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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Almighty God, source of all life, give our lawmakers this day Your grace and wisdom. Because of Your grace, may they find such inner peace that it will prompt them to reach out to one another and accomplish great things for Your glory. Because of Your wisdom, may they face today's challenges with confidence, knowing that You order the steps of good people.

Lord, give all who labor on Capitol Hill a special discernment to know and to do Your will. Remove their strain and stress and let their ordered lives confess the beauty of Your peace. We pray in Your sacred Name.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 7, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

The ACTING PRESIDENT pro tempore. The majority leader.

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

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

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.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

Mr. MCCONNELL. Madam President, yesterday, I came to the floor to call on Democrats in Washington to wake up, to open their eyes to the signs we see all around us that the policies of the past 2 years are making our economy worse.

Home values are still falling. Manufacturers are showing the weakest growth in nearly 2 years. Nearly 14 million Americans are looking for jobs and can't find them. For many, there is a nagging feeling that things will actually get worse before they get better. And who can blame them?

Over the past 2 months, two ratings agencies have come out with dire warnings over the status of America's stellar credit ratings out of fear that we don't get our fiscal house in order.

One has already put our rating under review and the other has threatened to do so if we don't do something in a matter of weeks—weeks. Yet Democrats here in Washington are doing nothing.

The President is patting himself on the back for an auto bailout that is expected to cost the taxpayers billions. And Democrats in Congress would rather talk about an election that is a year and a half away.

For 2½ years, Democrats in Washington have paid lip service to the idea of job creation—even as they have relentlessly pursued an agenda that is radically opposed to it. And the results speak for themselves: an annual deficit three times bigger than the biggest deficit we ever ran during the last administration, a national debt that we now know will this year be greater than our Nation's entire economy, and chronic unemployment.

But here is the other problem: Democrats don't want to admit that the government-driven policies of the past 2½ years are part of the problem. And until they do, nothing will change. Unless Democrats change their priorities and their policies, the threats of a downgrade will not go away. The debt will not get any smaller. Businesses will not create the kinds of jobs we need to build prosperity.

We need to change course. And a good place to start is with trade.

The President himself has explicitly acknowledged in front of the cameras that free trade agreements will create tens of thousands of jobs for American families who need them. Yet now, the President's advisers say that the White House plans to hold off on this bipartisan job-creating initiative unless it can spend more money on a government benefits program first.

At a time when 14 million Americans are looking for work, they actually want to hold off on these known job-creating agreements in exchange for a green light to spend more money.

It is astonishing. I mean, how do you explain to an American manufacturer or farmer that they have to lose business to France because some Members of Congress want a better benefits package for their allies in organized labor?

You cannot. The White House is free to advocate on behalf of unions. That is its prerogative. But this time it has gone too far. When the White House is

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

actively depriving others of jobs because some union boss isn't getting his way, it has lost touch.

So this morning I am calling on the administration once again to send us the three pending trade agreements that the President himself has said would create tens of thousands of American jobs—and to leave trade adjustment assistance out of it.

There are 47 duplicative Federal retraining programs out there for unemployed workers. No one is denying or minimizing the hardships they face. But we will not allow the White House to deny one group of people the chance to get a job in order to have a bargaining chip in negotiating benefits for others.

It is not fair, and it is not right. We need to separate these issues, deal with them independently, and move ahead with these trade deals. And we should also be doing even more to create jobs by moving forward with something that has been a cornerstone of good trade policy in this country since 1974. I am talking about trade promotion authority.

If the President is really serious about doubling U.S. exports and creating the jobs that would go along with it, he should call on Congress to approve trade promotion authority and Congress should do it.

I would also suggest that any discussion of trade adjustment assistance be done only as part of the debate over extending trade promotion authority, the way it's been done for decades.

Trade promotion authority would give the President the ability to negotiate job-creating trade deals—and allow them an expedited procedure to get an up-or-down vote in Congress so that opponents couldn't block the deals or amend them on behalf of parochial interests or as a shortsighted favor to their union allies.

Without the protections afforded by trade promotion authority, Congress may never consider another trade deal again, and there will be no more trade agenda.

American businesses want to expand and hire. Here is one way to help them do it that's right in front of us. There is no excuse for inaction.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. REID. 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.

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in morning business for an hour, with Republicans controlling the first half and the majority controlling the final half.

Following that morning business, the Senate will resume consideration of the motion to proceed to S. 782, the Economic Development Act. The Senate will recess from 12:30 until 2:15 to allow for the weekly caucus meetings.

We will begin consideration of the EDA bill as soon as we can, which appears to be tomorrow morning when cloture is invoked.

JOB CREATION

Mr. REID. Madam President, as I was doing my exercise this morning, I heard on the news the announcement that 10 years ago today, when President Bush—I could hear his voice celebrating the tax cuts for the wealthy—said: I know we have these huge surpluses, but these moneys are the people's money and, therefore, he was going to do something about it. He did that big time.

He certainly did away with those huge surpluses we had, which amounted to trillions of dollars. He did it in a number of different ways. We had a program developed during the Clinton years called pay-go. That meant if someone had a new program they wanted to initiate, they had to pay for it either with new revenue or take money from an existing program. It worked extremely well. That is one reason, and one of the main reasons, we were able to develop the huge surpluses we did during the Clinton years. We were paying down the debt in the Clinton years. Some said it was too quickly.

Well, another way that the President got rid of that huge surplus was the war in Iraq and the war in Afghanistan. The war in Iraq alone now is estimated to be about a $1½ trillion—all borrowed money.

We also know how important it is to create jobs. Now, as a result of the President finding himself in a huge hole as a result of the policies of the Bush administration, he decided that something had to be done. We passed the Economic Recovery Act. It created millions of jobs and saved millions of jobs. Was it enough? No, but it was the best we could do. We could only get three Republicans to help us on that. I appreciated their support, and I always will. They were Senators SNOWE, COLLINS, and Specter. They determined what we could spend and not spend within certain parameters, and we believed there should be more infrastructure spending. I wish we could have done more. So we have done some things to help significantly the hole that President Bush created for us.

Now this Congress has also done some things. We focused on jobs. We know how important jobs are. Regarding the FAA bill—Federal Aviation Administration reauthorization—we extended that short term 19 times. I talked to Randy Walker, head of McCarran Airport, the sixth busiest airport in America. They can't let contracts for runway repairs because they only have 1 month to do it a lot of times. They cannot do that.

All kinds of projects that would create thousands of jobs around American airports would happen if we could have an FAA bill. We passed it here. It has been held up in the big dark hole of the House of Representatives. Nothing has been done. We haven't been able to complete the conference on that, and the 280,000 jobs either created or saved haven't been completed. That has been months and months.

We have an antiquated air traffic control system in America. We want to improve it. That is what it is about—saving and creating jobs.

We believed it was important to do something about patents. Senator LEAHY has been faithful in reporting bills out of his committee, and we finally said bring it to the floor. After a lot of work, we got it done. More than six decades have lapsed, and we haven't done anything with one of the most important things we can do, which is protect our patent system and make it better. We passed it here and sent it to the House. Nothing has happened. They have not voted on that bill.

That is very unfortunate, that we have not been able to get those two bills. The patent bill is 300,000 jobs and the FAA bill 280,000 jobs. The math is pretty simple. That is a lot of jobs, and that has been held up.

We believed it was extremely important that we do something about jobs, and we did that with something that has worked so successfully in the past. So that is the bill we brought to the floor to help small businesses innovate, invent, and invest in new jobs. What a wonderful program it has been. We tried to get that reauthorized. It was killed here in the Senate by many amendments—amendments that had nothing to do with the underlying bill. So we had to take that bill off the floor after spending I think 6 weeks on the bill and not being able to get that accomplished.

We brought this bill to the floor that would help small businesses innovate, as I say, invent, and invest in new jobs, but the Republicans simply said: No, we are not going to do that. That jobs bill was so important. The electric toothbrush was invented with a small innovation grant, and there are many other examples. That is just one of hundreds. So it is really too bad we haven't been able to do something about that.

The only thing we hear from the House of Representatives, rather than creating jobs, is destroying Medicare as we know it. The American people don't like that, Republicans don't like it, Independents don't like it, Democrats don't like it, young people don't like it, and old people don't like it. It is not a good piece of legislation. Overwhelmingly, it has been just a big zero. But that is what we have from the House of Representatives. That is their main accomplishment this year.

My friend talked about free-trade agreements. I am not a big fan of free-trade agreements. My voting record is

in accordance with that. I think if you asked people in Nevada: Boy, hasn't NAFTA helped us a lot, they would just sneer and walk away. We keep talking about free-trade agreements, but where is the fair part of those trade agreements? Shouldn't we be more worried about our American workers than workers in other places? I think that certainly is the case.

In keeping with the theme of jobs, I thought it was important we do something about creating jobs. I have talked about patents, I have talked about, of course, what we did with the FAA bill, and I talked about what we tried to do with the small jobs innovation bill. What we have decided to bring up now is the EDA, the Economic Development Administration. This has been something that has been in effect since 1965. It has been a wonderful program. In the last 5 years, we have invested $1.2 billion, creating more than 300,000 jobs. For every dollar invested, we get $7 of private capital. That is a pretty good deal. We want to bring that to the floor and have a debate on it, pass it, and put more money in the stream of creating jobs. As I said, for every dollar we invest, we get $7 that comes from the private sector. We plan to work this week on debating and reauthorizing this Economic Development Administration bill, which for more than 45 years has created jobs for the most needy and economically distressed communities—as I have said, in just the last 5 years, more than 300,000 jobs.

This is our first bill of this new work period because creating jobs is our first priority. But Republicans are stopping us from moving to it because creating jobs, it appears, is the last thing they care to do. They are more concerned about what jobs are being created in Colombia or Panama or Korea than what jobs are being created here in America.

The merits of reauthorizing this job-creating administration bill are very clear: EDA works with businesses, universities, and leaders at local levels, so it creates jobs from the bottom up, and it helps manufacturing producers compete in the global marketplace. I repeat, it is a great investment. Seven-to-one is an incredible return rate.

Last night, I had to file cloture on this bill. I hope we don't have to invoke cloture. We have it set up now so we will have the vote in the morning, an hour after we come in. Maybe during the recess we have for our caucus meetings the Republicans will be able to bring in these people who are stopping us from doing this and we will be able to move to it and do something meaningful here on the Senate floor for the rest of this day and tomorrow rather than invoking cloture, waiting 30 hours, and doing nothing. We need to start creating jobs.

Let me repeat. The FAA bill, the House has killed it. On patents, we have done it, and the House has killed it. We tried to do small jobs innovation, but it was killed here in the Senate. We are now trying to do EDA. At this stage, we are not able to move forward.

We are ready to create jobs—we Democrats. We have done it before with programs such as the Economic Development Administration, and we are ready to do it again. The American people are desperate for stable and secure jobs. All they ask of us is that we do our job, and we haven't been doing that because we have been prevented from doing it. Why haven't we passed the FAA bill? Why haven't we completed work on the patent bill? Why were we stopped from moving forward on the small jobs innovation bill? Why are we unable to move on the EDA bill?

Would the Chair announce morning business?

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 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to speak until I finish my remarks.

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

FREE-TRADE AGREEMENTS AND TRADE ADJUSTMENT ASSISTANCE

Mr. HATCH. Madam President, I rise today to speak in support of our pending trade agreements with Colombia, Panama, and South Korea.

Right before Memorial Day, the Finance Committee held two trade hearings, the first on the U.S.-Panama Trade Promotion Agreement, the second on the U.S.-Korea Free Trade Agreement. Earlier, the Finance Committee held a hearing on the U.S.-Colombia Trade Promotion Agreement. These agreements have been thoroughly reviewed by our Finance Committee. In fact, given that the Colombia agreement was signed in 2006 and the Panama and South Korea agreements in 2007, these agreements have been more than thoroughly reviewed by U.S. elected officials and U.S. agencies over the past several years. For the sake of the U.S. economy and for the sake of our country's standing in the world, it is clearly time to take the next step. It is time for President Obama to submit implementing legislation for these agreements to the Congress.

The U.S. trade agreements with Colombia, Panama, and South Korea are good agreements that will benefit the United States and American workers. According to the nonpartisan U.S. International Trade Commission, these trade agreements, once fully implemented, will likely increase U.S. exports by over $12 billion and grow the U.S. gross domestic product by over $14 billion. Put simply, our trade agreements with Colombia, Panama, and South Korea will boost U.S. exports, expand the U.S. economy, and thus promote job growth in the United States.

The President and members of his administration understand this. They have spoken on numerous occasions on the benefits of the U.S. trade agreements with Colombia, Panama, and South Korea for our country. Please bear with me as I review some of their statements.

Four months ago, President Obama, in his State of the Union Address—4 months ago—expressed his support for the U.S.-Korea Free Trade Agreement, which he stated will support at least 70,000 American jobs. He then asked Congress to pass the Korea agreement as soon as possible.

Last December, President Obama noted that the South Korea agreement is expected to increase annual exports of American goods by up to $11 billion. In that same speech, he said:

> I look forward to working with Congress and leaders in both parties to approve this pact because if there is one thing Democrats and Republicans should be able to agree on, it should be creating jobs and opportunities for our people.

I couldn't agree more.

Just 2 months ago, the President stated that he believes a recently announced labor action plan of Colombia serves as a basis for moving forward on a U.S.-Colombia free-trade agreement and that this represents a potential $1 billion of exports—our exports—and could mean thousands of jobs for workers here in the United States.

After meeting with President Martinelli of Panama, President Obama said he is confident now that a free-trade agreement would be good for our country, would create jobs here in the United States and open up new markets with potential for billions of dollars of cross-border trade.

The President's principal trade adviser, U.S. Trade Representative Ron Kirk, just last month recognized that the U.S.-Korea trade agreement will support more than 70,000 American jobs, and he noted as well that it will result in over $10 billion in increased annual exports from the United States.

In April, Ambassador Kirk said Colombia represents $1.1 billion in new export opportunities for the United States. Regarding Panama, he stated that the Panama agreement will provide access to one of the fastest growing markets in Latin America.

In speaking of all three pending agreements only last month, Ambassador Kirk said that ''the pending agreements with South Korea, Panama, and Colombia are at the forefront of our efforts to open new markets.''

In April, Secretary of Commerce Gary Locke emphasized the need to pass the U.S.-Korea Trade Promotion Agreement through Congress as soon as possible. He also said that the administration feels similar urgency to get the pending Panama and Colombia trade deals done. He noted that all three pending trade agreements will move us even closer to President Obama's National Export Initiative goal of doubling American exports by 2015.

Secretary of Agriculture Tom Vilsack has spoken on behalf of the administration in favor of our pending trade agreements with Colombia, Panama, and South Korea. On May 12, he stated that the paramount reason to implement these three pending trade agreements is jobs. He went on to note that these trade agreements will result in over $2 billion in additional sales of U.S. agricultural products. Secretary Vilsack has also stated that until we complete these three trade agreements, U.S. agriculture will not have a level playing field in Colombia, Panama, or South Korea.

Secretary of State Hillary Clinton has spoken on the benefits of these three trade agreements for our country. When discussing the U.S.-Korea Free Trade Agreement in April, she stated not only that this agreement will increase U.S. exports by billions of dollars and thus support tens of thousands of American jobs but also that implementing the South Korea agreement is profoundly in our strategic interest. When speaking on the subject of trade and economic growth last month, Secretary Clinton said that ''one of our top goals is to complete free trade agreements with Colombia and Panama.''

As someone might say, there is a lot of upside to these agreements—billions in new exports, billions in economic growth, and thousands of new jobs. What is not to like?

So I have a question. What is the holdup? What on Earth is the administration waiting on? This country needs all the jobs and economic growth we can get. So why does the administration refuse to submit these agreements to Congress for consideration? Despite declaring the benefits of these agreements for the United States at every turn, the Obama administration is sitting on them, hurting our economy, and undermining our job growth.

With respect to international trade, the administration has adopted a policy of delay and dither. I see few signs that the administration is working hard to move these agreements through Congress. I don't see administration officials walking the Halls of Congress in attempts to build support for the Colombia, Panama, and South Korea agreements. While the administration has said great things about these agreements, as I have mentioned, its efforts to build any type of momentum to advance them on Capitol Hill are tepid at best.

On trade policy, the administration is all talk and no action, or, as my friends from Texas might put it, on these agreements, the President and his team are all hat and no cattle. This is definitely a strange economic strategy. While our economy remains shaky, unemployment remains high—the unemployment rate is at 9.1 percent—and while the rest of the world watches in bewilderment as the United States lets other countries take over our export markets, the administration just sits there. It just sits there.

Actually, let me correct myself. The administration doesn't just sit there; instead, the administration is actually going out of its way, finding new excuses for not moving forward with the implementation of these trade agreements.

Despite countless speeches from the President and his administration about the importance of the three trade agreements to American exports, creating American jobs, and strengthening our alliances with key friends, his administration busies itself concocting more roadblocks, more delays, and more excuses. It is time to be blunt about this. This schizophrenic trade policy is doing nothing but hurting American workers, hurting jobs, and undermining our recovery.

I believe each free-trade agreement, standing on its own merits and with the full backing of the White House and congressional leadership, will pass with significant bipartisan margins. But we are now told we will never have a chance to vote on any of these agreements unless the White House and Democratic Senators get what they want on trade adjustment assistance.

Let's put this in perspective. Our economy teeters on the brink with a weak economic recovery. One in seven Americans happens to be on food stamps. Durable goods orders dropped 3.6 percent in April. Last month, the economy added only 54,000 private sector jobs, and unemployment went up to 9.1 percent. The real estate market remains in tatters with the average single family home price falling by 33 percent since 2007. We face an historic spending crisis that has generated warnings from Standard & Poors and Moody's that the Federal Government faces a downgrade in its debt rating—an action that would be devastating for this Nation and to America's families.

To forestall this coming crisis, leaders in Congress and the administration are meeting on an almost daily basis to determine how best to get our Nation's deficits and debt under control. Every spending program and expenditure is being reviewed to find cuts to get our fiscal house in order.

Everyone recognizes these three trade agreements will promote jobs and economic growth at a time when both are in short supply. Submitting and passing free trade agreements would be a quick and cost-free way of generating economic growth. Yet, in an environment where Congress is desperately attempting to encourage economic growth and rein in spending to avert a fiscal crisis, the White House and many Democrats are delaying the pro-growth trade agreements until we get more government spending through TAA, the trade adjustment assistance program. And for what? If an expanded TAA is so critical, where is the record of success to prove it? What evidence is there that giving some workers who have lost their jobs more benefits than others improves U.S. competitiveness or is a responsible way to spend taxpayer dollars? The mere fact that more people are in a program, and that more taxpayer money is being spent, is not evidence of success.

Congress does not pick winners and losers in the movie rental business. When Blockbuster employees lost their jobs because of the rise of Netflix, nobody stood up and said we should create a new, big, spending government program to help displaced Blockbuster employees.

President Reagan recognized the problems inherent in this program when he said:

> [t]he purpose [of TAA] is to help these workers find jobs in growing sectors of our economy. There's nothing wrong with that, but because these benefits are paid out on top of normal unemployment benefits, we wind up paying greater benefits to those who lose their jobs because of foreign competition than we do to their friends and neighbors who are laid off due to domestic competition. Anyone must agree that this is unfair.

That is what President Reagan said.

By tacking the expansion of TAA onto the stimulus bill, and refusing to allow Congress to vote on the extended TAA program on its own merits, it is unclear whether there is, in fact, bipartisan support for this expanded program. It is billions of dollars more. If the expanded TAA program can stand on its own merits, as each of the FTAs can, then it should be introduced and voted on separately from the free trade agreements. Demanding an expanded TAA as another excuse to delay voting on these important agreements is irresponsible and self-defeating.

At the same time, by not submitting these agreements for approval by Congress, the administration is doing a disservice to the American economy and, at the same time, is letting down some of our strongest allies. Nothing good can come from this continued inaction.

Make no mistake about it. Failure to submit these agreements is a failure in Presidential leadership. I am convinced the window for the administration to submit these agreements will soon pass. Given the upcoming election season, I am afraid if these agreements aren't submitted this summer, they never will be.

The President needs to act. I appreciate the President's goal of doubling exports. Having goals is great. But we all know that if one doesn't do the work and take action, goals become little more than false hope. They never become reality.

The President and his Cabinet admit these agreements are essential to their goal of doubling exports and creating jobs here at home. Yet, the action necessary to achieve that goal and create those jobs—submission of the agreements—remains in the distant future. Instead of benefiting from these agreements, we watch the days slip by, the explanations and excuses pile up, our export markets decline, and our economy suffers.

I strongly urge the President to submit implementing bills for the Colombia, Panama, and South Korea trade agreements to Congress this summer. There is no time like the present when it comes to encouraging economic growth and business creation.

I understand they want to help their union employees throughout the country who are less than 7 percent of the private sector economy. What about the millions and millions of others who are losing their jobs not because of this but because we don't export and we don't have these free trade agreements with these three very important countries to us, both from a neighbor standpoint and from a strategic standpoint?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Madam President, it is my understanding I have 10 minutes; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CORKER. If I happen to go 8 minutes or so, would the Chair let me know when I have 2 minutes remaning?

The ACTING PRESIDENT pro tempore. Yes.

Mr. CORKER. Thank you very much, Madam President.

DURBIN AMENDMENT

Mr. CORKER. Madam President, I rise today to speak about something that is affectionately known as the Durbin amendment. During the Dodd-Frank debate that occurred about a year ago and upon its passage, there was an amendment brought to the floor called the Durbin amendment which dealt with debit cards and regulating debit cards. This was an amendment that never had been debated. There had never been a hearing on this amendment. In the height of people being very concerned about the large financial institutions in our country, this was an amendment that passed. I voted against it. I thought it was bad for us as a country to allow the Federal Reserve to begin setting prices for specific industries as the Durbin amendment called for. In any event, the Durbin amendment became law. I know numbers of people in this body have been contacted since that time about the effects of the Durbin amendment.

What the Durbin amendment did was tell the Federal Reserve to set prices on debit cards based on incremental cost. Let me say that one more time: based on incremental cost. In other words, when a business does business, there are fixed costs and there are incremental costs. It would be like saying to a pizza company that sells pizzas across the counter that the only thing they can charge for is the dough. They couldn't charge for anything else that went into the cost of the product that was being sold.

I am obviously opposed to price setting. I realize we don't have 60 votes in this body to do away with price fixing in general as it relates to debit cards. I also realize a lot of people in this body believe there is a problem, if you will, with an almost monopolistic-type atmosphere as it relates to debit cards in general. So what I have tried to do is seek a better solution than the one that has come forth. Senator TESTER and I have worked together. We have made actually three revisions to an amendment that I hope we will be voting on over the course of the next 48 hours, maybe 72 hours. It has been crafted in a way to bring people together. What it does, the essence of it, is that it directs the Fed to—instead of setting prices on debit cards based solely on the incremental cost of the transaction—consider all costs, both fixed and incremental, which is something that anybody in this body who happened to be in business certainly would want to be the case.

I know there has been a lot of populism in this body and a lot of people have tried to rail, if you will, against financial institutions. I know a lot of people have empathy with retailers who find themselves in a situation where it is difficult for them to negotiate prices as it relates to debit cards. What this would do, though, is still leave debit cards as a regulated entity. It is not the solution I would ultimately like to see, but I think it is a solution we may be able to agree to in this body. It would leave that regulated, but it would direct the Fed to consider all costs, fixed and incremental. Again, it is a very commonsense measure.

I know there have been lots of discussions about a solution to this Durbin amendment. I know it is an issue most people in this body wish to see go away. A lot of people feel as though they are being pitted, if you will, between the financial industry and retailers.

I think the solution Senator TESTER and I, working with Senator CRAPO and others, have come up with is one that meets the commonsense test. It brings people together around a policy of solving a problem that was created, again, without a lot of discussion on the Senate floor, and certainly no hearings. So I ask Members of the body to please talk with their staffs about the most recent changes that have been put forth in this amendment.

This is not something that is trying to stave off or keep the effects of the Durbin amendment from taking place, but what it does is put a more fair structure in place where the Fed can actually look at all costs relating to a transaction. Again, think about it. If someone is selling pizzas in a pizza restaurant or a retail establishment and they were told the only thing they could do is charge for the dough that went into the pizza and nothing else—none of the rent, none of the other costs that go with operating the facility—obviously they wouldn't be in business very long.

I think all of us want to see the financial industry continue to be innovative. I think all of us see a day when we are going to be able to basically pay bills with our electronic devices, and continued innovation is going to take place, which causes our economy to expand.

I believe this amendment, which has been shaped by a number of people in this body, meets the commonsense test. I think it provides a good solution for those people who actually voted for the Durbin amendment on the floor and realized afterwards what was happening, which was putting in place a price structure that is not sustainable for debit cards and over time, no question—over a very short amount of time—quickly—is going to be very adversely affecting consumers all across this country.

I thank the Chair for the time. The Tester-Corker amendment is designed to create a more productive solution than was offered under the Dodd-Frank debate and the Durbin amendment. I hope all Members of this body will look at this seriously. I know everybody has been contacted. I understand this is a very contentious issue. This solution is being put forth to solve a problem, not to take one side or another. It leaves the debit card industry as a regulated industry, but allows the Fed, as it should, to take into account both fixed and incremental costs as they look at what the pricing structure ought to be.

In addition, I know a lot of people have been concerned about what is going to happen with small financial institutions. Obviously, their costs for debit transactions are much higher than the larger institutions in this country. People have been concerned about the impact on them. What this would also do is give the Fed the ability every 2 years to see if the policy they put in place is adversely affecting the smaller and rural banks or the community banks or smaller credit unions, to make sure that if they are being affected adversely, then they can recommend—not prescribe but recommend—some legislative fixes for that.

Again, I hope Members of this body will see this as a reasonable solution. I urge all of my colleagues to contact me personally or Senator TESTER personally to talk this through if they have

any questions, and hopefully we can bring to an end this contentious debate over an amendment that was passed on the Senate floor without any hearings, and which I think all of us know is going to create a lot of unintended consequences for people all across this country.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MEDICARE

Mr. WHITEHOUSE. Madam President, we are discussing the Federal budget in Washington on a nonstop basis. One point that seems very noteworthy is that instead of working to create jobs to help grow the economy out of recession, Republicans are still trying to end Medicare as we know it, as it has been relied on for generations of Americans, in order to pay for tax cuts for millionaires. This is the Wall Street Journal describing the Republicans' plan to essentially end Medicare.

The Republican plan to end Medicare would put insurance company officials between seniors and their doctors. You no longer have a claim to the individual benefit under their plan. You get a voucher that goes to the insurance company, and you are at the mercy of the insurance company. First of all, they raise drug costs for seniors from day No. 1 by repealing the repair we did to the doughnut hole. Then, of course, 10 years out, you are left at the mercy of private insurance companies.

The effect of that is that, on average, seniors will pay nearly $6,400 more out of pocket every year as a result of this Republican plan. Rhode Island has a lot of seniors. I do not know a lot who have an additional $6,359 every year to spend on health care costs that would no longer be covered.

It is worth noting that one of the first things that happens when you take the $1 that goes to Medicare and give it to private insurance companies instead is, the 2-percent or 3-percent administrative costs that Medicare takes out—which leaves you, let's say, 97 cents of the $1 to pay for health care—that jumps to between 15 percent and 25 percent, leaving you only 85 cents to 75 cents out of your $1 to pay for health care because the private system is so inefficient and eats up so much in administrative costs for salaries and for quarreling with doctors and hospitals about payment and all that.

They do not even use this to reduce the deficit in a significant way. The savings achieved by ending Medicare and raising seniors' health care costs by nearly $6,400 every year out of pocket are being used to pay for, guess what. More tax cuts for America's millionaires and billionaires. Every 33 seniors who have to pay that extra $6,400 will add up to one millionaire's $200,000 bonus tax break.

The Republican budget makes average cuts of $165 billion per year in Medicare between 2022 and 2030. That gives $131 billion in tax cuts for millionaires, billionaires, big corporations, and Big Oil—$165 billion out of seniors' pockets, $131 billion to millionaires, billionaires, big corporations, and Big Oil. We think it is time for our colleagues to get serious about creating jobs to grow our economy out of this recession and abandon their attempts to ram through a clearly ideological agenda against Medicare—indeed, that ends Medicare and helps the Nation's very wealthiest at the expense of seniors and the middle class.

Let me talk for just a minute about where we are in the Tax Code with our wealthiest versus seniors and the middle class. Clearly, we agree we have to bring our finances into balance. Clearly, we have to avoid a debt-limit failure that causes a default by our country for the first time in its history. Eliminating unnecessary spending should be part of the Federal balancing equation. Indeed, through multiple appropriations bills this year, we have pared back billions of dollars in Federal spending, and we will do more, but bipartisan consensus seems to end here when we move to the revenue side of the Federal budget. Just last month, Republicans filibustered a measure that would have ended $21 billion of unnecessary tax breaks for the largest oil and gas companies in the world, companies that have been enjoying record multibillion-dollar profits and do not need continued support from the American taxpayer.

That made the Republican message clear: In balancing the budget, closing tax loopholes and repealing corporate subsidies is not on the table. The debt and the deficit, they tell us, are the most important problems facing the country. But evidently they are less important than protecting tax subsidies for Big Oil. That is what their vote proves. They will cut education, police protection, health care, job training, and environmental protection but will not touch tax subsidies for large corporations or for millionaires and billionaires.

There is a basic question underlying all this; that is, are the superrich paying a fair share? Each year, the Internal Revenue Service publishes a report that details the taxes paid by the highest earning 400 Americans. I gave a speech a few weeks ago showing from what was then the most recent data, that in 2007, these super high income earners, earning nearly one-third of a billion dollars each in just 1 year, paid a lower tax rate than an average hospital orderly pushing a cart down the halls of a hospital in Rhode Island. I showed the Helmsley Building in New York, big enough to have its own ZIP Code, because we know from IRS information gathered by ZIP Code that the wealthy, successful occupants of this building actually paid a 14.7-percent total Federal tax rate. There is the building. There is the Helmsley Building in New York. The people who live there do very well. They are very successful, which is wonderful. That is the American way. They are very well compensated. That too is the American way.

But what is different is that they actually paid a 14.7-percent total Federal tax rate, which is lower than the average New York janitor or doorman or security guard pays. If averages hold, the very successful and well-off inhabitants of this building are paying a significantly lower tax rate to the Federal Government than the doorman who works for them and the security guard who keeps an eye out for their security and the janitors who clean up the halls.

The most recent IRS report is out about the top 400, from 2008. Let's take a look at that information. The top 400 incomes in America in 2008 had an average income each in that 1 year of $270 million. That is a pretty good year when you can make more than one-quarter of a billion dollars. That is the American dream, big time. But what they actually paid in taxes, those 400, on average, was a rate of 18.2 percent. That is their total Federal tax rate, all the taxes put in. What did they actually pay—not what the nominal rate is but what did they actually pay? The IRS calculated this. This is not an estimate, this is the IRS's calculation. Although we spend a lot of time debating around here whether the top income tax rate for the wealthy should be 35 percent or 39.6 percent, that is not what they pay. The Tax Code is filled with special provisions that tend to either exclusively or disproportionately benefit the wealthy so the top 400 income earners in the country pay an average tax rate of 18.2 percent.

Who else pays an 18.2 percent tax rate in this country? If you are a single filer, you hit 18.2 percent when your salary gets to $39,350. When you are making $39,350 your Federal taxes—income and withholding, payroll taxes—combine to 18.2 percent, just like the 400 millionaires and billionaires who made actually over one-quarter of a billion dollars in the same year that this taxpayer would have made less than $40,000.

What does that equate to in terms of jobs? The Bureau of Labor Statistics for the Providence, RI, labor market says, on average, a truckdriver will earn about $40,200. At that income point, $40,200, that truckdriver is paying the same tax rate as the 400 biggest interest earners in the country. They each earned over one-quarter of a billion dollars. They paid 18.2 percent. The truckdriver earns $40,000. He would be paying 18.2 percent, maybe a little

over. If that truckdriver gets a raise or if he or she decides they are going to work a second job at night and increase their income a little bit, guess what. They would then be paying a higher tax rate than those 400 super high income earners. In fact, the highest income earners pay a rate far below what people who think their average income earners actually pay.

Of course, tax inequality extends beyond just individuals. At a time when household budgets are strained, profitable corporations are paying just about their lowest share of Federal revenues in 75 years. If you go back to 1935, you see that regular Americans and corporate America evenly split the responsibility to fund our country's obligations, to pay for America's expenses. Then, in each of these following years, the ratio between what corporations pay in revenues to the government versus what individuals pay broke through these ratio levels. By 1948, the individuals were paying twice as much in revenues to the Federal Government as corporations. By 1971, regular humans, regular Americans were paying three times as much of the revenues of the United States of America as corporations were. In 1981, it broke through 4 to 1. For every $1 an American taxpayer paid to support this country, corporations just kicked in one-quarter. In 2009, it broke through 6 to 1, meaning that the average American, the ordinary taxpayer, the individual human being puts in $6 of revenue to support this country for every $1 corporate America contributes.

When people say how overtaxed corporate America is, it is worth looking at this record of an ever-diminishing contribution by America's corporate community to our Nation's revenue. Of course, the Republican filibuster of our efforts to strip Big Oil subsidies that would have put $21 billion back into taxpayers' pockets or reduced the debt and the deficit by $21 billion is noteworthy in this light.

