the big insurance companies that are being squeezed. The good folks who are being squeezed are the mom-and-pop agencies that we find on Main Street throughout the United States. Yes, these are the folks we go to to support the local football team, the local high school, the local 4–H club, whatever the civic cause may be. And yet, with unemployment hovering around 9 percent, the health care law puts the hammer on these people. I reached the conclusion long ago that the health care law is bad for job creation and it is bad for keeping your job.

The Des Moines-based insurance company's CEO's job loss, according to him, was:

> A fairly predictable consequence of the regulation.

UBS Investment Research called the health care law:

> The biggest impediment to hiring . . . which has the added drawback of straining State and Federal budgets.

The National Federation of Independent Businesses said:

> Small business owners everywhere are rightfully concerned that the unconstitutional new mandates, countless rules and new taxes in the health care law will devastate their businesses and their ability to create jobs.

What we are seeing with this law is a massive amount of overregulation. According to a recent Wells Fargo-Gallup small business poll, government regulations are the most important problem facing our small business owners. If we just focus again on the health care law, that legislation alone has resulted in 10,000 pages of new Federal regulations and notices—10,000 pages. How could any small business comply?

The employer mandate penalizes employers for growing. It is as simple as that. It forces employers who do not provide acceptable coverage to pay a penalty of $2,000 per full-time employee. But, you see, the penalty is applied to firms with more than 50 employees. And as a small business owner in the Bellevue, NE, area recently explained to me:

> I'm not growing my business over 50 employees. I don't want to deal with your health care law.

Well, as I mentioned, this discussion starts, at least today, with that article in the Des Moines Register.

With me today is the very respected Senator from the State of Iowa, Senator GRASSLEY. I would ask Senator GRASSLEY, what impact does he see arising out of this health care law in his State and, even more broadly, across this country?

Mr. GRASSLEY. I thank Senator JOHANNS for his leadership in this area. He has spoken on regulations quite regularly on the Senate floor and also in our caucus, and I thank the Senator for his leadership in that area.

No. 1, I would say there is a certain irony between a President who is going around the country now and talking about, We have got to pass legislation to create jobs, at the very same time as the Senator demonstrated in his remarks that there is a health care bill law being instituted that is making people unemployed.

There is also a certain irony in what the President does and the Secretary of HHS does with what Speaker PELOSI said at the time the bill was up: You know, we have got to pass this bill to see what this bill does. Well, now we are finding out what it does, and people don't like what it does.

You spoke about regulations causing unemployment, and you spoke about 10,000 pages of regulations. That is probably 10,000 pages of regulations out of the 66,000 pages of regulation that we have had this year, and 10,000 of that deals with health care. But think about the other 57,000 pages that deal with other pieces of legislation that are a problem for small businesses—particularly small businesses. I guess it is a problem for all business, but particularly for small business. And so far, a few regulations have been issued adding up to that 10,000 pages.

People can read this 2,700-page bill and understand what is in it, and most of them read it and understood what was in it before Speaker PELOSI said, ''We have got to pass it to find out what is in it,'' and didn't like what was in it. But in this bill, there are 1,693 delegations of authority to write regulations. So if you have 10,000 pages so far based upon the new regulations that have been written, just think what it is going to be like when all of the pages are printed for the 1,693 regulations. So I think we are at the tip of the iceberg so far in this legislation, and the damage that is done to employment and lack of job creation has just started. That is my comment on that.

I have some remarks I wish to make, if it is okay with the Senator; and if he has to go to a committee meeting, I understand.

This is not the first time this situation has happened in Iowa, and it is coming at a time when people need stability. American families are struggling to put food on their table, pay their utility bills as winter arrives, and purchase health insurance as costs are skyrocketing.

In other words, the President has promised: Pass this legislation and it is going to keep health care premiums down, but that is misleading people, and at a time when, as Senator JOHANNS said, another promise made was: If you like what you have, you are going to be able to keep it.

Well, I don't know exactly the figure—I have got it here coming up. There is a figure of several thousand people in our State who aren't going to be able to keep the health insurance they like and they already have because of this company closing down individual policies.

Unemployment continues to hover around 9 percent and 1 million Americans are underemployed, and here we have a health care bill that is causing more people to be unemployed, as well as not keeping the health insurance they want. With the economic situation our country is facing, Congress must reexamine its actions and realize the errors that were made because of partisan votes. This bill was an entirely partisan piece of legislation, unlike most social contracts in America that have been passed, such as Social Security, Medicare, and Medicaid, civil rights legislation. Those were bipartisan pieces of legislation because it was felt that when you are making this difference in America, you ought to have a broad consensus that major changes such as this ought to be made. But in this particular case, it was very partisan.

I want to go over to what Senator JOHANNS said about the Des Moines Register article. The American Enterprise Group, an insurance company participating in individual health insurance markets in Iowa and Nebraska, is leaving the market. This action

shows the importance of repealing and replacing the health care overhaul passed by Democrats in Congress and signed by the President last year before the situation deteriorates even further. Just think what it is going to be like when we get the rest of these 1,693 delegations of authority to the bureaucracy to write regulations.

American Enterprise notified 110 employees in Iowa and Nebraska that they will lose their jobs sometime during the next 3 years. American Enterprise is leaving the individual health insurance market as a result of the instability caused by the implementation of this health care reform bill. American Enterprise stated it will no longer sell individual health insurance policies because of the regulatory environment created by the health care reform bill.

This isn't an isolated incident for Iowa, this one company, because the Principal Financial Group left the small group insurance market in 2010, and Principal Financial isn't a small Main Street operation. It is one of the major financial groups in the United States, but still, they could not find it to be competitive to stay in the individual market.

This has cost many Iowans their jobs, while leaving scores of small businesses and their employees to choose from health insurance plans in a health insurance market where there is less and less competition. The regulatory culprit in this incident is a medical loss ratio regulation of this legislation. This regulation requires insurers to pay a certain percentage of premiums in claims.

I know supporters will defend the regulation as ''keeping insurers in check.'' But the real world effect is to force insurers to leave the market, thereby reducing competition and choice available to consumers—not exactly what the President promised, that we are going to have competition, keep price down, and people are going to have choice, they are going to be able to keep what they want if they have it. But in this case, for these people, that isn't a promise kept. That turns out to be a falsehood.

The small group and individual markets happen to be very vulnerable. That is the problem. Insurers risk and set their premiums accordingly. Insurers are making a rational decision to get out of the market because the risks have become too great. Competition is reduced. Costs rise.

Once upon a time, the President promised Americans that if they liked the insurance program they have, they can keep it. This is more evidence that that promise rings hollow.

This recent planned pullout will leave 35,000 individuals without insurance plans that they have grown accustomed to. Forcing people to choose a different insurance option can lead to higher costs and may limit the health care accessibility these individuals have depended on for years. This is especially detrimental when these individuals have preexisting conditions or acute chronic disease. The President specifically promised that if these people want to keep their health care coverage, they would be able to do it with the passage of that law. This is just one of the many examples of how this overhaul has led to broken promises made by the President when pushing through the passage of this legislation in a partisan way.

These problems will certainly continue as more regulations are written. The Congressional Budget Office expects people in the individual market to see an average of a 10-percent to 13-percent rise in premium costs solely based on the passage of the health care law. Does that increase accessibility or affordability? No, of course it doesn't.

Not only has the health care overhaul caused health insurance companies to leave parts of the health insurance market and health insurance costs to increase, it has also put added burden on employers. Some employers will no longer offer their employees health care coverage. Higher taxes and mandates put on employers by the new health care law have left many employers without resources to maintain current coverage for family members of their employees. The negative impact this legislation is having on large employers and those insured by employers was demonstrated by the National Business Group on Health. In its recent annual survey, overall planned costs for larger employers are expected to rise by 6 percent in 2012. The National Business Group on Health also notes that 7 out of 10 employers will lose their grandfather status, meaning employees will lose their current health care plans and employers will be subject to additional regulations.

According to the same survey, 3 out of 10 employers are unsure if they will continue to insure employees due to the health care overhaul. Other employers will increase the employee share of the insurance premium, and many employers state they will likely lower the level of health care coverage offered to their employees. Walmart, as an example, will not allow many of its new part-time employees to receive health care insurance through the company. Many of these workers are underemployed. They work hard yet do not always have adequate resources to purchase health care insurance on their own, especially as costs in the insurance markets continue to increase due to the new law.

Additionally, many businesses are simply dropping coverage for their own employees because of the extra costs incurred in the legislation. It is more affordable for some employers to drop coverage for their employees and pay the fine associated with the employer mandate. An employer must provide health insurance for their employees if they have more than 50 employees or 50 full-time equivalents. Employers who are required to insure employees will be fined $2,000 per employee who seeks health insurance through one of the exchanges created under the health care overhaul, and any employer-sponsored plan must meet the definitions of HHS on what an adequate plan is under the mandate.

This requirement will increase insurance costs for employers and employees when they must upgrade health insurance benefits in order to meet the standards defined by HHS. Forcing employers to provide health insurance when they have a tough time hiring new employees just adds to the burden employers are facing in this struggling economy. Employers will likely pay their increased health insurance costs by reducing employee take-home pay or by increasing the employee share of health insurance premiums. Also, employers will continue struggling in future years as the Federal Government increases year by year the requirements of health insurance benefits needed to avoid a penalty.

Furthermore, employers already faced with economic uncertainty have to deal with the government regulations that continue to change, adding to uncertainty. An HHS rule released last November allows fully insured group plans to switch insurance providers as long as the insurance benefit provided to the beneficiaries remains comparable. However, this is only for group plans that switched after November 15 last year.

HHS wrote this new rule so more group plans can find affordable coverage and shop around for similar coverage at cheaper rates. But if the group insurance plan carrier was changed before November 15, the plan would lose grandfather status and then be subject to a whole bunch of new regulations. Ironically, what created the need for this new rule was another rule the President's administration and HHS crafted in June last year that stated plans would lose their grandfather status if they switched carriers. This chaotic situation shows what happens when the government is given more authority to regulate the health insurance market.

What we have is a mess. We need to put a halt to the implementation. We need to repeal the law and start over again with commonsense solutions. We need to move away from the regulatory and bureaucratic nightmare that is costing Americans their coverage and too many Americans their jobs.

With 10,000 pages of regulations at this point, just think what it will be like when all 1,693 regulations get written.

I yield the floor.

Mr. JOHANNS. Mr. President, I thank Senator GRASSLEY for this explanation of what this law is doing and the impact it is having. Today, of course, we are starting our discussion with the article from the Des Moines Register which talked about the regulatory impact. But we cannot forget there are other pieces to this law that

have just as severe an impact. I would like to spend a minute or two talking about the destructive taxes that are in this legislation.

When we add it all up, the new health care law basically requires new taxes of about $½ trillion—not to pay down the national debt, not to solve the Nation's debt woes but to create a new entitlement. The Treasury Department's Inspector General for Tax Administration has looked at the impact of the health care law on the Tax Code and said this: ''The law is the largest set of tax law changes in 20 years.''

That is no small undertaking when we think about all that has happened over the last couple of decades, that we ended up with an impact on the Tax Code that is the largest set of tax law changes in 20 years, according to the Treasury expert who looked at this. There are 42 separate provisions adding to or amending the Internal Revenue Code in the health care law. So much of this law was put together in the last days of this debate, people were scrambling around trying to read it and understand it and get information out to their constituents.

Speaker PELOSI said: We will probably have to pass this law to figure out what is in it. And we are now figuring out what is in it, and it is so much more than a health care law. There are 42 separate provisions that add to or amend the Internal Revenue Code.

The Boston Globe weighed in on this. They pointed out the 2.3-percent excise tax on medical device suppliers, according to the Globe, ''will force industry leaders to lay off workers and curb the research and development of new medical tools.'' There is no question about it. When we add up the tax law changes, the impact from a regulatory standpoint and the other provisions of this law, this is not going to result in the promised jobs that Speaker PELOSI spoke of. It is a job killer.

If we look at what this law is doing, it will actually shrink the labor force, actually create a disincentive to work or to receive a pay raise. I referenced earlier in my comments a small business owner in the Bellevue, NE, area. I was sitting in a Business Roundtable a little more than a year ago. We were just going around the room, and I was listening to small businesses describe to me some of the challenges they face.

A woman, a small business owner, said to me: MIKE, we have studied this health care law every which way we can. I am right on the edge of having 50 employees. I am told if I go over 50 employees, I am now subject to all of the ramifications of the health care law. After looking at this I have decided I will not grow my business beyond 50 employees. I do not want to deal with this health care law.

Her discussion with me has stuck with me all of these months. Why is it that Washington would actually pass legislation that would discourage her from hiring additional employees to grow her business? It makes no sense whatsoever. Why are we here in Washington creating a disincentive for the small business owner? Why are we costing Americans jobs?

The Congressional Budget Office has looked at this legislation. They have come to the conclusion that the American labor supply will be reduced by 100,000 workers. The CBO quote is this:

> The law will encourage some people to work fewer hours or to withdraw from the labor market.

The more we learn about this health care law, the more we come to realize this is flawed policy. It passed and it was signed into law by the President of the United States, but it goes beyond flawed policy. It impacts real people who are trying to make a real living.

My comments today started with a story about 50 Nebraskans who lost their jobs or are about to lose their jobs because of the health care law. I am concerned that it is not going to stop there; that as employers are more and more burdened with the thousands of pages of regulations, they will come to realize their best strategy is to try to figure out how to deal with these new requirements and they will pull back on hiring, which is exactly what we do not want to have happen in this economy.

With that, I conclude my remarks and our colloquy today.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ENZI. I also ask unanimous consent that the Senator from Illinois and the Senator from Tennessee be allowed to enter into a colloquy with me for the time that we have allotted.

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

## MARKETPLACE FAIRNESS ACT

Mr. ENZI. Mr. President, I am going to talk about a problem I have tried to solve for 14 years. Today, I think we have a new solution and ''the'' solution—The Marketplace Fairness Act. Our solution has to do with sales taxes that are not being collected at the present time. It is a loophole in the tax law.

I used to be a retailer. I never thought it was fair that I had to collect the sales taxes but the people from out of State did not have to collect the same sales tax. I used to be a mayor, and this bill is a jobs bill and an infrastructure bill. A lot of people do not realize that sales taxes help pay for schools, police and firemen. They may not realize it pays for infrastructure, such as streets and sewers. I always tell people it is a little tough to flush the toilet over the Internet.

The Marketplace Fairness Act would allow States—not require States—to be able to have the out-of-State online sellers, providing they sell more than $500,000 in a year, to collect the State sales tax. I have also been a State legislator, and I can tell you we never intended to pass a law to tax the people on Main Street who buy the yearbooks and participate in community activities to be the ones to collect the tax, and anyone from out of State to not have to do it. This bill cleans up that problem at the same time. Does it make much of a difference? Yes.

We are being asked as a Congress to give money to the States for their teachers, their firemen, and their infrastructure. It is because there is a decreasing amount of revenue going to them through sales taxes that are owed, but are not currently being collected. People may not realize it, but when they buy something online, if the tax is not collected by the seller, they still owe it. This is not a new tax; it is a tax that is already on the books. No legislator ever intended for it to just be for Main Street retailers. If States so choose, sales taxes should be collected by all retailers. In our attempts to fix this problem, we have received a number of support letters for this new bill. I hope everybody will take a look at them. They can view them online. I ask unanimous consent these letters be printed in the RECORD.

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

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
*November 9, 2011.*

Hon. RICHARD DURBIN,
*U.S. Senate,*
*Washington, DC.*
Hon. LAMAR ALEXANDER,
*U.S. Senate,*
*Washington, DC.*
Hon. MICHAEL ENZI,
*U.S. Senate,*
*Washington, DC.*
Hon. TIM JOHNSON,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS DURBIN, ENZI, ALEXANDER AND JOHNSON: On behalf of the National Conference of State Legislatures (NCSL) we would like to express our support and appreciation for your introduction of the Marketplace Fairness Act, which will provide those states that comply with the simplification requirements outlined in the legislation, the authority to require remote sellers to collect those states' sales taxes.

At a time when states continue to face severe budget gaps—states closed shortfalls totaling $72 billion leading into the FY 2012 budget process—it is essential states be allowed to collect the revenue generated by uncollected sales taxes. In 2012, states will collectively lose an estimated $23.3 billion in uncollected sales taxes from out-of-state sales, with more than $11.3 billion alone from electronic commerce transactions, according to a study by the University of Tennessee. The amount of uncollected sales taxes will continue to grow, especially with the unprecedented growth of online commerce.

The enactment of the Marketplace Fairness Act is imperative in light of the current deliberations by the Joint Select Committee

on Deficit Reduction and resulting sequestration if the ''Super Committee'' is unsuccessful. Under either scenario, states will likely face hundreds of billions in reductions in many state-federal programs. While the $23.3 billion in uncollected sales taxes will not match any funding reductions, it will provide states with some fiscal relief. In the words of Senator Roy Blunt, a sponsor of this legislation, it is ''fiscal relief for the states that does not cost the federal government a dime.''

The Marketplace Fairness Act is also a win for local main street businesses throughout the country by leveling the playing field between these main street businesses who have to collect sales taxes and out-of-state merchants who currently do not. Allowing some remote sellers to avoid collecting this tax is unfair to the main street merchants that make up the lifeblood of our local communities. The legislation also removes the liability for businesses collecting sales taxes, ensuring that sellers are held harmless for calculations and collections using the information and certified technology provided by the states that have complied with the Act.

There will be some who claim that this is a new tax; nothing could be further from the truth. This legislation will not require any state to levy a sales tax on any product or means of buying a product. It merely corrects a tax avoidance problem that if not closed now, will only get worse and possibly push states to seek new revenue sources to make up for the uncollected sales taxes.

On behalf of our colleagues from across the country, we thank you for introducing this vital legislation and in doing so, enhancing state sovereignty and fiscal federalism.

Sincerely,

SENATOR STEPHEN MORRIS,
*President, Kansas Senate,*
*NCSL President.*
SENATOR RICHARD MOORE,
*Massachusetts Senate,*
*NCSL Immediate Past President.*

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STREAMLINED SALES TAX
GOVERNING BOARD, INC.,
*November 9, 2011.*

Hon. RICHARD DURBIN,
Hon. TIM JOHNSON,
Hon. MIKE ENZI,
Hon. LAMAR ALEXANDER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS DURBIN, ENZI, JOHNSON AND ALEXANDER: The 24 Streamline states want you to know they support your introduction of the Marketplace Fairness Act.

Online retailers have a competitive price advantage over brick-and-mortar retailers harming the brick-and-mortar retailers. Many main street businesses are little more than showrooms where consumers go to ''kick the tires'' on products they later buy online harming the local business and the community depending on the sales tax from that sale.

At a time when Main Street retailers face enormous competitive challenges it is appropriate for Congress to end this unfair treatment.

After our ten years of effort to simplify sales tax administration we are encouraged by your effort to get Congress to level the playing field for all retailers.

Sincerely,

SENATOR LUKE KENLEY,
*President.*

NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, November 9, 2011.*

Hon. RICHARD DURBIN,
*U.S. Senate,*
*Washington, DC.*
Hon. TIM JOHNSON,
*U.S. Senate,*
*Washington, DC.*
Hon. MIKE ENZI,
*U.S. Senate,*
*Washington, DC.*
Hon. LAMAR ALEXANDER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS DURBIN, JOHNSON, ENZI AND ALEXANDER: On behalf of the National Association of Counties (NACo) and the nation's 3,068 counties, I applaud the introduction of the Marketplace Fairness Act. At a time when counties continue to make the tough decisions and provide services for our mutual constituents with fewer resources, we appreciate your legislative efforts to both assure a simpler system of taxation and help our members recover tax revenues due from purchases made by remote means.

Due to the changing nature of commerce and sales and use tax collection, your legislation responds appropriately by establishing a path to modernize the current system. According to a University of Tennessee study in 2009, e-commerce sales have grown from just over $900 billion in 1999 to more than $2 trillion in 2006. That same study estimated revenue loss for state and local government to the tune of $10.1 billion to $11.3 billion in sales taxes in 2011 alone. Although NACo has worked with other state and local government representatives to champion for collection of remote sales taxes for over a decade, there is no time better than now for this legislation to move forward. Local governments are facing declining revenues due in part to rising mortgage foreclosures, and a reduction in assistance from their states and the federal government.

While your legislation is important in moving us towards collection of remote sales tax, it also serves the purpose of creating equity for those businesses within our local communities. The increasing strength of electronic commerce creates exciting new marketplaces, but it has also put traditional retail outlets at an unfair disadvantage because of outdated and inequitable tax and regulatory environments.

NACo strongly supports your legislative efforts to require collection of taxes made on remote sales, and we appreciate that you recognize the longstanding Streamlined Sales Tax Agreement Project (SSTA). We are also pleased that you have excluded issues such as local telecommunications tax reform, which should be addressed separately from collection of remote sales and use taxes.

Thank you again for introducing this important legislation. We look forward to working with you and other supporters of the Act and the SSTA to see the collection of remote sales taxes enacted to federal law.

Sincerely,

LENNY ELIASON,
*Commissioner, Athens County, Ohio,*
*NACo 2011–2012 President.*

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NOVEMBER 9, 2011.

Hon. RICHARD DURBIN,
Hon. MIKE ENZI,
Hon. TIM JOHNSON,
Hon. LAMAR ALEXANDER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS DURBIN, ENZI, JOHNSON AND ALEXANDER: As leaders of the local government associations listed above, we applaud the introduction of the Marketplace Fairness Act, which will both assure a simpler system of taxation and help our members recover tax revenues that are due from purchases made by remote means.

Your legislation responds appropriately to the changing nature of commerce and sales and use tax collection. While the increasing strength of electronic commerce creates exciting new marketplaces, it has also put traditional retail outlets at an unfair disadvantage because of outdated and inequitable tax and regulatory environments.

Our organizations strongly support your legislative efforts to require collection of taxes made on remote sales, and we are pleased that in doing so that you recognize the longstanding Streamlined Sales Tax Agreement Project (SSTA). We are also pleased that you have excluded issues such as local telecommunications tax reform, which should be addressed separately from collection of remote sales and use taxes.

Although we have championed for collection of remote sales taxes for over a decade, there is no time better than now for this legislation to move forward, as local governments face the fifth straight year of declines in revenue with probable further declines in 2012.

Thank you again for introducing this important legislation. We look forward to working with you and other supporters of the Act and the SSTA to see the collection of remote sales taxes enacted into federal law.

Sincerely,

LARRY E. NAAKE,
*Executive Director, National Association of Counties.*
DONALD J. BORUT,
*Executive Director, National League of Cities.*
TOM COCHRAN,
*CEO and Executive Director, United States Conference of Mayors.*
JEFFREY L. ESSER,
*Executive Director and CEO, Government Finance Officers Association.*

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FEDERATION OF
TAX ADMINISTRATORS,
*November 9, 2011.*

SENATOR RICHARD J. DURBIN,
*Senate Hart Office Building,*
*Washington, DC.*
SENATOR MICHAEL B. ENZI,
*Russell Senate Office Building,*
*Washington, DC.*
SENATOR LAMAR ALEXANDER,
*Dirksen Senate Office Building,*
*Washington, DC.*
SENATOR TIM JOHNSON,
*Dirksen Senate Office Building,*
*Washington, DC.*

DEAR SENATORS DURBIN, ENZI, ALEXANDER AND JOHNSON: The Federation of Tax Administrators (FTA) thanks you for introducing the new version of the Main Street Fairness Act for which we are pleased to be able to announce our support. FTA is an association of the tax administration agencies in each of the 50 states, the District of Columbia, and New York City.

The Main Street Fairness Act offers a realistic framework for both large and small states to collect sales taxes that are already due and owing in a simplified administrative system. We regard the ability to collect sales taxes from remote sellers to be a matter of the highest importance. This Act will significantly improve tax compliance for both state and local governments while at the same time creating a level playing field for all

businesses. This is because the current system disadvantages in-state ''bricks and mortar'' stores to the advantage of out-of-state businesses and this Act will help improve business activities in our states and the employment these in-state businesses generate.

We look forward to working with you during the legislative process to enact final legislation into law.

Sincerely,

PATRICK T. CARTER,
*President.*

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NATIONAL RETAIL FEDERATION,
*Washington, DC, November 8, 2011.*

Hon. MICHAEL B. ENZI,
*Ranking Member, Committee on Health, Education, Labor & Pensions, U.S. Senate, Washington, DC.*

Hon. RICHARD J. DURBIN,
*Assistant Majority Leader, U.S. Senate, Washington, D.C.*

Hon. LAMAR ALEXANDER,
*Chairman, Republican Conference, U.S. Senate, Washington, DC.*

Hon. TIM JOHNSON,
*Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.*

DEAR SENATOR ENZI, SENATOR DURBIN, SENATOR ALEXANDER AND SENATOR JOHNSON: On behalf of the National Retail Federation (NRF), I am writing in support of the Marketplace Fairness Act, which levels the playing field between local and out-of-state merchants with respect to collection of sales taxes.

As the state of retailing evolves and internet sales become a more prominent portion of total retail sales, it is critical that the tax laws not discriminate between similar businesses based on how their products are distributed. The Marketplace Fairness Act will eliminate this discrimination by removing the constitutional limitation on your State's authority to collect sales and use taxes from remote sellers. Over a quarter trillion dollars will go uncollected in the next decade unless this legislation is enacted.

As the world's largest retail trade association and the voice of retail worldwide, NRF's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the U.S., NRF represents an industry that includes more than 3.6 million establishments and which directly and indirectly accounts for 42 million jobs—one in four U.S. jobs. The total U.S. GDP impact of retail is $2.5 trillion annually, and retail is a daily barometer of the health of the nation's economy.

The Marketplace Fairness Act will bring fairness to large and small retailers alike and provide a business climate in which these retailers have a better opportunity to grow and create jobs. Our members look forward to working with you to help this legislation become law.

Sincerely,

DAVID FRENCH,
*Senior Vice President, Government Relations.*

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RETAIL INDUSTRY LEADERS ASSOCIATION,
*Arlington, VA, November 9, 2011.*

Hon. MIKE ENZI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR ENZI: On behalf of the Retail Industry Leaders Associations (RILA), and the millions of Main Street retailers throughout the country, we would like to express our strong support for the Marketplace Fairness Act. This legislation levels the playing field for Main Street brick-and-mortar businesses by closing a loophole that puts them at a competitive disadvantage to the online retail giants. RILA and our membership are grateful for your leadership on this important issue and we are committed to helping make this legislation law this Congress.

By way of background, RILA is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than $1.5 trillion in annual sales, millions of American jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Because of a decades-old loophole that predates the Internet, online-only companies can achieve as much as a 10–percent price advantage over brick-and-mortar retailers by not collecting state sales taxes. This special treatment has the effect of the government picking winners and losers in the marketplace, and main street businesses simply cannot compete over the long term with online giants that enjoy a government-sanctioned competitive advantage.

This loophole is costing jobs on Main Street while shortchanging state budgets by an estimated $23 billion in uncollected state sales taxes annually, a figure that will only increase as Internet commerce continues to grow. Few Americans know that their state requires them to pay the sales tax on purchases made online if the vendor does not collect it at the point of sale, leaving consumers vulnerable to penalties, interest and increased scrutiny from state auditors. If enacted, the Marketplace Fairness Act would remove this burden from your constituents and in the process empower states to address their budget deficits without having to raise taxes—all without any cost to the federal government.

In closing, we strongly support the Marketplace Fairness Act to eliminate this antiquated loophole and view it as critical to preserving Main Street businesses and the jobs they provide. Thank you again for your leadership on this important issue.

Sincerely,

KATHERINE LUGAR,
*Executive Vice President, Public Affairs.*

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INTERNATIONAL COUNCIL OF SHOPPING CENTERS, INC.,
*Washington, DC, November 7, 2011.*

DEAR SENATORS ALEXANDER, DURBIN AND ENZI: On behalf of the more than 42,000 members of the International Council of Shopping Centers (ICSC), I would like to thank you for your leadership on the Marketplace Fairness Act. We strongly support this bipartisan legislation that will level the playing field for community-based retailers by offering long-overdue sales tax fairness.

ICSC was founded in 1957 and is the premier global trade association of the shopping center industry. Its members include shopping center owners, developers, managers, marketing specialists, investors, retailers and brokers, as well as academics and public officials.

Under the current system, not all retail sales are treated equally. While brick-and-mortar retailers must remit sales and use taxes, many remote sellers, such as catalog and online vendors, are exempt from such requirements. Our current sales tax policy unfairly impacts local retailers—many of whom have also been hit during the recession—and places an impractical legal burden on taxpayers and consumers, costing state and local governments billions in much-needed revenue.

The Marketplace Fairness Act would eliminate the present system's lopsided manner of taxing community-based retailers, remove the liability currently being pushed onto consumers, and promote community investment. More importantly, it would provide support for local businesses and necessary revenue to states without adding to the federal deficit, establishing new taxes or increasing existing taxes. This bill is a true stimulus for our states and local communities.

It is time for the federal government to allow states to enforce their laws and promote sound policy that will allow community-based and internet retailers to thrive in the 21st Century marketplace.

Thank you again for the dedication and strong leadership that was required to create this important legislation.

Sincerely,

BETSY LAIRD,
*Senior Vice President, Office of Global Public Policy.*

Mr. ENZI. Some of the groups include: One is from the National Conference of State Legislatures, one from the National Association of Counties, the National League of Cities, the Federation of Tax Administrators, The National Retail Federation, the Retail Industry Leaders Association, the International Council of Shopping Centers, and the Governing Board of the Streamlined Sales and Use Tax Agreement.

I want to read one from Amazon.com because they are one of the world's largest online sellers. In the past, they have opposed previous versions of the bill, but they think we have this one right.

The letter states:

Thank you very much for your legislation on interstate sales tax collection.

Amazon strongly supports enactment of your bill and will work with you, your colleagues in Congress, retailers, and the states to get this bipartisan legislation passed. It's a win-win resolution—and as analysts have noted, Amazon offers customers the best prices with or without sales tax.

If enacted, your bill will allow states to require out of state retailers to collect sales tax at the time of purchase and remit those taxes on behalf of customers, and it will facilitate collection on behalf of third party sellers. Thus, your bill will allow states to obtain additional revenue without new taxes or federal spending and will make it easy for consumers and small retailers to comply with state sales tax laws.

Amazon is grateful for your hard work on the issue, and we look forward to working with you and your colleagues in Congress to pass this legislation.

We have a number of other supporters in addition to the others I just mentioned. We are appreciative of their support and look forward to working with them to get this bill enacted.

The Marketplace Fairness Act is a bipartisan bill. The original cosponsors on it are five Republicans—Senators ALEXANDER, BOOZMAN, BLUNT, CORKER, and me and five Democrats—Senators DURBIN, TIM JOHNSON, REED, WHITEHOUSE, and PRYOR. A key person in this debate has been the Senator from Illinois, Mr. DURBIN, who introduced a previous version of the bill. We encourage our colleagues to take a look at Senator DURBIN's previously introduced

bill and the Marketplace Fairness Act to see the differences—I think our bipartisan bill is a very passable bill.

At this point, I would ask Senator DURBIN if he has any comments he would like to share as he has been an integral part of making the bill a strong bipartisan product and realizing the plight the retailers and the state and local governments are in.

Mr. DURBIN. I thank my colleague, Senator ENZI. I want to give fair warning to all who are witnessing the debate that bipartisanship is about to break out on the floor of the Senate, and you can witness it. We have a bipartisan effort led by Senator ENZI, who has really been dedicating his life in public service, as a former retailer, to being sensitive to the needs of Main Street and small business. For years, he worked with our former colleague, Senator Byron Dorgan of North Dakota, and they did their best to pass this legislation. When Senator Dorgan retired, I approached Senator ENZI and said: I would like to join you in this effort. I am honored to be on the floor with him and our mutual friend, Senator ALEXANDER, in this combined bipartisan effort to deal with an issue I think is essential to fairness in our economy and helping small businesses thrive, which is the key to economic revitalization.

If you ask the small businesses in my home State of Illinois what they want, it is not a big handout from Washington, nor any special attention. Frankly, they ask for a level playing field: Let them compete. What Senator ENZI has said is that many retailers in my State, his, and every State are finding it more difficult to compete because they have to rent a building or buy one. They have to pay the property taxes. They, of course, have to pay utility bills and local taxes that might be generated because of their sales either to the State or local government. In each instance, they are investing back into the community and State in which they live. That is part of the basic understanding we have in this country, that we are in this together and we need to cooperate. The businessman down the street who is selling something in a store is also at the same time supporting the local community to make sure it has traffic lights and make certain it has police protection and utilities and streets and curbs and gutters and everything that goes with it.

But there has been a new phenomena in the American marketplace over the last several decades, and now it is in full throat, and that is the Internet. Internet sales are an amazing entity—we can literally click a mouse and buy a product that will arrive several days later at our home or business place. It also has invited an inequity, an unfairness that we address in this bill.

We are not creating any new taxes in this bill. I say to my friends on both sides of the aisle, that is not our intention, nor does this bill do that. What it does is it provides a mechanism to collect existing taxes that are owed under existing law, period. We do this in a fashion—which Senator ALEXANDER will describe in a moment—that capitalizes on the technology and software available today to make this a process that is not burdensome and does not slow down commerce in any way.

I recently went to Bloomington, IL, and a number of other communities in my State and sat down with local retailers and had them tell their stories—in many cases, depressing stories—about what they are going through. In one instance, this fellow sells camping gear, outdoor wear, some snorkeling equipment, and ski equipment, and it is not unusual for him and for others who are selling that type of sporting equipment to have local customers come in and look for the product they want, actually get a fitting to make sure they get the right size, and then leave to order it on the Internet so they can escape any sales tax liability. Well, that isn't fair to the local merchant, and it certainly wasn't the intention of Illinois or any other State to impose a sales tax just on those businesses that physically exist in our States.

This bill, the Marketplace Fairness Act, applies this sales tax across the board to sales across the United States, and it is voluntary. States have to decide they want to move into this field and use this opportunity. I think that is the way to approach it. Some 24 States, if I am not mistaken, have already signed up for this streamlined coalition which allows them to make this happen. Other States, by complying with this law and passing a local State law, can do the same. It is their option. We don't impose it or demand it. It is their option, if they choose it, to use existing sales tax and to take the initiative at the State level. As Senator ALEXANDER has reminded me many times, it is a States rights issue, as it should be, and that is what we are focusing on in this legislation.

I think it is an issue of fairness, and I think it goes beyond what we are facing today in terms of the disparity between Democrats and Republicans. We are coming together. We are coming together on behalf of tax fairness, coming together on behalf of States rights, coming together to make certain that small businesses across America have the resources they need to prosper, be profitable, and, we hope, to expand their workforce. We need to create more jobs, and I don't think it is unreasonable to expect that to happen as these local retailers become more competitive and more profitable.

I might also add that the States that decide to opt in to it will have a source of revenue that will be helpful to them in difficult times. Again, it is their decision.

I will not recount all of the groups that have endorsed this; Senator ENZI already has. It is a pretty impressive array. One of the most impressive supporters he has read a letter from is Amazon—to think that one of the largest if not the largest online retailer in America endorses this bill. When I think back on all of the battles that have been fought in all of the States by Amazon when each State tried to address this, I believe it is telling that they have stepped forward and said: Here is a solution that can work. And if the largest online retailer in America—or one of the largest—feels that way, it should encourage many colleagues who don't want to destroy that part of our economy, and I certainly don't either.

This is a positive step in the right direction. I thank Senator TIM JOHNSON, Senator BOOZMAN, Senator JACK REED, Senator BLUNT, Senator WHITEHOUSE, and many others who are going to join Senator ENZI, Senator ALEXANDER, and myself in this effort to pass this bipartisan bill. Let's get this done. Let's work together on a bipartisan basis to solve a problem that has haunted us for over a decade and do it in a fair fashion that does not create any new taxes but gives to the States the right to collect those taxes that are already on the book.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee. The minority has 20 seconds left.

Mr. ALEXANDER. I ask consent to extend the colloquy into Democratic time.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. No objection.

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

Mr. ALEXANDER. I wish to congratulate Senator ENZI and Senator DURBIN and say how pleased I am to join as a cosponsor of their legislation. Here is what I want to congratulate them for. Senator ENZI said he came to this as a former mayor, as a former shoe shop owner, and as a former legislator. I come as a former Governor.

In our constitutional framework, I have always thought it was our business in Tennessee to decide what services we wanted to provide and what taxes we wanted to levy to pay for them. For example, we have a high sales tax, but we have no income tax. That is different from most States. We have a low overall tax burden. For me, this is, as Senator DURBIN and I have discussed, a matter of States rights.

I think the most important thing I could say today is that they have solved the problem with this legislation. This problem has been there for a long time. It has had the opposition of conservatives worried about taxes. It has had the opposition of Amazon and other online sellers.

Twenty years ago, when technology for businesses to compute and collect taxes was not nearly as innovative as it is today, the Supreme Court said that without congressional approval, states could not require out-of-state businesses to collect sales taxes because this created too much of a burden on interstate commerce. Senator

ENZI and Senator DURBIN, with this legislation, in my opinion, have solved the problem, and this is going to happen.

I am not presumptuous enough to predict what the Congress will do and what the President will sign, but I think I have been around long enough and I have watched Congress enough to say this is going to happen. And if I were Governor, if I were an online retailer, or if I were a catalog retailer, I would make my plans to conduct my business in this way. Why do I say that? Well, for one thing, times have changed.

This morning, I got up and looked up the weather in my hometown. So I went online and put in weather, 37886—that is my ZIP Code—and back came the information. Under the bill Senator DURBIN and Senator ENZI have proposed, the State would create a system for Amazon, let's say as an example, an online seller. All they would have to do, if I buy a $300 or $400 television set, is they put my name in, they put in my ZIP code, and the software the State has provided will tell them what the tax is and will even electronically transfer the tax money back to the State. In other words, Amazon will do the same thing the appliance store in Maryville, TN, will do, and that is what we intended to happen.

I mean, when we passed a sales tax in Tennessee—I wasn't around then, but I was around when it has been raised—we didn't intend to exempt some people over others. We didn't intend to subsidize some businesses over others. We made a general decision that when we buy things in Tennessee, all sellers would collect the sales tax. We have a local sales tax and we have a State sales tax, and that is our right to decide.

Some of the opposition in the past has come from conservative groups. It was important, just yesterday, to see the chairman of the American Conservative Union write a very strong article in support of a House version of this same bill. I talked with him yesterday, Mr. Al Cardenas, a businessman from Florida, and he is reviewing our bill.

Ten years ago, William F. Buckley wrote about this problem and said that it was a loophole that needed to be solved and when States decided to subsidize some taxpayers over others and some businesses over others, that was not good conservative philosophy.

So when you have Amazon supporting in a strong letter that Senator ENZI read, and when you have the chairman of the American Conservative Union on the same day announcing his support for the same principles, I think you have solved the problem.

As Amazon just said in their letter, they are in business to compete and they can sell their goods, they claim, cheaper online than they can buy them in Senator ENZI's store in Gillette, WY. Maybe they can, maybe they can't, but at least they will have a level playing field, and both the store in Gillette, WY, and the online seller will do the very same thing. They will collect the sales tax that is already owed from the purchaser and they will send it directly to the State, which has been the way things have worked for a long time.

This is an issue about preserving the States' right to collect or not to collect their own sales tax. It is about closing a tax loophole. It is about stopping the subsidization of some businesses over others, of some taxpayers over others.

I will conclude my remarks in a moment, but first here is what William F. Buckley said about it:

> The mattress maker in Connecticut . . . does not like it if out-of-State businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet, come in, so to speak, duty free.

Of course, Governors and legislators are up in arms as well. This loophole costs States $23 billion. Tennessee could use this money to ward off a State income tax which we don't have and we don't want. Wyoming could use the revenue to reduce its property tax. Other States might reduce rising college tuitions, or they might reward outstanding teachers.

This has been a problem for the last 20 years, but Senator ENZI and Senator DURBIN, with their legislation, have solved the problem.

I will stop where I started. This is not a new tax, it is an existing tax. It is not a tax on the Internet; it is on all sales. Senator ENZI and Senator DURBIN, with their legislation, have solved the problem, and I predict that because of the voluntary agreements and the ease of out-of-State vendors doing the same thing Main Street vendors do, that very soon we will eliminate these subsidies and close this loophole. I congratulate them for their years of work in this area. I am happy to join 10 Senators—5 Republicans, 5 Democrats—in cosponsoring this legislation.

Mr. President, I ask unanimous consent to include for the RECORD the article by Al Cardenas, the head of the American Conservative Union; the essay by William F. Buckley; and a letter from Governor Bill Haslam of Tennessee, endorsing the Enzi-Durbin legislation.

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

[From National Review Online, Nov. 8, 2011]

THE CHIEF THREAT TO AMERICAN COMPETITIVENESS: OUR TAX CODE

(By Al Cardenas)

More than three years after America's financial system hit a crisis point, the state of our economy remains in turmoil. As our nation's leaders grapple with immediate challenges through dueling jobs plans and the Joint Select Committee on Deficit Reduction tries to come to agreement on a trillion and a half in reductions, we must also consider long-term measures to strengthen our economic security. As it stands now, the number one threat to the future of American competitiveness isn't other countries. It's our tax law.

The United States Tax Code is difficult to understand and even harder to navigate, for families and businesses alike. Title 26 has been patchworked, reformed, and tinkered with for decades, giving us an antiquated mess of laws rife with inequities. Our corporate tax rate is among the highest in the world. We refuse to shift to a Territorial Tax System that would stop punishing our companies for bringing earned overseas income back to the U.S. for reinvestment. Tax rates for small businesses remain high and inconsistent.

A robust free-market system requires a level playing field, where the government doesn't get to pick the winners and losers. We should require the same of our system of taxation. We need a simpler, fairer, flatter tax code that removes loopholes, subsidies, and credits, one that lowers rates across the board and expands the percentage of Americans paying their fair share of taxes.

When it comes to sales tax, it is time to address the area where prejudice is most egregious—our policy towards Internet sales. At issue is the federal government exempting some Internet transactions from sales taxes while requiring the remittance of sales taxes for identical sales made at brick and mortar locations. It is an outdated set of policies in today's super information age, when families every day make decisions to purchase goods and services online or in person. Moreover, it's unfair, punitive to some small businesses and corporations and a boon for others.

This is why the American Conservative Union applauds Rep. Steve Womack for his sponsorship of the Marketplace Equity Act of 2011, one of the first sincere attempts to modernize our tax policy for the 21st century.

As conservatives we know that governmental power can be used to destroy entrepreneurship, innovation and the free market. There is no more glaring example of misguided government power then when taxes or regulations affect two similar businesses completely differently.

Over time, the company that has to comply with a tax or a regulation will lose market share to its competitor who is carved out from this government interference. In these cases the winner is not the company who outcompetes, but the one who gets special privileges from the government.

At its inception, the Internet was everyone's darling, the latest example of American innovation and ingenuity. Internet sales represented a miniscule portion of the total retail market, and the novelty led to tax loopholes and unintended consequences. Now, according to Forrester Research, Internet sales account for nearly 10 percent of all sales of products and services in America, with an annual growth rate of about 9 percent.

If we do not confront this issue, state and local governments dependent on sales taxes will need to look for other sources of revenues as Internet sales continue to expand. Policy which allows for both online and brick and mortar retailers to be susceptible to the same taxes will—and should—allow for commensurate reductions in sales tax rates. For instance, if Internet sales tax revenues will add 10 percent in revenue to a governing body's coffers, then, at a minimum, a corresponding overall reduction in rates should apply.

The current system is also inconsistent with states' rights, and the Congress ought to carefully consider enacting revenue neutral tax reform policies consistent with the Tenth Amendment.

The free-market system can only operate effectively on a level playing field of free and

fair competition. Whether it's the Department of Energy's disastrous Solyndra project, or levying sales taxes, or a multitude of other policy decisions that impact the private sector, the government picking winners and losers is a perversion of the free market system. Lawmakers on Capitol Hill—especially conservatives—ought to at least acknowledge this when deliberating important reforms to the tax code. As we consider wholesale reform, exempting Internet sales can no longer be justified.

The Marketplace Equity Act of 2011 begins this conversation. It's not a perfect bill, but it's a critical beginning to this dialogue and should spark bipartisan support for revenue neutral reforms. Rest assured, we will not be party to or stand for Trojan Horse legislation that claims to strive for equity in the law merely to serve as a cloak for secret tax increases.

We have a great opportunity to drastically lower rates, especially corporate rates, and eliminate esoteric tax preferences to stave off the next massive financial crisis. A flatter, fairer, simpler tax code is the key to ensuring American competitiveness for generations to come. Our leaders in Congress are obligated to thoughtfully consider measures to achieve this.

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[From National Review Online, Oct. 19, 2001]

GET THAT INTERNET TAX RIGHT

(By William F. Buckley Jr.)

Congress is up against it: what to do about Internet commerce?

To return to an example given earlier in this space, you have a mother living in Hartford, Connecticut, looking for a new mattress and spotting one on the website of a producer in Massachusetts. The feel of it is right, and so is the price, so the $500 order is placed. The mattress crossing the border is not taxed, because writing the Constitution in Philadelphia in 1787, it was decided: no tariffs within the 13 states. Interstate commerce would be regulated only by Congress.

Which is all to the good, but Connecticut takes the position that the family living happily in Hartford has to pay its share of the cost of government, which entitles the treasury to a use tax. If the mother in Hartford who sent out for the mattress in Massachusetts were a perfect citizen, she would write a check for $30 (6 percent) to the State of Connecticut and sleep at complete ease with her conscience. What she does do, is sleep at complete ease with her conscience without sending in the check for $30. The reason for it is that taxes of that order are pretty well uncollectable. An uncollectable tax is one which would cost more to exact it would yield in profit. There is, in addition, the political question. People wouldn't like it when Big Brother stared into every out-of-state package, inquiring whether there is something in it for city hall.

So that one part of the pressure building on Congress is collectivist: to let states come in with a transfer tax. But a second pressure is from merchants who see themselves affected by untaxed transactions. The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but does not like it if out-of-state businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet, come in, so to speak, duty free.

Three years ago, Congress voted to continue until 2001 the tax-free character of interstate commerce. This meant not only a prospective loss of tax to the affected states, it meant also something on the order of a benediction on a staggering development in technology. The Internet is the happiest intellectual, journalistic, and educational development in history, and the thought of letting the weeds of prehensile government crawl about it struck some as on the order of enforced shutters on sunlight, or taps on waterfalls.

But, sigh, that was three years ago, which in the Internet business is three millennia ago. The estimated commerce done by the Internet in 1998 was $9 billion. Last year it was $26 billion. Which means we have to come to earth, and face homespun economic truths. If the advantage of tax-free Internet commerce marginally closes out local industry, reforms are required.

The mechanics of reforms call on holding not the buyer, but the seller, responsible. It still won't be possible to target the mother in Hartford directly when the mattress arrives, but the exporter of it in Massachusetts can be required to add $30 to the cost of the mattress, and send the check off to Connecticut Internal Revenue. It is, finally, impossible for Congress to wrestle with the problem without yielding to legitimate demands of the states spending the money on education, police, and fire departments, and deprive them of revenue.

The question has not come up in the current welter of proposals, but we have to watch carefully to prevent the United States Postal Service from getting into the act. The most calamitous exposure of the postal service since the days of mail-train robberies is of course fax and the Internet. These are, for all intents and purposes, absolutely free transactions. One hundred messages can be sent out, or for that matter one thousand, for less than the cost of a first-class postage stamp. A rumor swept about the medium, a year or so back, that a proposal was making way that would charge five cents for every communication sent out on the Internet.

The very idea is heretical, like charging for Communion wafers. To tax the Internet for the benefit of the postal service is unsupportable reasoning. The postal service needs to survive from its own revenues. If there is a shortfall, the government can come up with it, as required, on the same principle as rural free delivery. But to attempt to relieve its problems by contaminating the Internet is something that any congressman who has taken an oath to right reason is bound to oppose.

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NOVEMBER 8, 2011.

Senator LAMAR ALEXANDER,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR ALEXANDER: I am writing to thank you for your leadership in helping to advance a federal solution to a problem states need Congress to address: the preservation of their own right to enforce their own tax laws and returning fairness to the marketplace.

The Marketplace Fairness Act will bring much needed, and long overdue, relief to the State of Tennessee. Tennessee and other states are currently unable to compel out-of-state businesses to collect sales taxes the same way local businesses do. It is important for states to determine their own tax policy and have the ability to collect the revenues they are already owed. This is why your legislation is so important.

The Internet has changed the way we do business and provides small businesses the opportunity to grow, but we need our laws to adapt to this new marketplace. Our state relies on sales taxes for the majority of its revenue, and each year we are losing hundreds of millions of dollars that could be used to benefit Tennessee. What cannot happen is for Congress to do nothing, which will prevent states from enforcing their own laws.

Your legislation gives states the flexibility to determine what works best for them, and I am grateful that you are putting states' rights first and closing this online sales-tax loophole. The Marketplace Fairness Act strikes the right balance for Tennessee, and I fully support your efforts.

Warmest regards,

BILL HASLAM,
*Governor, State of Tennessee.*

Mr. DURBIN. Mr. President, would the Senator from Tennessee yield for a moment?

Mr. ALEXANDER. Oh, yes.

Mr. DURBIN. I wish to go on the record on behalf of myself and, I am sure Senator ENZI, in saying that Senator ALEXANDER doesn't give himself enough credit. He has been an integral part of putting together this bipartisan bill. We wouldn't be here without him. I want to thank him for facilitating the bipartisan effort to put this bill together. I share his feelings. I think we have finally found that sweet spot, and we can pass this bill.

Mr. ALEXANDER. I thank the Senator from Illinois.

Mr. ENZI. Mr. President, we yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Rhode Island.

Mr. REED. I ask unanimous consent to return to morning business.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. REED. Mr. President, let me also commend Senator ENZI and Senator DURBIN and Senator ALEXANDER because I too am a cosponsor of this legislation, and I think it does represent a remarkably thoughtful and bipartisan approach to the problem of providing resources to local States and communities so they can carry out the very challenging issues of local governments. I am not surprised that Senator ALEXANDER is a key element in this product. Both Senator ENZI and Senator DURBIN deserve to be complimented. I thank them for their leadership.

## VOW TO HIRE HEROES ACT

Mr. REED. Mr. President, I rise specifically to speak in strong support of the VOW to Hire Heroes Act of 2011. This legislation incorporates key components of the American Jobs Act and other bipartisan proposals designed to help veterans find jobs, including the Hiring Heroes Act, of which I am a proud cosponsor. These are commonsense policies that Congress can and should pass immediately.

We are in the midst of an unemployment crisis that is obvious to every American, and it is a growing problem that is sapping not only our economic strength but indeed our sense of national purpose and our morale. The national unemployment rate has been hovering around 9 percent, and that means 14 million Americans are looking for work in one of the toughest economies since the Great Depression. But what is unfortunate—some might

even say shameful—is that almost 1 million of those Americans looking for work are veterans returning home after valiantly serving our country. The unemployment rate for veterans of Afghanistan and Iraq is an indefensible 12.1 percent. It represents a significant blow to young men and women who are returning home after serving their country in very difficult circumstances. In 2010, 36 percent of Afghanistan and Iraq-era veterans were unemployed for longer than 26 weeks. Again, that is a shameful statistic.

This unfortunate trend is mirrored in my home State of Rhode Island. We have a very high unemployment rate—10.5 percent, one of the highest in the Nation. We have been unfortunately in that category for almost 2 years now. But for veterans, the rate is 11.1 percent. They are doing even worse than other nonveterans in the unemployment category. That is one more reason, by the way, that we should extend the unemployment compensation legislation that is so necessary. I have joined Senators DURBIN, WHITEHOUSE, LEVIN, MERKLEY, and GILLIBRAND, and we have proposed to do this with the Emergency Unemployment Compensation Extension Act of 2011. We still have people coming back from Afghanistan; we still have people who are holding on to a job but very well might lose it. They need these benefits, and if we don't pass this legislation, then beginning next January, there is a very real possibility that they will not be able to get these benefits which are so essential.

We have to work together. I think it is a very good example of the work Senator ENZI, Senator ALEXANDER, Senator DURBIN, myself, and others have done with respect to this legislation on sales tax. But we have to work across the aisle, particularly for our American veterans, but also for American workers throughout this country.

Again today we have a component of the American Jobs Act before us. This bill is focused on veterans, but the jobs act overall should be passed. We have argued for it endlessly, because it will put Americans to work, it is fully paid for, and it will be an investment in our infrastructure and in other programs that are long-term needs of this Nation.

This particular legislation before us targeted at veterans would provide incentives for businesses to hire these veterans, including a tax credit of $2,400 for hiring a veteran who has been unemployed for more than 4 weeks but less than 6 months, a $5,600 tax credit for hiring a veteran who has been looking for a job for more than 6 months, and a $9,600 tax credit for hiring veterans with service-connected disabilities who have been looking for a job more than 6 months. These incentives will help veterans secure employment and they should be passed immediately.

These veterans deserve our help as they transition from their military service to their civilian careers. They have incredible skills of leadership, of diligence, of dedication, of self-discipline that add to their technical skills and make them incredibly important for the growth of our economy, and they have to have the opportunity to use these skills for the benefit of their communities, as they did to defend their country. This legislation provides that critical assistance.

It has other aspects to it. First, it would provide opportunities for military personnel who are leaving active service for transitional assistance to be able to participate in workshops sponsored by the Department of Defense, the Department of Labor, and the Department of Veterans Affairs. The workshops will help them write resumes, receive career counseling, and other things.

Second, it expands education and training opportunities for older unemployed veterans by essentially providing an additional year of Montgomery GI bill benefits for use at community colleges and technical schools. It also allows servicemembers to begin to seek civilian jobs in the Federal Government prior to formally separating from their military service.

Earlier this week I was with the President when we announced these initiatives and more. After that visit to the Rose Garden, I went to Walter Reed National Military Medical Center in Bethesda to visit those young men and women who have served and who are now wounded warriors. Trust me, their spirit is undeterred, as is their commitment to their country. We owe them much more than we can ever repay, and the first payment of that huge debt is passing immediately—this week—this legislation to help our veterans. So as we celebrate Veterans Day with speeches, we will have a real accomplishment to bring to the American people and the veterans who serve and defend us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## DISAPPROVING THE RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION WITH RESPECT TO REGULATING THE INTERNET AND BROADBAND INDUSTRY PRACTICES—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to S.J. Res. 6.

The PRESIDING OFFICER. Under the previous order, there will be 4 hours of debate, equally divided and controlled between the two leaders or their designees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, today's debate concerns S.J. Res. 6. In a larger context, though, we have been having this debate for 34 months. The theme is, the Obama administration's relentless imposition of new and destructive regulations has not helped us get into a recovery and, in fact, I think is freezing our economy.

We have seen it with the Environmental Protection Agency when it tried to regulate carbon emissions and greenhouse gases using the Clean Air Act, a purpose for which Congress never intended the law to be used. We have seen it with the National Mediation Board when it overturned nearly a century of precedent and issued a new rulemaking to allow unions to be formed more easily but harder to decertify.

We have seen it with the National Labor Relations Board when it took the shocking step of challenging Boeing's decision to create new jobs by building a new factory in South Carolina, simply because South Carolina is a right-to-work State.

Today's issue involves bureaucratic overreach into a symbol of American innovation and creativity, the Internet, because the Federal Communications Commission has now decided to regulate the Internet. Last December, three FCC Commissioners, on a party-line vote, voted to impose rules that restrict how Internet service providers offer broadband services to consumers. Those rules, known as net neutrality, impose 19th century-style monopoly regulations on the most competitive and important job-creating engine of the 21st century, the Internet.

This marks a stunning reversal from the hands-off approach to the Internet that Federal policymakers have taken for more than a decade. During the last 20 years, the Internet has grown and flourished without burdensome regulations imposed by Washington. Powered by the strength of free market forces, the Internet has been an open platform for innovation, spurring business development and much needed job creation.

The former Democratic FCC Chairman, William Kennard, stated in 1999 ''[t}he fertile fields of innovation across the communications sector and around the country are blooming because from the get-go we have taken a deregulatory, competitive approach to our communications structure—especially the Internet.''

The present FCC is reversing that policy that has been successful beyond our expectations. Broadband Internet networks have powered the information and communications industry, which in 2009 accounted for more than 3.5 million high-paying jobs and about $1 trillion in economic activity.

This industry has been an engine for major economic growth even during these difficult times. Yet the FCC's rules could severely jeopardize this industry's vast potential. Net neutrality is intended to limit how Internet service providers develop and operate their broadband networks. The net neutrality order allows the FCC to tell broadband providers what kind of business practices are reasonable and unreasonable. The FCC, however, did not bother to clearly define in its rules what the agency considers to be reasonable.