Even against this rapid decline in corporate tax support for American Government compared to a huge runup in what individual Americans pay, our colleagues on the other side of the aisle insist on continuing to support tax subsidies for Big Oil, while they are making the biggest profits any corporation has ever made.

We looked at the Helmsley Building a moment ago. Let's look at a different building. Let's look at a picture that our Budget Committee chairman, KENT CONRAD, uses. This was taken in the Cayman Islands. It is a relatively nondescript building, not worthy of particular note, except that over 18,000 corporations claim this building as the place they are doing business out of; 18,000 corporations. Really? Do we think 18,000 corporations are doing real business out of that building?

As Chairman CONRAD has pointed out, the only business going on in that building is funny business, monkey business with the U.S. Tax Code.

This is estimated to cost us as much as $100 billion every year. For every one of those $100 billion lost to the tax cheaters hiding down there in the Cayman Islands, honest, tax-paying Americans and honest tax-paying American corporations have to pay an extra $1 or more to make up the difference.

We recently voted for a continuing resolution to fund the government for the remainder of the fiscal year, and in it I supported, and my colleagues supported, belt tightening across many agencies and programs, including even cuts in the accounts that fund Senators' offices. So we are not against cuts.

But serious people understand we cannot just cut our way back to a balanced budget. There simply is not enough to cut. Not since 1960—more than half a century ago—have we had a balanced budget at the revenue levels as a percent of GDP that the Republican House-passed budget proposes.

When our tax system permits billionaires to pay lower tax rates than truckdrivers and allows some of the most profitable corporations in the world to pay little or no taxes at all, even if we had no budget deficits fairness and equality would demand that we address these preposterous discrepancies.

Our budget crisis, however, brings new urgency to the problem. As we continue to debate ways to close the budget gap, I hope my Republican colleagues will revisit the potential to significantly cut the deficit by addressing tax loopholes, tax gimmicks, tax subsidies, and the daily injustice to the ordinary taxpayer when the wealthiest and highest income Americans pay tax rates that are the equivalent to an ordinary truckdriver in Rhode Island, and the basic lawyer or realtor or doctor is paying rates far, far higher than the super, superrich.

I see other colleagues have come to the floor, so I will yield the floor to them and appreciate very much the attention that has been paid to these remarks.

The PRESIDING OFFICER (Mr. TESTER). With some reservation, the Senator from Illinois.

Mr. DURBIN. Mr. President, there is a prohibition in the U.S. Constitution from cruel and unusual punishment, and the fact that you will be presiding in the chair when I am going to be speaking on an amendment which you are offering is truly cruel and unusual, but I am going to inflict it anyway. I will try to be as gentle as I can in the process.

Very briefly, I want to thank the Senator from Rhode Island for his comments on the Tax Code and the need we have in this country to address taxes in a responsible, humane, and, I would add, progressive way. I think he has made the point over and over again, which I will make myself in just a few moments, and I think the Senator from Vermont may follow me.

DEBIT CARD SWIPE FEES

Mr. DURBIN. But before that, I would like to address what is known affectionately as the Tester-Corker amendment, which was brought up on the Senate floor earlier this morning by Senator CORKER of Tennessee.

One year ago—to be more specific, about 11 months ago—we had a big debate on the floor of the Senate about Wall Street: What are we going to do about Wall Street and the practices on Wall Street which hurt our economy? Especially we were worried about the last recession and some of the things that happened on Wall Street at the biggest banks and biggest insurance companies that hurt Americans across the board; that reduced the value of our savings and caused us as a Congress, with President Bush's cooperation, to pass a basic bailout bill sending billions of dollars to these banks that had made stupid, reckless decisions that wrecked the economy; to try to save them from going under.

Think about that. Here are the biggest financial institutions in the United States that have made terrible decisions—some failed, such as Lehman Brothers—which harmed our overall economy—we are still suffering from it—harmed individual families and businesses across the board, and then, as they were about to sink out of sight, they said: You have to save us. Send us taxpayers' money.

Well, I will tell you something: I voted for that. I am not proud or happy about that, but that is the situation. But when the Chairman of the Federal Reserve and the Secretary of the Treasury came and said, as they did to us: This could be a catastrophe equal to the Great Depression if you do not do something—I thought to myself: This violates every value I have about these Wall Street financiers and the way they operate, but I cannot let the American economy go down. I think many Senators felt the same way on both sides of the aisle.

So we sent them billions of dollars to keep them afloat after their terrible decisions. How did they reward us? What was the thank-you card they sent to the taxpayers of America? They gave themselves bonuses—multimillion-dollar bonuses. These same banks, in their reckless stupidity, driving us into a recession, bailed out by taxpayers, then came back and announced they were giving each other rewards for great performance—millions of dollars. It finally ended up being billions of dollars to these big banks. Outrageous.

So last year we sat down with the Wall Street reform bill, the Dodd-Frank bill, and said: We are going to change some of the rules you play by up on Wall Street so you never have a chance to do this to America again.

We went through a broad array of things we considered. One of the things we considered affects virtually every single American; that is, the use of something called a debit card.

We may not think twice about it, but for those of us who have been around a little while, there was a time when we had cash in our wallets and a checkbook. Those were the two ways we paid for things. Then came credit cards. Then came this new invention called a debit card. A debit card is basically a plastic check. When we swipe that debit card for a transaction, money comes out of our checking accounts and pays the merchant we are doing business with. It is a great convenience. I use them now. I think more than half of purchasers across America are used to using debit cards and credit cards every day.

But at the same time there was this growth in debit card use across America, something else was happening that was entirely invisible to the public. Each time that debit card was swiped, the banks ended up taking a fee. Well, you say: That is not unreasonable. They should be taking a fee. They used to collect a fee for processing checks. Why wouldn't they collect a fee for using a debit card? Except something was going on that we were not aware of until we looked into it closely: they were raising the amount they were taking each time the debit card was used to now the highest level debit card transaction fees in the world.

The Federal Reserve tells us they charge on average 44 cents every time someone swipes a debit card. In other words, if someone is running a little store in Springfield, IL, and a person walks in—and I have seen this happen—and says they want to buy a $1.29 pack of gum, hands over the debit card, and they swipe the debit card, that merchant in that little store has to look at it and say: I just lost money. I am not going to make 44 cents of profit on the sale of that pack of gum. Now I have to pay that to the bank and credit card company, 44 cents.

So a year ago we said: Let's take a look and see what is a reasonable charge, not what they are charging but what is reasonable to pay to the bank and the credit card company. The Federal Reserve, which, if anything, has a strong bias toward the banking industry—always has; they are never viewed as a consumer protection agency—came back and said it ought to be closer to 10 cents or 12 cents, one-third or one-fourth of what is actually being charged.

So here is what we said: The Federal Reserve established a reasonable, proportional debit card swipe fee so consumers and retailers across America are not giving to the banks across this country, particularly the largest banks across this country, a windfall every time a debit card is swiped. It sounds reasonable to me. These merchants had no voice in determining how much was going to be charged on a debit card transaction. They were stuck with it. It was invisible, and it was killing them.

Well, what happened? What happened after we passed this? The banks and credit card companies across America went on a warpath: We have to stop this debit card amendment.

They have spent a fortune lobbying Congress, working the Members back and forth, saying: You have to protect us. You cannot let this new rule go into effect which reduces the fee we collect every time anyone uses a debit card.

Why would they lose sleep over 44 cents? Add it up. Every month in America the banks are collecting $1.3 billion from consumers across America. Every time we use a debit card to buy gasoline, groceries, go to a hotel, restaurant, make a contribution to the Red Cross in the middle of disaster, pay tuition at a university, they are taking a percentage out of every transaction to the tune of $1.3 billion a month. That is why. They have moved Heaven and Earth to stop this new rule from going into effect which reduces the fees these banks—over half of them, the largest Wall Street banks—are collecting.

We are going to have a vote on it this week. It is an important vote, and it is a vote I think will be a test as to whether we are going to come down on the side of consumers, small businesses, and retailers in America, or on the side of the Wall Street banks and the credit card companies.

Interesting test, isn't it, to find out where the Senate is going to come down on this issue? I think it will be a close vote. I am not sure, but I think it will be close, and it is important.

Senator CORKER of Tennessee came to the Senate floor earlier and said: Well, we have come up with a solution. There is a new version of our amendment today which we are going to offer. Some Members have called it a compromise. It is not a compromise. A compromise suggests that both sides came together and agreed on something. There has not been any input from the retailers, small businesses, and consumers across America. The only compromise is among the big banks and the bigger banks in terms of what they are going to collect on these debit cards.

I will tell you point blank, if the purpose of this amendment is to protect credit unions and community banks, there is a way to do it. We can give them more reassurances beyond what the law already says, which I think is totally adequate for what we need to do. This amendment, this so-called solution amendment, does not even address it. What it addresses is the overall issue and the billion dollars-plus that these banks want to keep collecting while a so-called study goes on for another year. They want to include, incidentally, in the ''reasonable cost'' for the debit card executive compensation, compensation of bank officials.

How much compensation do we give to those who work at the Wall Street banks? It turns out last year it was $20.8 billion in executive compensation. They want to add that in as part of the operational cost of using a debit card. The bonuses? We are going to pay for the bonuses? That is a reasonable debit card cost?

I want to tell you, this amendment is written by and for the banks, the biggest banks of all, and it is not written with the consumers in mind. Look through all the organizations of this new amendment and try to find one consumer group, one small business group, one group of retailers that were part of establishing what a reasonable fee is. You will not find them. They are all banking regulators—people who have no reputation for standing up for consumers.

So the debate will ensue for the rest of this week on this amendment. I think it is a critical amendment. I hope my colleagues will stand by me and the Federal Reserve in the vote we took last year.

I see the Senator from Vermont is here. I was told I had a few minutes to speak. He appears anxious, so I am going to make my remarks on the other subject brief.

BUSH TAX CUTS

Mr. DURBIN. Mr. President, the Senator from Rhode Island spoke about the 10th anniversary of the George W. Bush tax cuts. These were tax cuts that primarily benefitted the wealthiest people in America, and we recently renewed them. There was a decision made that to keep the economy moving forward we were not going to raise taxes, even on the wealthiest people.

But it is worth reflection for a moment about what happened when we cut the taxes 10 years ago. The promise then is the same promise we now hear from the other side of the aisle: If you will cut taxes on the wealthiest people in America, our economy will flourish.

Well, it turns out that was not the case at all. In fact, what happened is that we saw the economy suffer. Ten years ago, President Bush signed into law the first massive tax cut. He said that this tax relief would create jobs. The month the first Bush tax cuts were signed into law, in June of 2001, the American economy had 132 million jobs—132 million jobs. Three years later, we were down to 131.4 million. Cutting taxes for the wealthiest people in America was not a job stimulator. The economy lost jobs in the 3 years following the Bush tax cuts. Over his 8 years in office, job growth under President Bush was 4.8 percent, compared to 16.2 percent under President Clinton.

Before I defer to my colleague from Vermont, I will tell you one other fact that is worth noting. First, when President Clinton left office and President George W. Bush took over, we had a surplus, a surplus that was keeping the Social Security trust fund flush with money and growing in strength. At that time, the net national debt, accumulated since George Washington, $5 trillion—$5 trillion when Clinton left office and Bush took over. Fast forward

8 years later as George W. Bush left office. What was the situation? The national debt had more than doubled to more than $10 trillion, and the projected deficit for the next fiscal year for President Obama—his first fiscal year—$1.2 trillion, the highest in history.

What happened? We waged two wars and did not pay for them—wars in Iraq and Afghanistan. We added to the national debt. And President Bush, for the first time in the history of the United States, did something no other President had done: He cut taxes in the midst of a war, which is counterintuitive; you do not have enough money to pay for the ordinary expenses of government, now you have got the new expenses of war, and you are cutting taxes?

Not surprisingly, this added dramatically to our national debt. So now comes the Republican side again, with our economy still recovering—unfortunately too slowly—and their recipe is tax cuts for the wealthy. I would say those of us who are fortunate to live in this great country and have the comfort of a good salary should not begrudge paying this country's debts and this country's needs. I think it is part of our responsibility of citizenship.

There are those who are struggling to get by in lower income and middle-income categories who I think need a helping hand. But those at the highest levels of income—over $250,000 a year, over $500,000 a year—should not be angry about accepting more responsibility in trying to help this Nation move forward.

The Bush tax cuts did not help create jobs, they caused the deficit to explode and they made it even worse in terms of our inequality of income. Why would we want to do that again? There are 13.9 million people in this country who want to work but cannot find a job; millions more have accepted fewer hours and less income than they like out of desperation.

We should be focusing now on creating jobs in America, good-paying jobs that stay right here at home. We ought to be helping middle- and lower income families who are struggling to get by. We ought to deal with our deficit in honest terms, cutting spending where there is waste and misuse of funds, and then saying, we need revenue on the table as well.

We need to make sure we have a bipartisan approach for this. I will continue in that effort to try to reach that goal. But I hope we have learned a lesson over the last 10 years when it comes to tax cuts for the wealthy. They led us to the highest deficits in our history. At this point, I am afraid using that recipe again will create even more economic hardship.

I yield the floor and 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. BOXER. 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.

ECONOMIC DEVELOPMENT REVITALIZATION ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 782, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 782) to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes.

Mrs. BOXER. Mr. President, as the chairman of the Environment and Public Works Committee who watched with pleasure as we voted this bill out of our committee with total unanimous support—except for one, we almost had everyone—I am delighted that the leader has chosen to go to the reauthorization of the Economic Development Administration.

I will tell you why. There are three reasons: jobs, jobs, jobs. We know when President Obama took over, he faced a situation where we were losing 700,000 to 800,000 jobs a month. Imagine. We were bleeding those jobs. Credit was frozen. We almost lost the auto industry. We had to take tremendous steps to turn this around.

I personally believe, after listening to the experts evaluate what we did, that we did some very important work to stabilize this economy. But clearly this recession we are trying to get out of is the worst since the Great Depression. The job loss has been severe. So it is very difficult. When you lose 7, 8 million jobs in that kind of a downturn, you need robust job creation to get these jobs back.

We had a very important bill on the floor dealing with small business—to help small business. That bill was loaded with a bunch of extraneous amendments and it never got off the floor. Now is our chance. I do not mind it if people attach amendments that they think are very important, and we have some reasonable time set aside for those, we have votes on those. I do not have any problem with that. But we have got to get on with the business of job creation.

Let me tell you a little bit about the EDA. For 50 years, the EDA, the Economic Development Administration, has created jobs and spurred growth in economically hard-hit communities. This bill, S. 782, will ensure that EDA will continue to create employment opportunities, maintain existing jobs, and drive local economic growth.

We know the EDA's authorization expired in 2008. And, by the way, the last time it was voted on it was I believe under George Bush, and it was done by voice vote. Even in the House it was an overwhelmingly bipartisan vote. George Bush signed it. Can't we get back to the days of bipartisanship? I say to my colleagues, this is the moment.

A bill that has been voted out of the committee with near unanimous consent, a program that has been in place since 1965, and we know these are tough times. All of our communities are going through tough times—most of our communities are.

The EDA has worked beautifully with local communities to spur economic development. EDA provides a wide range of assistance to these areas. They fund water and sewer improvements. They help manufacturers and producers become more competitive. And here is the thing about these investments: They attract State dollars, local dollars, nonprofit dollars, private company dollars, so that every dollar we put into this program yields us $7 in private sector investment.

This is the first point I want to make to my colleagues and to the American people. EDA leverages Federal dollars to create jobs. One dollar of Economic Development Administration investment is expected to attract $7 in private sector investment. This comes from congressional testimony in March of 2011. That is why we got such a great vote out of our committee.

You are going to hear from Senator CARDIN later, who serves in a very senior position on that committee. It is rare that we have these type of votes. Since January of 2009, even though the EDA was not reauthorized, it still continued to go along under the old program. It continued to go along with appropriations.

Since 2009, public-private projects that grantees have looked at say they have created 161,500 jobs. Let's look at that chart. This is good news. I have good news today. This is a program that is working for the American people. Since January 2009, EDA has funded public-private projects that grantees estimate have created 161,500 jobs.

What we bring to you is a reauthorization of a very popular program that has been in place since 1965, that has always had tremendous bipartisan support, that is working on the ground, that the local people love. Let me tell you who has already endorsed this bill: the U.S. Conference of Mayors, the American Public Works Association, the National Association of Counties, the American Planning Association, the Association of University Research Parks, the Educational Association of University Centers, the International Economic Development Council, the National Association of Development Organizations, the National Business Incubation Association, the State Science and Technology Institute, the University Economic Development Association, the National Association of Regional Councils. These are people on

the ground very close to our constituents. Who could be closer than the mayors and the counties? I started out as a county supervisor in a beautiful county called Marin. I can tell you on the ground, when you see these Federal dollars work it is very exciting because the cities and counties cannot do it alone. With the infusion of Federal funds, that sparks $7 of every $1 from private sector folks, and it makes a difference. I believe this is a win-win situation for our people.

In fiscal year 2010 alone, EDA approved investments of $640 million for 928 projects nationwide that are expected to create 74,000 jobs, save 22,000 jobs, and leverage $10 billion in private investment. So $640 million is expected to leverage $10 billion in private investment. That is a huge leverage.

In my home State of California, we are struggling, as so many parts of the country are, with unemployment rates. In California, EDA approved investments of $24 million in fiscal year 2010 for 27 projects expected to create 11,000 jobs, save 400 jobs, and leverage $400 million in private investment. As I stand here now, because of this program, in 2011, we are going to see jobs saved and created. Imagine, 11,000 new jobs—11,000 families who can breathe easier, pay their mortgage, and maybe go out to a restaurant once a week. That money trickles into the community and helps the small businesses.

We now know that in California, the city of Dixon is working on a $3 million program for water system improvements. That is 1,000 jobs.

There is a project in the city of Shafter for $2 million for sewer and water improvements, which will allow development of an additional 600 acres, and it will create 1,485 jobs and leverage $253 million in private investment. Nationwide, you could look at Boeing. We all know about Boeing. To help to mitigate Boeing's decision to reduce manufacturing jobs in Renton, WA, EDA invested $2 million in 2006 to help build infrastructure to serve the commercial redevelopment of a 42-acre aircraft manufacturing site. This redevelopment has created a mixed-use campus used by businesses focusing on commercial services, high-tech, and life sciences, which has helped create 2,500 jobs.

I say to my friends that right now we are struggling getting to the bill. At this point in time, we have a Republican dissenter who doesn't want us to move forward, and they want to look at this. I hope they look at these numbers. The American people want jobs. This is a bill that is directly related to job creation. This is a bill that leverages the Federal dollar. Why on Earth should there be any objection? This is a bill that passed the Senate unanimously when George W. Bush was President. He signed it and it was law. We should not be struggling over going to this bill. We ought to get on the bill and then get off the bill and send a message to the people that we are serious about job creation.

In Duluth, a $3.5 million grant, matched by $2.3 million from the city, helped build the Duluth Aviation Business Incubator at the Duluth Airport. This investment helped Cirrus Aircraft grow from a handful of employees to 1,012 employees by 2008. The incubator is now leased to Cirrus Design Corporation, which has the largest share of the worldwide general aviation market.

Here is another one on the east coast. In 2002, EDA provided $2 million to help build the Knowledge Works pre-incubator facility as part of the development of the Virginia Tech Corporate Research Center in Blacksburg, VA. The center and its Knowledge Works pre-incubator facility have led to the creation of 2,000 high-wage jobs and the inception of 140 high-tech businesses. Repeating, a $2 million infusion from the EDA led to the creation of 2,000 high-wage jobs and the inception of 140 high-tech businesses. They built this corporate research center in Blacksburg, VA.

EDA helps with disaster relief. In addition to helping communities respond to job loss due to the closure of a manufacturing plant or defense facility, for example, EDA helps communities respond to sudden and severe economic dislocations to the natural disaster.

In 2008, Congress provided EDA with a total of $500 million in natural disaster assistance through two supplemental appropriations. With these funds, EDA was able to assume the role of a secondary responder working with affected communities to support long-term, postdisaster economic recovery in response to hurricanes, floods, and other natural disasters. We know how important it is to have a program that can respond and help FEMA.

I can give you example after example of disaster relief. There was one case in Cedar Rapids, IA, where EDA provided funding to construct and install an upgraded, energy-efficient, natural gas-fired boiler system following a 2008 flood that destroyed the boiler that had provided steam heat and hot water to St. Luke's Hospital and Coe College. When the utility that owned the damaged facility decided not to rebuild after the flood, it left the hospital and college without a reliable energy supply. We all know what happens when there is a disaster and our hospitals cannot function. They came in and made a $4.6 million investment, and it was critical in keeping the hospital and college open, saving hundreds of jobs.

I can only say, in closing my opening remarks, let's step back and look at the big picture. I think DICK DURBIN spoke to it quite eloquently. Senator DURBIN was very clear when he said we are at a time now where we have to create jobs. He gave kind of the overview of what has happened.

When Bill Clinton was President, I was privileged enough to be here, sent by the people of California—my first term here. Bill Clinton faced a deficit, a debt, and a struggling economy. But with very smart plans, we turned it around. What were the smart plans? We reduced the deficit to zero, but we did it in a smart way. How did we do it? We kept on making investments that made sense at that time in energy, high-tech research, biomedical research. We made those investments. We cut the fraud and waste. We said to billionaires: You know what, you can do more for us, please. They are happy to do it, actually. So the millionaires and the billionaires paid their fair share, and we made smart investments and cut the waste, fraud, and abuse. We not only balanced the budget, but we created a surplus.

In comes George W. Bush, and our Republican friends decided that the thing they wanted to do more than anything was give tax breaks to the billionaires and millionaires—to the Warren Buffets, who don't need it, and to the Donald Trumps, who don't need it. They don't need it. The average of these tax cuts to these millionaires and billionaires was hundreds of thousands a year. What that means is, we are short funds here.

What do our Republican friends want to do now? They want to cut Medicare—end it—in order to continue to pay for the tax cuts for the millionaires. It is not necessary to go down that road.

That is not before us today. What is before us today is, in the battle of how to get that deficit under control, what are we going to do about jobs. Today, we are looking at a program that has strong bipartisan support, that leverages the Federal dollars, that gets great reviews, that got out of our committee with only one dissenting vote; that is, the EDA, the Economic Development Administration. They have six regions. They have six regional offices, and each region—including East, West, Midwest, South—gets a fair share of the appropriations. It goes to places that have good ideas on how to attract local and State nonprofit and private sector funding. Every $1 of EDA investment is expected to attract $7 in private sector investment, thereby saving and creating thousands and thousands of good jobs.

I understand my Republican friends are going to have a discussion at lunchtime as to whether to allow this bill to move forward. I hope, from the bottom of my heart, they will do so.

I yield to Senator CARDIN.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, let me compliment Senator BOXER for her leadership as chairman of the Environment and Public Works Committee. I also compliment Senator INHOFE, the ranking member.

This is an important bill, dealing with economic development and the Economic Development Administration. This is all about creating jobs, as Senator BOXER pointed out, particularly in underserved communities. That is what EDA does.

This is a reauthorization bill. It was worked on in the last Congress. It came

out of the Environment and Public Works Committee in the last Congress. It enjoys strong bipartisan support. Historically, it has been agreed to. It is important this reauthorization bill move through the Senate and the House and that the President has an opportunity to sign this bill so we can continue this important economic tool for our underserved communities.

I also compliment the majority leader, Senator REID. The bills he has brought forward in this Congress have been focused on creating jobs. We had the FAA reauthorization bill, which was important for the modernization and safety of our air traffic system, but it also created jobs and provided economic opportunity for more jobs in America.

We then considered the SBIR bill, which would have helped small businesses with innovation, growth, and job growth. I regret that that bill could not be completed because of extraneous amendments. But it shows our priority on moving legislation forward that will create jobs.

The EDA bill now before us I hope we can get to and move it quickly because it is, to me, a very important part of our strategy for the recovery of our economy and to create jobs in particularly underserved communities.

In Maryland, we have many communities that depend upon EDA funding in order to save and create jobs. The EDA, through the economic development districts, is helping plan to build roads, spread commerce, office parks, business centers, and for private sector businesses to locate to and expand access to broadband, which is critical to communication in today's global economy. These are the types of projects EDA sponsors. There are road projects and broadband to connect communities together.

EDA is responsible for promoting job growth and accelerating industrial and commercial development in communities suffering from limited job opportunities, low per capita income levels, and economic distress.

As the only Federal agency focusing solely on promoting private sector job growth in economically underserved communities, EDA pursues regional comprehensive strategy development, public works, and business loan funds. They put together a strategy for our areas that have high unemployment, areas that are difficult to attract new job opportunities. They developed a winning strategy to create jobs.

In Maryland, the EDA and our State university centers and economic development districts are responsible for helping administrate public works projects in rural communities on the Eastern Shore and in the western part of our State. These projects have assisted with the regional commercial needs as well as services to meet the needs of residents.

For example, the EDA has been essential in assisting with the planning and installation of the broadband communication network in western Maryland. Maryland will be a State that will be totally connected by the broadband. EDA has helped to bring that into underserved areas. We are connecting communities together by having jobs in broadband capacity.

It is also helping us create more small business opportunities, which is what we find is the dominant economic growth engine. We know in the Nation overall it is small businesses, but when we are dealing with underserved communities, small business growth is critical to their economic future. These investments go toward revitalizing, expansion, and upgrading of physical infrastructure in order to attract new industries, encourage business expansion and diversify local economies. In so doing, EDA seeks to establish foundations that enable communities to develop their own economic development programs for sustained development.

The EDA has an established and proven record of using increasingly limited resources to complete projects in a timely manner that leverage—leverage—private sector investment. Senator BOXER pointed that out. We are leveraging private sector investment with a relatively small amount of public funds.

In my home State of Maryland, EDA has supported more than 33 projects in the last 4 years that are credited with creating more than 2500 jobs, retaining over 100 jobs, and leveraging $218 million in private investment from $12 million in EDA investments. That is a much higher ratio than the average, as Senator BOXER pointed out. It is important we provide EDA with the resources necessary to continue this work. Many of these projects are in the more rural or underserved parts of the State.

Most recently, EDA provided seed money for two exciting projects on Maryland's Eastern Shore. In Dorchester County, near the town of Cambridge, on the Eastern Shore, the EDA is investing more than $600,000 in the renovation and repair of an existing vacant industrial building to be reused by a new manufacturing company that specializes in the production of green products made from recyclable materials.

This is a win, win, win situation. This is a project that will restore a defunct industrial facility—recycling an industrial facility—and saving jobs on the Eastern Shore of Maryland. It reduces material waste by making new products out of recyclable waste material, helping us with our energy and environmental policies, and saving 103 jobs while creating 20 new jobs. These 103 jobs would have been lost. Instead, we now have 123 jobs in an area where it is difficult to attract new jobs. It is leveraging more than $600,000 in direct investment in a facility that is expected to generate $6.6 million in private investment once the facility is operational, once again, referring to what Senator BOXER said, the leveraging of public funds for private investment in underserved areas and saving and creating jobs. This means for every Federal dollar invested, it generates $10 in private investment.

The economies of Wicomico, Worcester, and Somerset Counties have historically been linked to the health of the Chesapeake Bay. Years of Chesapeake Bay impairment have taken their toll on the bay's fisheries. Closely linked to the bay's impairment is the decline in lowland forest lands due to development pressures. The effects of these natural resource crises have resulted in the decline of jobs in the seafood harvesting and forestry industries on the lower shore. It is a priority of mine to restore the health of the Chesapeake Bay and the natural systems and jobs that support a healthy bay.

I also support the immediate work the EDA is doing to address the decline in jobs in the traditional industries on the lower shore by investing over $800,000 in workforce and business development centers that serve the lower counties of the Eastern Shore.

Much of the hard work that goes into selecting and developing projects is done by the hardworking men and women on the ground working for the local economic development districts and the university centers. These are the ones with the best understanding of the economic needs in the communities in which they work. That is why I worked hard with my colleagues on the Environment and Public Works Committee to improve the potential resources available to economic development districts to do the necessary planning for economic development projects in their districts.

Planning funds are hard to come by, but planning funds are essential. When the Environment and Public Works Committee took up the bill last Congress, the issue my economic development district urged me to fight for was increasing the authorization level for planning grants because they were so useful to the work they were doing and represented a sound investment of Federal dollars in the communities that needed the help the most. Planning grants provide invaluable matching funds for economic development districts, tribes, and local communities to pursue regional economic development goals and strategies.

None of the projects the economic development district helps administer would be possible without these planning grants. The demands on the economic development districts have increased significantly due to the current economic downturn as well as the new mandates by the EDA and the evolving nature of the global economy. The scope of the economic development districts' work goes well beyond EDA's projects and spans into planning and coordination of rural transportation projects, USDA rural health and water systems projects as well as HUD projects.

Without the annual planning investment EDA provides through the economic development districts, most rural areas would not have the capacity to apply for or administer economic development resources. The planning and administrative work done by the economic development districts is the backbone of EDA's public works and facilities development projects and would not be possible without the planning grants.

I greatly appreciate the leadership of Senator BOXER and Senator INHOFE on our committee, and I am pleased by the bipartisan support of our committee that brought out a comprehensive bill, including the areas I have mentioned, that will allow EDA to continue its core purpose of creating jobs for our community. It is exactly this type of legislation we need to help continue our economic growth to bring us out of this recession, to create the type of jobs we need, and to encourage private sector capital.

This bill translates into jobs. I urge my colleagues to allow this bill to move forward, to limit the amendments, particularly those that are not relevant to the underlying legislation, so we can get this bill to the House and to the President because it will help our communities grow and create jobs.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

REMEMBERING GOVERNOR WALTER PETERSON

Ms. AYOTTE. Mr. President, I rise today to honor the memory of Governor Walter Peterson—a great New Hampshire citizen who represented the very best of the Granite State's independent spirit.

Governor Peterson came from what is well-known as the ''greatest generation,'' and he more than lived up to that label. A veteran of World War II, he committed his life to public service and civic engagement, leaving behind a legacy of civility, decency, and integrity in politics.

Following his graduation from Dartmouth College, Governor Peterson settled in Peterborough, NH, becoming a lifelong figure in the Monadnock region. A small businessman, he went on to serve in New Hampshire's citizen legislature and rose to the position of speaker of the house. In 1968, New Hampshire voters elected him as the State's Governor, a position he held for two terms.

Governor Peterson represented a special breed of politician—someone who could disagree without being disagreeable. A strong leader, he had the courage of his convictions. He believed it was more important to stand firm for what he believed was right for New Hampshire rather than worry about being reelected. That principled approach and inherent goodness secured his place in New Hampshire history as a deeply respected statesman.

Outside of public life, Governor Peterson was the beloved patriarch of his family. Together with his wife Dorothy, to whom he was married for over 60 years, they had two children, Meg and Andy. The Peterson family is well known in the Monadnock region because of their strong commitment and dedication to the community. Andy Peterson followed in his father's footsteps and served in our State legislature with distinction.

During my visits to Peterborough—the idyllic New Hampshire town Governor Peterson lived in and loved—I always knew he would extend a warm welcome to me. A steadfast source of Yankee wisdom, I came to cherish Governor Peterson's friendship as much as his keen insight into the people of New Hampshire.

After leaving statewide office, Governor Peterson took his special brand of leadership to academia, serving as a college president and as a trustee of the university system of New Hampshire. In those roles, he worked to build institutions of higher learning that empowered students to take full advantage of the opportunities our great country provides, believing in the transformative power of education.

With Governor Peterson's passing, New Hampshire citizens have lost a wonderful, true, and loyal friend. At this sad time, we celebrate his life, grateful to have known a leader who embodied the very best of public service.

Mr. President, I yield the floor.

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

Mr. TESTER. Mr. President, when we are able to move the economic development bill, I will have a bipartisan amendment that will address the interchange issue in a way I think most Senators can support.

I wish also to note that I appreciate Senator DURBIN's passion on the issue—and with any number of issues we have in common—and I look forward to working with him again very soon.

Most of the folks in this body know I am a farmer; that I come from the agricultural sector. It is important because, over the many years I have been able to be in agriculture, I have watched consolidation in agriculture, where fewer and fewer companies control more and more of the food supply. We call it consolidation. The same thing has occurred in our energy sector, where we have fewer and fewer companies, with less competition in the marketplace. And we are paying that price in both areas.

We have seen enough consolidation in the financial area. Why is this important? It is important because the amendment I am going to offer—the bipartisan amendment—will help so that we don't further consolidate the financial industry. I also come from rural America. We all know, as the Senator from Illinois pointed out, that we are coming out of a very difficult economic time. In fact, the Senator pointed out he voted for the bailout of the big banks because it was for jobs. I want the record to be clear that I did not vote for that TARP bailout, but I too am concerned about jobs. I am concerned about jobs across the country, but particularly in rural America.

The amendment we voted on a year ago had a provision in it that exempted banks under $10 billion from this debit swipe fee rule. Everybody thought it would work—at least those who voted for the amendment thought it would work. But the fact is every regulator has said, with regard to this $10 billion exemption, we don't know how to enforce it. The regulators have said, we do not know how to craft a rule to exempt those small community banks and credit unions under $10 billion.

The single regulators have said the same thing. In fact, Chairman Bernanke admitted the rule could ''result in some of the smaller banks being less profitable and even failing.'' That is because the two-tiered system will not work under the current law. That is not my opinion. That is the opinion of the folks whose job it is to regulate these banks. And the customers—the hard-working folks—are going to get stuck with higher fees, potentially no access to capital or, even worse, no local banks at all—further consolidation in the banking industry.