This point is vital to understand. With such an arbitrary and yet poorly defined standard, companies will be forced to err on the side of caution. Rather than risk possible punishment from the FCC, many companies will simply decide: Maybe we will not invest right now in new technologies. Maybe it is too risky to develop and deploy new services. At the very least, it will delay such investment.

This kind of regulatory uncertainty will be crippling for companies and particularly small providers. We have heard exactly that from a small wireless Internet provider in Wyoming called LARIAT. This is a provider that is serving remote areas and trying to expand to other unserved years.

LARIAT testified before Congress that these FCC regulations are already harming its ability to attract investors, grow its business, hire more workers, and serve new customers. Forcing broadband companies to ask the government for permission before moving forward is exactly what we should try to avoid when reviving our economy.

This FCC regime will lead to stagnation in Internet innovation in the United States, placing us at a disadvantage against overseas competitors who are not burdened with similar rules. Moveover, Internet providers will end up spending resources on lawyers and lobbyists in order to comply with the FCC's rules, rather than investing those dollars in innovation.

Small companies will find it even more expensive to navigate Washington, DC. This certainly will not help consumers, particularly in rural areas, and will only increase the costs they have to bear. Before any new regulations are forced on American businesses, it is the government's responsibility to clearly show, one, there is an actual problem that needs to be addressed. That should be foremost.

With the FCC taking such a large departure from the agency's previous light-touch approach, one might think the FCC could point to a long list of net neutrality violations and problems that need to be fixed. That is not the case here. In a 134-page regulatory order, the FCC spent only three paragraphs attempting to catalog alleged instances of misconduct.

Within those three short paragraphs, every alleged problem was addressed under the FCC's existing rule or, if not, it was fixed by the provider under pressure from the public or the competitive marketplace, where it should be fixed. As former FCC Commissioner Meredith Baker noted in her statement dissenting from the FCC's net neutrality order, the Commission was ''unable to identify a single ongoing practice of a single broadband provider that it finds problematic upon which to base this action.'' To put it simply, the FCC has issued new rules without even demonstrating that intervention is actually necessary.

Despite protests to the contrary, these net neutrality regulations on broadband providers clearly establish the FCC as the Internet's gatekeeper, a role for which the government is not suited. Innovation does not work on a government timetable nor does it thrive through a maze of roadblocks.

Ironically, supporters of net neutrality insist that providers are the ones who may become gatekeepers of the Internet. These people say the openness of the Internet is far too important to be left unprotected by the government. This is a false premise. In fact, the Internet has been an open platform for innovation since its inception, and it has not needed any sort of net neutrality rules from bureaucrats at the FCC.

To make matters worse, Congress has never given the FCC the explicit authority to regulate how Internet providers manage their networks. That is why the new rules represent an unprecedented power grab by the unelected Commissioners at the FCC. In fact, current law states: ''It is the policy of the United States . . . to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.''

That is the law today. The FCC has lost this fight already in the courts. Last year, the DC Circuit Court of Appeals struck down the FCC's 2008 attempt to impose net neutrality in the Comcast v. FCC case. The court ruled that the FCC was acting beyond the reach of its congressionally provided authority and cautioned that regulations should be imposed only with explicit congressional direction.

This was validation that regulatory agencies cannot make policy without congressional direction. Rather than back down, however, the FCC doubled down. The current FCC order tries an even more expansive interpretation of the law than was used in the Comcast case. FCC Commissioners inexplicably claimed the agency can impose heavy-handed Internet regulation under section 706 of the Telecommunications Act. This was a section of the law that was intended to remove regulatory barriers to broadband investment, not to raise them.

If the FCC's legal theory is left unchallenged, the FCC will have nearly unbounded authority to regulate almost anything on the Internet. It is Congress's role, not the FCC's to determine the proper policy framework for the Internet. Over time, and aided by the current administration, regulators throughout the government have gradually tried to seize increasing control over so many facets of American life. It is time for the Senate to stop this overreach. We write the laws of this country, not unelected bureaucrats. That is why we are here today.

Thanks to Senate majority leader HARRY REID, former Senator Don Nickles, and the late Senator Ted Stevens, one of the tools Congress has to stop rogue agencies is the Congressional Review Act. The Congressional Review Act allows Congress to review a rule before it takes effect and even to nullify that rule if Congress finds it is inappropriate, or if it overreaches, or if Congress itself hasn't delegated this power to an agency.

As Senators REID, NICKLES, and STEVENS said at the time of this bill's passage, ''Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.''

We believe the concern about the FCC's net neutrality rules is sufficiently serious to warrant the consideration of Senate Joint Resolution 6, the disapproval resolution Senator MCCONNELL and I introduced to nullify the FCC's net neutrality order under the Congressional Review Act. The House has already passed its version of the resolution, and we need only a majority of Senators to send this bill to the President's desk. Even a net neutrality supporter, Senator OLYMPIA SNOWE, who has authored net neutrality legislation, is a cosponsor and supporter of our resolution today.

While Senator SNOWE and I don't agree on the need for a net neutrality law, we are in complete agreement—and she stated it beautifully—that Congress, not the FCC, should determine what the proper regulatory framework is for the Internet.

If the Senate does not strike down these regulations soon, they will go into effect on November 20, further jeopardizing jobs in this fragile economy. I guess you could say that it will allow more lawyers to be hired, but

more innovators? Probably not. That is not the mix we need to assure that our economy will get back on track in this country.

Studies indicate that net neutrality rules could significantly affect our economy. If net neutrality reduces capital investment in broadband infrastructure by even 10 percent, it could cost our country hundreds of thousands of jobs over the next decade.

We must preserve the openness of the Internet as a platform for innovation and economic growth. We must keep the competitive advantage that we have in this country for innovation. The last thing we ought to be doing is putting restrictions on our providers, when many countries that are also advanced in this area are not doing the same thing. So when we go to global competitiveness, we are putting our companies at a disadvantage. Why would we do that?

We must stop the job-killing regulatory interference by our government today in so many areas, and we can start right here, right now, by keeping the Internet free, voting for this resolution of disapproval, and saying to the regulatory bodies in this town: Congress must authorize a delegation of authority for your agency to pass rules, and especially when Congress is in disagreement with those rules.

This is a key policy decision for our body. We need to step up to the responsibility that Congress has. Our Constitution divided the powers between three branches of government. If Congress doesn't stand up for its one-third of the powers of this government and lets unelected bureaucrats run over our prerogatives, we will become a weaker branch, and our government will become weaker for it. We need to have three equal branches of government, and that means each branch must fulfill its responsibilities under the Constitution. Congress must delegate its authority explicitly for a rule to be made. That is the way the Constitution intended for Congress to fulfill its job as the elected representatives of the people of our country.

The House has passed this resolution. I hope the Senate will tomorrow. I hope the people will speak and say that even if you disagree on the basic issue of net neutrality, it is not the right of the FCC to pass sweeping regulations that will affect the economy of this country without explicit authority from Congress, which it does not have.

Mr. President, I ask my colleagues to come to the floor if they want to speak on this resolution. There is 4 hours, equally divided, and that time is now running. I say to my Republican colleagues that we have quite a list of those who want to speak. They must know that the time will run out in about 3½ hours now. I ask them to contact me if they wish to speak.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHUMER). The senior Senator from the great State of West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise today to oppose the Senate Joint Resolution 6, which was brought under the Congressional Review Act—about which I wish to talk—to disapprove the FCC's open Internet rules, such as they are.

Americans want the Internet to be free and open to them. They want to go where they want to go, see what they want to see, do what they want to do on the Internet. They don't want to have somebody blocking them or to have gatekeepers. They want it to be a nice, open forum for them. They care about the Internet. Everyone uses it. They want to be able to develop new businesses, and they want to read and watch video. They want to reach out to friends and family and community. And they want to do it online. They want to do all of these things on the Internet—without having to ask permission from their broadband provider. The FCC has promulgated balanced rules that let Americans do all of these things, and keep the Internet open and keep the Internet free.

Let us be clear from the outset. No matter how S.J. Res. 6 is dressed up in language that suggests it will promote openness and freedom, it will not do that. The resolution is misguided. It will add uncertainty, in fact, into the economy, and it will hinder small businesses dependent upon fair broadband access, where otherwise they might be put in a slower lane. They want to be in a fast lane. They want to be able to compete with other parts of the country. This resolution will, in fact, undermine innovation. It will hamper investment in digital commerce. It will imperil the openness and freedom that has been the hallmark of the Internet from the very start.

The FCC's rules were the product of very hard work, consensus, and compromise. The agency had extensive input from stakeholders from all quarters. They opened up and said send in your comments. In fact, they had written input from more than 100,000 commenters. About 90 percent of those filing supported the adoption of open Internet rules. On top of this, the rules are based on longstanding and widely accepted open Internet principles, which were first articulated during the second Bush administration.

These rules do three basic things. First, they impose a transparency obligation on providers of broadband Internet service. This means that all broadband providers are required to publicly disclose to consumers accurate information regarding the network management practices.

Second, the rules prohibit fixed broadband providers from blocking lawful content, application, services, and devices. This means consumers and innovators will continue to have the right to send and receive lawful Internet traffic, with mobile broadband service providers subjected to a more limited set of prohibitions. I will speak about that in a moment.

Third, the rules aim to ensure that the Internet remains a level playing field by prohibiting fixed broadband providers from unreasonably discriminating in transmitting lawful network traffic—which they have done.

Finally, the rules are meant to apply with the complementary principle of reasonable network management, which provides broadband providers the flexibility to address congestion or traffic that is harmful to the network. These are principles that I believe everyone can support. I see nothing wrong with them. The word ''reasonable'' somehow doesn't scare me. Maybe it should, but it doesn't.

I ask my colleagues, what is wrong with transparency? Why would we want to promote Internet blocking or discrimination? Why would we want to have some people on the fast lane and some on the slow lane, depending on whether you paid your Internet provider enough money? What is unreasonable about reasonable network management?

I believe that the FCC's effort, along with ongoing oversight and enforcement, will protect consumers, and I believe it will provide companies with the certainty they need to make investments in our growing digital economy.

While many champions of the open Internet would have preferred a stricter decision—and I am one of them; I myself have real reservations about treating wireless broadband differently from wired broadband—I think the FCC's decision was nevertheless a meaningful step forward. In a moment, I will talk about other people who feel the same.

Supporters of the joint resolution fail to acknowledge that the FCC's open Internet rules have received overwhelming support from broadband Internet service providers, consumers, and public groups, labor unions, as well as high-tech companies.

AT&T CEO Randall Stephenson stated earlier this year that while he wanted ''no regulation,'' the FCC's open Internet order ''ended at a place where we have a line of sight and we know and can commit ourselves to investments.''

Time-Warner Cable said at the time of the order's release that the rules adopted ''appear to reflect a workable balance between protecting consumers' interests and preserving incentives for investment and innovation by broadband Internet service providers.''

Numerous analysts from major investment banks have found that the open Internet order removes what they call regulatory overhang and allows telecom and cable companies to focus on investment.

Google, Facebook, Twitter, eBay, Skype, and other leaders in innovation all urged the FCC to adopt ''commonsense baseline rules . . . critical to ensuring that the Internet remains a key engine of economic growth, innovation, and global competitiveness.''

More than 150 organizations wrote Congress to oppose this joint resolution. I hate reading lists, but I am going to do it anyway: the Communications Workers of America, the AFL–CIO, the NAACP, the U.S. Conference of Catholic Bishops, the American Library Association, the American Association of Independent Music, the Leadership Conference on Civil and Human Rights, the League of United Latin American Citizens, the National Organization for Women, and Technet. There are a lot of folks at Technet who have a lot at stake. I have their letters here.

I ask unanimous consent that these letters be printed in the RECORD.

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

OCTOBER 14, 2011.

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER AND RANKING MEMBER HUTCHISON: We write to urge your support for the FCC's open Internet rule and rejection of S.J. Res 6, a resolution of disapproval under the Congressional Review Act. Americans have come to depend on reliable open Internet access for their daily life and work. Yet without a light touch FCC rule, households, students and small businesses lack any recourse at all if their Internet Access Provider (IAP) decides to prioritize its own content and affiliated services or block other end user choices.

The FCC's December 2010 decision was adopted after several lengthy proceedings and unprecedented public input. The result is a very modest rule designed to preserve open non-discriminatory Internet access. In deference to the wishes of IAPs, the FCC completely avoided Title II common carrier regulation. The rule allows flexible network management and does nothing to inhibit broadband network deployment, while it affirmatively facilitates innovation and investment in new online services, content, applications and access devices by providing some minimal assurance they will not be blocked arbitrarily.

CRA repeal would actually leave the American public worse off than with no open Internet rule, as it would also rescind FCC authority in this area. Congress has repeatedly entrusted the FCC with a duty to protect the public interest in nationwide communications by wire and radio. No other agency can help your constituents with Internet access trouble if FCC authority is terminated.

Sincerely,

ED BLACK,
*President & CEO, CCIA.*
REY RAMSEY,
*President & CEO, Tech Net.*

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OPEN INTERNET COALITION,
*Washington, DC, November 4, 2011.*

Hon. JOHN D. ROCKEFELLER IV,
*Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, DC.*

Hon. KAY BAILEY HUTCHISON,
*Ranking Member, Senate Committee on Commerce, Science, and Transportation, Washington, DC.*

DEAR CHAIRMAN ROCKEFELLER AND RANKING MEMBER HUTCHISON: The Open Internet Coalition (''OIC'') respectfully submits this letter to indicate our opposition to a vote under the Congressional Review Act to vacate the Federal Communications Commission's Open Internet Order, which would preclude any future action in this area by the Commission.

The OIC believes that such a vote would hurt consumers and innovation, and respectfully asks the Senate to reject the CRA measure.

Sincerely,

THE OPEN INTERNET COALITION.

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OCTOBER 12, 2011.

Majority Leader HARRY REID,
Minority Leader MITCH MCCONNELL
*U.S. Senate,*
*Washington, DC.*

Chairman JAY ROCKEFELLER,
Ranking Member KAY BAILEY HUTCHISON,
*U.S. Senate Committee on Commerce, Science and Transportation, Washington, DC.*

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON: We, as leaders and communicators representing many diverse religious traditions, write to share our strong support for Internet freedom. Specifically, we support the Federal Communication Commission's Open Internet rules and urge you to oppose S. J. Res 6 which would repeal these rules using the Congressional Review Act. These rules are important for underserved communities as well as the faith community.

The Internet is a critical tool for nonprofits and other institutions nationwide. In particular, institutional networks such as health care providers and institutions of higher learning, as well as social service agencies and community organizations use the Internet for communication, organizing, and learning. The Internet is an increasingly important tool that helps needy persons access the education and services they need to improve their lives and the lives of their families. In these difficult economic times, the Internet is an essential tool for those seeking to get back on their feet.

Not only are the open Internet rules important for those the faith community serves, it is important for the religious community itself. As the National Council of Churches Communications Commission recently stated, Internet communication is ''vital'' to faith groups to enable them to communicate with members, share religious and spiritual teachings, promote activities on-line, and engage people—particularly younger persons—in their ministries. As the resolution noted, ''Faith communities have experienced uneven access to and coverage by mainstream media, and wish to keep open the opportunity to create their own material describing their faith traditions.'' Without robust open Internet protections, our essential connection to our members and the general public could be impaired. Communication is an essential element of religious freedom: we fear the day might come when religious individuals and institutions would have no recourse if we were prevented from sharing a forceful message or a call to activism using the Internet.

We are particularly concerned about the way Congress has chosen to address this issue. Members of Congress have already initiated action under the Congressional Review Act to eliminate all open Internet protections. Even for legislators who might not agree with every aspect of the FCC's new rules, the proposed use of the Review Act is extreme.

After many months of public hearings and reviewing thousands of public comments, the FCC last December sought to strike a balance between the needs of Internet providers and the general public. The agency's compromise rules were designed to guard against the most severe forms of abuse. The result was a set of regulations that competing parties in the industry and public sector were able to support. A number of the new rules are critical to ensuring that all citizens can gain access to high speed Internet.

Among other things, the new disclosure rules will make it easier for low-income families to choose an Internet provider at a price they can afford.

In addition to new policies, the rules adopted last year reestablished a number of non-controversial common-sense FCC policies, including protecting the right of an Internet user to access any lawful Internet content. If the Review Act is used to void the FCC regulations, not only would it restrict the FCC's ability to protect Internet users in the future, it would also dismantle even these limited and essential protections put in place during the Bush Administration.

We hope that the House and Senate will reject the use of the Congressional Review Act to overturn these important rules. We hope that Congress will instead work to preserve openness online, and to ensure that all people, particularly people of faith, are able to take full advantage of the power of the Internet.

Sincerely,

Andrea Cano, Chair, United Church of Christ, OC Inc.; Rev. Robert Chase, Founding Director, Intersections International; Barb Powell, United Church of Christ, Publishing, Identity, and Communication; Rev. Dr. Ken Brooker Langston, Director, Disciples Justice Action Network; Reverend Peter B. Panagore, First Radio Parish Church of America; Gradye Parsons, Stated Clerk, Office of the General Assembly Presbyterian Church (USA); Dr. Riess Potterveld, President, Pacific School of Religion; The Rev. Eric C. Shafer, Senior Vice President, Odyssey Networks; Dr. Sayyid M. Syeed, National Director, Office for Interfaith & Community Alliances, Islamic Society of North America; Jerry Van Marter, Director, Presbyterian News Service, Presbyterian Church, Chair, Communications Commission, National Council of Churches; Linda Walter, Director, The AMS Agency, Seventh-day Adventist Church.

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THE LEADERSHIP CONFERENCE
ON CIVIL AND HUMAN RIGHTS,
*Washington, DC, October 12, 2011.*

Hon. HARRY REID,
*Majority Leader, U.S. Senate,*
*Washington, DC.*

Hon. MITCH MCCONNELL,
*Minority Leader, U.S. Senate,*
*Washington, DC.*

Hon. JOHN D. ROCKEFELLER, IV,
*Chairman, U.S. Senate,*
*Washington, DC.*

Hon. KAY BAILEY HUTCHINSON,
*Ranking Member, U.S. Senate,*
*Washington, DC*

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHINSON: on behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, along with the undersigned organizations, we write to urge you to oppose the use of the Congressional Review Act (CRA), S. J. Res. 6, to repeal the Federal Communication Commission's (FCC) Open Internet rules. Though the organizations represented by this letter have taken different views on the Open Internet rules, we are united in the view that congressional plans to overturn these rules using the CRA would cause significant harm, particularly to the constituencies represented by our organizations, and divert attention from other critical media and telecommunications issues that are so vital to our nation's economic and civic life.

The CRA, 5 U.S.C. 801–808, is a blunt instrument. The terms of the Act require complete repeal of the agency action in question in a simple ''yes or no'' vote. For this reason, use of the CRA would mean that critical long-established protections will be repealed along with newer proposals adopted for the first time in December. Use of the CRA would eliminate the FCC's authority to enforce its reasonable Open Internet principles, including those that prevent private blocking of constitutionally-protected speech.

A free and open Internet is of particular concern to civil rights organizations because the Internet is a critical platform for free speech. It is also a tool for organizing members and for civic engagement; a chance for online education and advancement which is essential to economic development and job creation; a means by which to produce and distribute diverse content; and an opportunity for small entrepreneurs from diverse communities who might not otherwise have a chance to compete in the marketplace.

As you know, the FCC adopted Open Internet rules in December after an extensive and detailed process. As a result, the Commission for the first time adopted a set of enforceable rules that many diverse parties agree will protect against severe abuse, promote free expression on the Internet, and encourage job-creating investment in broadband networks. These rules include a number of non-controversial commonsense policies, such as the right of a consumer to reach any lawful content via the Internet while preserving network providers' ability to manage their networks. The rules adopted in December will help get all Americans online: for example, consumers with low incomes will be better able to select a service at a price they can afford under the Commission's new transparency rules.

We also urge Congress and the Commission to move forward on other critical media and telecommunications policy initiatives. As we explained to the FCC last fall, we believe it is critical for the Commission to renew its focus on expanding broadband adoption among people of color; closing the digital divide; extending universal service support to broadband services; adopting provisions to protect consumer privacy; and implementing the 21st Century Communications & Video Accessibility Act of 2010.

In closing, we strongly urge you to oppose use of the Congressional Review Act to repeal the Federal Communications Commission's Open Internet rules. We also hope that Congress and the Commission will move forward expeditiously to implement the National Broadband Plan to expand deployment and adoption of new technologies and high-speed Internet for all Americans. Should you require further information or have any questions regarding this issue, please contact The Leadership Conference Media/Telecommunications Task Force Co-Chairs, Cheryl Leanza, at 202–904–2168, Christopher Calabrese, at 202–715–0839, or Corrine Yu, Leadership Conference Managing Policy Director, at 202–466–5670.

Sincerely,

American Civil Liberties Union; Common Cause; Communications Workers of America; Disability Rights Education & Defense Fund; NAACP; The Leadership Conference on Civil and Human Rights; National Hispanic Media Coalition; National Organization for Women; United Church of Christ, Office of Communication, Inc.

ASSOCIATION OF RESEARCH LIBRARIES,
*October 14, 2011.*

Hon. HARRY REID,
*Majority Leader, U.S. Senate.*
Hon. MITCH MCCONNELL,
*Minority Leader, U.S. Senate.*
Hon. JAY ROCKEFELLER,
*Chairman, U.S. Senate Committee on Commerce, Science and Transportation.*
Hon. KAY BAILEY HUTCHISON,
*Ranking Member, U.S. Senate Committee on Commerce, Science and Transportation.*

DEAR LEADER REID, LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON: The American Library Association (ALA), the Association of Research Libraries (ARL), and EDUCAUSE respectfully ask you to oppose S.J. Res. 6 and any other legislation to overturn or undermine the ''Net Neutrality'' decision adopted by the Federal Communications Commission (FCC) in December 2010.

ALA, ARL and EDUCAUSE believe that preserving an open Internet is essential to our nation's educational achievement, freedom of speech, and economic growth. The Internet has become a cornerstone of the educational, academic, and computer services that libraries and higher education offer to students, teachers, and the general public. Libraries and higher education institutions are prolific generators of Internet content. We rely upon the public availability of open, affordable Internet access for school homework assignments, distance learning classes, e-government services, licensed databases, job-training videos, medical and scientific research, and many other essential services. It is crucial that the Internet remains a ''network neutral'' environment so that libraries and higher education institutions have the freedom to create and provide innovative information services that are central to the growth and development of our democratic culture.

The following data points illustrate why open, non-prioritized Internet access is so critically important to the public that we serve:

a. 80% of college students live off-campus. Net neutrality is vitally important so that these students receive the same quality of access to web-based information as on-campus students;

b. 97% of public two-year colleges have online distance education programs;

c. 99% of public libraries provide patrons with access to the Internet at no charge; in 65% of communities, public libraries are the only provider of such access.

The attachment to this letter provides several specific examples of critical Internet-based applications that our communities have developed to serve students, teachers, the elderly, the disabled and other members of the public. As these examples demonstrate, libraries and higher education increasingly depend on the open Internet to fulfill our missions to serve the general public. Without an open and neutral Internet, there is great risk that prioritized delivery to end users will be available only to content, application and service providers who pay extra fees, which would be an enormous disadvantage to libraries, education, and other non-profit institutions. In short, Internet Service Providers (ISPs) should allow users the same priority of access to educational content as to entertainment and other commercial offerings.

The FCC's Net Neutrality decision last December was an important step forward. The decision includes a non-discrimination standard for wireline Internet services, and it limits the opportunities for paid prioritization. The FCC's decision also explicitly protects the rights of libraries, schools, and other Internet users. While the FCC's decision falls short in some other areas, particularly with regard to mobile wireless services, the decision appropriately requires ISPs to keep the Internet open to educational and library content.

For these reasons, ALA, ARL and EDUCAUSE believe that the FCC's decision should be upheld and it should not be overturned by Congressional action. While the FCC's decision can certainly be improved, we strongly believe that the FCC should be able to oversee the broadband marketplace and respond to any efforts by ISPs to skew the Internet in favor of any particular party or user. The Internet functions best when it is open to everyone, without interference by the broadband provider. We urge you to uphold the FCC's authority to preserve the openness of the Internet and to oppose any proposal to overturn or undermine the FCC's Net Neutrality decision.

Respectfully Submitted,

LYNNE BRADLEY,
*American Library Association (ALA).*
GREGORY A. JACKSON,
*EDUCAUSE.*
PRUDENCE S. ADLER,
*Association of Research Libraries (ARL).*

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AMERICAN ASSOCIATION OF INDEPENDENT MUSIC,
*New York, NY, November 4, 2011.*

Hon. JAY ROCKEFELLER,
*Chairman, Committee on Commerce, Science & Transportation, Hart Senate Office Building, Washington, DC.*
Hon. KAY BAILEY HUTCHISON,
*Ranking Member, Committee on Commerce, Science & Transportation, Russell Senate Office Building. Washington, DC.*
Hon. HARRY REID,
*Majority Leader, Hart Senate Office Building, Washington, DC.*
Hon. MITCH MCCONNELL,
*Minority Leader, Russell Senate Office Building, Washington, DC.*

DEAR SENATORS, The American Association of Independent Music (A2IM) is a non-profit organization representing a broad coalition of independently owned music labels from a sector that comprises more than 30 percent of the music industry's U.S. market, nearly 40 percent of digital sales, and well over 80 percent of all music released by music labels in the U.S. A2IM's label community includes music companies of all sizes throughout United States, from Hawaii to Florida and all across our country, representing musical genres as diverse as our membership.

Unfortunately, economic reward has not always followed critical success due to barriers to entry for independents in both promotion and commerce. A2IM members share the core conviction that the independent music community plays a vital role in the continued advancement of cultural diversity and innovation in music at home and abroad, but we need your help.

Of all the technological developments in recent history, the Internet represents the most potent platform for entrepreneurship and expression our community has witnessed. Despite the many unresolved questions surrounding the protection of intellectual property online, we remain optimistic that open Internet structures are our best means through which to do business, reach listeners and innovate in the digital realm.

Independent labels would not fare well under any regime that allows Internet traffic to be prioritized based on business arrangements between ISPs and the largest corporate entities, as our sector is not capable of competing economically. This is why we have consistently gone on record in favor of

clear, enforceable rules of the road for the Internet, whether accessed on personal computers or mobile devices.

We are not convinced that the FCC's recent Order goes far enough to preserve the dynamics that make the Internet such a unique and promising marketplace for creative commerce. We are particularly concerned about the lack of clarity in the mobile space, as well as the possibility of our sector being priced out of the most desirable online delivery mechanisms.

Nonetheless, it seems shortsighted for Congress to seek to eliminate the FCC's ability to oversee this vital space, as it is an essential part of a free market driven by enterprise, ingenuity and competition. We therefore urge the United States Senate to forego any attempt to stymie the FCC's authority to preserve the underlying dynamic of the Internet.

Sincerely,

THE AMERICAN ASSOCIATION OF INDEPENDENT MUSIC (A2IM).

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FUTURE OF MUSIC COALITION,
*Washington, DC, November 4, 2011.*

Hon. JAY ROCKEFELLER,
*Chairman, Committee on Commerce, Science & Transportation, Hart Senate Office Building, Washington, DC.*

Hon. KAY BAILEY HUTCHISON,
*Ranking Member, Committee on Commerce, Science & Transportation, Russell Senate Office Building, Washington, DC.*

Hon. HARRY REID,
*Majority Leader, Hart Senate Office Building, Washington, DC.*

Hon. MITCH MCCONNELL,
*Minority Leader, Russell Senate Office Building, Washington, DC.*

DEAR SENATORS, Since its inception, the internet has represented a powerful tool for the exchange of information and ideas. In recent years, it has also contributed greatly to the emergence of novel platforms for the dissemination of creative content. It is as members of the arts community who have come to depend on these structures that we write to you today.

Creators, in particular, depend on open internet structures to engage in a variety of ways, including direct interaction with audiences, fans and patrons, as well as collaboration with other artists. From musicians to filmmakers to writers to independent labels to arts and service organizations, today's creative community depends on the internet to conduct business and contribute to the rich tapestry that is American culture.

Today's creators are taking advantage of technologies fostered by the internet to deliver a diverse array of content to consumers, while creating efficient new ways to ''do for ourselves'' in terms of infrastructure. The access and innovation inspired by the web helps us meet the challenges of the 21st century as we contribute to local economies and help America compete globally.

It hasn't always been so. Traditionally, the media landscape relied heavily on hierarchical chains of ownership and distribution, controlled by powerful gatekeepers such as large TV and movie studios, commercial radio conglomerates, major labels and so forth.

It would be tremendously disadvantageous to creative entrepreneurship if the internet were to become an environment in which innovation and creativity face tremendous barriers to entry due to business arrangements between a select few industry players.

This is why we support clear, enforceable and transparent rules to ensure that competition and free expression can continue to flourish online. Although many of us feel strongly that the recent FCC Order does not go far enough in its protections (particularly with regard to mobile broadband access), we recognize the importance of having a process in place by which concerns can be addressed and transparency pursued.

We believe that Congress has a role to play in establishing guidelines that preserve a competitive, accessible internet where free expression and entrepreneurship can continue to flourish. We also believe that stripping the FCC's ability to enforce these core principles as proposed in S.J. Res. 6 runs counter to the values shared by members on both sides of the aisle, as well as prior and current FCC leadership. Therefore, we strongly urge against a broad repudiation of the Commission's Order.

Sincerely,

FRACTURED ATLAS.
FUTURE OF MUSIC COALITION.
NATIONAL ALLIANCE FOR MEDIA ARTS AND CULTURE.

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OCTOBER 13, 2011.

Hon. HARRY REID,
*Senate Majority Leader, Hart Senate Office Building, Washington, DC.*

Hon. MITCH MCCONNELL,
*Senate Minority Leader, Russell Senate Office Building, Washington, DC.*

Hon. JOHN D. ROCKEFELLER,
*Chairman, Russell Senate Office Building, Washington, DC.*

Hon. KAY BAILEY HUTCHISON,
*Ranking Member, Dirksen Senate Office Building, Washington, DC.*

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON: The below signed organizations support an Open Internet and oppose S. J. Res 6, legislation that would repeal the Federal Communication Commission's (FCC) Open Internet rules through the Congressional Review Act. Utilizing the Congressional Review Act would not only eliminate the current FCC rules, it would eliminate the FCC's ability to protect innovation, speech, and commerce on broadband platforms on behalf of the American people.

The Internet has been and must remain an open platform. Regardless of political or social values, an Open Internet increases opportunities for all persons and communities, increases diversity of opinions and thought, and ensures that consumers and entrepreneurs alike can engage in and benefit from the opportunities afforded by access to the Internet. An Open Internet is also an engine for economic growth, innovation, and job creation.

The FCC has adopted a framework that the agency believes will preserve the Open Internet. We wholeheartedly support preservation of the FCC's authority to implement such rules. This framework was adopted in a proceeding in which broadband service providers, Internet companies, civil rights groups, labor organizations, and public interest groups all participated.

We urge Congress not to utilize the Congressional Review Act, given the negative consequences of its enactment. Instead, we hope that Congress will work to preserve openness online and to move forward expeditiously in implementation of the National Broadband Plan. Undertaking such initiatives would improve broadband deployment and adoption opportunities for all Americans, including individuals in typically rural and other underserved populations and in communities of color too often denied a meaningful opportunity to participate in the new economy.

For these reasons, we urge you to ensure that all your constituents can continue to benefit from an Open Internet, and we stand ready to work with Congress to preserve an Open Internet.

Respectfully submitted,

Access Humboldt; ACLU; AFL–CIO; Alliance for Community Media; Alliance for Retired Americans; Applied Research Center; Arizona Progress Action; Art is Change; Association of Free Community Papers; Association of Research Libraries; Bold Nebraska; Breakthrough.tv; CCTV Center for Media and Democracy; Center for Democracy and Technology; Center for Media Justice; Center for Rural Strategies; Center for Social Inclusion; Coalition of Labor Union Women; Communications Workers of America; Community Media Workshops.

Consumer Federation of America; Consumers Union; Democracy for America; Durham Community Media; Esperanza Peace and Justice Center; Evanston Community Media Center; Free Press; Future of Music; Coalition; Global Action Project; Harry Potter Alliance; Highlander Research & Education Project; Houston Interfaith Worker Justice; Institute for Local Self Reliance; International Brotherhood of Electrical Workers; Keystone Progress; Labor Council for Latin American Advancement; LAMP; Latinos for Internet Freedom; Latino Print Network; League of United Latin American Citizens.

Line Break Media; Main Street Project; Media Access Project; Media Mobilizing Project; Mid-Atlantic Community Papers Association; NAACP; National Alliance for Media, Art, and Culture; National Consumers League; National Hispanic Media Coalition; National Latino Farmers and Ranchers Trade Association; National Network for Immigrant and Refugee Rights; Native Public Media; New America Foundation; Ohio Valley Environmental Coalition; One Wisconsin Now; OnShore Networks; Open Access Connections; Open Source Democczracy Fund.

Participatory Culture Foundation; Peoples Press Project; Peoples Production House; Philly CAM; Progress Now; Progress Now Nevada; Progress Ohio; Prometheus Radio Project; Public Radio Exchange; Reel Grrls; Southwest Organizing Project; Southwest Workers Union; The Highlander Research & Education Center; The Peoples Channel; The Praxis Project; The Writers Guild of America; West UNITY Journalists of Color; Women In Media & News; Youth Media Project.

Mr. ROCKEFELLER. Mr. President, to be sure, there are those who disagree with the FCC's open Internet rules, and there is an avenue for these complaints. It is called the judicial system. Some are using it. Two companies have filed lawsuit claiming that the FCC went too far. Several public interest groups have filed lawsuits claiming that the FCC did not go far enough. It is their legal right to go to the courts, and when they choose to do that, they can do so.

So let's think for a minute what a world would look like without a free and open Internet.

In a world without a free and open Internet, consumers and entrepreneurs would have no transparency as to how their broadband providers would manage their network—no ability to make informed decisions about their broadband providers.

In a world without a free and open Internet, there would be nothing to prevent their broadband providers from steering them only their to preferred Web sites and services, therefore limiting their choices as consumers.

For rural Americans, broadband Internet access has the power to erase distances and allows them to have the same access to shopping, educational matters, and employment opportunities as those living in urban areas. That is a time-honored principle around here—but not if the Web site they seek to access is blocked by their broadband providers. Consumers, entrepreneurs, and small businesses need the certainty they can access lawful Web sites of their choice when they want, period.

In a world without a free and open Internet, there would be nothing to stop broadband providers from blocking access to Web sites that offer products that compete with those of its affiliates. That happens, Mr. President.

In a world without a free and open Internet, companies could pay Internet providers to guarantee their Web sites open more quickly than their competitors.

In a world without a free and open Internet, companies could pay Internet providers to make certain their online sales are processed more quickly than their competitors with lower prices.

Well, that is not the American way. This is particularly disturbing in tough times like these.

In a world without a free and open Internet, there would be nothing to prevent Internet service providers from charging users a premium in order to guarantee operation in the ''fast lane.'' If someone is trying to start a small business, struggling to make ends meet and cannot afford to pay the toll, they run the risk of being left in the ''slow lane''—that is not good—with inferior Internet service—that is not right—unable to compete with larger companies. That is very wrong.

What if an innovator or a start-up company has the next big idea? With broadband, the next big idea does not have to come from a suburban garage or from Silicon Valley, it can come from rural America or from anywhere. A free and open Internet is all that is required to give that big idea a global reach.

In a world without a free and open Internet, the ability of the next revolutionary idea to reach others—to make it to the greater marketplace—would be entirely dependent on a handful of entrenched broadband gatekeepers and toll collectors. True.

I am not totally opposed to the Congressional Review Act, but I have to say it is an extraordinarily blunt instrument. It means all of the rules adopted by the FCC must be overturned at once. This would even mean tossing out commonsense provisions about transparency. Do our opponents know this? It would deny the agency the power to protect consumers. Do our opponents know this? What is the sense in all of that? I don't get it.

There is another part: If they just took these rules out—if S. Res. 6 were to pass—they couldn't come back later and just have the FCC put them in. We would have to go through a whole congressional legislative process to reinsert them into the Public Law, which means many of them would never end up there.

I also want to address the argument of supporters of the joint resolution that the FCC's open rules will somehow stifle innovation in the Internet economy. That is just so wrong I don't know what to say.

Over the past 15 years, the open Internet has been the greatest engine for the U.S. economy. It leaves everything in its dust. It has created more than 3 million jobs, as the Senator from Texas indicated. The open Internet rules will help sustain this growth. People want to know what the rules of the road are. They want to know what the world is bringing to them. If they decide they do not like what is coming, they are going to tell you, and they are not going to invest. Very simple.

According to Hamilton Consultants, the open Internet ecosystem has led to the creation of 1.8 million jobs related to applications in e-commerce, as well as 1.2 million jobs related to infrastructure. Moreover, investment and innovation have continued to increase since the adoption of the FCC's open Internet rules—not decrease, as the supporters of this resolution will tell us.

The facts show that investment in broadband networks increased in the first half of 2011. In fact, investment in networks that support broadband was more than 10 percent higher in the first half of 2011 than in the first half of 2010. More of that investment in Internet companies surged in 2011, and this is after they had sort of adjusted or taken into account what they saw coming in the way of the rules. There was $2.3 billion worth of investment going into 275 companies in the second quarter, and all of them were this Internet type. That is the most investment in Internet companies in a decade.

Plus, shortly after the framework was adopted, America's leading wireless providers announced they were accelerating their deployment of their advanced fourth generation, or 4G networks. It seems the open Internet rules are giving broadband providers and entrepreneurs and investors the certainty they need to invest and to create jobs.

Certainty is the key. They are not going to invest in what they do not know. We see that in so many other areas. They do not know what is going to happen, so they do not invest. People have all this cash, but they do not have certainty. Here they have certainty, they understand that certainty, they understand what is coming, they like it, and they are investing like never before.

The FCC's open Internet rules also protect small businesses. An estimated 20,000 small businesses operate on the Internet. More than 600,000 Americans have part- or full-time businesses on eBay alone. I was not aware of that. The FCC's open Internet rules mean small entrepreneurs will not have to seek permission from broadband providers to reach new markets and consumers with innovative products and services.

This is a very important point. It means small businesses can be located anywhere in this country, including rural America, and through open broadband have the opportunity for their ideas and products and services to have a global reach. That is the point of all of this.

As we all know, small businesses were responsible for nearly 65 percent of new jobs over the past 15 years. Far from preventing investment, the FCC's open Internet rules will foster small businesses because they trust it. They see it, they see what Moody's is saying about it, they see what the Wall Street investment bankers are saying about it, they see it is encouraging investment, and they like and trust that. So they take risks they might not otherwise take because they trust.

It is not the faceless Federal bureaucrat. It is something that is down on paper and they understand it. They have probably seen it and probably commented on it. Maybe some of them didn't like it as much as they should have; maybe some thought it should have been stronger or some thought it should have been weaker, but such is life in America. So, anyway, I think what they conclude is that what is going on is supporting what they are doing.

Finally, I want to note when it comes to education and privacy and intellectual property, global Internet governance, or network security, the government has long provided—and necessarily so—reasonable rules of the road to make possible consumer protection, fair trade, and open markets. The FCC's open Internet rules are no different. They take, as has been quoted by many, a light-touch approach—I like that phrase—and keep the playing field fair. They keep the Internet open and free for consumers, for businesses, and for everyone in this country who wants access to broadband Internet.

So that is why I support the FCC open Internet rules, and I encourage my colleagues to vote against the joint resolution.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, on our side I have Senator WICKER and Senator SHELBY, who have been here waiting, and I would like to give them 15 minutes from the time on our side. I know there are others here, but these Senators have been waiting for quite a while.

The PRESIDING OFFICER. Is that 15 minutes each or 15 minutes together?

Mrs. HUTCHISON. Up to 5 minutes for Senator WICKER and up to 10 minutes for Senator SHELBY.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, what would be the order after that?

The PRESIDING OFFICER. There is no order after that.

Mr. KERRY. Mr. President, I ask unanimous consent that I be recognized for the time I have—I think it is about 15 minutes—after that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise as a cosponsor and strong supporter of this resolution of disapproval.

Once again, we are witnessing a government regulation we do not need. There is a reason when we talk about today's economy that we talk about the cost of government overreach. Unnecessary regulations put a wet blanket on job creation, and they work against getting our economy back on track. This is a perfect example of the government standing in the way of growth and investment.

The Internet and its associated applications should be allowed to develop without excessive FCC redtape. The Internet owes a great deal of its rapid success to innovators and entrepreneurs who had the freedom to imagine, to explore, and to create. With the FCC acting as a traffic cop, this freedom will be compromised.

The subjective rules of the road, as laid out by the FCC, are a prescription for uncertainty within the industry. By handing over more power to a government agency, net neutrality rules slam the brakes on potential investment and new innovation. The ideas that should make our Internet faster, more secure, and better for consumers fall by the wayside. At the end of the day, the American consumer would suffer. The broadband marketplace would simply offer fewer services, fewer devices, and less content to paying customers.

The FCC order reads that Internet providers ''shall not block lawful content, applications, services or nonharmful devices, subject to reasonable network management.'' It goes on to say that providers ''shall not unreasonably discriminate in transmitting lawful network traffic over a consumer's broadband Internet access service.''

But the terms ''lawful'' and ''reasonable'' are not easily defined. Under the order, what is lawful and what is reasonable would be determined by unelected bureaucrats. The FCC would rule as a de facto police of the open and free Internet. The FCC would be the final arbiter of what broadband service providers can and cannot do. Its judgments—not the market or the consumer—would determine how networks would be managed. The FCC is claiming to have an authority that the American public did not grant it.

The hands of the Internet service providers will be tied when the FCC has this kind of power. Without being able to run their own networks, service providers cannot maximize the online experience for the vast majority of their customers. They are, in essence, prevented from doing what they were established to do.

Equally troubling is that the Commission's order is trying to fix a problem that does not exist. Today's consumers have greater access to more Internet services than ever before. Where is the problem? Businesses have invested tens of billions of dollars in new broadband infrastructure. Internet entrepreneurs continue to offer new services to broadband users. There is no economic justification for this unprecedented intrusion into the marketplace. Policy should benefit the public, and these FCC rules do not.

In conclusion, we have seen this movie before, with regulation where regulation is not needed. Again, here we have a regulatory recipe that would produce far-reaching and damaging effects. The current landscape has allowed the Internet to grow exponentially. It is a free market of competition, productivity, and growth. The FCC's regulatory intrusion is completely unwarranted.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alabama.

Mr. SHELBY. Mr. President, I wish to associate myself with the remarks of the Senators from Texas and Mississippi and to say that I think a lot of people probably mean well but are often misguided when they say we are going to regulate this sector of the economy or we are going to regulate that.

The market, as you well know, is the driving force in our economy—not just in the United States but worldwide. It is going to be the market that will decide what we do as far as job creation for our people everywhere, and I believe the Internet is an example of, gosh, let's don't overregulate it. Let it grow, let it do its job, and it will.

I would also like to speak about some commonsense steps that Congress can take right now to help our struggling economy. At a time when job growth is stagnant, Congress needs to lift the regulatory burden that is stifling capital formation. The Senate has before it several bills that would help private businesses raise the capital they need to grow and to create jobs.

This is an issue that should enjoy the support of both Republicans and Democrats in the Senate. Access to capital, as the Presiding Officer well knows, is what allows entrepreneurs to transfer new ideas into living companies. Novel products, new services, and, most importantly, good jobs can be created.

Unfortunately, overregulation has made it progressively harder for small businesses to access capital in this country. I will give some statistics. They are clear.

In the 1990s, an average of 547 initial public offerings took place each year, compared with an average of just 192 per year after 1999. Small initial public offerings now make up only 20 percent of the total. In contrast, they made up 80 percent of the total in the 1990s, when we were creating so many small jobs.

In addition, the number of new businesses being launched each year is falling. In 2010, it was the lowest it has been since the Bureau of Labor Statistics started tracking the number in 1994.

The SEC has been slow to address these problems, even though it has the authority to do so. The Chairman of the SEC has spoken of the need for action, but we have not seen tangible results yet.

One year ago, one SEC Commissioner remarked:

> My hope is that, as an agency, the Commission will move beyond talking about small business capital formation and will take concrete steps that actually foster it.

I believe we, the Senate and the American people, can no longer wait for the SEC to do its job. The time has come for Congress to take action. Our economy cannot afford to wait any longer.

The first thing I believe we should do to improve capital formation is to bring up for consideration several bipartisan bills that would implement important regulatory reforms. One bill would modernize the SEC's regulation A, which was initially designed to make it easy for small businesses to access our capital markets. Unfortunately, regulation A is outdated and rarely used.

Another set of bills would raise the thresholds for reporting so small banks and small companies are not subject to burdensome SEC reporting requirements.

These bills would still leave investors protected and ensure that public companies provide meaningful disclosure. Most important, investors would still be protected by the SEC's antifraud rules. These bipartisan bills represent a few steps we can take right now, but they are not comprehensive by any means.

Much more needs to be done to make sure registration requirements are tailored to the size and type of businesses. The existing one-size-fits-all approach means that small companies have to bear the same costs that large companies do when they go public. These inequities need to be addressed; it stifles job creation.

One would think that we could agree in the Senate on removing unnecessary restrictions on capital formation. Yet for the past 3 years, the majority party has dramatically increased government involvement in the economy. They have imposed one costly mandate after another on businesses. They have crowded out the private sector with massive government programs, resulting in persistently high unemployment and stagnant economic growth.

Basically, I think it is time for a new approach. It is time to revitalize the free markets in America. We can begin this effort by taking these small steps to help entrepreneurs find the capital they need to build their businesses and to create jobs.

I hope my Democratic colleagues will now do more than talk about creating

jobs and that we can work on a bipartisan basis on these bills that have bipartisan sponsorship to create jobs and join us here.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this is one of those times when, on the floor of the Senate, we hear a proposal that people characterize as one thing, but it is, in fact, anything but what they are characterizing it as.

What I just heard the good Senator from Mississippi talking about: We don't want to slam the brakes on development, he said. We don't want to have the SEC intrusion.

So they are trying to say to the American people that they want to liberate the Internet, when, in fact, what they want to do is imprison the Internet within the hands of the most powerful communications entities today to act as the gatekeepers who will control the ability of the Internet to do the very kind of development that brought us here. What they are talking about, their concept, this CRA challenge is that wolf in sheep's clothing. It is that simple. So I think colleagues need to step back and think about how the Internet got to be what it is today when it was developed.

I know the Senator from West Virginia, the chairman of the committee, and I were members of the Commerce Committee back in the 1990s when we wrote the Telecommunications Act of 1996, and we thought we were pretty clever and we wrote a good act. Within 6 months of writing that act, it was obsolete because all our conversation was about telephony at a moment where, because of the Internet, the entire discussion was about to become about data transmission and the movement of information over the Internet. That has never been fully revisited. But the reason we have a Google today, the reason we have had this incredible development of Internet retail business, of all these Web sites, of Facebook, and so many more is because of the open architecture of access to that Internet—which, I would remind everybody in America, was created by government money in government research. It came out of an effort to develop a communications system for our country in the case of nuclear war. So we created, through DARPA, ARPA, research that produced this communications network. Then the private sector saw the opportunity, and a whole bunch of very creative people rushed in and made the Internet what it is today.

Overturning the rules, as the CRA proposes to do, would put the very open architecture that has created this extraordinary agent of communication, of commerce, and family communication, and all these things it has done for business, it would put it at risk and discourage investment in companies at the edge of the Internet that could be the next Google or the next Amazon. Overturning these rules would actually hurt our competitiveness and economic growth and they would diffuse the creative energy that has driven the Internet to be what it is today. Because if we overturn what they are doing today, we take the reality of the Internet and we put it in the hands of the gatekeepers.

Everything that goes over the Internet today goes either through our telephone at home or television or whatever, through cable, out of our house or the airwaves. But if we are not having an open architecture on the Internet, then the people who control those access points can start discriminating about who gets access at what speed; and if they control who gets access at what speed and begin to charge more for that, you begin to have a profound impact on the ability of any business to develop and a profound impact on the access that consumers have come to anticipate with respect to the Internet.

Think about this. We are talking about neutrality. We are standing here trying to defend neutrality. The other side is coming in here trying to create a new structure where the process will be gamed once again in favor of the most powerful. This is part of the whole debate that is going on in America today, about the 99 percent who feel like everything is gamed against them and the system is geared by the people who have the money and the people who have the power who get what they want. That is what this debate is about.

The network neutrality rules the FCC has promulgated are based on the principles that everybody should support of promoting transparency of broadband service operations, preventing the blocking of legal content and Web sites, and prohibiting discrimination of individuals, applications, and other Web sites. That is what we are for. This CRA is an effort to undo the FCC's ability to protect those principles.

Establishing those principles has actually brought about certainty and predictability to the broadband economy. It ensures that anyone can create a Web site, anyone can deliver an Internet-enabled service with the certainty that is going to be made available to everybody else on the Internet. Innovators now know they are not going to have to go ask a big telephone company: Hey, Verizon, hey AT&T, will you guys please let us have access so we can go do this thing? Oh, well, maybe we will do that, but we are going to charge you in order to do that. They completely destroy the openness that is provided, this ability for anybody in America to sit in their home or school or somewhere and come up with an idea and innovate. That freedom to innovate, the freedom to innovate is what has made the Internet the platform for economic and social development it is today, and a vote for the CRA is a vote to stifle that.

On the side of those favoring the FCC's action are venture capitalists and the companies that have made the Internet what it is today, civil rights groups, civil liberties advocates, academics, scholars who have studied and testified to the virtues of open networks. Let me quote a few of them.

John Doerr is somebody whom many of us have come to know by virtue of his business acumen and the legendary venture capitalist efforts he was engaged in. He was an early backer of Amazon, an early backer of Google, Electronic Arts, Netscape, and a number of other innovators whose creations have driven the growth of the Internet. Here is what he says:

> Maintaining an open Internet is critical to our economy's growth . . . and this effort is a pragmatic balance of innovation, economic growth, and crucial investment in the Internet.

Ray Ramsey, the president and CEO of TechNet, a national bipartisan network of more than 400 technology sector CEOs, said of the vote at the Commission in favor of the network neutrality rules:

> The vote by the FCC is a pragmatic recognition of the need for codifying principles for protecting nondiscrimination and openness for the Internet.

Charlie Ergen, the president and CEO of Dish Network, said:

> The Commission's order is a solid framework for protecting the open Internet. The new rules give companies, including Dish Network, the framework to invest capital and manpower in Internet-related technologies without fear that our investment will be undermined by carriers' discriminatory practices.

Others supporting the order include the Communications Workers of America, civil rights organizations, consumer advocates. In sum, those who support the rules include those who fund the development of Internet companies, those who use the Internet, and advocates who favor open discourse and debate. I think we in the Senate ought to listen to the people who created it, the people who developed it, the people who are taking it to the next generation, and the people who use it.

The Los Angeles Times editorialized on Sunday in favor of the rules of the FCC, saying:

> The agency's net neutrality rules are a reasonable attempt to protect the innovative nature of the Internet and should not be overturned.

Despite all of what I just said, some have made what I have called the ''wolf in sheep's clothing'' argument, the false argument that network neutrality rules regulate the Internet—that they actually regulate it—and this is an opportunity to keep it open and impose a condition on innovators.

I don't know how asking innovators to get permission from somebody else to be able to go do what they have already done since the 1990s is going to improve things. The truth is, network neutrality rules govern not the Internet but they govern the behavior of the firms that own and operate the gateways to the Internet. That is what is at stake. When the airwaves that carry

the information that connects us to everyone else in the Internet is in the hands of a few and subject to their control, we are in trouble.

The rules we are debating today state that those gateways should not be used to favor some voices over others or some firms over others on the Internet. That is what is at stake. That is what this fight is about. The truth is, if the rules are overturned, every innovator on the Internet will be exposed to the risk that, before they innovate, before they create a new product, they are going to have to go to somebody and say: Mother, may I do this? Then there will be a price attached to it.

Beyond the false argument that network neutrality constitutes regulation of the Internet rather than anticompetitive behavior, opponents to the rule predicted the FCC action was going to have negative economic repercussions. Yet even in an economy that has struggled, that prediction has proven to be wrong.

In the time since the FCC voted on the rule to preserve the open Internet, investment in networks that support wired and wireless broadbrand grew by more than 10 percent compared to the same period the year before. Venture capital investments in Internet-specific companies surged, with $2.3 billion going into 275 companies in the second quarter of 2011. It may well be that 2011 is going to be the biggest year for tech IPOs in more than 10 years. That seems to indicate strong investor confidence in the companies that rely on the open Internet already exists, and we should not disrupt that.

Having lost the argument that network neutrality hurts innovation or the economy, they therefore want to create a new argument; that is, the FCC acted outside its legal authority in protecting the free flow of communication on the Internet.

A court, the right place for that decision to be made, is going to make that decision. But, again, the argument actually challenges common sense. It challenges the basic understanding of reasonableness. To argue that the FCC, the agency that Congress created in order to regulate communications by wire and radio, somehow has no jurisdiction in this very space is to argue that communications over the Internet are not, in fact, conducted over a wire or over the airwaves. It is completely lacking in any foundation in common sense and certainly in the law.

The law we created grants the FCC the authority in the Telecommunications Act to ''make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary for its functions.''

That is the power we gave to them. Under title II, title III, title VI of that act, it encourages the FCC to protect the public interest and encourage just and reasonable rates through competition. That is precisely what net neutrality achieves. It is precisely what we achieve under the rules of the FCC.

Under title VII, the FCC is mandated to take immediate action to remove barriers to infrastructure investment and promote competition in the telecommunications market if advanced telecommunications is not being deployed in a reasonable and timely fashion. That can be determined on a case-by-case basis, and we obviously can continue as we have since the early 1990s to do this. So there is no good reason for this debate to fall along party lines.

I hope it will not be just Democrats who vote to preserve this rule. I hope we will maintain an open Internet technology and support the open Internet order.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I know the Senator from Minnesota has been waiting to speak, and I certainly will yield to him. I would like to be recognized after he speaks to answer some of the concerns that were raised by the Senator from Massachusetts.

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

The Senator from Minnesota.

Mr. FRANKEN. Madam President, I appreciate the courtesy of the Senator from Texas. My understanding is that Senator MURKOWSKI from Alaska is on her way down. I am scheduled to sit in the chair at 12, and I don't want to step on the opportunity of the Senator from Alaska to speak.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. FRANKEN. Madam President, I rise today to urge my colleagues to vote against the motion to proceed to the joint resolution of disapproval of Senator HUTCHISON, which would repeal the FCC's net neutrality rules.

As many of you know, I have repeatedly said net neutrality is the free speech issue of our time. I still believe that is the case, and I am here to state why we need to do everything we can to stop this partisan resolution in its tracks.

But before I get into the reasons we should oppose this resolution, I think it is important to step back and remember what the American people expect of us. I do not need to tell anyone in this body that the approval rating of Congress is at an all-time low. Why is that? I think it has something to do with the fact that we are using our extremely limited, valuable time to debate partisan proposals like this one rather than working together to create jobs, stimulate our economy, and get Americans back to work.

When this resolution of disapproval passed the House back in April, I hoped that would be the end of it. I hoped my colleagues would recognize we should let agencies do their jobs and not employ an arcane procedure to erase a rule the FCC started thinking about in 2004 under Republican chairman Michael Powell, and again in 2005 when a different Republican chairman, this time Kevin Martin, adopted a unanimous policy statement on net neutrality.

When the White House issued a statement indicating the President would veto this resolution of disapproval if it came to his desk, I thought my colleagues would be sensible and would recognize that this was not only unnecessary and foolhardy, but it was also a pointless exercise and would be just a giant waste of everyone's time. Alas, that is not the case and here we are spending valuable time on two resolutions of disapproval when we should be turning to legislation that will get our economy back up and running again.

I hope the votes we take tomorrow will send a strong message that we need to stop these political stunts and work together to create jobs, jobs, and more jobs.

But let's get to the substance of why I am standing here before you today. I am here today to talk about net neutrality. Net neutrality is a simple concept. It is the idea that all content and applications on the Internet should be treated the same, regardless of who owns the content or the Web site. This is not a radical idea. It certainly is not a new one. We may not realize it, but net neutrality is the foundation and core of how the Internet operates every day and how it has always operated.

When scientists and engineers were creating the basic architecture of the Internet, they decided they needed to establish some basic rules of the road for Internet traffic. One of the fundamental design principles of the Internet was that all data should be treated equally, regardless of what was being sent or who was sending it. That is net neutrality. It is the same principle we rely on every day when we use the Internet, and it is the same principle our phone companies must adhere to when they connect our phone calls.