Let me be clear. If any one of the regulators—the Chairman of the Federal Reserve, the Chair of the FDIC, the Comptroller of the Currency—told me that the interchange rule we passed last year would actually protect small banks, I would not be here, we would not even be here having this debate, we would be moving on. But that is not what happened.

The Wall Street banks are going to be just fine. My amendment is not about the Wall Street banks. They can distribute their costs. They have a lot of different irons in the fire. They can distribute their costs. The fact is, the small banks, credit unions and community banks cannot distribute those costs. That will result in less access to capital in rural America and I think across the country. It will result in fewer jobs because you have to have capital to grow business and create jobs.

Oftentimes we make decisions based on incorrect information. It is nice when you make decisions based on good information, and that is what we are asking to do here: Take a step back, take a look at this stuff, and make a good decision, a decision that will work not only for rural America but for the whole country.

This is an important amendment. It is a critically important amendment, from my perspective. If we shut down access to capital in rural America because community banks and credit unions cannot compete, not only will

we further consolidate the financial industry but we will take away opportunity for small businesses, opportunity that will allow them to grow and create jobs at a time when we need growth in our economy and we need more job creation.

With that, I yield the floor.

RECESS

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

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

ECONOMIC DEVELOPMENT REVITALIZATION ACT OF 2011—MOTION TO PROCEED—Continued

Mr. INHOFE. 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. BOXER. 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. BOXER. Mr. President, earlier today I was on the floor speaking about the importance of a program called the economic development revitalization. It has been in place since 1965. It has run out of its authority. Our committee, the Environment and Public Works Committee, in a near unanimous vote—almost unanimous—decided it was really worth making some reforms to the program to make it work even better and to reauthorize it.

I am going to turn the time over to my wonderful friend, JIM INHOFE. He and I, as everybody knows, are good friends. We work very well together. There are issues on which we sharply disagree. I think they would fall on the environmental side. But when it comes to public works, when it comes to building the infrastructure of our country, when it comes to jobs related to the private sector, we are very much joined at the hip. On this particular issue, we are together because we look at this and we say that at a time when there need to be jobs, over a 2-year period beginning in 2009, grantees estimate that EDA-funded projects created over 160,000, and for every $1 invested by the Federal Government $7 came from the private sector.

It is my pleasure to yield to make sure my ranking member has sufficient time for whatever he would like to speak to this issue.

Mr. INHOFE. Mr. President, the EDA is something that has worked very well in our State of Oklahoma. First, let me say the Senator from California is right—there are many issues on which we do not agree. In fact, we have fought tooth and nail for a long time against the cap-and-trade and a lot of these environmental issues and will continue to do so. However, what we agree most on is not necessarily the EDA program but the need for reauthorization of transportation.

We have a very serious problem. In my State of Oklahoma, just a short while ago a young lady, the mother of two small children, was driving under a bridge, and it crumbled and fell and killed her. There are things like that, crises that are going on right now.

We were very proud when we had what we thought at the time was a very robust highway reauthorization bill, a transportation reauthorization bill in 2005. While the amount sounded like quite a bit, it was really just barely enough to maintain what we had. There are some things government is supposed to be doing. I am always ranked as one of the most conservative Members, but I am a big spender in areas such as national defense and infrastructure. Those are needs we have.

In putting together this bill and taking it out of committee—and it did come out of committee unanimously—there had been a GAO report that talked about duplication. I put in language in order to have them identify anything that would be duplicative so that would come out. That was a little bit of a surprise to a lot of us. I don't question the report. I think it was probably accurate. But we took care of that because we don't want to have any duplication of efforts.

The chairman said there is a 7-to-1 ratio. We have actually done better than that in the State of Oklahoma. In one area, it was a $2.25 million EDA grant, in Elgin, OK, which is adjacent to Fort Sill, OK, which is adjacent to a live range. It was one that was intended to actually produce a 150,000-square-foot manufacturing business employing many people. Because this administration axed some of the military programs, it did not turn out to be that beneficial, but the ratio there was still well in excess of 10 to 1.

If we want to get the economy moving, this is a way of doing it. We have to do it in a way that is well thought out. I am hoping this bill will be. It is my understanding it will be open to amendments, and there will be a lot of amendments and a lot of my friends who are not supportive of this want to have this vehicle for that purpose. I certainly respect that and look forward to working on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank the ranking member. I know he has a series of meetings and he is off to those, but I again thank him. I know he may look at reducing this authority. It is his right to do so. My own opinion is, if there were ever a time to support programs that leverage dollars the way this one does, this is one of them. But I respect whatever he feels he needs to do to feel better about the bill.

He talked about one of the important amendments he wrote which would eliminate duplication. There are other reforms that allow private parties to buy out the Federal Government investment. There is much we have done to update this program, but it is very important today.

The one word I have come to use—perhaps overuse—is ''leverage.'' Leverage is crucial. We know we are facing deficits and debts. We know we have to do something about spending, so we want to be wise, we want to see that when we do spend $1 of Federal money, it really has a punch behind it. This is one example, again, of that occurring. There is $7, on average, for every dollar invested, and in the case of Oklahoma, in this one example, $10. There are others where it is even higher than that.

I think it is very clear. I am not sure this is the up-to-date list, but we have many supporters of EDA. I am going to show some of them here.

The U.S. Conference of Mayors, the American Public Works Association, the National Association of Counties—I mentioned this morning that I started out in my first elected office as a county supervisor. They understand how important the EDA is because they are on the ground in these counties, as are the mayors in the cities. They see the needs in these underserved areas, in these redevelopment areas. They want to attract the private capital, so they really need the help the EDA gives them to do it.

The Association of University Research Parks—let me tell you why they like this. We have seen incubator projects, small business incubator projects that start in these research parks that grow into mature, job-producing businesses. EDA is the spark, EDA is the leverage we need. That is why you see the Association of University Centers, the International Economic Development Council, the National Association of Development Organizations, the National Business Incubation Association.

We know today it is tough for some businesses to get the capital. Some of them are fortunate—they go to Silicon Valley, and they get some dollars there. Some will go to banks, and they will be told it is too risky. The banks are not lending the way they, frankly, should to create the jobs, so the leverage that is gotten for these programs from the Federal Government goes a very long way.

The State Science and Technology Institute, the University Economic Development Association, and the National Association of Regional Councils.

We see we have a record of job creation. We have a lot of support, and in 2009—this really says it all: 160,000 jobs over a 2-year period, in 2009. This is a story that is a success story. It is why Senator INHOFE and I join together on this issue.

I know this is going to be a contentious time in the next few days on this

bill because some contentious amendments that have nothing to do with the underlying bill are going to be offered. All I would say to colleagues is let's not allow these jobs bills to be weighed down so we do nothing. The American people are sick of it.

We have had a small business bill. MARY LANDRIEU, the chair of the Small Business Committee, stood right here day after day begging colleagues: Don't offer poison pill amendments to that bill. Do you know who lost? Not MARY LANDRIEU. The American people lost and the small businesses lost because this bill, the small business bill, became the way everybody offered everything they had ever dreamed about and thought about, and a lot of it was controversial.

So I urge colleagues on both sides of the aisle, if you are going to offer amendments that are not related, please agree to time agreements. Let's get rid of these amendments one way or the other. If they pass, fine; if they don't, that is life. But let's get to the reauthorization of the EDA. It started in 1965. It has saved jobs, it has created jobs, and any problems we have had because of some of the rules, we have addressed in this reauthorization.

I have here a letter, a legislative alert, hot off the press from the AFL–CIO. They support the passage of S. 782, the Economic Development Revitalization Act of 2011. They say it ''has played an often unheralded but important role in creating jobs and spurring economic growth in economically distressed communities.''

The public investments supported by this legislation make a little funding go a long way by leveraging private dollars in support of these projects. Resources for technical assistance and research infrastructure, and assisting in the development and implementation of economic development strategies helps revitalize communities. EDA established an admirable track record in assisting economically troubled low income communities with limited job opportunities by putting their investments to good use in promoting needed job creation and industrial and commercial development.

Today when the lack of jobs and income stagnation are the primary issues facing this Nation, S. 782 is a bipartisan bill that can help make a difference. We urge Congress to pass the Economic Development Revitalization Act of 2011.

I think that really says it.

I have one more letter I just got. We have a letter from the U.S. Chamber, the Business Civic Leadership, saying how much they support the program. They say, ''I am writing to share with you the U.S. Chamber Business Civic Leadership Center's positive experience in working with the EDA. EDA has served as a valuable partner in many communities''—they cite ''San Jose, California; Seattle, Washington; Cedar Rapids, Iowa; Mobile, Alabama; New Orleans, Louisiana; Atlanta, Georgia; Boca Raton, Florida; Minneapolis, Minnesota; Newark, New Jersey'' and many others.

I know some of these programs that went into these cities with this relatively small investment by the Federal Government spurring all this private sector capital and local and State funds. They say they worked with the EDA in ''conducting regional forums to bring corporate contributions professionals together with economic development experts.'' They provide ''opportunities to build up relationships between and among companies and government agencies.''

They developed ''a report that maps how and why companies invest in communities across the U.S.''

They believe that as they work with them on these programs, including ''working with local chambers of commerce in disaster affected regions to provide local recovery grants,'' that that worked very well.

They say they are the ''corporate citizenship arm of the U.S. Chamber of Commerce.'' They ''work with thousands of businesses and local chambers of commerce on community development and disaster recovery.''

They are consistently looking for ''best practices, lessons learned, technical assistance, planning and strategy support, and other insights, tools, and techniques to make their communities as economically competitive as possible.''

They say:

In our experience EDA members have displayed a high degree of professionalism and technical expertise. They have engaged with us on multiple levels from consultations at the national level to sharing valuable field experience at the state and local levels.

They say:

We have canvassed many businesses and local chambers about their community development needs, and they almost unanimously tell us that some of their highest priorities include business recruitment and retention and helping small-and-medium sized businesses grow. They also tell us that support for regional economic development planning that transcends municipal boundaries is an increasing area of interest, and that this is a unique capability that EDA can and does support.

As you consider EDA's future roles and responsibilities, we would be happy to share with you our experiences and lessons learned in working with the agency and to provide you with additional information.

Signed by Stephen Jordan, executive director of the Business Civic Leadership Center of the Chamber of Commerce.

So here we have an arm of the Chamber of Commerce sending us a letter of praise for the EDA, and we have the AFL–CIO doing the same.

Senator INHOFE referred to the highway bill. That is another example where we have both sides coming together, and what I want to say to colleagues who may be watching in their office or hearing this as they do their other work, please, let's get this done.

Every single person in this Chamber goes home and talks about jobs, jobs, jobs. If we mean it, if we are not just posturing or posing for pictures and we mean it, then let's get it done.

We had a bad experience here with the small business bill. It got loaded up with things that had nothing to do with anything, and we didn't get time agreements and we couldn't get it done. Let's hope that this gets done.

I cannot imagine anybody holding up this bill when we know that in 2009 it funded over a 2-year period 160,000 jobs at a very small cost to Federal taxpayers because that cost is leveraged.

I could go on about EDA, and I will later. I think I have spoken enough at this particular time.

Mr. President, unless there is someone on the floor, 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ECONOMIC DEVELOPMENT REVITALIZATION ACT OF 2011

Mr. REID. Mr. President, I ask unanimous consent that the cloture motion with respect to the motion to proceed to S. 782, the Economic Development Act, be withdrawn and the Senate adopt the motion to proceed to S. 782; further, that after the clerk reports the bill, the committee-reported amendment be agreed to, the bill, as amended, be considered as original text for the purposes of amendments, the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that Senator TESTER be recognized to offer an amendment, followed by Senator DURBIN to be recognized to offer an amendment; following that, Senators BOXER and INHOFE be allowed to give their opening statements on this legislation.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, Senator INHOFE and I have already spoken on the floor. What I would appreciate is just 2 minutes before we turn to Senator TESTER just to set the stage.

Mr. REID. I think I have protected the Senator in that regard. I want to get the amendment laid down and the second-degree amendment laid down. All right.

Mrs. BOXER. All right.

Mr. REID. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 782) to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment, as follows:

(Insert the part printed in italic.)

S. 782

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 ''Economic Development Revitalization Act of 2011''.

SEC. 2. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended—

(1) in subsection (a)(3)(C), by inserting '', including the location of information technology and manufacturing jobs in the United States'' after ''investment''; and

(2) in subsection (b), by striking paragraph (3) and inserting the following:

''(3) whether suffering from long-term distress or a sudden economic dislocation, distressed communities should be encouraged to promote innovation and entrepreneurship, including, as appropriate, the support of the formation of business incubators in economically distressed areas, so as to help regions to create higher-skill, higher-wage jobs and foster the participation of those regions in the global marketplace; and''.

SEC. 3. DEFINITIONS.

Section 3(8) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(8)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) the Southeast Crescent Regional Commission established by section 15301(a)(1) of title 40, United States Code;

''(F) the Northern Border Regional Commission established by section 15301(a)(3) of title 40, United States Code; and

''(G) the Southwest Border Regional Commission established by section 15301(a)(2) of title 40, United States Code.''.

SEC. 4. ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''economic development districts, university centers,'' after ''multi-State regional organizations,'';

(B) by striking paragraph (2) and inserting the following:

''(2) encourage and support public-private partnerships for the formation and improvement of regional economic development strategies that sustain and promote innovation and entrepreneurship that is critical to economic competitiveness across the United States; and''; and

(C) in paragraph (3), by inserting '', innovation, entrepreneurship, beneficial development,'' after ''infrastructure''; and

(2) in subsection (c), by inserting ''(including economic development districts)'' after ''local government agencies''.

SEC. 5. ENCOURAGEMENT OF CERTAIN COORDINATION.

Section 102 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by striking ''In accordance with'' and inserting the following:

''(a) IN GENERAL.—In accordance with''; and

(2) by adding at the end the following:

''(b) GOVERNMENTAL COOPERATION.—

''(1) IN GENERAL.—The Secretary is authorized and encouraged to consult and cooperate with other agencies, including representatives of the Federal Government, State and local governments, and consortia of governmental organizations, that can assist in addressing challenges and capitalize on opportunities that require intergovernmental coordination.

''(2) LABOR.—In carrying out paragraph (1), the Secretary shall cooperate with the Secretary of Labor to support economic and workforce development strategies and the promotion of regional innovation clusters.''.

SEC. 6. ADDITIONAL SUPPORT FOR ENTERPRISE DEVELOPMENT ORGANIZATIONS WITHIN THE PUBLIC WORKS PROGRAM.

Section 201(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) other activities the conduct of which the Secretary determines would be necessary or useful to support the establishment and operation of those facilities on an ongoing basis, including—

''(A) related planning, technical assistance, and business development assistance to enable the recipient to bring together regional assets and encourage entrepreneurial development; and

''(B) to the extent needed to support entrepreneurial development, revolving loan funds pursuant to section 209.''.

SEC. 7. GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

Section 203 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end; and

(B) by striking paragraph (4) and inserting the following:

''(4) formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes by fostering innovation and entrepreneurship;

''(5) fostering regional collaboration among local jurisdictions and organizations; and

''(6) facilitating a stakeholder process that assists the community or region in creating an economic development vision that takes into account local and regional assets (including natural, social, community, and geographical resources) and global economic change.'';

(2) in subsection (d)—

(A) in paragraph (4)—

(i) in subparagraph (E), by striking ''and'' at the end;

(ii) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(G) support development practices that—

''(i) enhance energy and water efficiency;

''(ii) reduce the dependence of the United States on foreign oil; and

''(iii) encourage efficient coordination and leveraging of public and private investments.''; and

(B) in paragraph (5), by striking ''subsection shall'' and all that follows through the end of the paragraph and inserting the following: ''subsection shall—

''(A) submit to the Secretary an annual report on the planning process assisted under this subsection; and

''(B) provide a copy of each annual report to each economic development district within the State.''; and

(3) by adding at the end the following:

''(e) ADDITIONAL AMOUNTS TO ADDRESS SEVERE NEED.—In determining the amount of funds to provide a recipient for planning assistance under this section, the Secretary shall take into account those recipients located in regions that are—

''(1) eligible for an investment rate of 80 percent or higher; or

''(2) experiencing severe need due to long-term economic deterioration or sudden and severe economic distress.

''(f) ENCOURAGING PLANNING ASSISTANCE ON A BROADER REGIONAL SCALE.—In order to encourage district organizations to develop regional economic competitiveness strategies on a broader basis in collaboration with other district organizations and entities outside the confines of a single economic development district, the Secretary may increase—

''(1) the Federal share otherwise applicable to the recipients; or

''(2) the amount of Federal assistance to the recipients.''.

SEC. 8. COST SHARING.

(a) FEDERAL SHARE.—Section 204(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(a)) is amended by striking ''shall not exceed—'' and all that follows through the end of the subsection and inserting ''shall not exceed 50 percent, except as otherwise expressly provided in this Act.''.

(b) INCREASE IN FEDERAL SHARE.—Section 204(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(c)) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) RELATIVE NEEDS OF AN AREA.—

''(A) 150-PERCENT HIGHER UNEMPLOYMENT RATE.—In the case of a grant made in an area for which the 24-month unemployment rate is at least 150 percent of the national average or the per capita income is not more than 70 percent of the national average, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 60 percent of the cost of the project.

''(B) 175-PERCENT HIGHER UNEMPLOYMENT RATE.—In the case of a grant made in an area for which the 24-month unemployment rate is at least 175 percent of the national average or the per capita income is not more than 60 percent of the national average, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 70 percent of the cost of the project.

''(C) 200-PERCENT HIGHER UNEMPLOYMENT RATE.—In the case of a grant made in an area for which the 24-month unemployment rate is at least 200 percent of the national average or the per capita income is not more than 50 percent of the national average, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 80 percent of the cost of the project.

''(D) ADDITIONAL CRITERIA.—The Secretary may establish eligibility criteria in addition to the criteria described in this paragraph to address areas impacted by severe outmigration, sudden and severe economic dislocations, and other economic circumstances, on the condition that a Federal share established for such eligibility criteria shall not exceed 80 percent.'';

(3) in paragraph (2) (as redesignated by paragraph (1))—

(A) by striking ''may'' and inserting ''shall''; and

(B) by inserting ''to 75 percent of the cost of the project, and may increase'' after ''subsection (a)''; and

(4) by adding at the end the following:

''(5) FEDERALLY DECLARED DISASTER AREAS.—In the case of a grant for an area with respect to which a major disaster or

emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the 18-month period ending on the date on which the Federal share is determined, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.''.

SEC. 9. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended—

(1) in paragraph (1), by striking ''or underemployment'' and inserting '', outmigration, or underemployment, or in assisting in the location of information technology and manufacturing jobs in the United States''; and

(2) in paragraph (2)—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) by redesignating subparagraph (I) as subparagraph (J); and

(C) by inserting after subparagraph (H) the following:

''(I) a peer exchange program to promote industry-leading practices and innovations relating to the organizational development, program delivery, and regional initiatives of economic development districts; and''.

SEC. 10. ENHANCEMENT OF RECIPIENT FLEXIBILITY TO DEAL WITH PROJECT ASSETS.

(a) PARTICULAR COMMUNITY ASSISTANCE.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in the matter preceding paragraph (1), by striking ''injured'' and inserting ''impacted'';

(2) by striking paragraph (1) and inserting the following:

''(1) military base closures, realignments, or mission growth, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in—

''(A) diversifying the economies of the communities; or

''(B) otherwise supporting the economic adjustment activities of the Secretary of Defense through projects to be carried out on Federal Government installations or elsewhere in the communities;''; and

(3) by striking paragraph (5) and inserting the following:

''(5) the loss of information technology, manufacturing, natural resource-based, agricultural, or service sector jobs, for reinvesting in and diversifying the economies of the communities.''.

(b) REVOLVING LOAN FUND PROGRAM FLEXIBILITY.—Section 209(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(2) by inserting after paragraph (1) the following:

''(2) COMMENTS.—

''(A) IN GENERAL.—The Secretary shall periodically solicit from the individuals and entities described in subparagraph (B)—

''(i) comments regarding the guidelines and performance requirements for the revolving loan fund program; and

''(ii) recommendations for improving the performance of the program and grantees under the program.

''(B) DESCRIPTION OF INDIVIDUALS AND ENTITIES.—The individuals and entities referred to in subparagraph (A) are—

''(i) the public; and

''(ii) in particular, revolving loan fund grantees, national experts, and employees of Federal agencies with knowledge of international, national, regional, and statewide trends, innovations, and noteworthy practices relating to business development finance, including public and private lending and technical assistance intermediaries.'';

(3) in subparagraph (A) of paragraph (5) (as redesignated by paragraph (1)), by striking ''paragraph (2)(C)'' and inserting ''paragraph (3)(C)''; and

(4) by adding at the end the following:

''(6) CONVERSION OF PROJECT ASSETS.—

''(A) REQUEST.—If a recipient determines that a revolving loan fund established using assistance provided under this section is no longer needed, or that the recipient could make better use of the assistance in light of the current economic development needs of the recipient if the assistance was made available to carry out any other project that meets the requirements of this Act, the recipient may submit to the Secretary a request to approve the conversion of the assistance.

''(B) METHODS OF CONVERSION.—A recipient request to convert assistance that is approved under subparagraph (A) may accomplish the conversion by—

''(i) selling to a third party any assets of the applicable revolving loan fund; or

''(ii) retaining repayments of principal and interest amounts on loans provided through the applicable revolving loan fund.

''(C) REQUIREMENTS.—

''(i) SALE.—

''(I) IN GENERAL.—Subject to subclause (II), a recipient shall use the net proceeds from a sale of assets under subparagraph (B)(i) to pay any portion of the costs of 1 or more projects that meet the requirements of this Act.

''(II) TREATMENT.—For purposes of subclause (I), a project described in that subclause shall be considered to be eligible under section 301.

''(ii) RETENTION OF REPAYMENTS.—Retention by a recipient of any repayment under subparagraph (B)(ii) shall be carried out in accordance with a strategic reuse plan approved by the Secretary that provides for the increase of capital over time until sufficient amounts (including interest earned on the amounts) are accumulated to fund other projects that meet the requirements of this Act.

''(D) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions regarding a proposed conversion of the use of assistance under this paragraph as the Secretary determines to be appropriate.

''(E) EXPEDIENCY REQUIREMENT.—The Secretary shall ensure that any assistance intended to be converted for use pursuant to this paragraph is used in an expeditious manner.

''(7) PROGRAM ADMINISTRATION.—The Secretary may allocate not more than 2 percent of the amounts made available for grants under this section for the development and maintenance of an automated tracking and monitoring system to ensure the proper operation and financial integrity of the revolving loan program established under this section.''.

SEC. 11. RENEWABLE ENERGY PROGRAM.

Section 218 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3154d) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) DEFINITION OF RENEWABLE ENERGY SITE.—In this section, the term 'renewable energy site' means a brownfield site that is redeveloped through the incorporation of 1 or more renewable energy technologies, including, but not limited to, solar, wind, and geothermal technologies.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''brightfield'' and inserting ''renewable energy''; and

(B) in paragraph (1), by striking ''solar energy technologies'' and inserting ''renewable energy technologies, including, but not limited to, solar, wind, and geothermal technologies''; and

(3) in subsection (d), by striking ''2004 through 2008'' and inserting ''2011 through 2015''.

SEC. 12. ENERGY EFFICIENCY AND ECONOMIC DEVELOPMENT.

(a) AMENDMENT.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

''SEC. 219. ENERGY EFFICIENCY AND ECONOMIC DEVELOPMENT.

''In administering programs under this Act, the Secretary shall support activities that employ economic development practices that—

''(1) enhance energy and water efficiency; and

''(2) reduce the dependence of the United States on foreign oil.''.

(b) TECHNICAL AMENDMENT.—The table of contents of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended by adding after section 218 the following:

''Sec. 219. Energy efficiency and economic development.''.

SEC. 13. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES IMPROVEMENTS.

Section 302 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''and opportunities'' after ''problems'';

(B) in paragraph (2), by striking ''and private'' and inserting '', private, and nonprofit''; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting ''and opportunities'' after ''economic problems'';

(II) by striking ''promotes the use'' and inserting ''promotes the effective use''; and

(III) by striking ''balances'' and inserting ''optimizes''; and

(ii) in subparagraph (B), by inserting ''and take advantage of the opportunities'' before the period at the end; and

(2) in subsection (c)(1), by inserting '', State, or locally'' after ''federally''.

SEC. 14. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.

Section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended by adding at the end the following:

''(c) OPERATIONS.—

''(1) IN GENERAL.—Each economic development district shall engage in the full range of economic development activities included in the list contained in the comprehensive economic development strategy of the economic development district that has been approved by the Economic Development Administration, including—

''(A) coordinating and implementing economic development activities in the economic development district;

''(B) carrying out economic development research, planning, implementation, and advisory functions identified in the comprehensive economic development strategy; and

''(C) coordinating the development and implementation of the comprehensive economic development strategy with other Federal, State, local, and private organizations.

''(2) CONTRACTS.—An economic development district may elect to enter into contracts for services to accomplish the activities described in paragraph (1).''.

SEC. 15. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

Section 503(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3193(a)) is amended by inserting '', outmigration,'' after ''regional unemployment''.

SEC. 16. NOTIFICATION OF REORGANIZATION.

Section 507 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3197) is amended—

(1) by striking ''Not later than'' and inserting the following:

''(a) NOTIFICATION.—Not later than''; and

(2) by adding at the end the following:

''(b) STATE OF MONTANA.—The State of Montana shall be served by the Seattle office of the Economic Development Administration.''.

SEC. 17. ADMINISTRATIVE EXPENSES.

Section 604(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214(c)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) may be used for administrative expenses incident to the projects associated with the transfers to the extent that the expenses do not exceed—

''(i) 3 percent, in the case of projects not involving construction; and

''(ii) 5 percent, in the case of projects involving construction; and''.

SEC. 18. MAINTENANCE OF EFFORT.

Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3211 et seq.) is amended by adding at the end the following:

''SEC. 613. MAINTENANCE OF EFFORT.

''(a) EXPECTED PERIOD OF BEST EFFORTS.—

''(1) ESTABLISHMENT.—To carry out the purposes of this Act, before providing investment assistance for a construction project under this Act, the Secretary shall establish the expected period during which the recipient of the assistance shall make best efforts to achieve the economic development objectives of the assistance.

''(2) TREATMENT OF PROPERTY.—To obtain the best efforts of a recipient during the period established under paragraph (1), during that period—

''(A) any property that is acquired or improved, in whole or in part, using investment assistance under this Act shall be held in trust by the recipient for the benefit of the project; and

''(B) the Secretary shall retain an undivided equitable reversionary interest in the property.

''(3) TERMINATION OF FEDERAL INTEREST.—

''(A) IN GENERAL.—Beginning on the date on which the Secretary determines that a recipient has fulfilled the obligations of the recipient for the applicable period under paragraph (1), taking into consideration the economic conditions existing during that period, the Secretary may terminate the reversionary interest of the Secretary in any applicable property under paragraph (2)(B).

''(B) ALTERNATIVE METHOD OF TERMINATION.—

''(i) IN GENERAL.—On a determination by a recipient that the economic development needs of the recipient have changed during the period beginning on the date on which investment assistance for a construction project is provided under this Act and ending on the expiration of the expected period established for the project under paragraph (1), the recipient may submit to the Secretary a request to terminate the reversionary interest of the Secretary in property of the project under paragraph (2)(B) before the date described in subparagraph (A).

''(ii) APPROVAL.—The Secretary may approve a request of a recipient under clause (i) if—

''(I) in any case in which the request is submitted during the 10-year period beginning on the date on which assistance is initially provided under this Act for the applicable project, the recipient repays to the Secretary an amount equal to 100 percent of the fair market value of the pro rata Federal share of the project; or

''(II) in any case in which the request is submitted after the expiration of the 10-year period described in subclause (I), the recipient repays to the Secretary an amount equal to the fair market value of the pro rata Federal share of the project as if that value had been amortized over the period established under paragraph (1), based on a straight-line depreciation of the project throughout the estimated useful life of the project.

''(b) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions under this section as the Secretary determines to be appropriate, including by extending the period of a reversionary interest of the Secretary under subsection (a)(2)(B) in any case in which the Secretary determines that the performance of a recipient is unsatisfactory.

''(c) PREVIOUSLY EXTENDED ASSISTANCE.—With respect to any recipient to which the term of provision of assistance was extended under this Act before the date of enactment of this section, the Secretary may approve a request of the recipient under subsection (a) in accordance with the requirements of this section to ensure uniform administration of this Act, notwithstanding any estimated useful life period that otherwise relates to the assistance.

''(d) CONVERSION OF USE.—If a recipient of assistance under this Act demonstrates to the Secretary that the intended use of the project for which assistance was provided under this Act no longer represents the best use of the property used for the project, the Secretary may approve a request by the recipient to convert the property to a different use for the remainder of the term of the Federal interest in the property, subject to the condition that the new use shall be consistent with the purposes of this Act.

''(e) STATUS OF AUTHORITY.—The authority of the Secretary under this section is in addition to any authority of the Secretary pursuant to any law or grant agreement in effect on the date of enactment of this section.''.

SEC. 19. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 701(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231(a)) is amended by striking ''expended—'' and all that follows through paragraph (5) and inserting ''expended, $500,000,000 for each of fiscal years 2011 through 2015.''.

SEC. 20. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

Section 704 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3234) is amended to read as follows:

''SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

''(a) IN GENERAL.—Subject to subsection (b), of the amounts made available under section 701 for each fiscal year, there shall be made available to provide grants under section 203 an amount equal to not less than the lesser of—

''(1) 12 percent; and

''(2) $31,000,000.

''(b) SUBJECT TO TOTAL APPROPRIATIONS.—For any fiscal year, the amount made available pursuant to subsection (a) shall be increased to—

''(1) if the total amount made available under section 701(a) for the fiscal year is equal to or greater than $291,000,000, an amount equal to the greater of—

''(A) $32,000,000; and

''(B) 11 percent of the total amount made available under section 701(a) for the fiscal year;

''(2) if the total amount made available under section 701(a) for the fiscal year is equal to or greater than $330,000,000, an amount equal to the greater of—

''(A) $33,000,000; and

''(B) 10 percent of the total amount made available under section 701(a) for the fiscal year;

''(3) if the total amount made available under section 701(a) for the fiscal year is equal to or greater than $340,000,000, an amount equal to the greater of—

''(A) $34,000,000; and

''(B) 10 percent of the total amount made available under section 701(a) for the fiscal year; or

''(4) if the total amount made available under section 701(a) for the fiscal year is equal to or greater than $350,000,000, an amount equal to the greater of—

''(A) $35,000,000; and

''(B) 10 percent of the total amount made available under section 701(a) for the fiscal year.''.

SEC. 21. REPORT ON DUPLICATIVE PROGRAMS.

Not later than 90 days after the date of enactment of this Act, the Government Accountability Office shall submit to the Committee on Environment and Public Works of the Senate a report that describes a list of the specific programs and portions of specific programs of other Federal agencies that are duplicative of programs or portions of programs administered by the Economic Development Administration, including the programs or portions of programs carried out by—

(1) the Department of Housing and Urban Development;

(2) the Department of Agriculture; and

(3) the Small Business Administration.

The committee amendment was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 392

(Purpose: To improve the regulatory structure for electronic debit card transactions, and for other purposes)

Mr. TESTER. Mr. President, I have an amendment at the desk I would like to call up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. TESTER], for himself and Mr. CORKER, Mrs. HAGAN, Mr. CRAPO, Mr. BENNET, Mr. BLUNT, Mr. CARPER, Mr. KYL, and Mr. COONS, proposes an amendment numbered 392.

Mr. TESTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

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

Mr. TESTER. Mr. President, is it appropriate that I speak for 2 minutes?

Mr. REID. Mr. President, I object. The consent agreement was he would offer his amendment, Senator DURBIN would offer his amendment, and then Senator BOXER, the chairman of the committee, would be recognized. That is the order.

Mr. TESTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 393 TO AMENDMENT NO. 392

Mr. DURBIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 393 to amendment No. 392.

Mr. DURBIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To address the time period for consideration of the small issuer exemption)

On page 10, line 9, strike ''2 years'' and insert ''one year''.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, over the last month, Senator CORKER and I have worked with several Senators who are concerned about the unintended consequences of the debit interchange amendment the Senate adopted last year. We voted against that amendment. We were concerned about the impact of those consequences on folks—especially across rural America—who rely on their small local banks and credit unions.

The Federal Reserve's rules based on this amendment are about to go into effect, and the result is going to be bad for small banks and credit unions and ultimately for the whole country but especially rural America. Even Chairman Bernanke admits that the rule could ''result in some smaller banks being less profitable or even failing.''

I am proud to be joined in this effort by Senators CRAPO, BENNET, HAGAN, and several others—all folks who share my concern about the impact of debit interchange fees on our local banks.

Senator CORKER and I began with a concern that local community banks and credit unions would end up being subject to the same one-size-fits-all regulation designed to address the excesses of some of the world's largest financial institutions. As I have said over and over, those big Wall Street banks are going to be just fine. They have plenty of sources for their revenue. No one needs to shed a tear for them. But the Main Street banks and credit unions will not be OK if these rules are implemented.