They did not discriminate based on what we say or whom we call, and the founders of the Internet thought the same should be true about data traveling across networks. Everything and everyone should be treated the same.

This principle of nondiscrimination is baked into the DNA of the Internet. This is not radical or new. This is about having a platform that is free and open to all, regardless of whether one is a big corporation or a single individual and regardless of whether one pays a lot of money to speed up how fast their content gets to their customers. Net neutrality is what we all experience today when we log on to our computers, and it is what we have always experienced since the very beginning of the Internet.

I think it is important to focus on that point for a minute because our opponents are telling us something quite different—and they are wrong. Net neutrality is not about a government takeover of the Internet, and it is not about changing anything. Net neutrality and the rules the FCC passed are about keeping the Internet the way it is today and the way it has always been.

We take for granted that we can access Google's search engine as easily as we can access Yahoo or Bing or that Netflix videos download as easily as the videos our friends uploaded onto YouTube last night. We expect that e-mails arrive at their destinations at the same speed regardless of who is sending them, and we take for granted that the Web site for our local pizzeria loads as fast as the Web site for Dominos or Pizza Hut. That is one of the reasons I care so very much about this issue.

This is not just about freedom of speech, it is also about protecting small businesses and entrepreneurs of all sizes. In my mind, net neutrality is and always has been about protecting the next Bill Gates and the next Mark Zuckerberg. Facebook and Microsoft do not need our help today, but the 20-year-old whiz kid working in his parents' garage to develop the app or software or Web site to revolutionize our lives does need net neutrality, and so does the small bookstore or local hardware store that wants their Web site to load just as fast as Amazon or Home Depot.

I have been on the floor of the Senate talking about the beginnings of YouTube because it is such a powerful example of why we need to protect net neutrality. When YouTube started, it was headquartered in a tiny space over a pizzeria and a Japanese restaurant in San Francisco, CA. At the time, Google had a competing product, Google Video, that was widely seen as inferior.

If Google had been able to pay AT&T or Verizon or Time Warner large amounts of money to block YouTube or to make Google Video's Web site faster than YouTube's site, guess what would have happened. YouTube would have failed. But, instead, thanks to net neutrality, YouTube became the gold standard for video on the Internet. YouTube was able to sell its business to Google for $1.6 billion just 2 years after its start. I love that story because it is a testament to the power of the Internet to turn people with great ideas into overnight successes, and it happened because we had net neutrality.

The story of the Internet is a story about the triumph of the little guy over the big, slow-moving corporation. The past 20 years are littered with tales of entrepreneurs starting with next to nothing and revolutionizing the world as we know it. From YouTube's humble beginnings over a pizzeria to Facebook's infamous start in a dorm room in Cambridge, the Web-based products we use every day are a great result of a great idea and the drive to make that great idea a reality.

Here is what we will not hear from our opponents: Facebook and YouTube and countless other Web-based products might not have existed today if it were not for net neutrality. Without net neutrality, Myspace or Friendster—remember them—could have partnered with Comcast to gain priority access or to block Facebook altogether. Blockbuster could have paid AT&T to slow down or completely block streaming of Netflix videos. Barnes & Noble could have paid Verizon to block access to amazon.com. Imagine a world where the corporation with the biggest checkbook can control what we see and how fast we access content on the Internet.

Fortunately, that is not the world we live in today and thanks to the FCC that is not the world we are headed for. The FCC's rules will ensure that no matter how much money or power they have, a young kid working in her parents' basement in Duluth can outinnovate the biggest corporation simply because she has the best idea. This is exactly why top Silicon Valley venture capital and angel investment companies support these rules. These companies are the ones funding the next Mark Zuckerberg, Larry Page or Sergey Brin so he can get his product off the ground. They are the ones funneling millions and millions of dollars to entrepreneurs, which is why I think we should listen to them. The CEOs of eBay, Netflix, Amazon, Facebook, and YouTube have joined in a letter supporting the FCC's rules. They say: ''Common sense baseline rules are critical to ensuring that the Internet remains a key engine of economic growth, innovation and global competitiveness.''

I think we should listen to them and companies such as Microsoft, Yahoo, Google, IBM, and Qualcomm. These companies also support the FCC's rules because they recognize they could not have grown to be the tremendously successful companies they are today without a free and open Internet, and that is what we are asking for. That is all we are asking for.

When our opponents get up and tell us these rules will stifle innovation and halt growth, I want everyone to think about what they are saying. I want us to ask ourselves: Why would so many of the leading technology companies over the last two decades support what the FCC is doing if they think it will hurt innovation? It doesn't make any sense because it isn't true. Net neutrality and the FCC rules will protect the innovators and entrepreneurs who have made the Internet what is it today and what it will be tomorrow.

Don't take my word for it. Listen to the experts from Bank of America, Goldman Sachs, Citibank, Wells Fargo, Merrill Lynch, and Raymond James. These companies have all stated they do not believe the FCC's current rules will hurt investment. Citibank said the FCC's rules were ''balanced,'' and Goldman Sachs said they were ''a light touch'' and created ''a framework with a lot of wiggle room.''

What is even more telling is that investment in networks that support wired and wireless Internet has jumped since the announcement of the FCC's rules. In fact, investment is more than 10 percent higher in the first half of 2011 than in the same period last year. Venture capital firms poured $2.3 billion into Internet-specific companies in the second quarter of 2011. I think these numbers speak for themselves. They tell a story of surging investor confidence following the FCC's vote on these rules and not the doomsday portrayal we will hear from our opponents.

Protecting innovation in this country is particularly important given the state of the telecom industry today. I don't need to tell you that telecom corporations have grown larger and fewer. We know, in part, because we have seen our cable, Internet, and telephone bills rising and rising. What else have we seen? Customer service that has gone straight out the window. When we are angry we wasted another day waiting for a Comcast repairman to come and install a cable Internet line in our house or we have been put on hold by Verizon for the fifth time in a single call and we finally decide to switch companies, we may realize we don't have another choice.

Seventy percent of households in this country have one or two choices for basic broadband Internet service. The majority, 60 percent, of the households only have one choice for high-speed broadband.

This is appalling for many reasons. It affects prices, quality of service, and choices for customers, but it is ultimately why we need net neutrality. We need to make sure companies play by the rules. As control of the Internet has shifted into the hands of a smaller and smaller number of corporations, we need to make sure those companies are able to dictate the speed of traffic based on how much a content provider can pay or prioritize their own content over other companies' content.

Of course, as I said before, there is nothing wrong with maximizing shareholder profit since that is what corporations are obligated to do. Minnesota is home to many great corporations, including 3M, General Mills, and Medtronic. These companies create thousands of jobs and produce fantastic products. Other corporations should not be able to prevent others from competing. Competition is what net neutrality is all about. It is about ensuring that the next breakthrough product has the opportunity to reach consumers through a free and open and equal Internet.

In addition to protecting innovation and small businesses in this country, net neutrality is also about speech. The Internet is not just where we go to shop for local products and services; the Internet is where we go to find political campaign information and read local news stories. The Internet is what helped fuel the Arab Spring, in large part because it has become the soapbox of the 21st century. Organizers and advocates are no longer stapling posters to bulletin boards to get their message out there. They are now posting their message on Twitter and Facebook. The

Internet is not just responsible for an upheaval in how campaigns and advocacy occur; it is also responsible for an upheaval in the print media world because the Internet is also the printing press and library of the 21st century.

This is why it is so important we make sure the corporations providing Internet service play by the rules and are not able to profit by speeding up or slowing down our access to certain news Web sites or other places we go to access information. We would not want the Libyan Government to shut down access to Facebook in the middle of protests in that country for the same reasons we do not want a corporation controlling what information and Web sites we are able to access in order to benefit their bottom line.

You know I have been a proponent of net neutrality for a long time. You have heard me over and over on how net neutrality is about keeping the Internet the way it is. But the truth is, the FCC rules, while a step in the right direction, are very conservative. I wish the FCC had done more, but the FCC wanted to reach a consensus, and they made a concerted effort to address many concerns of telecommunication companies, large and small, when they drafted these rules. For my opponents to now claim the FCC ignored public opinion or failed to consider the impact these rules would have on businesses is not true.

First, I think we could all stand a bit of history on the bipartisan nature of this rule. Net neutrality is something that two Republican chairmen of the FCC, Michael Powell and Kevin Martin, championed in 2004 and 2005. Chairman Powell first articulated a set of net neutrality principles and Chairman Martin, 1 year later, achieved unanimous Commission endorsement of the FCC's open Internet policy statement.

In 2006, 11 House Republicans voted in favor of net neutrality on the floor. The Gun Owners of America, the Christian Coalition, and the Catholic Bishops joined with the ACLU, moveon.org and leading civil rights groups to advocate for the same principles for openness and freedom on the Internet.

This debate started 7 years ago, and only after reviewing more than 100,000 public comments and holding 6 public workshops did the Commission finally issue a rule. To claim this was premature, rushed or not carefully considered is just plain wrong. I also think it is completely inaccurate for my opponents to claim the Commission never analyzed the costs and benefits to this rule.

In fact, there is an entire section of the rule entitled ''The Benefits of Protecting the Internet's Openness Exceed the Costs.'' I urge my colleagues to read this section of the Commission's order. It covers four pages. It contains over 25 lengthy, detailed, analytical footnotes. It is clear the Commission considered the costs and benefits of acting, and they concluded that ''there is no evidence that prior open Internet obligations have discouraged investment,'' and that ''open Internet rules will increase incentives to invest in broadband infrastructure.''

I recognize that a couple companies are challenging the FCC's rules in court, and they have every right to do so. But this resolution of disapproval amounts to little more than political gamesmanship from fringe organizations. I think it is important to know that not a single large telecommunication company supports this resolution of disapproval. They are not wasting their time with an arcane process, and we should not either. That is not to say Congress cannot and should not have a discussion about the merits of net neutrality. We can and we should.

Frankly, I have been disappointed by the quantity of misinformation that has been such a large portion of this debate in the past.

The rhetoric I heard during the House debate last April was disappointing. It is not the type of debate Americans deserve. I encourage a frank and in-depth discussion on net neutrality. I hope one day soon we will consider making a statutory change to the FCC's authority that will clarify that we want the FCC to make sure the Internet stays open and free. That will put the issue to rest for good. It is, frankly, the process we should be relying on. By forcing an up-or-down vote through the Congressional Review Act, we are short-circuiting the normal legislative process and ignoring the FCC's tremendous work on this issue.

This resolution of disapproval is a procedural stunt that wastes limited time which should be used to address the real problems Americans face every day. At the end of the day, the problems of Americans are why we are here. I love hearing from Minnesotans, and I got a great e-mail the other day. The letter was from a group of five self-proclaimed ''highly-credentialed computer geeks,'' including a professor, a startup founder, an ex ''Google-er'' and a ''non-ex-IBMer.'' In their e-mail they wrote:

> The free market will drive innovation in the Internet, but careful regulation is needed to preserve the freedom of the markets from coalitions of companies that will seek to reduce competition.

They noted:

> History promises that the leading companies will work together to create a monopoly that they can control so they can make more money and . . . disrupt innovation.

I am glad they and thousands of Minnesotans have taken the time to write and call to tell me how much preserving net neutrality means to them. These highly credentialed computer geeks are right: The free market will drive Internet innovation as long as that market is truly free and open—free from corporate control and open to all content providers equally.

These constituents and millions of Americans don't want Congress engaged in political sparring matches designed to appease a few vocal critics. Americans, entrepreneurs, and small businesses want a world where the future Twitters, eBays, and Amazons of the world can grow and thrive, without interference from big mega conglomerates.

If passed, this resolution will hurt consumers, stifle innovation, and create uncertainty in one of America's most innovative and productive sectors. We are at a pivotal moment, and I hope my colleagues will recognize this and join me in voting down this resolution of disapproval.

I thank the Senator from Texas for allowing me to speak during this time, and I thank the Presiding Officer for holding the chair while I have been speaking.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I yield up to 15 minutes to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Ms. MURKOWSKI. Madam President, there is a lot of discussion, of course, about jobs in this country—where they are, and what we can do to help incent them. I had the opportunity while I was in my State last week to host three different townhalls that focused on the state of our Nation's economy and what is happening with jobs and job creation. As I asked Alaskans for their input, what I heard consistently from community to community was: We can allow for job creation that is meaningful. We can allow for opportunities here in our State and across the country. But the first thing you can do is to get the government out of the way. That was probably my biggest takeaway out of the townhalls with Alaskans: Get the government out of our way so we can move forward as small business owners and operators, as those who are looking to advance jobs in resource development. Move the government back, and we can make some things happen.

I think one of the key ways we can create real jobs is by moving the Federal Government out of the way of the private sector. Yet this administration is doing exactly the opposite. Our economy struggles to grow and many Americans, of course, are out of work, but what we are seeing out of the White House is this effort that essentially buries job creators under a mountain of paperwork and regulations. Businesses waste hours and productivity on checking the right boxes and making sure they have filled out the right form in the right way, rather than creating new opportunities for employees. Far too often, our small businesses are being judged by how well they keep their safety records rather than the actual safety records themselves: Did you check the right box? Did you fill out the right form? If you didn't, we are going to fine and penalize you. But is the focus on making sure they have a strong and sound safety record?

Many of the regulations—and, unfortunately far too many coming from the EPA—unnecessarily raise the cost of energy and other vital goods and services. I, as the ranking member on the Energy Committee, have spent a lot of time and a lot of focus on what we are doing in this country to help reduce our energy costs. Unfortunately, far too often we are seeing increased costs to our families and to our businesses because of the regulations that come at them. While we all support responsible environmental regulation—I want EPA to do its job—we also want to protect other vital national interests such as affordable and reliable energy and a strong economy.

Remember too that unreliable or unduly expensive energy has broad negative impacts on all aspects—public health—all aspects of our day. When I hear from Alaska's business owners, they say two things. I told my colleagues what the first one was, which is get government out of the way, and let us get to work. Business owners across the country agree—there was a Gallup poll last month—small business owners indicated that complying with government regulations is the most important problem they face today. The No. 1 issue on the minds of small business owners is the fact that complying with government regulations is burying them. What we hear from businesses is that they need the regulatory agencies to follow the rule of law and strike a proper balance between the many important national interests our laws protect.

When it comes to regulation, in my opinion, this administration has gone further—they have pushed past that rule of law in striking that proper balance. What we are seeing is a level of overreach, which I think is unprecedented, by the agencies reaching out and expanding their jurisdiction, if you will, and setting policy as opposed to implementing the laws that have been passed.

The resolutions of disapproval we will have before us for a vote tomorrow—Senator PAUL's resolution on the cross-State air pollution and Senator HUTCHISON's resolution of disapproval as it relates to the Internet—are both incredibly important for the issues they raise but even more so speaking to what we are seeing right now with agency overreach. As the Chair may recall, last year I led an effort on this floor to push back against the EPA in an area where the EPA was, for all intents and purposes, setting policy when it came to greenhouse gas emissions in this country. I strongly and firmly believe the role of the agencies is to implement the laws we have passed, not to set policy. So I share the concerns Senator HUTCHISON and Senator PAUL have raised with the two rules that are at issue today. They are utilizing a tool under the Congressional Review Act which allows us as a Congress to step in when Federal agencies go overboard with trying to make businesses comply with costly regulations, in effect, that overreach.

Let's first discuss very briefly Senator PAUL's resolution of disapproval regarding the Environmental Protection Agency's cross-State air pollution rule. I have seen it referred to as the acronym CSAPR or ''zapper,'' but because neither one of those sounds like anything we can relate to, I will refer to it as the cross-State pollution rule. This rule should not go forward at this time for a number of reasons, not the least of which is its potential impact on electric reliability. Independent grid operators and the independent professionals whom we count on to assess electric reliability have expressed concerns about subjecting generators of electricity to the rule, especially on the current timetable they are dealing with. The EPA simply needs to take another look at those impacts and what this rule will do to electricity costs.

There have been a number of independent studies that have pointed to the impact of EPA's rules generally, including the cross-State pollution rule and what that impact would be on existing electric generation capacity. The predictions differ on magnitude but project the retirement of as much as 8 percent of the Nation's installed electric generating capacity. Again, I will grant you, there is a range of difference here, but potentially as much as 8 percent of our country's installed generating capacity could be brought offline. That is significant. I have asked for a reliability analysis. We have gone back and forth in terms of getting that assessment. There will be a technical conference at the end of the month that hopefully will lead to a better understanding, but the long and the short of it is right now, we know that we don't know exactly how much could be impacted by this rule and others.

More specifically, the rules generally and the cross-State pollution rule alone could lead to more intense regional impact. Texas, for example, wasn't even included in the proposed rule but, as a consequence of the final rule, could see some very significant powerplant retirements and hence potentially significant adverse impact on reliability. The Midwest, according to the grid operator there, could also see retirements of electric capacity with attendant challenges for keeping the lights on.

In addition to the reliability impact, there is also going to be a cost impact. The cross-State pollution rule is the first of a number of pending rules to go final and the EPA has made some major changes between that proposed rule and the final rule. The agency has even proposed significant technical adjustments as recently as last month, even though the rule is slated to go final by the beginning of this next year.

Putting aside the merits of the corrections—and I understand they don't go far enough—the EPA should be sent back to the drawing board to learn more, understand more about the potential reliability impact, and then should amend the substantive requirements of the cross-State pollution rule so that those required to comply can comply. If EPA had looked carefully at that time-reliability issue in the first place, there probably wouldn't be reason for the delay, but they acted in haste, and haste makes waste.

I wish to speak quickly to Senator HUTCHISON's resolution of disapproval regarding the FCC net neutrality rule. The rule put into place by the FCC in 2010 circumvents Congress. It assumes an authority that this body never consented to. We cannot allow the executive branch to go down this road. We just should not allow it. No provision of any statute explicitly gives the FCC the authority to impose these sweeping rules on the Internet. In fact, section 230 of the Communications Act makes it the policy of the United States ''to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.'' The Internet, we would all agree—I heard the comments of the Senator from Minnesota—has been a huge boon for small businesses and jobs throughout our country. We recognize that. We want to ensure it continues in that way.

To quote FCC Commissioner McDowell from a Wall Street Journal op-ed:

> Net-neutrality sounds nice, but the web is working fine now. The new rules will inhibit investment, deter innovation and create a billable-hours bonanza for lawyers.

So unless the administration is trying to create jobs for lawyers, I don't find any justification to expand the government's reach to regulate the Internet as the FCC proposes. Once again, what we are seeing is an agency stepping in to regulate in an area where the laws simply did not contemplate.

For all of these reasons, and because the Federal Government needs to stop overburdening our country with costly regulations at a time when we can least afford it, I support the resolution of disapproval from Senator HUTCHISON as well as the resolution of disapproval from Senator PAUL.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Oregon.

Mr. WYDEN. Mr. President, soon the Senate will vote on the Hutchison resolution that, as the Presiding Officer said very eloquently, would overturn the decision of the Federal Communications Commission on what has come to be known as net neutrality. The bottom line for me is straightforward. A vote for the Hutchison resolution will enable a handful of special interests to occupy the Internet. These elites will then have the power to crowd out the voices for change and the ideas of the future. The Internet

would become a glidepath for a relatively small number of people to gain enormously rather than an opportunity for all Americans to prosper.

I think some of the ideas that have been offered up with respect to the Hutchison resolution just defy the facts. For example, we had some discussion about section 230 of the Communications Decency Act. I wrote that section. It was a key development, in my view, in the growth of the Internet because it gave us a chance to deal with smut and some of the junk families have been so upset with without squelching the potential for the net. It enabled content sharers to grow, ever since we struck that thoughtful approach, rather than just go to a censorship regime. I have heard that somehow net neutrality would undo that particular provision. Nothing could be further from the truth. Net neutrality is exactly about what I sought to do in section 230 of the Communications Decency Act, which was to make sure that all voices could flourish—not just the voices of a few but all voices could flourish.

If anybody wants to talk a bit more about section 230 in the Communications Decency Act, I am happy to have that discussion, but as the author of that provision, it is something I and a lot of other people who have worked in this field have felt was essential to the growth of the Internet, and we share that view just as we believe that, as the Presiding Officer does, net neutrality is critical to the growth of the Internet in the years ahead because the fundamental principles that underlie both section 230 and net neutrality are the same.

The debate about the Federal Communication Commission's decision goes right to the heart of what the Internet is all about. It has always been a platform where all the actors are equal, where everybody has that opportunity, as the Presiding Officer suggested, at the American dream. It is a place where, whether it is one dissenting voice screaming out for democratic change or one brilliant idea that forever changes the way that people and society organize, everyone has that opportunity.

I chair the Senate Finance Subcommittee on International Trade. I think just one example of what we have seen is the Internet is going to be the shipping lane of the 21st century. This is the way societies are going to organize. This is the way people are going to come together. This is the way business is going to be conducted. Basically, net neutrality protects everybody's access to that shipping lane. It is not just going to be a place for the old-world business model. You bet the old-world business models are threatened by net neutrality. I understand that. I understand they are threatened by it. They have always been able to count on big, powerful, and well-connected interests and organizations to help them to dominate industry, and the Internet overturned that kind of thinking because it is the equalizer, it is the democratizer.

It just seems to me that when we open our morning newspaper day after day and see that the hope of the country is in innovation, in startups, in new ideas—it is not just in Silicon Valley, it is all over the country and all over the world—the last thing we want to do here in our country is adopt rules that would retard that development. And my view is that the power of the Internet—the network—is best utilized when content can move freely through it, and that is whether it is free from taxes, from liability, and certainly free from the kind of discrimination that would be allowed if the net neutrality rules were overturned.

Again, I touched on section 230 of the Communications Decency Act and why that was so important to the growth of the net and why I think net neutrality is consistent with that. It is the same with respect to some other legislation in which I have been heavily involved.

I had the privilege of being one of the coauthors of the Internet Tax Freedom bill. What that was all about was trying to protect the Internet from discrimination—not all taxes altogether but discrimination. That, too, is a fundamental principle of the net neutrality rules, is trying to make sure the net is not going to be singled out by a handful of special interests who could, in effect, devise what amounts to their own lanes on the Internet and force everybody else to pay for it.

So despite what may even be the interests of some of these powerful interest groups—and I know they are all saying now that they have no intent to discriminate against content over their networks. History shows that they cave every time when shareholders come and say: Look, you have to take this step to generate a profit. I think the Internet is too important to leave those kinds of decisions vulnerable to what is inevitably going to be the cry from shareholders and others to maximize profits.

One last point, if I might. I see other colleagues waiting to speak. I think the Internet and the economy in this country that is driven by the Internet represent perhaps our greatest comparative advantage. I touched on the Internet being the shipping lane of the 21st century. You know, what I want us to do is enhance the American way, enhance American values, and use the Internet to promote those values, facilitate speech, and expand the marketplace.

The reality is that the American brand is something very special, very special all over the world. The fact is, we have small businesses, and we heard from them in hearings. I know the distinguished chairman of the Commerce Committee is here, Senator ROCKEFELLER, and others. Hardly a day goes by that I don't wish I was back being a member of the Senate Commerce Committee because it is such an important committee, it does such important work. We saw in some of those first hearings on the Internet—we started looking at taxes and regulation and liability and the Communications Decency Act—we saw how small businesses that really could operate only in a relatively small area for years and years suddenly, after they paid their Internet access charges, could go wherever they want, when they want, how they want, and they were equal to the most powerful groups and voices in the country. That is their opportunity. That is their chance to get their brand all over the world.

We ought to make sure we take no action that is going to make it harder for small entrepreneurs to exchange their goods and services far beyond their communities. We ought to be making judgments that allow them to get into every nook and cranny of the world with the American brand.

I hope my colleagues will reject this resolution. I believe the Internet has thrived precisely because of the principles of net neutrality. It has contributed to the American economy and to job creation because consumers ultimately get to see and get what they want as quickly as they want it.

It is going to be an important vote. I heard the Presiding Officer say that this was something of an issue for geeks, and from time to time, people have said I am one of those. But I will tell the Presiding Officer, I think ultimately the net is not about geeks, it is about democracy. This is the great democratizer. This is the trampoline that provides opportunities to people without power and clout.

I want to say to colleagues, particularly those who have mentioned section 230 of the Communications Decency Act, as the author of that particular provision—and Senator ROCKEFELLER remembers this huge outcry about smut. We were all concerned about smut at that time. And we said: There is a choice. We can either do, with respect to this debate, what makes sense for the future, and that is empower families and parents to get these filters so the Internet can grow and we can fight smut in a practical way, or we can do a lot of damage and come up with some sort of censorship regime.

As colleagues remember, essentially both approaches were included in the bill, and the approach that mandated censorship was struck down. Freedom won. The principles of net neutrality won in that first big battle fighting smut 15 years ago. If we were to undo the decisions of the Federal Communications Commission and move back to the days when you could talk about discriminating, you know, against the Internet, I think it would be a step against all the progress we have made in the last 15 years with respect to oversight and regulation and taxes.

This is an important vote, colleagues. When you read the morning newspaper and you see that it is the

entrepreneurs and the startups and the innovators who are providing the path forward in a very difficult economy, I think you will see that the policies we have laid out for the last 15 years, whether it is the Communications Decency Act, whether it is other legislation—Chairman ROCKEFELLER remembers when we wrote the digital signatures law in the Commerce Committee—these votes, these laws have all become law because they essentially were built on the very same principles of net neutrality, and that is freedom for all and a democratic Internet to provide opportunity to all Americans and not just the elites, not just a handful of special interests.

I commend Chairman ROCKEFELLER and Senator FRANKEN for their good work.

I often agree with Senator HUTCHISON. This is not one of those opportunities.

I hope my colleagues, when we have this vote on the extraordinarily important resolution involving net neutrality, will vote against the Hutchison resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 79 minutes 14 seconds.

Mrs. HUTCHISON. I yield up to 10 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I come to the floor today to support Senator HUTCHISON and to talk about this role that is being played now by the Federal Communications Commission in terms of regulating the Internet for the very first time.

I oppose having these bureaucrats regulating the Internet. I support the resolution of disapproval that is now on the Senate floor.

In the 2008 Presidential campaign, then-Candidate Obama made it very clear that he was for empowering Washington's bureaucracy through more redtape. The President was not looking to make Washington more efficient, in my mind, or more effective, but to make Washington bigger, to centralize power in Washington. One of his campaign promises was a new regulation called net neutrality. It appears to me that the President then appointed one of his school friends and basketball buddies to be Chairman of the FCC, possibly with this in mind.

So here we are in 2011, and it seems to me that Congress is now being asked to make a decision. I want Congress—I am asking Congress and my colleagues to reverse the course of the bureaucracy.

The administration did not even deem this rule to be what they call significant.

A significant rule is one that has an impact on the economy of at least $100 million. I believe this is a significant rule. I support Senator HUTCHISON in her resolution because it will keep the Internet free and open.

Republicans and Democrats agree. Earlier this year, the House of Representatives passed a similar resolution and it had bipartisan support.

Net neutrality is very real. The time to act is now. We will be voting in the next day or so, and the reason we need to act now is that the rules of having more bureaucratic government control go into effect in just a few weeks—November 20, 2011.

It does seem Congress is being disregarded. Congress has never delegated authority to the FCC to regulate in the past.

The Communications Act of 1996 had a goal, which was to ''promote competition and reduce regulations.'' In 1996, Bill Clinton was President. This is what it said—the Communications Act of 1996: The goal, to ''promote competition and reduce regulation.''

Instead, we have unelected, unaccountable bureaucrats, who are ignoring Congress and voting for regulation of the Internet.

Let's look at the overall economy. Right now, we have 14 million Americans who are out of work. The number again this month is 9 percent unemployment in this country. The administration is now making it a priority—a priority—to regulate another sector of our economy over jobs.

The FCC has opened the door for Washington bureaucrats to take over one-sixth of our economy. They ought to be focusing on creating jobs, making it easier and cheaper for the private sector to create jobs. But between health care, banking, and now technology, this administration is taking over our economy sector by sector and making it more expensive and harder for the private sector to create jobs.

The FCC's actions threaten innovation and investment in America. Regulations are the biggest burden being faced by small businesses in this country today. If you don't believe me, just ask them. The polling of small business owners has said it is regulations coming out of Washington that are their biggest burden today.

Technology pioneer and Apple cofounder Steve Jobs warned President Obama about Washington redtape. There is a new biography out about him by Walter Isaacson. He said this:

> [Jobs] described [to Obama] how easy it was to build a factory in China, and said that it was almost impossible to do these days in America, largely because of regulations and unnecessary costs.

This rule we are looking at transfers the future of the Internet out of the hands of the American people, and it makes government the gatekeeper of Internet services.

Former FCC Commissioner Meredith Baker said this:

> The rules will give government, for the first time, a substantive role in how the Internet will be operated and managed.

This means the future of Internet technology—whether on a smartphone, iPad or computer—will be in the hands of Washington bureaucrats.

Engineers and entrepreneurs will not be able to give us the Internet we want, at a price we want.

Former FCC Commissioner Baker also said:

> By replacing market forces and technological solutions with bureaucratic oversight, we may see an Internet future not quite as bright as we need, with less investment, less innovation and more congestion.

No American wants that, but that is what this government is giving to the American people. To me, this means recent Internet service innovations such as 3G and 4G wireless speeds and new fiber networks now become riskier investments.

Less investment means every American's ability to access the Internet he or she wants may be affected. Less investment means fewer jobs.

Four months ago, President Obama realized he had a regulation problem with independent agencies such as the FCC. He issued an executive order asking independent agencies to review burdensome redtape. Instead of reviewing redtape, they have rolled out even more of it. The Presidential review has fallen woefully short.

The President asked independent agencies to produce a plan to reduce regulations within 120 days. Well, 120 days was yesterday. So the 120 days have come and gone, and what we have received once again from this President is more rhetoric and little by way of results.

If there was ever an example of an independent agency rule that needs to be put against the President's rhetoric, it is this net neutrality rule.

Net neutrality picks winners and losers. It threatens smaller and rural providers.

Brett Glass of LARIAT, a wireless Internet service provider in Wyoming, warned the FCC about the effects on smaller providers. He said the redtape will hurt his ''ability to deploy new service to currently underserved and unserved areas.''

He warns that many broadband providers are small businesses that are serving rural communities. Mr. Glass wrote:

> The imposition of regulations that would drive up costs or hamper innovation would further deter future outside investment in our company and others like it.

So here we are. Americans have made it very clear that they oppose Washington worsening the Web. Over 60 percent of voters oppose Washington putting its hands on the Internet.

This regulation we are debating is a classic example of Washington trying to fix something that is not broken.

Ninety-three percent of Americans are satisfied with their broadband service. Ninety-one percent of Americans are satisfied with their broadband speed. The Internet is working remarkably well.

There is a fundamental disconnect with those in Washington who seek a

more powerful bureaucracy and those at home in the 50 States of our Union who are seeking a stronger economy.

The warnings are real in Wyoming, my State, and all across this country. Congress must step in where the bureaucrats in Washington have overstepped. Senator HUTCHISON's resolution of disapproval should be supported on both sides of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. RUBIO. Mr. President, I rise in support of this resolution to disapprove the FCC's open Internet order.

The FCC wants to regulate the Internet. Why? There must be some sort of market failure that needs correcting or some Internet issue that needs fixing or out-of-control provider that needs regulating, right?

That is not the case at all. We are talking about one of the most successful sectors of our economy—one that has flourished with limited government regulation and continued to create jobs in the midst of a very deep recession and economic downturn.

Since the Internet was privatized in the midnineties, it has prospered. The industry's growth and impact on our economy, as well as its development of new, life-changing technologies and applications, is staggering.

Twenty years ago, the Internet as we know it did not exist. Today over 2 billion people use it.

Ten years ago, Facebook, Twitter, YouTube, and Skype did not even exist, and hundreds of millions of people are now users.

Five years ago, mobile applications didn't exist. At the end of last year, there were over half a million apps, applications, and well over 10 billion will be downloaded this year. Hopefully, they will soon be downloading mine. We came up with one yesterday for our office.

Two years ago, the iPad didn't exist. Now, over 25 million have been sold.

All these advancements expanded broadband access and encouraged private investment.

In 2003, only 15 percent of Americans had access to broadband and now over 95 percent do. This growth will only continue.

In its annual report on the Internet, Cisco projected that the Internet will quadruple over the next 4 years, and the 1-year growth, from 2014 to 2015, will be equal to all the Internet traffic in the world last year.

Clearly, the Internet industry is growing and innovating at lightening speed. Why has the industry been able to do this? It is because the environment for innovation and job creation has been ripe, with government regulation not getting in their way.

Imagine that, the government has stayed out, has taken the ''light touch'' approach, and the industry has prospered as a result.

The broadband expansion we have seen, the innovation that has occurred with computers and tablets and explosion of smartphones and mobile devices and the increased job creation have all occurred without the FCC's open Internet order.

So why does the government want to start regulating now? Is it because the Internet endangers public health or environment? Clearly not. Yet the proponents of Internet regulation claim the freedom and growth of the Internet are in jeopardy. Quite frankly, in my opinion, that is ridiculous.

To suggest that some type of regulation is needed flies in the face of the growth of the Internet economy. This is one of the problems facing our economy and plaguing our country. We are regulating where regulation is not needed. We are regulating based on speculation and in search of a problem.

This is not how we encourage innovation. This is not how we create certainty in the marketplace, and this is definitely not how to encourage job creation.

Over the past few weeks, all we have talked about is jobs and rightfully so because, throughout America, the No. 1 issue facing Americans is jobs—or the lack thereof.

Yet here we are debating whether to overturn a regulation on one of the few growth areas of our economy, one of the few sectors that has created and is creating good, high-paying jobs.

This should be common sense. It is no wonder people watching think that in this place, Washington, DC, the Federal political process is out of touch and dysfunctional.

As the FCC drafted the open Internet order, the Commission heard from broadband providers, including small businesses, about the problems the order would create and the negative impact it would have on consumers.

One small Internet service provider stated that the imposition of network management rules will hinder its ability to obtain investment capital and deploy new services in unserved areas.

The regulations would also increase costs and hamper innovation, which would only further discourage outside investment in the company.

In other words, the Internet regulation we are talking about today would lead to lower quality of service and would raise operating costs, which would result in higher prices on consumers.

So we can clearly see the impacts of Internet regulation—less investment, less innovation, higher prices for consumers, lower quality services, increased business costs and, ultimately, fewer jobs.

Companies will spend more money on compliance, basically complying with regulations, instead of investing in innovation and driving down prices. More money will be spent on lawyers, not on engineers.

Let me be clear. The Internet will still exist if Washington bureaucrats get their way. But the order's impact will be profound, and it is going to disrupt what has become one of America's proudest entrepreneurial and industrial achievements in our history.

I have heard proponents say this regulation will preserve the open Internet as it exists today. But it is my humble opinion this is shortsighted.

Personally, I don't want to continue using the Internet of today. I want the Internet of tomorrow. I want the devices and applications I use today to soon be obsolete and out of date because the industry has continued to churn out something newer, something better and faster.

I want technologies to continue to develop and industries to continue to emerge. We are now using fewer devices for more telecommunications services, and it is not hard to imagine a day when we will use one device for all of them.

The industries are headed in that direction. When we throw the government in the middle of it, the pace will slow, uncertainty will enter the marketplace, and future innovations may just go unrealized.

One of the beautiful aspects of the Internet industry is that we don't know what is around the corner in terms of new technologies and innovations. If a few years ago we had told someone we would Google them, they probably would have been offended. But today that actually means something.

Going forward, we have no idea what the future holds, what the new innovations or ideas or technologies will be. We know technologies we cannot even imagine today will very soon be part of our everyday lives. The question is whether we are going to encourage that and particularly whether we are going to encourage that to happen here or whether we are going to discourage that from happening.

Regulating the Internet—and this specific measure we are trying to knock down today, if it passes—will discourage that development.

The FCC and Federal Government cannot keep pace with the Internet and technology industries, and the government should not attempt to catch up through regulation or legislation. That is important. We are asking this government—this bureaucratic structure, which struggles to keep pace with issues we have been facing for the last 20 years—to somehow keep pace with the issues and technology and innovations that arrive in the Internet world. Not only do I think it is asking too much, I think it is impossible. Therefore, the government should not be looking at ways to preserve the status quo. Our government should be involved in looking at ways to promote the future of these industries, and this Internet regulation does not promote the future.

I have frequently spoken on this floor about the new American century, about whether our country will continue to be a leader in this new century. I believe with all my heart—I do, even with all the bad news and the

noise we hear every time we turn on the television—there is no reason this 21st century should not be every bit as much the American century as the last century. One of the reasons I believe that is because of the advances our entrepreneurs and innovators are making in this field of the Internet.

If there is any sector of our economy that will ensure that the next century is the American century, it is the Internet and the technology sector. That is an industry where we are the leader, and it is the one where we must continue to lead. To do that, we must encourage innovation, incentivize investment, provide certainty in the marketplace, and promote the competitive environment this dynamic industry needs.

That will require passage of this resolution of disapproval. So I urge my colleagues to vote yes on the resolution.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. There is 60 minutes remaining.

Mrs. HUTCHISON. Sixty?

The PRESIDING OFFICER. Sixty minutes, yes.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I have been looking for a time when the floor was open to refute some of the comments and concerns raised earlier on the Senate floor. I want to start by taking on a comment that was made by the Senator from Minnesota, Mr. FRANKEN, who said YouTube started above a pizzeria in 2005 and sold for $1.6 billion 2 years later to Google, and that wouldn't have been possible without net neutrality.

Well, Mr. President, I must point out that we didn't have net neutrality in 2005. We haven't had Federal regulation of the Internet in this country such as we have seen during this last year put forward by this administration. In fact, YouTube and Google were both created in a marketplace without net neutrality regulations. Other online successes—Facebook, Hulu, Twitter, and new devices such as the Apple iPhone and Amazon Kindle—all happened without net neutrality regulations. These are innovations that have changed communication patterns not only in our country but around the world as well. So we have had these innovations without the heavy hand of government.

It is very interesting to hear the debate on the Senate floor because we seem to hear that net neutrality is something that will keep the Internet open. The opposite is true. It is beginning to put the clamps on the successes that we have had by having an open Internet. All these companies they are talking about needing net neutrality to come forward and blossom and grow are the companies that have done exactly that without net neutrality regulations.

What we should do is assure that we don't put a blanket over the Internet and start saying to everybody who has a new idea or a new product or a new service provider: You better go to the FCC before you go forward with that or you could be in jeopardy. You could be penalized. You could be thought to have an ''unreasonable'' product on the Internet because we don't know yet what is reasonable. We just know you have to be reasonable because we have a new regulation now that says you must be reasonable, without any definition of what this FCC—which had no authority to go into this area—is going to determine is a ''reasonable'' product that would not interfere with anything else.

Mr. President, we haven't had net neutrality before. All the successes I hear talked about in this debate have happened without the heavy or the light hand of government stopping the originality and innovation that has marked the success of our country.

Earlier, Mr. KERRY, the Senator from Massachusetts, said the Internet made the 1996 Telecommunications Act obsolete 6 months after it was enacted. But if the 1996 act did not sufficiently address the Internet, thus making it obsolete, how can that same law be the genesis and basis of the FCC's assertion it has the power to regulate the Internet? We have to have one or the other, and it is our assertion the FCC did not get specific authority to regulate the Internet that is required for Congress to give it in order to make rules in this area. So Senator KERRY can't have it both ways. He can't say the Telecommunications Act was obsolete but it is also the basis of these new restrictive regulations.

Senator KERRY sent a ''Dear Colleague'' letter to everyone in the Senate asking them to vote against this resolution. What I think Senator KERRY was saying in that letter is that net neutrality is not a regulation of the Internet because it is just a regulation of the onramp. In other words, we are not trying to support the FCC regulating the whole Internet; they are just doing the gateway, they are just doing the onramp.

Well, that was the position the FCC took when they made this regulation. But we can't argue that net neutrality is not regulation of the Internet because the Internet service providers are the only onramps to the Internet. It is a misleading statement to say that just regulating the onramp isn't regulating the Internet. The Internet is the entire global network of millions of computer networks. It uses the Internet protocol standard to interconnect with each other. Internet backbone providers and last-mile Internet service providers serve as the foundation of the Internet. So they are the foundation.

Web sites and services such as e-mail and voice-over IP, or VOIP, allow users to communicate on top of the foundation. The Internet is the whole online ecosystem put together. We can't have the edge without the core and vice versa. The onramp is as much a part of the information superhighway as are the cars traveling on it.

FCC Commissioner Robert McDowell put it well in his dissent from the open Internet order that we are discussing today. He said:

> To say that today's rules don't regulate the Internet is like saying regulating highway on ramps, off ramps, and pavement don't equate to regulating the highways themselves.

Mr. President, if we are going to say the FCC can regulate the onramp—and that is the first heavy hand of government that is going to start controlling and making decisions about what is reasonable and what is not—that means businesses are going to have to go to the FCC and say: Mother may I. If they have an innovative product, that is going to cost the consumer more because they will have had to go and hire lawyers to go to the FCC to get prior approval or it will delay the product getting out to consumers, possibly letting a European service provider that doesn't have these kinds of barriers get ahead of us.

Internet technology is the basis of hundreds of thousands of jobs and products in our country. We are in a crisis right now. We all know we have 9 percent unemployment and that our economy is even dead in the water. So we have to do something to jump-start the economy. The last thing we want to do is put a blanket on it to make it harder for it to come back. I don't think anybody in this country with any common sense is going to say we have a thriving economy right now. So it does defy common sense to say we are going to allow regulations Congress has not approved and that Congress has not authorized the regulator to make, knowing it will have the effect of either freezing or delaying the innovation that has been the hallmark of the success of the Internet and technology in our country.

There are several organizations that have banded together to ask that people vote for the resolution today. I ask unanimous consent to have printed in the RECORD a letter from, among others, Americans for Tax Reform, Taxpayers Protection Alliance, Hispanic Leadership Fund, and Americans for Prosperity.

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

NOVEMBER 8, 2011.

Re Rating Senate Joint Resolution 6, Net Neutrality.

U.S. SENATE.

DEAR SENATOR: We write to inform you that each of our organizations, together representing millions of Americans, will consider rating a vote in favor of Senate Joint Resolution 6 to overturn the Federal Communications Commission's (FCC) Net Neutrality Internet regulations in our respective congressional ratings.

The FCC enacted these Net Neutrality rules despite a complete lack of Congressional authorization and after being told by

a court that they lack jurisdiction. The FCC nevertheless insists on government regulation of how data travels across the Internet without any showing of consumer harm or other justification.

The FCC's order also runs contrary to the broad and bipartisan conversation in Washington about how best to grow the economy and spur job creation. President Obama and Members in Congress on both sides of the aisle have called to rein in overbearing regulations that harm economic growth.

The FCC's Net Neutrality rule is a prime case of unnecessary rules emanating from unelected bureaucrats that will cause economic harm and cost hundreds of thousands of American jobs, as numerous studies have pointed out. But regardless of whether you support Net Neutrality rules, the process by which they were created cannot be allowed to stand.

Under the U.S. Constitution, it is your role in the U.S. Senate to craft laws—not the role of federal agencies that are bypassing Congress. Senate Joint Resolution 6, sponsored by Sen. Kay Bailey Hutchison, is a simple, commonsense measure that uses the Congressional Review Act to reject these rules, placing legislating authority back in the hands of Congress where it belongs.

We urge you to vote for Senate Joint Resolution 6 and may be rating your vote in our annual Congressional scorecards. A vote against this measure is a vote to abdicate your responsibility and to instead rubberstamp the job-killing and unwarranted regulatory actions of an unelected and unaccountable federal agency.

Sincerely,

GROVER NORQUIST,
*President, Americans for Tax Reform (WILL RATE).*
PHIL KERPEN,
*Vice President for Policy, Americans for Prosperity (WILL RATE).*
DAVID WILLIAMS,
*President, Taxpayers Protection Alliance (WILL RATE).*
THOMAS SCHATZ
*President, Council for Citizens Against Government Waste.*
MARIO H. LOPEZ,
*President, Hispanic Leadership Fund.*

Mrs. HUTCHISON. Mr. President, in part, the letter says:

The FCC enacted these Net Neutrality rules despite a complete lack of Congressional authorization and after being told by a court that they lack jurisdiction.

Remember, this court, in the Comcast case, basically said to the FCC: You and all the other regulatory agencies that are independent must have specific authority from Congress to regulate in this area.

They found in the Comcast case they did not have such jurisdiction. Once again, citing from the letter in support of passing S.J. Res. 6—which is signed by Grover Norquist, Phil Kerpen, David Williams, Thomas Schatz, and Mario Lopez—it says:

The FCC's order also runs contrary to the broad and bipartisan conversation in Washington about how best to grow the economy and spur job creation. President Obama and Members in Congress on both sides of the aisle have called to rein in overbearing regulations that harm economic growth.

Here we have yet another regulation on top of the EPA and the NLRB and the NMB coming forward to put a damper on our economy.

Mr. President, I would like to read from an opinion piece written by Phil Kerpen, who is with the Americans for Prosperity, and I thought this was relevant to the debate.

Network neutrality sounds nice. Originally, it was the idea that all of the traffic . . . that travel over the networks that comprise the Internet should be treated exactly the same way. But engineers cried foul, because the routers that make the Internet work are highly sophisticated with millions of lines of code that necessarily prioritize different types of traffic. Streaming video can't tolerate delays of a few seconds whereas an e-mail could.

So network neutrality morphed into something even more dangerous, empowering the FCC bureaucrats to play traffic cops, micromanaging networks, and deciding which traffic can or can't be prioritized. The result would be a precipitous decline in private investment because the companies that spent billions of dollars building networks could no longer be certain how the FCC bureaucrats would allow those networks to be used.

I am reading from this letter, and I will continue. The letter says:

A recent study from New York University found that hundreds of thousands of jobs would be lost. The tech sector—the brightest spot in our economy—would be burdened by Federal regulations the way the rest of the economy has been.

So these are excerpts from Mr. Kerpen's opinion piece that say it is now crunch time to stop the FCC's Internet takeover.

I think these outside groups that are weighing in are showing that just regular consumers—I heard the list of groups that are supporting this rule that has come out. But the citizens who are for free markets and tax reform and for letting our businesses grow and thrive through the American innovation—I like some of the things they have said that I think are very important in this debate.

I urge my colleagues to look at whether we are exercising our responsibility as Members of Congress when we would vote against stopping a Federal agency that has not had a delegation of authority from Congress to regulate in this area. The House of Representatives has already voted in favor of this resolution. We need to send it to the President and say to the President: Congress did not delegate our authority.

It is overstepping its bounds, and furthermore it is going to put a damper on the most thriving part of our economy today, and that is the tech sector. It is where we are, hands down, ahead in the world because we have kept the free markets. Why would we give that up to unelected Federal agencies that have not been asked by Congress to regulate in this area? And if we did, we should be required—because it is our constitutional responsibility to do so—to say exactly what we would ask a policy to be in a new regulation. We have not done that, and we should not allow the Federal agencies, which are appointed but not elected, to take over this area that is so important for our economy.

If we have any guts at all in this Senate, we should stand up for our one-third of the balance of power in the Federal Government and assert ourselves to keep control over runaway Federal agencies that do not answer to anyone.

Mr. HELLER. Mr. President, the Senate will soon vote to overturn the open internet order, widely known as net neutrality. This measure that was passed days before the start of the 112th session of Congress by the Federal Communications Commission is a rule that many believe the FCC had no legal right to make and will harm job creation in the technology sector of our economy.

Plain and simple, this measure will cost the Nation good-paying jobs. That is why I do not support net neutrality and will vote in favor of the resolution of disapproval to overturn it.

Since privatizing the Internet in 1994, the FCC and Congresses led by both Democrats and Republicans have handled the Internet with a light regulatory touch by classifying it as an information service. This classification originated from a Democrat-led FCC, and the U.S. Supreme Court supported efforts to classify the Internet as an information service when it upheld the FCC's Cable Modem Order on June 27, 2005.

The FCC's policy has been that subjecting providers of enhanced services, even those offered via transmission wires, to title II common carrier regulation was unwise given the fast moving, competitive market to which they were offered. In other words, the FCC, led by Democrats and Republicans, has been consistent in the belief that regulating the Internet the same way we regulate land telephone lines even if those lines are used to connect to the Internet was counterproductive to good public policy given the speed of innovation and the competition present. Even the U.S. Supreme Court supported this position.

So Congress has never passed a law that gives the FCC the power to regulate the Internet, the FCC has gone to great lengths to avoid regulating the Internet, and the U.S. Supreme Court has supported previous FCC administration policy toward zero regulation of the Internet. Yet here we are voting to overturn a Federal Communications Commission order to regulate the Internet.

Make no mistake, as FCC Commissioner Robert McDowell said, ''To say the net neutrality rules don't regulate the Internet is like saying that regulating on-ramps, off-ramps, and its pavement doesn't equate to regulating the highways themselves.''

But why does this matter? Why don't we just say: You know what, these unelected bureaucrats at the FCC know so much more than Congress and the Supreme Court. Let these rules go through.

Because they will cost us jobs. U.S. broadband has seen an investment of hundreds of billions of dollars in infrastructure expansion and upgrades over the last 10 years and that has led to hundreds of thousands of jobs in this industry.

This year alone, broadband providers are estimated to invest over $60 billion in their networks. That is more money than the Federal Government has spent on highways in previous years.

I am well aware that the FCC insists the rules will not have a significant impact on the industry, but they did little to prove this. Minus a market or cost-benefit analysis, there is no way of knowing what exactly the impact of this regulation will be.

That is why I asked the FCC to conduct a market benefit analysis to prove the exact impact on jobs and the economy. The FCC stated the analysis was in the Internet order, but I still have not been able to find what they are referring to. I suspect the analysis was not ever actually done. If it was completed, the FCC would have seen that the costs of net neutrality would be significant and justifying the rules would not have been possible.

The fact is, net neutrality regulation is costly. As explained by the Federal Trade Commission in 2007 when they said in part:

> Policy makers should proceed with caution in evaluating calls for network neutrality regulation. . . . No regulation, however well-intentioned, is cost free, and it may be particularly difficult to avoid unintended consequences here.
>
> Policy makers should be very wary of network neutrality regulation . . . simply because we do not know what the net effects of potential conduct by broadband providers will be on consumers, including among other things, the prices that consumers may pay for Internet access, the quality of Internet access and other services that will be offered, and the choices of content and applications that may be available to consumers in the marketplace.

The FTC clearly stated that Congress must proceed with caution because we cannot fully quantify what the reaction by broadband providers would be if they were not able to manage their networks.

Again, let me state, some reports have said that over the next 5 years, there will be hundreds of billions of dollars invested in broadband infrastructure which will result in half a million jobs.

If broadband wire line and wireless service providers rolled back their investment by just 10 percent because of this regulation, the benefits of regulation would never outweigh the costs of job loss.

I assure you, these companies will roll back their investments if this rule is allowed to move forward, which will in turn eliminate jobs.

Because of the unpredictable nature of the Internet and evolving consumer demands, broadband providers must have the ability to change their business models to ensure maximum utilization of their network. These net neutrality rules impose restrictions on how a broadband provider can offer Internet service, which means broadband providers can't adapt to an evolving Internet. If a broadband provider does not have the ability to manage their own network to ensure maximum profits, the incentive to invest diminishes. If you minimize investment, you lose jobs. Estimates have put the number of jobs lost because of this regulation at 500,000 over the next 10 years. In my home State of Nevada, the unemployment level is at 13.2 percent, the highest in the Nation. Any regulation that increases unemployment both nationally and in my State is unacceptable.

Finally, some people believe we need this regulation to ensure competition in the industry. I believe this is as ridiculous as saying that this measure will not cost jobs.

Fixed and mobile broadband Internet access is growing rapidly. In 2003, only 15 percent of Americans had access to broadband. In 2010, 95 percent of Americans do. Competition, investment, innovation, and job creation are all growing because of the light touch policymakers and the FCC have put on the Internet.

We are in this wonderful era of innovation and investment where people can use an I-pad to read their e-mail in the Sierra Nevadas because the government did not regulate the Internet. Now our friends on the other side of the aisle and the FCC are saying: Yes, but in order to continue this amazing innovation, we must regulate.

Competition is robust in this industry, and when weighed against the loss of hundreds of thousands of jobs, the need for this regulation is simply not there. Net neutrality should not be enacted. It makes no sense for Nevada and will cause unnecessary job loss nationwide.

I urge my colleagues to vote for this measure and disapprove of the FCC's net neutrality order.

Mr. TOOMEY. Mr. President, I rise today to speak in favor of the resolution of disapproval offered by the Senator from Texas. I commend her for leading this effort, and I was pleased to be an original cosponsor of the resolution.

Like many of my colleagues, I was dismayed last December when the Federal Communications Commission chose to impose heavyhanded and burdensome new regulations on the Internet. There was no market failure or consumer harm requiring FCC action, and the FCC Chairman's determination to deliver on a misguided Presidential campaign promise is very disappointing. It is especially troubling in light of the unanimous DC Circuit Court of Appeals ruling in Comcast v. FCC, authored by a Clinton appointee and former Carter administration aide, stating that the Commission lacked the statutory authority under the Communications Act to regulate the Internet in this manner. Unfortunately, this decision, coupled with concerns expressed by Members of Congress, was completely ignored by an outcome-driven majority at the FCC. I doubt the Commission's lawyers will receive a warm welcome from the DC Circuit when they return to defend a policy the court struck down just last year.

Shortly after the Federal appellate court ruled in the Comcast case, recognizing that net neutrality rules adopted under the Commission's title I authority would have difficulty surviving a court challenge, Chairman Genachowski shockingly announced that he would reclassify broadband as a title II telecommunications service and apply a 19th-century regulatory framework to an innovative 21st-century technology. This decision ignored the successful history of treating broadband as a lightly regulated title I information service, which has been the policy of the FCC and Congress going back to the Clinton administration.

Keeping regulators' hands off of the Internet has historically been supported by FCC Commissioners and Members of Congress on both sides of the aisle. For example, on March 20, 1998, a bipartisan group of Senators sent a letter to the FCC stating: [[W]e wish to make it clear that nothing in the 1996 Act or its legislative history suggests that Congress intended to alter the current classification of Internet and other information services or to expand traditional telephone regulation to new and advanced services.] They continued: [[W]ere the FCC to reverse its prior conclusions and suddenly subject some or all information service providers to telephone regulation, it seriously would chill the growth and development of advanced services to detriment of our economic and educational well-being.]

I couldn't agree more.

Then Democratic FCC Chairman William Kennard shared their view, stating: [Classifying Internet access as telecommunication services could have significant consequences for the global development of the Internet. We recognized the unique qualities of the Internet, and do not presume that legacy regulatory frameworks are appropriately applied to it.]

Had traditional telephone common carrier regulations been applied to the Internet more than a decade ago, it is unlikely we would have the broadband services and speeds of today. The appropriate market incentives led to billions of dollars of private sector investment in broadband, created millions of jobs, and now high-speed Internet access is available to 95 percent of the population, and that number continues to grow. It is amazing what can happen when the Federal Government's regulatory policy for a particular industry is hands off.

Fortunately, after a bipartisan majority of Congress wrote to the Commission objecting to the FCC Chairman's proposed radical shift in policy, the FCC did not officially reclassify broadband as a title II telecommunications service. However, as we saw last December, the Democratic majority at the Commission did not abandon their results-oriented effort to regulate the Internet. Instead, in defiance of the Federal court decision in Comcast, the Commission chose to effectively place title II common carrier obligations on broadband service providers using their title I ancillary authority. The policy embraced by past Republican and Democratic FCC Chairman and Senators on both sides of the aisle has been relegated to the waste bin under the current regime at the FCC.

In order to justify placing these new regulations on the Internet, the FCC for the first time found that broadband was not being deployed to all Americans in a ''reasonable and timely'' manner. This is an absurd claim that quickly falls apart when you look at the facts. According to the FCC's own broadband plan, 95 percent of Americans have access to broadband. In the early 2000s, that number was less than 20 percent. In addition, terrestrial wireless and satellite broadband services continue to improve in terms of speed and availability. We are rapidly approaching the point where wireless Internet service becomes a true substitute for wireline service. This rapid rate of deployment and technological advances occurred absent the heavyhanded regulation we will be voting to repeal today.

For my colleagues who may be unaware, I would like to point out that the FCC determined that the broadband marketplace was competitive and should remain unregulated in 2002, 2005, 2006, and 2007. Proponents of regulating broadband services have failed to demonstrate what has changed to warrant Federal intervention. Most consumers have a choice of multiple broadband providers, and the suite of services and applications available on home computers, mobile smartphones and tablets, and Internet-connected televisions continues to grow. Even through tough economic times, broadband providers continues to invest and create jobs. I also find it perplexing that despite the FCC acknowledging that it may require $350 billion in new investment to achieve the goals of the National Broadband Plan, the agency nevertheless willfully adopts rules that will have a chilling effect on future investment.