Let me give you one example. Community First Credit Union has two branches—one in Miles City and one in Ekalaka, MT. Those two towns are about as far away from Wall Street as you can get. Ekalaka, in fact, is pretty far away from just about everywhere. But last year the Senate approved an amendment that was aimed at holding the big banks accountable for the fees they charge when you swipe your debit card at Walmart. Folks were promised we would have a split system where big banks such as Bank of America would get one interchange rate and Community First Credit Union would be able to get a higher rate. The reality is going to be quite different. Without changes, the small guys like Community First will not see this promised benefit.

This so-called two-tiered system will not work under the current law. That is not my opinion; it is the opinion of folks who regulate these small banks.

What Ben Bernanke, Sheila Bair, and others say is that market forces will inevitably push the rate down to the lowest level. That push has already started. Retailers are seeking laws at the State level to give themselves the freedom to deny purchases with debit cards that have a higher interchange fee. Given the amount of money the big box retailers are putting into their lobbying campaigns, it is only a matter of time before they are successful. So what happens to the consumer who does her banking at a small community bank or credit union? These are the folks I am concerned about because they are the majority of Montanans. Unfortunately, they are going to get stuck with higher fees, with no access to capital or, even worse, no banks at all.

Let's be clear: If any single one of the regulators—whether it be the Chairman of the Federal Reserve or the Chair of the FDIC or the Comptroller of the Currency—had told me the interchange system proposed last year would actually protect small banks and credit unions, we would not be here. But that is not what happened.

The Chairman of the Federal Reserve said that without changes, the system that will be implemented on July 21 will cause small institutions—the kinds of banks that serve most Montanans—to suffer and some could even fail. The Chair of the FDIC said that unquestionably these banks would be hurt. The credit union administrator agrees. Perhaps they will make up for those losses by raising rates on checking accounts. Maybe it will be higher fees when a small business comes in looking for a loan to expand. That will surely help the biggest banks to capture more of the market share at the expense of the smaller banks like Community First.

This week, we have a chance to stop and rewrite these rules before they hurt those small banks, before they hurt those small credit unions, before the new rules hurt the consumers and the small businesses in rural America that prefer to do their banking business with folks who know them and who are a part of their communities.

Rural America is what I know. It is where I am from. As I have watched consolidation in the agriculture industry and have watched rural America get smaller and smaller, I am not about to let this happen in the financial services industry. Fewer banking options in rural America is a death knell for rural America, and that is where we are headed today. One way to stop this from happening is for us to slow down and fix the debit interchange regulations so the small banks that serve rural America do not get hit.

We also know how dangerous it is to set a price for a product without understanding all the costs that go into that product. Small business owners certainly could not stay in business if they did not understand their own costs. Likewise, if we are going to be regulating debit interchange fees, we need to understand all the costs associated with debit transactions and debit programs.

When we voted on this amendment last year, we thought we were voting to allow the Federal Reserve to consider all costs. However, the reality is that last year's interchange amendment limited the costs that could be included. Some fraud costs were allowed to be included but others were not. Some technology costs were included but others not. The result is a proposed Fed rule that sets the debit interchange rate at 7 or 12 cents for all transactions—a level most folks agree is too low.

I am sure the big box retailers think 7 cents or 12 cents is too high. In fact, they have argued that the rate should be closer to 4 cents. I have heard from many of my retailers in my home State, and some have said 12 cents is probably too low, and they understand you absolutely cannot set the price of doing business below what it costs to do business.

If we are going to be regulating this market, we must do it in a way that is fair, in a way that still directs the Fed to determine what is ''reasonable and proportionate'' but gives them the discretion to look at all of the costs associated with debit transactions. That does not mean executive pay. That does not mean the cost of a corporate jet or a special rewards program. All the costs will still need to be justified, but the Fed will not be limited arbitrarily in what they can look at.

That is why my friend Senator CORKER and I are offering this amendment today. This amendment is a compromise, and that is how we do business in Montana. We find the common ground and we work together to do what is best.

Senator CORKER and I first proposed a 2-year delay of the Fed's rules to allow adequate time to study the impact on small banks and rewrite the rules based on what we learn in that study. The Fed tells us now that it may be able to do this joint study in 6 months. So that is what our amendment proposes—just 6 months to study whether the rules that will govern the

debit interchange marketplace can protect small banks.

In this amendment, we outline the topics the study should address, including taking a closer look at all of the actual costs associated with debit card transactions, the impact on consumers, and whether an exemption for small banks as proposed in the interchange amendment last year will actually work.

If, after the study, at least two of the agencies involved determine that the current rules do not take into account all costs, that the rules may harm consumers, or that the exemption meant to protect small banks and credit unions will not work, then the Fed has 6 more months to rewrite the rules considering all costs.

That is 1 year to address our concerns and to make sure rural banks do not get wiped out by this rule. If the agencies find that the rules consider all costs, consumers would not be harmed, and that the small issuer exemption will work, then the current rules pending would move forward.

What about the little guys? We put into place a process that will address any potential impact on small issuers. My contention has long been that market forces would drive fees for small issuers to the lowest rate. Since we cannot fully understand how the market will operate until interchange regulation is enacted, we direct the Fed to report the actual impact of the market on small issuers a year after the rules are implemented.

The Fed has to present a report to Congress and every other year thereafter on the impact of a regulated market on small issuers. Most importantly, the report will include recommendations for how to resolve any potential harm to small issuers and to enforce the exemption.

This will help make sure that when Congress acts, we will have the facts about how we would impact small banks. That means the regulatory process is over in 12 months, and Congress does not have to revisit this issue. Let me say it again. Congress does not have to revisit this issue.

At the end of the entire process, there is still a regulated market for debit interchange fees. That is what the Senate voted for last year, loudly and clearly, and we preserve the regulated marketplace, which is what Senator DURBIN and others have been calling for.

We will have regulated the marketplace once we fully understand all the costs relative to debit transactions and the impact of these rules on consumers and small issuers. That is what the majority of the Senate voted for last year, and that is what we will get. But it will be a regulatory framework that does not penalize small banks and credit unions and is fair by not setting prices below costs. When every banking regulator who has a role in overseeing the debit interchange market tells you that Congress has created a system that will not work in the way that was intended, then we ought to listen. Today's debit interchange market is not fair for some retailers, so I understand their desire to see it fixed.

But the answer is not to create a new system that is unfair to the small banks in Montana and other parts of rural America. The amendment the Senate approved last year was designed to punish Wall Street. But the result may be the bank in Ekalaka and the other banks all over rural America that will lose customers and potentially even fail.

Let's measure twice and cut once. Let's do it quickly, but let's make sure we get this right and that if we are going to create regulations, we are doing it in a way that is fair and consistent with the intent.

I urge my colleagues to support the amendment.

I yield the floor.

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

Mr. CORKER. Mr. President, I rise to speak favorably toward the Tester-Corker amendment.

Mr. DURBIN. Mr. President, may I ask the Senator from Tennessee if he would mind yielding and indicate how long he might be speaking?

Mr. CORKER. Mr. President, 8 minutes max—8 to 10.

Mr. DURBIN. I thank the Senator.

Mr. CORKER. I do wish to say that my friend from Montana has been a great partner in this effort. I know lots of times people use a lot of rhetoric down here to talk about what is happening and the fact that anyone who might be proposing this type of amendment might be supporting Wall Street institutions. But I think you can see that my friend from Montana is anything but Wall Street. Certainly, I think all of us are just trying to come up with a solution that makes sense.

I wish to give a brief history. Dodd-Frank came to the floor last year. There were numbers of amendments to the bill. One of the amendments that came to the floor was called the Durbin amendment. It was an amendment that had no hearings. A lot of us—people such as myself who are opposed to price fixing—what the Durbin amendment said was that the Fed was going to set prices on debit transactions—were opposed to it. On the other hand, there were numbers of people in this Chamber who supported Durbin because they were frustrated with where retailers were and their inability to negotiate prices with Visa and some of the other companies. So they thought this might be a type of solution to that dilemma of not being able to have appropriate negotiations.

I think what all have understood, regardless of where they are on this issue now, is that the Durbin amendment did not actually give the Fed the ability to set prices as it relates to cost on debit cards. It only allowed certain costs—in other words, the incremental cost of a transaction. I think the retailers that I know are very strongly supportive of the Durbin language know—they all tell me this anyway in private—they could not operate under that same scenario.

But they are frustrated. So what TESTER and I and others—MIKE CRAPO, who voted for Durbin, I might add; KAY HAGAN, who voted for Durbin; Senator BENNET, who voted for Durbin—what people have realized is that the Durbin amendment is way too narrow and does not allow appropriate costs to be considered by the Fed when setting these rates.

So my friend from Montana who has numbers of rural institutions—I have the same in my State—we all realized this is going to be highly detrimental to the financial system. So what we tried to do is come up with a compromise that works for both sides.

As I mentioned, Senator CRAPO, Senator HAGAN, Senator BROWN, Senator CARPER, numbers of people have gotten involved in this and have come up with a one-vote strategy. I know numbers of people want to vote and get this behind them. I understand this is one of those issues where we have retailers on one side, we have bankers on the other side, and we feel, in some ways, we are trying to deal—we are trying to pick between friends. What I think we are trying to do is put a good, sound policy in place, a place that the retailers should be very happy because they are going to end up with a regulated market—something, candidly, I do not support.

But I think the Senator from Illinois has been very successful on that front. Basically, the retailers win on this because they are going to end up with something that is regulated. They feel as if they do not have the ability to negotiate with Visa and other institutions. So now the Fed is going to be setting pricing.

On the other hand, those Senators—most Senators in this body who understand economics, understand business—also know you cannot run a business if you are only going to change the incremental costs. It would be akin to a pizza parlor selling pizza, literally, and only being able to charge for the dough it takes to make the pizza, not to be able to charge for electricity, not to be able to charge for the other things it takes to actually run that particular place.

I think we have come up with something that is a good middle-of-the-road solution. The Fed is directed to consider both fixed costs and incremental costs, something any retailer or any business in America would want to be considered if they were being regulated. We have also come up with a solution that allows the Fed to look back every 2 years and make sure those smaller institutions Senator TESTER is so concerned about, and I am so concerned about, that the Fed look at those to ensure that every 2 years these policies that are being put into

place do not disproportionately negatively affect those institutions. If so, they recommend—they do not prescribe, they recommend to Congress—possible legislative remedies.

As the Senator mentioned, I think we should measure twice, cut once. I think this ends up putting this issue in the place that is fair. I am feeling momentum building around this. I will say the Senator from Illinois is an outstanding legislator. I think he has done a very good job championing this issue. I do not think we would be where we are on this issue without the efforts he has put forth.

But I think he realizes possibly that by not keeping in place all costs as it relates to a transaction, what you are doing is limiting the availability of that to the public down the road. You limit innovation. You limit the amount of technology investment that goes toward each transaction.

I hope very soon to be paying my bills by just swiping my electronic device in front of a cash register. I think we all see us moving toward this. But what the Durbin amendment does now, in the form it is in, is basically say to these institutions, when you conduct these types of transactions, debit transactions, you are going to lose money every time you do it. I do not think that is where we want to be.

Again, there are going to be some unintended consequences whenever there is a bill the size of Dodd-Frank that passes. Surely, all of us can come together and figure out more commonsense ways of solving problems such as this when they arise. I would have so to say that I like the way this body is functioning around this issue. We have people on both sides of the aisle who have realized this policy is one that is detrimental. We have people on both sides of the aisle who have tried to work together. We have three iterations now of Corker-Tester to try to get it in a place that is in the middle of the road, that takes into account the concern of retailers, and takes into account the concern of small credit unions and small banks around this country that are going to be devastated, as all of the regulators have said.

This is unusual, by the way. We talk about regulatory overreach in this body. This is a case where we have given regulators the ability to regulate, and they are saying, please, do not make us do this. This is bad policy. That rarely happens in Washington. But it has happened in this case.

Out of respect for the tremendous amount of work so many people have put into coming up with a slightly better solution than the Senator from Illinois, who worked so hard on this issue, to put it forth originally, I would ask every Member to please, whether you end up voting with us or not—and I hope you will—please sit down for 10 minutes, just 10 minutes, and allow your staff to at least explain. I know a lot of people have made commitments 10 days ago, 1 week ago, to be on the other side of this. But I think most people have not seen the last iteration that puts this in the middle of the road, that keeps debit cards regulated but gives the regulators the ability to at least consider the costs that any normal business has when it functions.

I thank you for the time to talk about it. I thank the Senator from Illinois, who looks like he is getting ready to speak. I thank him for the way he has conducted himself. As a matter of fact, I think we have come up with such a great solution I would hope the Senator from Illinois would consider being a cosponsor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. To my friend from Tennessee, not a chance. My wife over the weekend, in Springfield, said: I would like you to clean the garage. I said: Well, I have decided to clean half the garage. It is a compromise. She said: With whom did you compromise? That is what we are faced with. Senators CORKER and TESTER have come to the floor and said: We have a compromise. With whom did you compromise?

It was not with the people who are affected by these debit card fees. No. They compromised among the banks. The banks all sat down and said: Let's work this out among us because we are talking about real money. That is their compromise. It is not a compromise.

What is this all about? The average person listening to this debate is going to think: What are they fighting over there in the Senate, this bipartisan battle? What we are talking about is something we all carry around in our wallets and purses these days, a debit card.

If I take this card and go to a local restaurant—well, let's use a different one. If I went to a local convenience store and said: I want to get a pack of chewing gum—Wrigley's because that is based in Chicago—I want to get a pack of Wrigley's chewing gum, here is my debit card, they take the debit card these days and they swipe it and they complete the transaction.

What you do not know, but the merchant knows, is he just lost money on that because it costs more to the merchant selling the goods to process the piece of plastic than they could possibly profit on the goods they are selling. So you wonder, how did it reach this point, where the use of this piece of plastic costs so much? It reached that point because the big giants of credit cards, Visa and MasterCard, said to merchants and retailers all across America: If you want to accept plastic at your place of business, then you are going to pay us a swipe fee every time that piece of plastic goes through the reader.

How much is that swipe fee? Turns out it is 1.10 percent, on average. It does not sound like a lot, but it is. The banks that issue these cards receive each month in swipe fees from all across the United States, from convenience stores, restaurants, hotels, charities—if you gave a donation to Red Cross because of the terrible tragedy that happened in Joppa, MO, and used your debit card, guess what. Visa and MasterCard got a percentage of it, the amounts you thought you were giving to the charity—college book stores, you name it.

Every time you sweep these, it ends up generating, each month, on average, for the banks across America, $1.3 billion.

Each year, there are more than $15 billion in swipe fees. What did the merchants have to say about how much they were being charged? Nothing. Take it or leave it, buddy. If you don't want to pay the swipe fee, don't take plastic.

Over the years, as you might expect, merchants and retailers said this is a rotten deal. Not only is this an invisible charge that we have to add to the cost of doing business on everything, we have no control over it. We are faced with paying a swipe fee or not accepting plastic and, in this day and age, imagine how long you would last in many businesses if you didn't accept debit cards.

So 4 or 5 years ago, I called for a study asking: What is a reasonable amount to charge? I was opposed, naturally, by the banking industry. They put out an all-points bulletin to kill the Durbin study of debit fees. They didn't want to study it. All that could do is put the spotlight on them. They don't want that to happen. So we waited and waited and last year we had the Wall Street financial reform bill. I sat here patiently on the floor saying I want to offer this amendment to finally come up with a reasonable way to regulate this fee, which is not a product of competition and isn't transparent or disclosed. The vote finally came along.

After 25 amendments on Wall Street reform, they decided this vote would not require a majority, it would require 60 votes, a supermajority. OK. We won with 64 votes in favor of our position. It surprised a lot of people. It sure surprised the banks. They didn't think this Senate, on a bipartisan basis, would hold them accountable for the fees they are charging on the debit cards.

What do we say in the law? The Federal Reserve—a nonpartisan bank regulating agency—would have the authority to determine what is a reasonable and proportional fee for swiping the card, and that fee would go into effect this July—July 21—1 year after we passed the law. We said, in the meantime, to anybody who has thoughts, ideas or comments, send them to the Federal Reserve. They received 11,000-plus comments. Everybody had an idea. Some didn't like the law, some did—on and on.

So they came out with a preliminary report—not a rule—in December. You know what they found? They found

that the average charge per transaction in the United States was 44 cents and the average cost to the bank for processing the debit transaction was about 12 cents—one-fourth. So the plot thickens.

It turns out the banks issuing these cards are not only charging this invisible fee, they are dramatically overcharging merchants and retailers. Guess what Mr. and Mrs. Consumer. We pay it; we pay it in additional charges. Even if you go into that store to buy a package of chewing gum with cash, the price has been raised because they are expecting you to give plastic instead, and you pay more. So then the battle was on—whether the Federal Reserve would issue this rule establishing a more reasonable swipe fee for these debit cards. It is a big battle.

Imagine, if you will, what it means to the biggest banks in America when they have on the line $1.3 billion a month. They pulled out all the stops. A friend of mine—a lobbyist in Washington—said: Praise the Lord. Come up with some more ideas. This is a full employment amendment. Everybody in Washington who is a lobbyist is working on this amendment. We love you to pieces.

The sad reality is, it is coming—maybe—to a close with a vote on this amendment. But the banks and credit card companies started piling it on. Let me be fair. The other side did too. The merchants and retailers said: We want fair treatment, and if we have to fight to protect this new law, we are going to do that.

Senators TESTER of Montana and CORKER of Tennessee have offered an amendment I am about to describe. This is interesting, though. They are offering this amendment in an effort to stop the Federal Reserve from issuing a rule that will establish how much that swipe fee is going to be. How soon would the Fed issue the rule? Within the month, within a matter of days. They are desperate to get this amendment to the floor to try to stop the Federal Reserve from saying what is a fair swipe fee and to protect merchants, retailers, small businesses, and consumers across America. The banks want to stop them.

There is one other part of the story that is important. We decided that when we wrote this law, we would give smaller banks, community banks, and smaller credit unions an exemption. In other words, they are not covered by the Federal rule.

You say, why? From a consumer's point of view, all the arguments made still apply.

Well, that is true. But many of these smaller institutions are more financially vulnerable. I happen to agree with Senators TESTER and CORKER. I believe in community banks and local banks and want them to survive. So we carved them out. Instead, if the value of your bank is below $10 billion, you will not be affected by this. If the value of the credit union is below $10 billion, you will not be affected. How many did we exempt? Out of 7,000 banks in America, only 100 would be affected by the law. Out of 7,000 credit unions, only 3 would be affected by the law.

Then there is another part of the story. It turns out that the three biggest banks in America are the ones that make the most money on debit fees. Each month, they collect more than 50 percent of the debit fees. What are those banks? Chase, Wells Fargo, and Bank of America.

They have been fighting viciously to stop this rule from going into effect because there are billions of dollars at stake. They don't want to lose that income.

Let's have a little trip down memory lane about these banks. Do you remember a few years ago when these banks got us into the biggest economic mess in current memory? Did you notice any change in your savings account or perhaps your IRA—the money you put away for retirement? I sure did. I think Loretta and I lost about 30 percent of our value because they were playing games with subprime mortgages, new derivatives and AIG offices in London and this holy mess ended up being visited on families, businesses, and consumers across America. We were in a panic. The Chairman of the Federal Reserve, Ben Bernanke, and Treasury Secretary Hank Paulson met with us and said: If you don't do something immediately, banks all across America are going to fail and our economy will collapse and not just here but across the world. So you have to come to their rescue.

We had to come up with a bailout for the banks. Remember that, taxpayers of America? How did the big three debit card banks do in the bailout? Chase got $25 billion in taxpayer money because they had acted so recklessly and endangered their bank, and they needed a helping hand. Bank of America got $45 billion in taxpayer bailout funds. Wells Fargo got $25 billion in taxpayer bailout funds. Remember, taxpayers of America, when the same banks that will profit from these debit card fees were so desperate that they needed a helping hand from taxpayers to save their banks? Do you remember how they expressed their gratitude to us? It was heartwarming. As soon as they could, they called a meeting of the boards of directors and awarded one another bonuses for their reckless conduct. It warmed my heart that they were so appreciative of the taxpayers across America sacrificing with their taxes to save these big old banks.

Well, I have news for the taxpayers: They are back. They are back today, and now it is smaller—I will concede that—it is only $15 billion a year. But these same big banks are asking for a handout and a subsidy from the Senate. Are we going to get shakedown a second time?

That is what this debate is all about. At the end of the day, if this amendment that is pending on the floor passes, then for at least 1 year—I think way beyond that—these banks will continue to take in $1.3 billion out of the wallets and purses of consumers across America every time a person uses one of these plastic cards. I don't think that is fair. I don't think it is right. I think there is a way to deal with this honestly. I will tell you what it is.

Let the Federal Reserve issue its rule this month. They will come out with it. Let's look at it. Nobody knows what they are going to say. I have heard both Senators who introduced this amendment say: Well, we cannot accept this rule. They don't know what the rule is, and neither do I. It has not been published yet. At a minimum, should we not see it before we say it is unacceptable?

I am ready to wait. I trust that the Federal Reserve will do its job. I think it can produce a good rule—a rule that is fair to consumers, retailers, small businesses, and the banks too. Senator CORKER said the problem with Durbin's amendment is, he doesn't allow the banks to add in all the possible charges and costs in a debit card transaction; he is just allowing them to count the value of the dough and the pizza, not all the other things they might add in.

No. What we said was that you can charge a fee that is reasonable and proportional to the cost of the transaction. Pretty simple, right? Reasonable and proportional. Well, this amendment on the floor decides to open the door wide. It is no longer reasonable and proportional. They have full pages describing all the different things the banks can add in to establish the fee they charge small businesses and consumers. Are you trusting of these banks to be careful with what they add in? I am not. I can tell you that when you look at the list of things they include, it includes executive compensation, because it is about the costs of the operation of the program, which happens to include a lot of managers and officers as well. I don't know what else it includes, but it is wide open.

Here is what the banks have said. Incidentally, I guess it is somewhat gratifying when your name is associated with an amendment and you hear it over and over—Chase, for example, wrote to every person that is a customer in my State of Illinois and said: Beware of the Durbin amendment. If it goes through, it reduces the debit fee charge we can charge, and your fees are going up. Your benefits and premiums are going to go down. Here is what Chase failed to mention—and the other banks as well. The total amount the Big Three banks take in in a year from debit cards fees is about a little over—almost half the total amount collected, about $8 billion a year. So the argument that JP Diamond and Chase are making is that if you cut our credit card fees, your fees are going to have to go up, and it is a cost of doing business. What Mr. Diamond and others in

that business failed to note is, last year on Wall Street, the banks awarded, in bonuses, $20.8 billion. So when they argue that an $8 billion loss means fees are going up, oh, really? Or does it mean bonuses might go down? On behalf of consumers and businesses across America, that is part of it.

Let me tell you a few things about the pending amendment. It is not a compromise. Second, it includes costs that cover the whole ballpark, that they can say we are going to add in the cost of ATM machines to the debit card fees and pretty soon, get serious, they are right back up to 44 cents a transaction. That is how it is designed.

They carefully wrote this so there is no effective date for the rule. It says the Board will decide the effective date. There is no effective date for this going into effect. That is awful.

Finally, the argument made on the floor over and over is that we just want to protect the community banks and credit unions. That is why we are doing all this—not a word in here—I take that back—there is one reference to these smaller exempt institutions. There are ways—and they know it—if they wanted to, to have even more protection and reassurance for the smaller community banks and credit unions. They didn't include them because that is not what this is about. This is about all of the banks. Particularly, it is about the giant banks on Wall Street that have at stake in this amendment $8 billion a year in profits—$8 billion a year in subsidies through this amendment and through the second round of bailouts.

This is a good test for the Senate. I don't know how it is going to end. I won last year, but they have poured it on ever since. The banks have done everything they can to reverse what we accomplished last year. It is up to my colleagues now. They have to decide whose side they will be on. It is simple. They are either going to be on the side of the banks and credit card companies or on the side of consumers and businesses all across America, to give them a fighting chance. How many speeches have we heard on the floor of the Senate about small business? If we could unleash the power of small business—their expansion and hiring of more people—we could turn this economy back where it should be. This will be a direct hit on small businesses all across America if this pending amendment is enacted.

This is our chance to say to the big banks on Wall Street: If you can have $20.8 billion in bonuses last year, you are doing quite well, thank you. Incidentally, one of these banks had a 48-percent increase in profits. They are doing okay, folks. We don't need a tag day for any of the Wall Street banks.

Secondly, if you believe in small businesses and merchants and retailers in your hometowns, stand up for them, fight for them. That is what they are asking for. That is what this debate is all about.

Let's wait until this rule comes out. Let's defeat this amendment, and see what the Federal Reserve says. I have given my word—and I will say it again—to work with any Senator on either side of the aisle. If we need to have any kind of reassurance or protection added to what we have done in this law, I am there. As I have said many times, the only perfect law I am aware of was carried down a mountain on stone tablets by Senator Moses. The rest of the time we just do our best. If there is a way to improve it, I will be there.

But at the end of the day, let's finally, finally, finally stand up for consumers and small businesses across America and say to the Wall Street banks and Visa and MasterCard: Sorry, this party is over.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise to speak about the Tester-Corker amendment that, hopefully, will be before us shortly.

I have to say I have just witnessed a great discussion of populism, and that is, if an institution is making some money, let's take it from them and give it to others in the name of fairness.

I think everybody knows there certainly are tremendous numbers of small institutions across America that are very concerned about the Durbin amendment and its effects—and a number of small retailers. And there is no question, let's face it, the big boxes, my friends—Walmart, Home Depot, and Target—have funded this effort, as was mentioned, on K Street with the lobbyists. There is no question a lot of the larger financial institutions have funded the effort on the other side. There is no question. But the people who Senator TESTER and myself and others listen to are those folks who come in from our home States—the small community banks and credit unions around our country that are very concerned.

Let me talk about a couple of things. No. 1, the Senator from Illinois talked about timing. Well, we have been trying to find some vehicle to attach this amendment to for some time. The fact is, the Senate hasn't done any business this year. We come in from time to time and vote on a noncontroversial judge, but we have been trying to find some vehicle to attach this to, and we have been trying to do that for months.

Secondly, the Federal Reserve, which has been asked to put forth this rule, is the one saying what they have been asked to do is not appropriate. They have testified publicly saying the Durbin amendment is inappropriate.

Let me describe what the Senator said about reasonable and proportioned. That means if you went out and built a debit system—you invested in all the technology, the computers, the marketing, the fraud prevention, all the things that went into that—the Fed can now look at setting the price. After you have set all that up, and you are processing millions of transactions a year, if you send one more transaction across the wire, what does that cost you—after you have invested? That is what he is saying about reasonable and proportional.

There is no way any business in America could possibly operate under that scenario. Again, retailer after retailer after retailer has been in my office and said: We know the criteria laid out by the Durbin amendment is absolutely inappropriate. We couldn't function with that criteria. We don't know of any other way of solving this problem, and we hate to have the Fed involved in price setting.

So all of us set out to try—many of us set out to try—to solve that problem. What we have come up with is, in fact, a compromise, and this is what it says: We agree the debit card industry should be regulated. We agree retailers are having difficulty in negotiating with Visa and others. Let's get the Fed to set the prices based on the cost of the transaction, which do include, I hate to say, some fixed costs in technology and other kinds of things, such as fraud prevention. The Fed has asked us to do that.

It is not as if we are usurping the Fed coming in and making a rule. They have testified publicly the way the Durbin amendment is written it is going to be terrible for community banks and rural banks.

I think we all know the Senator from Illinois likes to use these larger institutions, but all of us know the big guys just get bigger—they just get bigger—when we do these kind of things, and that creates hardships for the smaller institutions.

The fact that some two-tiered system was set up and won't work—I mean the FDIC has come in and said, look, you cannot make it work where the small banks and small credit unions are held harmless. It won't work. The OCC has come in and said it won't work. Market forces will take over. This will not work. They are going to get crushed. The State examiners, the State bank commissioners have come in and said the Durbin amendment, as written, is going to be disastrous for consumers. It is going to be disastrous for the smaller institutions with which we all deal.

I am not trying to carry water for either side. I am trying to come up with a solution that is fair. I have worked with Senator TESTER, Senator CRAPO, Senator HAGAN, Senator BENNET, Senator BROWN, and numbers of other people, trying to come up with language that hits that sweet spot. The Senator from Illinois is right, we have probably never developed a perfect law. But I think we have a responsibility, when we know something is about to happen that won't work, that is going to be devastating, to come up with something that meets the test of trying to be fair to both sides. And I think that is what this amendment does.

The Senator talked about all kinds of things being added. The banks can't

just add it. The Fed is regulating them. The Fed will decide what is reasonable and proportioned. The Fed will decide, but they will use all of the costs that it takes to actually do those operations and the cost, which the Durbin amendment did not do.

I think this amendment meets the test. I know there are numbers of people who voted for the Durbin amendment in the past who have now coauthored this. They coauthored this because they realize the Durbin amendment was far too narrow; that the Durbin amendment didn't take into account anything but, again, the cost of adding one transaction on top of an infrastructure that had already been built. There is no business that could operate that way.

The Presiding Officer used to be part of a weekly broadcast. If all that was charged was the incremental cost of that going out and being broadcast to other television stations around the country, and that was the only cost he could get, there is no way our Presiding Officer would have been known to America the way he is now known because there is no way that operation could have succeeded.

This is a very commonsense solution. People who supported the Durbin amendment during this debate—even though there was never a hearing held; and it was a pretty major issue to never have a hearing in the Banking Committee—and it was passed at a time when many people around this country were rightfully upset with some of the larger players in our financial system—have now woken up and they realize this is a bad piece of policy. But if we tweak it, then the retailers still end up with a regulated market where they are not overcharged.

The institutions are providing this service. By the way, it is a service or people wouldn't use it. Retailers like getting their money instantly and people like being able to carry around plastic to pay their bills instead of cash. But what this amendment does is puts it in the middle of the road where it is fair to the retailers, fair to the institutions involved, and most of all it protects consumers around this country. I think we have seen the letters that were sent out as to what is going to happen to consumers if the Durbin amendment goes into effect as it is now laid out.

The Senator does a great job, I know, in taking a few of these institutions that no doubt behaved badly, and causing the whole thrust of this to be about poking a stick in the eye of these institutions that have paid bonuses and made bad decisions. But the fact is, this is a bad policy as it exists. The Tester-Corker amendment, with many other cosponsors, is something to bring that into the middle of the road. So I ask each Senator to please spend 10 minutes with your staffers and understand what the third round of revisions does. Look at this commonsense solution that has been put forth by the best efforts of this body, with people working together to get here, and hopefully we can end up with a piece of legislation of which we are all proud.

We can continue to have a financial system that is strong and that includes the many small players we depend upon in small communities across this country, and we can also continue to have a viable retail industry that counts on the additional sales they get from having access to these types of transactions.

With that, Mr. President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wanted to make sure the Senator from Tennessee knows his amendment is pending. It has already been put into play, and we are on it at this time. I just wanted to be sure he knew that.

Mr. CORKER. I thank the Senator. There was some discussion a minute ago about when it was going to occur. I thank you for that and for your deft management of this bill.

Mrs. BOXER. Thank you very much. The Senator from Tennessee probably won't agree with my position on his amendment, but I do know my friend has worked long and hard with Senator TESTER and others, and I appreciate all the time he has put into trying to come up with what he considers to be a compromise.

I do want to say this. The Senator talks a lot about the Durbin amendment. There is no Durbin amendment. It is the law. The Durbin amendment was included in the bill that is now the law of the land. So it is a question of saying that we should essentially repeal it or delay it, study it, whatever the word is, before it has a chance to actually go forward.

I understand that, and I want to say for the record where I stand on it. I have met with all sides. I have met with the retailers, that are very strongly supportive of the Durbin law. I have met with the banks, and they are fiercely against it. The credit unions are very worried they are going to get hit with a situation where they will not be able to compete with the banks. I have told them all the same thing, which is I think what is important when we pass a reform is to see if it is going to work, and if it doesn't work, I agree with Senator DURBIN, we will do everything in our power to work that out.

I understand the Fed says, help me, give me guidance. I think there is a lot of guidance in the law. I think every bureaucracy in the world would rather have the details fall on us. I think the details fall to them. So I am going to be voting no on the amendment. I do appreciate, however, all the work and all the time and effort that went into trying to pull us all together.

I will say the last thing on the swipe fee that I find compelling is the swipe fee reform my friends want to delay—and was signed into law last year—places reasonable constraints on the fees Visa and MasterCard fix on behalf of the Nation's largest banks. But here is the thing. The United States has the highest debit interchange fees in the world, and the rates keep going up. The average debit interchange fee in the U.S. is 1.14 percent. The average debit interchange fee in the European Union is 0.20 percent, and the average debit interchange fee in Canada is zero. So it is not as if the banks are taking it on the chin here.

I feel we should give this a chance to work. I am not saying it is the perfect law. As Senator DURBIN said, maybe there was one perfect law—the Ten Commandments—but as far as laws here, they can all be made better. It may well be once the Fed acts, if we are not happy, we can move at that time.

I want to get back to the bill, the underlying bill we are debating, which is the Economic Development Administration reauthorization, and to thank Senator INHOFE for his remarks he made on the floor about it. He pointed out that we have a lot of work to do here to create jobs. When we have a program that takes $1 of Federal funds and it attracts $7 of private investments and many jobs, we ought to come together.

I will go through a couple of charts.