The Commission also makes the novel argument that section 706 of the 1996 Communications Act, which directs the FCC to ''remove barriers to infrastructure investment,'' authorizes the adoption of new Internet regulations. The open Internet order flies directly in the face of the plain language of section 706. When the Commission imposed new rules on broadband service providers, they built new barriers to infrastructure investment.

Support for Internet regulation seems to rely on baseless theoretical claims that consumers may be harmed by ''Internet gatekeepers'' at some point in the future. Despite the fact that the FCC Chairman has said he will use fact-based analysis when reviewing proposed rules, the facts indicate that consumers are not being harmed and broadband service providers are not blocking access to content. A fact-based analysis leads one to conclude that the market is healthy and competitive. I have significantly more faith in a competitive market rather than Federal bureaucrats shielding consumers from harmful business practices. In addition, current consumer protection laws, such as section 5 of the Federal Trade Commission Act, will effectively address real consumer harms were they to actually ever occur in the broadband space.

Lastly, it should be noted that while there have been attempts by some in Congress to impose similar regulations on the Internet, these attempts have all been unsuccessful. Unelected bureaucrats have now usurped Congress's authority and have taken it upon themselves to change the law. Opponents and supporters of net neutrality in the Senate should take offense to that, and I urge my colleagues to support the resolution of disapproval.

Mr. MCCAIN. Mr. President, I am pleased to support the resolution before us that would express congressional disapproval of the Federal Communications Commission's move to regulate the Internet. The historically open architecture and free flow of the Internet should not be subject to onerous federal regulation.

As a member and former chairman of the Commerce, Science and Transportation Committee, I have fought to prevent the FCC from unilaterally implementing network neutrality regulations for many years. Last Congress, I introduced the Internet Freedom Act of 2009, which would have prevented the Commission from regulating the network management practices of internet service providers. And this congress, I am a proud cosponsor of S.J. Res. 6.

Skeptical consumers and American entrepreneurs should rightly view these new rules exactly for what they are—another government power grab over a private service provided by a private company in a competitive marketplace. Sadly, and to the detriment of consumers and our national economy, the FCC is the latest in a growing list of Federal agencies under the Obama administration that have chosen government intervention and influence over the free market. In a little less than 3 years, this administration has moved to control and exert more government influence over the auto industry, the energy sector, doctor-patient relationships, and now, through the FCC, it wishes to control high-tech industries by regulating its very core: the Internet.

According to a report recently released by the House Government Oversight and Reform Committee, the Obama administration has imposed 75 new major regulations costing more than $380 billion over 10 years. Moreover, the report continues by pointing out that there are 219 more ''economically significant regulations'' in the works which will cost businesses $100 million or more each year for a minimum cost of $21 billion over 10 years. These new regulations and added costs come in spite of Presidential Executive orders to reduce burdensome regulatory redtape.

The government's politically motivated decision to regulate the Internet, like so many others, will stifle innovation, in turn further slowing our economic turnaround and depressing an already anemic job market. The technology industry is one of our Nation's bright spots and one of the fastest growing job markets. There is little dispute that innovation and job growth in this sector of our economy is a key component to America's future prosperity. Unfortunately, this is not the FCC's first attempt to regulate the Internet. For years, my colleagues and I have introduced legislation and written to the FCC asking the Commission to halt attempts to regulate the Internet unless given clear authority to do so by Congress. The message in our correspondence to the FCC has been crystal clear: Members of Congress do not believe the Commission has the current legal authority to regulate network management practices; therefore, the Commission should not act without express legislative authority. But, like other out-of-control Federal agencies, the FCC has chosen to not listen and continues to act defiantly without legislative authority.

Might I remind the bureaucrats at the FCC that as a government agency, the FCC is not elected by the people only the House, Senate, and the President are duly elected. And, as our Constitution makes clear, the authority to legislate is solely vested in the elected representatives of the American people, not five politically appointed FCC Commissioners. As such, the resolution before us today not only seeks to undo bad policy, it also seeks to restore the constitutional integrity of the Congress. If we fail to pass this resolution of disapproval, our institutional credibility will be further eroded.

Proponents of more Federal regulatory influence over the Internet argue that these rules are needed to enhance regulatory certainty. I would argue that the only uncertainty in the marketplace has been generated by the development of these unauthorized regulations. Further, if there were systemic problems in the Internet marketplace, then why provide arbitrary exemptions to coffee shops, bookstores, and airlines? Why not make these regulations universally applicable? The fact is there is no systemic problem that warrants a regulatory overreach of this

magnitude. After over a decade of practice, the facts are devoid of any global misconduct. These regulations will do more to entice companies to lobby-up, get a lawyer, and seek a regulatory competitive advantage than benefit consumers or our economy.

As the Chairman of the Federal Communications Commission has recognized, Americans have benefited enormously from the Internet's ''fundamental architecture of openness.'' The light touch regulatory approach toward the Internet that was advanced by previous administrations—both Democratic and Republican alike—has brought Americans Twittering, social networking, low-cost long distance calling, texting, telemedicine, and over 500,000 apps for the iPhone. It also brought us YouTube, HBO GO, Kindle, the Blackberry, and the Palm. The Internet has changed our lives and our economy—forever.

By imposing onerous regulations and discouraging innovation, broadband providers will have less incentive to invest. This disincentive will result in the movement of less capital into the market, which in turn will directly result in fewer jobs created. We should reject this regulatory power grab and demand the Federal Government get out of the way and out of the business of picking winners and losers in our economy. It is for these reasons that I strongly support the resolution before us to keep the Internet free from government control and regulation.

Mr. President, I yield the floor, and I reserve the remainder of our time.

Mr. ROCKEFELLER. Mr. President, I would like to respond to some things, but I understand we only have 42 minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. ROCKEFELLER. And both Senator CANTWELL and Senator MARK UDALL want to speak. I don't want to take their time, so at this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 44 minutes.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BOOZMAN. Mr. President, I rise in support of S.J. Res. 6, which seeks to put an end to the FCC's misguided net neutrality rules. The FCC's rules regulating the Internet are yet another in a series of unnecessary and economically harmful regulations from President Obama's administration. These rules will stifle innovation, investment, and ultimately jobs, and they are a continuation of this administration's obsession with picking winners and losers in almost every marketplace.

We live in a world where we no longer have to wait for the morning edition of the paper to read the latest news. We don't have to wait for a delivery from the postman to get a message from a loved one. We do not have to get in our car and head to the store to watch a movie or to shop for clothes, books, and groceries. We have the ability to do these from the comfort of our homes, thanks to the Internet. It is clear the Internet has changed the way we live. This helps promote and encourage economic growth, facilitates innovation, and reshapes the way we do business, all the while creating millions of jobs. This was able to happen because of the government's hands-off policy.

The Federal Communications Commission admits the ''Internet has thrived because of its freedom and openness.'' Then why is this agency taking steps to limit the openness and freedom of the Internet?

Last December, the FCC voted to impose net neutrality rules to regulate the Internet. This is nothing more than the government interfering and threatening small providers and forcing networks to operate services in ways determined by unelected bureaucrats.

What is worse is the FCC is working to fix a problem it acknowledges does not exist. The agency is relying on speculation of future harm. This attack on the Internet is irresponsible and is irresponsible governing. While our economy struggles, the Internet remains a beacon of light that continues to grow, but this rule risks stifling innovation and investment in jobs.

A study by a telecom economist with the Brattle Group found that the net neutrality rules could lead to a job loss of 340,000 in the broadband industry within the next 10 years. This is not the type of policy we need to adopt, especially as our country stares at 9 percent unemployment. That is why I am supporting S.J. Res. 6, which will put a stop to the FCC's misguided net neutrality rules.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise today in opposition to the joint resolution of disapproval that will reject the open Internet or the net neutrality rule that was put forward this year by the Federal Communications Commission.

I am a strong supporter of the principle of network neutrality that the open Internet rule seeks to protect, and I believe we should oppose this effort to reverse the FCC order. The rule this resolution seeks to eliminate—the open Internet rule—was adopted by the FCC in December of 2010, and it will go into effect on November 20 of this year.

Simply put, this rule creates commonsense obligations and requirements for broadband Internet service providers, such as telephone and cable networks, in order to keep the Internet free and open. I know the open Internet rule will provide the certainty needed to foster job-creating investments and innovations while protecting broadband Internet consumers. Why is this important? Well, net neutrality is a way of saying the Internet ought to be free and open. It is a fundamental concept that is underpinned with some marvelous new technology that we call the Internet. This open Internet rule will make sure we hew to the concept that the Internet ought to be free and open.

We watched and are still watching as democratic uprisings topple totalitarian regimes all over the Middle East. Social networks such as Twitter and technologies such as text messaging are largely thought to facilitate the so-called Arab spring. None of that would have been possible without an open and free Internet.

I have to ask, what kind of message will we be sending to the remaining dictators—but probably even more important, those people who quest and thirst for freedom—if the citizens of the United States, through their Senate, vote to limit Americans free access to the Internet? We have to set an example for the rest of the world. The Internet must remain free and open.

The open Internet rule will achieve this by ensuring that four key Internet policies are maintained. Let me list them for my colleagues.

No. 1, it will prevent broadband Internet providers from blocking lawful Internet content or services.

No. 2, it will require transparency about broadband network management policies.

No. 3, there will be a level playing field for consumers on the Internet.

No. 4—this is important in these tough economic times we face—it will provide predictability for both broadband providers and Internet innovators.

As I have said, what is so important about this debate is that in these economic times, net neutrality is also about jobs and economic development. As I travel in my State of Colorado—and I know the Presiding Officer travels his State of New Mexico—the refrain I hear from businesses and business leaders is that they need predictability in order to invest in their companies and create good-paying American jobs.

Thousands of entrepreneurs who have built small Internet businesses can only be successful if they can reach their customers. However, if we don't preserve this net neutrality rule and content blocking is prevented, there

will not be any guarantees that the next great online innovation or pioneering application will even be able to access the Internet. For example, the next Google or Amazon or Twitter will only be able to grow and be successful if they can reach their customers without worrying about interference from broadband providers that might want to preference another more established competitor.

So what we are talking about is the FCC is promulgating a commonsense rule that will provide predictability for both the broadband providers and the Internet innovators. The certainty of knowing the rules broadband providers have to follow will give the confidence needed for investors to help the next Groupon breakthrough or many of the other numerous applications we are all familiar with online.

Innovation and job creation is what will finally lift our economy out of the slump from which we have been desperately trying to recover. We need net neutrality to ensure that innovation thrives and that the next great product, service, or way of doing business is not inhibited by market manipulations or restrictive online policies.

I came to the floor to urge my colleagues to vote against this resolution. It only serves to distract us from the hard work we have to do to foster job growth and get our economy back on track. Let's agree to cement fair and reasonable rules of the road, as the FCC rule seeks to achieve, in order to provide certainty in a climate of innovation for the next generation of job creators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, we don't use the Congressional Review Act often. In fact, I think we have only used it once successfully. But the regulators are working at a breakneck pace, and I think the overreach we see in this rule and some others that are coming out right now really requires the Congress to pay attention, requires us to revisit the reason the Congress gave itself the ability to look at rules and regulations and see if they make sense.

Simply put, on this regulation, the Federal Communications Commission lacked the legal standing to produce the order we are debating today. The net neutrality order the FCC enacted is not based on the facts or on the law. In fact, I have yet to hear credible defense of why we would want to have this massive regulatory burden. In fact, we have talked about net neutrality for several years now, and the definition continues to change because the free marketplace has driven the innovation beyond every debate we have had. The marketplace where people invest and grow the Internet and access to that Internet has meant that as soon as a debate would be engaged on this issue of so-called net neutrality, it no longer mattered. I think that is what we see here as well. But it will begin to matter if we begin to manage the Internet in a way that slows down investment, that slows down innovation.

Three years ago, the FCC attempted to reach far beyond any legislative mandate they had to regulate the Internet through a rule. Last year, a Federal court struck down that rule, saying the Commission had no authority to do so. Now we find ourselves debating a measure which in a roundabout way attempts to accomplish the same end with a result that might be disguised in some other way. The Commission is using a provision of the Communications Act, which was enacted to allow the FCC to ''remove barriers to infrastructure investment.'' Why would we want to do that? Why would we want to remove barriers to infrastructure investment? Why would we have passed that law? Because we want to encourage infrastructure investment by removing barriers. The basis the FCC is using was actually deregulatory, not regulatory. They are basing this on a law that said they could do something 180 degrees different from what this rule would do.

Repeated government economic analysis has reached the same conclusion: There is no concentration; there are no abuses of market power in the broadband space. And even if there were, we have a lot of laws to deal with that. We have antitrust laws. We have consumer protection laws. There are plenty of ways to approach that if it happens, but nobody thinks it is happening.

The Commission, like many other Federal agencies, has often been put in a position where one industry competitor is being asked for a regulation that somehow would benefit them in their competition with somebody else. This order would greatly increase the frequency of those requests.

This order puts the FCC in a position of constantly having to monitor new innovations on the Internet.

One of the FCC Commissioners who didn't agree with this order clearly laid out the dissent when he said this. This is a quote from Commissioner McDowell:

> Using these new rules as a weapon, politically favored companies will be able to pressure three political appointees to regulate their rivals to gain competitive advantages. Litigation will subplant innovation. Instead of investing in tomorrow's technologies, precious capital will be diverted to pay lawyers' fees. The era of Internet regulatory arbitrage has dawned, and to say that today's rules don't regulate the Internet is like saying that regulating highway on-ramps, off-ramps, and its pavement doesn't equate to regulating the highways themselves.

In releasing the net neutrality order, the FCC charted itself on a collision course with the legislative branch as well as with the Federal judiciary, which has already struck down a similar attempt to regulate this sector by the FCC. They stated unequivocally in that attempt that the FCC lacked the standing to do so.

This is a solution that is really searching for a problem. Let me guarantee that whatever anybody thinks the problem is right now, that will not be the problem 6 months from now unless we figure out how to slow down innovation in this area and suddenly we are dealing in a static environment instead of a dynamic environment.

Even if there were a legal basis for this legislation, we still cannot get away from the fact that it is a massive and unnecessary overreach into the private sector, which has thrived while our overall economy has slowed and stalled.

In 2003, only 15 percent of Americans had access to broadband. According to the Commission's own National Broadband Plan, last year 95 percent of Americans had access to broadband. Between 2003 to 2010, 15 percent to 95 percent—it sounds to me as if that access is doing what you want it to do and occurring how you want it to occur. Fixed and mobile broadband Internet access, expanded and improved upon by the private sector, is the fastest growing technology in history. In only 7 years, 95 percent of Americans got to where 15 percent were 7 years earlier.

Competition in this field is robust. Technology advances, network buildout, and infrastructure improvements are happening quickly, to the tune of billions of dollars of investment and innovation and an ever-expanding array of applications for consumers. More competition is on the way as providers make use of increased amounts of spectrum coming online and lay new networks of fiber to connect Americans in rural areas in the country.

The telecommunications sector contributes more than $60 billion annually to our economy. Net neutrality would slow that down.

With the order that was set forth, the Commission will begin to speculate on what might happen as opposed to what clearly is happening.

First, the kind of anticompetitive action the Commission seeks to remedy is already illegal.

Second, the competition in this space is far too fierce. Their rule is far too repressive. Most Americans already have two options for wired broadband access at work or at home, and the number of wireless competitors available is exponentially higher.

No government has ever succeeded in mandating investment and innovation, and until this order nothing has held back Internet investment and innovation in this country, and that is why it has done so well.

Broadband buildout is a thriving success story on which virtually all Americans now count. We now even take it for granted. It is incumbent upon us to look at this rule to understand the negative impact it will have on a thriving way to communicate, to do business, and to talk to each other, and to reject this rule and let this system continue to develop with the same innovation,

the same intensity, and the same incredible success it has had in the past 7 years.

I yield the floor.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 19½ minutes remaining.

Mrs. HUTCHISON. I Thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I yield up to 5 minutes of our time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Texas for the time. This is a critical subject she is dealing with right now, but the thing in common is the problem we are having right now with regulation. I think we are going to be talking about that this afternoon.

I only wanted to get one thing in, and that is about something the Chair is fully aware of because he was there all morning. Something very significant happened this morning. In our Environment and Public Works Committee we passed out a highway reauthorization bill. We have not done this since 2005, and this morning we did. This is one where we sat down—one of the few times that Democrats, Republicans, liberals, conservatives, can get in a room and hammer out their differences and get things done. I wish the committee would be successful in doing that as we were this morning in getting a highway bill. So we are going to have a highway bill at the current spending level which, if my colleagues remember back in 2005, it was $286.4 billion, and that was for a 5-year bill. That spending level right now would be, to sustain that, somewhere between $40 billion and $42 billion a year for 2 years. This is a 2-year bill, and the 2-year bill cannot pass until we locate an additional $12 billion to make this happen. I think a lot of us don't want to take what would constitute a 34-percent cut in funding for our roads and highways and bridges throughout America and be able to sustain that. This is a life-and-death type of issue.

I wanted to say how proud I am of the staff and of every Democrat and every Republican on the Environment and Public Works Committee who made this happen this morning. So while we have much more we are concerned about, I think it shouldn't go unnoticed at this time that we have now started that ball rolling and that is good news.

One last thing I wish to say about overregulation. When we talk about the jobs bill—and we always are talking about revenue and jobs and all of this—we seem to forget that the overregulation is costing us a lot. I can remember fighting the cap-and-trade bills ever since back during the Kyoto convention, and impressing upon people that the bills being offered would cost between $300 billion and $400 billion a year. That is every year, not just the first year. Right now, since they have not been able to pass that here, they are trying to do that with regulations through the Environmental Protection Agency. Congressman FRED UPTON over in the House and I had legislation that would take away the jurisdiction of the EPA to get this done. I think this is going to be offered as an amendment this afternoon. I think it is very critical that we pass that.

I thank the Senator from Texas for giving me this time.

I yield the floor.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. I Ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON. I yield up to 7 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I thank the Chair. I thank Senator HUTCHISON for her efforts here in stopping another regulatory nightmare. I am beginning to think the FCC stands for Fabricating a Crisis Commission because they are trying to create a new regulation for a problem that does not exist. The overriding problem here is, as the government intervenes increasingly into the Internet and the investment in the Internet, that investment is going to dry up as uncertainty is increased.

I have seen in my State where private investors have put together the money with companies to put down broadband in rural areas only to find that there are some companies operating with a government grant or some government money to compete with them.

Under President Obama, the FCC has become an activist bureaucracy that is inventing a crisis here in order to take control of the Internet.

The Internet is one thing in our country that is working vibrantly. It is a showcase of free enterprise. It does not need to be regulated. For years liberals have warned us that, if the government does not take action, the Internet will not be competitive or accessible. The opposite has happened. More people are using the Internet and have access to cutting-edge technology and devices than ever.

This is yet another misguided big-government solution in search of a problem. Last year, the courts ruled in the Comcast decision that the FCC does not have the authority to mandate how private companies can enter into business agreements and limit the ways they provide Internet services. The FCC did not learn its lesson and instead is at it again with its Open Internet Order, which is vague, baseless, and built on an even weaker legal foundation than their activities in Comcast. Congress did not authorize such actions and the courts have ruled against them. The FCC should not try to get around it by redefining clear legislative language passed by Congress.

There has been no demonstrable harm to which the FCC needs to respond. They cannot give us a case where competition is not growing, where the expansion of broadband is not growing. In fact, new technologies are exceeding the pace that the FCC can even keep up with.

We do not need to come in and slow down the growth. If the FCC wants to take action, it should prove there is legitimate harm in the marketplace. The Department of Justice and the Federal Trade Commission have a number of laws and regulations to enforce in the name of protecting consumers who use the Internet and competition among companies involved in the market. If those laws are lacking, the FCC should show how and ask Congress to provide it with statutory authority.

The FCC has not done so. They have not shown us that harm has taken place and that they need to take control, essentially, of the Internet. Congress has yet again been cut out of the picture, and many of my colleagues in the majority seem comfortable with abandoning their role. The FCC's bad logic needs to be recognized. They admit these new rules were not imposed due to any previous or existing wrongdoing. That is important for us to recognize.

If a regulatory agency is issuing an order that intervenes into the private sector, there needs to be some substantial harm being addressed. The FCC claims the government must regulate the Internet in order to protect consumers from future harms that could occur. That is not the point of the regulatory structure.

I heard all of these arguments back in 2006 when the Senate was debating how to update our telecommunications laws. If the regulation advocates had won in 2006, today we would have the Internet of 2006. I do not want the Internet of 2006 in 2011, and I do not want the Internet of 2011 in 2016. I want it to grow and improve and evolve just as it is doing now. The government cannot possibly manage the development of the Internet, which the FCC is trying to do.

The Internet does not need a government stimulus. It is a free market industry that is working. Right now, the technology sector has a 3.3-percent unemployment rate, far below the national average. Over the years, communications companies have invested

hundreds of billions of dollars in broadband technology and development, and no deficit-expanding stimulus was required!

If the government really wants to allow the Internet and related businesses to prosper and thrive, it should stay out of it. The Internet is not broken, but our government is. The private telecommunications sector knows how to create jobs; our government does not. The things that work best in our society—businesses, charities, volunteer organizations—are the things that government does not control. Consumers should be in control, not unelected activist bureaucrats intent on taking over the most successful parts of our economy.

I encourage my colleagues to support this resolution to undo the FCC's power grab. Three unelected bureaucrats should not be permitted to simply give themselves the power to regulate the Internet's infrastructure in the face of clear statutory language directing them to do just the opposite.

The FCC should not be permitted to circumvent Congress and essentially enact laws that will impact vital services we all depend on. To keep the Internet economy thriving, this decision must be reversed. I commend Senator HUTCHISON for bringing this up and using the powers of Congress to take back control of our legislative responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 18 minutes under his control.

Mr. ROCKEFELLER. I would yield it to the distinguished Senator from Washington.

Ms. CANTWELL. I thank the chairman of the Commerce Committee for his leadership on this important issue. I am glad to be on the Senate floor to set the record straight because we are here to talk about Internet freedom and about making sure the Internet does not have undue costs and expenses for consumers.

If you liked TARP and you liked the bailout of the big banks, well, guess what. Then you should vote for this resolution because this resolution is about whether you are going to let the communications companies that want to make the Internet more expensive by various technologies have their way.

If you believe the FCC should establish some rules to protect the freedom of the Internet, then you should oppose the Hutchison resolution. I prefer legislation that I have introduced, and some of my colleagues support, called the Freedom of the Internet Act, that goes further than what the Federal Communications Commission has done to implement true net neutrality. I would prefer that, and maybe in the future my colleagues will be working on such legislation.

But as it is today, the Federal Communications Commission has taken a half step, if you will, by proposing some rules that will set in place some protections for consumers to make sure they are protected on important aspects of keeping Internet costs down. The problem with the FCC rules is they only apply in some cases to fixed broadband and not to mobile broadband.

So if you think about it this way, the Internet is moving to a mobile broadband platform; that is, our handheld devices, whether they are a BlackBerry or phone or what have you. So many more Americans are accessing the Internet that way. So the FCC has come up with rules on transparency and no blocking; that is, to make sure no content is blocked or slowed down for any undue cost or reason, and a nondiscrimination rule.

Unfortunately, those two last points, no blocking and unreasonable discrimination, do not apply to the mobile side. So we have work to do to make sure the youth of America who are consuming so much content online through their mobile devices are not going to be artificially charged more or slowed down in their access all because the telecommunications industry wants to have its way with the Internet.

My colleagues have been out here talking about innovation. I can tell you, the Internet has had a ton of innovation and a ton of content creation, all because there has been an even playing field and net neutrality. The fact now is that the telecommunications companies are debating an important issue, and the lines get blurred between telecommunications and the Internet, and it is clear we do not have all of the rules in place to make sure consumer interests are protected.

But today we have one thing: the FCC rules that are trying to slow down telecommunication companies from artificially either blocking or making content on the Internet more expensive. Again, when we go to the mobile phone model and we are being charged for time and data transfer, the fact that the data transfer and time take longer means we are going to have more expensive phone bills. That is why I said it was TARP-like, because the ''cha-ching'' we are going to hear from the phone companies on the money they are going to make from this is unbelievable.

So thank God the FCC took a half step and said: Whoa. Slow down. We are not going to let you do that. That is why people like Vint Cerf and Tim Berners-Lee, the architects and inventors pushing the Internet, have said what a bad idea it is to not make sure that net neutrality is the law of the land.

I notice my colleague who just spoke said, well, there have not been any problems. There have not been any issues. I read the online publications. Larry Lessig, someone I trust, was recounting in one of his interviews exactly what happened. Comcast went in and basically blocked large data files of peer-to-peer transfer, what is called bit torrent traffic.

First, Comcast said: No, no. We do not do that. We did not block that. We do not do it. But when it was basically found out that they did, they said: Oh, no, we did not block it. We just slowed it down. They sent little messages, as Mr. Lessig says in his article, to the Internet traffic to confuse the recipient and basically disrupt their traffic. OK? So that is what is happening.

These providers think if they can control the pipe, now they can also control the flow. It is also, as Mr. Lessig said later in this article, as if the entire electricity grid, our refrigerators and our toasters and our dryers, all of a sudden would start charging different rates on different things because the electricity company would decide it had the ability to charge different rates. Would we put up with that? No, we would not put up with that.

So why would we put up with allowing telcos to run at will on the Internet charging consumers anything they want based on the fact that they think they have the control of the switch?

I am so proud the chairman, Senator ROCKEFELLER, has led this fight for the freedom of the Internet to drive down costs, to keep innovation, and to protect net neutrality. The FCC rules do not go far enough. We cannot continue to have this half step and not clearly, on the mobile side, give consumers the protection they need.

But for today, if you want to vote with Internet consumers and Internet users on driving down the costs of the Internet, then vote against this resolution and keep the minimal FCC rules in place until we can get stronger legislation passed. Make no mistake about it, the other side is talking about, well, they do not want to regulate the Internet. That is true. They do not want to regulate telcos that want to take advantage of the fact that they own the pipe and can charge a lot more.

I am glad the FCC at least took this measure. We should make sure it stands until we can even get stronger Internet freedom protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator for her remarks and actually fully agree with them in that mobile is kind of left alone, and it should not be because it is everything that is happening in the future. But it is a step, and it was a wonderful speech.

It occurs to me that I do not think we have anybody left to speak on this side. I am not sure about Senator HUTCHISON, but it may be a good time to yield back our time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mrs. HUTCHISON. Mr. President, I would like to just wrap up, and then I will yield back the rest of our time and we can close this debate because our vote is going to come tomorrow.

I just want to summarize what we have heard today. I just heard the distinguished Senator from Washington State say that without net neutrality we would have more expense to consumers. I really do view this in a different way because I view the potential delay, the regulatory processes, the hurdles that are going to have to be overcome for any kind of preclearance to put a new product on the Internet, gatekeeping for innovation—that is what, in my opinion, is going to increase the cost and cause delays if not freeze many of the innovations that have occurred in our open Internet system.

We now have, because of the FCC's ruling, the requirement for reasonable standards for access to the Internet. There is no definition of ''reasonable.'' I heard the Senator from Minnesota say we need net neutrality in order for Google, YouTube, Facebook, and Twitter to be able to grow and prosper. Those entities have grown and prospered—without net neutrality regulations. They have grown and prospered because we have had free and open access to the Internet. We and our competitors and our businesses that compete overseas have had open and free access. That has been the beauty of the success of the Internet.

Now we see government coming in and saying: You have to be reasonable in what you offer. So if there is a major dump of millions of pages onto the Internet and it is going to slow down, for instance, a hospital network offering rural health care on an emergency basis or some kind of video-streaming that is going out, we have to be able to let the providers have the judgment and let the marketplace work. If there is a problem it was not pointed out by the FCC when they decided to intervene in the Internet among 134 pages of regulations with just 3 paragraphs about possible problems, all of which concluded with the rules that are in place today.

This is clearly a problem that isn't there, which is being manufactured in order to put another government regulation on the books. When the Senator from Massachusetts said this order doesn't regulate the Internet, just the gateways or the on-ramps, that doesn't hold water because if we regulate the on-ramp, we are regulating the Internet. We are causing companies that are providing broadband to not have control of their networks but instead will now have to go before the FCC to justify a new product or service that will give emergency access or quicker access for users who need to have that kind of access.

I hope the Senate will say the FCC has extended beyond any authority Congress has given them, and I hope we will stand for our prerogative in Congress to make the laws and only have regulations come out when we delegate specifically to an agency to put out rules in a particular area, which has not happened in this case.

I urge my colleagues to support this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, before I yield all time back on our side, I have listened to the entirety of this debate. It seems to me it has been fairly clear that on one side the government regulates and messes things up, and on the other side things are going swimmingly.

I can't help but pay attention to all those people out at TechNet, the AT&T people, Moody's, Hamilton's, and all these people who take a very dour view of government intervention and a very sensitive view as to whether that intervention is in any way going to stop investment. The answer is usually it does. That is why I feel very happy that this was referred to by a number of major players in this field as a very ''light touch'' of regulation, which gave them a sense of where they were going to be, how far down they could look toward their future and therefore allow them to invest the money they wanted to invest.

That is not to say they would not have done it anyway. But there is nothing like encouraging capital investment in something as important as the Internet. I think the net neutrality legislation does that very well. I hope when we vote on it tomorrow, it will not pass.

Having said that, I yield back all time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## 3% WITHHOLDING REPEAL AND JOB CREATION ACT

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

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 for certain healthcare-related programs, and for other purposes.

Pending:

Reid (for Tester) amendment No. 927, 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.

AMENDMENT NO. 928 TO AMENDMENT NO. 927

(Purpose: To provide American jobs through economic growth)

Mr. MCCAIN. Mr. President, I call up my amendment numbered 928.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 928 to Amendment No. 927.

(The amendment is printed in the RECORD of Tuesday, November 8, 2011, under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleague, the Senator from Kentucky, Mr. PAUL, and the Senator from Ohio, Mr. PORTMAN.

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

Mr. MCCAIN. Mr. President, I feel it is very important that we spend some time on this issue. I think all Americans realize we are in almost unprecedented difficult economic times, and that despite efforts that have been made over the now nearly 3 years, our economy has not grown and it has not provided the kind of job growth and opportunity many of us had anticipated.

When we look at previous recessions—and this is a near depression by some calculations—the recovery has been amazingly and agonizingly slow as compared to recoveries from other recessionary periods.

In the view of this Senator, the remedies have, in many respects, made the problem worse rather than better. If we look at some objective criteria, I argue that the situation in America today is worse than it was on January 2009, when this administration came to office. We have had the stimulus package, the Health Care Reform Act, increases in spending in numerous areas, and the Dodd-Frank bill, which was going to fix the regulatory system in this country to prevent any financial institution in America from ever again being too big to fail—in other words, no financial institution would ever need taxpayer dollars to the degree that America's economy would be impacted adversely in case that institution failed.

Well, here we are. Here we are, nearly 3 years later, and unemployment is at 9 percent, even though after the stimulus package was passed all the predictions were that maximum unemployment would be 8 percent and headed down. The recovery has been anemic. In my home State of Arizona, still nearly half the homes are under water. In other words, they are worth less than the mortgage payments the homeowners are required to make.

Working together with my colleague from Kentucky, Senator PAUL, and Senator PORTMAN of Ohio, we have put together a series of proposals and ideas that have been generated both within this body and outside of this body, and we believe—we believe with the utmost sincerity—there should be areas in this proposal that we and our colleagues on the other side of the aisle could come to agreement on. We wish to see this entire package. We think it is important in its entirety. There is no doubt in our minds that when you look at the 9-percent approval rating Members of Congress have with the American people, they certainly want to see us do something constructive as well.

I guess I would ask my colleague from Kentucky how he thinks we should have put this package together, what we should have included, and what haven't we included. What is the situation in his home State as far as a need for this kind of legislation?

Before going to my friend from Kentucky, let me add that I talk to large and small businesspeople all over this country, and they all tell me the same thing. They all tell me the same thing. They have no certainty as to what the future holds for them, which then causes them not to invest or to create jobs. Overseas, they are sitting on $1 trillion. Here in the United States they are sitting on a $1½ trillion and not investing because they do not know when the next regulatory act is going to come down. They do not know when the next regulation is going to be issued. They do not know when the next tax increase is going to occur.

I saw on television the other day that the owner and founder of Home Depot, Kenneth Langone—and he also wrote a piece for the Wall Street Journal—said he couldn't start Home Depot today. He couldn't start it today because of the environment that exists. Intended or not—and I know my colleagues on the other side of the aisle have the most honorable of intentions—the result of all this regulation has been a climate which has restrained investment, which has then restrained and killed job creation and caused this economy to be mired in the doldrums. Obviously, that has had a terrible impact on every-day Americans.

Before my colleague comments, I first want to thank the Senator from Kentucky for the key role he has played in putting this package together, and I hope this is the beginning of our fight for passage of this legislation.

Mr. PAUL. I hope this is the beginning of a conversation with the other side and with the President. I told the President personally that I want to help with the problems we have in our country. We have 14 million people out of work, with 2 million additional people out of work since this administration began. So we are serious about our Republican jobs plan, and there can be some areas of some common interest.

There currently is a supercommittee talking about some of these tax reform ideas. Our side is putting forth a message, we are putting forth a plan, and we are willing to work with the other side. The problem is, it is my understanding the other side has walked away from the table. The other side is unwilling to talk or to engage with us. I have asked the President personally to come to Capitol Hill and talk to us. I have talked with the members of the supercommittee and have indicated we are willing to work with them.

We have some good ideas to create jobs, and some of these ideas the other side has already agreed to. Lowering the corporate income tax. There are Members of the other party who understand we need to be competitive with the rest of the world. So lowering the overall rates, simplifying the code, and getting rid of some of these loopholes. These are things the President talks about as he campaigns. But if he were serious, he would come and talk to us. Instead, what I have heard at his campaign stops is Republicans are too stupid to understand his plan so he is going to break it up. Well, that may get laughs at his campaign rallies, but it isn't getting anything done.

I think the American people need to know our jobs plan will create jobs, and we are willing to talk with the President and with the other side. I think we are willing to get things done, and I think we have important things in the bill that will do that.

Mr. MCCAIN. Maybe my friend from Kentucky and I can talk about many of the various provisions in this legislation. There are a lot of provisions that were based on input from outside and inside this body. Some of this, by the way, closely mirrors legislation which has already passed the House of Representatives as well.

We lead off with a requirement for a balanced budget amendment to the Constitution. I was here many years ago when the balanced budget amendment failed by one vote. When you ask the American people if government, and the Congress, shouldn't live under the same constraints they have, they are in total support of that.

I have seen polls—and I wonder if my friend from Kentucky has—that show 80 to 90 percent of the American people support a balanced budget amendment to the Constitution when informed what it is. At the very least we ought to put that up for a vote in this body.

Mr. PAUL. Yes. Routinely, decade after decade, polls show anywhere from 75 or 80 percent or more support a balanced budget amendment. We need it, because we have shown ourselves to be fiscally irresponsible. Through the years, we have had Gramm-Rudman-Hollings and we have had all different types of restraints, but we disobey our own rules. We say, oh, it is an emergency. But then suddenly all the routine spending we do becomes emergencies, and the debt gets bigger and bigger.

Those in the debt commission say the most predictable crisis in our history is the coming debt crisis in this country. They are seeing it in Europe. We need to be serious in our country and fix these problems before we get to a crisis situation. That is what our Republican jobs plan does. It addresses it—a balanced budget amendment, tax reform, and a regulatory moratorium. We can't keep heaping on new regulations that put us at a competitive disadvantage with the rest of the world.

Mr. MCCAIN. I want to go back a second to the point the Senator from Kentucky made. Congress cannot bind future Congresses. I was here at the time of Gramm-Rudman-Hollings, and Gramm-Rudman-Hollings was one of the most strict budgetary requirements ever passed by this body. It required automatic spending cuts in the event that budgets were exceeded and excess spending was, obviously, taking place. But one Congress cannot bind future Congresses. So over time—over a very short period of time—the restraints imposed on spending by Gramm-Rudman-Hollings went into the mist and we went back to business as usual.

I will be very candid with my colleague. There are people who have legitimate concerns about a balanced budget amendment and what it would take to get there and the Draconian measures that may be entailed. But I ask, what is the alternative? What is the alternative? Mortgaging our children and our grandchildren's future? I believe currently that stands at a $44,000 debt for every man, woman and child in America. So why don't we in this body have a debate over a balanced budget amendment to the Constitution and find out exactly where people are?

At the same time, we have learned over the years that Congresses cannot bind future Congresses, and so that is the problem with enacting automatic spending cuts, or whatever spending cuts or other measures we achieve here. We cannot bind future Congresses, appropriately. So the only way to address this issue is by amending the Constitution of the United States, which I know the Senator from Kentucky and I do not view as a measure taken lightly. I have been opposed to most changes in the Constitution. I think our Founding Fathers got it pretty well right. But this is an issue that I think has to be addressed.

Mr. PAUL. Those who say balancing the budget would be extreme, I think what is extreme is a $1.5 trillion deficit. We are en route now, at the rate we are spending money, to a decade within which the budget will be consumed by entitlements and interest. There will be nothing left for national defense or for anything else if we keep on the same spending pattern. So we do have to do something.

What we have shown so far is that fiscal restraint has been an utter failure up here. After Gramm-Rudman-Hollings we had pay as you go. That was broken 700 times in the first 5 years we were supposedly paying as

you go by simply saying it is an emergency. Every routine expenditure became an emergency and so we went around it. So that is a good context for the Republican jobs plan—that everything will be in the context of balancing our budget.

But then there are other important matters, such as tax reform. Historically, the one thing government can do to create jobs or to lessen unemployment is to lower the upper rate. Kennedy did it in the 1960s and unemployment was cut in half. Reagan lowered the top rate from 70 to 50 and unemployment was cut in half. Reagan lowered it again from 50 to 28 and unemployment was cut in half. And interestingly, as you cut the top rate, you didn't cut revenue. Revenue stayed at 18 percent of GDP through all the lowering of the top rate.

What lowering the top rate does is it unleashes economic growth. The other side has this vision they are going to hire people in government and somehow fix unemployment. You can hire hundreds of thousands of people and you don't put a dent in it. To cure unemployment, or lessen unemployment, you need to have millions of people hired, and that can only be done in the private sector. I think that is the difference in the vision between our side and their side. Our vision is unleashing the private sector, and theirs is to hire a few more people to dig ditches and fill them in. It is a different vision.

Mr. MCCAIN. Isn't it a fact that Americans are not only very unhappy because of the economic condition we find ourselves in but also because they perceive an inequity and an inequality in our economy today? In other words, they see financial institutions on Wall Street making record profits and paying record bonuses. They see large corporations that pay no income taxes—none—zero. They see that and then see themselves paying their taxes, the least of which may be withholding taxes or sales taxes or whatever taxes they are still paying. It seems to me that tax reform would address these inequities.

I note that Senator PORTMAN from Ohio is here, and he knows this better than anybody, having been, in his previous incarnation, the head of the Office of Management and Budget. Over the years, we have carved out loophole after loophole and have provided some with a better or special deal. It is a damning indictment of the Congress and the administration that we let it happen, but it is what it is. So we now have major corporations—I would cite General Electric as an example—that paid no taxes last year. An average citizen—who doesn't have a lobbyist here in Washington and who can't get a carveout or a special loophole for their small business—is paying these taxes.

So how do we resolve that inequity? It seems to me that is accomplished through tax reform. Give people a simplified Tax Code. The Senator from Ohio has some much better ideas about this: three tax brackets, eliminate all but charitable deductions—even put a ceiling on that—and home mortgage deductions, and then the American people would at least believe they are being treated fairly. Today, they do not believe they are being treated fairly. And I am talking about middle-income Americans.

I think statistics confirm that most Americans believe there is a large disparity between the wealthiest and the less well off in America. I would ask my colleague from Ohio to comment, since he knows more about that than I do.

Mr. PORTMAN. The Senator from Arizona is absolutely right, and I appreciate his passion on this issue. He has the whole Senate focused on the idea of repatriating profits from overseas back to America to invest in jobs and growth, and he has now focused us on the need to reform the Tax Code on the individual side and on the corporate side.

On the individual side, as he talked about, we have an incredibly complex Tax Code—thousands and thousands of pages. By lowering the rates and broadening the base—getting rid of some of this underbrush—we will create economic growth. It is a necessary shot in the arm right now with over 9 percent unemployment.

On the corporate side, right now we have a corporate rate that is the second highest in the world among all developed countries. The highest is Japan, and they want to lower theirs. This means jobs are going overseas instead of staying here. By lowering the rate, getting them down to the average of these other countries, we will bring more investment back to this country.

Mr. MCCAIN. What is the response to the suggestion of bringing the corporate tax rate down to 25 percent, let's say, because we say corporations are taxed too much in America, yet at the same time we also find corporations paying no taxes?

Mr. PORTMAN. By bringing the rate down to 25 percent on a revenue-neutral basis, what we do is get rid of a lot of the preferences, the exclusions, the credits, the tax deductions that enable companies right now to pay little or no taxes. We think everybody should be paying taxes. We think everybody should be subject to a fair tax system. We also think we shouldn't have to spend billions a year in complying with a Tax Code that is so complex. So instead of hiring more tax lawyers, we want people to get out there and hire more Americans to do the work—productive work—to get our economy moving.

Tax reform is a way to give this economy a shot in the arm right now. It is one of many structural reforms that is in this legislation that the Senator from Kentucky and the Senator from Arizona have put together with me. It is very consistent with this idea that America's best days are ahead of her, if we restructure some of these basic parts of our economy: Tax reform, necessary; lowering health care costs, absolutely critical; allowing us to explore for energy on our shores and create jobs and economic opportunity; being sure we are reducing the regulations that are strangling small businesses. These are all structural reforms we can and should do. By the way, there is bipartisan support for every single one of those elements.

So I commend the Senator from Arizona for raising these issues, for his passion for them, and the Senator from Kentucky. I hope the Senate will give us the opportunity to vote on this, and it should be a bipartisan vote because so many of these issues are issues that transcend partisanship, and in each case there are Democrats and Republicans who understand the need to move our economy forward by making these structural changes.

Mr. MCCAIN. For just a minute, I would like to discuss with the Senator from Kentucky and the Senator from Ohio that enhanced rescission or what used to be known as line item veto.

The Senator from Ohio once had the misfortune—his reward will be in Heaven, not here on Earth—of being the head of the Office of Management and Budget and saw these appropriations bills come over, and many of them were that thick. Going through line by line, we find these special interests, special deals we call porkbarrel projects which have no justification, which were never debated, which were never discussed, which were never brought to the light of day except maybe occasionally, but certainly it contributed enormously to our debt and deficit.

So he had the option of going to the President of the United States and saying: Veto the whole bill and send it back and it may be overridden or accept these pork-laden, big, thick appropriations bills.

Isn't that a dilemma we should not force the President of the United States to have, that kind of Hobson's choice?

Mr. PORTMAN. Absolutely. That is one of the elements of this jobs bill. It was particularly tough on defense bills because we have our national defense at stake and we have our soldiers and marines and sailors out there, and the bill comes to the President of the United States, and is he going to sign it? If he doesn't sign it, there is a risk there will be at least a gap in funding; if not, as you say, be overturned. So there is a lot of pressure to sign it.

What happened, the President signed these pieces of legislation with the earmarks in them, and we have more spending than we should and spending is not going to the priorities. It is not going to the national priorities.

So this legislation is simple. It says, back in the late 1990s, 1996, Clinton signed a line-item veto bill. Constitutionally, it was questionable, and sure enough the Supreme Court overturned it. Now we have come back with another way to do this so-called enhanced

rescission, but it is basically a legislative line-item veto where Congress would have the right to be able to review what the President rescinded. If they didn't act within a short period of time, it would be rescinded. The Congress could act to overturn the President.

We believe it is constitutional, meets all the obligations that were set out in that Supreme Court case that overturned the first line-item veto and yet puts the pressure on the Congress not to put this porkbarrel spending in, and if they do, we would have the light of day shone on it and Congress would have to individually take up these line items, these porkbarrel projects.

We think this is a constructive way forward that is constitutional, that meets all the concerns that have been raised, and would help to get the spending down and to prioritize spending at a time when we have record deficits and debt.

Mr. MCCAIN. I would say to the Senator from Kentucky, the President probably would veto some items we wouldn't like vetoed because there are some differences in philosophy between ourselves and the President of the United States. But I am willing to take not only that risk but that penalty associated with trying to get elimination of the porkbarrel spending.

We have made some progress, I will admit, in the elimination of some of the ''earmarks,'' but we have a long, long way to go. Frankly, it is a disease I have watched recede a bit over time and then it pops back up. Again, it is something like the balanced budget amendment—it needs to have a permanent fix.

Mr. PAUL. The line-item veto, interestingly, that the Senator proposed and got to the floor in the form of a bill separate from this has cosponsors from both parties. It does have bipartisan support. Many on the other side of the aisle see some of the waste. There is no reason why we couldn't begin to work together on some of this.

But, once again, I get back to if the President is going to go on the road and call us too stupid to understand and his jobs plan has to be broken up, that is not a good way to get to a consensus. The President needs to come to Capitol Hill and needs to talk with the other side and work on these ideas.

Do we need a line-item veto and do we need a balanced budget amendment? Do we need to do something different or just do the same? The problem with just doing the same is we haven't had a budget in 2 or 3 years around here. The appropriations bills are supposed to agree with the budget, but they can't because there is no budget. There is a rumor that the appropriations bill will go to the conference committee between the two Houses and they will actually airdrop in whole other appropriations bills.

Do we need more scrutiny? Do we need a balanced budget amendment? Do we need a line-item veto? Absolutely. Because what we are doing around here is not working and is adding up to trillions of dollars of annual deficits.

Mr. MCCAIN. If the scenario takes place as the Senator from Kentucky just pointed out, that all of a sudden everything is decided by members of the Appropriations Committee, then it does deprive the other members of this body of their input into the entire process and takes the authority and responsibility from 100 and puts it in the hands of a few. That seems, to me, a disservice to the people of Arizona whom I represent.

Mr. PAUL. I think the overriding message—and I appreciate the comments from the Senator from Ohio—is that we have a jobs plan and we have our ideas. There is overlap in our ideas with some of the ideas from the other side.

The message is, we are willing to talk to the other side. We are willing to say these are some proposals, and let's try to find areas of agreement.

We think it is more important than a campaign right now. We think it is more important, the joblessness and the economy, that we try to do something about it. We are willing to come to the table. We are willing to bring our ideas, we are willing to have a debate with the other side, and we want to get solutions. We are not doing this just to be partisan. We want to figure out a way to make our economy better.

Mr. PORTMAN. Absolutely. Let me give an example of where we could come together on something simple, and again it is something the Senator from Arizona and the Senator from Kentucky have included in their legislation.

Everybody knows the Federal regulators are putting more and more pressure on small businesses all around the country. We hear it every time we go home. I can't think of a time I have been home at a plant tour where somebody hasn't raised with me a Federal regulation that is causing them difficulty because it is increasing the cost of hiring somebody.

At a time of over 9 percent unemployment, we have to do everything we can to get this economy moving, and one is to lessen that regulatory burden and make sure it is smart.

So one of the pieces of the legislation we are promoting is to say to the Federal agencies: Go through a cost-benefit analysis, including looking at what the impact is going to be on jobs. Who could be against that? That needs to be done not just in the so-called executive branch agencies but also in the independent agencies which are not subject to these current cost-benefit rules. It is more cost-benefit rules looking at jobs but also making sure everybody has to comply with it.

Then, when they come up with an idea for a regulation, make sure it is consistent with the policy of the elected representatives because too often we will see the regulators go off on their own and come up with ideas that they think might be good for the economy. That is one reason we have—according to some statistics now—as much of a cost on the economy from regulations as from taxes.

Finally, it says when you come up with something, it has to be the least burdensome alternative. If the EPA had done this, for instance, in some of the legislation that the Senator is concerned about, the Senator from Kentucky, they would not be able to come up with huge new costs on business because they would have to come up with a cost-effective way to meet the policies set out by the Congress. They don't have to do that now. Who could be against that?

So these are specific items that are within this bigger project of getting America back on track, increasing our jobs, dealing with the fact that America's competitiveness is at risk that are commonsense, bipartisan ideas everyone should be able to agree with.

I again encourage the Senate to allow us to have a vote. Let's encourage a full debate on both sides of the aisle. Let's have a bipartisan vote on it. Let's show people whom, after all, we are elected to represent that we can come together as Republicans and Democrats and deal with the real problems facing our economy.

Mr. MCCAIN. I see the Senator from Washington is here, and I don't want to encroach on her time.

I would just like to say we are going to spend a lot more time today on this issue and this proposal. The American people want change in Washington. They want us to address the concerns and problems they face, and we believe we have a great blueprint for moving forward in that direction. As my friends from Ohio and Kentucky have said, we are eager to sit down with our colleagues on the other side of the aisle and discuss at least some of these which we think we can come to agreement on. Maybe our approval rating, if we did so, could climb back up into double digits.

I yield the floor.

AMENDMENT NO. 927

Mrs. MURRAY. Mr. President, I have come to the floor this afternoon to discuss the VOW to Hire Heroes Act, which is an amendment to help put our Nation's veterans back to work that we will be voting on tomorrow, on the eve of Veterans Day.

The real meaning of Veterans Day is to remind ourselves to take care of service-connected veterans and their families. That is what this amendment does.

We all realize, of course, this Chamber has had its share of disagreements and discord lately, and it is no secret that we are sharply divided on any number of economic and political issues that are facing average Americans right now. But this is one issue we should never be divided on.

I have served on the Senate Veterans' Affairs Committee for over 16 years,

and I can tell you that veterans have never been a partisan issue. We have all made a promise to those who signed up to serve, and we all need to keep it. That is why I have been so pleased to work to help put this amendment together in a comprehensive and bipartisan manner.

This amendment brings all ideas to the table, Democratic and Republican, Senate and House, those from the President and from Members of Congress, and it uses all those ideas to address one of the most daunting and immediate problems facing our Nation's veterans—finding work.

On this Veterans Day, after almost 10 years of war, nearly 1 million American veterans will be unemployed. It is a crisis that faces nearly 13 million other Americans. But for our veterans, many of the barriers to employment are unique.

That is because those who have worn our Nation's uniform, and particularly for those young veterans who spent the last decade being shuttled back and forth to war zones half a world away, the road home isn't always smooth. The redtape is often long, and the transition from the battlefield to the workplace is never easy.

Too often today our veterans are being left behind by their peers who didn't make the same sacrifices for their Nation at a critical time in their lives. Too often they don't realize the skills they possess and their value in the workplace is real. Too often our veterans are not finding open doors to new opportunities in their communities.

But as those who know the character and experience of our veterans understand well, that shouldn't be the case. Our veterans have the leadership ability, discipline, and technical skills to not only find work but to excel in the economy of the 21st century. That is why, 2 years ago, I began an effort to find out why, despite all the talent and drive I know our veterans possess, this problem persists.

To get to the crux of this problem, I knew I had to hear firsthand from those veterans who were struggling to find work. So I crisscrossed my home State of Washington and communities large and small, at worker retraining programs, in VA facilities, and in veterans halls. I sat down with veterans themselves to talk about the roadblocks they face. What I heard was heartbreaking and frustrating.

I heard from veterans who said they no longer write that they are a veteran on their resume because of the stigma they believe employers attach to the invisible wounds of war.

I heard from medics who return home from treating battlefield wounds and can't get a certification to be an EMT or even to drive an ambulance. I spoke with veterans who said many employers had trouble understanding the vernacular they used to describe their experiences in an interview or on their resume. I talked to veterans who told me the military spent incalculable time getting them the skills to do their job in the field but very little time teaching them how to transition the skills they have learned into the workplace when they come home. The problems were sometimes complicated and sometimes simple. Most importantly, though, they were preventable. But the more I relayed the concerns of our States' unemployed veterans to Federal Government officials for answers, the more I realized there were none. It became clear that for too long we have invested billions of dollars in training our young men and women with the skills to protect our Nation only to ignore them once they leave the military. For too long at the end of their career we patted our veterans on the back for their service and then pushed them out into the job market—alone.

That is why in May of this year, as chairman of the Senate Veterans' Affairs Committee, I introduced a bipartisan veterans employment bill to ease the transition from the battlefield to the working world. It is a bill that will allow our men and women in uniform to capitalize on their service while also making sure the American people capitalize on the investment we have made in them.

For the first time it requires broad job skills training for every servicemember as they leave the military as part of the military's Transition Assistance Program. It allows servicemembers to begin the Federal employment process prior to separation in order to facilitate a truly seamless transition from the military to jobs in our government, and it requires the Department of Labor to take a hard look at what military skills and training should be translatable into the civilian sector in order to make it simpler for our veterans to get the licenses and certifications they need.

All of these are substantial steps to put our veterans to work. Today they are being combined with the other great ideas in this comprehensive amendment that is now before the Senate, including an idea championed by my House counterpart, Chairman MILLER, that will ease the employment struggle of our older veterans by providing them with additional education benefits so they can train for today's high-demand jobs, and an idea that has been championed by President Obama, Senator BAUCUS, and many others that provides a tax credit for employers who hire veterans.

With this amendment we are taking a huge step forward in rethinking the way we treat our men and women in uniform after they leave the military. For many of us, particularly those who grew up with the Vietnam war, we are also taking steps to avoid the mistakes of the past, mistakes that I believe we stand perilously close to repeating.

Every day we read about skyrocketing suicide statistics, substantial abuse problems, and even rising homelessness among the post-9/11 generation of veterans. While there are lots of factors that contribute to those challenges, failure to give our veterans the self-confidence, the financial security, and dignity that a job provides often plays a very crucial role.

On this Veterans Day we need to redouble our efforts to avoid the mistakes that have cost our veterans dearly and have weighed on the collective conscience of this Nation. We can do that agreeing to this amendment, but also by looking back to a time when we stepped up to meet the promises we made to our veterans.

I mentioned on the Senate floor many times that my father was a veteran of World War II. But what I do not always talk about is the fact that when he came home from war, he came home to opportunity—first at college and then to a job, a job that gave him pride, a job that helped him and my mother raise seven children who have gone on to support families of their own. This is the legacy of opportunity we have to live up to for our Nation's veterans. The responsibility we have on our shoulders does not end on the battlefield. It does not end after the parades on Friday. In fact, it does not end.

I urge my colleagues to put aside our differences, to come together and meet the challenges of putting our Nation's veterans to work.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Wisconsin.

Mr. JOHNSON of Wisconsin. I ask to be recognized for not more than 10 minutes.

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

AMENDMENT NO. 928

Mr. JOHNSON of Wisconsin. Mr. President, I rise to speak in support of the McCain amendment, which is Jobs Through Growth Act. I do not think there is any question that the No. 1 solution to the deep financial hole in which we find ourselves in this country today is in economic growth. The fact is, we do find ourselves in a very deep financial hole. Within a day or two, or certainly within the next week, we will surpass the $15 trillion landmark in this country. That would be a problem, $15 trillion worth of debt, if our economy was $100 trillion large, but it is not. It is about $15 trillion large. So our debt-to-equity ratio has now reached 100 percent, which is a very dangerous metric.

In order to understand how that affects our economy I ask people to understand or think about how their own personal economy is affected if they are in debt, too deep into personal debt. The fact is, when you are in debt over your head you simply cannot increase your consumption because any extra money you have, just beyond the basics, is spent servicing that debt.

The exact same dynamic happens with our Nation. We find ourselves in way too much debt. Unfortunately, there is no end in sight. The last 3

years we added $4 trillion to our Nation's debt, and the prospect for this year is that we will add another $1 trillion. During President Obama's term we will have added $5 trillion to our Nation's debt. This scares consumers, and it scares business investors as well. We all recognize when the government gets into this much debt and spends so much money that it does not have, eventually it will have to take from all of us—either in the form of inflation or in the form of taxes.

We are simply not coming to grips with the problem. I like to put things into historical perspective as we talk about supposedly cutting our budgets. Ten years ago, in 2001, our Nation spent $1.9 trillion. This year we spent $3.6 trillion. We doubled spending in just 10 years. The debate in which we are engaged right now is whether, according to President Obama's budget, 10 years in the future we will spend $5.7 trillion or, as the House budget calls for, $4.7 trillion.

Let's take a look at 10-year spending. In the last 10 years we spent $28 trillion. Again, the debate is whether in the next 10 years we spend $46 trillion, as President Obama budgeted, or whether we would spend only $40 trillion.