The EDA is an efficient job creator. They just are. In 2009 and 2010, investments by EDA created over 160,000 jobs and saved nearly 45,000. One dollar of EDA investment is expected to attract—and this is a fact—it has attracted nearly $7 in private sector investment on average. Sometimes it is $10, sometimes it is $15, sometimes it is $4, $3, $2, but the average is $7. EDA project funding creates one job for every $2,000 to $4,600 invested. You see the average cost of creating a job is very low in terms of the Federal investment. This is terrific. This program really works.

There are a couple of things we believed we ought to take a look at—duplication and also a way for the community to buy out the Federal Government share of a project. We put that in the reauthorization. We believe we really strengthened this law, and I again thank the Democrats and Republicans on the Environment and Public Works Committee.

This morning, I went through some of the programs in California:

The city of Dixon, $3 million for a water system that is expected to create 1,000 jobs and leverage $40 million in private investment—$3 million attracting $40 million in private investment.

The city of Shafter, $2 million for sewer and water. It is going to develop an additional 600 acres to enable continued growth of the East Shafter Logistical Center and is expected to create 1,400 jobs and leverage $250 million in private investment.

San Jose, $3 million for the renovation and expansion of the Center for Employment Training. They can then

expand their capacity by 860 students, expand access to the GED, the literacy, language, and small business entrepreneurship classes to low-income areas. This is absolutely key. It really should bring us together because they are training students so students get out and get their GED, get their literacy, and can really make sure the community is growing and thriving. That particular grant is expected to leverage $3 million in private investment and create 4,900 jobs. So it is a 1-to-1. In that case, it is $3 million of public and $3 million of private.

Nationwide—I talked about this. I talked about other examples, but I didn't mention ones on the west coast. In the Central Valley, there was a 23,000-square-feet water and energy technology incubator, and the incubator has housed more than 15 entrepreneurs since it opened in 2007. They obtained $17 million in private capital and created jobs for Californians, so $1.8 million attracted $17 million.

We have the case of Boeing, and they were able to expand one of their campuses. It created 2,000 jobs.

I talked about Duluth. In 2001, an EDA grant of $3.5 million matched by $2.3 million from the city of Duluth helped build the Duluth Aviation Business Incubator at the Duluth Airport. This investment helped Cirrus Aircraft grow from a handful of employees to 1,012 by 2008. It is now leased to Cirrus Design Corporation, which has the largest share of the worldwide general aviation market.

When we are talking about the EDA and the way it attracts private sector funding and creates jobs, this is not hyperbole, this is not just rhetoric, this is reality. This is a program that has been going on since 1965. Republicans and Democrats have supported it. The last time it was authorized was when George W. Bush was President. It passed unanimously.

So I stand here today on the opening day full of hope, hoping that is not naive, hoping we will see a few amendments—that is all fine. We don't mind amendments. Amendments are fine, but let's have reasonable discussion and reasonable time set aside and move on.

There is the Maytag plant in Newton, IA, which employed 1,800 factory and administrative workers. It was closed. We all know how painful that is. We remember back when we were losing 700,000 to 800,000 jobs a month. It was not that long ago. By 2008, the city identified two new manufacturing operations that could be located at that old plant—TPI Composites, Inc., a wind turbine blade manufacturer, and Trinity Structural Towers, Inc., a manufacturer of massive steel towers for windmills. The EDA invested $580,000 in 2008 for grading, site preparation, and surfacing for a wind tower storage facility that was leased to Trinity and created 140 jobs and generated $21 million in private investment.

That same year, EDA also invested $670,000 in the Central Iowa Water Association in Newton to help build a booster station and storage tank to serve TPI. This project helped create 500 jobs and generate $40 million in private investment.

On the east coast, in 2010 the EDA gave a $750,000 grant to Seedco Financial Services, Inc., a national nonprofit community development financial institution. Seedco used this funding to provide capital to Sub Zero Insulation and Refrigeration Technologies, LLC, which is a family-owned manufacturer of custom, environmentally friendly, energy-efficient insulated commercial truck and van liners—Sub Zero. It is pretty famous. They are located in Brooklyn, NY. They had been denied financing by a major bank.

This is the thing. A lot of our companies—while the banks want to charge very high swipe fees, they are somehow absent when our companies need them. In 2010—that is just last year—Sub Zero was denied financing. EDA provided access to capital, which allowed Sub Zero to fulfill its contract with Edible Arrangement to outfit delivery vehicles and to win contracts from Ford, Chevy, and Dodge. This allowed Sub Zero to hire 15 new staff. They started in 2004 with just 3 employees and producing 75 vehicles a year, and the company now has 20 employees and produces approximately 400 vehicles a year.

It goes on.

EDA provided $2 million to help build the Knowledge Works preincubator facility as part of the development of the Virginia Tech Corporate Research Center, and now we have seen 2,000 high-wage jobs created and the inception of 140 high-tech businesses.

The way EDA works is there are regional offices, about six of them, and they get funded through the Appropriations Committee to the Commerce Department, and then each region makes the decision as to which projects really meet the goals of the legislation, which is to bring economic development to distressed areas, create jobs, and leverage the dollars.

In addition to this, EDA—in 2008 we gave them an extra $500 million in disaster assistance to give to areas which were experiencing disaster problems, and they assumed the role of a secondary responder, working with affected communities to support long-term postdisaster rebuilding. As an example of that, again back in Iowa, they provided funding to help construct and install an upgraded, energy-efficient natural gas-fired boiler system in Cedar Rapids, IA, following a flood that destroyed the boiler that had provided steam heat and hot water to Saint Luke's Hospital and Coe College. We all know what happens when a hospital can't count on a backup generator: they can't count on energy. We know what happens when that occurs: everything shuts down, and people are in peril. EDA steps in in these areas, and while FEMA is dealing with the immediate impacts, they are looking a little bit more at the long-term work that could be done so that when and if there is another disaster, the community is ready.

All I can tell you is nothing is perfect. I am sure there are examples we have that are not as good as the ones I mentioned. I am sure there are because nothing is perfect and nobody is perfect. But this is a very good program. It is time-tested, signed into law by Democratic Presidents and Republican Presidents. The last time, it passed here by unanimous consent, was voted out of the committee which I am privileged to chair with almost unanimous consent. We had one dissent, and that is fine. We hope we will win over that dissenter. But here is where we are. We have a chance to reauthorize this program.

There are reforms we have made. I want to share some of the reforms we have made. This can go on without an authorization and stumble around. But what is important at this particular time, when the main three issues on people's minds are jobs, jobs, and jobs, is we have to do a jobs bill. This is a jobs bill. This creates jobs at very low cost to the Federal Government. This creates jobs in the private sector in some of our cities and public works areas.

This is what we did in order to help people understand why we think it is important to reauthorize this. Working with my ranking member, Senator INHOFE, we came up with some good reforms.

We changed the current cost-share requirements, so we increased the Federal share for areas in which unemployment is especially high and per capital income is especially low because we want to make sure that when we go into an area that is deeply in need, we do a little more for them.

We require additional planning assistance if overall funding levels increase. In other words, we want to keep our eye on these projects. We want to make sure they are meeting their goals.

We modified the existing Revolving Loan Fund Program to allow recipients to convert an existing revolving loan fund to carry out another EDA-eligible project. So we take the bureaucracy and say: Look, if they have a better idea, let's go forward and let them use those funds in that way.

We modify rules to allow recipients of grants that are more than 10 years old to buy out the Federal Government's interest at a depreciated rate. In other words, if a State, city, county or participant says: You know what, we want to do this on our own, this is an older grant and we believe we want to take it over, they can buy out the Federal Government's interests.

We emphasize that EDA should work with Federal, State, and local agency partners to support economic and workforce development strategies.

Senator INHOFE mentioned his reform that he made sure happened, which is

that we are not duplicating other programs. That is important. We don't want to be duplicative. We want to be sure that what we are doing is not being done elsewhere.

We walk in and we do something, frankly, that people need now: We create jobs and we leverage. That word ''leverage'' has become the first thing out of my mouth when I talk about things I support now. That is why we support the highway bill that we hope is going to come here in a bipartisan way. We leverage dollars. Anytime you can leverage dollars—you put $1 down for something good, and people come to the table from local government, the nonprofit sector, the profit sector, State, all the different agencies, all the different parties come together and say: This is a great idea. If we all kick in just a little, we are going to do something big. That is the idea behind the EDA.

I visited projects in my own State, shopping malls and other things that were done in these very fine communities where it is tough to get capital, where the banks just turn their backs, where perhaps the venture capitalists are saying: This isn't our cup of tea. That is why this is a successful program.

Again, I hope we will have debate today on the Tester-Corker amendment. It is a very controversial one. It is not happy because it is one of these things where, if you do one thing, 50 percent of the people think you are right, and if you do the other, 50 percent think you are wrong, although Senator DURBIN says the polls show that people support these lower fees in this case. But I respect the fact that the amendment was offered on this bill. It is an amendment that is directly related to our economy. But I hope we vote tomorrow, as early as possible, and I hope we do not have a lot of amendments dragging us down because, guess what, people are looking at us and they are thinking: Why aren't they doing more to create jobs? This will send a signal that we are making EDA a priority.

This is not a big spending measure. This is an authorization, and the number at which we are authorizing has been frozen so we are not adding to it. But we are sending a signal to the appropriators and to the Commerce Department that we think this is a good and important program.

Madam President, I thank you very much. I have said my piece for the moment. I note the absence of a quorum.

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

The bill clerk called the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that following morning business on Wednesday, June 8, the Senate resume consideration of S. 782, the EDA Revitalization Act, with the time until 2 p.m. equally divided between the proponents and opponents of the Tester amendment No. 392 regarding swipe fees; that at 2 p.m. the Durbin amendment No. 393 be withdrawn and the Senate proceed to vote in relation to the Tester amendment No. 392, with no amendments, motions, or points of order in order prior to the vote other than budget points of order and the applicable motions to waive; the Tester amendment be subject to a 60-vote threshold; and the motion to reconsider be considered made and laid on the table.

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

Mr. REID. Mr. President, I want to express my appreciation to Senators DURBIN and TESTER for their warm relationship and to every Senator here on this most difficult issue, for allowing us to get this done tomorrow expeditiously. It is something that had to be done and it is the right thing to do and we will move forward upon completing this to try to do other things on this very important piece of legislation.

MORNING BUSINESS

NATIONAL HUNGER AWARENESS DAY

Mr. DURBIN. Mr. President, I rise today in honor of National Hunger Awareness Day. On this day, we focus on the more than 50 million people in the United States without enough to eat and reassert our commitment to assist those in need.

Millions of families live each day not knowing if they will have enough to eat. Rather than thinking about what the next meal will be, these parents worry if there will be a next meal. Rather than concentrate on homework, these children are trying not to think about their hunger pangs. In a nation as resourceful and agriculturally abundant as ours, this is inexcusable. If children—or adults—are hungry in America, that is a problem for all of us.

The level of hunger in our Nation is at the highest level since the government began tracking food insecurity in 1995. The number of Americans experiencing hunger increased from 35.5 million in 2006 to 50 million in 2011. In Illinois, over 11 percent of households are food insecure. These are working families who just aren't able to make ends meet and are forced to skip meals to make sure food will last through the week.

At a time when millions of middle class Americans are struggling to keep up with higher gas prices and grocery bills, more families are looking to Federal programs for assistance. Throughout the country, Federal hunger assistance programs have responded to this growing need by providing essential support to hungry families. Over the past 2 years, Illinois food banks have seen a 50-percent increase in requests for food assistance.

According to the U.S. Department of Agriculture, applications for food stamps are on the rise at the same time recipients are making more frequent use of food pantries to fill gaps in their grocery needs. Over 44 million people nationwide rely on the Federal food stamp program. Currently, 1,802,252 people in Illinois receive food stamps, an increase of 14 percent from last year and the highest level ever in Illinois. But for the millions of people who don't have assistance, everything is different.

We know hunger is a reality in our communities. We see long lines at our food pantries. We have heard from seniors forced to choose between groceries and medication. And children are in our schools who have not had a decent meal since the previous day's school lunch. We see families showing up a day earlier than normal at the food pantry because the monthly pay is not stretching as far it once did. Parents are giving up their own meal to make sure their child has something to eat at night.

Last week, I visited a Summer Food Service Program at the Boys & Girls Club in Decatur, IL. This summer program provides 2 free meals a day to up to 150 children. For the over 500,000 Illinois children in food insecure households, the summertime means months without the free and reduced breakfasts and lunches available in school. Thanks to the Summer Food Service Program, food banks, and food pantries, families who are having a difficult time keeping up in our tough economy are able to put meals on the table. One woman with three kids in the Summer Food Service Program in Decatur said the meals provided in the program help her save money so she can afford to put gas in her car to get to work.

In the Nation that prides itself as the land of plenty, we cannot hide the fact that we need to protect these vital antihunger programs and that we need to do better at making sure everybody has at least enough to eat. As Congress works to rein in our Nation's debt, I look forward to working with my colleagues to ensure we make responsible decisions that protect vital antihunger programs like the Supplemental Nutrition Assistance Program and the Emergency Food Assistance Program.

If there is one hungry person in our Nation, hunger will be a problem for all of us. I hope we will continue to work together to fulfill our duty to end hunger in our Nation and the world.

TAIWAN AIR DEFENSES

Mr. CORNYN. Mr. President, on February 23, 2011, the RAND Corporation released a report funded by and prepared for the U.S. Air Force entitled, ''Shaking the Heavens and Splitting the Earth.'' This report provides a

comprehensive review of the capabilities of the Chinese Air Force, and it is alarming. In less than a decade, China has transformed its air force from an antiquated service based on 1950s-era Soviet technology into a modern, highly capable 21st century air force. RAND predicts that, by approximately 2015, the weapon systems and platforms China is acquiring ''would make a Chinese air defense campaign, if conducted according to the principles described in Chinese military publications, highly challenging for U.S. air forces.''

Without question, China's military expansion poses a clear and present danger to our longstanding ally, Taiwan—a threat that also has very serious implications for the United States. In its report, RAND predicts that, should the United States have to intervene in a conflict between Taiwan and China, the United States ''should expect attacks on its forces and facilities in the western Pacific, including those in Japan. . . . Chinese military writings, moreover, emphasize the advantages of preemptive and surprise attacks, so it is possible that Chinese attacks on U.S. forces in the western Pacific would precede a use of force against Taiwan.'' RAND further states that, in the event of a military conflict off of Taiwan, ''even if the United States intervened on a large scale,'' the ''capabilities of Taiwan's armed forces would also be critical to the outcome. . . . Defending Taiwan against air attack is feasible if Taiwan makes systematic, sustained, and carefully chosen investments.''

These military investments by Taiwan are critical, due to the continuing deterioration of its air force. A January 21, 2010, Defense Intelligence Agency, DIA, report on the current condition of Taiwan's Air Force quantified its eroding air capability in stark terms: ''Although Taiwan has nearly 400 combat aircraft in service, far fewer of these are operationally capable. Taiwan's F–5 fighters have reached the end of their operational service life, and while the indigenously produced F–CK–1 A/B Indigenous Defense Fighter, IDF, is a large component of Taiwan's active fighter force, it lacks the capability for sustained sorties. Taiwan's Mirage 2000–5 aircraft are technologically advanced, but they require frequent, expensive maintenance that adversely affects their operational readiness rate.''

Last August, the Department of Defense, DOD, released its 2010 Annual Report to Congress on the Military and Security Developments Involving the People's Republic of China. It states: ''Cross-Strait economic and political ties continued to make important progress in 2009. Despite these positive trends, China's military buildup opposite the island [Taiwan] continues unabated. The PLA is developing the capability to deter Taiwan independence or influence Taiwan to settle the dispute on Beijing's terms while simultaneously attempting to deter, delay, or deny any possible U.S. support for the island in case of conflict. The balance of cross-Strait military forces continues to shift in China's favor.'' This report recounts that China has a total of approximately 2,300 operational combat aircraft, including 330 fighters and 160 bombers stationed within range of Taiwan.

These disturbing reports are just the latest warnings that highlight both China's military expansion and Taiwan's increasing need for new defensive weapons. Some have openly questioned whether selling arms to Taiwan is worth the political cost to the U.S.-China bilateral relationship. Surely, we would all prefer to have Taiwanese pilots flying Taiwanese fighter jets as the island's first line of defense, instead of American military pilots. Taiwan understands this, and it wants to remain the primary guarantor of its own freedom and democracy. A strong and robust defensive capability built on an air force capable of holding its own with China will promote a Beijing-Taipei détente that can build on the work President Ma has done to ease tensions and promote better economic ties with China. It remains to be seen how far the Obama administration's support extends to Taiwan and whether this administration will try to strategically counter the military rise of China.

China should never be allowed to dictate U.S. policy, either directly or indirectly. That includes our decision to sell defensive weapons to an important democratic ally. Yet there is evidence that this administration is already bowing to Chinese pressure. According to a February 7, 2010, report by Defense News, China's extensive holdings of U.S. Government securities are already directly influencing U.S. national security policy. This article reports that, according to an unnamed Pentagon official, Obama administration officials softened a draft of a key national security document in order to avoid ''harsh words'' that ''might upset Chinese officials at a time when the United States and China are economically intertwined.'' The article indicates that Pentagon officials ''deleted several passages and softened others about China's military buildup.'' This critical document, the 2010 Quadrennial Defense Review, QDR, is intended to provide an assessment of long-term threats and challenges for the Nation and to guide military programs, plans, and budgets in the coming decades.

Although the QDR was watered down by administration officials, other reports effectively highlight the disparity between China's diplomatic rhetoric and its true intentions, as demonstrated by its rapid and robust military modernization effort. According to the DOD's 2010 report on China, ''The pace and scope of China's military modernization have increased over the past decade,'' increasing ''China's options for using military force to gain diplomatic advantage or resolve disputes in its favor.'' The DOD's report highlights to China's military modernization has been focused on ''improving its capacity for force projection and anti-access/area-denial.'' These modernization efforts are heavily focused on offensive capabilities, including the development of an antiship ballistic missile with a range in excess of 1,500 km that is ''intended to provide the PLA the capability to attack ships, including aircraft carriers, in the western Pacific Ocean,'' as well as an active aircraft carrier research and development program. Moreover, PLA Air Force, PLAAF, Commander General Xu Giliang has emphasized the transformation of the PLAAF ''from a homeland defense focus to one that 'integrates air and space,' and that possesses both 'offensive and defensive' capabilities.''

It is because of China's military rise and the troubling shift in the cross-Strait balance in China's favor that Taiwan recognizes its need to modernize its air force. As a result, Taiwan has made repeated requests to purchase new F–16 C/D aircraft from the United States since 2006. Taiwan desperately needs these F–16s—a ''carefully chosen investment''—which are comparable to China's own domestically-developed J–10 fighter aircraft.

Yet despite a compelling argument, Taiwanese President Ma's requests to the United States to purchase these aircraft continue to be snubbed. In an interview with the Washington Post, President Ma said, ''Our objective in improving cross-strait relations is to seek peace and prosperity. However, the Republic of China (Taiwan) is a sovereign state; we must have our national defense. While we negotiate with the mainland, we hope to carry out such talks with sufficient self defense capabilities and not negotiate out of fear. This is an extremely important principle. Therefore, we must purchase the necessary defensive weapons from overseas that cannot be manufactured here in Taiwan to replace outdated ones. This is essential for our national survival and development.''

Moreover, the United States has a statutory obligation under the Taiwan Relations Act of 1979 to provide Taiwan the defense articles and services necessary to enable Taiwan to maintain sufficient self-defense capabilities, in furtherance of maintaining peace and stability in the western Pacific region. Our obligations under the Taiwan Relations Act recognize that the key to maintaining peace and stability in Asia in the face of China's dramatic military expansion is ensuring a militarily strong and confident Taiwan.

To that end, in early 2010, President Obama notified Congress of a $6.4 billion military sale to Taiwan. This was a welcome step, but it remains the only visible step the Obama administration has taken to provide Taiwan the defensive arms it needs, in accordance with our statutory obligations. While the administration dithers on Taiwan's request for F–16s, evidence continues to

mount that what Taiwan desperately needs to restore the cross-Strait balance and regain the ability to defend its own airspace is new fighter aircraft to bolster an air force that is borderline obsolete.

It is my understanding that the administration may favor selling Taiwan upgrade kits for its existing fleet of F–16 A/Bs, instead of selling Taiwan brand new fighters. Such a tradeoff will not enhance the security of Taiwan. What Taiwan's air force needs is new F–16s and the ability to deploy them in sufficient numbers to strengthen its defensive posture. Simply upgrading airframes that are more than 20 years old is not a solution—it is nothing more than a public relations Band-Aid. Efforts to upgrade Taiwan's air fleet have to be coupled with the sale of new aircraft that can serve for two decades or more into the future.

Another important consideration is the shrinking time window for this purchase. The continuing production of new F–16s is dependent on foreign sales. It is my understanding that, if no new overseas orders are secured this year, the thousands of U.S. suppliers who help build the F–16 will begin shuttering that capability. Once this happens, it will be very difficult and expensive to restart the supply chain. Washington has a longstanding habit of putting off difficult decisions, but the decision on whether to sell new F–16s to Taiwan is literally now or never.

As the DIA report made clear, the majority of Taiwan's 400 fighter aircraft need to be retired or upgraded. Within the next 5 years, Taiwan will have to mothball or scrap more than 100 combat aircraft—one-quarter of its current force. Without the ability to augment its air force with new F–16 aircraft, as well as updates to its existing fleet, Taiwan will lose all ability to project a defensive umbrella over the island. The repercussions of a rising and potentially aggressive China, able to dominate the airspace over Taiwan, demands the attention of our military planners, government officials, and Members of Congress because it opens the door for China to use force against Taiwan. To that end, I was proud to recently join with 43 of my Senate colleagues in sending a letter to President Obama urging him to act swiftly to provide Taiwan with the F–16s that are critical to preserving Taiwan's self-defense capabilities.

It is time to recommit ourselves to strengthening the ties that bind the U.S. and Taiwan together—from arms sales to free-trade agreements. Doing so will promote peace and stability in the region, while also protecting U.S. and Taiwanese security interests. I urge President Obama and his administration to move quickly and work with Taiwan to notify the sale of these fighter jets to Congress.

NEVER TO FORGET

Mr. LEAHY. Mr. President, last week Senator COCHRAN, Senator GRASSLEY, Senator SHELBY, and I travelled to Flanders Field, the American Cemetery and Memorial in Belgium. We visited the cemetery on the eve of Memorial Day to take part in a ceremony honoring Americans who have made the ultimate sacrifice for our freedom.

The U.S. Ambassador to Belgium, Howard W. Gutman, shared an extraordinary poem he had written at the commemoration. ''Never to Forget'' is a tribute to those who gave their lives for our country and also a reminder that we must heed the lessons of our past to create a better future for our children.

I would like to share Ambassador Gutman's poem with my colleagues. I ask unanimous consent that a copy be printed in the RECORD.

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

NEVER TO FORGET

MEMORIAL DAY 2011

We commemorate Memorial Day never to forget.
Never to forget who they were.
Men and women of many titles.
To some they were sergeant or colonel or general;
To others they were mom or dad,
Uncle or aunt . . .
Son or daughter.
To us, they are all heroes.
We honor them all.
And we honor their parents who lost children.
We honor their children who lost parents.
As a head of one of our American Battlefield cemeteries once told me:
For those buried in his cemetery
They remain each day on active duty. . .
And on each day that we fail to remember them . . . that we fail to honor them . . . they have served a day without a mission.
Every soldier is entitled to his mission.
Here at Ardennes American Cemetary/Henri-Chappelle—we—Belgians and Americans, parents and children—we are that mission.
We commemorate Memorial Day never to forget.
Never to forget what they did.
Every one of them understood when they joined that the road would be rough.
They knew that this was not about television commercials boasting pressed uniforms and glistening shoes or steeds clashing on chessboards.
They knew this was not about training exercises amidst sunny days in North Carolina,
They knew instead that this was about life and death.
They knew that for every moment of thrill, there could be months of fear.
But they knew that the rest of us needed them. They knew our fellow world citizens had been victims of murder or terror.
Perhaps they knew in 1915 that the poppies and the hearts of Belgians had been trampled on the way to 9 million deaths in WWI.
Or perhaps they knew in 1944 that Max Gutman was hiding in the woods in Poland after every other Jew in his small town of Biyala Rafka had been slaughtered. Maybe they knew that his dream one day to come to America, to raise a future U.S. Ambassador to Belgium, had nearly been extinguished along with the future for so many Poles and Catholics and Jews.
Maybe they knew in 2001 that our citizens had been the victims of terror and remained under threat.
Whenever they served, wherever they served, they knew we needed someone to help, to respond, to free, to save, to protect.
And they said, ''I will.''
We commemorate Memorial Day never to forget the face of evil.
We welcome all into the brotherhood of man. We will meet you far more than half way. We and our allies will send our diplomats, help feed your poor, and treat you with respect. But threaten none, harm even fewer,
We commemorate Memorial Day never to forget.
Never to forget what they died for.
Can you hear them each and every one of the 5323 buried here and the tens of thousands buried elsewhere . . .
Can you hear them?
If not, it is because you are listening with your ears.
But on Memorial Day, we listen not with our ears, but instead with our hearts.
And with our hearts we can hear them loudly and clearly.
They tell us that they lived in a country that believed in freedom and understood right from wrong.
And they tell us that they believed in service, in duty, in the mission of creating a better world.
They tell us never to forget, but certainly to move forward and build bridges where pools of hatred previously existed.
They fought and they died to move us a step closer towards the brotherhood of man. We must never use their memory as an excuse not to get there.
Thus while we can never forget, while we will never forget, we will forgive those who have followed. Where we faced each other to the death, we will walk together to rebuild a better life.
And that may be the most enduring lesson—lessons for Belgium, for Europe, for the Middle East, or for all places where tensions rooted in the mistakes or ill deeds of the past threaten the progress of the future.
The lessons are that we need not carry the blame nor clear the name of our parents and grandparents looking back.
Rather that we build a better name for our children and our grandchildren going forward. That we must use the lessons of the past to carve a better future.
We are so used to the expression ''Forgive but don't forget.'' And of course Memorial Day proclaims that we shall never forget.
But in making sure we don't forget, sometimes we don't truly forgive.
We commemorate Memorial Day never to forget precisely so that we can forgive.

—Ambassador Howard Gutman

TRIBUTE TO RICK COCHRAN

Mr. LEAHY. Mr. President, my fellow Members of the U.S. Senate have heard me say this before, but today I have reason to say it again: Vermonters are some of the most innovative and hardworking people in this country. The U.S. Small Business Administration recently highlighted one of these great individuals when it named Rick Cochran of the Mobile Medical International Corporation in St. Johnsbury, Vermont, as the 2011

National Small Business Person of the Year.

Mr. Cochran deserves this recognition for his many years of hard work building a successful small business that provides mobile, combat-ready shelter systems both in the U.S. and abroad. In collaboration with the U.S. Department of Defense, the U.S. Department of Veterans Affairs, the U.S. Air Force, and others, Mr. Cochran and his team provide quality medical services to the many dedicated men and woman worldwide who put their lives at risk in the military. Mr. Cochran has also deployed mobile surgical units across the globe to developing countries, giving third world countries cost-effective mobile access to modern medical facilities.

From an otherwise nondescript industrial building in St. Johnsbury, Mobile Medical has touched the lives of thousands of people from across the globe. Whether the company is shipping units to the Middle East, deploying units with National Guard soldiers, or quickly delivering aid to communities devastated by natural disasters here at home, the men and women who have engineered and manufactured these mobile medical facilities have found a novel and cost-effective way to deliver state-of-the-art medical care in some of the world's most challenging environments. Just last week, I learned that Mobile Medical had already deployed mobile healthcare facilities to assist in the recovery efforts in Joplin, MO, following the catastrophic weather that left hundreds dead and thousands more injured.

Mr. Cochran and his staff have improved the lives of others both abroad and locally, as their business has created hundreds of job opportunities for Vermonters in our rural Northeast Kingdom. As a longtime supporter of Mobile Medical, I was pleased to see this locally owned business recognized for the great work it has done in Vermont and across the globe.

I continue to be proud of the many small businesses thriving across Vermont. And today I am especially proud of the work of one small business that has succeeded both financially and socially Mobile Medical International Corporation of St. Johnsbury, VT. I wish Rick and his business continued success in the future. I also ask that the May 20, 2011, U.S. Small Business Administration announcement of this award be printed in the RECORD.

The information follows:

VERMONT MANUFACTURER OF MOBILE HEALTH CARE UNITS IS NATIONAL SMALL BUSINESS PERSON OF THE YEAR

[Friday, May 20, 2011]

WASHINGTON.—When Rick Cochran was working with five employees in his basement in Walden, Vt., his dream was to find a way to provide advanced medical care to underserved areas, and build a company that could deliver it.

Today, the Vermont manufacturer of state-of-the-art mobile healthcare and diagnostic units was named 2011 National Small Business Person of the year by Karen Mills, Administrator of the U.S. Small Business Administration. Mills made the announcement during ceremonies at SBA's celebration of National Small Business Week in Washington, D.C.

First runner-up is Deborah Carey, president and founder of the New Glarus Brewing Company, in New Glarus in southwestern Wisconsin. Second runner-up is Leigh Kamstra, owner and chef of Roma's Ristorante in Spearfish, S.D., north of the Black Hills.

''The innovation, inspiration and determination shown by Rick Cochran and his employees have elevated his company, Mobile Medical International, to a level that is above and beyond the norm,'' said Mills. ''These are the qualities that make small businesses such a powerful force for job creation in the American economy and in their local communities. Rick had a dream and he persisted—creating jobs, winning the loyalty of his team, and filling a need in the marketplace that has taken Mobile Medical from his basement to a worldwide stage. We are especially proud that when Rick Cochran's company needed financing, he turned to the U.S. Small Business Administration, and the SBA was able to help him.

''I applaud Rick and his team, and I applaud the runners-up and their staffs, and all of the state small business persons of the year who are here today,'' Mills said. ''We are all grateful for their contributions to our economy. They are magnificent examples of the character of America's most successful entrepreneurs.''

The National Small Business Person of the Year and runners-up were selected from among the state winners in 50 states, the District of Columbia, Puerto Rico and the Virgin Islands, and Guam. All are being honored this week in Washington, D.C., as part of National Small Business Week. The awards were announced at today's National Awards Luncheon, sponsored by Sam's Club at the Mandarin Oriental Hotel.

For Cochran the road began when he left a job at an advanced medical equipment provider to establish his first venture, Outpatient Services of America, a consulting firm specializing in planning and developing ambulatory surgery centers. His plan evolved in 1994, when he researched and created an initial design for a mobile surgery unit and established Mobile Medical International, working from his basement with a staff of five. By 1995, he had the capital, and by 1996, he had his prototype.

At first, he provided temporary solutions for hospitals undergoing renovations, but he was able to expand the business into broader commercial, military, and emergency response applications worldwide. During one rough patch in 1999, much of his core team—inspired by Cochran's perseverance, optimism and faith—worked without pay when financing ran dry and the company nearly closed its doors. They were reimbursed later, when the company rebounded. The company also secured financing support from three SBA-backed loans in 1997, 2005 and 2008.

MMI's products include mobile surgical hospitals built into a semi-sized tractor-trailer and an inflatable hospital ward that fits into a trailer pulled by a Humvee. To date, MMIC has 22 mobile healthcare units in its product line, including Mobile Breast Care Centers, Mobile Intensive Care, Mobile Laboratory/Pharmacy, Mobile CT Scan/Dental/Ophthalmology, Mobile Ophthalmology and Mobile Endoscopy Units.

Today, MMI's staff has grown to 54, and net income—just $9,835 in 2008—rose in 2010 to $1.68 million on gross revenues of more than $14 million.

First runner-up Carey developed her business plan for the New Glarus Brewing Company while her husband Dan, a master brewer, gathered the materials, grains and equipment needed for start-up. In 1993 they negotiated to lease a warehouse in New Glarus, exchanging the lease for stock in the company. They sold their home and raised $40,000 in seed money, yet still needed more cash to fund the startup. Carey pitched her story to local newspapers, and the media attention brought in $200,000 from investors.

In the early days, the couple worked hard to establish the brewery's reputation for consistent quality beers. Carey based her plan on developing a very loyal customer base. She set up beer tasting classes along with offering brewery tours, and the brewery started to take off, attracting notice from distributors. New Glarus Brewing Company has grown to 50 full-time employees, has registered growth in profits of 123 percent from 2007 to 2009, and is Wisconsin's number one micro-brewery relative to sales volume.

Kamstra, the second runner-up, had been eyeing an old, dilapidated stone building that had stood empty while she was a college student attending Black Hills State University. She didn't know exactly at the time how or why, but she knew somehow her future would be in that building.

After earning a degree in business and 10 years in banking, Kamstra changed course and earned a degree in culinary arts at the Colorado Institute of art. In 1999, with the help of an SBA-guaranteed loan, Kamstra leased the old dilapidated building, refurbished it and opened Roma's Ristorante. When the old building proved too small, Kamstra adapted, securing another SBA-backed loan in 2010 to finance construction of a new building, with more space. Since then, sales have nearly doubled and staff has increased from 11 to 35.

ADDITIONAL STATEMENTS

TRIBUTE TO GRACE S. MATTERN

● Ms. AYOTTE. Mr. President, today I recognize and congratulate Grace S. Mattern for her 30 years of service on behalf of the New Hampshire Coalition Against Domestic and Sexual Violence.