I don't care how we look at it, $40 or $46 trillion is not a cut in comparison to $28 trillion. Unfortunately, the supercommittee that is charged with finding $1.2 trillion worth of savings is at an impasse, and it is at an impasse because it looks like my colleagues on the other side of the aisle have walked out. I am afraid they simply do not want a deal because President Obama is already in reelection mode, and he does not want a result so he can run against a do-nothing Congress.

I am one Senator who came here willing to work with anybody willing to acknowledge the problem and who is willing to work with me, work with our side to seriously address the problem. That is exactly what the six Members, the Republicans on that committee, were trying to do.

We all recognize the No. 1 solution to our debt and deficit crisis is economic growth. What is holding back growth? It really is the high level of uncertainty, the lack of confidence. I say to a great extent that lack of confidence and high level of uncertainty was caused by President Obama's agenda. There is no doubt about it. He came into office in tough economic circumstances, but his policies have made the situation far worse. They have moved us 180 degrees in the wrong direction.

I mentioned the $15 trillion worth of debt. President Obama's budget would have added $12 trillion, but that understates the problem because we underestimate the cost of health care. That will add trillions of dollars as more employers drop coverage and people go on the exchanges at highly subsidized rates. The fact we are not achieving the projected growth rates in those budgets will add trillions. If we only average 2.5 percent growth, that will add $3 trillion to our debt and deficit over the next 10 years.

What do global investors, what do American investors take a look at when they look at the U.S. economy? If we are going to be investing in business, if we are going to grow our economy. If we look around the world and say where are there economies growing, it is not the United States. It is China, it is India, it is in places like Brazil. Strike 1.

Take a look at the tax environment and look at the United States, with one of the highest tax rates in the world, at 35 percent, and strike 2.

Then we look at the regulatory environment and we are going to realize, according to President Obama's own Small Business Administration, that the cost of complying with Federal regulations is $1.75 trillion. Think about that. Put that in perspective. That is a number that is larger than all but eight economies in the world. It is 12 percent the size of our economy. That is what we burden our job creators with each and every single year. Strike 3.

We need a growth agenda. We need to recognize that America needs to be an attractive place for business expansion and job creation. The Jobs Through Growth Act recognizes that and it utilizes pieces of legislation that are already available to actually address the problem. We need a credible plan to restrain the growth in government.

As I pointed out earlier, that is all we are doing. We are not cutting government, we are just restraining the growth in government. We absolutely need dramatic, significant tax reform. Our marginal tax rates are too high, our Tax Code is 70,000 pages long and costs $200 billion to $300 billion to comply with. We need to utilize our Godgiven natural resources in this country. We need an energy utilization policy that will create hundreds of thousands if not millions of jobs over the next decade or two.

We need free trade. It must be fair, but we need to recognize as these billions of people around the world seek to improve their lives and develop their economies, it actually offers us a phenomenal market opportunity. We cannot be afraid of that. We need to embrace it. We need to understand that we do not have a choice whether we are going to compete in this world. We must compete, and we are certainly capable. We have the finest, most productive workers in the world.

Finally, we absolutely need regulatory reform. Part of the Jobs Through Growth Act is a bill I introduced a couple of months ago called the Regulation Moratorium and Jobs Preservation Act of 2011. It is a pretty simple bill. It basically says until our economy gets back on its feet again we will stop issuing new rules and new regulations that harm economic growth until the unemployment rate drops below the level it was when President Obama took office, which would be 7.8 percent. It is a reasonable proposal, one I hope can gain bipartisan support.

I have to believe every Member of Congress, like me, is visited daily by businesses in their district and in their State. They are coming to Washington and calling us on the phone and describing the harm that President Obama's regulatory agencies are inflicting on their ability to create jobs.

I urge all of my colleague to support the very sensible legislation, the Jobs Through Growth Act.

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 New Jersey.

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

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

AMENDMENT NO. 927

Mr. MENENDEZ. Mr. President, this Friday we will celebrate Veterans Day, and this year we will also be celebrating Military Families Month. It is time to recommit ourselves to helping every military family, as the First Lady and Dr. Biden are doing with a program called Joining Forces to address the unique needs of those who serve and the needs of their families.

We as a Congress and as a nation need to do exactly that. We need to reach across the aisle. We need to put aside our differences and join forces. We need to help businesses help veterans and their spouses build careers. We need to make sure schools are doing all they can to help military children. We need to promote community involvement by asking all of us to do what we can to help military families in our local communities. But there is more we can and should do to honor our heroes.

Honoring our heroes means providing jobs and job training and every job opportunity possible to unemployed veterans in my State of New Jersey, where we have over 450,000 veterans, 12 percent of them unemployed. That is why I am proud to be a cosponsor of the VOW to Hire Heroes Act.

Every year, 160,000 Active-Duty servicemembers and 110,000 National Guardsmen and reservists come home. When they transition to civilian life and are looking for options to get back to work at home, they need to know that someone will be there to help them, that businesses will help them to start new careers or continue where they left off. We should be giving businesses a tax credit for hiring a returning veteran and giving them more of a tax credit if they hire a wounded veteran.

I would like to see American businesses pledge to hire 100,000 veterans or their spouses by the end of next year. I

don't think that is asking too much. I hope my colleagues don't think that is too much either. I don't think it is too much to ask Congress—both parties, without the politics, in a bipartisan effort—to honor our veterans by passing a veterans jobs bill the President can sign into law.

As we approach Veterans Day, as our last troops come home from Iraq, as our military presence around the world enters a post-Iraq era, we need to commit ourselves as a nation to helping every one of our men and women in uniform, particularly in these hard economic times. This year, with the unemployment rate for veterans at almost 12 percent nationally, as it is in New Jersey, with nearly 1 million unemployed veterans nationwide, I would hope we can find bipartisan support for something we should all be able to agree on; that is, jobs for veterans. That is the VOW to Hire Veterans Act. Veterans cannot and should not have to wait for the help they deserve. No delays, no filibusters, no politics—just a bill for the President to sign and help for our Nation's veterans now. To me, that is about fairness and it is about keeping our promise to our veterans.

I think we can always do better for our veterans and their families, and every veteran deserves better. Our duty to them is not just remembering their service. It is not just saying ''thank you'' once or twice a year on Veterans Day or Memorial Day—and we certainly should march in a Veterans Day parade or go to a Memorial Day observance. We should do those things. This is also about delivering on the promise of a grateful nation every day. It means providing the health care and services veterans need when they come home and helping them transition back into the workforce.

Our brave men and women did not wait to sign up to serve their country, and they should not have to wait to get the benefits they earned defending it. They should not have to come home only to stand on the unemployment line after putting themselves on the line serving their Nation. That is why I am proud to have cosponsored a good, solid, bipartisan jobs package to help our military men and women transition from their work defending our Nation's freedoms to civilian work rebuilding our Nation's economy. It would ensure that disabled veterans who have exhausted their unemployment benefits get the training and rehabilitation they need, the counseling they need, the vocational rehabilitation and employment benefits they need, and job assistance tailored to a 21st-century job market.

It establishes a competitive grant program for nonprofits that provide mentoring and training programs for veterans. It allows employers to be paid for providing on-the-job training to veterans.

It would provide returning heroes and wounded warriors work opportunity tax credits for businesses that hire veterans and more for businesses that hire disabled veterans. The credit for unemployed veterans expired at the end of 2010. This provision is essentially a work opportunity tax credit for hiring vets, a credit up to $2,400 for short-term unemployed and up to $5,600 for long-term unemployed and an increased credit of up to $9,600 for hiring unemployed wounded veterans.

I fully support and believe in this bill. We made a promise to veterans, and it is a promise we must keep. So while I believe reducing the deficit is a critical issue, we cannot and should not balance the budget on the backs of those who have served. Veterans are not bankrupting America, they are protecting it. It is not veterans programs, health care, or services that should be cut.

I said it before, and I will say it again: A grateful nation not only honors its heroes once a year on Veterans Day or Memorial Day, but it better be able to look every veteran in the eye when he or she comes home from service and say: We meant what we said, and we will keep our promise.

We must be prepared to deliver on that promise. I certainly am. I come to this Chamber on behalf of every New Jerseyan to say to every man and woman who has served in uniform and to the more than 450,000 veterans in my home State of New Jersey that we will keep working for fairness for every veteran and their family. There will always be political obstacles in our way, but we will fight the good fight to keep our promise to you, as you have served us. Be assured that you have the respect and thanks of a grateful nation for the sacrifices you and your families have made. To me, that thanks is ultimately demonstrated not by what we say but by how we act.

May God bless our troops, and may this opportunity be an example of our willingness to come together on behalf of those who wear the uniform and serve the Nation and have the gratitude of a grateful country.

I yield the floor.

Mr. MCCAIN. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator's second-degree amendment is the pending question.

Mr. MCCAIN. That is the pending business before the Senate?

The PRESIDING OFFICER. It is the pending question.

Mr. MCCAIN. Is there any unanimous consent on speakers?

The PRESIDING OFFICER. There is not.

Mr. MCCAIN. Mr. President, I will continue to discuss the pending amendment before the Senate, and I would yield such time, without yielding the floor, as the Senator from Tennessee may use.

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

The Senator from Tennessee.

RESIDENTIAL MORTGAGE MARKET

Mr. CORKER. Mr. President, I rise to speak about a bill we introduced called the Residential Mortgage Market Privatization and Standardization Act. I wish to speak briefly on this bill that deals with the pressing issue that I know the Senator from Arizona probably as much as anybody in the Senate has spoken about and has championed for many years.

The current dynamic permit conservatorship is not sustainable with Fannie and Freddie and the GSEs as they are today. There has been discussion about various things happening with these organizations. The FHFA, which actually regulates Freddie Mac and Fannie Mae, is begging Congress for direction but, in their words, is only getting mixed signals. Today, we introduced a bill to give a very clear direction as to what ought to happen to these major GSEs.

Together, they sit atop $5 trillion in obligations, plus hundreds of thousands of our REO properties—in other words, properties they have taken back and are now overseeing throughout America. With a $5 trillion book, any mistake they make is very expensive, and obviously the taxpayers of this country know full well that billions of dollars continue to flow in these organizations to keep them afloat. Yet these organizations today are lameduck organizations with no clear guidance on their future. They really have no idea what the future holds. The organizations themselves basically are treading water.

Over the most recent decade, Fannie and Freddie became corporate welfare schemes for mortgage banks. There is no question that what was happening was the governance balance sheet was helping fund corporate welfare programs or basically mortgage brokers could sell off to Fannie and Freddie mortgages they had put in place and have them guaranteed.

As they raced to the bottom to lower guarantee fees so they could take a bigger market share for the biggest mortgage originators, they actually helped fuel the housing bubble that has led us to where we are today. There is no question about it.

So many people talk about Fannie and Freddie and say that without them, we would not have affordability in housing. Well, at the end of the day, Fannie and Freddie don't make housing more affordable. What they do is simply make interest rates too low. What that actually does is push up home prices. That is the exact equation that occurs in this process. Housing affordability is determined by your monthly mortgage payment. Fannie and Freddie make interest rates cheap, but the price of housing ends up being more expensive as a result of that. So, in effect, the taxpayer is suddenly on the hook for losses when these housing prices are pushed up, and the fact is we end up having a bubble like we have had.

The market can and will take over the functions of mortgage credit risk if we make the transition in an intelligent way, and that is what this bill

does. Our plan phases out Fannie and Freddie over 10 years, but it does so in a way that allows for feedback from the markets. Gradually reducing the guarantee share of new mortgage-backed securities allows us to see the market's price credit risk. We also add transparency to the market by making the valuable data at the GSEs publicly available.

One of the things that has happened in both Fannie and Freddie through the years is that they have developed, obviously, more expertise than any entities in the country because they, in essence, have been almost monopolies in this process. So what we would like to do is make that data publicly available to folks who will be doing this on the private side.

Uniform documents managing the servicing process will give investors and homeowners alike certainty in how they will be treated by their service. This is part of the plumbing of a system that needs to be addressed, and our plan does that.

In other words, this plan not only phases down Fannie and Freddie over a 10-year period through a process that gives market signals so we can understand what is happening in the marketplace as it is occurring, but it also creates a mechanism for private investors to come back into the market. Ten years from now, under our plan, we will have a housing finance system based more on market fundamentals free of taxpayer risk and more able to price credit appropriately.

The idea that the private market cannot price credit risk is a total red herring. The biggest risk in a 30-year fixed rate mortgage is the prepayment risk. This is called convexity in bond market parlance. The private market has already figured this out. We have homeowners throughout our country who constantly prepay mortgages and the market has figured out a way to price this. So private lenders can and will price credit risk. We have just been very accustomed to the government selling this too cheaply, but the market can easily price this. All we need to do is put those mechanisms in place that allow the private sector to be able to do that.

It is time to move beyond Fannie and Freddie. We cannot pretend this problem away. Our plan is thoughtful, and it will earn back private capital over time.

We have offered a piece of legislation that we think is something that can receive bipartisan support. It allows Fannie and Freddie to be phased out over time. It allows us to see market signals as they are occurring. It allows—and the Presiding Officer and I know because we have worked on this and looked at these things in the Banking Committee itself—it allows us to actually put in place those mechanisms that will allow the private sector to come in and backfill as the guarantee continues to diminish over time.

I am offering this bill hopefully to be a marker. If people want to change it and talk with us about things that they think might enhance this bill, we are open to that. But we believe at this time, a year and a half after Dodd-Frank passed, it is time for us to actually begin looking at a real way to phase down Fannie's and Freddie's involvement in the marketplace. I hope Republicans and Democrats will join with us and try to make this bill better if they wish to do that, but certainly move us in a direction of doing something that is thoughtful and will move us along toward a private market in residential finance.

Thank you very much. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my colleague from Tennessee. As Senator CORKER knows, we had an amendment on the Dodd-Frank bill to do away with Fannie and Freddie over a 5-year period. I think it is obvious that the Senator from Tennessee has done a lot of homework and in-depth examination of this issue. But I think the Senator from Tennessee would agree that what went on with Fannie and Freddie is one of the worst crimes inflicted on the American people all during the 1990s and well into 2000 and which was a major contributor to the housing collapse, which then triggered the financial collapse which we still haven't recovered from. I wonder if the Senator from Tennessee wishes to elaborate.

Mr. CORKER. Well, I don't think there is any question. I know the Senator from Arizona has been a reformer all of his life. What we find in this body is we end up having a corporate welfare system built around many of the things we do here. As much as I hate to say it, both sides of the aisle through time empowered this organization to be what it is. We have built an industry in our country around ensuring that the status quo stays in place. It is unfortunate. As the Senator from Arizona knows, as well or better than anybody in this body, the taxpayers are bearing the brunt of this. To me, it is way past time for us to deal with this.

I know many people say, Well, in the height of the housing crisis, this is not the time. But the fact is, the way this bill is crafted—and it sounds as though the amendment of the Senator from Arizona, which I remember supporting strongly—generally would have phased out Fannie Mae and Freddie Mac over a period of time. I think we have gone to tremendous extremes to phase this out in a way that makes sense and allows the private sector to come back. If we think about the type of finance that takes place in this country around all types of complexities, there is no reason, as long as we create the proper structure for the TBA market for the private market to function, there is no reason that the private sector cannot do this on its own.

It is amazing, when we think about what has happened with low interest rates. Most homeowners in our country look at the payment they are going to make. When you have artificially low rates, what happens? The price of housing actually goes up, so we end up in a situation where we have this bubble and prices drop tremendously, and then what happens? The taxpayer ends up bearing the brunt of it.

I could not agree more with the Senator from Arizona, who has always taken on tough issues, and maybe I am responding longer than he wants me to. This is one of those issues where I know that many people back home—candidly, there is a whole industry that is built around this, and I know a lot of times people don't want to take on something, don't want to change something like that because they know it is tough back home. I am glad the Senator from Arizona has championed this issue the way he has. As he mentioned, we have done a lot of work on it also. I think this is a sensible bill that will allow our country to get back where it needs to be. I know the Americans the Senator from Arizona so well represents and cares so deeply about these transgressions on our citizens—I know they will support this if we will allow this type of legislation to come to the floor and be voted on.

Mr. MCCAIN. I think the Senator from Tennessee—and I want to get back to the jobs bill—but I think the Senator from Tennessee would agree, as long as Fannie and Freddie are in existence and have the opportunity to behave in a manner that they did in the past, we risk another housing bubble followed by a housing collapse. That is why I think the Senator's proposal is something that deserves our attention and that of the country, so we don't have a repetition of the pain that the people in Tennessee and Arizona are experiencing today.

Nearly half the homes in my home State of Arizona are under water. They are worth less than their mortgage payments. As long as that is the case, it is going to be very difficult to see a way for a strong economic recovery to take place. I think phasing Fannie and Freddie out is probably one of the key elements in bringing about not only beneficial change—and a number of other things have to happen too—but to prevent the kind of catastrophe that was visited on us in 2008.

Mr. CORKER. It is interesting, when we have a bubble that is taking place, a lot of times the private sector becomes very concerned that a bubble is developing and they begin to slow down the process. They begin to see that, wait a minute, there is a lot of risk here, it is getting pretty frothy. The housing prices in Arizona and California and other places are getting awfully high. Maybe we should be cutting back. But as long as there is a government entity on the other side of that that is going to take all the risk and they can dump it off to them—all it is is a machine, and the more they do, the more money they make. That is what is missing in this current formula.

There is no gauge there to slow the process when the bubble is becoming overheated. That is one of the huge contributing factors that I know the Senator has talked about a great deal to what we saw.

Candidly, the reason the Senator is offering this jobs bill today is because we have been through such a financial crisis and it has brought our country to its knees. On top of that, we have had a tremendous amount of regulation that has enhanced the slowdown even more. But the fact is, I would say to the Senator from Arizona, he might not be offering this piece of legislation that he has done such a great job leading on today had it not been for this bubble that was created. He might not even be here today. We might be talking about a totally different subject on the Senate floor.

I thank the Senator for his leadership and for his time, and I yield the floor.

Mr. MCCAIN. I thank the Senator from Tennessee, and he also has been one who is more than willing to take on the tough challenges and issues we face, with a commitment to a bipartisanship that I think we all need. I thank the Senator from Tennessee.

(Mrs. HAGAN assumed the chair.)

Mr. MCCAIN. Madam President, I wish to inform my colleagues that I have a lot to say about this jobs bill. There is no unanimous consent agreement. I believe this is of transcendent importance. I see the Senator from Minnesota here. I apologize ahead of time, but we only have until tomorrow morning to address this issue. This is a compelling issue for this Nation. I intend to talk for a fairly extended period of time.

For the benefit of my colleagues, this amendment is identical to the Jobs Through Growth Act which was introduced on October 17. I am pleased about joining most of my Republican colleagues—and I wish to highlight the hard work done by my colleagues Senators PAUL and PORTMAN in putting this legislation together. In fact, I wish to thank all of the Senators, and some of them bipartisan, who put this jobs bill together. It requires a lot of discussion. There are issues of transcendent importance.

I don't have to tell any American how difficult our economic times are, how slow the recovery has been, if at all, the risk of further recession, and it is time we did something different. I would point out to my colleagues that for 2 years the other party had control of this body and had control of the House of Representatives—for 2 years, until the 2010 election. During that period of time, we passed a stimulus bill, we passed health care reform, we passed other big spending bills, all on the promise that the American economy would recover. It didn't. In fact, by any measurement, things are far worse than they were in January of 2009.

As the President has a jobs bill and the majority leader has put forth legislation as part of that jobs bill, we Republicans have a jobs bill. I know my friends on the other side of the Capitol also agree wholeheartedly with the majority of what we are proposing today. The difference between our plan and theirs is that we want to create jobs through growth and they want to create jobs through government spending, through spending and borrowing and taxing. That doesn't work. What they have proposed amounts to nothing more than another stimulus bill, and we saw that movie before. It added to our debt and our deficit, and we lost jobs.

Today, my colleagues and I are putting forth a plan to create jobs through sound policies. Economic growth is a fundamental part of long-term, sustainable job creation, and that is what our plan offers the American people.

I wish to quote from an article in Forbes magazine by Peter Ferrara entitled ''The GOP Jobs Plan Vs. Obama's.''

Senate Republicans have taken the lead in proposing a jobs plan alternative to President Obama's in the form of the Jobs Through Growth Act, led by Senators John McCain, Rand Paul of Kentucky, and Rob Portman of Ohio. Republicans are remarkably unified behind these economic and jobs growth ideas, with House Republicans having already long supported or even passed several components of that plan.

The 28 components of their program add up to exciting prospects for finally sparking the long overdue economic recovery, based on proven economic logic, and proven experience concerning what works in the real world. Most important are the proposals for both corporate and individual tax reform, closing loopholes in return for reducing the rates.

Lower marginal tax rates are the key to providing the necessary incentives for economic growth and prosperity. The marginal tax rate is the rate on the next dollar to be earned from any investment, enterprise, or productive activity. That is the key because it determines how much the producer is allowed to keep out of the next unit of what he or she produces.

At a 50-percent marginal tax rate, the producer can keep only half of any increased production. If that rate is reduced to 25 percent, the portion the producer can keep grows by 50 percent, from one half to three fourths. That powerfully increases the incentives for more productive activity, such as savings, investment, starting new businesses, expanding businesses, creating jobs, entrepreneurship, and work.

The Republican Jobs Plan involves closing the special interest loopholes that enable Obama corporate cronies such as General Electric to get away with paying no taxes on $14 billion in corporate profits, in return for reducing rates to internationally competitive levels. The U.S. suffers virtually the highest corporate tax rate in the industrialized world, nearly 40 percent, with a 35 percent federal rate, and another nearly 5 percent in state corporate rates on average.

Even Communist China enjoys a 25% corporate rate. In the supposedly mostly socialist European Union, the corporate rate on average is even lower than that. In formerly socialist Canada, the federal corporate rate is 16.5%, going down to 15% next year.

The GOP Plan would reduce the federal 35% rate to 25%, which is the minimum reduction to restore international competitiveness for American companies. Note that closing loopholes may well raise the average corporate rate, on which Democrats and liberals have focused, but it is the marginal tax rate that drives the economy. . . .

The GOP Jobs Plan also includes reducing the top personal, individual income tax rate to 25% as well, in return for closing loopholes. The Ryan budget already passed by the House would apply that rate to family incomes over $100,000, with a 10% rate applying to incomes below. Those rate reductions would powerfully boost incentives as well, as proven by the dramatic response to the Reagan tax rate reductions in the 1980s. . . .

Another component of the plan would eliminate the double taxation of U.S. corporate profits earned abroad by the U.S. ''worldwide'' corporate tax code, which adds U.S. taxes on top of the taxes on foreign profits by the host country. The GOP plan calls for adopting the ''territorial'' tax code of most of our international competitors, which allows profits to be taxed in the country where they are earned, and not again when they are brought home. That would unlock for reinvestment in the U.S. the $1.4 trillion in American corporate profits earned overseas that remain parked there to avoid U.S. double taxation.

The GOP Jobs Plan also recognizes the enormous problem of excessive, runaway regulation, which increases the cost of production, and so further discourages it. Reducing such costs would consequently increase production, economic growth, and jobs.

Step one in the plan to reduce such regulatory burdens is to repeal Obamacare, with its employer mandate adding to the cost of each job by requiring employers to buy more expensive, politically driven health insurance coverage for every employee. That repeal would also reduce future taxes and spending by trillions as well.

Further critical relief would result from the GOP Jobs Plan plank to repeal Dodd-Frank, which is threatening to squelch credit for businesses and consumers essential to jobs and recovery. The GOP proposal cites research showing that higher costs for financial services resulting from Dodd-Frank would cost the economy nearly 5 million jobs by 2015.

Another critical area of overregulation is energy. The Republican program would require the Interior Department to move forward in order to free up leasing and development of drilling on public lands onshore. It also eliminates EPA foot dragging on air permits necessary for offshore drilling, and removes EPA authority for unnecessary and burdensome greenhouse gas regulation altogether. This deregulation would ensure a steady supply of low cost energy, essential to booming economic growth.

Also in the proposal is the REINS (Regulations from the Executive In Need of Scrutiny) Act, which would require Congressional approval of all major federal regulations imposing more than $100 million a year in costs. This will reestablish the original Congressional check on Executive power, and democratic accountability for regulatory burdens, so politicians can no longer hide behind faceless bureaucrats to evade public scrutiny for regulatory drains on our freedom and prosperity. This would provide an important solution to excessive regulatory burdens and costs across the board.

The Tea Party will favor the plan's plank for a Balanced Budget Amendment to the Constitution, which would include necessary tax and spending limitations in the Constitution. Also included is a statutory line item veto, giving the President more power to cut spending. Reduced government spending, deficits and debt will reduce the government drain on resources in the private economy needed to create jobs and growth.

Finally, the plan even includes a provision for free trade, giving the President renewed fast track authority to negotiate further trade agreements eliminating foreign trade barriers and opening new markets for American goods. For nearly 3 years, President Obama failed to even send to Congress free trade agreements President Bush had negotiated with South Korea, Colombia and Panama. But that didn't stop him from political rhetoric blaming Congress for failing to pass them, though Congress did approve them within weeks of Obama finally submitting them. That abusive rhetorical style veers into dishonorable.

The GOP program is an exciting, comprehensive strategy for creating another generation-long economic boom. It includes all the components of Reaganomics under Congressional control—lower tax rates, deregulation, and restrained spending. Besides the economic logic of each of these components discussed above, the experience with Reaganomics proves the plan will work within a year or so of adoption to get the economy booming again.

After Reaganomics was adopted in 1981, the economy took off on a 25-year economic boom in late 1982, what Art Laffer and Steve Moore have rightly called the greatest period of wealth creation in the history of the planet. Twenty million new jobs were created in the first 7 years alone, even while an historic inflation was tamed. American economic growth during the 80s was the equivalent of adding the third largest economy in the world, West Germany, to the American economy.

By contrast, Obama's Jobs Plan is recycled, brain dead, Keynesian economics already tried and failed throughout the Obama Administration, and all around the world for decades before wherever it has been tried. It is about half the size of Obama's nearly one trillion dollar 2009 so-called stimulus plan, but contains otherwise the same policies. That 2009 stimulus didn't stimulate anything except runaway government spending, deficits and debt.

Part of the jobs plan is devoted to increased government spending on supposed infrastructure, which only recalls the laughable ''shovel ready'' jobs of Obama's 2009 stimulus (even Obama has joked about it). Another part is increased spending to bail out spendthrift Democrat states, which Obama calls hiring more teachers, firemen and cops (a state and local government function, not a federal function).

But economic growth is not based on increased government spending, a fallacy which Wall Street Journal senior economics writer Steve Moore has rightly labeled ''tooth fairy'' economics. That is because the money for such spending needs to come from somewhere, and so drains the private sector to the extent of such increased government spending, leaving no net effect in any event.

What drives economic growth and prosperity is incentives for increased production, as Reaganomics proved. Obama's assault on such incentives is why trillions are sitting on corporate and bank balance sheets, and America is suffering a capital strike and capital flight. The Occupy Wall Street protestors in threatening property and profits are just further undermining incentives and contributing to that capital strike and capital flight, which only contributes further to extended and increased unemployment.

The other half of the jobs plan includes temporary payroll tax cuts, which are a continuation and expansion of temporary payroll tax cuts Obama convinced the December, 2010 lame duck Congress to adopt for this year. But such temporary tax reductions do not stimulate economic growth and jobs either, as permanent cuts and incentives are necessary for permanent jobs. That was just proved by the failure of this year's temporary payroll tax cut to promote the long overdue recovery.

But even worse than the 2009 stimulus is that this current half stimulus echo is accompanied by Obama's proposal for $1.5 trillion in permanent tax increases. That now includes Obama's support for a 5% millionaire's surtax. Those permanent increases only further reduce incentives for production, and only contribute further to economic downturn and stagnation under any economic theory.

Those tax increases, moreover, would come on top of all the tax increases Obama has already enacted under current law for 2013, which major media institutions as well as most of the public are unaware. In that year, the Obamacare tax increases go into effect, and the Bush tax cuts expire, which Obama has refused to renew for the nation's job creators, investors, and more significant small businesses. Under those tax increases, the top tax rates for every major federal tax, except the corporate income tax, already virtually the highest in the industrialized world, with no relief in sight. . . .

In sharp contrast to Reaganomics, such Keynesian Obamanomics has already failed miserably to generate a timely recovery consistent with the history of the American economy. Before this last recession, since the Great Depression, recessions in America have lasted an average of 10 months, with the longest previously lasting 16 months. But here we are 46 months after the last recession started, and still no real economic recovery, with unemployment still [at] 9%, the longest period of unemployment that high since the Great Depression.

Moreover, it cannot be said this is because the recession was so bad, as the experience in America has been the deeper the recession the stronger the recovery. Based on these historical precedents, we should be nearing the end of the second year of a booming economy right now. In this crisis, for Obama to now just advocate more of the same, with only new, warmed over rhetoric, is a complete abdication of leadership. Moreover, at this point, outdated economists still peddling hoary Keynesian fallacies should be subject to civil liability for fraud.

As I explain in my new publication just out this week from Encounter Books, ''Obama and the Crash of 2013,'' more likely than recovery is a renewed double dip recession in 2013, with all the tax rate increases, regulatory burdens building to a crescendo, rising interest rates by then, etc. resulting from Obamanomics. Congressional Republicans should just tell Obama thanks, but no thanks, on his Jobs Plan, and pass their own plan proven to work. Then they can insist he explain to the public why he stands in the way.

It is a very interesting article there in Forbes, and it is a fairly long one, but I think it puts in adequately the argument for adoption of this legislation, but it also points out one of the results.

I would point out, in Investors Business Daily, an editorial entitled ''Better in Rwanda.'' It says:

The U.S. has slipped again in world rankings that assess the ease of starting a new business. If we're to bring down our stubbornly high unemployment rate, this trend has to be reversed.

According to the World Bank's ''Doing Business 2012'' report, America is 13th among 183 countries ranked in the ''Starting a Business'' category. In the 2011 report, the U.S. ranked 11th. The year before, it was No. 8.

In 2009, the U.S. was ranked No. 6. It was fourth in 2008 and third in 2007.

These are not Republican documents. This is not a Republican assessment. This is the assessment according to the World Bank: that doing business in the United States of America has gone from the third best country to do business in, in 2007, to 13th in 2012.

This is ample and adequate proof that we have borrowed too much, we have issued so many regulations that we have people such as Mr. Langone, the founder of Home Depot—who I will quote from in a minute—who says that today he could not start Home Depot all over again, one of the great success stories, by the way, in recent years.

In the 2012 ranking, the U.S. trailed such job creators as Macedonia, Georgia, Rwanda, Belarus, Saudi Arabia, Armenia and Puerto Rico, which are ranked No. 6 through No. 12.

Big companies aren't usually founded as multinational corporations. Most begin as small businesses. And it's small businesses—which employ more than half of the domestic nongovernment workforce—that generate the bulk of new employment opportunities.

From this article:

Our own research shows that small businesses create more than 80% of the new jobs in this country. This isn't some fantasy we've cooked up. It's been confirmed in the New York Times by reporter Steve Lohr, who wrote in September that it's an ''irrefutable conclusion that small businesses are this country's jobs creators. Two-thirds of net new jobs are created by companies with fewer than 500 employees,'' Lohr wrote, ''which is the government's definition of a small business.''

But job creation is more than a function of size. Lohr cites a National Bureau of Economic Research report that says the age of a business is the biggest factor. ''Start-ups,'' says John C. Haltiwanger, a coauthor of the study and an economist at the University of Maryland, ''are where the job creation really actually occurs.''

Yet it's the small and new businesses that are being choked by government policy. The capital gains tax rate on investments held more than a year, Lohr wrote, directly impacts angel investors' role in providing seed capital for startups. This is a rate that the administration wants to hike from 15% to 20% on households earning more than $250,000 a year.

That's just a single instance of poor public policy. There are many more in the 160,000 pages of federal regulations and in the web of state and local rules that squeeze small businesses and start-ups so tightly that they simply cannot hire. Until this burden is lifted, America's jobs problem is not going to get any better.

Quite an indictment that the United States of America, the beacon of liberty and hope and freedom, an example to all the world, has gone from the third best place to do business, to start a business in the world, now to No. 13 in just 5 short years.

So what is the result? I would point out to my colleagues that a person such as Mr. Langone, whom I have watched on television on several occasions, certainly an outspoken individual to say the least, says he could not start his business again under the present environment.

I quote from a Wall Street Journal article, October 15, 2010, entitled, ''Stop

Bashing Business, Mr. President,'' by Ken Langone.

The subtitle is, ''If we tried to start The Home Depot today, it's a stone cold certainty that it would never have gotten off the ground.''

I quote from his article.

If we tried to start Home Depot today, under the kind of onerous regulatory controls that you have advocated—

Mr. Langone is writing to the President in this—

If we tried to start Home Depot today, under the kind of onerous regulatory controls that you have advocated, it's a stone cold certainty that our business would never get off the ground, much less thrive.

It is quite an indictment. He goes on to say:

Rules against providing stock options would have prevented us from incentivizing worthy employees in the start-up phase—never mind the incredibly high cost of regulatory compliance overall and mandatory health insurance. Still worse are the ever-rapacious trial lawyers.

He goes on to say:

I stand behind no one in my enthusiasm and dedication to improving our society and especially our health care. It is worth adding that it makes little sense to send Treasury checks to high net-worth people in the form of Social Security. That includes you, me and scores of members of Congress. Why not cut through that red tape, apply a basic means test to that program to make sure that money actually reduces federal national spending and isn't simply shifted elsewhere.

So it is a very interesting article. He says:

A little more than 30 years ago, Bernie Marcus, Arthur Blank, Pat Farrah and I got together and founded The Home Depot. Our dream was to create a new kind of home-improvement center catering to do-it-yourselfers. The concept was to have a wide assortment, a high level of service, and the lowest pricing possible. We opened the front door in 1979, also a time of severe economic slowdown. Yet today, Home Depot is staffed by more than 325,000 dedicated, well-trained and highly motivated people offering outstanding service and knowledge to millions of consumers.

Then he goes on to say:

If we tried to start Home Depot today, under the kind of onerous regulatory controls that you have advocated, it's a stone cold certainty that our business would never get off the ground, much less thrive.

A man by the name of Jim McNerney is the CEO of Boeing Company. He writes: ''What Business Wants From Washington.'' Again, I quote from October 31, 2011. Mr. McNerney says:

America works best when American business and government complement one another: Business plays the vital role in economic expansion and job creation, while government oversees the environment in which businesses can innovate and compete. This approach fueled prosperity for generations and produced the world's largest and most powerful economy. We seem far adrift of that ideal today. The regulatory climate is a perfect example. A tsunami of new rules and regulations from an alphabet soup of federal agencies is paralyzing investment and increasing by tens of billions of dollars the compliance costs for small and large businesses.

No one wants to discard truly meaningful public safety or environmental regulations. But what we face is a jobs crisis and regulators charged with protecting the interests of the people are making worse the problem that is hurting them most. Regulatory relief in the energy sector alone could create up to two million new jobs and we won't have to borrow a penny to pay for it.

He goes on to talk about the supercommittee. He says the White House and Congress should build on that momentum and ''enact comprehensive pro-growth tax reform that benefits everyone; proceed with regulatory reform; and reform and restructure existing entitlement programs.''

If Washington can once again find the ability to mix democracy and effective governing, American business will once again unleash America's economic potential.

So Mr. McNerney, in his article, reflects the views of everybody I talk to, small businesses and large. They want tax relief. They want regulatory relief. In fact, what they want more than anything else is some kind of certainty about the economic future and the playing field in which they will have to compete. Will there be increasing regulatory burden? Will there be a raise in taxes, as is facing us in 2013? Can we have a tax code they can understand and comprehend that is fair to one and all? Can they unleash their savings accounts and the money they have kept in reserve and invest and hire with some confidence that there will be a return on that investment, that they will succeed for themselves and their children?

That is what this jobs bill is all about. That is what we are trying to get done. This is an attempt to look at the problems America faces today, which, by the way, do spill over onto our national security problems, as the former Chairman of the Joint Chiefs of staff pointed out.

So it affects all of America. It hurts us in so many ways. Yet we sit here, and apparently the select committee, the supercommittee as it is called, is at some kind of gridlock. We sit here today with one amendment here, one amendment here, back and forth, and then run right out to the media and attack each other for being uncooperative and why are we not more congenial and why are we not willing to compromise.

Well, I will plead guilty for perhaps not being willing to compromise on some issues because some issues are a matter of principle. We do not compromise principle, I have found out. But we do come forth with proposals and try to find those on which we can agree. I do not know why we do not agree on a balanced budget amendment to the Constitution. Every State, every mayor, every city councilman, every county supervisor, every one of them is faced with the first problem of a balanced budget.

Why should we exempt ourselves? Why can't we together work out the details concerning a balanced budget amendment to the Constitution? The overwhelming majority of Americans would heave a sigh of relief if we ever did that because then they would know we would be more careful stewards of their tax dollars. It seems to me we could move forward with that.

Enhanced rescission authority. I believe the President of the United States should have enhanced rescission authority, what we used to know of as the old line-item veto, taking those lines in appropriations bills he objects to and vetoing them—and I will not go through the complications of how it is done—but have them taken out, with certain restrictions as to how many times he could do it. Then, like every Governor—not every Governor but most Governors in America have—to line item out, without having to veto the entire appropriations bill, sometimes maybe even causing damage to our ability to govern.

I am well aware if we voted for an enhanced rescission by the Congress of the United States, signed by the President, the President would probably line-item veto some programs that I would object to him doing so. I am willing—more than willing—to take that pain as opposed to today where we continue to have appropriations bills which in many cases people have not read or truly understand.

Tax reform. Every place I go people talk to me about the need for tax reform. I have yet to meet an American who understands completely the Tax Code. I have yet to meet an American who believes our Tax Code is fair. I have yet to meet an American who says: If you would just give me three tax brackets, a very small number of deductions, and then I could fill out my tax return on a post card or in the case of some of the countries—the Baltic countries that used to be under the Soviet Union—on my computer. Then you would see greater compliance, you would see less of a need for the IRS, and you would see Americans more than willing to pay their fair share if they believed the system was fair.

It is not fair when major corporations and individuals pay no taxes because they have bright lawyers, and they take advantage of all of the loopholes and deductions they have been able to get put into the Tax Code over the years with the help of very powerful lobbyists in this town.

Repatriation and territorial reform. The Presiding Officer, the Senator from North Carolina, and I have proposed a pretty simple proposal; that is, the $1.4 trillion that is now sitting overseas because they will not bring it back because of the tax situation; that we could bring that money home, and we could provide a permanent incentive with that for repatriating these foreign earnings.

I say to my friend from North Carolina, I have been kind of astonished at some of the resistance to this where people say it would not do any good. Help me out. It would not do any good to bring $1.4 trillion back to the United States of America? Do we really believe that would just go in peoples' wallets and purses? Of course not.

The Senator from North Carolina and I have talked to too many people, corporation executives, who have said: Yes, I will not only create jobs and invest that money, but I will give you a plan. I will give a plan that we will implement with that money—that IBM or Boeing or other major corporations that have this money parked overseas.

They are enthusiastic about it. Yet, unbelievably, there are people who argue that it would have no effect whatsoever on our economy. It is hard to understand.

Now we obviously get into ObamaCare. I noticed that the latest polling showed, I believe, that some 54 percent of the American people want the health care law repealed. Thirty-some percent still support it. The fact is that over time, as Americans learn more and more about the health care law we passed, they have become more and more opposed to it. They are angry because the whole purpose of the health care act was to provide all Americans with health care that is affordable but also to bend the curve of the inflation of health care in America because we all know the present inflation of health care is unsustainable. It is unsustainable. Yet what has been the result since the passage? Inflation of health care continues to go up; the cost of health care, whether it be to the men and women serving or average citizens, continues to go up, and it has to stop. We need to look at that and look at medical malpractice reform. In Texas today, they passed medical malpractice reform, and it seems to work, and most people are happy with it.

The Dodd-Frank bill—it still is stunning to me that we passed this regulatory reform bill; they called it a financial takeover that the Dodd-Frank bill is commonly known as—the whole purpose of it was that we would have legislation that would ensure that never again would any institution be too big to fail because the taxpayers never again should have to bail out any financial institution. Is there anybody who believes that these huge institutions on Wall Street haven't grown bigger, that they are not bigger to fail than they used to be? The fact is that they are. What did we get? We got a whole bunch of regulations and different bureaucracies, some of them less accountable than others, and obviously a damper on some of the financial activities.

We need to make sure no financial institution is too big to fail. We need to assure the American people that never again will they suffer the way they have during this period of time because of the malfeasance of others. Unfortunately, the Dodd-Frank bill did not achieve that goal.

We need to have a moratorium on regulations. Senator JOHNSON of Wisconsin has a bill that prohibits any Federal agency from issuing new regulations until the unemployment rate is equal to or less than 7.7 percent. Senators SNOWE and COBURN have introduced legislation that is part of this Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act, which strengthens and streamlines the regulatory act by requiring regulators to include ''indirect economic impacts'' in small business analyses, requiring periodic review and sunset of existing rules, and expanding business review panels as a requirement for all Federal agencies instead of just the Environmental Protection Agency and the Occupational Safety and Health Administration.

I notice my colleague, Dr. BARRASSO, from Wyoming on the floor, who knows more about programs in the health care reform act. I will try to be polite and refer to it today as the health care reform act.

I ask unanimous consent to engage in a colloquy with the Senator from Wyoming.

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

Mr. MCCAIN. Does Senator BARRASSO believe or could he tell us, perhaps, the effects on the cost of health care since passage of this legislation and perhaps what we need to do to really fix health care in America, which we all agree needs to be fixed?

Mr. BARRASSO. I agree with my colleague from Arizona. I thank him for his leadership and congratulate him for the piece of legislation that is currently on the floor. I am here to speak in support of it because I want to get small businesses hiring again and get people back to work.

We need to find ways to make it easier and cheaper for the private sector to create jobs. This health care law my colleague has asked me about is one thing the President promised, saying: If you pass it, health insurance for families will go down—he said about $2,500 per family per year. Instead, we have seen—in response to the Senator—health insurance rates go up. Across the board, people agree they have gone higher and faster than if the law had never been signed.

I think it was interesting and telling yesterday that the voters of Ohio went to the polls and voted overwhelmingly—almost 2 to 1—to say they don't want to be forced to participate in the President's so-called health care law. What people in Ohio and people in my State and in all of the States around the country are asking for—and this is my goal—is to provide people with the care they want from the doctor they want—the care they need from the doctor they want at a cost they can afford.

There are things we need to do, but to put these additional expenses and mandates on the small businesses of this country, the job creators, just makes it harder and more expensive for those small businesses to hire more people. At a time in this Nation when we have 14 million Americans out of work, over 9 percent unemployment, we need to take positive steps to help them get back to work. I view this health care law and the expenses as a heavy, wet blanket on small businesses that are trying to hire people. We know of small businesses around the country that know that the penalties are significant when they hire that 50th employee. We have businesses that could grow, but they are not going to hire that extra person because of the significant expenses to the business. They need some certainty. They are getting so much uncertainty out of Washington with rules, regulations, redtape, the expense of the health care law, and the threats that keep coming of increased taxes. Small businesses and businesses are just not hiring.

That is why I am here to commend and compliment my colleague from Arizona for bringing forth to the American people a positive proposal to put people back to work.

Mr. MCCAIN. I ask the Senator this on two other issues. One issue was not included in the health care reform act, which is the issue of medical malpractice, which the Senator, Dr. BARRASSO, has had a lot of personal experience with. The other is this—which I think is symptomatic of really the way we cobbled this whole thing together, which is that we have now found a provision in the bill that cannot be and will not be enforced, the so-called CLASS Act.

Mr. BARRASSO. Both of those are areas where there can be significant savings.

Folks have said that if they do this sort of legislative approach to remove this lawsuit abuse, the savings to the Federal budget would be about $50 billion over the budgeting timeframe—$50 billion. Any physician, nurse, practitioner, or physician assistant would say the savings would even be greater because of the additional tests and so-called defensive medicine that is practiced in an effort to protect hospitals, physicians, health care providers from the possibility of a lawsuit. They do a lot of extra diagnostic studies—x rays, CAT scans, MRIs, and blood tests—to try to not miss something, which is very unlikely, but they want to protect themselves from a suit. I think the savings would be even greater, but even the government accountants say it would save $50 billion.

The other is the so-called CLASS Act—something one of my Democratic colleagues said was comparable to a Ponzi scheme that even Bernie Madoff would be proud of. It was an accounting gimmick, a bookkeeping trick used during debate and passage of the so-called health care law. It was aimed at trying to bring money in in the first 5 years of an accounting scheme where they would then not have to pay for any services and to start paying for services about the sixth year, and then the expenses would go up and up. What they have now realized and what we realized on this side of the aisle initially, right away, and pointed out on the floor before the vote, is that this could not work long term.

In an effort to try to use this scheme to say the health care law would pay

for itself, they forced this through, crammed it through, as they did with the rest of the health care law. Now we find out that even the administration says this cannot work, it is not going to work. OK, just repeal that part of the law. Oh, they sure don't want to do that because that would admit it was a scheme from the beginning.

Mr. MCCAIN. Would it not also disturb the predictions as far as the fiscal impact of the CLASS Act as well?

Mr. BARRASSO. It would. It would undermine the argument of the President, who says this is going to pay for itself, when, in fact, it is not.

It is interesting, if you ask people watching at home or when you go to townhall meetings, do you think under this health care law your health care will be better or worse, they will say worse. Very few think it will be improved under this law the President forced through. And then if you ask the same group of people, a cross-section of people in our States, if they think the cost of their care will go down, as the President promised, or go up, they all say it is going to go up. So they are going to have to pay more, get less, and be unhappy with it, which is why I think yesterday in Ohio two-thirds of the voters who turned out—and the margin was over a 1 million voters difference between those for and against. They overwhelmingly voted to say: We don't want to have to live under the Obama health care law; we want to be able to opt out of that, which is all small businesses want to do. They don't want to have to deal with these expensive bandaids. Let's work together and within our States and work with other small businesses, but we don't want to live under these very expensive Washington mandates, which makes it that much harder for us to hire people.

Mr. MCCAIN. Can we return just for a minute to medical malpractice reform because many people, when you talk about that, believe there has to be appropriate compensation when malpractice occurs. We all know malpractice occurs, so we don't want the innocent victims of medical malpractice—however it occurs in the health care scenario—to not be able to get just compensation in the case of malpractice on the part of the caregiver.

Mr. BARRASSO. That is exactly right. I agree. Studies have shown that in the system we live under today, less than one-third of the money actually goes to people who are deserving and ought to be receiving that money, and the other two-thirds goes to the system—lawyers, courts, and expert witnesses. So very little of the money paid in premiums actually gets to the injured party.

There are ways to do a better job of that with significant savings in the process—making sure people are appropriately compensated if an injury occurs but at the same time getting savings out of a system which is overwrought with money going to the wrong place and which also results in so many unnecessary tests being done in efforts of doctors and nurses and hospitals to protect themselves.

Mr. MCCAIN. I thank the Senator. I appreciate his unique expertise in the health care issues that are still transcendent in this country. I thank him for his enormous contributions.

I want to continue with some of this legislation.

The Unfunded Mandates Accountability Act, which was originally an act of Senator PORTMAN's, requires agencies specifically to address the potential effect of new regulations on job creation and to consider market-based and nongovernmental alternatives to regulation, broadens the scope of the Unfunded Mandates Reform Act to include rules issued by independent agencies and rules that impose direct or indirect economic costs of $100 million or more, requires agencies to adopt the least burdensome regulatory options and achieves the goal of the statute authorizing the rule and creates a meaningful right to judicial review of an agency's compliance with the law. If there is anything that has grown out of control, in the view of this Member, it is government regulations. First, we had a trickle, but now it is a flood, of government regulations, which then impose additional costs, which then take money away from job creation and, in particular, small business people. This is where accountability of the unfunded mandates is, at the very least, called for.

Senator BARRASSO may want to discuss this next provision. The Government Litigation Savings Act reforms the Equal Access to Justice Act by disallowing the reimbursement of attorneys' fees and costs to well-funded special interest groups that repeatedly sue the Federal Government. The bill retains Federal reimbursements for individuals, small businesses, veterans, and others who must fight in court against wrongful government action by eliminating taxpayer-funded reimbursement of attorneys' fees for wealthy special interest groups. The legislation helps eliminate repeated procedural lawsuits that delay permitting exploration and land management.

If the Senator would like to comment.

Mr. BARRASSO. Madam President, I would like to comment. Section 8 of this Jobs Through Growth Act is the Government Litigation Savings Act. This was something introduced in the House by CYNTHIA LUMMIS, a Member of Congress from Wyoming, and myself in the Senate. This legislation will return the Equal Access to Justice Act—or what I refer to as EAJA—back to its original purpose.

The small business entity or individual citizen should not have their individual liberties overrun by Washington. EAJA was meant to provide people with limited financial resources—veterans, Social Security claimants, small business owners—the ability to defend themselves against harmful government actions. That is how it was intended to be used. It allows individuals to sue the Federal Government, to recover part of their attorneys' fees and the costs.

This was a well-intended law, but it has been exploited—exploited by large environmental groups with large legal departments—and it is being used now as a profit center for these large organizations through litigation against our government, and they are all getting paid to do it. The total amount that has been paid is unknown, and the reason it is unknown is that since 1995 something called the Paperwork Reduction Act defunded all the reporting requirements.

There is an attorney in Wyoming, Karen Budd-Falen, who has conducted research to see how much money a lot of these environmental groups have made. She found 14 different environmental groups have brought over 1,200—14 groups have brought over 1,200—Federal cases in 19 States and the District of Columbia. They have collected over $37 million in taxpayer dollars through this Equal Access to Justice Act and similar laws, and this doesn't even include settlements and fees that were sealed from public view. This is what we can find in public documents.

Lowell Baier, who is the president emeritus of the Boone and Crockett Club, tracked through the IRS 990 forms and found that of the most litigious so-called nonprofit groups, they average over $9 million a year of taxpayer money, which of course hinders economic growth, limits creation of jobs by individuals and by small businesses and by energy producers, farmers, and ranchers.

So I am very happy to see my colleague included our efforts in this overall jobs package because I think these are the sorts of things we are trying to overcome and that make it harder and more expensive for the private sector to create jobs. I want to find ways to make it easier and cheaper for the private sector to create jobs.

If I could, we have been talking about the private sector. The majority leader has said: Oh, the problem isn't the private sector. He said it was the public sector—the government. Government is doing just fine. It is the private sector that has lost over 1½ million jobs from February of 2009 to September of 2011.

Mr. MCCAIN. I thank my friend.

Included in this package is the Employment Protection Act, introduced by Senator TOOMEY. It requires the EPA to analyze the impact on unemployment levels and economic activity before issuing any regulation, policy statement, guidance document, endangerment finding or denying any permit. Each analysis is required to 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.

Senator JOHANNS has contributed the Farm Dust Regulation Prevention Act, which prevents the EPA from regulating dust in rural America while still maintaining protections to public health under the Clean Air Act.

The National Labor Relations Board reform was introduced by Senator GRAHAM of South Carolina. From backdoor card check, to threatened jobs in South Carolina, the out-of-control National Labor Relations Board is paying back union officials at the expense of worker rights and jobs. To create more jobs, legislation prohibiting the NLRB from stopping new plants and legislation to prevent coercive, quick-snap union elections should be passed.

I am sure my colleagues are very well aware of the unprecedented and incredible action by the NLRB that basically prohibited a major aircraft manufacturing company from locating in the State of South Carolina, where it is a right-to-work State—an unbelievable overreach by a Federal bureaucracy—which still staggers the imagination, but it also shows that elections have consequences.

There is also the Government Neutrality and Contracting Act. It repeals the President's order requiring government-funded construction projects to only use union labor. This would reduce costs of Federal jobs projects by as much as 18 percent. That was Senator VITTER's contribution.

Senator SHELBY has introduced the Financial Regulatory Responsibility Act, which requires financial regulators to conduct consistent economic analysis on every new rule they propose, provide clear justification for the rules, and determine the economic impacts of proposed rulemakings, including their effects on job growth and net job creation.

With so many of these pieces of legislation I am talking about, a lot of Americans might say: Don't we do that already? Unfortunately, we don't.

Senator ROBERTS has the Regulatory Responsibility for our Economy Act, which codifies and strengthens President Obama's January 18 Executive order that directs agencies within to review, modify, streamline, expand or repeal those significant regulatory actions that are duplicative, unnecessary, overly burdensome or would have significant economic impacts on Americans.

Congressman GIBBS, over on the House side, has the Reducing Regulatory Burdens Act, which eliminates a new duplicate EPA regulation that will cost millions of dollars to implement without providing additional environmental protection.

On domestic job energy promotion we have, from Senator VITTER, the Domestic Jobs, Domestic Energy, and Deficit Reduction Act that would require the Department of the Interior to move forward with offshore energy exploration and create a timeframe for environmental and judicial review.

Senator MURKOWSKI has included the Jobs and Energy Permitting Act, which eliminates the confusion and uncertainty surrounding the EPA's decisionmaking process for air permits, which is delaying energy exploration in the Alaska and outercontinental shelf. It will create over 50,000 jobs and produce 1 million barrels of oil a day.

There is no one in this body who knows as much about these issues as the distinguished Senator from Alaska.

Senator BARRASSO again has brought forward the American Energy and Western Jobs Act. The bill streamlines the preleasing, leasing, and developmental process for drilling on public land and requires the administration to create goals for American oil and gas production.

The Mining Jobs Protection Act by Senators MCCONNELL, INHOFE, and PAUL requires the EPA to use or lose their 404 permitting review authority. Under this bill, the EPA will have 60 days to voice concerns about a permit application or the permit moves forward. Any concerns voiced by the EPA would need to be published in the Federal Register within 30 days.

Senator INHOFE has contributed the Energy Tax Prevention Act, which prohibits the EPA from using the Clean Air Act to regulate greenhouse gases.

The Repeal Restrictions on Government Use of Domestic Alternative Fuels Act would repeal section 526 of the Energy Independence and Security Act of 2007, which prohibits Federal agencies from contracting for alternative fuels such as coal-to-liquid fuel.

The Public Lands Job Creation Act of Senator HELLER eliminates the burdensome and unnecessary delay in approval of projects on Federal lands by allowing the permitting process to move forward unless the Department of the Interior objects within 45 days. This will streamline the permitting process for domestic energy and mineral production on BLM lands without compromising environmental analysis.

Senator MCCONNELL has introduced the renew trade promotion authority, which would provide the President with fast-track authority to negotiate trade agreements that will eliminate foreign trade barriers and open new markets for American goods.

We all know trade promotion authority is vital to the eventual enactment of free-trade agreements. I am incredibly depressed that we would not have renewed this trade promotion authority along with the passage of the long overdue free-trade agreements we just passed through this body.

The President and my colleagues on the other side of the aisle have become fond of saying Republicans have no plan for creating jobs and putting America back on a path to fiscal prosperity. Nothing could be further from the truth. As I have just laid out in the plan before us today, we have compiled many job-creating measures offered by our colleagues in the Senate.

Furthermore, since January, our colleagues in the House of Representatives have passed at least 22 job-creating bills. Guess how many of the bills that were passed by the House of Representatives have gotten consideration in the Senate. Five.

Similar to our plan, our colleagues in the House have focused a great deal of attention on empowering small businesses and reducing government barriers to job creation. Here are just a few of the commonsense, job-creating measures passed by the House, none of which have been considered by the Senate: review of Federal regulations, reducing regulatory burdens, the Energy Tax Prevention Act, the Clean Water Cooperative Federalism Act, Consumer Financial Protection and Soundness Improvement Act, Protecting Jobs From Government Interference Act, Transparency and Regulatory Analysis of Impacts on the Nation Act, Cement Sector Regulatory Relief Act, and the EPA Regulatory Relief Act.

So the next time we hear the President of the United States say Republicans are blocking or have failed to take up or failed to bring forward a proposal, we have proposals, and we have measures that have been passed by the House. The proposals in this jobs plan bill deserve the consideration of this body.

We need to prove to the American people that we will do everything we can to eliminate the waste of their hard-earned dollars. Enacting an enhanced rescission authority to give the President statutory line-item veto authority to reduce wasteful spending is an issue we have been looking at for years.

Why do we need to grant the President enhanced rescission line-item veto authority? According to a database created by Taxpayers Against Earmarks, washingtonwatch.com, and Taxpayers for Common Sense, for fiscal year 2011, Members requested over 39,000 earmarks totaling over $130 billion. Just last December, we were forced to consider, at the very last minute, an Omnibus appropriations bill that was 1,924 pages long and contained the funding for all 12 of the annual appropriations bills for a grand total of $1.1 trillion. In the short time I had to review that massive piece of legislation before it was brought to the floor, I identified approximately 6,488 earmarks, totaling nearly $8.3 billion.

We need an enhanced rescission act.

Thankfully, the massive omnibus was not enacted. But these earmarks, and the process by which they make their way into spending bills, are evidence that the system is badly broken and in need of reforms.

I have more to say, and I have taken too much time in the eyes of many of my colleagues, perhaps, and I want to apologize to any of my colleagues who had planned to speak on the floor and have been preempted by my long remarks. But I feel that we have an obligation to the American people to address the issues that are of greatest concern and the greatest amount of

pain to them today, and that is jobs and the economy—jobs and the economy.

I care a lot about our national security challenges and I care a lot about what is going in the world. But when I go home and a woman stands up at a townhall meeting with her two children and says, I don't have a job and I am being kicked out of my home next week; when we have people who are being thrown out of their houses, and over half of the homes in my home State of Arizona are under water—in other words, worth less than the mortgage payments they are required to make—when we have chronic unemployment that in some cases, such as down in Yuma, AZ, is well into double digits, then we have to get going on getting some jobs and the economy back on the right track.

I want to repeat—and I don't mean to be confrontational with my colleagues, but we tried for 2 years, when the other side had the majority in the House and the Senate and they had passed major pieces of legislation that were advertised to get our economy back on track—they didn't—can't we try something different? Can't we try the kinds of things that have brought us out of other recessions? Can't we ask our colleagues in the Senate to create a simplified tax system that the Heritage Foundation says, by lowering the corporate rate to 25 percent, the number of jobs in the United States would grow on an average of 581,000 annually from 2011 to 2020? Can't we look at this regulatory system, which has put such a damper on small businesses and large? Can't we give American people a break from the flood of new regulations that continues to come down and is a major factor in this environment of uncertainty amongst businesses small and large?

The approval rating of the American people of Congress is now, the latest poll I saw, 9 percent. That is something that I joke about, but it is also something that grieves me a great deal because I believe the overwhelming majority of the Members of Congress are here and are dedicated to serving their constituents in the most honorable fashion and in the best possible way they can, according to their values and their principles.

But it is a fact that the American people are very angry and they are very upset. One of the major reasons is, of course, they have not seen progress in the economy. And that is very understandable. We are now seeing these Occupy Wall Street people. The tea partiers will probably be rejuvenated. We are seeing expressions of anger and frustration all over the country, and it is unfortunate. But I believe that a couple of things are going to happen unless we act in a more efficient fashion that addresses the concerns of the American people, and that is I believe you will see the rise of a third party in this country, and I think also you will see greater and greater manifestations of opposition to business as usual here in Washington.

As I said at the beginning of my remarks, I am more than eager to sit down with my colleagues on the other side of the aisle and come together particularly on some of the issues that clearly we have stated on both sides we are in favor of.

Again, my apologies to my colleagues whose time I may have preempted on the floor. But I think this issue of jobs, which we will be voting on tomorrow, is one that deserved more than passing attention.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Connecticut.

Mr. BLUMENTHAL. I thank the Senator from Arizona for his remarks, and certainly for me, at least, he owes no apology for having spoken his mind. I always welcome the opportunity to listen, and I have done so, and am honored to follow him.

AMENDMENT NO. 927

Today I speak as we approach Veterans Day, and I believe this Veterans Day may be particularly significant for our Nation in part because we have the opportunity in this Chamber to honor some very special veterans, the Montford Point marines, who graced us with their presence yesterday as we celebrated the 236th birthday of the U.S. Marine Corps. They were present then. They were present in 1942, when they stepped forward to serve and fight for this Nation. They are African Americans who fought and served for this Nation at a time when they anticipated no recognition and certainly no honor, and we have the opportunity between now and Veterans Day to approve a measure that would grant them the Congressional Gold Medal, which they richly deserve and they have earned through their service. They are the epitome of the Marines—they happen to be marines—and of the service men and women whom we honor on this Veterans Day. They happen to be men of the ''greatest generation,'' the World War II generation. They are among the greatest of that generation.

I had the great honor to be with them yesterday, in fact to be the honored guest in the Russell Building when the commandant and I had the privilege to honor them. Their presence yesterday reminds us of our continuing obligation to all veterans and of the need to make the well-being of our veterans a priority, as I have sought to do.

Indeed, my first bill, entitled Honoring All Veterans, has as its objective to leave no veteran behind. It offers a comprehensive set of measures to assure that we keep faith with every veteran, every veteran who needs a job, every veteran who needs better health care or counseling or training or education. These commitments we have made as a nation to all of our veterans and now we have the opportunity to keep those promises and keep faith with them, as we have a solemn obligation to do every day, every year, not just Veterans Day.

I want to thank Senator HARKIN of Iowa for cosponsoring the legislation I have offered, and also to thank Senator TESTER, Chairman MURRAY of the Veterans Committee, and Ranking Member BURR of that committee for their work to address these challenges recognized by the Honoring All Veterans Act and this comprehensive measure, VOW to Hire Heroes amendment. Truly, we should vow to hire our heroes, and we should do so not just in words but in deed, not just in rhetoric but in action, and I am proud to be a cosponsor of the important tax credit provision in the Tester veterans jobs amendment for businesses that hire veterans.

Helping veterans is a challenge that will require the engagement of everyone in the community, from Congress to veterans service organizations and business leaders across the board, across the country, across the State of Connecticut.

At a recent veterans hiring forum I hosted in Connecticut, I heard firsthand the challenges in veterans recruitment, and what innovative companies such as United Reynolds were doing to hire skilled and talented veterans in this symposium in that setting. They provided an example of what we can and should do.

I see my cosponsorship of this amendment as honoring a commitment to push for legislation to provide incentives to firms to hire unemployed veterans, and to make it easier for companies to connect with veterans so they can fill some of the jobs that are now available. There are jobs available, and we should give our veterans the skills they need, skills they may have acquired in part during their service that need to be honed and expanded, and we have that opportunity. I want to thank all of those Senators for championing this measure.

My own legislation, Honoring All Veterans Act, allows a veteran to take the Transition Assistance Program, known as TAP, an interagency workshop coordinated by the Departments of Defense, Labor, and Veterans Affairs for up to 1 year after separation at any military facility. The bill before us makes participation in the program mandatory. Low participation rates in this program are especially concerning, as junior members tend to be those most in need of the services provided by TAP, and the benefits available through the VA for many skills such as simple skills, writing resumes or interviewing have never been needed or learned before. Not having such skills, not knowing how to interview or write a resume puts them at a severe disadvantage when they are attempting to enter and succeed in the workplace after they exchange their military uniform for civilian clothes.

Section 222 of the VOW to Hire Heroes Act authorizes an assessment of

the equivalence between skills developed in military occupational specialties and qualifications required for civilian employment with the private sector.

I like to say that when you call out the National Guard, you call out the best in America. When you call out the Connecticut National Guard, you call out truly the very best in America. The military recruits the most talented men and women in America to serve, and then invests heavily in those skills and their professional development. Yet when they enter the civilian world, very often those skills are simply unrecognized by laws requiring separate training or licensure, and we ought to do more to recognize the expertise and experience the military gives to these brave men and women. That is why I authored a similar provision in the Honoring All Veterans Act to ensure that civilian employers and educational institutions recognize a veteran's military training.

The Iraq and Afghanistan Veterans of America reported—and I am quoting—61 percent of employers do not believe they have a complete understanding of the qualifications ex-servicemembers offer. And, recently separated servicemembers with college degrees earn on average almost $10,000 less than their nonveteran counterparts.

I applaud my colleagues for including section 222 in the VOW to Hire Heroes Act. It is a vital step toward helping employers find the employees they need and toward closing the income gap that exists now.

The legislation before us also expands education and training opportunities for older veterans by providing 100,000 unemployed veterans of past eras and wars with up to 1 year of additional GI benefits to go toward education and training programs at community colleges and technical schools. I am proud of the bipartisan compromise to extend this period for 1 year. I hoped it would be even further broadened and extended, but this measure is a great first start toward providing skills for job opportunities that now exist and can be filled by men and women coming out of our military to civilian life.

Let me say, to come back to the Montford Point marines, I want to thank Senator PAT ROBERTS who was with me yesterday at the 236th birthday celebration, and most especially I thank the Senator from North Carolina, KAY HAGAN, who is with us today, for her leadership on this issue. Truly, we can make this Veterans Day special for all of us in this Nation if we approve this Congressional Gold Medal to men who stepped forward to serve and fight when this Nation failed to appreciate their service and valor. Now we have the opportunity to make good on our commitments to them as veterans—to all of our veterans—in this measure. I am proud to join colleagues on both sides of the aisle in nearing now the number that is necessary to approve that measure, and I hope we can reach that kind of bipartisan consensus on that legislation, but also on the broader VOW to Hire Heroes Act, that can lead us back to the kind of bipartisan approach on so many issues that we need to emulate in this body.

I thank my colleagues for supporting this measure, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I stand today, just 2 days away from Veterans Day, to urge my colleagues to support our courageous service men and women, our veterans and their families, by voting for the VOW to Hire Heroes Act of 2011. This legislation would have a tremendous impact on every part of our country, but it would be especially significant in my home State of North Carolina, the most military-friendly State in the Nation.

In North Carolina we are blessed to be home to so many of our country's heroes. I don't think most people understand that nationwide military servicemembers account for only 1 percent of our country's population. But in North Carolina, more than one-third of our population is either in the military, is a veteran, or has an immediate family member who is in the military or is a veteran. Over 700,000 veterans call North Carolina home.

I know that makes our State stronger. I know because, like so many North Carolinians, I too come from a strong military family that instilled in me a sense of responsibility to my community and to my country. My husband, my father, my brother are all Navy veterans. My father-in-law was a two-star general in the Marine Corps, and my two nephews have both served in Iraq and Afghanistan.

I know because I have traveled my State's eight military bases from Fort Bragg to Cherry Point to Camp Lejeune to bases in Iraq, Afghanistan, and Kuwait. I have seen up close the incredible demands placed on our military and the remarkable bravery and patriotism they exhibit each and every day.

I know because whether I am meeting a general, a young private, a wounded warrior, or a 90-year-old veteran traveling on one of the Flights of Honor that bring our World War II veterans to DC to see their monuments, there are certain qualities that I always recognize in those who serve in the Armed Forces. These are selflessness, personal integrity, and an unmatched work ethic and unwavering courage.

I take it personally as a Senator from North Carolina, as well as a proud daughter, wife, and sister of a veteran when our military members and their families are hurting. I take it personally when this country of ours does not live up to the promises we make to our service men and women. Right now our military families are unquestionably hurting. Right now we have lapsed in our commitment to our heroes.

As has been said many times on this floor, the unemployment rate among Iraq and Afghanistan war veterans is an unconscionably high 12.1 percent. That is more than 3 percentage points higher than the national average unemployment. That is about a quarter of a million men and women, all of whom have put their lives on the line to protect our country, who are now struggling just to earn a paycheck—240,000 heroes with irreplaceable skill sets and experience who cannot find a job.

We cannot forget that every unemployed veteran has a family, a family who has likely spent untold sleepless nights worrying if their loved one is safe. Now, after years of selfless service, these families are forced to worry if they can pay their monthly bills, if they can even afford to keep their homes.

According to HUD's 2010 Annual Homeless Assessment Report, more than 1,000 North Carolina veterans are homeless and spend every night without a roof over their head. That is simply 1,000 too many. This is not a fate that we can accept for our veterans. This is not the country we strive to be. We need to support our veterans when they make the transition from the military to the civilian workforce. We need to provide them with the training and resources they need to transfer those skills to the private sector. We need to encourage our business owners to employ some of our country's most highly trained, highly ambitious, and highly motivated individuals.

The VOW to Hire Heroes Act does just that. It provides a tax credit of up to $5,600 for hiring veterans. For our wounded warriors it includes a tax credit of up to $9,600—for hiring veterans with service-connected disabilities. It requires our service men and women transitioning to the civilian workforce to participate in the Transition Assistance Program, which provides services such as resume writing workshops and career counseling to help these individuals land the jobs that are available. It expands education and training opportunities at our community colleges and technical schools for 100,000 unemployed veterans who served prior to September 11.

I am pleased to say that some provisions of this legislation are very similar to a bipartisan bill that Senator SCOTT BROWN and I introduced earlier this year. The priorities this legislation focuses on are not Democratic priorities. They are not Republican priorities. Supporting our veterans is and has always been an American priority. We owe it to them, but we also owe it to our future.

I hope many saw the August cover story in Time magazine that described our veterans returning from Iraq and Afghanistan as ''the next greatest generation.'' If you have not read it, I highly encourage you to do so. The author, Joe Klein, whom I met on a military transport plane in Afghanistan, spent the past 5 years visiting with

Iraq and Afghanistan veterans across the country, including two best friends he met from North Carolina. These friends, Dale Beatty and John Gallina, whom I met last year in Charlotte, joined the North Carolina National Guard together, deployed to Iraq together, and nearly died together when their humvee was blown up by an antitank mine. Dale lost both his legs and John suffered a traumatic brain injury.

When a local homebuilders association offered to build Dale a home, Dale and John were both inspired to assist other handicapped veterans. Today their nonprofit Purple Heart Homes, headquartered in Statesville, NC, helps build and adapt homes for service-disabled veterans.

Dale and John represent, as ADM Mike Mullen said, ''part of a generation who is flat out wired to contribute, flat out wired to serve.'' As GEN David Petraeus told Time magazine, our veterans ''have had to show incredible flexibility, never knowing whether they're going to be greeted with a handshake or hand grenade. They've been exposed to experiences that are totally unique. . . . I believe they are our next great generation of leaders.''

There are many more Dale Beattys and John Gallinas out there, but we cannot leave our next great generation of leaders standing in an unemployment line. We must come together and fight for our veterans and their families just as hard as they have fought for our freedoms. We must pass the VOW to Hire Heroes Act.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BEGICH. Mr. President, I rise today to express my strong support for the VOW to Hire Heroes Act. Very simply, it is a bill that will help our returning heroes get good jobs as they transition back into civilian life.

The bill is supported by Democrats and Republicans alike. I look forward to the passage of this bill tomorrow—perfect timing as our country prepares to honor the bravery, sacrifice, and commitment of our American veterans.

Since I first walked into this Chamber nearly 3 years ago, it has been a great privilege to serve on the Committee on Veterans' Affairs. I am also proudly serving on the Armed Services Committee. From these positions I have worked on behalf of the 74,000 veterans who call Alaska home and the more than 28,000 Active-Duty and Reserve component men and women serving our great country.

My State of Alaska, for all its unique geography and demographics, has the distinction of being the home of the largest proportion of veterans per capita of any other State in our country.

Alaska has a proud history of defending our country. This poster shows our troops preparing for battle on Alaska's soil during World War II. Although many Americans are still not aware, there was fierce fighting in the Aleutians as the Japanese launched a diversionary attack in preparation for the Battle of Midway. One of my most rewarding moments so far as a Member of this body was making sure that two dozen brave members of the Alaska Territory Guard, all distinguished Alaskan Native Elders, finally got the recognition they earned for their courageous service to this Nation more than a half century ago. We can see by this poster, a few of them here long before Alaska was a State and our country was engaged in World War II, these Alaskan heroes answered their Nation's call on America's most remote frontlines.

In 2009, the Senate approved an amendment to the National Defense Authorization Act that I sponsored with my colleague, Senator MURKOWSKI, that President Obama signed into law. Twenty-five surviving territorial Guardsmen finally received their retirement pay and recognition they earned so many years ago. I have done my level best to support our troops in other ways, including expanding services and programs for homeless veterans, including more support for women veterans and expanding telehealth services for our rural veterans.

Supporting the post-GI bill. This provides tuition assistance for veterans and takes into consideration living expenses so students can better focus on their education. It allows for servicemembers to pass this entitlement to their immediate families.

Every time I meet a veteran, I thank him or her for their service to our country. I know they appreciate that. All Americans should go out of their way to thank our veterans, not just on Veterans Day but every day. But thank you only goes so far. It doesn't pay the mortgage or buy groceries. Our veterans really need good jobs. The statistics are shameful. More than one in four veterans under the age of 24 is without a job. A quarter million post-9/11 veterans are unemployed.

As you can see by this chart, that is a 12-percent unemployment rate, and it simply is unacceptable. The VOW to Hire Heroes Act will create new direct Federal hiring authority so jobs will be waiting for our veterans the day they leave the military. It will provide tax credits for employers who hire veterans and wounded veterans who have been looking for work. It will improve the transition process as servicemembers leave the battlefield and enter the workforce. This legislation also expands training opportunities at community colleges and technical schools for 100,000 unemployed veterans who served before September 11. It expands additional Montgomery GI benefits for older veterans for up to 1 year.

Let me take a few moments to talk about an additional challenge faced by veterans in my home State. Many of Alaska's returning warriors come home to the most remote areas of America. Alaska boasts unsurpassed beauty. It can also be a challenging and dangerous place to live.

Right now, as I speak on this floor, the northwest coast of Alaska is being struck by winds approaching 100 miles per hour and storm surges of 8 feet or more. With waves up to 30 feet, coastal erosion and flooding is truly and certainly going to happen. If this were happening today on the east coast of America, this storm would have some name to it, and we would not be hearing or reading about anything else but that storm. To give you a concept of how far reaching this storm is, imagine a storm reaching from Mexico, along the west coast, up to Washington State. That is the size of the storm that is occurring right now.

So if you think veterans in other parts of the United States face challenges in employment, job training, access to health care, and there is no doubt they do, you should see some of our circumstances in Alaska.

Here are two stories about real Alaskans. The first story is about a disabled Army veteran living in Kipnuk, a small Yupik Eskimo village on the far western coast of Alaska. This vet suffered a spinal cord injury in 2006 that requires yearly evaluation. He must travel to a VA hospital in Seattle to receive his care. That is a trip of thousands of miles and thousands of dollars.

Additionally, for more routine illnesses, such as the flu, he is forced to travel to Anchorage, to a VA clinic there, still a jet flight away from his home, and, again, close to $1,000.

There is the retired Air Force veteran who needed to have hardware removed from his wrist and shoulder following a failed surgery. The VA sent him to the hospital in Seattle despite the fact that several hospitals in Anchorage—closer and less costly to get to—could have performed the procedure.

There are many stories similar to this that I hear every single day when I travel my State. It doesn't matter where I go; one veteran or veteran's family member will tell me a very similar story. That is why we continue to push for a piece of legislation that I have introduced, the Alaska Hero's Card. It is so simple when you look at what we are trying to do.

If health care services are available closer to home, then any Alaskan veteran would simply present the card at the federally qualified health clinic and get the services. It limits their time traveling away from their families, it lowers the costs of the VA, and it gives services where they need them and can get them. It is truly a win-win. More importantly, it allows, as I said, veterans to be with their families.

Mr. President, you have been an incredible advocate on health care issues. When you try to do health care rehabilitation and services and take someone from a rural community and take

them to a large community, the odds are the rehabilitation will go slower or the service will not be as effective. We have to do what we can to ensure that they have the service closer to their homes and their families and at a lower cost.

As we approach Veterans Day, I would like to recognize the Arctic warriors serving our country. The members of the 4th Stryker Brigade Combat Team from Fort Wainwright, AK, have been serving with distinction in Afghanistan since May of this year. The 4th Airborne Brigade Combat Team will deploy to Afghanistan at the end of this month for a total of more than 9,000 Alaskan-based troops on the ground there.

In addition, there are 550 airmen and soldiers still in Iraq today but will be coming home by the end of the year. Our Alaska National Guard units and members are in both countries, Iraq and Afghanistan.

To our Arctic warriors, thank you. Thank you for your service and sacrifice to our country, and thank you to the families who are supporting our Arctic warriors as they serve this great country. So to honor them and all the brave men and women who have served and are currently serving, let's come together on the floor of this Chamber. Let's put our differences aside. Let's pass the VOW to Hire Heroes Act and help put America's veterans back to work.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

AIR QUALITY

Mr. LAUTENBERG. Mr. President, with all of the important issues we constantly face in life, none compares to our concern for the health of our children. But the health of our children depends not only on us but what others might be doing—such as poisoning our air with secondhand smoke or deliberately fouling the air our kids breathe.

Few would stand by while a smoker puffs away where your child is inhaling. That is why we worked so hard to prohibit smoking on airplanes—to keep someone else's smoke out of our children's lungs. Yet when emissions from a powerplant in one State threaten people in a neighboring State, too often nothing is done about it. Make no mistake, pollution doesn't recognize State boundaries. Communities across our country are being forced to bear the consequence of another community's polluters, and this is happening in my State of New Jersey, where people are suffering because dirty air is blowing into our communities from out-of-State smokestacks.

Look at this horrible picture. Anything more threatening would be hard to imagine. The toxins coming out of smokestacks like these don't disappear. They typically wind up polluting playgrounds and school yards in New Jersey, and other eastern States. In fact, a single powerplant in eastern Pennsylvania is responsible for more sulfur pollution in New Jersey than all our State powerplants combined.

This year the Environmental Protection Agency took a major step toward protecting children from out-of-State emissions when it adopted the cross-State air pollution rule. This commonsense safeguard requires polluters to reduce the levels of dangerous soot and smog that they release into the air. The rule sends a clear message to powerplants in upwind States that they can no longer dump their dirty air on States that lie downwind.

Unfortunately, one of our Republican colleagues has proposed a resolution to block the EPA's efforts. This misguided message would put polluters' profits before the health of our families and children, and the consequences would be devastating.

Air pollution can cause asthma attacks, heart attacks, strokes, and cancer. Long-term exposure can also damage the immune, neurological, and reproductive systems. Nationally, almost 1 in 10 children now suffer from asthma. That is according to the Centers for Disease Control and Prevention. In some parts of New Jersey, one out of every four residents has asthma. We should be working to make skies cleaner for these children—not dirtier.

Some on the other side say we cannot afford to worry about the health of our children and our communities right now. They claim the new rule will kill jobs. This is not about killing jobs, it is about saving lives, and we should not allow ourselves to be misled. According to EPA, the new rule will prevent 34,000 premature deaths and 15,000 heart attacks from taking place.

The new standard would also prevent as many as 400,000 asthma attacks, improving life for children such as my own grandson who suffers from asthma. My daughter makes sure she finds an emergency clinic before my grandson plays ball or indulges in a sport because if he starts to wheeze, he has problems.

My sister, who was on the board of education in a city in New York State, was at a board of education meeting when she began to start to wheeze. In her car she kept a small device, a little respirator, and she ran for the parking lot. She didn't make it. She collapsed in the parking lot and died 3 days later.

For those who insist we cannot have both clean air and a strong economy, I say we cannot have a strong economy without clean air. Simply put, if you cannot breathe, you cannot work.

The fact is, many powerplants, factories, and other companies are ready to work with the EPA to reduce their impact on the environment. Take the example of Public Service Electric and Gas, which is New Jersey's largest utility. PSEG has already invested resources to reduce soot, smog, and mercury pollution by more than 90 percent. In the process the company has created over 1,600 construction jobs. That is why PSEG supports the EPA rule.

Ralph Izzo, the president of the company, said:

> Our experience shows that it is possible to clean the air, create jobs, and power the economy at the same time.

The bottom line is, this rule will protect the health of our economy, our workers, and our children. I urge my colleagues to reject this dangerous amendment and protect every American's right to breathe clean air.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, earlier today in the Environment and Public Works Committee—the Presiding Officer was at that meeting—something unusual happened. We had a major bill that will extend the Highway Surface Transportation Act for 2 years, passed by a unanimous vote, all the Democrats and Republicans joining together in order to move forward a bill that will help create jobs. I hope we will find the same spirit of cooperation on the legislation that is now before us. It helps create jobs for our community and, with the Tester amendment, we have a win-win situation.

This, first and foremost, is about creating jobs. The Tester amendment allows us to create more jobs that will help American families, help our economy, and even help our budget deficit, because when more Americans are working, more are paying taxes, and less government services are needed.

All agree we need to help our returning veterans, those who have served so well in Iraq and Afghanistan, defending the principles of our country and defending our basic freedom. On Friday, we will celebrate Veterans Day, and I know all of us will be speaking about how much we appreciate the service of our veterans. We need to show our appreciation not only by words but also by deeds. Yes, we fight to make sure our veterans have the health services they need, and we want to make sure all of our military have the support they need. We want to make sure our military families are properly taken care of. But one thing we can do with this legislation is help veterans get jobs when they return home.

The unemployment rate among our returning veterans is higher than the unemployment rates in our general community. We need to help our veterans find employment. That is one way we can show our appreciation for the men and women who have served our Nation.

The bill before us, with the Tester amendment, will give incentives to employers to hire returning warriors from Iraq and Afghanistan. It will expand the education and training services so they have the skills necessary for civilian employment. It will help us deal

with a chronic problem we have of returning veterans, under the age of 24, where the unemployment rate is 21 percent. This bill, with the Tester amendment, will allow us to do something to help our returning veterans and help our economy.

But the underlying bill also goes further. It helps small businesses. Small businesses are the growth engine of America. That is where job creation takes place. That is where innovation takes place. We currently have a requirement that has not yet gone into effect that would require small businesses that have contracts with the government over $10,000 to withhold 3 percent of those funds in order to make sure taxes are paid. We need to repeal that provision, and this bill will repeal that provision. We should go after those who are delinquent in taxes, and we have a provision to make sure we do that, but for small business to tie up that type of capital affects their ability to compete. It affects their ability to expand job opportunity. Repealing that provision is important to help small business help our economy.

It also would eliminate an administrative burden for a lot of our local governments. It also will make it more competitive for small businesses. The 3-percent withholding would affect actually the cost of production. All that means a stronger economy and more jobs.

This bill is a win-win bill. It helps our veterans. With the Tester amendment, it helps small businesses by repealing a provision that is extremely burdensome. It is fully paid for so it does not add anything at all to the deficit, and it will help us grow our economy. By passing this bill, not only will we help our veterans, we will help our small businesses and we will help our economy.

I urge our colleagues to show the same type of cooperation we did on the surface transportation bill today in our committee. Let's use that same spirit of cooperation to get this bill moving, with the Tester amendment. Let us pass it and send it back to the House and, hopefully, we can get it to the President shortly for signature and help our veterans and help our economy.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

THE GLOBAL ECONOMY

Mr. BENNET. Mr. President, I am going to replace the Presiding Officer in the chair in a few moments, but before that, I wished to come to the floor and talk about our economy and some work this Congress needs to be engaged in if we are going to get things moving on the right track again.

Today, the stock market plunged 400 points because of concerns that are going on in Europe, especially with Italy. It is a debt crisis that has been on the front page of every newspaper around the globe for weeks and in some cases months.

I am reminded of the discussion we had over the summer that consumed the Congress for an entire summer, about the lifting of the debt ceiling. Article after article after article said that if the Congress couldn't figure out how to work this out in a bipartisan way and make a material difference in the trajectory of our deficit and our debt that, for the first time, our credit rating would be downgraded. For the first time in the history of the United States of America, the full faith and credit of the United States would be called into question.

That was on the front page of every newspaper for weeks. In the end, we stumbled across that finish line, and in the end our debt was downgraded. I would argue we are about to face the same thing again and have the chance again to do the right thing—to act in a bipartisan way, to create a thoughtful approach to our debt and our deficit that allows us to continue to invest in our economy.

Families in Colorado, much as the families in Rhode Island, are struggling in an economy that is the worst since the Great Depression. We are coming out of it now, but there are significant structural issues in that economy. I have shown this chart before. There are four simple lines. The blue one is the productivity index, which shows our economy has actually gotten substantially more productive since the early 1990s, substantially more productive during this recession for a variety of reasons. One reason is that our companies have had to learn to compete with the rest of the world in a way they have not before, so they became more efficient. The benefits technology has brought has driven up this curve. Unfortunately for our workers but understandably for our businesses, they have had to figure out how to get through this recession with fewer people so they can get through to the other side.

The second curve is our gross domestic product, the size of our domestic economy, and it is not where it was before the recession, but it is headed back there.

The other two lines are the unemployment level, which this chart says is 14 million people, but I think the number is closer to 25 million, when we consider who has stopped looking for work and when we consider who is underemployed in this economy. Then this line is a tragedy for our families, which is falling median family income.

This chart—it is a little hard to read—is a pretty good depiction of what is happening. This red line represents the bottom 90 percent of income earners in this country. Think about that. We are talking about the bottom 90 percent. That is everyone, except for 10 percent. It shows the share of the income in the United States that they are earning. It starts out here in the 1920s and goes to today, where the bottom 90 percent are earning roughly 47 percent of the income. The last time that was true, by the way, was 1928, the year before the Great Depression and the market crash. The top .1 percent earns 10 percent of the economy—.1, not 1 percent—.1. The last time that was true was 1928. All through the productive times in the 20th century, the 1950s and the 1960s and the 1970s, there wasn't that kind of imbalance in our economy. This group earned roughly—90 percent earned roughly 70 percent of the economy and everybody else earned a fair share of the economy, and the economy grew and we were able to build for the future.

Those are structural issues in the economy we can help with, we can work together to fix, but what we have to do right now is avert predictable crises that are within our control so we don't make matters worse.

Sometimes when I travel, people don't know why we need to worry about what is going on in Europe. This afternoon I wanted to bring a chart that shows the soaring debt of all these European economies and the United States. We are the blue line here. This is Greece up here. Everybody is in tough shape. Everybody has made promises they can't keep. Everybody has levered up in a way that isn't sustainable. But what is also true is that we are all interrelated. If something bad happens in Europe, something very bad is going to happen here, just as when the capital markets fell apart at the beginning of the last recession.

This chart shows how dependent our economy is on exports to Europe. Between one-fifth and one-sixth of the total value of our exports goes to Europe. If the European banks fail, if the governments can't pay back their debt and the economy comes to a screeching halt in Europe, they are not going to buy our exports. Those are American jobs we need to worry about. Those are American jobs we need to defend and protect and we need to understand this relationship.

Look at the exposure of our U.S. banks to Europe. This red part is the euro area. It is 29 percent of the total international exposure of our banks, with 23 percent to the U.K. More than half of the foreign exposure of our banks is European debt.

We were unable to come to a rational conclusion on the debt ceiling. So the Congress punted this decision to a supercommittee and asked them to please help us make the decision. My own hope is that the supercommittee takes a page out of the bipartisan proposals that were reached—the one that was led by Bowles and Simpson, the one by Rivlin and Domenici. I think the details are less important, frankly, than the size, but that takes $4 trillion out over the next 10 years, a balance of cuts to revenue of roughly 3 to 1, that sends a message to the world that the United States is serious about dealing with its fiscal matters. If we don't do that in advance of this European crisis that is on the front page of every newspaper in the country, I can assure my

colleagues that the choices we have in front of us will be even tougher than they would have otherwise been.

Sometimes I get the feeling that people around here actually don't think the American people are watching this screaming match, are watching the disagreements, are watching the political games, but they are. They know exactly what is going on here, and they understand the seriousness of these issues because they are living through that economy I spoke of earlier. That is what they are worrying about. They are making less today than they were 10 years ago. They are making the same amount they were making 20 years ago. They can't afford to send their kid to college. They can't afford their health care, and they would like us to help straighten that out, but at a minimum they would like us to prevent matters from getting worse. They would like to see us work together.

Some people here think Congress has always been unpopular, that it is just as an institution an unpopular place. Not so. Look at this. Here is Congress's approval rating today: 9 percent. That is a pretty catastrophic fall-off in the last 10 years, and I would argue it has an awful lot to do with our inability to address problems the way people in their local communities are doing. There is not a mayor in Colorado who would threaten the credit rating of their community for politics—not one. Not a Republican mayor, not a Democratic mayor, not a tea party mayor, not one would imagine doing it for a second because people in our communities would know that all that would do would be to drive up our interest rates, make us spend more money on interest and less on infrastructure, more on interest and less on education, more on interest and less on the health and welfare of our citizens.

We know that at the local level, but somehow here we get to color outside the lines. We are now at 9 percent, which is almost at the margin of error for zero. We did some research to find out what else is at 9 percent. We could not find virtually anything in public polls taken all across this country. My goodness, the Internal Revenue Service has a 40-percent approval rating compared the our 9 percent. BP had a 16-percent approval rating at the height of the oilspill, and we are at 9 percent. There is an actress who is at 15 percent. More people support the United States becoming communist—I do not, for the record—at 11 percent than approve of the job we are doing. I guess we can take some comfort that Fidel Castro is at 5 percent.

Look, we are suffering—and when I say ''we,'' I mean families across this country—through the worst recession since the Great Depression. We can see on the front page of every single newspaper what the stakes are here if we do not act in a comprehensive way on our debt and our deficit. We know that both parties have different approaches to the challenges we face. But at the end of the day, these challenges are the challenges of the American people, not the challenges of a bunch of politicians in Washington who are worrying about the next election.

My hope is the supercommittee shows leadership here, that it gives the opportunity for every Member of this body to express their leadership here, and that all of us are able to go home to red parts of our State and blue parts of our State and say to the people: We saw the problem coming, and we led the world. We materially addressed the problem we faced. We acted in a bipartisan way. We came up with a plan that said: Do you know what. We are all in this together for the benefit of our kids and our grandkids, for the people who are suffering through this economy.

There is $2.3 trillion of cash sitting on companies' balance sheets in the United States of America tonight that is not being invested because no one knows what interest rate environment they are going to be in because they do not know what Washington is going to do. We shattered confidence in this economy this summer. We should not do it again.

This is a popular number, this 9 percent, these days, you may have noticed, on the Presidential campaign trail. It is not a popular number for the American people: 9-percent approval. Let's do something right here, and let's drive these numbers back up, and let's restore confidence in the American people.

With that, Mr. President, I thank you for your patience and yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

NET NEUTRALITY ORDER

Mr. THUNE. Mr. President, I rise today in support of S.J. Res. 6, a resolution of disapproval of the FCC's net neutrality order.

Over the last 2 years, the Federal Communications Commission put forward a variety of what are considered net neutrality policies. On September 23 of this year, the FCC published a final rule in the Federal Register which is set to go into effect on November 20 to impose harmful net neutrality regulations on our Nation's telecommunications companies.

The digital world in which we now live has changed dramatically the way we retrieve information, communicate with one another, and engage in commerce. Technological advances, even in the last few years, have pushed our economy forward. These advancements in technology and their adoption often depend heavily on access to broadband technologies.

While the telecommunications industry has flourished, boosted our economy, and made critical investments in broadband deployment across the country, this administration believes that imposing additional regulations is a step in the right direction.

In places across the country, such as my home State of South Dakota, there is still work to be done when it comes to unfettered and affordable access to high speed broadband. With the FCC voting recently to reform the Universal Service Fund to shift to a focus on broadband deployment, it seems to me that simultaneously moving forward with net neutrality regulations will have a chilling effect on this now thriving industry.

We learned last week from the Department of Labor that the unemployment rate still hovers around 9 percent. The American people want to see Federal policies that encourage innovation and spur job growth, not yet another regulatory overreach by an overzealous agency. Unfortunately, the FCC net neutrality policy will give considerable authority to unelected bureaucrats to decide what a company's network management should look like.

The Federal courts have ruled that the FCC lacks the authority under the Telecommunications Act of 1996 to move forward with net neutrality regulations. Still, the Democratic appointees of the FCC have persisted, without regard to the courts, to settle the political debt owed by the Obama administration to special interest groups in favor of regulating the Internet. The FCC and this administration must be brought into line and abide by the separation of powers. The FCC must only execute the responsibilities given to it by Congress and not overreach its regulatory authority.

Freedom of the Internet belongs in the marketplace, not in the hands of Federal regulators. The FCC has moved forward to fix a problem that does not exist. This is a solution in search of a problem. Industry-imposed standards and transparency have the capability to increase competition, while more unnecessary government regulations will almost certainly have the opposite effect.

Under a light regulatory structure, the Internet has become vital to commerce and our Nation's economy over the past 15 years. The Internet has helped digitally shrink the distance that otherwise would inhibit the free flow of ideas, information, and business transactions from one part of the world to another. The Internet's adaptability and decentralized characteristics are central to that success.

This Federal regulatory action represents unnecessary government overreach and has the potential to seriously damage an increasingly important sector of our economy. I do not believe the Federal Government can successfully regulate network access and development without negative effects on the consumer or the industry.

Allowing this unnecessary regulation to move forward has the potential to stifle broadband deployment and competition, which could ultimately lead to fewer choices for consumers, higher prices, and discourage innovation.

I believe the net neutrality regulations, if allowed to move forward, will have negative effects on this industry and our economy, and I would encourage my colleagues, tomorrow, to support this resolution of disapproval.

The economy does not need this. Our job creators do not need this. And the millions of Americans who are benefiting from the information revolution that has been brought about by the Internet do not need this either.

This is an opportunity for us to send a little bit of a message to industry that we understand, we get what they are saying about overregulation, we get that these piles of regulations continue to drive up the cost of doing business in this country.

My colleague, the Presiding Officer, noted in his remarks the need for economic certainty—businesses need to know what the rules are going to be. It seems to me, at least, that creating a whole set of new rules and piling new regulations on this very important medium—on a way in which we have grown commerce in this country, opened markets across the world, created opportunities for consumers in this country to become more productive with their lives—is an absolute wrong approach at this particular point in time, particularly with the unemployment rate being what it is.

We want to make it less expensive, less costly, easier for our job creators to create jobs in this country, not put up unnecessary barriers and more obstacles and drive up the cost and make it more difficult for people in this country to create jobs.

Businesses are looking for economic certainty. They are looking to Washington, DC for policies that will lessen the impediments and the number of obstacles to job creation in this country.

ACCESS TO CAPITAL FOR JOB CREATORS ACT

Mr. President, I also want to mention in that vein that earlier today I introduced a piece of legislation called the Access to Capital for Job Creators Act. This bill will make it easier for small businesses to better access capital in order to expand and create jobs.

If you think about the things the job creators around the country want and need in order for them to get that capital off the sidelines, to get out of cash and to get invested again and get that money back into our economy and back into creating jobs, they want to see a government that lives within its means. They want to see a government that does not spend money it does not have.

We have to be serious about cutting spending here at the Federal level and getting back to more of a historic norm when it comes to the cost of our government as a percentage of our entire economy. Historically, for the past 40 years, that has run in the 20- to 21-percent range. That is what we spend on the Federal Government as a percentage of our entire GDP. Now it is up in the 24- to 25-percent range. That means the Federal Government, as a percentage of our entire economy, is growing relative to our private economy. We want to see the private economy grow and expand and the Federal economy get smaller.

Our job creators also want to see our Tax Code reformed in a way that is simple, clear, and fair, and that provides the right types of incentives for them to create jobs and does not drive investment overseas and create jobs there as opposed to creating those jobs right here at home.

If we can get tax reform that lowers rates on individuals and businesses and broadens the tax base in this country, I think you will see an explosion of economic growth, which is ultimately the best solution we could possibly have to all the fiscal, economic challenges our country faces.

Our job creators want smart, commonsense regulations, not more and more regulation for regulation's sake, which I think is what we see a lot today. We have seen bill after bill that has passed the House of Representatives that is designed to sort of roll back the overregulation, the regulatory overreach we have seen from this administration. Many of those bills have come over here to the Senate, where they have died, unfortunately.

But we need to be looking at these things in a way that will again lower the impediments, lower the barriers, lower the hurdles to job creation in this country. That is why I think smart, commonsense regulation is the way to go, and to get away from the regulatory overreach we are seeing all too much of today.

We need affordable energy policies, opening access to the vast resources we have in this country. We need to open markets around the world and look at ways we can make our small businesses create more opportunities for them to export their products to other places around the world.

But the legislation I have introduced today addresses yet another issue which I think small businesses have talked about; that is, access to capital. We need to better address the need for capital in order to create jobs and expand our economy.

Last week, the House of Representatives passed this very bill. It was introduced by Representative KEVIN MCCARTHY. On a near unanimous vote in the House of Representatives of 413 to 11 they passed this legislation and sent it this direction. This bill would allow small businesses to better attract capital from accredited investors nationwide under rule 506 of Regulation D of the Securities Act of 1933 by removing the general solicitation provision.

That sounds like a lot of Washington speak, and it is. But the very simple translation of that is this will make it easier for small businesses to access the much needed capital they need to expand and grow their businesses.

This provision is a roadblock in its current form for small businesses that are looking to obtain needed capital because it requires investors to have a preexisting relationship with an issuer or intermediary before the potential investor can be notified that unregistered securities are available for sale.

So if a small business is looking for investors, unless they have a preexisting relationship with that investor, there is no way for them to get the message out that they are looking for capital to those with whom they do not have that kind of relationship already in place.

The provision as it currently exists severely hampers the ability of small businesses to obtain needed capital from investors, and as a result, many businesses are limited to only the universe of investors with which they clearly have these preexisting relationships.

This legislation would remove that solicitation prohibition and allow businesses to attract capital from accredited investors nationwide.

With unemployment at 9 percent, we need to pass legislation that will enable our job creators to expand and to create jobs.

As I said, this bill passed with overwhelming bipartisan support in the House of Representatives. I would hope we can do the same in the Senate and address this very fundamental need among our businesses, our small businesses, to get access to much needed capital to expand their businesses; that, along with using a commonsense approach to regulation, an approach that gets away from this massive 61,000 pages of new regulations that we have seen issued since this administration took office, to tax reform that is simple, that is clear, that is fair, that provides incentives to keep jobs here at home as opposed to shipping them overseas, affordable energy policies, reducing government spending, improving export opportunities for our small businesses. Those are the types of policies our job creators have said they need.

We are going to have an opportunity to vote on the rollback of this net neutrality regulation and some other regulations tomorrow that are making it more difficult, more costly for our small businesses to create jobs. I hope we will see strong bipartisan support both with the disapproval resolution that we are going to be voting on net neutrality, as well as the one on cross-State air permitting. Those are both things that I think will do a lot to make it less expensive for small businesses in this country to create jobs.

I hope as well that we will look at other opportunities in the form of the legislation introduced by Senator MCCAIN, Senator PORTMAN, and others, that has a whole series of the things I mentioned, all of which will create jobs and grow our economy, make this country more prosperous and stronger, and put us on a more sound and economic and fiscal footing as we head into the days ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I am here this evening to express my unwavering support for the men and women who have answered the call of duty in our military services, our Guard and Reserve, and for their family members whose love and steady support for them have carried our servicemembers through challenging times and difficult missions.

In honor of Veterans Day, coming up the day after tomorrow, and Military Family Month, which we observe all month long this November, we need to reflect on the enormous contributions military families have made on behalf of all of us.

Since September 11, the spouses, children and parents of our service men and women have been faced with huge demands. They have endured repeated deployments, and spent many holidays and birthdays and anniversaries apart from each other. We should do everything we can in our communities to help military families cope with the difficulties and stresses of these multiple deployments.

I commend First Lady Michelle Obama and Dr. Jill Biden for their commitment to our troops' families and for their work on initiatives to address the unique challenges military families face in this environment. I especially appreciate the First Lady's recent visit to Rhode Island. It provided a warm and welcome boost to military family members in my State, which has the second highest per capita National Guard deployment rate of all the States, as well as a significant active-duty presence at Naval Station Newport.

With so many men and women leaving home to serve on multiple deployments, the strain on the family can be particularly difficult. Last month I had the privilege of meeting two extraordinary Rhode Island students, Kathleen Callahan, who goes by Katie, and Kaitlyn Hawley, who presented a powerful and compelling message to school superintendents and educators from across Rhode Island who came together to learn about how they can better respond to the needs of military families.

These two impressive young ladies shared their personal stories and described the challenges their families faced while their parents were deployed. The event was part of a collaborative initiative to help military-connected children thrive in school through deployments. I was proud to share in this joint effort with the Rhode Island National Guard, with Governor Chaffee, with our Commissioner of Education, the Commanding Officer of Naval Station Newport, our Military Child Education Coalition, and my senior Senator, JACK REED.

Katie is the daughter of a National Guard member. She described how her father's deployment affected the roles in her family. Like most children of deployed servicemembers, Katie assumed additional responsibilities in caring for her younger sibling and helping her mother, whom she referred to as a superwoman. Together, they shouldered the burden of her father's absence and kept the family intact and sound.

Katie described the feeling of—to use her words—silent suffering that can occur when military families feel isolated in civilian communities that may not completely understand what it is like when a loved one is deployed.

Kaitlyn is the daughter of an active-duty member. She talked about her experience living in eight different States and attending seven different schools. Kaitlyn is a highly motivated student and she explained how she threw herself into her schoolwork during her father's deployment. However, she cautioned that for other students, the opposite can also occur. Some students may have a lot of difficulty focusing on their schoolwork when a parent is deployed half a world away. As Kaitlyn so well put it, there is no one-size-fits-all approach to coping with the stress of deployment.

I am proud of Katie and Kaitlyn for their courage, their resilience, and their powerful articulation of a message that I hope everyone hears. We owe our military families an enduring debt of gratitude for everything they have done. We should do everything we can to ensure that no family feels isolated or left out or endures the silent suffering Katie described. I hope every American, as we approach Veterans Day, will actively support our military families, and do what we can to make our communities more welcoming and supportive in accommodating their needs.

As Veterans Day approaches, let's celebrate our military families and recognize their extraordinary contributions. Let us thank not only our service men and women but also the spouses, children, and other family members who have shared in the sacrifice of military service. We should also remember the families of our civilian and intelligence servicemembers deployed in danger and away from their families around the world.

In concluding, I wish to also express my strong support for the bipartisan legislation the Senate is considering to boost employment opportunities for veterans. Unemployment has been disproportionally high among veterans and we must act now. The last thing our returning service men and women need is to have to face an unemployment line. I urge my colleagues to swiftly pass this much needed legislation, which I am very proud to cosponsor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today to speak in support of the VOW to Hire Heroes Act 2011, which has been offered as an amendment by my friend from Montana, Senator JON TESTER. This Friday is Veterans Day. On this day every year, Americans join together to honor the men and women in uniform who have served and sacrificed for our country. Think of the work we do for our veterans. Some of it is very small. Small to us, but not small to them. We have people call our office all the time when their benefits are messed up, when redtape gets in the way. I will never forget one last year where one of the Patriot guards, who stands on the side and holds the flag during funerals for our servicemembers, came to me in tears and said her son had been badly hurt serving our country. In fact, he had lost his leg. When he came back, he was at Walter Reed. He was fitted with a prosthetic leg, and then he came home. When he was trying to get his benefits, he was told he could not get his benefits for losing his leg—this is a true story—because the records had been lost that showed that he lost his leg.

He had no leg. We worked on it. And within a week we got his benefits. Those stories are told all across the country. There is redtape. We must all help them. But it just goes to show, when you see those stories what our young soldiers are doing every single day.

This also means fighting for legislation that fulfills American's promise that we will care for our soldiers when they return. When our soldiers signed up to fight for our country, there was no waiting line. And when they come home to the United States of America and they need a job or they need a home or they need medical care or they need an education, there should not be a waiting line. Yet, sadly, when you look at the past decades, too often there is. When I came into the Senate, as my friend from Rhode Island came in in 2006, we all remember the horror stories with our veterans' health care. We remember what had happened at our medical hospitals. We remember the stories of soldiers getting lost in the cracks. That is why we worked so hard to make sure they got the health care they deserve.

We provided for historic funding increases to ensure top-quality health care for American servicemembers and military retirees. We also passed a post-9/11 GI bill to expand educational benefits for veterans who have served in the past decade. But there is more work to be done to support our veterans.

Consider two shocking facts. The unemployment rate for Minnesota veterans who have served since 9/11 is nearly 23 percent, the third highest in the Nation. Yet our unemployment rate is one of the lower ones in the Nation. Our unemployment rate is two points better than the national average. Yet it is almost double the national average for veterans of the Iraq and Afghanistan wars and more than three times our State's overall unemployment rate.

Second fact. An estimated 700 Minnesota veterans are homeless on any given night. During the course of the year, an estimated 4,000 Minnesota veterans will experience an episode of homelessness or a crisis that could lead to homelessness. This is not right. That is why I am calling on my colleagues today to vote to support the VOW to Hire Heroes Act. This important bill goes a long way in providing our returning veterans the leg up they need in transitioning into the workforce.

I will list just a few important provisions of this bill. It encourages companies to hire unemployed veterans by offering them tax credits to do so. The bill provides employers a tax credit of up to $5,600 for hiring veterans who have been looking for a job for more than 6 months, as well as a $2,400 credit for veterans who are unemployed for more than 4 weeks. The bill also provides employers a tax credit of up to $9,600 for hiring veterans with service-connected disabilities who have been looking for a job for more than 6 months.

Second, the VOW Act increases training for returning veterans so that by the time they step out of their uniforms they have the skills and the tools they need to get out there and market themselves to find a job. The bill does this by making it a requirement for returning troops to participate in the Transition Assistance Program, a job-training boot camp coordinated by the Departments of Defense, Labor, and Veterans Affairs, that teaches veterans how to get those jobs, write those resumes, apply their military skills to civilian jobs.

Third, the VOW Act expands education benefits for older veterans, people who are not eligible for the post-9/11 GI bill.

The bill provides 100,000 unemployed veterans of past eras and wars with up to 1 year of additional Montgomery GI benefits to go toward education or training programs at community colleges or technical schools.

Fourth, the VOW Act ensures that disabled veterans receive up to 1 year of additional vocational rehabilitation and employment benefits.

Last, the VOW Act allows servicemembers to begin the Federal employment process prior to separation, to help them transition seamlessly into jobs at the VA, the Department of Homeland Security, or the many other Federal agencies that could use their skills and dedication.

The fact is our returning veterans have battle-tested skills that are valuable to employers in all kinds of fields. Helping our veterans turn the skills they learned in the military into good-paying jobs not only honors our promise to support those who have sacrificed for our Nation, it also helps strengthen our Nation.

One of my top priorities in the Senate has been to cut through the redtape and streamline credentialing for servicemembers who have achieved certain skill sets through their military training. I am offering an amendment to the VOW Act that will streamline credentialing for returning military paramedics. I learned about this one time when I was driving around our State and I met a number of those who served in Iraq and Afghanistan. They served as paramedics on the front lines, and they learned incredible skills and how to save lives. Those skills weren't all transferable into becoming paramedics once they returned to the United States. At the same time, we have an incredible shortage of paramedics in our rural areas.

So I am going to introduce this as an amendment that would fix this problem by encouraging States to give paramedics credit for the military medical training they have received. Not only does it help veterans, but it relieves the shortage of emergency medical personnel in rural areas.

With commonsense solutions like these and those contained in the VOW Act, I believe we can help returning veterans transition into the workforce, not only fulfilling our commitment to them but also helping to lift our economy. Having traveled to the western part of our State in the last few weeks, I cannot tell you the number of job openings right now for welders and tool and die. I have been at companies that literally have dozens of openings—not only starting jobs but for engineers. They want military personnel and they need to connect with them and we need to encourage our employers to hire veterans when they come back.

Our State has always been a State that understands the debt we owe to the men and women who have served and sacrificed for us. We literally wrap our arms around them. I want to end with a story from last Veterans Day.

After doing our statewide event, I headed up to Wadena, MN, which is an area that was torn apart by a tornado, literally ripped up. Their high school was destroyed. The high school bleachers were three blocks from where they had been. On Veterans Day, they held the annual event, but they could no longer have it at the high school, which was destroyed. They could no longer have it at some of the other places they used to, so they were all in an elementary school the entire time—all the high school kids and all the veterans sitting on old bleachers in that elementary school. I spoke there.

What I will never forget is the elementary school kids singing a song that I had never heard before, but I had heard the melody. I remember the Ken Burns movie on World War II. These are the lyrics:

All we've been given by those who come before,
The dream of a nation where freedom would endure,
The work and prayers of centuries have brought us to this day,
What shall be our legacy? What will our children say?
Let them say of me I was one who believed
In sharing the blessings that I received.
Let me know in my heart when my days are through
America, America, I gave my best to you.

That is what those elementary school kids sang after the whole school had been torn apart—with veterans at their side: ''America, America, I gave my best to you.''

I think that is what we have to remember as we approach this vote on this VOW Act. This vote, to me, is so simple—that we simply give a tax credit so more employers will hire those who have sacrificed for our country, those who gave their best for our country. That is what this vote is about.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

CROSS-STATE AIR POLLUTION RULE

Mr. WHITEHOUSE. Mr. President, it was fairly recently that this summer I came to the Senate floor to commend the Environmental Protection Agency for finalizing what we called the cross-State air pollution rule, which limits the out-of-State pollution that one State can dump into the wind currents that drop on other States.

To my State, Rhode Island, this is particularly important. Nearly a decade after the EPA began working to address this problem of interstate air pollution, we finally had a path forward that is sensible and protective of public health. That was then, this is now.

Today, Senator PAUL of Kentucky proposes to halt this progress, to undo that rule through a Congressional Review Act resolution. That resolution would, one, void the cross-State air pollution rule and, two, bar EPA permanently from ever writing a ''substantially similar'' rule. This means that EPA could never use the Clean Air Act to create a cost-effective pollution trading program to address upwind pollution.

Mr. President, this hits home in my State of Rhode Island. Rhode Island has the sixth highest rate of asthma in the country. More than 11 percent of the people in my State suffer from this chronic disease, and many of them are children.

In 2009 there were 1,750 hospital discharges in Rhode Island for asthma cases. Those hospital stays cost about $8 million in direct medical costs, not to mention the costs of the medication or missed days of work and school.

On a clear summer day in Rhode Island, driving along the sparkling Narragansett Bay, commuting into work, you will often hear the warning on drive-time radio:

Today is a bad air day in Rhode Island. Infants, seniors, people with breathing difficulties should stay indoors today.

On those days, people in those categories are forced to stay at home, missing work, school, and other important activities. Others even in good health are urged to avoid strenuous activities on these bad air days. These are real costs—costs paid in lives and reduced quality of life, in medical bills,

public services strained responding to health risks, and in missed days of work and school—all from pollution in our air.

We don't know everything about the causes and cures of asthma, but we do know one thing: air pollution triggers asthma attacks. We know air pollution is a preventable problem.

Rhode Island has worked hard and made great strides to reduce air pollution. We passed laws to prohibit cars and buses from idling their engines and to retrofit all State schoolbuses with diesel pollution controls. We require heavy-duty vehicles used in federally funded construction projects to install diesel pollution controls, adhere to the anti-idling law, and use only low-sulfur diesel. Our transit agency voluntarily retrofitted half of its bus fleet with diesel pollution control equipment.

But Rhode Island cannot solve its air pollution problem on its own. In fact, Doug McVay, who is acting as chief of Rhode Island's Office of Air Resources, told me all of Rhode Island's major sources of air pollution—not just powerplants but any source that holds a major title 5 permit—emit less than 3,000 tons a year of nitrogen oxide, also called $NO_X$, and sulfur dioxide, also called $SO_2$.

Let me repeat that. All major sources in Rhode Island taken together emit annually less than 3,000 tons of these two pollutants. Polluters that will be subject to the cross-State air pollution rule in other States have single units that emit more than that. Some of the larger coal-fired boilers may emit 10,000 to 12,000 tons of these pollutants every year, nearly four times the pollution emitted by all Rhode Island major sources combined.

In Rhode Island, we are willing to pull our weight in achieving air pollution reductions. Indeed, we have done more than pull our own weight; we are pulling above our weight. But we need all States to be pulling their weight, too, to make the air safe to breathe in America from coast to coast.

This year at my request the GAO completed a report about tall smokestacks at coal powerplants. The report found that in 1970, the year the Clean Air Act was enacted, there were two what they call tall stacks—smokestacks over 500 feet in the United States—two.

By 1985 there were more than 180 tall stacks. As of 2010, 284 tall smokestacks were operating at 172 coal powerplants, representing 64 percent of the coal-generating capacity in our country. The industry literally smokestacked its way into compliance with the Clean Air Act.

What do I mean by that? In the early days of the Clean Air Act, some States allowed sources of pollution to build tall smokestacks instead of installing pollution controls. The concept back then was that pollution sent high enough into the atmosphere would be sent far away from the source and would not contribute to air pollution problems—at least in that State. Well, it turns out this air pollution causes problems downwind in other States.

As the GAO report put it, tall stacks generally disburse pollutants over greater distances than shorter stacks and provide pollutants greater time to react in the atmosphere to form ozone and particulate matter.

For this antiquated practice, Rhode Island pays the price. Smokestacking, instead of scrubbing, is what is behind a lot of the ozone in Rhode Island that gives rise to those bad air days. The GAO found that more than half of the boilers attached to tall stacks at coal powerplants do not have a scrubber to control sulfur dioxide emissions—more than half, no scrubber, just a tall smokestack to pump it out to the downwind States. Nearly two-thirds of boilers connected to tall stacks do not have postcombustion controls for nitrogen oxide.