Since its inception, the coalition has become a leader in the struggle for victims', women's, and children's rights. Over the past quarter century, Grace has shaped the way domestic violence and sexual assault is understood and responded to in New Hampshire. Under Grace's leadership, the coalition has developed a nationally recognized model for protocols, state law, and health care initiatives. On the local level, there has been no victim-centered legislation in which Grace has not played a major part.

One of Grace's strongest attributes is her ability to work with people and facilitate meetings in a productive way. She has worked tirelessly to encourage everyone to work together to strengthen efforts to end domestic violence, sexual assault, and stalking. Her work includes participation in many boards and commissions both nationally and locally.

Grace has been involved in various projects that involve groundbreaking work not only for New Hampshire but also for the country. Because of her leadership in 1997, the coalition, in conjunction with the State, was selected

by the Family Violence Prevention Fund to establish a partnership to improve the health care system's response to domestic violence, called the National Health Initiative. New Hampshire was one of only 10 States in the Nation to participate in this program and the only State in New England. To this day, Grace continues to work with the medical community to educate physicians on the impact of trauma from domestic and sexual violence.

In 1999, the coalition successfully applied to be one of six sites in the country selected for what is known as the Greenbook Project. Grafton County was selected and funded as a national demonstration site for improving collaboration between domestic violence organizations, courts, and child protective services in families where there is a co-occurrence of domestic violence, child abuse, and neglect. New Hampshire was the only site selected in the eastern United States. This project has led to more collaborative efforts not only in Grafton County but across New Hampshire.

Grace was highly involved in the creation of one of the first AmeriCorps programs in the State. Named the AmeriCorps Victim Assistance Program, it was a ''first in the Nation'' model that she started with representatives from the New Hampshire Department of Justice and the State's court system, and is now in its 11th year. The program recruits and trains members to assist victims of domestic violence, sexual violence, and stalking at crisis centers, police departments, prosecutors' offices, the New Hampshire Department of Justice, and on college and university campuses throughout the State.

As Grace retires, I commend her efforts and congratulate her for all of the accomplishments of the New Hampshire Coalition Against Domestic and Sexual Violence. I ask my colleagues to join me in recognizing her 30 years of service on behalf of the people of New Hampshire.●

MENDOTA HIGH SCHOOL CHESS TEAM

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in congratulating the endota High School chess team on winning the 2011 CalChess Premier Division State Championship in Santa Clara this April. The Mendota High School chess team worked tirelessly to become State champions and a source of great joy and pride to the people of Mendota and Fresno County.

Mendota High School chess team coach, Vanness French, has been working with most of the members of the championship chess team since they were in the third grade. It was Coach French who gave the team its unique nickname, Knucklehead, a reference to the long-lasting cylinders on vintage Harley-Davidson motorcycles. The 2011 Mendota chess team certainly lived up to their expectations, never giving up as they defeated several higher rated opponents en route to claiming the State title.

The members of the 2011 Mendota High School CalChess Premier Division State Championship include: Eduardo Alonso, Edwin Brioso, Joel Montalvo, Chrispen Reyes, Milton Arroyo, Luis Castillo, Julian Estrada, Lizzy Gonzales, Charle Ledesua, Sergio Mayares, Kevin Romero, Jessi Mendez, and Felipe Beltran.

It is with great pride that I congratulate these students on an extraordinary accomplishment, and the hard work, dedication, and perseverance they showed in achieving it.

As the Mendota chess team celebrates the 2011 CalChess Premier Division State Championship, I commend them a remarkable and memorable year and wish them continued success in their future endeavorse.●

TRIBUTE TO MR. AND MRS. JOHN BEARDEN WILLIAMS

● Mr. VITTER. Mr. President, I wish to acknowledge two very special people who have reached a significant milestone in their lives, Mr. and Mrs. John Bearden Williams. This week, Mr. Williams and his bride, Gretchen Schilde Williams, celebrated their 50th wedding anniversary.

John and Gretchen's marriage has been very blessed. They were married on June 6, 1971, in Baton Rouge, LA, at the First Baptist Church. Throughout their marriage they have maintained a strong partnership, working together in ministry and giving of themselves to their church and community.

They have been longtime supporters of the Louisiana School for the Deaf, and Mr. Williams and his children were all featured in the Louisiana Bar Journal for their many years of service to the Baton Rouge legal community. During Mr. Williams' more than 40 years of legal practice, Mrs. Williams was a constant and committed advocate, organizer, and friend. Their unbreakable alliance has served to encourage, uplift, and bring out the best in one another, and the longevity of their union shows their deep and abiding love and commitment to each other, growing stronger throughout their journey. They have raised three children, Stephen Schilde, John Richard, and Cynthia Williams Dashiell, and are now the proud grandparents of five grandchildren—Haley, Jack, Mary Gretchen, Martin, and Scott.

I am pleased to recognize and honor John Williams and Gretchen Williams as they celebrate 50 years of marriage, and I hope their family continues to be blessed.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

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

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

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–1903. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Agency Office of the Inspector General'' ((RIN0750–AG97) (DFARS Case 2011–D006)) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2011; to the Committee on Armed Services.

EC–1904. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to a proposed change to the Fiscal Year 2009 National Guard and Reserve Equipment Appropriation (NGREA) procurement; to the Committee on Armed Services.

EC–1905. A communication from the Under Secretary of Defense (Policy), Department of Defense, transmitting, pursuant to law, a report relative to the training of the U.S. Special Operations Forces with friendly foreign forces during fiscal year 2010; to the Committee on Armed Services.

EC–1906. A communication from the Deputy to the Chairman, Legal Office, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Securities of Nonmember Insured Banks'' (RIN3064–AD67) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1907. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Luxembourg; to the Committee on Banking, Housing, and Urban Affairs.

EC–1908. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to China; to the Committee on Banking, Housing, and Urban Affairs.

EC–1909. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report entitled ''Report to the Congress on the Profitability of Credit Card Operations of Depository Institutions''; to the Committee on Banking, Housing, and Urban Affairs.

EC–1910. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the continuation of a national emergency declared in Executive Order 13222 with respect to the lapse of the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–1911. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Certain Consumer Appliances: Test Procedures for Battery Chargers

and External Power Supplies'' (RIN1904–AC03) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Energy and Natural Resources.

EC–1912. A communication from the Wildlife Biologist, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2011 Season'' (RIN1018–AX30) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2011; to the Committee on Environment and Public Works.

EC–1913. A communication from the Chief of the Permits and Regulations Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Permits; Changes in the Regulations Governing Raptor Propagation'' (RIN1018–AT60) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2011; to the Committee on Environment and Public Works.

EC–1914. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Administrative Practices in Radiation Surveys and Monitoring'' (Regulatory Guide 8.2, Revision 1) received in the Office of the President of the Senate on May 27, 2011; to the Committee on Environment and Public Works.

EC–1915. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Determination of Attainment for the 1997 8-Hour Ozone Standard: States of Missouri and Illinois'' (FRL No. 9317–4) received in the Office of the President of the Senate on June 6, 2011; to the Committee on Environment and Public Works.

EC–1916. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Idaho'' (FRL No. 9316–7) received in the Office of the President of the Senate on June 6, 2011; to the Committee on Environment and Public Works.

EC–1917. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Oregon; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference with Maintenance Requirements'' (FRL No. 9316–9) received in the Office of the President of the Senate on June 6, 2011; to the Committee on Environment and Public Works.

EC–1918. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions and Additions to Motor Vehicle Fuel Economy Label'' (FRL No. 9315–1) received in the Office of the President of the Senate on June 6, 2011; to the Committee on Environment and Public Works.

EC–1919. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the Inspection and Maintenance (I/M) Program—Quality Assurance Protocol for the Safety Inspection Program in Non-I/M Counties'' (FRL No. 9314–4) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Environment and Public Works.

EC–1920. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Requirements for Major Sources Locating in or Impacting a Nonattainment Area in Allegheny County'' (FRL No. 9308–9) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Environment and Public Works.

EC–1921. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Macon; Determination of Attaining Data for the 1997 Annual Fine Particulate Standard'' (FRL No. 9313–8) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Environment and Public Works.

EC–1922. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, two legislative proposals relative to the collection of fees; to the Committee on Environment and Public Works.

EC–1923. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's 2011 Annual Report on the Supplemental Security Income Program; to the Committee on Finance.

EC–1924. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the continuation of a waiver of application of Subsections (a) and (b) of Section 402 of the Trade Act of 1974 for Belarus; to the Committee on Finance.

EC–1925. A communication from the Chief of the Border Securities Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment to List of User Fee Airports: Addition of Dallas Love Field Municipal Airport, Dallas, Texas'' (CBP Dec. 11–13) received in the Office of the President of the Senate on May 27, 2011; to the Committee on Finance.

EC–1926. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Deferral of Dates Related to the Branded Prescription Drug Fee'' (Notice 2011–46) received in the Office of the President of the Senate on June 6, 2011; to the Committee on Finance.

EC–1927. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the implementation of the Danger Pay Allowance for Libya; to the Committee on Foreign Relations.

EC–1928. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services to Australia for maintenance, depot level repair, and overhaul services on components of various military fixed and rotary wing aircraft, ships and frigates in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–1929. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services for manufacture, test, and delivery of the AN/APG–68(V)9 Antenna LRU, Transmitter LRU, Antenna and Transmitter LRU subassemblies and other Radar Test Equipment in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–1930. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Impact Aid Programs'' (RIN1810–AA94) received in the Office of the President of the Senate on May 26, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1931. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Payment Adjustment for Provider-Preventable Conditions Including Health Care-Acquired Conditions'' (RIN0938–AQ34) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1932. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Reclassification of the Topical Oxygen Chamber for Extremities; Correction'' ((21 CFR Part 878) (Docket No. FDA–2006–N–0045)) received during adjournment of the Senate in the Office of the President of the Senate on June 1, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1933. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Program Integrity: Gainful Employment—Debt Measures'' (RIN1840–AD06) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1934. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the implementation of the Age Discrimination Act of 1975 for fiscal year 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–1935. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, (2) reports entitled ''Community Services Block Grant (CSBG) Program Report'' and ''Community Services Block Grant Performance Measurement Report''; to the Committee on Health, Education, Labor, and Pensions.

EC–1936. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the financial aspects for fiscal year 2010 of the implementation of the Animal Generic Drug User Fee Act; to the Committee on Health, Education, Labor, and Pensions.

EC–1937. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the financial aspects for fiscal year 2010 of the implementation of the Animal Drug User Fee Act; to the Committee on Health, Education, Labor, and Pensions.

EC–1938. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Administration on Aging's Report to Congress for Fiscal Year 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1939. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Abolishment of Cumberland, Maine, as a Nonappropriated Fund Federal Wage System Wage Areas'' (RIN3206–AM38) received in the Office of the President of the Senate on June 3, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1940. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the Madison, Wisconsin, and Southwestern Wisconsin Appropriated Fund Federal Wage System Wage Areas'' (RIN3206–AM32) received in the Office of the President of the Senate on June 3, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1941. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''General Services Administration Acquisition Regulation; Rewrite of GSAR Part 570; Acquiring Leasehold Interests in Real Property'' (RIN3090–AI96) received in the Office of the President of the Senate on May 27, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1942. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contract Closeout'' ((RIN9000–AL43) (FAC 2005–52)) received in the Office of the President of the Senate on May 31, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1943. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Sustainable Acquisition'' ((RIN9000–A96L) (FAC 2005–52)) received in the Office of the President of the Senate on May 31, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1944. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Buy American Exemption for Commercial Information Technology-Construction Material'' ((RIN9000–AL62) (FAC 2005–52)) received in the Office of the President of the Senate on May 31, 2011; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 710. A bill to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system (Rept. No. 112–20).

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. WYDEN (for himself, Mr. CRAPO, Mr. RISCH, and Mr. MERKLEY):

S. 1149. A bill to expand geothermal production, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY:

S. 1150. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. SCHUMER, Mr. CARDIN, and Mr. FRANKEN):

S. 1151. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

By Mr. MENENDEZ:

S. 1152. A bill to advance cybersecurity research, development, and technical standards, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself and Mr. LEE):

S. 1153. A bill to improve Federal land management, resource conservation, environmental protection, and use of Federal land by requiring the Secretary of the Interior to develop a multipurpose cadastre of Federal land and identifying inaccurate, duplicate, and out-of-date Federal land inventories, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 1154. A bill to require transparency for Executive departments in meeting the Government-wide goals for contracting with small business concerns owned and controlled by service-disabled veterans, and for other purposes; to the Committee on Small Business and Entrepreneurship.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. ROCKEFELLER, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 28, a bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes.

S. 119

At the request of Mr. VITTER, the names of the Senator from New Hampshire (Ms. AYOTTE), the Senator from Alabama (Mr. SESSIONS), the Senator from South Carolina (Mr. DEMINT), the Senator from Florida (Mr. RUBIO), the Senator from Oklahoma (Mr. COBURN), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. RISCH), the Senator from Kentucky (Mr. PAUL), the Senator from Utah (Mr. LEE) and the Senator from Wisconsin (Mr. JOHNSON) were added as cosponsors of S. 119, a bill to preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects.

S. 164

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 164, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 299

At the request of Mr. PAUL, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 299, a bill to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

S. 398

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 398, a bill to amend the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other purposes.

S. 412

At the request of Mr. LEVIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 412, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 418

At the request of Mr. HARKIN, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 534

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 534, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 603

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 603, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 672

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 672, a bill to amend the Internal Revenue Code of 1986 to extend and

modify the railroad track maintenance credit.

S. 700

At the request of Ms. KLOBUCHAR, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 700, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain farming business machinery and equipment as 5-year property for purposes of depreciation.

S. 758

At the request of Mr. FRANKEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 758, a bill to establish a Science, Technology, Engineering, and Math (STEM) Master Teacher Corps program.

S. 769

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 769, a bill to amend title 38, United States Code, to prevent the Secretary of Veterans Affairs from prohibiting the use of service dogs on Department of Veterans Affairs property.

S. 797

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 797, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 800

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 800, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 821

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 821, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 866

At the request of Mr. TESTER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 866, a bill to amend title 10, United States Code, to modify the per-fiscal year calculation of days of certain active duty or active service used to reduce the minimum age at which a member of a reserve component of the uniformed services may retire for nonregular service.

S. 868

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 868, a bill to restore the longstanding partnership between the States and the Federal Government in managing the Medicaid program.

S. 922

At the request of Mrs. GILLIBRAND, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 922, a bill to amend the Workforce Investment Act of 1998 to authorize the Secretary of Labor to provide grants for Urban Jobs Programs, and for other purposes.

S. 939

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 939, a bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities.

S. 946

At the request of Mr. BAUCUS, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 946, a bill to establish an Office of Rural Education Policy in the Department of Education.

S. 949

At the request of Mrs. SHAHEEN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 949, a bill to amend the National Oilheat Research Alliance Act of 2000 to reauthorize and improve that Act, and for other purposes.

S. 963

At the request of Mr. CARPER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 963, a bill to reduce energy costs, improve energy efficiency, and expand the use of renewable energy by Federal agencies, and for other purposes.

S. 967

At the request of Mr. MERKLEY, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 967, a bill to establish clear regulatory standards for mortgage servicers, and for other purposes.

S. 979

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 979, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1002

At the request of Mr. KYL, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1018

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1018, a bill to amend title 10, United States Code, and the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 to provide for implementation of additional recommendations of the Defense Task Force on Sexual Assault in the Military Services.

S. 1019

At the request of Mr. SANDERS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1019, a bill to amend the Elementary and Secondary Education Act of 1965 in order to support secondary school reentry programs.

S. 1025

At the request of Mr. LEAHY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1025, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1094

At the request of Mr. MENENDEZ, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 1094, a bill to reauthorize the Combating Autism Act of 2006 (Public Law 109–416).

S. 1125

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1125, a bill to improve national security letters, the authorities under the Foreign Intelligence Surveillance Act of 1978, and for other purposes.

S. 1145

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1145, a bill to amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

S.J. RES. 17

At the request of Mrs. FEINSTEIN, the names of the Senator from Ohio (Mr. BROWN), the Senator from Iowa (Mr. HARKIN), the Senator from North Carolina (Mrs. HAGAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S.J. Res. 17, a joint

resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mr. MCCONNELL, the names of the Senator from Arizona (Mr. KYL) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S.J. Res. 17, supra.

S. RES. 175

At the request of Mrs. SHAHEEN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 175, a resolution expressing the sense of the Senate with respect to ongoing violations of the territorial integrity and sovereignty of Georgia and the importance of a peaceful and just resolution to the conflict within Georgia's internationally recognized borders.

S. RES. 185

At the request of Mr. CARDIN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Nebraska (Mr. JOHANNS), the Senator from Nevada (Mr. HELLER), the Senator from Colorado (Mr. BENNET), the Senator from Mississippi (Mr. WICKER), the Senator from Georgia (Mr. ISAKSON), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Montana (Mr. BAUCUS) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 185, a resolution reaffirming the commitment of the United States to a negotiated settlement of the Israeli-Palestinian conflict through direct Israeli-Palestinian negotiations, reaffirming opposition to the inclusion of Hamas in a unity government unless it is willing to accept peace with Israel and renounce violence, and declaring that Palestinian efforts to gain recognition of a state outside direct negotiations demonstrates absence of a good faith commitment to peace negotiations, and will have implications for continued United States aid.

S. RES. 202

At the request of Mr. CONRAD, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. Res. 202, a resolution designating June 27, 2011, as ''National Post-Traumatic Stress Disorder Awareness Day''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. CRAPO, Mr. RISCH, and Mr. MERKLEY):

S. 1149. A bill to expand geothermal production, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today Sen. CRAPO, Sen. RISCH, Sen. MERKLEY, and I are introducing the Geothermal Production Expansion Act of 2011. The bill is aimed at making improvements to the Geothermal Steam Act and is very similar to legislation introduced in the 111th Congress as S. 3993.

Both bills contain identical provisions to allow the Secretary of the Interior to lease a limited amount of public land adjacent to existing geothermal property at fair market value. The reason for this change is to allow the rapid expansion of already identified geothermal resources without the additional delays of competitive leasing and without opening up those adjacent properties to speculative bidders who have no interest in actually developing the resource, only in extracting as much money as they can from the existing geothermal lease holder. Current lease holders are understandably reluctant to nominate adjacent lands to proven resources for competitive leasing because doing so would immediately signal the value of those adjacent properties. As a result, existing geothermal developers will likely not realize the full potential of the geothermal energy resources that they have spent millions of dollars exploring, proving, and developing without these changes. And, the Treasury will not realize the economic value of those adjacent parcels, which go unleased and undeveloped as a result. For these reasons, the bill has the strong support of the Geothermal Energy Association.

I want to emphasize that this bill is not a giveaway. The amount of land that can be leased non-competitively is limited to less than 640 acres per lease. It can only be leased where there are already proven resources and thus more likely than not to increase overall Federal royalties paid to the Treasury as the adjacent parcels are incorporated into the developer's geothermal energy project. Third, the bidder must pay fair market value for the lease as determined by the Interior Department. Finally, this bill contains an additional provision, which was not included in the prior version, which will significantly increase the annual rental payments for the newly acquired adjacent land in order to ensure that the bill comes as close as possible to full economic recovery for the taxpayers.

Current law sets two different annual rental payment levels for geothermal leases. These are amounts that the lease-holder pays per year for every acre held in lease. The rental rate for non-competitive leases is $1 per acre per year. The rate for competitive leases begins at $2 per acre for the first year and increases to $3 for the next 9 years. The sole difference between the bill introduced in the prior Congress and the bill being introduced today is that the version being introduced today treats the new, adjacent lease as a competitive lease for determining the annual rental even though it is being acquired as a non-competitive lease. This will have the clear effect of raising the annual rental payments on the newly acquired adjacent lands to the higher rate of $2 and then $3 per acre and increase revenue to the Treasury. This change underscores our intent, as sponsors of the bill, to ensure that the result of these changes in the Geothermal Steam Act is truly to increase geothermal energy production on Federal lands without any overall loss of revenue to the taxpayers from noncompetitive award of these adjacent lands.

Geothermal energy is, by definition, a domestic renewable energy resource with enormous potential, but developers face high costs and economic risks of finding the right location to extract energy. These changes will help ensure that once those resources have been proven on Federal lands, they can be fully developed as quickly and efficiently as possible.

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. 1149

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 ''Geothermal Production Expansion Act of 2011''.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is in the best interest of the United States to develop clean renewable geothermal energy;

(2) development of that energy should be promoted on appropriate Federal land;

(3) under the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), the Bureau of Land Management is authorized to issue 3 different types of noncompetitive leases for production of geothermal energy on Federal land, including—

(A) noncompetitive geothermal leases to mining claim holders that have a valid operating plan;

(B) direct use leases; and

(C) leases on parcels that do not sell at a competitive auction;

(4) Federal geothermal energy leasing activity should be directed toward persons seeking to develop the land as opposed to persons seeking to speculate on geothermal resources and artificially raising the cost of legitimate geothermal energy development;

(5) developers of geothermal energy on Federal land that have invested substantial capital and made high risk investments should be allowed to secure a discovery of geothermal energy resources; and

(6) successful geothermal development on Federal land will provide increased revenue to the Federal Government, with the payment of production royalties over decades.

SEC. 3. NONCOMPETITIVE LEASING OF ADJOINING AREAS FOR DEVELOPMENT OF GEOTHERMAL RESOURCES.

Section 4(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1003(b)) is amended by adding at the end the following:

''(4) ADJOINING LAND.—

''(A) DEFINITIONS.—In this paragraph:

''(i) FAIR MARKET VALUE PER ACRE.—The term 'fair market value per acre' means a dollar amount per acre that—

''(I) except as provided in this clause, shall be equal to the market value per acre as determined by the Secretary under regulations issued under this paragraph;

''(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later than the end of the 90-day period beginning on the date the Secretary receives an application for the lease; and

''(III) shall be not less than the greater of—

''(aa) 4 times the median amount paid per acre for all land leased under this Act during the preceding year; or

''(bb) $50.

''(ii) INDUSTRY STANDARDS.—The term 'industry standards' means the standards by which a qualified geothermal professional assesses whether downhole or flowing temperature measurements with indications of permeability are sufficient to produce energy from geothermal resources, as determined through flow or injection testing or measurement of lost circulation while drilling.

''(iii) QUALIFIED FEDERAL LAND.—The term 'qualified Federal land' means land that is otherwise available for leasing under this Act.

''(iv) QUALIFIED GEOTHERMAL PROFESSIONAL.—The term 'qualified geothermal professional' means an individual who is an engineer or geoscientist in good professional standing with at least 5 years of experience in geothermal exploration, development, or project assessment.

''(v) QUALIFIED LESSEE.—The term 'qualified lessee' means a person that may hold a geothermal lease under this Act (including applicable regulations).

''(vi) VALID DISCOVERY.—The term 'valid discovery' means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability that are sufficient to meet industry standards.

''(B) AUTHORITY.—An area of qualified Federal land that adjoins other land for which a qualified lessee holds a legal right to develop geothermal resources may be available for a noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—

''(i) the area of qualified Federal land—

''(I) consists of not less than 1 acre and not more than 640 acres; and

''(II) is not already leased under this Act or nominated to be leased under subsection (a);

''(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under clause (iii)(I); and

''(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the applicable Federal land management agency that would lead individuals who are experienced in the subject matter to believe that—

''(I) there is a valid discovery of geothermal resources on the land for which the qualified lessee holds the legal right to develop geothermal resources; and

''(II) that thermal feature extends into the adjoining areas.

''(C) DETERMINATION OF FAIR MARKET VALUE.—

''(i) IN GENERAL.—The Secretary shall—

''(I) publish a notice of any request to lease land under this paragraph;

''(II) determine fair market value for purposes of this paragraph in accordance with procedures for making those determinations that are established by regulations issued by the Secretary;

''(III) provide to a qualified lessee and publish, with an opportunity for public comment for a period of 30 days, any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph; and

''(IV) provide to the qualified lessee and any adversely affected party the opportunity to appeal the final determination of fair market value in an administrative proceeding before the applicable Federal land management agency, in accordance with applicable law (including regulations).

''(ii) LIMITATION ON NOMINATION.—After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.

''(iii) ANNUAL RENTAL.—For purposes of section 5(a)(3), a lease awarded under this paragraph shall be considered a lease awarded in a competitive lease sale.

''(D) REGULATIONS.—Not later than 180 days after the date of enactment of the Geothermal Production Expansion Act of 2011, the Secretary shall issue regulations to carry out this paragraph.''.

By Mr. LEAHY (for himself, Mr. SCHUMER, Mr. CARDIN, and Mr. FRANKEN):

S. 1151. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am pleased to reintroduce the Personal Data Privacy and Security Act. The recent and troubling data breaches at Sony, Epsilon and Lockheed Martin on U.S. Government computers is clear evidence that developing a comprehensive national strategy to protect data privacy and cybersecurity is one of the most challenging and important issues facing our Nation. The Personal Data Privacy and Security Act will help to meet this challenge, by better protecting Americans from the growing threats of data breaches and identity theft. I thank Senators SCHUMER and CARDIN for cosponsoring this important privacy legislation.

When I first introduced this bill six years ago, I had high hopes of bringing urgently needed data privacy reforms to the American people. Although the Judiciary Committee favorably reported this bill three times—in 2005, 2007, and again in 2009—the legislation languished on the Senate calendar.

While the Congress has waited to act, the dangers to our privacy, economic prosperity and national security posed by data breaches have not gone away. According to the Privacy Rights Clearinghouse, more than 533 million records have been involved in data security breaches since 2005. Just last week, Google announced that the Gmail accounts for hundreds of its users, including senior U.S. Government officials, have been hacked in an apparent state-sponsored cyberattack. As The Washington Post editorial board recently observed, ''[n]ow there is a need for legislative action. As the recent high-profile leaks of personal data at Google, Sony and the data-collecting company Epsilon suggest, this issue is a ticking bomb.''

In May, the Obama administration released several proposals to enhance cybersecurity, including a data breach proposal that adopts the carefully balanced framework of this bill. I am pleased that many of the sound privacy principles in this bill have been embraced by the President and his administration.

The Personal Data Privacy and Security Act requires that data brokers let consumers know what sensitive personal information they have about them, and to allow individuals to correct inaccurate information. The bill also requires that companies that have databases with sensitive personal information on Americans establish and implement data privacy and security programs.

The bill would also establish a single nationwide standard for data breach notification. The bill requires notice to consumers when their sensitive personal information has been compromised.

This bill also provides for tough criminal penalties for anyone who would intentionally and willfully conceal the fact that a data breach has occurred when the breach causes economic damage to consumers. The bill also includes the administration's recent proposal to update the Computer Fraud and Abuse Act, so that attempted computer hacking and conspiracy to commit computer hacking offenses are subject to the same criminal penalties, as the underlying offense.

Finally, the bill addresses the important issue of the Government's use of personal data by requiring that Federal agencies notify affected individuals when Government data breaches occur, and by placing privacy and security front and center when Federal agencies evaluate whether data brokers can be trusted with Government contracts that involve sensitive information about the American people.

Of course, no one has a monopoly on good ideas to solve the serious problems of identity theft and lax cybersecurity. But, this bill puts forth some meaningful solutions to this vexing problem.

I have drafted this bill after long and thoughtful consultation with many of the stakeholders on this issue, including the privacy, consumer protection and business communities. I have also consulted with the Departments of Justice and Homeland Security, and with the Federal Trade Commission. I have worked closely with other Senators, including Senators Feinstein and Schumer.

This is a comprehensive bill that not only deals with the need to provide Americans with notice when they have been victims of a data breach, but that also deals with the underlying problem of lax security and lack of accountability to help prevent data breaches from occurring in the first place. Enacting this comprehensive data privacy legislation remains one of my legislative priorities as Chairman of the Judiciary Committee.

This bill has always garnered strong bipartisan support. Protecting privacy

rights is of critical importance to all of us, regardless of party or ideology. I hope that all Senators will support this measure to better protect Americans' privacy.

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. 1151

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Personal Data Privacy and Security Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the Nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentiality of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to ensure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or venture established to make a profit, or nonprofit.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028(a)(7) of title 18, United States Code.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees or dues regularly engages in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information on more than 5,000 individuals who are not the customers or employees of that business entity or affiliate primarily for the purposes of providing such information to nonaffiliated third parties on an interstate basis.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or nonprofit that serves as a source of information for a data broker.

(7) ENCRYPTION.—The term ''encryption''—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by a widely accepted standards setting body or, has been widely accepted as an effective industry practice which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(8) PERSONAL ELECTRONIC RECORD.—

(A) IN GENERAL.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that is provided by a data broker to nonaffiliated third parties and includes personally identifiable information about that individual.

(B) EXCLUSIONS.—The term ''personal electronic record'' does not include—

(i) any data related to an individual's past purchases of consumer goods; or

(ii) any proprietary assessment or evaluation of an individual or any proprietary assessment or evaluation of information about an individual.

(9) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form that is a means of identification, as defined by section 1028(d)(7) of title 18, United States Code.

(10) PUBLIC RECORD SOURCE.—The term ''public record source'' means the Congress, any agency, any State or local government agency, the government of the District of Columbia and governments of the territories or possessions of the United States, and Federal, State or local courts, courts martial and military commissions, that maintain personally identifiable information in records available to the public.

(11) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions—

(i) that result in, or that there is a reasonable basis to conclude has resulted in—

(I) the unauthorized acquisition of sensitive personally identifiable information; and

(II) access to sensitive personally identifiable information that is for an unauthorized purpose, or in excess of authorization; and

(ii) which present a significant risk of harm or fraud to any individual.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure;

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements; or

(iii) any lawfully authorized investigative, protective, or intelligence activity of a law enforcement or intelligence agency of the United States.

(12) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password if the code or password is required for an individual to obtain money, goods, services, or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code, or password that is required for an individual to obtain credit, withdraw funds, or engage in a financial transaction.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030 (relating to fraud and related activity in connection with computers) if the act is a felony,'' before ''section 1084''.

SEC. 102. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and having the obligation to provide notice of such breach to individuals under title III of the Personal Data Privacy and Security Act of 2011, and having not otherwise qualified for an exemption from providing notice under section 312 of such Act, intentionally and willfully conceals the fact of such security breach and which breach causes economic damage to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' has the same meaning as in section 1030(e)(12) of title 18, United States Code.

''(c) Any person seeking an exemption under section 312(b) of the Personal Data Privacy and Security Act of 2011 shall be immune from prosecution under this section if the United States Secret Service does not indicate, in writing, that such notice be given under section 312(b)(3) of such Act.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1041. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The United States Secret Service shall have the authority to investigate offenses under this section.

(2) NONEXCLUSIVITY.—The authority granted in paragraph (1) shall not be exclusive of any existing authority held by any other Federal agency.

SEC. 103. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

Section 1030(c) of title 18, United States Code, is amended—

(1) by inserting ''or conspiracy'' after ''or an attempt'' each place it appears, except for paragraph (4);

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense'';

(B) in clause (ii), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense''; and

(C) in clause (iii), by inserting ''(or, in the case of an attempted offense, would, if completed, have obtained)'' after ''information obtained''; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(B)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(B)'';

(iii) by inserting ''or conspiracy'' after ''if the offense'';

(iv) by redesignating subclauses (I) through (VI) as clauses (i) through (vi), respectively, and adjusting the margin accordingly; and

(v) in clause (vi), as so redesignated, by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(A)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(A)'';

(iii) by inserting ''or conspiracy'' after ''if the offense''; and

(iv) by striking ''; or'' and inserting a semicolon;

(C) in subparagraph (C)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(D) in subparagraph (D)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(E) in subparagraph (E), by inserting ''or conspires'' after ''offender attempts'';

(F) in subparagraph (F), by inserting ''or conspires'' after ''offender attempts''; and

(G) in subparagraph (G)(ii), by inserting ''or conspiracy'' after ''an attempt''.

TITLE II—DATA BROKERS

SEC. 201. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access or use of personally identifiable information.

(b) LIMITATION.—Notwithstanding any other provision of this section, this section shall not apply to—

(1) any product or service offered by a data broker engaging in interstate commerce where such product or service is currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (e) of this section under the Fair Credit Reporting Act (Public Law 91–508);

(2) any data broker that is subject to regulation under the Gramm-Leach-Bliley Act (Public Law 106–102);

(3) any data broker currently subject to and in compliance with the data security requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and its implementing regulations;

(4) any data broker subject to, and in compliance with, the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and 17934) and implementing regulations promulgated under such sections;

(5) information in a personal electronic record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to nonaffiliated third parties;

(6) information concerning proprietary methodologies, techniques, scores, or algorithms relating to fraud prevention not normally provided to third parties in the ordinary course of business ; and

(7) information that is used for legitimate governmental or fraud prevention purposes that would be compromised by disclosure to the individual.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained or accessed by the data broker specifically for disclosure to third parties that request information on that individual in the ordinary course of business in the databases or systems of the data broker at the time of such request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on procedures for correcting inaccuracies.

(d) DISCLOSURE TO INDIVIDUALS OF ADVERSE ACTIONS TAKEN BY THIRD PARTIES.—

(1) IN GENERAL.—If a person takes any adverse action with respect to any individual that is based, in whole or in part, on any information contained in a personal electronic record, the person, at no cost to the affected individual, shall provide—

(A) written or electronic notice of the adverse action to the individual;

(B) to the individual, in writing or electronically, the name, address, and telephone number of the data broker (including a toll-free telephone number established by the data broker, if the data broker complies and maintains data on individuals on a nationwide basis) that furnished the information to the person;

(C) a copy of the information such person obtained from the data broker; and

(D) information to the individual on the procedures for correcting any inaccuracies in such information.