So how does it get to Rhode Island? As GAO concluded, in the Mid-Atlantic U.S. the wind generally blows from west to east. Ozone can travel hundreds of miles with the help of high-speed winds known as the low-level jet. This phenomenon particularly occurs at night due to the ground cooling quicker than the upper atmosphere, which can allow the low-level jet to form and transport ozone and particulate matter with its high winds.

This wind map shows that condition. These are all the midwestern powerplants, and this is the wind that carries them down here to, among other States, Rhode Island.

Five States on this map—Ohio, Pennsylvania, West Virginia, Illinois, and North Carolina—have been identified by EPA as contributing significantly to Rhode Island pollution.

This electricity that comes from uncontrolled powerplants tied to these tall smokestacks might seem cheaper to consumers than a well-controlled powerplant, a powerplant that is scrubbed instead of smokestacking its pollution, but that is really not so. There are costs. The costs just got shifted. The lungs of children and seniors in Rhode Island and other downwind States pay for that cheap electricity, and, truth be told, the lungs of children and seniors in many of the upwind States are paying as well. The States upwind of Rhode Island are downwind of someone else. Ohio and Pennsylvania are upwind of Rhode Island, but they are downwind of other States. That is why EPA's regulatory impact analysis determined that instate and upwind pollution reductions from this rule will save approximately 3,209 lives in Ohio and 2,911 lives in Pennsylvania every year by 2014 and prevent hundreds of heart attacks, emergency room visits, and hospitalizations in those States. This rule opposed by Senator PAUL will even save an estimated 1,705 lives in his home State of Kentucky every year by 2014.

It is not just lives saved. EPA estimates that by 2014, the benefits from this rule will range between $110 billion and $280 billion. At the same time, EPA estimates that the rule will cost utilities $4.1 billion to comply in 2012 and another $.8 billion through 2014—a grand total of $4.9 billion against $110 billion to $280 billion in quantifiable benefits.

At the lower end of the range, this rule generates a 22-to-1 ratio of benefits over costs. For every $1 in cost to the polluters who are creating this pollution, to clean it up, there is $22 in benefit to the rest of the country. That is a pretty good investment, and that is at the low end.

At the high end, if it is $280 billion, we are talking about a 56-to-1 ratio of benefits over costs. We have people from polluting States who, to save a buck for their polluters who are running it up smokestacks instead of scrubbing their pollution, to save the buck in putting the scrubber and quit smokestacking their pollution and dumping it on Rhode Island and other States, are willing to blow $56 in benefits to Americans across the country, even in their States. It doesn't make any sense.

The cross-State air rule is good for public health. It is fair. There is no other way Rhode Island can affect these States. We have done everything we can to clean our air. We could stop everything, and we would still be a nonattainment clean air quality State because of what gets bombed in on us from other States. If we don't have EPA defending us, we have no defense at all from States that choose to export their pollution rather than clean it up. And it is very cost effective, better than 51 by the highest estimates. So that is why I will be voting against Senator PAUL's resolution to void this rule. I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I rise this evening to join my colleague from Rhode Island and those who have come to the floor throughout the day today, to join them in strong opposition to the efforts by Senator PAUL to nullify the Environmental Protection Agency's cross-State air pollution rule.

As we have heard on the floor, his resolution would strip the EPA of its authority to protect our air from certain kinds of air pollution emitted by powerplants. That rule was put in place specifically to protect downwind States, such as New Hampshire and those of us in the Northeast and on the east coast, from air pollution that originates from outside our borders. I am particularly concerned by the attempts to stop these protections because in New Hampshire we have been fighting for them for over a decade, and they are long overdue.

Clean air is a bipartisan matter for us in New Hampshire. As my friend and colleague Senator AYOTTE noted on the floor last night:

In New Hampshire, we have a long, bipartisan tradition of working to advance commonsense, balanced environmental protections.

I couldn't agree with her more. She and I know that even if we eliminated all local sources of air pollution from within New Hampshire's borders, we would still have counties in the State with unacceptably high levels of pollution. That is because of the overwhelming pollution that comes into New Hampshire and the Northeast on air currents from the Midwest.

In the Northeast, we are considered the tailpipe for the rest of the country. That is why, in 1997, when I was Governor, New Hampshire joined with seven other Northeast States to demand that the EPA begin cracking down on this transported air pollution. When New Hampshire joined that effort in 1997, this is what I said about it:

When you climb Mount Washington in New Hampshire and see smog that is blown in from the Midwest, it's clearly time for a national crackdown on air pollution . . . it's time to address the major sources of a pollution that is fouling our air and affecting the health of our people. We've done our part in New Hampshire to cut down on emissions, and it's time for the EPA to get tough on major polluters upwind.

I have here a picture of the White Mountains, which is where Mount Washington is. That is the highest point in New Hampshire and, actually, in the whole Northeast. What this picture shows very clearly is the impact of this air pollution that is coming in from upwind.

We can see these are the White Mountains. On a clear day, you can see a beautiful blue sky, green trees, beautiful landscape. On a hazy day, this is the impact of that smog. It looks as if somebody took a gray paintbrush and painted over the White Mountains in New Hampshire.

It is really unbelievable to me that we are here, 14 years after this action was brought in 1997, still debating transported air pollution. The time for debate is over. The air quality improvements from this rule will benefit over 289,000 children who are at risk for asthma in New Hampshire. New Hampshire has one of the highest rates of childhood asthma in the country. In my State alone, air pollution is estimated to cost businesses more than 17,000 lost days of work annually due to health problems. Yet we are still hearing the same old arguments that forcing polluters to clean up will hurt the economy, will hurt our businesses. No. In fact, we have lots of research that shows that is not true.

Talking points about job-killing regulations ignore the fact that a recent economic analysis by the Political Economy Research Institute found that the EPA's cross-State air pollution rule and the proposed mercury rule will create 290,000 jobs per year over the next 5 years in important sectors of our economy such as construction, craft labor, and industrial manufacturing. Companies such as ThermoFischer Scientific, which has a plant in Newington, NH, is a leading manufacturer of environmental monitoring equipment and a great example that good policy creates jobs right here in the United States.

By reducing air pollution, these protections are estimated to provide about $640 million in benefits to the New Hampshire economy alone. Nationwide, the health and environmental benefits are estimated at $120 billion to $280 billion each year. That is because when air pollution comes across our State borders, it is our New Hampshire companies that are forced to make up the difference. Without these rules, we have an unfair system where the burden of keeping our air clean falls disproportionately on downwind States such as New Hampshire.

Higher air pollution costs our businesses through the loss of worker productivity and greater medical expenses, and it also affects our critical tourism industry in New Hampshire which depends on the clean air of the White Mountains and the health of our beautiful lakes and forests and streams. In New Hampshire, this tourism industry and the outdoor recreation economy, much like in Colorado where the Presiding Officer is from, supports 53,000 jobs, generates $260 million per year in sales taxes, and accounts for 8 percent of our State's gross domestic product. Transported air pollution has a direct impact on this industry, as we can see so clearly in this photograph, and on the quality of life of New Hampshire's 1.3 million citizens. It is time for the EPA to move forward with their cross-State air pollution rules.

I urge all of my colleagues in the Senate to reject this resolution by Senator PAUL and to protect the health and welfare of all of the citizens in this country.

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

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

The legislative clerk proceeded to call the roll.

Mr. BENNET. Mr. President, I ask that the order for the quorum call be rescinded.

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

Mr. BENNET. Mr. President, I want to take just a few minutes to talk about Veterans Day and important work already going on in Colorado to support our returning servicemembers and their families.

This Friday, Veterans Day holds special significance. America's part in the war in Iraq is coming to a close this year, and we have started drawing down combat troops in Afghanistan. In Colorado, that is going to mean about 400 Fort Carson soldiers will come home from Iraq in December alone.

Many of the bravest 1 percent of Americans who shoulder 100 percent of the responsibility of keeping our country safe will be coming home all across the country. As these servicemembers return to their families and many transition to civilian life, we need to make sure we are ready to make good on the promises we have made.

I asked leaders from the Colorado veterans community to make recommendations for how to make Colorado the best State for veterans and military families to live and work. After months of thoughtful conversation, they produced a comprehensive report called ''Better Serving Those Who Have Served'' that offers solutions on how to address the challenges facing America's veterans. A key part of this report is a new proposal to create a National Veterans Foundation, modeled after work being done in Colorado Springs that enabled public and private agencies to better collaborate to support veterans and military families. This week, I will introduce a bill to bring that Colorado-based innovation to the rest of the country. The bill would create a congressionally chartered National Veterans Foundation to support communities attempting to work on a blueprint model like Colorado Springs. The foundation would help fill gaps in services to veterans by helping communities align and leverage their resources.

I have also joined Senator TESTER and the Presiding Officer and cosponsored the VOW to Hire Heroes Act. The VOW to Hire Heroes Act does much to help veterans find good-paying jobs, including providing significant tax incentives to businesses that hire veterans. The Senate will likely be voting on this important legislation tomorrow, and I urge colleagues to support its passage.

Before I sit down, I wanted to mention that 2 weeks, maybe 3 weeks ago, I was down in Colorado Springs visiting Fort Carson, and I went to see an elementary school on the post. As a former school superintendent, I have spent a lot of time over the years in schools and tend to want to be there when the children are there so that you can actually get a sense of whether there is any learning going on. This meeting was different because it was a meeting after school, after the children had gone home. Ninety percent of them live on the post. Their entire lives have been defined by these two wars in Iraq and Afghanistan. Their entire lives have been defined by the deployment of one parent—in some cases two parents—who have served two or three or four tours of duty on behalf of this country in Iraq and Afghanistan.

Thousands of our troops are going to be coming home over the next year. I think we need to be asking ourselves whether we really are ready to honor the commitments and promises we have made.

As others have said tonight, when we are coming out of what is the worst economic calamity we have faced since the Great Depression, we need to make sure we are doing absolutely everything we can for these veterans but also for the people who are the moms and dads, the children at elementary schools just like the one I visited, all across the country.

The children in this school, according to the teachers with whom I met, have faced extraordinary challenges at home as a result of all this. It is another example of the work we should be doing together here in a bipartisan way as we ask people to serve their country in these foreign wars.

I continue to hope at some point there is going to be a breakthrough here and we are going to get past the partisan cartoon we have confronted for the entire time I have been in the Senate and get back to the work of the American people and get back to the work that will support the children in that elementary school at Fort Carson. I want to say on this floor and for this record how grateful I am to their teachers for teaching but also for giving their Senator an insight into the lives of the young people they are serving.

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

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

## MORNING BUSINESS

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

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

## TRIBUTE TO CHRIS WYMAN

Mr. KERRY. Mr. President, today I would like to celebrate the remarkable commitment demonstrated over nearly 18 years in Senate service by one of my most loyal and longest serving aides, Chris Wyman, who retired October 31.

Chris Wyman eschews the limelight of politics and the media. But I know him as a close friend and a humble, self-effacing, earnest public servant, who ''walked point'' for me in Massachusetts on every issue and every case affecting military personnel, veterans, and their families.

For Chris, the work was always personal. He understands the demands on the military and their families better than most, having enlisted and served on Active Duty in the Navy before he came to work for me shortly after I began my second term representing Massachusetts.

The work that Chris began on my staff starting in 1993 was difficult, particularly for someone who found such common cause with anyone who had worn the uniform of the Army, Navy, Air Force, Marine Corps, or Coast Guard. Their cause became Chris's concern day in and day out. The issues changed with time, from veterans' benefits and Agent Orange, to PTSD and traumatic brain injuries, but what always remained was Chris's special determination to help those who had served their country and ensure that they were always treated with dignity and respect by the government that had sent them into harm's way.

In all those years, Chris was my eyes and ears on the ground in Massachusetts 7 days a week—the person who listened to veterans and their families about the many challenges affecting their lives. His compassion and his presence helped me to take concerns heard in conversations and transform them into legislation to tackle human problems on a more national scale.

Among the efforts I worked on in the Senate, you can see the imprint of Chris's visits to veterans across Massachusetts, including the Helping Heroes Keep Their Home Act, which provides protection for servicemembers and military families against foreclosure and increased interest rates; a measure that made service life insurance available to reservists called to Active-Duty and National Guard members; the Corey Shea Act, which allows eligible parents of a fallen servicemember to be buried with their child in any of the 131 cemeteries run by the VA's National Cemetery Administration, if that child has no living spouse or children; a $20 million supplemental appropriation in 2007 for VA centers; seven Vet Centers in Massachusetts benefited from the measure; and millions of dollars more in Federal grants from the Department of Veterans Affairs for homeless vets shelters located throughout Massachusetts.

For Chris, each of those legislative efforts began with a human face: veterans who were living on the streets in a country that at times had forgotten their sacrifices when they came home, grieving mothers and fathers who had lost children on the battlefield, veterans struggling during an economic collapse that threatened them and their families with foreclosure, and particularly families who had lost sons and daughters to PTSD and the hidden wounds of war and who had dedicated themselves, with Chris's help, to transforming their mourning into mission to help others.

It is no understatement that Chris had one of the toughest and most demanding job in my Boston office, certainly the most intense. He met so many at their most vulnerable and others still who were overcome by the deepest and most indescribable grief—and even anger. But it was Chris Wyman who remembered always that if Americans were sent somewhere in the world dodging bullets and bombs to protect our freedom, then there should be no limit to the government's commitment to do its part back home to support them and their families.

For Chris, each day was measured not in minutes or hours but in phone calls—as many as 50 calls a day. Some were routine—soldiers or veterans needing absentee ballots, forms, or help applying for benefits. For Chris, those cases were the easiest the ones in which a highly placed phone call or a well-timed letter could be the lubricant to make the State and Federal bureacracy run more smoothly. But some of those calls were far from routine. Take just one that resulted in a special moment just about this time last year in Newton, MA, when Chris's intervention helped right a wrong inadvertently committed years before by the Federal Government. Thanks to Chris's hard work, I was able to present a Congressional Gold Medal to the family of 2LT James Calhoun, a member of the famed Tuskegee Airmen, who was killed in World War II. The Tuskegee Airmen had been awarded the medal collectively in 2007, but Lieutenant Calhoun's daughter, Jean Calhoun Royster, was excluded from that ceremony. When Jean reached out to Chris and to my office, we intervened to help secure the medal in honor of her father. It was touching to see the pride Jean felt for her father when she held his medal in her very own hands, but more than that, it was inspiring to know that behind the scenes it was Chris's diligence that helped to make it happen.

I also remember another special day Chris helped make possible—the day I pinned a Purple Heart on 22-year-old Sean Bannon of Winthrop, who was wounded in both legs in Iraq and spent 6 weeks recovering at Walter Reed. We held the ceremony at Fenway Park on Patriots Day in 2008. And the Red Sox surprised Sean by allowing him to throw out the first pitch, with No. 38, Curt Schilling, standing in as Sean's catcher. He wasn't on the field let alone on the mound that day, but Chris Wyman was the MVP of our team that day the unsung hero of a proper welcome home for a real military hero, Sean Bannon. That was a joyful day for the Bannon family and for all of us, but for Chris it was just one of the many ways he made a contribution. It was every day that Chris received calls from wives, husbands, and children worried about loved ones on Active Duty somewhere in the world or from veterans enduring life-threatening health conditions. They, too, needed real action, not just a promise to get back to them later. And whenever he got one of those calls, Chris would spring into action and stay at it until he got the answers and results that these brave Americans and their families deserved.

Among these solemn duties were some that Chris rarely spoke about but which are seared into him forever.

Again and again, he made personal visits to the homes of Gold Star families. He would simply show up to visit, to comfort, and to help out after families received the phone call that every military parent dreads the most. Chris formed deep friendships with many of the families, friendships that will last a lifetime. While many quote Abraham Lincoln's words, Chris lived them—through his actions, not his words, he held sacred Lincoln's pledge at Gettysburg that our country will care for ''him who has borne the battle, and his widow and his orphan.'' And so Chris did—at wakes, at funerals, in military hospitals and veterans homes, in all these difficult circumstances and the difficult days and months and years that followed, Chris Wyman kept the faith.

Chris did this for all veterans—in their spirit and many times in their memory. But he also joined a special fraternity the tight knit ''Band of Brothers'' who served with me during Swiftboat duty in Vietnam. He came to them in the 1990s and never lost touch with any of them, extending to them, as he did for so many Massachusetts veterans, total dedication and commitment through hospital visits, weddings, and funerals. It was no surprise, then, that several years ago they made him an honorary member of their ''brotherhood,'' presenting him with a blue crew member shirt, exactly the same as the ones they wore so proudly whenever they were together.

It seems fitting that Chris is retiring so close to Veterans Day—a day to honor America's veterans for their patriotism, their love of country, and their willingness to serve and to sacrifice because for these past nearly 18 years, for Chris Wyman, every day was Veterans Day. He is a shining example of service to those who have served.

Mr. President, both Chris and I are proud to be Navy men, and in the Navy, we have a special term—''Bravo Zulu'' which means ''Well Done.'' So, as one old sailor to another, with a thank you for many years of loyalty and friendship, to Chris Wyman I say ''Bravo Zulu'' for a job well done.

## PATIENT PROTECTION AND AFFORDABLE CARE ACT

Mr. COBURN. Mr. President, I believe Congress should reexamine the federally mandated medical loss ratios in the Patient Protection and Affordable Care Act. Today I will outline four reasons I believe consumers will face increased costs, decreased choice, and reduced competition.

The Patient Protection and Affordable Care Act, PPACA, included a provision that requires all health plans to adhere to a medical loss ratio, MLR, established in law. The MLR refers to the percentage of premium revenues for health insurance plans spent on medical claims. Thus, if a plan received $100 of premiums and spent $85 on medical claims its MLR would be 85 percent.

Beginning no later than January 1, 2011, PPACA requires a health insurance issuer to provide an annual rebate to each enrollee if the ratio of the amount of premium revenue expended by the issuer on clinical claims and health quality costs, after accounting for several factors such as certain taxes and reinsurance, is less than 85 percent in the large group market and 80 percent in the small group and individual markets.

Supporters of PPACA tend to herald the newly created, higher MLR requirement as providing ''better value'' for policyholders compared to a lower MLR. To the untrained ear, perhaps higher MLRs sound better since they force health insurance plans are required to spend a larger percentage of each dollar on medical claims.

Jamie Robinson, a professor in the School of Public Health at the University of California at Berkley, noted that numerous organizations ''have assailed low medical loss ratios as indicators of reduction in the quality of care provided to enrollees and sponsored legislation mandating minimum ratios.'' However, he rightly concludes that while ''this is politically the most volatile and analytically the least valid use of the statistic.''

In fact, a close examination of the data suggests there are several reasons to be concerned with the one-size-fits-all federally mandated MLRs in PPACA. Here are four key reasons why PPACA's MLRs will likely negatively impact American consumers and patients.

First, insurance markets across the country threaten to destabilize. During the health reform debate, opponents of the Federal takeover of health care warned that the federally mandated MLR could endanger the high-quality health coverage many Americans enjoy because it could lead to market destabilization in some States. Under PPACA, States are permitted to adjust the percentage for the individual market only if the Secretary of Health and Human Services grants them a waiver because the Secretary determines that the health insurance market would otherwise be destabilized. Unsurprisingly, a total of 15 States have applied for a waiver from the MLR. This means that nearly one in three States has found that the MLR could destabilize their market and threaten consumers' coverage.

A review of the data shows why States are concerned. According to a study published in The American Journal of Managed Care, the specific impactof the new medical loss rules on the individual health insurance market ''has the potential to significantly affect the functioning of the individual market for health insurance.'' Using data from the National Association of Insurance Commissioners, the study's authors ''provided state-level estimates of the size and structure of the U.S. individual market from 2002 to 2009'' and then ''estimated the number of insurers expected to have MLRs below the legislated minimum and their corresponding enrollment.'' They found that in 2009, ''29 percent of insurer-state observations in the individual market would have [had] MLRs below the 80 percent minimum, corresponding to 32 percent of total enrollment. Nine states would have atleast one-half of their health insurers below the threshold.''

The study explained the impact in ''member years,'' which requires some explanation. Most health insurance policies typically have a 12-month duration, but individuals can enroll or disenroll on a monthly basis. As a result, much of the accounting and actuarial calculations that a health insurance plan makes are in member month or year terms. A member year is 12 member months and could be one individual or multiple persons. For example, if an individual is enrolled for 12 months, that is one member year, or if two people are enrolled for just 6 months each, that is one member year. The study found that ''if insurers below the MLR threshold exit the market, major coverage disruption could occur for those in poor health,'' and they ''estimated the range to be between 104,624 and 158,736 member-years.'' This empirical analysis highlights the huge disruption American consumers may face. As health insurers consolidate, stop offering some insurance products, or exit the market place altogether, Americans who like the high-quality private health plan they have will lose it. This effect would undermine the President's promise to Americans that if they like the health care plan they have, they could keep it.

There is a second concern: Instead of consumers receiving ''better value,'' consumers face increased costs. Despite often-repeated arguments that federally mandated MLRs will result in ''better value'' for consumers, there is little substance to back up this claim. The assumption behind this claim is that spending more cents of a health care dollar directly on care is inherently better. But this may not necessarily be the case. University of California, Berkley, professor Jamie Robinson has studied the issue of MLRs closely, and he noted in Health Affairs that the connection between the MLR and good value is not as clear as some would claim. ''The medical loss ratio never was and never will be an indicator of clinical quality,'' he said. In fact, Professor Robinson explained that ''neither premiums nor expenditures by themselves indicate quality of care. More direct measures of quality are available, including patient satisfaction surveys, preventive services use, and severity-adjusted clinical outcomes. Although each of these is limited in scope, they at least shed light on quality of care. The medical loss ratio does not.''

While the MLR cannot guarantee better value for consumers, it can lead to higher premium costs. As the Congressional Research Services explained,

the MLR provision in PPACA requires health insurance plans ''to pay rebates to their members if a certain percentage of their premiums are not spent on medical costs. This provision may provide an incentive for health insurance companies to reduce their compensation to and/or utilization of producers as they seek to reduce their administrative costs in relation to their medical costs.''

In this scenario, unintended consequences are important to consider. For example, an insurer may increase premiums in another product to make up for lost revenues in one where a rebate is issued. Also insurers may be incentivized to scale back utilization management techniques as a result of the MLR requirement. Accordingly the underlying medical trend which drives premium costs would increase for everyone in the risk pool, therefore leading to higher premiums for all consumers who have a health plan with that company.

Costs for consumers may also increase because of increased fraud in the system. Because insurance plans are economically discouraged from activities not directly connected to medical care, there is a perverse incentive to reduce efforts to police fraud such as conducting utilization reviews and data analysis to root out individuals who defraud the system. This is such a significant problem that it was highlighted in congressional testimony before a House subcommittee earlier this year. ''Given the role that health plan fraud prevention and detection programs have played in establishing effective models for public programs, improved data for law enforcement, and successful prevention efforts, we believe the MLR regulation's treatment of such programs should be reevaluated,'' said the witness. According to the testifying witness, the specific concern is '' the MLR regulation only provides a credit for fraud 'recoveries'—i.e., funds that were paid out to providers and then recovered under pay and chase' initiatives.'' This effectively discourages preventative measures:

The MLR regulation's treatment of fraud prevention expenses works at cross purposes with new government efforts to emulate successful private sector programs, and it is at odds with the broad recognition by leaders in the private and public sectors that there is a direct link between fraud prevention activities and improved health care quality and outcomes.

Ironically, this myopic focus on MLRs obscures the best tool to evaluate the value of a health insurance product: consumer choice. As Professor Robinson explained:

The best indicator of current and expected future value in a market economy is the willingness of the consumer to purchase and retain the product. In health care, this translates into measures of growth in enrollment and revenues, adjusted for disenrollments and changes in prices. Plans that are growing are offering something for which purchasers are willing to vote with their dollars and consumers are willing to vote with their feet.

Let me turn to my third concern. Consumers face fewer choices, less competition in the marketplace. As noted previously, the MLR threatens to destabilize several markets by pushing some health insurance plans to stop offering some insurance products, or exit the market place altogether. The Congressional Research Service explained this more in detail in a memo to Congress. CRS said the MLR ''requirements of PPACA will place downward pressures on administrative expenses, including the use of insurance producers. Thus, there will be an incentive for insurance companies to cut back on the use of producers or reduce their commissions in order to rein in their administrative expenses. Some observers, including associations of producers, have suggested that the regulatory and market changes resulting from PPACA could put producers out of business.''

The very allowance in PPACA for waivers from the MLR provision is a tacit admission the one-size-fits-all MLR approach mandated under PPACA is neither in the best interest of consumer choice nor competition among health plans in many insurance markets across the country. President Obama once publicly pushed for a government-run health plan under the auspices of more ''choice and competition,'' Unfortunately, the controversial health care law he signed is set to reduce choice and competition for millions of American consumers.

Mr. President, finally, the new mlr mandates further the government takeover of health care. Much ink has been spilled about the claim that PPACA represents a government takeover of health care. In my view, there is no disputing this claim. Even before the passage of PPACA, the nonpartisan Congressional Research Service issued a report showing that 60 percent of health care spending in the United States is controlled by State, local, and Federal governments. Now, after passage of the controversial health care law, the Federal Government will effectively regulate health insurance markets and dictate what types of health coverage Americans can buy—even penalizing employers and consumers who do not offer or purchase coverage. The law also massively expands the Medicaid Program—a program that began as a Federal-State partnership but that has evolved into a gimmick-ridden program threatening State budgets and too often promising patients coverage while denying them access to care. The law also includes hundreds of new powers for the Secretary of Health and Human Services and creates dozens of new programs that will further interfere in the practice of medicine. Yes, the law is a government takeover of health care.

Interestingly, the nonpartisan Congressional Budget Office warned that if the MLRs in PPACA were only slightly higher, PPACA would result in a complete government takeover of all health insurance. In a December 2009 analysis, CBO warned that if the MLRS were 5 percentage points higher, all private insurance would become ''an essentially governmental program.'' In fact, this CBO analysis—publicized before the health care bills became law—may be one key reason the Democrats refrained from pushing for a 90-percent MLR. CBO warned that if a 90-percent MLR were adopted, ''taken together with the significant increase in the Federal government's role in the insurance market under the PPACA, such a substantial loss in flexibility would lead CBO to conclude that the affected segments of the health insurance market should be considered part of the federal budget.'' If the bills' authors had, in fact, included a 90-percent MLR, they would have faced critics waving a CBO analysis affirming the government takeover of the health insurance industry was complete. However, even with this determination, CBO appeared to admit that determining at what point a high MLR triggers a complete government takeover of the insurance industry was not entirely cut and dry. CBO said, ''Setting a precise minimum MLR that would trigger such a determination under the PPACA is difficult, because MLRs fall along a continuum.''

Mr. President, in the end though, CBO settled on 90 percent as the tipping point, though, as they noted, any ''further expansion of the Federal Government's role in the health insurance market would make such insurance an essentially governmental program, so that all payments related to health insurance policies should be recorded as cash flows in the federal budget.'' In other words, this was just about as close as the Democrats could get without even CBO admitting it was a complete government takeover of the health insurance markets.

## TRIBUTE TO STEVE ARMS

Mr. LEAHY. Mr. President, I would like to take a moment to pay tribute to Steve Arms, a technology inventor, innovator, and successful entrepreneur from Vermont.

Steve founded and developed a high tech firm, MicroStrain, which creates sophisticated micro sensors that were originally designed for arthroscopic implantation on human knee ligaments. Their sensors have since evolved and are now used by NASA, on car engines, for advanced manufacturing, on civil structures, and by the U.S. military.

When Philadelphia's Liberty Bell needed to be moved in 2003, the National Park Service used MicroStrain to detect whether the 250-year-old bell's famous crack was worsening, even by a hundredth of a hair's width. Fortunately, and thanks to MicroStrain's sensors, the Liberty Bell was moved without damage.

A product of Vermont's public education system and flagship state university, Steve grew a one-man business

based out of his Burlington apartment into a more than $12 million a year company. Based in Williston, VT, and now employing 55 people, MicroStrain's constant innovation and product improvement has earned the company numerous top awards in the industry.

I am proud to see to see Vermonters working on cutting-edge technology that will benefit both Vermont's and the country's economy. I thank Steve and all of the employees at MicroStrain for their hard work.

I ask unanimous consent that a copy of the recent Burlington Free Press article entitled Vt. Tech innovator: Be in the moment, be printed in the RECORD.

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

[From the Burlington Free Press, Nov. 2, 2011]

VT. TECH INNOVATOR: BE IN THE MOMENT

(By Molly Walsh)

WILLISTON.—Back in high school, Steve Arms thought he might want to be a journalist. He'd grown up reading non-stop and often sneaked books and a flashlight under the covers when he was supposed to be asleep.

He changed direction shortly before graduating from Burlington High School in 1977. During his junior and senior years, a math teacher and a physics teacher ignited a fuse that prompted Arms to become an engineer, inventor and successful tech entrepreneur who runs a Vermont company with 55 employees and gross sales of $12.8 million in 2010.

''I have a dream job. I can't believe I get paid to do this,'' Arms said during an interview at MicroStrain, the sensor company he founded and leads in Williston.

The company designs and sells tiny, highly sophisticated sensors used in U.S. military drones, NASA rocket tests, tracking devices and a range of industrial and medical products. Arms founded the company when he was a Ph.D. candidate at the University of Vermont, where he studied engineering and biomechanics. His first product was a minisensor used in arthroscopic knee surgeries that he began selling after writing the federal grant to help fund the development himself.

In the early days at his company, Arms typed up the invoices, answered the phone and hustled sales in addition to designing products. He slowly grew the company and says a careful, conservative approach to expansion—no outside investors and a pay-as-you go approach as much as possible—allowed the business to thrive and continue developing cutting-edge products as requested by various customers. Because there were no outside money people demanding quick growth, Arms and his staff had the time to try, fail and retry new product design—in other words, innovate.

Now much of the work is solving problems for clients and continuously pushing for new designs—and that's what science education should teach as well, Arms said. Schools that help young people use science and math to find solutions—whether it's flood prevention or saving the rain forest—are on the right track. ''Kids are amazingly creative and they really want to make the world a better place,'' Arms said.

It can take MicroStrain up to a year to find certain employees and the company regularly recruits out of state. But many employees are Vermonters or returning Vermonters. And Arms has had great success with summer internship programs for college students, many of whom are studying electrical engineering at local colleges and out-of-state schools such as Clarkson, Stanford and MIT. Some interns spend three summers at the company before they graduate. MicroStrain regularly hires from the intern pool because the interns are up to speed on the work and because they've basically succeeded during an extended job interview.

As a student, Arms responded to teachers who were well organized, animated and happy to let a curious student run with questions. His foray into bioengineering happened largely because his UVM work study job put him in a department full of doctors and medical researchers. He loved talking to them and soon was writing grants as part of his job—a skill that came in handy when it was time for Arms to found MicroStrain.

His advice for students is similar to what he gives his three children, including a son at Reed College and twin daughters at Champlain Valley Union High School. Arms was never a grind who obsessed over getting As in everything and he left some homework undone. He worked, but not obsessively. One thing he did learn was to follow his interests and be efficient—by paying attention in class, for example. ''Be in the moment. . . . Make the most of your time when you are there.''

Schools could help inspire a love of science by making it real, he added. Simple props—chalk and a two-by-four, a bicycle wheel—are great ways to teach calculus, physics and other STEM topics. Computers are can be useful tools but they do not guarantee engagement in class, he said.

Bringing speakers from STEM employers is another way to reach students, as is career mentoring. Arms still remembers the conversation he had with Sir John Charnley, who pioneered modern hip replacement, after Charnley visited UVM to give a lecture in which he detailed the series of failures he experienced before his big medical breakthrough.

''For me, that was just all I needed,'' Arms said. The talk left him with the sense of: ''I'm not giving up either.''

## ADDITIONAL STATEMENTS

### FLATHEAD VALLEY COMMUNITY COLLEGE SCHOLARS PROGRAM

• Mr. BAUCUS. Mr. President, today I wish to recognize the work of a group of students enrolled in the Scholars Program at Flathead Valley Community College in Kalispell, MT.

As a member of the Joint Select Committee on Deficit Reduction charged with coming up with a plan to tackle the deficit, I asked my bosses—the people of the great State of Montana—to send me their ideas on how to reduce the deficit.

Montana was built upon hard work, sacrifice, and values born on the frontier that remind us: we are all in this together. It is the same spirit that the Joint Select Committee must tap into in order to succeed.

So far, I have received over 1,200 letters, calls, and e-mails from Montanans with thoughts on deficit reduction and ideas that implicate all aspects of the Federal budget.

Montanans sent their suggestions on programs to trim or eliminate, where we could find additional sources of revenue, and where Congress should tread carefully, to not lose sight of those investments critical to the future of Montana and the entire United States.

The challenge facing the Joint Select Committee also poses an important opportunity for us to learn as a nation and as students of history.

That is why I invited Montana's colleges and universities to involve students in the discussions. Flathead Valley Community College took on this challenge with vigor.

FVCC decided to incorporate this project into its Scholars Program, an honors program for the college's top students. The students spent almost a month on the project.

As we have done in the Joint Select Committee, students started by reviewing reports issued by the Congressional Budget Office and the various bipartisan deficit-reduction plans. The students then met over a 2-week period to discuss their own ideas and debate the merits of each proposal. They all agreed that the group would come up with one plan to put forth to my office and to Congress.

Now, before I talk about what the students have produced, it is important to say a word about Flathead Valley Community College and the community it serves. Kalispell, MT, is located in the upper northwestern corner of the State of Montana. Glacier National Park sits to the east, and the tip of Flathead Lake is to the south.

There are few places in the world privileged to such natural beauty. But this area has not been immune to the tough economic climate. Far from it.

The Flathead area, once dominated by the wood products industry, has witnessed the closure of some of its largest employers.

While Montana's overall unemployment rate has remained below the national average, Flathead County is well above it, right now at almost 10 percent. Surrounding Lincoln, Sanders, and Lake Counties currently sit at 13, 13.3, and 10 percent unemployment rates, respectively.

Flathead Valley Community College has come to be viewed as the model for 2-year education, both in Montana and nationally.

And like many 2-year colleges across the country, FVCC has experienced a significant increase in enrollment as a result of the economic downturn. Both young and old are returning to school to enhance their skills.

Over the past 2 years, FVCC's enrollment increased by 43 percent. Last year, FVCC added 239 sections of classes and hired 89 new adjunct faculty members to meet increased demand.

This past spring, FVCC graduated the largest class in its history, with 388 students receiving 438 degrees. One-fourth of those students were eligible for assistance through trade adjustment assistance or the Workforce Investment Act.

I raise this because it is important to note that these students participating

in this project are living this economic recession. I asked them to discuss and come up with deficit-reduction ideas. But they have done so with a keen eye on how these ideas could affect their community and the long-term impact on good-paying jobs.

After all the discussions, debates, and, undoubtedly, some disagreements, the students came together and submitted a full summary of their proposal to reduce the deficit. The ideas are wide-ranging and span virtually all aspects of the Federal budget.

For example, the students recognized that health care costs in this country pose a threat to the fiscal stability of the Nation. The students identified a series of ideas that could help in reducing health care costs, including incentivizing healthier lifestyles. The group also agreed that Congress should consider ideas for revenue. They highlighted areas such as corporate tax loopholes to find new sources of revenue. The students said Congress should look at reducing fraud and abuse in current programs.

While the students devoted most of their time to finding ways to reduce the deficit, they also highlighted the importance of investment. The group agreed investment in education and scientific research is an important role for the Federal Government to play. As their report states, ''many of the fiscal problems facing the country could be ameliorated by improving citizens' chances for a quality education.'' I could not agree more.

My hat goes off to the students and faculty for joining this important conversation for our families and for our country. It is clear from this report that they took this challenge seriously and understand the balance needed to address the deficit.

I would like to recognize the great work of those involved, including President Jane Karas, Ph.D., Scholars Program Director Ivan Lorentzen; Outreach Coordinator for Career Pathways Jeremy Fritz; and Executive Director for Institutional Research Brad Eldredge, Ph.D. And, most importantly, I would like to commend the students who took on this project: Ursula DeStefano, Tracy Lost-Bear, Lisa Steelye, and Heather Frayle.

It is my goal to make sure these students and their peers nationwide will be able to find good-paying jobs when they graduate. I am doing everything I can to address both our jobs deficit and our fiscal deficit so that we can leave our Nation in better shape than we found it for these students and their children.

I thank Flathead Valley Community College, the instructors, and students for their thoughtful ideas. I hope the experience inspired them to stay involved. They took this project seriously and worked hard to find agreement. We in Congress must do the same. The future for these students and this country is at stake.●

## REMEMBERING GILBERT ''GIL'' CATES

● Mrs. FEINSTEIN. Mr. President, today, I honor the extraordinary life of Gilbert ''Gil'' Cates, a director, producer, mentor, and friend to not only California and New York, but the entire Nation.

Born Gilbert Lewis Katz on June 6, 1934, in New York City to Russian Jewish immigrants Nathan and Nina Katz, Gil soared to the top of the entertainment field with a focus in both film and theater.

Following his education at DeWitt Clinton High School in the Bronx, Gil enrolled at Syracuse University, where he majored in theater.

In 1961, Gil made his producing and directing debut on the television game show ''Camouflage.''

He accomplished countless artistic achievements during his long career as a producer and director, and in 1990 he produced the ''62nd Annual Academy Award,'' where he made his biggest mark on the industry he cherished so much.

Over the next 18 years, Gil served either as the producer or executive producer of 14 Academy Award shows. With broadcasts hosted by Billy Crystal, Whoopi Goldberg, Steve Martin, and Chris Rock, Gil is credited with restoring the telecast as the entertainment industry's most important and widely watched event.

Gil also earned a reputation as an inclusive and creative leader. As a film producer, his credits include ''Oh, God! Book II,'' ''After the Fall,'' and ''I Never Sang for My Father.'' He directed segments of ''The Twilight Zone,'' ''Hobson's Choice,'' ''The Promise,'' and ''Summer Wishes, Winter Dreams.'' As both producer and director, his body of work includes ''Collected Stories,'' ''Confessions: Two Faces of Evil,'' ''Absolute Strangers,'' ''Rings Around the World,'' and ''World's Fair Spectacular.''

Gil made his Broadway debut as the stage manager for ''Shinbone Alley'' in 1957. He made his producing debut on Broadway in 1967 with ''You Know I Can't Hear You When the Water's Running,'' and five years later made his directorial debut in 1972 with ''Voices,'' an original play with music. In total, he was involved with nine Broadway shows. The most recent, ''Time Stands Still,'' closed on January 30, 2011.

Beyond his film, television, and theater work, Gil served the entertainment industry in many leadership capacities. He was a two-term president of the Directors Guild of America, DGA, from 1983 to 1987. From 1990 to 1998, he served as founding dean of the UCLA School of Theater, Film and Television, and then as a mentor and professor. He was also the founding and producing director of the renowned Geffen Playhouse in Westwood, CA. During his diverse career he served in various roles on the Board of Governors of the Academy of Motion Picture Arts and Sciences.

Gil received many honors from the entertainment industry throughout his extensive career, including an Emmy Award for producing the ''63rd Annual Academy Awards'' in 1991. Gil was also Emmy-nominated for directing two television movies, ''Consenting Adult'' in 1985 and ''Do You Know the Muffin Man?'' in 1989.

As a result of his service to the DGA, he received the Directors Guild President Award, the DGA's Robert B. Aldrich Award for Service, and an Honorary Life Membership. He also received the Jimmy Dolittle Award for Outstanding Contribution to Los Angeles Theater, the Ovation Award for best play ''Collected Stories,'' and finally, a star on Hollywood's Walk of Fame.

The showman who was known for his undeniable charisma and witty ways, as well as his contributions to the entertainment industry, was above all an extraordinary person who was in a class all his own.

Please join me in expressing the sympathies of this body to Gil Cates' family, including his wife, Dr. Judith Reichman; his sister, Florence Adler; his children, David, Jonathan, Gil Junior, Melissa, and Anat and Ronit Reichman; and six grandchildren.

Gilbert Cates was larger-than-life and his legacy of remarkable talent, leadership, humor, and dedication to art will no doubt live on within the entertainment industry.●

## RECOGNIZING ISAMAX SNACKS

● Ms. SNOWE. Mr. President, earlier this year members of the Maine Legislature proposed a bill to name the whoopie pie the official State dessert of Maine, later settling on naming it the ''State treat of Maine.'' The whoopie pie, a baked good normally consisting of two chocolate cakes with creamy frosting in between, has been a New England tradition for nearly a century. Anyone who has tasted a whoopie pie knows exactly how special and delectable one really is. With Maine's official ''treat'' in mind, today I recognize and commend Isamax Snacks, a small business in Maine that has perfected the art of homemade whoopie pies.

Amy Bouchard always loved baking, and in 1994, she started a small business making whoopie pies, out of her home kitchen in the small town of Gardiner. Amy's whoopie pies were famous among her friends as ''wicked,'' and therefore she thought it was only proper to name them ''Wicked Whoopies.'' As any Mainer knows, ''wicked'' is a synonym for ''great'' and is commonly used to refer to any extraordinary item, which Amy's desserts most certainly are.

Originally, Isamax was started as a way to supplement her husband's income to assist in raising their two young children, Isabella and Maxx, from which the name of her company is derived. But as more people discovered her Wicked Whoopies, Amy's business

grew rapidly and the small kitchen could no longer keep up with the demand. In 1996, Amy moved to a commercial bakery and purchased two distribution trucks. These investments tripled her business size and distribution territory. Amy now also has two stores in Farmingdale and Freeport, where she sells her mouth-watering treats.

Today, Amy's small company sells 24 different varieties of whoopie pies, including many seasonal favorites like pumpkin and peppermint, and produces nearly one million Wicked Whoopies each year! Amy also recently added the decadent and innovative ''Whoop-de-Doo'' to her line up; a smaller version of a classic Wicked Whoopie dipped in chocolate. Her business has received countless reviews and awards for its products, and has been featured on several nationally televised shows, such as ''The Oprah Winfrey Show'' in 2003, ''Good Morning America'' in 2005, and Food Network's ''Unwrapped'' in 2007. Wicked Whoopies have also been promoted in the New York Times, the Associated Press, and are even available for purchase on the Home Shopping Network's Web site for the 2011 holiday season. Additionally, the city of Gardiner Board of Trade awarded Isamax Snacks with its President's Award in 2004 and Interface Tech News awarded Wicked Whoopies ''Maine's Best of the Web'' in the e-commerce category in 2005.

Over the last 15 years, Isamax Snacks has established itself as one of the country's premier and most heralded whoopie pie and dessert companies. This national notoriety is richly deserved as Amy Bouchard's small dream to help her family blossomed into a vibrant small business. I am proud to congratulate Amy and everyone at Isamax Snacks on their outstanding work, and wish them continued success.●

## SIX-MONTH PERIODIC REPORT RELATIVE TO THE NATIONAL EMERGENCY THAT WAS DECLARED IN EXECUTIVE ORDER 12938 WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—PM 33

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938, as amended, is to continue in effect for 1 year beyond November 14, 2011.

BARACK OBAMA.

THE WHITE HOUSE, *November 9, 2011.*

## 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–3877. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (RIN0648–XA753) received in the Office of the President of the Senate on October 20, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3878. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Accountability Measures and Reduced Season for the South Atlantic Recreational Sector of Golden Tilefish for the 2011 Fishing Year'' (RIN0648–XA701) received in the Office of the President of the Senate on October 20, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3879. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub ACL (Annual Catch Limit) Harvested for Management Area 1B'' (RIN0648–XA413 ) received in the Office of the President of the Senate on October 20, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3880. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Direct Investment Surveys: Alignment of Regulations with Current Practices'' (RIN0691–AA78) received in the Office of the President of the Senate on October 20, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3881. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments; Amendment No. 496'' (RIN2120–AA63) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3882. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Function and Reliability Flight Testing for Turbine-Powered Airplanes Weighing 6,000 Pounds or Less'' ((RIN2120–AAJ56) (Docket No. FAA–2010–0218)) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3883. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Allakaket, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0756)) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3884. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Northway, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0758)) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3885. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (64); Amdt. No. 3446'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3886. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (44); Amdt. No. 3447'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3887. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment and Establishment of Air Traffic Service Routes; Northeast United States'' ((RIN2120–AA66) (Docket No. FAA–2011–0376)) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3888. A communication from the Senior Regulations Specialist, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Federal Drug Testing Custody and Control Form; Technical Amendment'' (RIN2105–AE13) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3889. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Mail or Telephone Order Merchandise Rule'' (RIN3084–AB07) received during recess of the Senate in the Office of the President of the Senate on October 26, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3890. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Structure and Practices of the Video Relay Service Program, Memorandum Opinion and Order and Order, CG Docket No. 10–51'' (FCC 11–155) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3891. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Addition of Certain Persons on the Entity List; Addition of Persons Acting Contrary to the National Security or Foreign Policy Interests of the United States'' (RIN0694–AE97) received during adjournment of the Senate in the Office of the President of the Senate on October 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3892. A communication from the Secretary of Transportation, transmitting, the Department's fiscal year 2011 annual report as required by the Superfund Amendments and Reauthorization Act (SARA) of 1986; to the Committee on Commerce, Science, and Transportation.

EC–3893. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report relative to the accomplishments made under the Airport Improvement Program for fiscal year 2009; to the Committee on Commerce, Science, and Transportation.

EC–3894. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services; Panama City, Florida'' (MB Docket No. 11–140) received in the Office of the President of the Senate on November 7, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3895. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Anglers for Christ Ministries, Inc.; New Beginning Ministries; Petitioners Identified in Appendix A; Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission's Rules; Video Programming Accessibility, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking'' (FCC 11–159) received in the Office of the President of the Senate on November 7, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3896. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''73.1201 Station Identification (vacates rule change and eliminates effective date note 2); 73.3526 Local Public Inspection File of Commercial Stations (vacates rule change and eliminates effective date note 2); 73.3527 Local Public Inspection File of Noncommercial Educational Stations (vacates rule change and eliminates effective date note)'' (FCC 11–162) received in the Office of the President of the Senate on November 7, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3897. A communication from the Director, Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, a report of relative to the conclusion of the U.S. Government Accountability Office (GAO) that the Office of Science and Technology Policy violated the Antideficiency Act by engaging in diplomatic activities purportedly prohibited by section 1340(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011; to the Committee on Appropriations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 453. A bill to improve the safety of motorcoaches, and for other purposes (Rept. No. 112–93).

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*John Francis McCabe, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Peter Arno Krauthamer, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Danya Ariel Dayson, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Nancy Maria Ware, of the District of Columbia, to be Director of the Court Services and Offender Supervision Agency for the District of Columbia for a term of six years.

*Michael A. Hughes, of the District of Columbia, to be United States Marshal for the Superior Court of the District of Columbia for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## 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. THUNE:

S. 1831. A bill to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI (for himself, Mr. DURBIN, Mr. ALEXANDER, Mr. JOHNSON of South Dakota, Mr. BOOZMAN, Mr. REED, Mr. BLUNT, Mr. WHITEHOUSE, Mr. CORKER, and Mr. PRYOR):

S. 1832. A bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes; to the Committee on Finance.

By Mr. MANCHIN (for himself, Mr. COATS, Mr. NELSON of Nebraska, and Mr. CORKER):

S. 1833. A bill to provide additional time for compliance with, and coordinating of, the compliance schedules for certain rules of the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. CORKER:

S. 1834. A bill to restore and repair the United States mortgage markets by making them transparent, bringing in private capital, winding down the Government-sponsored enterprises, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HAGAN (for herself, Mr. CORKER, Mr. SCHUMER, and Mr. CRAPO):

S. 1835. A bill to establish standards for covered bond programs and a covered bond regulatory oversight program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself and Mr. NELSON of Florida):

S. 1836. A bill to amend the Oil Pollution Act of 1990 to clarify that the Act applies to certain incidents that occur in water beyond the exclusive economic zone of the United States; to the Committee on Environment and Public Works.

By Mr. LEE (for himself, Mr. CRAPO, Mr. DEMINT, Mr. PAUL, Mr. RISCH, and Mr. BLUNT):

S. 1837. A bill to amend the Internal Revenue Code of 1986 to modify and permanently extend the incentives to reinvest foreign earnings in the United States; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. BOOZMAN, and Mr. PRYOR):

S. 1838. A bill to require the Secretary of Veterans Affairs to carry out a pilot program on service dog training therapy, and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SCHUMER:

S. Res. 318. A resolution to authorize the printing of a revised edition of the Senate Rules and Manual; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. CASEY, and Mr. MCCAIN):

S. Res. 319. A resolution honoring the life and legacy of Joe Frazier; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 273

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 273, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 362

At the request of Mr. WHITEHOUSE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors 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 Hawaii (Mr. AKAKA), the Senator from Kansas (Mr. MORAN) and the Senator from Indiana (Mr. COATS) 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. 730

At the request of Ms. MURKOWSKI, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 730, a bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

S. 779

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 779, a bill to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program.

S. 877

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 877, a bill to prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law.

S. 896

At the request of Mr. BINGAMAN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 896, a bill to amend the Public Land Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service.

S. 998

At the request of Mr. AKAKA, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 998, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 1039

At the request of Mr. CARDIN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1039, a bill to impose sanctions on persons responsible for the detention, abuse, or death of Sergei Magnitsky, for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and for other gross violations of human rights in the Russian Federation, and for other purposes.

S. 1048

At the request of Mr. MENENDEZ, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. 1161

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1161, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 1251

At the request of Mr. CARPER, the name of the Senator from Nevada (Mr. HELLER) 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. 1265

At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1265, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 1335

At the request of Mr. INHOFE, the names of the Senator from Utah (Mr. HATCH), the Senator from Utah (Mr. LEE) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of S. 1335, a bill to amend title 49, United States Code, to provide rights for pilots, and for other purposes.

S. 1527

At the request of Mrs. HAGAN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Washington (Ms. CANTWELL), the Senator from Illinois (Mr. KIRK), the Senator from Delaware (Mr. CARPER) and the Senator from Alabama (Mr. SESSIONS) 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. JOHANNS, his name was added as a cosponsor of S. 1527, supra.

S. 1718

At the request of Mr. WYDEN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1718, a bill to amend title XVIII of the Social Security Act with respect to the application of Medicare secondary payer rules for certain claims.

S. 1733

At the request of Mr. TESTER, the name of the Senator from North Dakota (Mr. CONRAD) 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 Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1756, a bill to extend HUBZone designations by 3 years, and for other purposes.

S. 1808

At the request of Mr. COONS, the name of the Senator from Virginia (Mr. WEBB) 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. 1829

At the request of Mr. WHITEHOUSE, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of 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.

S.J. RES. 29

At the request of Mr. UDALL of New Mexico, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor 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 Nebraska (Mr. JOHANNS) 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.

AMENDMENT NO. 927

At the request of Mr. HELLER, his name was added as a cosponsor of amendment No. 927 proposed to 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.

At the request of Mrs. MURRAY, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 927 proposed to H.R. 674, supra.

At the request of Mr. TESTER, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of amendment No. 927 proposed to H.R. 674, supra.

AMENDMENT NO. 928

At the request of Mr. MCCAIN, the names of the Senator from Arizona (Mr. KYL) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 928 proposed to 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.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. DURBIN, Mr. ALEXANDER, Mr. JOHNSON of South Dakota, Mr. BOOZMAN, Mr. REED, Mr. BLUNT, Mr. WHITEHOUSE, Mr. CORKER, and Mr. PRYOR):

S. 1832. A bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes; to the Committee on Finance.

Mr. ENZI. 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. 1832

*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 ''Marketplace Fairness Act''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that States should have the ability to enforce their existing sales and use tax laws and to treat similar sales transactions equally, without regard to the manner in which the sale is transacted, and the right to collect - or decide not to collect - taxes that are already owed under State law.

**SEC. 3. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.**

(a) STREAMLINED SALES AND USE TAX AGREEMENT.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not qualifying for a small seller exception to collect and remit sales and use taxes with respect to remote sales sourced to that Member State pursuant to the provisions of the Streamlined Sales and Use Tax Agreement. Such authority shall commence beginning no earlier than the first day of the calendar quarter that is at least 90 days after the date of the enactment of this Act.

(b) ALTERNATIVE.—

(1) IN GENERAL.—A State that is not a Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not qualifying for the small seller exception to collect and remit sales and use taxes with respect to remote sales sourced to that State, but only if the State adopts and implements minimum simplification requirements. Such authority shall commence beginning no earlier than the first day of the calendar quarter that is at least 6 months after the date that the State enacts legislation to implement each of the following minimum simplification requirements:

(A) Provide—

(i) a single State-level agency to administer all sales and use tax laws, including the collection and administration of all State and applicable locality sales and use taxes for all sales sourced to the State made by remote sellers,

(ii) a single audit for all State and local taxing jurisdictions within that State, and

(iii) a single sales and use tax return to be used by remote sellers and single and consolidated providers and to be filed with the State-level agency.

(B) Provide a uniform sales and use tax base among the State and the local taxing jurisdictions within the State.

(C) Require remote sellers and single and consolidated providers to collect sales and use taxes pursuant to the applicable destination rate, which is the sum of the applicable State rate and any applicable rate for the local jurisdiction into which the sale is made.

(D) Provide—

(i) adequate software and services to remote sellers and single and consolidated providers that identifies the applicable destination rate, including the State and local sales tax rate (if any), to be applied on sales sourced to the State, and

(ii) certification procedures for both single providers and consolidated providers to make software and services available to remote sellers, and hold such providers harmless for any errors or omissions as a result of relying on information provided by the State.

(E) Hold remote sellers using a single or consolidated provider harmless for any errors and omissions by that provider.

(F) Relieve remote sellers from liability to the State or locality for collection of the incorrect amount of sales or use tax, including any penalties or interest, if collection of the improper amount is the result of relying on information provided by the State.

(G) Provide remote sellers and single and consolidated providers with 30 days notice of a rate change by any locality in the State.

(2) TREATMENT OF LOCAL RATE CHANGES.—For purposes of this subsection, local rate changes may only be effective on the first day of a calendar quarter. Failure to provide notice under paragraph (1)(G) shall require the State and locality to hold the remote seller or single or consolidated provider harmless for collecting tax at the immediately preceding effective rate during the 30-day period. Each State must provide updated rate information as part of the software and services required by paragraph (1)(D)

(c) SMALL SELLER EXCEPTION.—A State shall be authorized to require a remote seller, or a single or consolidated provider acting on behalf of a remote seller, to collect sales or use tax under this Act if the remote seller has gross annual receipts in total remote sales in the United States in the preceding calendar year exceeding $500,000. For purposes of determining whether the threshold in this subsection is met, the sales of all persons related within the meaning of subsections (b) and (c) of section 267 or section 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.

**SEC. 4. TERMINATION OF AUTHORITY.**

The authority granted by this Act shall terminate on the date that the highest court of competent jurisdiction makes a final determination that the State no longer meets the requirements of this Act, and the determination of such court is no longer subject to appeal.

**SEC. 5. LIMITATIONS.**

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller or any other person to franchise, income, occupation, or any other type of taxes, other than sales and use taxes,

(2) affecting the application of such taxes, or

(3) enlarging or reducing State authority to impose such taxes.

(b) NO EFFECT ON NEXUS.—No obligation imposed by virtue of the authority granted by this Act shall be considered in determining whether a seller or any other person has a nexus with any State for any tax purpose other than sales and use taxes.

(c) LICENSING AND REGULATORY REQUIREMENTS.—Other than the limitation set forth in subsection (a), and section 3, nothing in this Act shall be construed as permitting or prohibiting a State from—

(1) licensing or regulating any person,

(2) requiring any person to qualify to transact intrastate business,

(3) subjecting any person to State taxes not related to the sale of goods or services, or

(4) exercising authority over matters of interstate commerce.

(d) NO NEW TAXES.—Nothing in this Act shall be construed as encouraging a State to impose sales and use taxes on any goods or services not subject to taxation prior to the date of the enactment of this Act.

(e) INTRASTATE SALES.—The provisions of this Act shall only apply to remote sales and shall not apply to intrastate sales or intrastate sourcing rules. States granted authority under section 3(a) shall comply with the intrastate provisions of the Streamlined Sales and Use Tax Agreement.

**SEC. 6. DEFINITIONS AND SPECIAL RULES.**

In this Act:

(1) CONSOLIDATED PROVIDER.—The term ''consolidated provider'' means any person certified by a State who has the rights and responsibilities for sales and use tax administration, collection, remittance, and audits for transactions serviced or processed for the sale of goods or services made by remote sellers on an aggregated basis.

(2) LOCALITY; LOCAL.—The terms ''locality'' and ''local'' refer to any political subdivision of a State.

(3) MEMBER STATE.—The term ''Member State''—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as in effect on the date of the enactment of this Act, and

(B) does not include any associate member under the Streamlined Sales and Use Tax Agreement.

(4) PERSON.—The term ''person'' means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or other legal entity, and a State or local government.

(5) REMOTE SALE.—The term ''remote sale'' means a sale of goods or services attributed to a State with respect to which a seller does not have adequate physical presence to establish nexus under *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

(6) REMOTE SELLER.—The term ''remote seller'' means a person that makes remote sales.

(7) SINGLE PROVIDER.—The term ''single provider'' means any person certified by a State who has the rights and responsibilities for sales and use tax administration, collection, remittance, and audits for transactions serviced or processed for the sale of goods or services made by remote sellers.

(8) SOURCED.—For purposes of a State granted authority under section 3(b), the location to which a remote sale is sourced refers to the location where the item sold is received by the purchaser, based on the location indicated by instructions for delivery that the purchaser furnishes to the seller. When no delivery location is specified, the remote sale is sourced to the customer's address that is either known to the seller or, if not known, obtained by the seller during the consummation of the transaction, including the address of the customer's payment instrument if no other address is available. If an address is unknown and a billing address cannot be obtained, the remote sale is sourced to the address of the seller from which the remote sale was made. A State granted authority under section 3(a) shall comply with the sourcing provisions of the Streamlined Sales and Use Tax Agreement.

(9) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(10) STREAMLINED SALES AND USE TAX AGREEMENT.—The term ''Streamlined Sales and Use Tax Agreement'' means the multi-State agreement with that title adopted on November 12, 2002, as in effect on the date of the enactment of this Act and as further amended from time to time.

**SEC. 7. SEVERABILITY.**

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

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By Mrs. HAGAN (for herself, Mr. CORKER, Mr. SCHUMER, and Mr. CRAPO):

S. 1835. A bill to establish standards for covered bond programs and a covered bond regulatory oversight program; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HAGAN. 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. 1835

*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 ''United States Covered Bond Act''.

**SEC. 2. DEFINITIONS.**

For purposes of this Act, the following definitions shall apply:

(1) ANCILLARY ASSET.—The term ''ancillary asset'' means—

(A) any interest rate or currency swap associated with 1 or more eligible assets, substitute assets, or other assets in a cover pool;

(B) any credit enhancement or liquidity arrangement associated with 1 or more eligible assets, substitute assets, or other assets in a cover pool;

(C) any guarantee, letter-of-credit right, or other secondary obligation that supports any payment or performance of 1 or more eligible assets, substitute assets, or other assets in a cover pool; and

(D) any proceeds of, or other property incident to, 1 or more eligible assets, substitute assets, or other assets in a cover pool.

(2) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(3) COVER POOL.—The term ''cover pool'' means a dynamic pool of assets that is comprised of—

(A) in the case of any eligible issuer described in subparagraph (A), (B), (C), (D), or (E) of paragraph (9)—

(i) 1 or more eligible assets from a single eligible asset class; and

(ii) 1 or more substitute assets or ancillary assets; and

(B) in the case of any eligible issuer described in paragraph (9)(F)—

(i) the covered bonds issued by each sponsoring eligible issuer; and

(ii) 1 or more substitute assets or ancillary assets.

(4) COVERED BOND.—The term ''covered bond'' means any recourse debt obligation of an eligible issuer that—

(A) has an original term to maturity of not less than 1 year;

(B) is secured by a perfected security interest in or other perfected lien on a cover pool that is owned directly or indirectly by the issuer of the obligation;

(C) is issued under a covered bond program that has been approved by the applicable covered bond regulator;

(D) is identified in a register of covered bonds that is maintained by the Secretary; and

(E) is not a deposit (as defined in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l))).

(5) COVERED BOND PROGRAM.—The term ''covered bond program'' means any program of an eligible issuer under which, on the security of a single cover pool, 1 or more series of covered bonds may be issued.

(6) COVERED BOND REGULATOR.—The term ''covered bond regulator'' means—

(A) for any eligible issuer that is subject to the jurisdiction of an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the appropriate Federal banking agency;

(B) for any eligible issuer that is described in paragraph (9)(F), that is not subject to the jurisdiction of an appropriate Federal banking agency, and that is sponsored by only 1 eligible issuer, the covered bond regulator for the sponsor;

(C) for any eligible issuer that is described in paragraph (9)(F), that is not subject to the jurisdiction of an appropriate Federal banking agency, and that is sponsored by more than 1 eligible issuer, the covered bond regulator for the sponsor whose covered bonds constitute the largest share of the cover pool of the issuer; and

(D) for any other eligible issuer that is not subject to the jurisdiction of an appropriate Federal banking agency, the Board of Governors of the Federal Reserve System.

(7) ELIGIBLE ASSET.—The term ''eligible asset'' means—

(A) in the case of the residential mortgage asset class—

(i) any first-lien mortgage loan that is secured by 1-to-4 family residential property;

(ii) any mortgage loan that is insured under the National Housing Act (12 U.S.C. 1701 et seq.); and

(iii) any loan that is guaranteed, insured, or made under chapter 37 of title 38, United States Code;

(B) in the case of the commercial mortgage asset class, any commercial mortgage loan (including any multifamily mortgage loan);

(C) in the case of the public sector asset class—

(i) any security issued by a State, municipality, or other governmental authority;

(ii) any loan made to a State, municipality, or other governmental authority; and

(iii) any loan, security, or other obligation that is insured or guaranteed, in full or substantially in full, by the full faith and credit of the United States Government (whether or not such loan, security, or other obligation is also part of another eligible asset class);

(D) in the case of the auto asset class, any auto loan or lease;

(E) in the case of the student loan asset class, any student loan (whether guaranteed or nonguaranteed);

(F) in the case of the credit or charge card asset class, any extension of credit to a person under an open-end credit plan;

(G) in the case of the small business asset class, any loan that is made or guaranteed under a program of the Small Business Administration; and

(H) in the case of any other eligible asset class, any asset designated by the Secretary, by rule and in consultation with the covered bond regulators, as an eligible asset for purposes of such class.

(8) ELIGIBLE ASSET CLASS.—The term ''eligible asset class'' means—

(A) a residential mortgage asset class;

(B) a commercial mortgage asset class;

(C) a public sector asset class;

(D) an auto asset class;

(E) a student loan asset class;

(F) a credit or charge card asset class;

(G) a small business asset class; and

(H) any other eligible asset class designated by the Secretary, by rule and in consultation with the covered bond regulators.

(9) ELIGIBLE ISSUER.—The term ''eligible issuer'' means—

(A) any insured depository institution and any subsidiary of such institution;

(B) any bank holding company, any savings and loan holding company, and any subsidiary of any of such companies;

(C) any broker or dealer that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) and is a member of the Securities Investor Protection Corporation, and any subsidiary of such broker or dealer;

(D) any insurer that is supervised by a State insurance regulator, and any subsidiary of such insurer;

(E) any nonbank financial company (as defined in section 102(a)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5311(a)(4))) that is supervised by the Board of Governors of the Federal Reserve System under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323), including any intermediate holding company supervised as a nonbank financial company, and any subsidiary of such a nonbank financial company; and

(F) any issuer that is sponsored by 1 or more eligible issuers for the sole purpose of issuing covered bonds on a pooled basis.

(10) OVERSIGHT PROGRAM.—The term ''oversight program'' means the covered bond regulatory oversight program established under section 3(a).

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of the Treasury.

(12) SUBSTITUTE ASSET.—The term ''substitute asset'' means—

(A) cash;

(B) any direct obligation of the United States Government, and any security or other obligation whose full principal and interest are insured or guaranteed by the full faith and credit of the United States Government;

(C) any direct obligation of a United States Government corporation or Government-sponsored enterprise of the highest credit quality, and any other security or other obligation of the highest credit quality whose full principal and interest are insured or guaranteed by such corporation or enterprise, except that the outstanding principal amount of these obligations in any cover pool may not exceed an amount equal to 20 percent of the outstanding principal amount of all assets in the cover pool without the approval of the applicable covered bond regulator;

(D) any other substitute asset designated by the Secretary, by rule and in consultation with the covered bond regulators; and

(E) any deposit account or securities account into which only an asset described in subparagraph (A), (B), (C), or (D) may be deposited or credited.

**SEC. 3. REGULATORY OVERSIGHT OF COVERED BOND PROGRAMS ESTABLISHED.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act,

the Secretary shall, by rule and in consultation with the covered bond regulators, establish a covered bond regulatory oversight program that provides for—

(A) covered bond programs to be evaluated according to reasonable and objective standards in order to be approved under paragraph (2), including any additional eligibility standards for eligible assets and any other criteria determined appropriate by the Secretary to further the purposes of this Act;

(B) covered bond programs to be maintained in a manner that is consistent with this Act and safe and sound asset-liability management and other financial practices; and

(C) any estate created under section 4 to be administered in a manner that is consistent with maximizing the value and the proceeds of the related cover pool in a resolution under this Act.

(2) APPROVAL OF EACH COVERED BOND PROGRAM.—

(A) IN GENERAL.—A covered bond shall be subject to this Act only if the covered bond is issued by an eligible issuer under a covered bond program that is approved by the applicable covered bond regulator.

(B) APPROVAL PROCESS.—Each covered bond regulator shall apply the standards established by the Secretary under the oversight program to evaluate a covered bond program that has been submitted by an eligible issuer for approval. Each covered bond regulator also shall take into account relevant supervisory factors, including safety and soundness considerations, in evaluating a covered bond program that has been submitted for approval. Each covered bond regulator, promptly after approving a covered bond program, shall provide the Secretary with the name of the covered bond program, the name of the eligible issuer, and all other information reasonably requested by the Secretary in order to update the registry under paragraph (3)(A). Each eligible issuer, promptly after issuing a covered bond under an approved covered bond program, shall provide the Secretary with all information reasonably requested by the Secretary in order to update the registry under paragraph (3)(B).

(C) EXISTING COVERED BOND PROGRAMS.—A covered bond regulator may approve a covered bond program that is in existence on the date of the enactment of this Act. Upon such approval, each covered bond under the covered bond program shall be subject to this Act, regardless of when the covered bond was issued.

(D) MULTIPLE COVERED BOND PROGRAMS PERMITTED.—An eligible issuer may have more than 1 covered bond program.

(E) CEASE AND DESIST AUTHORITY.—The applicable covered bond regulator may direct an eligible issuer to cease issuing covered bonds under an approved covered bond program if the covered bond program is not maintained in a manner that is consistent with this Act and the oversight program and if, after notice that is reasonable under the circumstances, the issuer does not remedy all deficiencies identified by the applicable covered bond regulator.

(F) CAP ON THE AMOUNT OF OUTSTANDING COVERED BONDS.—

(i) IN GENERAL.—With respect to each eligible issuer that submits a covered bond program for approval, the applicable covered bond regulator shall set, consistent with safety and soundness considerations and the financial condition of the eligible issuer, the maximum amount, as a percentage of the eligible issuer's total assets, of outstanding covered bonds that the eligible issuer may issue.

(ii) REVIEW OF CAP.—The applicable covered bond regulator may, not more frequently than quarterly, review the percentage set under clause (i) and, if safety and soundness considerations or the financial condition of the eligible issuer has changed, increase or decrease such percentage. Any decrease made pursuant to this clause shall have no effect on existing covered bonds issued by the eligible issuer.

(3) REGISTRY.—Under the oversight program, the Secretary shall maintain a registry that is published on a Web site available to the public and that, for each covered bond program approved by a covered bond regulator, contains—

(A) the name of the covered bond program, the name of the eligible issuer, and all other information that the Secretary considers necessary to adequately identify the covered bond program and the eligible issuer; and

(B) all information that the Secretary considers necessary to adequately identify all outstanding covered bonds issued under the covered bond program (including the reports described in paragraphs (3) and (4) of subsection (b)).

(4) FEES.—Each covered bond regulator may levy, on the issuers of covered bonds under the primary supervision of such covered bond regulator, reasonably apportioned fees that such covered bond regulator considers necessary, in the aggregate, to defray the costs of such covered bond regulator carrying out the provisions of this Act. Such funds shall not be construed to be Government funds or appropriated monies and shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or any other provision of law.

(b) MINIMUM OVER-COLLATERALIZATION REQUIREMENTS.—

(1) REQUIREMENTS ESTABLISHED.—The Secretary, by rule and in consultation with the covered bond regulators, shall establish minimum over-collateralization requirements for covered bonds backed by each of the eligible asset classes. The minimum over-collateralization requirements shall be designed to ensure that sufficient eligible assets and substitute assets are maintained in the cover pool to satisfy all principal and interest payments on the covered bonds when due through maturity and shall be based on the credit, collection, and interest rate risks (excluding the liquidity risks) associated with the eligible asset class.

(2) ASSET COVERAGE TEST.—The eligible assets and the substitute assets in any cover pool shall be required, in the aggregate, to meet at all times the applicable minimum over-collateralization requirements.

(3) MONTHLY REPORTING.—On a monthly basis, each issuer of covered bonds shall submit a report on whether the cover pool that secures the covered bonds meets the applicable minimum over-collateralization requirements to—

(A) the Secretary;

(B) the applicable covered bond regulator;

(C) the applicable indenture trustee;

(D) the applicable covered bondholders; and

(E) the applicable independent asset monitor.

(4) INDEPENDENT ASSET MONITOR.—

(A) APPOINTMENT.—Each issuer of covered bonds shall appoint the indenture trustee for the covered bonds, or another unaffiliated entity, as an independent asset monitor for the applicable cover pool.

(B) DUTIES.—An independent asset monitor appointed under subparagraph (A) shall, on an annual or other more frequent periodic basis determined by the Secretary under the oversight program—

(i) verify whether the cover pool meets the applicable minimum over-collateralization requirements; and

(ii) report to the Secretary, the applicable covered bond regulator, the applicable indenture trustee, and the applicable covered bondholders on whether the cover pool meets the applicable minimum over-collateralization requirements.

(C) REMOVAL AND REPLACEMENT.—The independent asset monitor appointed under subparagraph (A) may be removed and replaced—

(i) by a covered bond regulator in any case in which such action is in the best interest of the covered bond investors; and

(ii) by covered bond holders who own a majority of the outstanding principal amount of the covered bonds secured by the applicable cover pool, at any time.

(5) NO LOSS OF STATUS.—Covered bonds shall remain subject to this Act regardless of whether the applicable cover pool ceases to meet the applicable minimum over-collateralization requirements.

(6) FAILURE TO MEET REQUIREMENTS.—

(A) IN GENERAL.—If a cover pool fails to meet the applicable minimum over-collateralization requirements, and if the failure is not cured within the time specified in the related transaction documents, the failure shall be an uncured default for purposes of section 4(a).

(B) NOTICE REQUIRED.—An issuer of covered bonds shall promptly give the Secretary and the applicable covered bond regulator written notice if the cover pool securing the covered bonds fails to meet the applicable minimum over-collateralization requirements, if the failure is cured within the time specified in the related transaction documents, or if the failure is not so cured.

(c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

(1) REQUIREMENTS.—

(A) LOANS.—A loan shall not qualify as an eligible asset for so long as the loan is delinquent for more than 60 consecutive days.

(B) SECURITIES.—A security shall not qualify as an eligible asset for so long as the security does not meet any credit-quality requirement under this Act.

(C) ORIGINATION.—An asset shall not qualify as an eligible asset if the asset was not originated in compliance with any rule or supervisory guidance of a Federal agency applicable to the asset at the time of origination.

(D) NO DOUBLE PLEDGE.—An asset shall not qualify as an eligible asset for so long as the asset is subject to a prior perfected security interest or other prior perfected lien that has been granted in an unrelated transaction. Nothing in this Act shall affect such a prior perfected security interest or other prior perfected lien, and the rights of such lien holders.

(2) FAILURE TO MEET REQUIREMENTS.—Subject to paragraph (1)(D), if an asset in a cover pool does not satisfy any applicable requirement described in paragraph (1) or any other applicable standard or criterion described in this Act, the oversight program, or the related transaction documents, the asset shall not qualify as an eligible asset for purposes of the asset coverage test described in subsection (b)(2). A disqualified asset shall remain in the cover pool unless and until removed by the issuer in compliance with the provisions of this Act, the oversight program, and the related transaction documents. No disqualified asset may be removed from the cover pool after an estate has been created for the related covered bond program under section 4(b)(1) or 4(c)(2), except in connection with the management of the cover pool under section 4(d)(1)(E).

(d) OTHER REQUIREMENTS.—

(1) BOOKS AND RECORDS OF ISSUER.—Each issuer of covered bonds shall clearly mark its books and records to identify the assets that

comprise the cover pool securing the covered bonds.

(2) SCHEDULE OF ELIGIBLE ASSETS AND SUBSTITUTE ASSETS.—Each issuer of covered bonds shall deliver to the applicable indenture trustee and the applicable independent asset monitor, on at least a monthly basis, a schedule that identifies all eligible assets and substitute assets in the cover pool securing the covered bonds.

(3) SINGLE ELIGIBLE ASSET CLASS.—No cover pool described in section 2(3)(A) may include eligible assets from more than 1 eligible asset class. No cover pool described in section 2(3)(B) may include covered bonds backed by more than 1 eligible asset class.

**SEC. 4. RESOLUTION UPON DEFAULT OR INSOLVENCY.**

(a) UNCURED DEFAULT DEFINED.—For purposes of this section, the term ''uncured default'' means a default on a covered bond that has not been cured within the time, if any, specified in the related transaction documents.

(b) DEFAULT ON COVERED BONDS PRIOR TO CONSERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANKRUPTCY.—

(1) CREATION OF SEPARATE ESTATE.—If an uncured default occurs on a covered bond before the issuer of the covered bond enters conservatorship, receivership, liquidation, or bankruptcy, an estate shall be immediately and automatically created by operation of law and shall exist and be administered separate and apart from the issuer or any subsequent conservatorship, receivership, liquidating agency, or estate in bankruptcy for the issuer or any other assets of the issuer. A separate estate shall be created for each affected covered bond program.

(2) ASSETS AND LIABILITIES OF ESTATE.—Any estate created under paragraph (1) shall be comprised of the cover pool (including over-collateralization in the cover pool) that secures the covered bond. The cover pool shall be immediately and automatically released to and held by the estate free and clear of any right, title, interest, or claim of the issuer or any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer. The estate shall be fully liable on the covered bond and all other covered bonds and related obligations of the issuer (including obligations under related derivative transactions) that are secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. The estate shall not be liable on any obligation of the issuer that is not secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. No conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer may charge or assess the estate for any claim of the conservator, receiver, liquidating agent, or trustee in bankruptcy or the conservatorship, receivership, liquidating agency, or estate in bankruptcy and may not obtain or perfect a security interest in or other lien on the cover pool to secure such a claim.

(3) RETENTION OF CLAIMS.—Any holder of a covered bond or related obligation for which an estate has become liable under paragraph (2) shall retain a claim against the issuer for any deficiency with respect to the covered bond or related obligation. If the issuer enters conservatorship, receivership, liquidation, or bankruptcy, any contingent claim for such a deficiency shall be allowed as a provable claim in the conservatorship, receivership, liquidating agency, or bankruptcy case. The contingent claim shall be estimated by the conservator, receiver, liquidating agent, or bankruptcy court for purposes of allowing the claim as a provable claim if awaiting the fixing of the contingent claim would unduly delay the resolution of the conservatorship, receivership, liquidating agency, or bankruptcy case.

(4) RESIDUAL INTEREST.—

(A) ISSUANCE OF RESIDUAL INTEREST.—Upon the creation of an estate under paragraph (1), a residual interest in the estate shall be immediately and automatically issued by operation of law to the issuer.

(B) NATURE OF RESIDUAL INTEREST.—The residual interest under subparagraph (A) shall—

(i) be an exempted security as described in section 5;

(ii) represent the right to any surplus from the cover pool after the covered bonds and all other liabilities of the estate have been fully and irrevocably paid; and

(iii) be evidenced by a certificate executed by the trustee of the estate.

(5) OBLIGATIONS OF ISSUER.—

(A) IN GENERAL.—After the creation of an estate under paragraph (1), the issuer shall—

(i) transfer to or at the direction of the trustee for the estate all property of the estate that is in the possession or under the control of the issuer, including all tangible or electronic books, records, files, and other documents or materials relating to the assets and liabilities of the estate; and

(ii) at the election of the trustee or a servicer or administrator for the estate, continue servicing the applicable cover pool for 120 days after the creation of the estate in return for a fair-market-value fee, as determined by the trustee in consultation with the applicable covered bond regulator, that shall be payable from the estate as an administrative expense.

(B) OBLIGATIONS ABSOLUTE.—Neither the issuer, whether acting as debtor in possession or in any other capacity, nor any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer may disaffirm, repudiate, or reject the obligation to turn over property or to continue servicing the cover pool as provided in subparagraph (A).

(c) DEFAULT ON COVERED BONDS UPON CONSERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANKRUPTCY.—

(1) CORPORATION CONSERVATORSHIP OR RECEIVERSHIP.—

(A) IN GENERAL.—If the Corporation is appointed as conservator or receiver for an issuer of covered bonds before an uncured default results in the creation of an estate under subsection (b), the Corporation as conservator or receiver shall have an exclusive right, during the 1-year period beginning on the date of the appointment, to transfer any cover pool owned by the issuer in its entirety, together with all covered bonds and related obligations that are secured by a perfected security interest in or other perfected lien on the cover pool, to another eligible issuer that meets all conditions and requirements specified in the related transaction documents. The Corporation as conservator or receiver may not remove any asset from the cover pool, except to the extent otherwise agreed by a transferee that has assumed the covered bond program pursuant to subparagraph (C).

(B) OBLIGATIONS DURING 1-YEAR PERIOD.—During the 1-year period described in subparagraph (A), the Corporation as conservator or receiver shall fully and timely satisfy all monetary and nonmonetary obligations of the issuer under all covered bonds and the related transaction documents and shall fully and timely cure all defaults by the issuer (other than its conservatorship or receivership) under the applicable covered bond program, in each case, until the earlier of—

(i) the transfer of the applicable covered bond program to another eligible issuer as provided in subparagraph (A); or

(ii) the delivery to the Secretary, the applicable covered bond regulator, the applicable indenture trustee, and the applicable covered bondholders of a written notice from the Corporation as conservator or receiver electing to cease further performance under the applicable covered bond program.

(C) ASSUMPTION BY TRANSFEREE.—If the Corporation as conservator or receiver transfers a covered bond program to another eligible issuer within the 1-year period as provided in subparagraph (A), the transferee shall take ownership of the applicable cover pool and shall become fully liable on all covered bonds and related obligations of the issuer that are secured by a perfected security interest in or other perfected lien on the cover pool.

(2) OTHER CIRCUMSTANCES.—An estate shall be immediately and automatically created by operation of law and shall exist and be administered separate and apart from an issuer of covered bonds and any conservatorship, receivership, liquidating agency, or estate in bankruptcy for the issuer or any other assets of the issuer, if—

(A) a conservator, receiver, liquidating agent, or trustee in bankruptcy, other than the Corporation, is appointed for the issuer before an uncured default results in the creation of an estate under subsection (b); or

(B) in the case of the appointment of the Corporation as conservator or receiver as described in paragraph (1)(A), the Corporation as conservator or receiver—

(i) does not complete the transfer of the applicable covered bond program to another eligible issuer within the 1-year period as provided in paragraph (1)(A);

(ii) delivers to the Secretary, the applicable covered bond regulator, the applicable indenture trustee, and the applicable covered bondholders a written notice electing to cease further performance under the applicable covered bond program; or

(iii) fails to fully and timely satisfy all monetary and nonmonetary obligations of the issuer under the covered bonds and the related transaction documents or to fully and timely cure all defaults by the issuer (other than its conservatorship or receivership) under the applicable covered bond program.

A separate estate shall be created for each affected covered bond program.

(3) ASSETS AND LIABILITIES OF ESTATE.—Any estate created under paragraph (2) shall be comprised of the cover pool (including over-collateralization in the cover pool) that secures the covered bonds. The cover pool shall be immediately and automatically released to and held by the estate free and clear of any right, title, interest, or claim of the issuer or any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer. The estate shall be fully liable on the covered bonds and all other covered bonds and related obligations of the issuer (including obligations under related derivative transactions) that are secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. The estate shall not be liable on any obligation of the issuer that is not secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. No conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer may charge or assess the estate for any claim of the conservator, receiver, liquidating agent, or trustee in bankruptcy or the conservatorship, receivership, liquidating agency, or estate in bankruptcy and may not

obtain or perfect a security interest in or other lien on the cover pool to secure such a claim.

(4) CONTINGENT CLAIM.—Any contingent claim against an issuer for a deficiency with respect to a covered bond or related obligation for which an estate has become liable under paragraph (3) shall be allowed as a provable claim in the conservatorship, receivership, liquidating agency, or bankruptcy case for the issuer. The contingent claim shall be estimated by the conservator, receiver, liquidating agent, or bankruptcy court for purposes of allowing the claim as a provable claim if awaiting the fixing of the contingent claim would unduly delay the resolution of the conservatorship, receivership, liquidating agency, or bankruptcy case.

(5) RESIDUAL INTEREST.—

(A) ISSUANCE OF RESIDUAL INTEREST.—Upon the creation of an estate under paragraph (2), and regardless of whether any contingent claim described in paragraph (4) becomes fixed or is estimated, a residual interest in the estate shall be immediately and automatically issued by operation of law to the conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer.

(B) NATURE OF RESIDUAL INTEREST.—The residual interest under subparagraph (A) shall—

(i) be an exempted security as described in section 5;

(ii) represent the right to any surplus from the cover pool after the covered bonds and all other liabilities of the estate have been fully and irrevocably paid; and

(iii) be evidenced by a certificate executed by the trustee of the estate.

(6) OBLIGATIONS OF ISSUER.—

(A) IN GENERAL.—After the creation of an estate under paragraph (2), the issuer and its conservator, receiver, liquidating agent, or trustee in bankruptcy shall—

(i) transfer to or at the direction of the trustee for the estate all property of the estate that is in the possession or under the control of the issuer or its conservator, receiver, liquidating agent, or trustee in bankruptcy, including all tangible or electronic books, records, files, and other documents or materials relating to the assets and liabilities of the estate; and

(ii) at the election of the trustee or a servicer or administrator for the estate, continue servicing the applicable cover pool for 120 days after the creation of the estate in return for a fair-market-value fee, as determined by the trustee in consultation with the applicable covered bond regulator, that shall be payable from the estate as an administrative expense.

(B) OBLIGATIONS ABSOLUTE.—Neither the issuer, whether acting as debtor in possession or in any other capacity, nor any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer may disaffirm, repudiate, or reject the obligation to turn over property or to continue servicing the cover pool as provided in subparagraph (A).

(d) ADMINISTRATION AND RESOLUTION OF ESTATES.—

(1) TRUSTEE, SERVICER, AND ADMINISTRATOR.—

(A) IN GENERAL.—Upon the creation of any estate under subsection (b)(1) or (c)(2), the applicable covered bond regulator shall—

(i) appoint the trustee for the estate;

(ii) appoint 1 or more servicers or administrators for the cover pool held by the estate; and

(iii) give the Secretary, the applicable indenture trustee, the applicable covered bondholders, and the owner of the residual interest written notice of the creation of the estate.

(B) TERMS AND CONDITIONS OF APPOINTMENT.—All terms and conditions of any appointment under paragraph (1), including the terms and conditions relating to compensation, shall conform to the requirements of this Act and the oversight program and otherwise shall be determined by the applicable covered bond regulator.

(C) QUALIFICATION.—The applicable covered bond regulator may require the trustee or any servicer or administrator for an estate to post in favor of the United States, for the benefit of the estate, a bond that is conditioned on the faithful performance of the duties of the trustee or the servicer or administrator. The covered bond regulator shall determine the amount of any bond required under this subparagraph and the sufficiency of the surety on the bond. A proceeding on a bond required under this subparagraph may not be commenced after two years after the date on which the trustee or the servicer or administrator was discharged.

(D) POWERS AND DUTIES OF TRUSTEE.—The trustee for an estate is the representative of the estate and, subject to the provisions of this Act, has capacity to sue and be sued. The trustee shall—

(i) administer the estate in compliance with this Act, the oversight program, and the related transaction documents;

(ii) be accountable for all property of the estate that is received by the trustee;

(iii) make a final report and file a final account of the administration of the estate with the applicable covered bond regulator; and

(iv) after the estate has been fully administered, close the estate.

(E) POWERS AND DUTIES OF SERVICER OR ADMINISTRATOR.—Any servicer or administrator for an estate—

(i) shall—

(I) collect, realize on (by liquidation or other means), and otherwise manage the cover pool held by the estate in compliance with this Act, the oversight program, and the related transaction documents and in a manner consistent with maximizing the value and the proceeds of the cover pool;

(II) deposit or invest all proceeds and funds received in compliance with this Act, the oversight program, and the related transaction documents and in a manner consistent with maximizing the net return to the estate, taking into account the safety of the deposit or investment; and

(III) apply, or direct the trustee for the estate to apply, all proceeds and funds received and the net return on any deposit or investment to make distributions in compliance with paragraphs (3) and (4);

(ii) may borrow funds or otherwise obtain credit, for the benefit of the estate, in compliance with paragraph (2) on a secured or unsecured basis and on a priority, pari passu, or subordinated basis;

(iii) shall, at the times and in the manner required by the applicable covered bond regulator, submit to the covered bond regulator, the Secretary, the applicable indenture trustee, the applicable covered bondholders, the owner of the residual interest, and any other person designated by the covered bond regulator, reports that describe the activities of the servicer or administrator on behalf of the estate, the performance of the cover pool held by the estate, and distributions made by the estate; and

(iv) shall assist the trustee in preparing the final report and the final account of the administration of the estate.

(F) SUPERVISION OF TRUSTEE, SERVICER, AND ADMINISTRATOR.—The applicable covered bond regulator shall supervise the trustee and any servicer or administrator for an estate. The covered bond regulator shall require that all reports submitted under subparagraph (E)(iii) do not contain any untrue statement of a material fact and do not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(G) REMOVAL AND REPLACEMENT OF TRUSTEE, SERVICER, AND ADMINISTRATOR.—If the covered bond regulator determines that it is in the best interests of an estate, the covered bond regulator may remove or replace the trustee or any servicer or administrator for the estate. The removal of the trustee or any servicer or administrator does not abate any pending action or proceeding involving the estate, and any successor or other trustee, servicer, or administrator shall be substituted as a party in the action or proceeding.

(H) PROFESSIONALS.—The trustee or any servicer or administrator for an estate may employ 1 or more attorneys, accountants, appraisers, auctioneers, or other professional persons to represent or assist the trustee or the servicer or administrator in carrying out its duties. The employment of any professional person and all terms and conditions of employment, including the terms and conditions relating to compensation, shall conform to the requirements of this Act and the oversight program and otherwise shall be subject to the approval of the applicable covered bond regulator.

(I) APPROVED FEES AND EXPENSES.—Unless otherwise provided in the applicable terms and conditions of appointment or employment, all approved fees and expenses of the trustee, any servicer or administrator, or any professional person employed by the trustee or any servicer or administrator shall be payable from the estate as administrative expenses.

(J) ACTIONS BY OR ON BEHALF OF ESTATE.—The trustee or any servicer or administrator for an estate may commence or continue judicial, administrative, or other actions, in the name of the estate or in its own name on behalf of the estate, for the purpose of collecting, realizing on, or otherwise managing the cover pool held by the estate or exercising its other powers or duties on behalf of the estate.

(K) ACTIONS AGAINST ESTATE.—No court may issue an attachment or execution on any property of an estate. Except at the request of the applicable covered bond regulator or as otherwise provided in this subparagraph or subparagraph (J), no court may take any action to restrain or affect the resolution of an estate under this Act. No person (including the applicable indenture trustee and any applicable covered bondholder) may commence or continue any judicial, administrative, or other action against the estate, the trustee, or any servicer or administrator or take any other act to affect the estate, the trustee, or any servicer or administrator that is not expressly permitted by this Act, the oversight program, and the related transaction documents, except for a judicial or administrative action to compel the release of funds that—

(i) are available to the estate;

(ii) are permitted to be distributed under this Act and the oversight program; and

(iii) are permitted and required to be distributed under the related transaction documents and any contracts executed by or on behalf of the estate.

(L) SOVEREIGN IMMUNITY.—Except in connection with a guarantee provided under paragraph (4) or any other contract executed by the applicable covered bond regulator under this section 4, the Secretary and the covered bond regulator shall be entitled to sovereign immunity in carrying out the provisions of this Act.

(2) BORROWINGS AND CREDIT.—

(A) IN GENERAL.—Any servicer or administrator for an estate created under subsection (b)(1) or (c)(2) may borrow funds or otherwise obtain credit, on behalf of and for the benefit of the estate, from any person in compliance with this paragraph (2) solely for the purpose of providing liquidity in the case of timing mismatches among the assets and the liabilities of the estate. Except with respect to an underwriter, section 5 of the Securities Act of 1933, the Trust Indenture Act of 1939, and any State or local law requiring registration for an offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in a security does not apply to the offer or sale under this paragraph (2) of a security that is not an equity security.

(B) CONDITIONS.—A servicer or administrator may borrow funds or otherwise obtain credit under subparagraph (A)—

(i) on terms affording the lender only claims or liens that are fully subordinated to the claims and interests of the applicable indenture trustee and the applicable covered bondholders and all other claims against and interests in the estate, except for the residual interest, if the servicer or administrator certifies to the applicable covered bond regulator that, in the business judgment of the servicer or administrator, the borrowing or credit is in the best interests of the estate and is expected to maximize the value and the proceeds of the cover pool held by the estate; or

(ii) on terms affording the lender claims or liens that have priority over or are pari passu with the claims or interests of the applicable indenture trustee or the applicable covered bondholders or other claims against or interests in the estate, if—

(I) the servicer or administrator certifies to the applicable covered bond regulator that, in the business judgment of the servicer or administrator, the borrowing or credit is in the best interests of the estate and is expected to maximize the value and the proceeds of the cover pool held by the estate; and

(II) the applicable covered bond regulator authorizes the borrowing or credit.

(C) LIMITED LIABILITY.—A servicer or administrator shall not be liable for any error in business judgment when borrowing funds or otherwise obtaining credit under this paragraph (2) unless the servicer or administrator acted in bad faith or in willful disregard of its duties.

(D) STUDY ON BORROWINGS AND CREDIT.—The Comptroller General of the United States shall conduct a study on whether the Federal reserve banks should be authorized to lend funds or otherwise extend credit to an estate under this paragraph (2) and, if so, what conditions and limits should be established to mitigate any risk that the United States Government could absorb credit losses on the cover pool held by the estate. The Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study not later than 6 months after the date of enactment of this Act.

(3) DISTRIBUTIONS BY ESTATE.—All payments or other distributions by an estate shall be made at the times, in the amounts, and in the manner set forth in the covered bonds, the related transaction documents, and any contracts executed by or on behalf of the estate in compliance with this Act and the oversight program. To the extent that the relative priority of the liabilities of the estate are not specified in or otherwise ascertainable from their terms, distributions shall be made on each distribution date under the covered bonds, the related transaction documents, or any contracts executed by or on behalf of the estate—

(A) first, to pay accrued and unpaid superpriority claims under paragraph (2)(B)(ii);

(B) second, to pay accrued and unpaid administrative expense claims under paragraph (1)(I), paragraph (2)(B)(ii), section 4(b)(5)(A), or section 4(c)(6)(A);

(C) third, to pay—

(i) accrued and unpaid claims under the covered bonds and the related transaction documents according to their terms; and

(ii) accrued and unpaid pari passu claims under paragraph (2)(B)(ii); and

(D) fourth, to pay accrued and unpaid subordinated claims under paragraph (2)(B)(i).

(4) DISTRIBUTIONS ON RESIDUAL INTEREST.—After all other claims against and interests in an estate have been fully and irrevocably paid or defeased, the trustee shall or shall cause a servicer or administrator to distribute the remainder of the estate to or at the direction of the owner of the residual interest. No interim distribution on the residual interest may be made before that time, unless the applicable covered bond regulator—

(A) approves the distribution after determining that all other claims against and interests in the estate will be fully, timely, and irrevocably paid according to their terms; and

(B) provides an indemnity, for the benefit of the estate, assuring that all other claims against and interests in the estate will be fully, timely, and irrevocably paid according to their terms.

(5) CLOSING OF ESTATE.—After an estate has been fully administered, the trustee shall close the estate and, except as otherwise directed by the applicable covered bond regulator, shall destroy all records of the estate.

(6) NO LOSS TO TAXPAYERS.—Taxpayers shall bear no losses from the resolution of an estate under this Act. To the extent that the Secretary and the Corporation jointly determine that the Deposit Insurance Fund incurred actual losses that are higher because the covered bond program of an insured depository institution was subject to resolution under this Act rather than as part of the receivership of the institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the Corporation may exercise the powers available under section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) to recover an amount equal to those losses after consulting with the Secretary.

**SEC. 5. SECURITIES LAW PROVISIONS.**

(a) SECURITIES LAWS TREATMENT OF COVERED BONDS.—

(1) TREATMENT OF CERTAIN BANKS AND OTHER ENTITIES.—

(A) SECURITIES LAWS COVERAGE.—A covered bond described in subparagraph (C) is and shall be treated as a security issued or guaranteed by a bank under section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)), section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)), and section 304(a)(4)(A) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)(A)), as applicable.

(B) SECURITIES EXCHANGE ACT OF 1934 EXEMPTION.—No covered bond described in subparagraph (C) shall be treated as an asset-backed security, as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or a structured finance product, as that term is defined in section 939F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 78o–9).

(C) APPLICABILITY.—A covered bond described in this subparagraph is a covered bond that is—

(i) issued or guaranteed by a bank; or

(ii) issued by an eligible issuer described in section 2(9)(F) and sponsored solely by 1 or more banks for the sole purpose of issuing covered bonds.

(D) REGULATIONS.—Each covered bond regulator for 1 or more banks shall adopt, as part of the securities regulations of the covered bond regulator, a separate scheme of registration, disclosure, and reporting obligations and exemptions for offers or sales of covered bonds described in subparagraph (C), which regulations shall—

(i) provide for uniform and consistent standards for such covered bond issuers, with respect to any such covered bonds, to the extent possible; and

(ii) be consistent with existing regulations governing offers or sales of nonconvertible debt.

(2) TREATMENT OF CERTAIN ASSOCIATIONS AND COOPERATIVE BANKS.—

(A) SECURITIES LAWS COVERAGE.—A covered bond described in subparagraph (C) is and shall be treated as a security issued by an entity under section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)), section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)), and section 304(a)(4)(A) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)(A)), as applicable.

(B) SECURITIES EXCHANGE ACT OF 1934 EXEMPTION.—No covered bond described in subparagraph (C) shall be treated as an asset-backed security, as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or a structured finance product, as that term is defined in section 939F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 78o–9).

(C) APPLICABILITY.—A covered bond described in this subparagraph is a covered bond that is—

(i) issued by an entity described in section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)); or

(ii) issued by an eligible issuer described in section 2(9)(F) and sponsored solely by 1 or more such entities for the sole purpose of issuing covered bonds.

(D) REGULATIONS.—Each covered bond regulator for 1 or more entities described in section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) shall adopt, as part of the securities regulations of the covered bond regulator, a separate scheme of registration, disclosure, and reporting obligations and exemptions for offers or sales of covered bonds described in subparagraph (C), which regulations shall—

(i) provide for uniform and consistent standards for such covered bond issuers, with respect to any such covered bonds, to the extent possible; and

(ii) shall be consistent with regulations governing offers or sales of nonconvertible debt.

(3) CONSTRUCTION.—No provision of this Act, including paragraph (1) or (2), may be construed or applied in a manner that impairs or limits any other exemption that is available under applicable securities laws.

(b) EXEMPTIONS FOR ESTATES.—Any estate that is or may be created under section 4(b)(1) or 4(c)(2) shall be exempt from all State and Federal securities laws, except that such estate—

(1) shall be subject to all anti-fraud provisions of such securities laws;

(2) shall be subject to the reporting requirements established by the applicable covered bond regulator under section 4(d)(1)(E)(iii); and

(3) shall succeed to any requirement of the issuer to file such periodic information, documents, and reports in respect of the covered bonds, as specified in section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)) or rules established by an appropriate Federal banking agency.

(c) EXEMPTIONS FOR RESIDUAL INTERESTS.—Any residual interest in an estate that is or may be created under section 4(b)(1) or 4(c)(2) shall be exempt from all State and Federal securities laws.

**SEC. 6. MISCELLANEOUS PROVISIONS.**

(a) DOMESTIC SECURITIES.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(a)(1)) is amended—

(1) in subparagraph (C), by striking ''or'' at the end;

(2) in subparagraph (D), by adding ''or'' at the end; and

(3) by inserting after subparagraph (D) the following:

''(E) covered bonds (as defined in section 2 of the United States Covered Bond Act of 2011),''.

(b) NO CONFLICT.—The provisions of this Act shall apply, notwithstanding any provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11, United States Code, title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), or any other provision of Federal law with respect to conservatorship, receivership, liquidation, or bankruptcy. No provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11, United States Code, title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), or any other provision of Federal law with respect to conservatorship, receivership, liquidation, or bankruptcy may be construed or applied in a manner that defeats or interferes with the purpose or operation of this Act.

(c) ANNUAL REPORT TO CONGRESS.—The covered bond regulators shall, annually—

(1) submit a joint report to the Congress describing the current state of the covered bond market in the United States; and

(2) testify on the current state of the covered bond market in the United States before the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

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By Mr. BAUCUS (for himself, Mr. BOOZMAN, and Mr. PRYOR):

S. 1838. A bill to require the Secretary of Veterans Affairs to carry out a pilot program on service dog training therapy, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BAUCUS. 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. 1838

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

**SECTION 1. DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON SERVICE DOG TRAINING.**

(a) PILOT PROGRAM REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence a pilot program to assess the feasibility and advisability of using service dog training activities as components of integrated post-deployment mental health and post-traumatic stress disorder rehabilitation programs at Department of Veterans Affairs medical centers—

(1) to positively affect veterans with post-deployment mental health conditions or post-traumatic stress disorder symptoms; and

(2) to produce specially trained service dogs for veterans.

(b) DURATION.—The Secretary shall carry out the pilot program during the three-year period beginning on the date of the commencement of the pilot program.

(c) LOCATION.—

(1) IN GENERAL.—The pilot program shall be carried out at one Department of Veterans Affairs medical center selected by the Secretary for such purpose other than in the Department of Veterans Affairs Palo Alto health care system in Palo Alto, California. In selecting medical centers for the pilot program, the Secretary shall—

(A) ensure that the medical center selected—

(i) has an established mental health rehabilitation program that includes a clinical focus on rehabilitation treatment of post-deployment mental health disorder and post-traumatic stress disorder; and

(ii) has a demonstrated capability and capacity to incorporate service dog training activities into the rehabilitation program; and

(B) shall review and consider using recommendations published by experienced service dog trainers regulations in the art and science of basic third-party dog training and owner-training dogs with regard to space, equipment, and methodologies.

(2) PARTICIPATION OF RURAL VETERANS.—In selecting a medical center for the pilot program required under subsection (a), the Secretary shall give special consideration to Department of Veterans Affairs medical centers that are located in States that the Secretary considers rural or highly rural.

(d) DESIGN OF PILOT PROGRAM.—In carrying out the pilot program, the Secretary shall—

(1) administer the program through the Department of Veterans Affairs Patient Care Services Office as a collaborative effort between the Rehabilitation Office and the Office of Mental Health Services;

(2) ensure that the national pilot program lead of the Patient Care Services Office has sufficient administrative experience to oversee the pilot program site;

(3) ensure that dogs selected are healthy and age- and temperament-appropriate for use in the pilot program;

(4) consider dogs residing in animal shelters or foster homes for participation in the program if such dogs meet the service dog candidate selection under this subsection;

(5) ensure that each dog selected for the pilot program—

(A) is taught all basic commands and behaviors;

(B) undergoes public access training; and

(C) receives training specifically tailored to address the mental health conditions or disabilities of the veteran with whom the dog is paired;

(6) provide professional support for all training under the pilot program; and

(7) provide or refer participants to business courses for managing a service dog training business.

(e) VETERAN PARTICIPATION.—Veterans diagnosed with post-traumatic stress disorder or another post-deployment mental health condition may volunteer to participate in the pilot program.

(f) HIRING PREFERENCE.—In hiring service dog training instructors for the pilot program, the Secretary shall give a preference to veterans who have a post-traumatic stress disorder or other mental health condition.

(g) COLLECTION OF DATA.—

(1) IN GENERAL.—The Secretary shall collect data on the pilot program to determine the effectiveness of the pilot program in positively affecting veterans with post-traumatic stress disorder or other post-deployment mental health condition symptoms and the feasibility and advisability of expanding the pilot program to additional Department of Veterans Affairs medical centers.

(2) MANNER OF COLLECTION.—Data described in paragraph (1) shall be collected and analyzed using a scientific peer-reviewed system, valid and reliable results-based research methodologies, and instruments.

(h) REPORTS.—

(1) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than one year after the date of the commencement of the pilot program and annually thereafter for the duration of the pilot program, the Secretary shall submit to Congress a report on the pilot program.

(B) ELEMENTS.—Each such report required by subparagraph (A) shall include the following:

(i) The number of veterans participating in the pilot program.

(ii) A description of the services carried out by the Secretary under the pilot program.

(iii) The effects that participating in the pilot program has on veterans with post-traumatic stress disorder and post-deployment adjustment symptoms.

(2) FINAL REPORT.—At the conclusion of the pilot program, the Secretary shall submit to Congress a final report that includes recommendations with respect to the feasibility and advisability of extending or expanding the pilot program.

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## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 318—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

S. RES. 318

*Resolved*, That—

(1) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 112th Congress;

(2) the manual shall be printed as a Senate document; and

(3) in addition to the usual number of copies, 1,500 copies of the manual shall be bound, of which—

(A) 500 paperbound copies shall be for the use of the Senate; and

(B) 1,000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

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### SENATE RESOLUTION 319—HONORING THE LIFE AND LEGACY OF JOE FRAZIER

Mr. GRAHAM (for himself, Mr. CASEY, and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 319

Whereas boxing legend ''Smokin''' Joe Frazier lost a battle with liver cancer on November 7, 2011;

Whereas, with the passing of Joe Frazier, the State of South Carolina and the United States lost 1 of the greatest heavyweight boxing champions of the modern era;

Whereas Joe Frazier was born on January 12, 1944, to a farmer in Beaufort, South Carolina;

Whereas, in Beaufort, South Carolina, Joe Frazier discovered the passion for boxing that would ultimately lead him to greatness;

Whereas Joe Frazier left his childhood home and began to work in a meat packing company based in Philadelphia, Pennsylvania;

Whereas Joe Frazier trained in a Philadelphia Police Athletic League gymnasium to prepare for his first amateur fights;

Whereas, in 1964, Joe Frazier became the only United States athlete to win an Olympic gold medal for boxing during the Summer Olympic Games in Japan, despite breaking a thumb and fighting with a broken hand;

Whereas, upon becoming a professional boxer in 1965, Joe Frazier was known for having a powerful left hook, which led Frazier to defeat his first 11 opponents;

Whereas Joe Frazier defeated Jimmy Ellis, the World Boxing Association heavyweight champion, in 1970 and held the heavyweight title until 1973;

Whereas, on March 8, 1971 in Madison Square Garden, Joe Frazier became the first boxer to defeat Muhammad Ali, throwing a devastating left hook in the 15th round that ultimately led to a victory by decision;

Whereas, in 1971, Joe Frazier became the first African-American man since the Civil War to address the South Carolina State Legislature in Columbia, South Carolina;

Whereas, in 1975, arch-rivals Joe Frazier and Muhammad Ali met in the ''Thrilla in Manilla'' for the third and final fight between the two men, and a battered, bruised, and nearly blind Frazier lost by technical knockout when his trainer pulled him from the fight in the 14th round;

Whereas, after retiring from boxing, Joe Frazier mentored youth boxers in Philadelphia and encouraged the boxers to lead productive lives and avoid violence;

Whereas Joe Frazier personified the fighting spirit of the city of Philadelphia;

Whereas Joe Frazier was inducted into the International Boxing Hall of Fame in 1990;

Whereas Joe Frazier finished his boxing career with 32 wins, of which 27 were knockouts, 4 losses, and 1 draw; and

Whereas ''Smokin'' Joe Frazier epitomized 1 of the greatest eras in boxing, rising from humble origins on a South Carolina farm to become the heavyweight boxing world champion, and inspiring a generation of Americans: Now, therefore, be it

*Resolved*, That the Senate—

(1) mourns the loss of Joe Frazier;

(2) honors the life and accomplishments of Joe Frazier, an American champion and a world renowned boxing legend; and

(3) offers the deepest condolences of the Senate to the family of Joe Frazier.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 929. Mr. CASEY 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.

## TEXT OF AMENDMENTS

**SA 929**. Mr. CASEY 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 appropriate place, insert the following:

**SEC. ___. VETERANS FRANCHISE FEE CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**''SEC. 45S. VETERANS FRANCHISE FEE CREDIT.**

''(a) VETERANS FRANCHISE FEE CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the veterans franchise fee credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified franchise fees paid or incurred by a veteran during the taxable year.

''(2) LIMITATION.—The amount allowed as a credit under paragraph (1) with respect to the purchase of any franchise shall not exceed $100,000.

''(b) REDUCTION WHERE FRANCHISE NOT 100 PERCENT VETERAN-OWNED.—In the case of any franchise in which veterans do not own 100 percent of the stock or of the capital or profits interests of the franchise, the credit under subsection (a) shall be the credit amount determined under such subsection, multiplied by the same ratio as—

''(1) the stock or capital or profits interests of the franchise held by veterans, bears

''(2) to the total stock or capital or profits interests of the franchise.

For purposes of this subsection, the spouse of a veteran shall be treated as a veteran.

''(c) QUALIFIED FRANCHISE FEE.—For purposes of this section, the term 'qualified franchise fee' means any one-time fee required by the franchisor when entering into a franchise agreement with a veteran as the franchisee.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'franchise', 'franchisee', 'franchisor', and 'franchise fee' have the meanings given such terms in part 436 of title 16, Code of Federal Regulations (as in effect on January 1, 2009).

''(e) VETERAN.—The term 'veteran' has the meaning given such term by section 101 of title 38, United States Code.

''(f) ELECTION.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the veterans franchise fee credit determined under section 45S(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45S. Veterans franchise fee credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2010.

(e) PUBLICATION OF INFORMATION BY DEPARTMENT OF VETERANS AFFAIRS AND SMALL BUSINESS ADMINISTRATION.—The Administrator of the Small Business Administration and the Secretary of Veterans Affairs shall publicize in mailings and brochures sent to veterans service organizations and veteran advocacy groups information regarding discounted franchise fees under section 45S of the Internal Revenue Code of 1986 and other information about the program established under amendments made by this Act.

## NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Tuesday, November 15, 2011, at 2:30 p.m. in SD–430 to conduct a hearing entitled ''Medical Devices: Protecting Patients and Promoting Innovation.''

For further information regarding this hearing, please contact the committee staff on (202) 224–7675.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 9, 2011, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''Securing Our Nation's Transportation System: Oversight of Transportation Security Administration's Current Efforts.''

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on November 9, 2011, at 10 a.m. in room SD–406 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ROCKEFELLER. 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 9, 2011, at 10 a.m.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH AND CENTRAL ASIAN AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 9, 2011, at 2:30 p.m., to hold a Near Eastern and South and Central Asian Affairs subcommittee hearing entitled, ''U.S. Policy in Syria.''

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

SUBCOMMITTEE ON PRIVACY, TECHNOLOGY, AND THE LAW

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Privacy, Technology, and the Law, be authorized to meet during the session of the Senate on November 9, 2011, at 2:30 p.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled, ''Your Health and Your Privacy: Protecting Health Information in a Digital World.''

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

## PRIVILEGES OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that David Goldman, a detailee from the Federal Communications Commission to the Commerce Committee, be given floor privileges during the debate on Senate Joint Resolution 6.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that an intern from Senator MERKLEY's office, Jeff Whitmore, be granted floor privileges for the remainder of the day.

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

## GRANTING THE CONGRESSIONAL GOLD MEDAL

Mr. BENNET. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 2447 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2447) to grant the congressional gold medal to the Montford Point Marines.

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

Mr. BENNET. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 2447) was ordered to a third reading, was read the third time, and passed.

## AUTHORIZING PRINTING OF A REVISED SENATE RULES AND MANUAL

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 318, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 318) to authorize a printing of a revised edition of the Senate Rules and Manual.

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

Mr. BENNET. Mr. President, I further ask that the resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 318) was agreed to, as follows:

S. RES. 318

*Resolved,* That—

(1) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 112th Congress;

(2) the manual shall be printed as a Senate document; and

(3) in addition to the usual number of copies, 1,500 copies of the manual shall be bound, of which—

(A) 500 paperbound copies shall be for the use of the Senate; and

(B) 1,000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

## HONORING THE LIFE AND LEGACY OF JOE FRAZIER

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 319, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 319) honoring the life and legacy of Joe Frazier.

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

Mr. BENNET. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 319) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 319

Whereas boxing legend ''Smokin'' Joe Frazier lost a battle with liver cancer on November 7, 2011;

Whereas, with the passing of Joe Frazier, the State of South Carolina and the United States lost 1 of the greatest heavyweight boxing champions of the modern era;

Whereas Joe Frazier was born on January 12, 1944, to a farmer in Beaufort, South Carolina;

Whereas, in Beaufort, South Carolina, Joe Frazier discovered the passion for boxing that would ultimately lead him to greatness;

Whereas Joe Frazier left his childhood home and began to work in a meat packing company based in Philadelphia, Pennsylvania;

Whereas Joe Frazier trained in a Philadelphia Police Athletic League gymnasium to prepare for his first amateur fights;

Whereas, in 1964, Joe Frazier became the only United States athlete to win an Olympic gold medal for boxing during the Summer Olympic Games in Japan, despite breaking a thumb and fighting with a broken hand;

Whereas, upon becoming a professional boxer in 1965, Joe Frazier was known for having a powerful left hook, which led Frazier to defeat his first 11 opponents;

Whereas Joe Frazier defeated Jimmy Ellis, the World Boxing Association heavyweight champion, in 1970 and held the heavyweight title until 1973;

Whereas, on March 8, 1971 in Madison Square Garden, Joe Frazier became the first boxer to defeat Muhammad Ali, throwing a devastating left hook in the 15th round that ultimately led to a victory by decision;

Whereas, in 1971, Joe Frazier became the first African-American man since the Civil War to address the South Carolina State Legislature in Columbia, South Carolina;

Whereas, in 1975, arch-rivals Joe Frazier and Muhammad Ali met in the ''Thrilla in Manilla'' for the third and final fight between the two men, and a battered, bruised, and nearly blind Frazier lost by technical knockout when his trainer pulled him from the fight in the 14th round;

Whereas, after retiring from boxing, Joe Frazier mentored youth boxers in Philadelphia and encouraged the boxers to lead productive lives and avoid violence;

Whereas Joe Frazier personified the fighting spirit of the city of Philadelphia;

Whereas Joe Frazier was inducted into the International Boxing Hall of Fame in 1990;

Whereas Joe Frazier finished his boxing career with 32 wins, of which 27 were knockouts, 4 losses, and 1 draw; and

Whereas ''Smokin'' Joe Frazier epitomized 1 of the greatest eras in boxing, rising from humble origins on a South Carolina farm to become the heavyweight boxing world champion, and inspiring a generation of Americans: Now, therefore, be it

*Resolved,* That the Senate—

(1) mourns the loss of Joe Frazier;

(2) honors the life and accomplishments of Joe Frazier, an American champion and a world renowned boxing legend; and

(3) offers the deepest condolences of the Senate to the family of Joe Frazier.

## ORDERS FOR THURSDAY, NOVEMBER 10, 2011

Mr. BENNET. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, November 10, 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 until 10 a.m., with

Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; and that following morning business, the Senate proceed to the consideration of the motion to proceed to S.J. Res. 27, under the previous order.

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

PROGRAM

Mr. BENNET. Mr. President, there will be two rollcall votes around noon tomorrow on motions to proceed to the joint resolutions of disapproval regarding net neutrality and cross-border air pollution.

There will be an additional four rollcall votes around 2:30 p.m. in relation to H.R. 647, the 3 Percent Withholding Repeal and Jobs Act, with the veterans jobs amendment, and the motion to proceed to H.R. 2354, the Energy and Water appropriations bill. Senators should be aware we may get consent to begin the second series of votes earlier.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:07 p.m., adjourned until Thursday, November 10, at 9:30 a.m.