(2) ACCEPTED METHODS OF NOTICE.—A person shall be in compliance with the notice requirements under paragraph (1) if such person provides written or electronic notice in the same manner and using the same methods as are required under section 313(1) of this Act.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD OR LICENSOR.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information disclosed to such individual under subsection (c) that is obtained from a public record source or a license agreement, such data broker shall determine within 30 days whether the information in its system accurately and completely records the information available from the licensor or public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems does not accurately and completely record the information available from a public record source or licensor, the data broker shall—

(i) correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) provide such individual with the contact information of the public record or licensor.

(2) INFORMATION NOT FROM A PUBLIC RECORD SOURCE OR LICENSOR.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information not from a public record or licensor that was disclosed to the individual under subsection (c), the data broker shall, within 30 days of receiving notice of such dispute—

(A) review and consider free of charge any information submitted by such individual that is relevant to the completeness or accuracy of the disputed information; and

(B) correct any information found to be incomplete or inaccurate and provide notice to such individual of whether and what information was corrected, if any.

(3) EXTENSION OF REVIEW PERIOD.—The 30-day period described in paragraph (1) may be extended for not more than 30 additional days if a data broker receives information from the individual during the initial 30-day period that is relevant to the completeness or accuracy of any disputed information.

(4) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information not from a public record source or licensor that was disclosed to an individual under subsection (c) is disputed by such individual, the data broker shall provide, upon the request of such individual, the contact information of any data furnisher that provided the disputed information.

(5) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (3), a data broker may decline to investigate or terminate a review of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or intended to perpetrate fraud.

(B) NOTICE.—A data broker shall notify an individual of a determination under subparagraph (A) within a reasonable time by any means available to such data broker.

SEC. 202. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 201 shall be subject to civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 201 shall be subject to additional penalties in the amount of $1,000 per violation per day, to a maximum of an additional $250,000 per violation, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any data broker shall have the provisions of this title enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a data broker that violate this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title; or

(C) obtain civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or civil action for a violation of this title, no attorney general of a State may, during the pendency of such proceeding or civil action, bring an action under this subsection against any defendant named in such civil action for any violation that is alleged in that civil action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 203. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 201, relating to individual access to, and correction of, personal electronic records held by data brokers.

SEC. 204. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE III—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—A Data Privacy and Security Program

SEC. 301. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the security of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States persons is subject to the requirements for a data privacy and security program under section 302 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to:

(1) FINANCIAL INSTITUTIONS.—Financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by a Federal Functional Regulator or State Insurance Authority (as those terms are defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations.

(2) HIPPA REGULATED ENTITIES.—

(A) COVERED ENTITIES.—Covered entities subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(B) BUSINESS ENTITIES.—A Business entity shall be deemed in compliance with this Act if the business entity—

(i) is acting as a business associate, as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.) and is in compliance with the requirements imposed under that Act and implementing regulations promulgated under that Act; and

(ii) is subject to, and currently in compliance, with the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and

17934) and implementing regulations promulgated under such sections.

(3) PUBLIC RECORDS.—Public records not otherwise subject to a confidentiality or nondisclosure requirement, or information obtained from a news report or periodical.

(d) SAFE HARBORS.—

(1) IN GENERAL.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 302 if the business entity complies with or provides protection equal to industry standards or standards widely accepted as an effective industry practice, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

(2) LIMITATION.—Nothing in this subsection shall be construed to permit, and nothing does permit, the Federal Trade Commission to issue regulations requiring, or according greater legal status to, the implementation of or application of a specific technology or technological specifications for meeting the requirements of this title.

SEC. 302. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—A business entity subject to this subtitle shall comply with the following safeguards and any other administrative, technical, or physical safeguards identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, for the protection of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of sensitive personally identifying information;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of sensitive personally identifying information; and

(C) protect against unauthorized access to use of sensitive personally identifying information that could create a significant risk of harm or fraud to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information;

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(D) assess the vulnerability of sensitive personally identifiable information during destruction and disposal of such information, including through the disposal or retirement of hardware.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect, record, and preserve information relevant to actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access;

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption, redaction, or access controls that are widely accepted as an effective industry practice or industry standard, or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations);

(iv) ensure that sensitive personally identifiable information is properly destroyed and disposed of, including during the destruction of computers, diskettes, and other electronic media that contain sensitive personally identifiable information;

(v) trace access to records containing sensitive personally identifiable information so that the business entity can determine who accessed or acquired such sensitive personally identifiable information pertaining to specific individuals; and

(vi) ensure that no third party or customer of the business entity is authorized to access or acquire sensitive personally identifiable information without the business entity first performing sufficient due diligence to ascertain, with reasonable certainty, that such information is being sought for a valid legal purpose.

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to section 301, this section, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIMELINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 303. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 301 or 302 shall be subject to civil penalties of not more than $5,000 per violation per day while such a violation exists, with a maximum of $500,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 301 or 302 shall be subject to additional penalties in the amount of $5,000 per violation per day while such a violation exists, with a maximum of an additional $500,000 per violation.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any business entity shall have the provisions of this subtitle enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a business entity that violate this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle; or

(C) obtain civil penalties of not more than $5,000 per violation per day while such violations persist, up to a maximum of $500,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to

provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 304. RELATION TO OTHER LAWS.

(a) IN GENERAL.—No State may require any business entity subject to this subtitle to comply with any requirements with respect to administrative, technical, and physical safeguards for the protection of sensitive personally identifying information.

(b) LIMITATIONS.—Nothing in this subtitle shall be construed to modify, limit, or supersede the operation of the Gramm-Leach-Bliley Act or its implementing regulations, including those adopted or enforced by States.

Subtitle B—Security Breach Notification

SEC. 311. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, conduct the risk assessment described in section 302(a)(3), and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PRODUCTION.—The agency, business entity, owner, or licensee required to provide notice under this subtitle shall, upon the request of the Attorney General, provide records or other evidence of the notifications required under this subtitle, including to the extent applicable, the reasons for any delay of notification.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement or intelligence agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement or intelligence agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement or intelligence agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this subtitle.

SEC. 312. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 311 shall not apply to an agency or business entity if the agency or business entity certifies, in writing, that notification of the security breach as required by section 311 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency or business entity may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency or business agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service and the Federal Bureau of Investigation.

(4) SECRET SERVICE AND FBI REVIEW OF CERTIFICATIONS.—

(A) IN GENERAL.—The United States Secret Service or the Federal Bureau of Investigation may review a certification provided by an agency under paragraph (3), and shall review a certification provided by a business entity under paragraph (3), to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A) the United States Secret Service or the Federal Bureau of Investigation shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service or the Federal Bureau of Investigation determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE AND FBI.—

(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service or the Federal Bureau of Investigation may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(B) REQUIRED COMPLIANCE.—Any agency or business entity that receives a request for additional information under subparagraph (A) shall cooperate with any such request.

(C) TIMING.—If the United States Secret Service or the Federal Bureau of Investigation requests additional information under subparagraph (A), the United States Secret Service or the Federal Bureau of Investigation shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information whether an exemption under paragraph (1) is merited.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 311, if—

(1) a risk assessment concludes that—

(A) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the encryption of such information establishing a presumption that no significant risk exists; or

(B) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the rendering of such sensitive personally identifiable information indecipherable through the use of best practices or methods, such as redaction, access controls, or other such mechanisms, which are widely accepted as an effective industry practice, or an effective industry standard, establishing a presumption that no significant risk exists;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service or the Federal Bureau of Investigation, the agency or business entity notifies the United States Secret Service and the Federal Bureau of Investigation, in writing, of—

(A) the results of the risk assessment; and

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service or the Federal Bureau of Investigation does not indicate, in writing, within 10 business days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 311 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if—

(A) the information subject to the security breach includes sensitive personally identifiable information, other than a credit card or credit card security code, of any type of the sensitive personally identifiable information identified in section 3; or

(B) the security breach includes both the individual's credit card number and the individual's first and last name.

SEC. 313. METHODS OF NOTICE.

An agency or business entity shall be in compliance with section 311 if it provides both:

(1) INDIVIDUAL NOTICE.—Notice to individuals by 1 of the following means:

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity.

(B) Telephone notice to the individual personally.

(C) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person exceeds 5,000.

SEC. 314. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 313, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, accessed or acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 319, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 315. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 5,000 individuals under section 311(a), the agency or business entity shall also notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices. Such notice shall be given to the consumer credit reporting agencies without unreasonable delay and, if it will not delay notice to the affected individuals, prior to the distribution of notices to the affected individuals.

SEC. 316. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE AND FBI.—Any business entity or agency shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that a security breach has occurred if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been accessed or acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of individuals known to the agency or business entity to be employees and contractors of the Federal Government involved in national security or law enforcement.

(b) FTC REVIEW OF THRESHOLDS.—The Federal Trade Commission may review and adjust the thresholds for notice to law enforcement under subsection (a), after notice and the opportunity for public comment, in a manner consistent with this section.

(c) ADVANCE NOTICE TO LAW ENFORCEMENT.—Not later than 48 hours before notifying an individual of a security breach under section 311, a business entity or agency that is required to provide notice under this section shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that the business entity or agency intends to provide the notice.

(d) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service and the Federal Bureau of Investigation shall be responsible for notifying—

(1) the United States Postal Inspection Service, if the security breach involves mail fraud;

(2) the attorney general of each State affected by the security breach; and

(3) the Federal Trade Commission, if the security breach involves consumer reporting agencies subject to the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), or anticompetitive conduct.

(e) TIMING OF NOTICES.—The notices required under this section shall be delivered as follows:

(1) Notice under subsection (a) shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

(2) Notice under subsection (d) shall be delivered not later than 14 days after the Service receives notice of a security breach from an agency or business entity.

SEC. 317. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this subtitle and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional. In determining the amount of a civil penalty under this subsection, the court shall take into account the degree of culpability of the business entity, any prior violations of this subtitle by the business entity, the ability of the business entity to pay, the effect on the ability of the business entity to continue to do business, and such other matters as justice may require.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this subtitle, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this subtitle.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this subtitle.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting '', or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised,'' after ''identity theft report''.

SEC. 318. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this subtitle, the State or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 317 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 319. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 314(b).

SEC. 320. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 321. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service and the Federal Bureau of Investigation shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 312(b) and the response of the United States Secret Service and the Federal Bureau of Investigation to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 312(a), provided that such report may not disclose the contents of any risk assessment provided to the United States Secret Service and the Federal Bureau of Investigation pursuant to this subtitle.

SEC. 322. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE IV—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 401. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such security breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title III; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source or licensor.

SEC. 402. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2011) and ensuring remedial action to address any significant deficiencies.''.

SEC. 403. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2011).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title III of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information; and

(B) requiring a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(c) LIMITATION ON PENALTIES.—The penalties under subsection (b)(3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency actions to address the recommendations in the Government Accountability Office's April 2006 report on agency adherence to key privacy principles in using data brokers or commercial databases containing personally identifiable information.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

TITLE V—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT

SEC. 501. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

By Mr. BAUCUS:

S. 1154. A bill to require transparency for Executive departments in meeting the Government-wide goals for contracting with small business concerns owned and controlled by service-disabled veterans, and for other purposes; to the Committee on Small Business and Entrepreneurship.

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. 1154

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 ''Honoring Promises to Service-Disabled Veterans Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Federal agencies have an obligation to comply with the Veterans Entrepreneurship and Small Business Development Act of 1999 (Public Law 106–50; 113 Stat. 233), and the amendments made by that Act, which established a Government-wide goal that not less than 3 percent of the total value of all prime contracts and subcontracts be awarded to small business concerns owned and controlled by service-disabled veterans each fiscal year (referred to in this section as the ''Government-wide goal for service-disabled veterans'').

(2) Progress in meeting the Government-wide goal for service-disabled veterans has been unacceptably slow.

(3) Prime contractors doing business with the United States Government have an obligation to do their part to meet the Government-wide goal for service-disabled veterans.

(4) The public has a right to know whether the Executive departments (as defined in section 101 of title 5, United States Code) and prime contractors are meeting the Government-wide goal for service-disabled veterans.

SEC. 3. TRANSPARENCY IN CONTRACTING GOALS FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(s) TRANSPARENCY IN CONTRACTING GOALS FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'covered contractor' means a contractor that is required to submit a subcontracting plan under section 8(d) to an Executive department; and

''(B) the term 'Executive department' has the meaning given that term in section 101 of title 5, United States Code.

''(2) REPORTS TO ADMINISTRATOR.—Three months after the date of enactment of this subsection, and quarterly thereafter, the head of each Executive department shall submit to the Administrator a report that contains—

''(A) the percentage of the total value of all prime contracts awarded by the Executive department to small business concerns owned and controlled by service-disabled veterans during the 3-month period ending on the date of the report;

''(B) the name of each covered contractor to which the Executive department awards a contract;

''(C) for each contract awarded to a covered contractor by the Executive department—

''(i) the percentage goal negotiated under section 8(d)(6)(A) for the utilization as subcontractors of small business concerns owned and controlled by service-disabled veterans; and

''(ii) if the contract is completed during the 3-month period ending on the date of the report, the percentage of the total value of subcontracts entered into by the covered contractor awarded to small business concerns owned and controlled by service-disabled veterans;

''(D) the weighted average percentage goal negotiated by each covered contractor under section 8(d)(6)(A) for the utilization as subcontractors of small business concerns owned and controlled by service-disabled veterans for all contracts awarded by the Executive department to the covered contractor; and

''(E) for all contracts awarded to covered contractors by the Executive department that are completed during the 3-month period ending on the date of the report, the percentage of the total value of all subcontracts awarded by covered contractors that were awarded to small business concerns owned and controlled by service-disabled veterans.

''(3) RANKINGS.—For the first full fiscal year following the date of enactment of this subsection, and each fiscal year thereafter, the Administrator shall rank—

''(A) the Executive departments, based on—

''(i) the percentage of the total value of prime contracts awarded by the Executive departments to small business concerns owned and controlled by service-disabled veterans; and

''(ii) the percentage of the total value of subcontracts awarded by covered contractors that are awarded contracts by the Executive departments to small business concerns owned and controlled by service-disabled veterans; and

''(B) covered contractors, based on the percentage of the total value of subcontracts awarded by the covered contractors to small business concerns owned and controlled by service-disabled veterans.

''(4) PUBLICATION.—

''(A) WEBSITE.—Except as provided in subparagraph (B), the Administrator shall publish on a website accessible to the public a user-friendly, electronically searchable report containing—

''(i) the information submitted to the Administrator under paragraph (2); and

''(ii) the rankings made by the Administrator under paragraph (3).

''(B) EXCEPTION FOR NATIONAL SECURITY.—If the head of an Executive department determines that publication of information contained in a report submitted under paragraph (2) would be detrimental to national security, the Administrator shall not publish the information on the website described in subparagraph (A).

''(C) UPDATING.—The Administrator shall update the contents of the website described in subparagraph (A) not less frequently than quarterly.

''(5) REPORTS TO CONGRESS.—

''(A) ANNUAL REPORT.—The Administrator shall submit to Congress an annual report on the progress of each Executive department toward meeting the Government-wide goals for contracting and subcontracting established under subsection (g).

''(B) CONTENTS.—Each report under this paragraph shall include—

''(i) a statement of whether the website described in paragraph (4) contains the latest data reported to the Administrator by the Executive departments; and

''(ii) a recommendation of a prime contractor that should be recognized by Congress for outstanding progress in contracting with small business concerns owned and controlled by service-disabled veterans.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect any other reporting requirement under Federal law.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 389. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table.

SA 390. Ms. SNOWE (for herself, Mr. COBURN, Mr. MCCONNELL, Mr. BARRASSO, Mr. BROWN of Massachusetts, Mr. MORAN, Mr. THUNE, Mr. ENZI, Ms. AYOTTE, and Mr. ISAKSON) submitted an amendment intended to be proposed by her to the bill S. 782, supra; which was ordered to lie on the table.

SA 391. Mr. MORAN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 392. Mr. TESTER (for himself, Mr. CORKER, Mrs. HAGAN, Mr. CRAPO, Mr. BENNET, Mr. BLUNT, Mr. CARPER, Mr. KYL, and Mr. COONS) proposed an amendment to the bill S. 782, supra.

SA 393. Mr. DURBIN proposed an amendment to amendment SA 392 proposed by Mr. TESTER (for himself, Mr. CORKER, Mrs. HAGAN, Mr. CRAPO, Mr. BENNET, Mr. BLUNT, Mr. CARPER, Mr. KYL, and Mr. COONS) to the bill S. 782, supra.

SA 394. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 395. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 396. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 397. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 398. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 399. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 400. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 401. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 402. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 403. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 404. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 405. Mr. BROWN of Massachusetts (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 406. Mrs. HUTCHISON (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 782, supra; which was ordered to lie on the table.

SA 407. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 408. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 409. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 410. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 411. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 412. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 413. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

SA 414. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table .

SA 415. Mr. BARRASSO (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 389. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. _____. NOPEC.

(a) SHORT TITLE.—This section may be cited as the ''No Oil Producing and Exporting Cartels Act of 2011'' or ''NOPEC''.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—

''(1) IN GENERAL.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.

''(2) NO PRIVATE RIGHT OF ACTION.—No private right of action is authorized under this section.''.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(7) in which the action is brought under section 7A of the Sherman Act.''.

SA 390. Ms. SNOWE (for herself, Mr. COBURN, Mr. MCCONNELL, Mr. BARRASSO, Mr. BROWN of Massachusetts, Mr. MORAN, Mr. THUNE, Mr. ENZI, Ms. AYOTTE, and Mr. ISAKSON) submitted an amendment intended to be proposed by her to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE _____—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES

SEC. _____1. SHORT TITLE.

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011''.

SEC. _____2. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to

ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

SEC. _____3. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SEC. _____4. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

SEC. _____5. PERIODIC REVIEW.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b) Each plan established under subsection (a) shall provide for—

''(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011—

''(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

''(B) every 9 years thereafter; and

''(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011—

''(A) not later than 9 years after the publication of the final rule in the Federal Register; and

''(B) every 9 years thereafter.

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the economic impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

''(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

''(B) notify the head of the agency of—

''(i) the results of the determination under subparagraph (A); and

''(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

''(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

''(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

''(i) determine whether the agency has addressed the issues identified in the notice; and

''(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

''(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

''(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).''.

SEC. _____6. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''a covered agency'' the first place it appears and inserting ''an agency designated under subsection (d)''; and

(B) by striking ''a covered agency'' each place it appears and inserting ''the agency'';

(2) by striking subsection (d), as amended by section 1100G(a) of Public Law 111–203 (124 Stat. 2112), and inserting the following:

''(d)(1)(A) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor shall be—

''(i) agencies designated under this subsection; and

''(ii) subject to the requirements of subsection (b).

''(B) On and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582), the Bureau of Consumer Financial Protection shall be—

''(i) an agency designated under this subsection; and

''(ii) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011;

''(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011; and

''(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011.

''(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.''; and

(3) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, as added by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and apply on and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582).

SEC. _____7. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. _____8. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 3 of this title, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. _____9. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking ''Each agency'' and inserting the following:

''(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency''; and

(B) by adding at the end the following:

''(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.''; and

(2) in subsection (c)—

(A) by striking ''Agencies shall report'' and all that follows through ''the scope'' and inserting ''Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope''; and

(B) by striking ''and the total amount of penalty reductions and waivers'' and inserting ''the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)''.

SEC. _____10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(1) by striking subsection (b) and inserting the following:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by

another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. _____11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. _____12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. _____13. FUNDING AND OFFSETS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Small Business Administration, for any costs of carrying out this title and the amendments made by this title (including the costs of hiring additional employees)—

(1) $1,000,000 for fiscal year 2012;

(2) $2,000,000 for fiscal year 2013; and

(3) $3,000,000 for fiscal year 2014.

(b) REPEALS.—In order to offset the costs of carrying out this title and the amendments made by this title and to reduce the Federal deficit, the following provisions of law are repealed, effective on the date of enactment of this Act:

(1) Section 21(n) of the Small Business Act (15 U.S.C. 648).

(2) Section 27 of the Small Business Act (15 U.S.C. 654).

(3) Section 1203(c) of the Energy Security and Efficiency Act of 2007 (15 U.S.C. 657h(c)).

SEC. _____14. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended in the section heading by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification.**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.'';

and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

SA 391. Mr. MORAN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 22. CONSUMER FINANCIAL PROTECTION AGENCY.

(a) ESTABLISHMENT OF THE AGENCY.—Section 1011 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5491) is amended to read as follows:

''SEC. 1011. ESTABLISHMENT OF THE CONSUMER FINANCIAL PROTECTION AGENCY.

''(a) AGENCY ESTABLISHED.—There is established the Consumer Financial Protection Agency, which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws. The Agency shall be considered an executive agency, as defined in section 105 of title 5, United States Code. Except as otherwise expressly provided by law, all Federal laws dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, United States Code, shall apply to the exercise of the powers of the Agency.

''(b) ESTABLISHMENT OF A BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The management of the Agency shall be vested in a Board of Directors, consisting of 6 Directors—

''(A) 1 of whom shall be the Comptroller of the Currency;

''(B) 1 of whom shall be the Chairperson of the Corporation;

''(C) 1 of whom shall be the Chairman of the Board of Governors; and

''(D) 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and have demonstrated understanding of financial regulation and consumer financial protection.

''(2) POLITICAL AFFILIATION.—Not more than 2 Directors appointed under paragraph (1)(D) may belong to the same political party.

''(3) CHAIR AND VICE CHAIR.—

''(A) CHAIR.—One of the appointed Director shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chair of the Board of Directors.

''(B) VICE CHAIR.—One of the appointed Director shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chair of the Board of Directors.

''(C) ACTING CHAIR.—In the event of a vacancy in the position of Chair of the Board of Directors, or during the absence or disability of the Chair, the Vice Chair shall act as Chair.

''(4) QUORUM.—Three Directors shall constitute a quorum for the transaction of business.

''(c) TERMS.—

''(1) APPOINTED DIRECTORS.—Each appointed Director shall be appointed for a term of 5 years, unless sooner removed by the President, upon reason to be communicated by the President to the Senate.

''(2) INTERIM APPOINTMENTS.—Any Director appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

''(3) CONTINUATION OF SERVICE.—The Chair, Vice Chair, and each appointed Director may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

''(4) VACANCY.—

''(A) IN GENERAL.—In the event that any appointed Director is removed by the President pursuant to paragraph (1), or otherwise vacates the position before the expiration of the term for which that member was appointed, such vacancy shall be filled by the President in accordance with the procedures set forth in subsection (b)(1)(D), and the appointed Director shall complete only the remainder of the term existing at the time of the vacancy.

''(B) NO IMPAIRMENT BY REASON OF VACANCY.—No vacancy in the membership of the Board of Directors shall impair the right of the remaining Directors to exercise all the powers of the Board of Directors.

''(d) SERVICE RESTRICTIONS.—

''(1) IN GENERAL.—No Director may—

''(A) hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider; or

''(B) hold stock in any covered person or service provider while serving as a Director.

''(2) CERTIFICATION.—Upon taking office, each Director shall certify under oath that such member has complied with this subsection, which certification shall be filed with the Board of Directors.

''(e) EXERCISE OF AUTHORITY OF THE AGENCY.—Prior to carrying out any authority granted to the Agency or any Director, a majority of the Board of Directors shall vote affirmatively to authorize the Agency or such member to take such action.

''(f) OFFICES.—The principal office of the Agency shall be in the District of Columbia.''.

(b) BRINGING THE BUREAU INTO THE REGULAR APPROPRIATIONS PROCESS.—Section 1017 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5497) is amended—

(1) in subsection (a)—

(A) by striking the subsection heading and inserting the following: ''BUDGET, FINANCIAL MANAGEMENT, AND AUDIT.—'';

(B) by striking paragraphs (1), (2), and (3);

(C) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively; and

(D) in paragraph (1), as so redesignated, by striking subparagraphs (E) and (F); and

(2) by striking subsections (b) through (e) and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Bureau, to carry out this title, not more than $143,000,000 for fiscal year 2011.''.

(c) SAFETY AND SOUNDNESS CHECK.—Section 1022(b)(2)(A) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5497(b)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by inserting ''and'' at the end; and

(3) by adding at the end the following:

''(iii) the impact of such rule on the financial safety or soundness of an insured depository institution;''.

(d) CONSUMER FINANCIAL PROTECTION ACT OF 2010 CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

(A) by striking ''Bureau'' each place that term appears in relation to the Bureau of Consumer Financial Protection and inserting ''Agency'';

(B) by striking ''Director of the'' each place such term appears in relation to the Director of the Bureau of Consumer Financial Protection;

(C) by striking ''Director'' each place such term appears, except where such term is used to refer to a Director other than the Director of the Bureau of Consumer Financial Protection, and inserting ''Board of Directors''; and

(D) in section 1002 (12 U.S.C. 5481)—

(i) by striking paragraph (2) and inserting the following:

''(2) AGENCY.—The term 'Agency' means the Consumer Financial Protection Agency established under this title.''; and

(ii) by striking paragraph (10) and inserting the following:

''(10) DIRECTORS.—The terms 'Board of Directors' and 'Director' mean the board of directors of the Agency and a member thereof, respectively.''.

(2) EXCEPTIONS.—The Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

(A) in section 1012(c)(4) (12 U.S.C. 5492(c)(4)), by striking ''Director'' each place such term appears and inserting ''Board of Directors'';

(B) in section 1013(c)(3) (12 U.S.C. 5493(c)(3))—

(i) by striking ''Assistant Director of the Bureau for'' and inserting ''head of the Office of''; and

(ii) in subparagraph (B), by striking ''Assistant Director'' and inserting ''Head of the Office'';

(C) in section 1013(g)(2) (12 U.S.C. 5493(g)(2))—

(i) in the paragraph heading, by striking ''ASSISTANT DIRECTOR'' and inserting ''HEAD OF THE OFFICE''; and

(ii) by striking ''an assistant director'' and inserting ''a Head of the Office of Financial Protection for Older Americans'';

(D) in section 1016(a) (12 U.S.C. 5496(a)), by striking ''Director of the Bureau'' and inserting ''Chair of the Board of Directors of the Agency''; and

(E) in section 1066(a) (12 U.S.C. 5586(a)), by striking ''Director of the Bureau is'' and inserting ''first member of the Board of Directors is''.

(e) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT CONFORMING AMENDMENTS.—The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is amended—

(1) in section 2 (12 U.S.C. 5301), by striking paragraph (4) and inserting the following:

''(4) AGENCY DEFINITIONS.—The—

''(A) term 'Agency' means the Consumer Financial Protection Agency established under title X; and

''(B) terms 'Board of Directors' and 'Director' mean the board of directors of the Agency and a member thereof, respectively.'';

(2) in section 111(b)(1)(D) (12 U.S.C. 5321), by striking ''Director'' and inserting ''Chair of the Board of Directors of the Agency''; and

(3) in section 1447 (12 U.S.C. 1701p–2), by striking ''Director of the Bureau'' each place that term appears and inserting ''Chair of the Board of Directors of the Agency''.

(f) ELECTRONIC FUND TRANSFER ACT CONFORMING AMENDMENTS.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) effective on the date of enactment of this Act, in section 920(a)(4)(C) (15 U.S.C. 1693o–2(a)(4)(C)), as added by section 1075(a)(2) of the Consumer Financial Protection Act of 2010, is amended by striking ''Director of the Bureau of Consumer Financial Protection'' and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency''; and

(2) effective as of the effective date of subtitle H of the Consumer Financial Protection Act of 2010—

(A) in section 903 (15 U.S.C. 1693a), by striking the second paragraph designated as paragraph (4) (as added by section 1084(2)(B) of the Consumer Financial Protection Act of 2010) and inserting the following:

''(4) the term 'Agency' means the Consumer Financial Protection Agency;''; and

(B) by striking ''Bureau'' each place that term appears and inserting ''Agency''.

(g) EXPEDITED FUNDS AVAILABILITY ACT CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.), as amended by section 1086 of the Consumer Financial Protection Act of 2010, is amended by striking ''Director of the Bureau of Consumer Financial Protection'' each place that term appears and inserting ''Consumer Financial Protection Agency''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(h) FEDERAL DEPOSIT INSURANCE ACT CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) by striking ''Bureau of Consumer Financial Protection'' each place that term appears and inserting ''Consumer Financial Protection Agency'';

(2) by striking ''Bureau'' each place that term appears in the context of the Bureau of Consumer Financial Protection, and inserting ''Consumer Financial Protection Agency''; and

(3) in section 2 (12 U.S.C. 1812), as amended by section 336(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by striking ''Director of the Consumer Financial Protection Bureau'' each place that term appears and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency''.

(i) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978 CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)), as amended by section 1091 of the Consumer Financial Protection Act of 2010, is amended by striking ''Director of the Consumer Financial Protection Bureau'' and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(j) FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT CONFORMING AMENDMENTS.—Section 513 of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702), as amended by section 1013(d)(5) of the Consumer Financial Protection Act of 2010, is amended by striking ''Director of the Bureau of Consumer Financial Protection'' each place that term appears and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency''.

(k) HOME MORTGAGE DISCLOSURE ACT OF 1975 CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806), as added by section 1094(6) of the Consumer Financial Protection Act of 2010, is amended—

(A) by striking ''Director of the Bureau of Consumer Financial Protection'' each place that term appears and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency''; and

(B) in subsection (a)(1), by striking ''Bureau deems'' and inserting ''Chair of the Board of Directors of the Consumer Financial Protection Agency deems''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(l) INTERSTATE LAND SALES FULL DISCLOSURE ACT CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.), as amended by section 1098A of the Consumer Financial Protection Act of 2010, is amended—

(A) by striking ''Bureau'' each place that term appears and inserting ''Agency'';

(B) in section 1402 (15 U.S.C. 1701)—

(i) by striking paragraph (1) and inserting the following:

''(1) 'Agency' means the Consumer Financial Protection Agency;''; and

(ii) by striking paragraph (12) and inserting the following:

''(12) 'Chair' means the Chair of the Board of Directors of the Consumer Financial Protection Agency.''.

(C) in section 1416(a) (15 U.S.C. 1715(a)), by striking ''Director of the Bureau of Consumer Financial Protection'' and inserting ''Agency''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(m) REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 CONFORMING AMENDMENTS.—Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604), as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended—

(1) by striking ''The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the 'Director')'' and inserting ''The Consumer Financial Protection Agency (in this section referred to as the 'Agency')''; and

(2) by striking ''Director'' each place that term appears and inserting ''Agency''.

(n) S.A.F.E. MORTGAGE LICENSING ACT OF 2008 CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101), as amended by section 1100 of the Consumer Financial Protection Act of 2010, is amended—

(A) by striking ''Director'' each place that term appears, other than where such term is used in the context of the Director of the Office of Thrift Supervision, and inserting ''Agency'';

(B) by striking ''Bureau'' each place that term appears, other than where such term is used in the context of the Director of the Office of Thrift Supervision, and inserting ''Agency''; and

(C) in section 1503 (12 U.S.C. 5102)—

(i) by striking paragraph (1) and inserting the following:

''(1) AGENCY.—The term 'Agency' means the Consumer Financial Protection Agency.''; and

(ii) by striking paragraph (10) and inserting the following:

''(10) DIRECTORS.—The terms 'Board of Directors' and 'Director' mean the board of directors of the Agency and a member thereof, respectively.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(o) TITLE 44, UNITED STATES CODE CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Title 44, United States Code, as amended by section 1100D(b) of the Consumer Financial Protection Act of 2010, is amended—

(A) in section 3502(5), by striking ''Bureau of Consumer Financial Protection'' and inserting ''Consumer Financial Protection Agency''; and

(B) in section 3513(c), by striking ''Director of the Bureau of Consumer Financial Protection'' and inserting ''Consumer Financial Protection Agency''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(p) TRUTH IN LENDING ACT CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Truth in Lending Act (15 U.S.C. 1601 et seq.), as amended by section 1084 of the Consumer Financial Protection Act of 2010, is amended—

(A) in section 103 (15 U.S.C. 1602), by striking subsections (b) and (c) and inserting the following:

''(b) The term 'Agency' means the Consumer Financial Protection Agency.

''(c) The terms 'Board of Directors' and 'Director' mean the board of directors of the Agency and a member thereof, respectively.''; and

(B) by striking ''Bureau'' each place that term appears and inserting ''Agency''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the day after the effective date of the amendments made by subtitle H of the Consumer Financial Protection Act of 2010.

(q) RULE OF CONSTRUCTION.—Except as specified in the amendments made by this section, all references in Federal law to the Bureau of Consumer Financial Protection and the Director thereof shall be deemed to be references to the Consumer Financial Protection Agency and the Board of Directors thereof, respectively.

SA 392. Mr. TESTER (for himself, Mr. CORKER, Mrs. HAGAN, Mr. CRAPO, Mr. BENNET, Mr. BLUNT, Mr. CARPER, Mr. KYL, and Mr. COONS) proposed an amendment to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE _____—DEBIT INTERCHANGE FEE REFORM

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Debit Interchange Fee Reform Act of 2011''.

SEC. ___2. FINDINGS.

Congress finds that—

(1) in response to the proposed debit interchange rule of the Board of Governors of the Federal Reserve System mandated by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Chairman of Board, the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration Board have publicly raised concerns about the impact of the proposed rule;

(2) while testifying before the Committee on Banking, Housing, and Urban Affairs of the Senate on February 17, 2011, the Chairman of the Board stated in response to questions about the small bank exemption to the interchange rule, ''there is some risk that the exemption will not be effective and that the interchange fees available through smaller institutions will be reduced to the same extent we would see for larger banks'';

(3) the Acting Comptroller of the Currency, in comments to the Board, cited safety and soundness concerns and stated, ''We believe the proposal takes an unnecessarily narrow approach to recovery of costs that would be allowable under the law and that are recognized and indisputably part of conducting a debit card business. This has long-term safety and soundness consequences for banks of all sizes.'';

(4) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation stated in comments to the Board regarding the proposed rule their concern that the small bank exemption would not work, stating, ''We are concerned that these institutions may not actually receive the benefit of the interchange fee limit exemption explicitly provided by Congress, resulting in a loss of income for community banks and ultimately higher banking costs for their customers.'';

(5) the Chairman of the National Credit Union Administration Board, in comments to the Board, cited concern with making sure there are ''meaningful exemptions for smaller card issuers''; and

(6) all of the comments and concerns raised by the banking and credit union regulatory agencies cast serious questions about the practical implementation of section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and further study and consideration are needed.

SEC. ___3. RULEMAKING AND EFFECTIVE DATES.

Section 920 of the Electronic Fund Transfer Act (15 U.S.C. 1693o–2), as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended—

(1) in subsection (a)(3)(A), by striking ''9 months after the date of enactment of the Consumer Financial Protection Act of 2010'' and inserting ''12 months after the date of enactment of the Debit Interchange Fee Reform Act of 2011'';

(2) in subsection (a)(5)(B)(i), by striking ''9 months after the date of enactment of the Consumer Financial Protection Act of 2010'' and inserting ''12 months after the date of enactment of the Debit Interchange Fee Reform Act of 2011'';

(3) in subsection (a)(8)(C), by striking ''9-month period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010'' and inserting ''12-month period beginning on the date of enactment of the Debit Interchange Fee Reform Act of 2011'';

(4) in subsection (a)(9), by striking ''at the end of the 12-month period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010'' and inserting ''a date determined by the Board'';

(5) in subsection (b)(1)(A), by striking ''1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010'' and inserting ''12-month period beginning on the date of enactment of the Debit Interchange Fee Reform Act of 2011''; and

(6) in subsection (b)(1)(B), by striking ''1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010'' and inserting ''12-month period beginning on the date of enactment of the Debit Interchange Fee Reform Act of 2011''.

SEC. ___4. STUDY AND REPORT TO CONGRESS.

(a) STUDY REQUIRED.—Not later than 6 months after the date of enactment of this Act, the study agencies shall jointly 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 a study regarding the impact of regulating debit interchange transaction fees and related issues under section 920 of the Electronic Fund Transfer Act, as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(b) SUBJECTS FOR REVIEW.—In conducting the study required by this section, the study agencies shall examine the state of the debit interchange payment system, including the impact of section 920 of the Electronic Fund Transfer Act, as amended by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and the proposed rule issued by the Board entitled, ''Debit Card Interchange Fees and Routing'', on consumers, entities that accept debit cards as payment, all financial institutions that issue debit cards, including small issuers, and payment card networks, and shall specifically address—

(1) all fixed and incremental costs associated with debit card transactions and program operations to card issuers and payment card networks, including—

(A) all direct and indirect costs associated with fraud prevention, detection, and mitigation, including data breach and identity theft, and the overall costs of fraud incurred by debit card issuers and merchants; and

(B) financial liability and payment guarantees for debit card transactions and associated risks and costs incurred by debit card issuers and merchants;

(2) the overall impact of regulating interchange fees on consumers, including—

(A) the impact on consumer protection, including anti-fraud;

(B) the impact on the cost and accessibility of payment accounts and services; and

(C) the impact on retail prices from changed interchange rates;

(3) the effectiveness of the exemptions for small issuers, government-administered payment programs, and reloadable prepaid cards included in section 920 of the Electronic Fund Transfer Act, including—

(A) the impact of market forces on such treatment;

(B) in the case of small issuers, the impact on the safety and soundness of those institutions and their ability to provide competitive products and services to consumers; and

(C) in the case of government-administered payment programs, the impact on entities and individuals that utilize such payment programs and cards; and

(4) the impact of routing and exclusivity provisions in section 920(b) of the Electronic Fund Transfer Act on all issuers.

SEC. ___5. REVISIONS TO RULES.

(a) EARLIER RULEMAKING SUSPENDED.—Any regulation proposed or prescribed by the Board pursuant to section 920 of the Electronic Fund Transfer Act during the period beginning on the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act and ending on the date of completion of the study required under section ___04 shall be suspended by the Board pending the determination required under subsection (b) of this section.

(b) DETERMINATION.—Upon submission to Congress of the report required by section ___04, the study agencies, through a process coordinated by the Board, shall make a determination of whether—

(1) either section 920 of the Electronic Fund Transfer Act, as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the related proposed rule issued by the Board entitled ''Debit Card Interchange Fees and Routing'' (75 Fed. Reg. 81722 (Dec. 28, 2010)), does not consider all fixed and incremental costs associated with debit card transactions and program operations to card issuers and payment card networks;

(2) debit card consumers may be adversely affected by either such section or such proposed rule; or

(3) the exemption for small issuers provided by such section or as carried out by such proposed rule may not be effective in practice.

(c) RULEMAKING.—

(1) ISSUANCE OF NEW RULES.—If at least 2 of the study agencies, including the Board, make a finding described in any or all of paragraphs (1), (2), and (3) of subsection (b), then—

(A) any regulation proposed or prescribed by the Board pursuant to section 920 of the Electronic Fund Transfer Act during the period beginning on the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act and ending on the date of completion of the study required under section ___04 shall be withdrawn by the Board and shall have no legal force or effect; and

(B) not later than 6 months after the date of submission of the report under section __04, the Board shall issue new rules in final form under section 920 of the Electronic Fund Transfer Act, as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, based on such findings.

(2) CONSIDERATION OF COSTS.—In issuing final rules under this subsection, the Board shall consider all fixed and incremental costs associated with debit card transactions and program operations and allow incentives for a more innovative, efficient, and secure payment card network, notwithstanding subparagraph (A) or (B) of section 920(a)(4) of the Electronic Fund Transfer Act, as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(d) SMALL ISSUER REVIEW.—

(1) SMALL ISSUER EXEMPTION REVIEW.—Not later than 2 years after the date of implementation of this Act, and biennially thereafter, the Board shall examine the debit interchange market to determine whether the small issuer exemption under section 920(a)(6) of the Electronic Fund Transfer Act, as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is effective in practice, by examining factors such as—

(A) changes in interchange rates offered to small issuers by all payment card networks;

(B) changes in fees paid by small issuers to payment card networks, including fees for participation in those networks and other operational and transactional fees;

(C) changes and developments by payment card networks, merchants, or merchant acquirers and processors designed to influence the payment method of consumers, including steering; and

(D) the impact of routing and exclusivity provisions of section 920(b) of the Electronic Fund Transfers Act on small issuers.

(2) REPORT TO CONGRESS.—Upon completion of the review described in paragraph (1), the Board shall submit a report of its findings to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the effectiveness of the small issuer exemption in practice, including recommended legislative or regulatory remedies for mitigating any harm to small issuers and adequately enforcing the exemption.

SEC. ___6. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) BOARD.—The term ''Board'' means the Board of Governors of the Federal Reserve System.

(2) SMALL ISSUER.—The term ''small issuer'' means any debit card issuer that is a depository institution that, together with its affiliates, has assets of less than $10,000,000,000.

(3) STUDY AGENCIES.—The term ''study agencies'' means the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

SA 393. Mr. DURBIN proposed an amendment to amendment SA 392 proposed by Mr. TESTER (for himself, Mr. CORKER, Mrs. HAGAN, Mr. CRAPO, Mr. BENNET, Mr. BLUNT, Mr. CARPER, Mr. KYL, and Mr. COONS) to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; as follows:

On page 10, line 9, strike ''2 years'' and insert ''one year''.

SA 394. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 21. REPEAL OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is repealed, and the provisions of law amended by such Act are revived or restored as if such Act had not been enacted.

SA 395. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ___—UNITED STATES AUTHORIZATION AND SUNSET COMMISSION ACT OF 2011

SEC. __01. SHORT TITLE.

This title may be cited as the ''United States Authorization and Sunset Commission Act of 2011''.

SEC. __02. DEFINITIONS.

In this title—

(1) the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code;

(2) the term ''Commission'' means the United States Authorization and Sunset Commission established under section __03; and

(3) the term ''Commission Schedule and Review bill'' means the proposed legislation submitted to Congress under section __04(b).

SEC. __03. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the United States Authorization and Sunset Commission.

(b) COMPOSITION.—The Commission shall be composed of eight members (in this title referred to as the ''members''), as follows:

(1) Four members appointed by the majority leader of the Senate, one of whom may include the majority leader of the Senate, with minority members appointed with the consent of the minority leader of the Senate.

(2) Four members appointed by the Speaker of the House of Representatives, one of whom may include the Speaker of the House of Representatives, with minority members appointed with the consent of the minority leader of the House of Representatives.

(3) The Director of the Congressional Budget Office and the Comptroller of the Government Accountability Office shall be non-voting ex officio members of the Commission.

(c) QUALIFICATIONS OF MEMBERS.—

(1) IN GENERAL.—

(A) SENATE MEMBERS.—Of the members appointed under subsection (b)(1), four shall be members of the Senate (not more than two of whom may be of the same political party).

(B) HOUSE OF REPRESENTATIVE MEMBERS.—Of the members appointed under subsection (b)(2), four shall be members of the House of Representatives, not more than two of whom may be of the same political party.

(2) CONTINUATION OF MEMBERSHIP.—

(A) IN GENERAL.—If a member was appointed to the Commission as a Member of Congress and the member ceases to be a Member of Congress, that member shall cease to be a member of the Commission.

(B) ACTIONS OF COMMISSION UNAFFECTED.—Any action of the Commission shall not be affected as a result of a member becoming ineligible under subparagraph (A).

(d) INITIAL APPOINTMENTS.—Not later than 90 days after the date of enactment of this title, all initial appointments to the Commission shall be made.

(e) CHAIRPERSON; VICE CHAIRPERSON.—

(1) INITIAL CHAIRPERSON.—An individual shall be designated by the Speaker of the House of Representatives from among the members initially appointed under subsection (b)(2) to serve as chairperson of the Commission for a period of 2 years.

(2) INITIAL VICE CHAIRPERSON.—An individual shall be designated by the majority leader of the Senate from among the individuals initially appointed under subsection (b)(1) to serve as vice-chairperson of the Commission for a period of 2 years.

(3) ALTERNATE APPOINTMENTS OF CHAIRMEN AND VICE CHAIRMEN.—Following the termination of the 2-year period described under paragraphs (1) and (2), the Speaker and the majority leader of the Senate shall alternate every 2 years in appointing the chairperson and vice-chairperson of the Commission.

(f) TERMS OF MEMBERS.—

(1) MEMBERS OF CONGRESS.—Each member appointed to the Commission shall serve for a term of 6 years, except that, of the members first appointed under paragraphs (1) and (2) of subsection (b), two members shall be appointed to serve a term of 3 years.

(2) TERM LIMIT.—A member of the Commission who serves more than 3 years of a term

may not be appointed to another term as a member.

(g) INITIAL MEETING.—If, after 90 days after the date of enactment of this title, five or more members of the Commission have been appointed—

(1) members who have been appointed may—

(A) meet; and

(B) select a chairperson from among the members (if a chairperson has not been appointed) who may serve as chairperson until the appointment of a chairperson; and

(2) the chairperson shall have the authority to begin the operations of the Commission, including the hiring of staff.

(h) MEETING; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(i) POWERS OF THE COMMISSION.—

(1) IN GENERAL.—

(A) HEARINGS, TESTIMONY, AND EVIDENCE.—The Commission may, for the purpose of carrying out the provisions of this title—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, that the Commission or such designated subcommittee or designated member may determine advisable.

(B) SUBPOENAS.—Subpoenas issued under subparagraph (A)(ii) may be issued to require attendance and testimony of witnesses and the production of evidence relating to any matter under investigation by the Commission.

(C) INFORMATION GATHERING.—In carrying out the provisions of section 4, the Commission shall—

(i) conduct public hearings; and

(ii) provide an opportunity for public comment.

(D) ENFORCEMENT.—The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this paragraph.

(2) CONTRACTING.—The Commission may contract with and compensate government and private agencies or persons for services without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) to enable the Commission to discharge its duties under this title.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson.

(4) SUPPORT SERVICES.—

(A) GOVERNMENT ACCOUNTABILITY OFFICE.—The Government Accountability Office is authorized on a reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the functions of the Commission.

(B) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(C) AGENCIES.—In addition to the assistance under subparagraphs (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as the Commission may determine advisable as may be authorized by law.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(6) IMMUNITY.—The Commission is an agency of the United States for purposes of part V of title 18, United States Code (relating to immunity of witnesses).

(7) DIRECTOR AND STAFF OF THE COMMISSION.—

(A) DIRECTOR.—The chairperson of the Commission may appoint a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level II of the Executive Schedule. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(ii) MEMBERS OF COMMISSION.—Clause (i) shall not be construed to apply to members of the Commission.

(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—With the approval of the majority of the Commission, the chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(8) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Members shall not be paid by reason of their service as members.

(B) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703(b) of title 5, United States Code.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for the purposes of carrying out the duties of the Commission.

(k) TERMINATION.—The Commission shall terminate on December 31, 2041.

SEC. __04. DUTIES AND RECOMMENDATIONS OF THE UNITED STATES AUTHORIZATION AND SUNSET COMMISSION.

(a) SCHEDULE AND REVIEW.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this title and at least once every 10 years thereafter, the Commission shall submit to Congress a legislative proposal that includes the schedule of review and abolishment of agencies and programs (in this section referred to as the ''Commission Schedule and Review bill'').

(2) SCHEDULE.—The schedule of the Commission shall provide a timeline for the Commission's review and proposed abolishment of—

(A) at least 25 percent of unauthorized agencies or programs as measured in dollars, including those identified by the Congressional Budget Office under section 602(e)(3) of title 2, United States Code; and

(B) at least 25 percent of the agencies and programs with duplicative goals and activities within Departments and government-wide as measured in dollars identified by the Comptroller General of the Government Accountability Office under section 21 of the Statutory Pay-As-You-Go Act of 2010 (P. L. 111-139; 31 U.S.C. 712 note).

(3) REVIEW OF AGENCIES.—In determining the schedule for review and abolishment of agencies under paragraph (1), the Commission shall provide that any agency that performs similar or related functions be reviewed concurrently.

(4) CRITERIA AND REVIEW.—The Commission shall review each agency and program identified under paragraph (1) in accordance with the following criteria as applicable:

(A) The effectiveness and the efficiency of the program or agency.

(B) The achievement of performance goals (as defined under section 1115(g)(4) of title 31, United States Code).

(C) The management of the financial and personnel issues of the program or agency.

(D) Whether the program or agency has fulfilled the legislative intent surrounding its creation, taking into account any change in legislative intent during the existence of the program or agency.

(E) Ways the agency or program could be less burdensome but still efficient in protecting the public.

(F) Whether reorganization, consolidation, abolishment, expansion, or transfer of agencies or programs would better enable the Federal Government to accomplish its missions and goals.

(G) The promptness and effectiveness of an agency in handling complaints and requests made under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

(H) The extent that the agency encourages and uses public participation when making rules and decisions.

(I) The record of the agency in complying with requirements for equal employment opportunity, the rights and privacy of individuals, and purchasing products from historically underutilized businesses.

(J) The extent to which the program or agency duplicates or conflicts with other Federal agencies, State or local government, or the private sector and if consolidation or streamlining into a single agency or program is feasible.

(b) SCHEDULE AND ABOLISHMENT OF AGENCIES AND PROGRAMS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this title and at least once every 10 years thereafter, the Commission shall submit to the Congress a Commission Schedule and Review bill that—

(A) includes a schedule for review of agencies and programs; and

(B) abolishes any agency or program 2 years after the date the Commission completes its review of the agency or program, unless the agency or program is reauthorized by Congress.

(2) EXPEDITED CONGRESSIONAL CONSIDERATION PROCEDURES.—In reviewing the Commission Schedule and Review bill, Congress shall follow the expedited procedures under section __06.

(c) RECOMMENDATIONS AND LEGISLATIVE PROPOSALS.—

(1) REPORT.—Not later than 2 years after the date of enactment of this title, the Commission shall submit to Congress and the President—

(A) a report that reviews and analyzes according to the criteria established under subsection (a)(4) for each agency and program to be reviewed in the year in which the report is submitted under the schedule submitted to Congress under subsection (a)(1);

(B) a proposal, if appropriate, to reauthorize, reorganize, consolidate, expand, or transfer the Federal programs and agencies to be reviewed in the year in which the report is submitted under the schedule submitted to Congress under subsection (a)(1); and

(C) legislative provisions necessary to implement the Commission's proposal and recommendations.

(2) ADDITIONAL REPORTS.—The Commission shall submit to Congress and the President additional reports as prescribed under paragraph (1) on or before June 30 of every other year.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the power of the Commission to review any Federal program or agency.

(e) APPROVAL OF REPORTS.—The Commission Schedule and Review bill and all other legislative proposals and reports submitted under this section shall require the approval of not less than five members of the Commission.

SEC. __05. EXPEDITED CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—If any legislative proposal with provisions is submitted to Congress under section __04(c), a bill with that proposal and provisions shall be introduced in the Senate by the majority leader, and in the House of Representatives, by the Speaker. Upon introduction, the bill shall be referred to the appropriate committees of Congress under paragraph (2). If the bill is not introduced in accordance with the preceding sentence, then any Member of Congress may introduce that bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of such proposal with provisions.

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A bill introduced under paragraph (1) shall be referred to any appropriate committee of jurisdiction in the Senate, any appropriate committee of jurisdiction in the House of Representatives, the Committee on the Budget and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Budget and the Committee on Homeland Security and Governmental Affairs of the House of Representatives.

(B) REPORTING.—Not later than 30 calendar days after the introduction of the bill, each committee of Congress to which the bill was referred shall report the bill or a committee amendment thereto.

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a bill has not reported such bill at the end of 30 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a bill, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such bill, and such bill shall be placed on the appropriate calendar of the House involved.

(b) EXPEDITED PROCEDURE.—

(1) CONSIDERATION.—

(A) IN GENERAL.—Not later than 5 calendar days after the date on which a committee has been discharged from consideration of a bill, the majority leader of the Senate, or the majority leader's designee, or the Speaker of the House of Representatives, or the Speaker's designee, shall move to proceed to the consideration of the committee amendment to the bill, and if there is no such amendment, to the bill. It shall also be in order for any member of the Senate or the House of Representatives, respectively, to move to proceed to the consideration of the bill at any time after the conclusion of such 5-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a bill is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the bill, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate or the House of Representatives, as the case may be, shall immediately proceed to consideration of the bill without intervening motion, order, or other business, and the bill shall remain the unfinished business of the Senate or the House of Representatives, as the case may be, until disposed of.

(C) LIMITED DEBATE.—Debate on the bill and all amendments thereto and on all debatable motions and appeals in connection therewith shall be limited to not more than 50 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate on the bill is in order and is not debatable. All time used for consideration of the bill, including time used for quorum calls (except quorum calls immediately preceding a vote) and voting, shall come from the 50 hours of debate.

(D) AMENDMENTS.—No amendment that is not germane to the provisions of the bill shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 1 hour to be divided equally between those favoring and those opposing the amendment, motion, or appeal.

(E) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the bill, and the disposition of any pending amendments under subparagraph (D), the vote on final passage of the bill shall occur.

(F) OTHER MOTIONS NOT IN ORDER.—A motion to postpone consideration of the bill, a motion to proceed to the consideration of other business, or a motion to recommit the bill is not in order. A motion to reconsider the vote by which the bill is agreed to or not agreed to is not in order.

(2) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the bill that was introduced in such House, such House receives from the other House a bill as passed by such other House—

(A) the bill of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under subparagraph (C);

(B) the procedure in the House in receipt of the bill of the other House, with respect to the bill that was introduced in the House in receipt of the bill of the other House, shall be the same as if no bill had been received from the other House; and

(C) notwithstanding subparagraph (B), the vote on final passage shall be on the bill of the other House.

Upon disposition of a bill that is received by one House from the other House, it shall no longer be in order to consider the bill that was introduced in the receiving House.

(3) CONSIDERATION IN CONFERENCE.—

(A) CONVENING OF CONFERENCE.—Immediately upon final passage of a bill that results in a disagreement between the two Houses of Congress with respect to a bill, conferees shall be appointed and a conference convened.

(B) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(i) MOTION TO PROCEED.—The motion to proceed to consideration in the Senate of the conference report on a bill may be made even though a previous motion to the same effect has been disagreed to.

(ii) DEBATE.—Consideration in the Senate of the conference report (including a message between Houses) on a bill, and all amendments in disagreement, including all amendments thereto, and debatable motions and appeals in connection therewith, shall be limited to 20 hours, equally divided and controlled by the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) CONFERENCE REPORT DEFEATED.—Should the conference report be defeated, debate on any request for a new conference and the appointment of conferrees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to ½ hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or the minority leader's designee.

(iv) AMENDMENTS IN DISAGREEMENT.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee. No amendment that is not germane to the provisions of such amendments shall be received.

(v) LIMITATION ON MOTION TO RECOMMIT.—A motion to recommit the conference report is not in order.

(c) RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. __06. EXPEDITED CONSIDERATION OF COMMISSION SCHEDULE AND REVIEW BILL.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—The Commission Schedule and Review bill submitted under section __04(b) shall be introduced in the Senate by the majority leader, or the majority leader's designee, and in the House of Representatives, by the Speaker, or the Speaker's designee. Upon such introduction, the Commission Schedule and Review bill shall be referred to the appropriate committees of Congress under paragraph (2). If the Commission Schedule and Review bill is not introduced in accordance with the preceding sentence, then any member of Congress may introduce the Commission Schedule and Review bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of such aggregate legislative language provisions.

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission Schedule and Review bill introduced under paragraph (1) shall be referred to any appropriate committee of jurisdiction in the Senate, any appropriate committee of jurisdiction in the House of Representatives, the Committee on the Budget and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on the Budget and the Committee on Oversight and Government Reform of the House of Representatives. A committee to which a Commission Schedule and Review bill is referred under this paragraph may review and comment on such bill, may report such bill to the respective House, and may not amend such bill.

(B) REPORTING.—Not later than 30 calendar days after the introduction of the Commission Schedule and Review bill, each Committee of Congress to which the Commission Schedule and Review bill was referred shall report the bill.

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a Commission Schedule and Review bill has not reported such Commission Schedule and Review bill at the end of 30 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a Commission Schedule and Review bill, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such Commission Schedule and Review bill, and such Commission Schedule and Review bill shall be placed on the appropriate calendar of the House involved.

(b) EXPEDITED PROCEDURE.—

(1) CONSIDERATION.—

(A) IN GENERAL.—Not later than 5 calendar days after the date on which a committee has been discharged from consideration of a Commission Schedule and Review bill, the majority leader of the Senate, or the majority leader's designee, or the Speaker of the House of Representatives, or the Speaker's designee, shall move to proceed to the consideration of the Commission Schedule and Review bill. It shall also be in order for any member of the Senate or the House of Representatives, respectively, to move to proceed to the consideration of the Commission Schedule and Review bill at any time after the conclusion of such 5-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission Schedule and Review bill is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the Commission Schedule and Review bill, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate or the House of Representatives, as the case may be, shall immediately proceed to consideration of the Commission Schedule and Review bill without intervening motion, order, or other business, and the Commission Schedule and Review bill shall remain the unfinished business of the Senate or the House of Representatives, as the case may be, until disposed of.

(C) LIMITED DEBATE.—Debate on the Commission Schedule and Review bill and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the Commission Schedule and Review bill. A motion further to limit debate on the Commission Schedule and Review bill is in order and is not debatable. All time used for consideration of the Commission Schedule and Review bill, including time used for quorum calls (except quorum calls immediately preceding a vote) and voting, shall come from the 10 hours of debate.

(D) AMENDMENTS.—No amendment to the Commission Schedule and Review bill shall be in order in the Senate and the House of Representatives.

(E) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the Commission Schedule and Review bill, the vote on final passage of the Commission Schedule and Review bill shall occur.

(F) OTHER MOTIONS NOT IN ORDER.—A motion to postpone consideration of the Commission Schedule and Review bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission Schedule and Review bill is not in order. A motion to reconsider the vote by which the Commission Schedule and Review bill is agreed to or not agreed to is not in order.

(2) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the Commission Schedule and Review bill that was introduced in such House, such House receives from the other House a Commission Schedule and Review bill as passed by such other House—

(A) the Commission Schedule and Review bill of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under subparagraph (C);

(B) the procedure in the House in receipt of the Commission Schedule and Review bill of the other House, with respect to the Commission Schedule and Review bill that was introduced in the House in receipt of the Commission Schedule and Review bill of the other House, shall be the same as if no Commission Schedule and Review bill had been received from the other House; and

(C) notwithstanding subparagraph (B), the vote on final passage shall be on the Commission Schedule and Review bill of the other House. Upon disposition of a Commission Schedule and Review bill that is received by one House from the other House, it shall no longer be in order to consider the Commission Schedule and Review bill that was introduced in the receiving House.

(c) RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a Commission Schedule and Review bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SA 396. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, insert the following:

TITLE II—DEBT INSTRUMENT TRANSPARENCY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. 202. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.

SEC. 203. FINDINGS.

Congress makes the following findings:

(1) On March 16, 2006, the United States Senate debated and then narrowly passed legislation, H. J. Res. 47, to increase the statutory limit on the public debt of the United States. In a statement published in the Congressional Record, then-Senator Barack Obama opposed the legislation and stated, ''The fact that we are here today to debate raising America's debt limit is a sign of leadership failure. It is a sign that the U.S. Government can't pay its own bills. It is a sign that we now depend on ongoing financial assistance from foreign countries to finance our Government's reckless fiscal policies.''. Then-Senator Obama went on to say that ''Increasing America's debt weakens us domestically and internationally. Leadership means that 'the buck stops here'. Instead, Washington is shifting the burden of bad choices today onto the backs of our children and grandchildren. America has a debt problem and a failure of leadership. Americans deserve better.''.

(2) On February 25, 2010, United States Secretary of State, Hillary Rodham Clinton, urged members of Congress to address the Federal budget deficit: ''We have to address this deficit and the debt of the United States as a matter of national security, not only as a matter of economics. I do not like to be in a position where the United States is a debtor nation to the extent that we are.''. The Secretary went on to say that reliance on foreign creditors has hit the United States ''ability to protect our security, to manage difficult problems and to show the leadership that we deserve.''.

(3) On February 16, 2011, Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate: ''Indeed, I believe that our debt is the greatest threat to our national security. If we as a country do

not address our fiscal imbalances in the near-term, our national power will erode, and the costs to our ability to maintain and sustain influence could be great.''.

(4) The Department of the Treasury borrows from the private economy by selling securities, including Treasury bills, notes, and bonds, in order to finance the Federal budget deficit. This additional borrowing to finance the deficit adds to the Federal debt.

(5) The Federal debt stands at more than $14,344,000,000,000.

(6) According to a report issued by the Department of the Treasury on May 16, 2011, entitled ''Major Foreign Holders of Treasury Securities'', foreign holdings of United States Treasury securities stood at more than $3,175,000,000,000 at the end of March 2011. The People's Republic of China was the single largest holder with holdings of more than $1,144,000,000,000.

(7) Despite efforts by the Department of the Treasury to identify the nationality of the ultimate holders of United States securities, including United States Treasury securities, data pertaining to foreign holders of these securities may still fail to reflect the true nationality of the foreign entities involved. For example, another Department of the Treasury report, issued on February 28, 2011, entitled ''Preliminary Report on Foreign Holdings of U.S. Securities At End-June 2010'', assigns $732,000,000,000 worth of United States securities to the Cayman Islands, a British overseas territory with a population of only 55,000 people. The Cayman Islands is not itself a large investor in United States securities; rather, it is a major international financial center and is routinely used as a place to invest funds from elsewhere.

(8) On February 25, 2010, Simon Johnson, an economics professor at the Massachusetts Institute of Technology and a former chief economist for the International Monetary Fund, testified before the U.S.-China Economic and Security Review Commission that United States Treasury data understate Chinese holdings of United States Government debt and ''do not reveal the ultimate country of ownership when debt instruments are held through an intermediary in another jurisdiction.''. He stated that ''a great deal'' of the United Kingdom's increase in United States Treasury securities last year ''may be due to China placing offshore dollars in London-based banks'', which are then used to purchase United States Treasury securities.

(9) On February 25, 2010, Dr. Eswar Prasad, an economist at Cornell University, testified before the U.S.-China Economic and Security Review Commission that the amount of United States debt held by the People's Republic of China is much higher than United States Treasury data indicate. In his revised testimony, Dr. Prasad went on to explain that China is probably currently holding more than $1,300,000,000,000 in United States Treasury securities.

(10) According to a February 3, 2009, report by the Heritage Foundation, entitled ''Chinese Foreign Investment: Insist on Transparency'', the State Administration of Foreign Exchange (SAFE) of the People's Republic of China, the government body that purchases foreign securities, is the single largest global investor and the largest foreign investor in the United States.

(11) According to a September 2008 Council on Foreign Relations report entitled ''Sovereign Wealth and Sovereign Power,'' ''. . . political might is often linked to financial might, and a debtor's capacity to project military power hinges on the support of its creditors . . . The United States' main sources of financing are not allies.''. The report goes on to argue that, ''the United States' current reliance on other governments for financing represents an underappreciated strategic vulnerability.''.

(12) In recent years, Chinese military officials have publicized the potential use of United States Treasury securities as a means of influencing United States policy and deterring specific United States actions. On February 8, 2010, retired People's Liberation Army (PLA) Major General Luo Yuan, from the PLA Academy of Military Science, stated in an interview with state-controlled media that China could attack the United States ''by oblique means and stealthy feints'', in retaliation for United States arms sales to Taiwan. He went on to say, ''Our retaliation should not be restricted to merely military matters, and we should adopt a strategic package of counterpunches covering politics, military affairs, diplomacy and economics to treat both the symptoms and root cause of this disease. For example, we could sanction them using economic means, such as dumping some U.S. government bonds.''.

(13) The PLA has also referenced the concept of nonmilitary aspects of deterrence in written statements. A PLA textbook, ''The Science of Military Strategy'', observes that there are various forms of deterrence, including economic and technological, all of which need to be developed and consciously strengthened in order to maximize effect. These forms will only work ''with the determination and volition of employment of the force, and by dangling the word of deterrence over the rival's head in case of necessity.''.

(14) According to a May 16, 2011, report by ABC News, a congressional delegation of 10 United States Senators visited China in April 2011, and met with Chinese government officials. The news report indicates that, during one meeting, the Senators were reprimanded by a Chinese official regarding the mounting United States Federal debt.

(15) A February 7, 2010, report by Defense News suggests that China's extensive holdings of United States Government securities have already directly influenced United States national security policy. According to an unnamed Pentagon official, Obama Administration officials softened a draft of a key national security document in order to avoid ''harsh words'' that ''might upset Chinese officials at a time when the United States and China are economically intertwined.''. The news report indicates that these officials ''deleted several passages and softened others about China's military buildup''. This critical document, the 2010 Quadrennial Defense Review, provides an assessment of long-term threats and challenges for the nation and is intended to guide military programs, plans, and budgets in the coming decades.

(16) The United States Government pays China a substantial amount of interest on China's $1,144,000,000,000 in holdings of United States Government debt, and this enhances China's ability to fund its own military programs.

(17) According to a March 4, 2011, report by Xinhua, the official press agency of the government of the People's Republic of China, China plans to increase its 2011 military budget by 12.7 percent to 601,000,000,000 yuan (the equivalent of $91,500,000,000). This increase is in addition to China's 2010 increase in its military budget of 7.5 percent.

(18) According to the Department of Defense's (DoD) 2010 report entitled ''Military and Security Developments Involving the People's Republic of China,'' the DoD estimates China's actual total military-related spending for 2009 to be over $150,000,000,000.

SEC. 204. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) the increasing dependence of the United States on foreign creditors has the potential to make the United States vulnerable to undue influence by certain foreign creditors in national security and economic policymaking;

(3) the People's Republic of China is the largest foreign creditor of the United States, in terms of its overall holdings of debt instruments of the United States;

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People's Republic of China;

(5) through the People's Republic of China's large holdings of debt instruments of the United States, China has become a super creditor of the United States;

(6) under certain circumstances, the holdings of the People's Republic of China could give China a tool with which China can try to manipulate the domestic and foreign policymaking of the United States, including the United States relationship with Taiwan;

(7) under certain circumstances, if the People's Republic of China were to be displeased with a given United States policy or action, China could attempt to destabilize the United States economy by rapidly divesting large portions of China's holdings of debt instruments of the United States; and

(8) the People's Republic of China's expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. 205. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) QUARTERLY REPORT.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 7 months preceding the date of the report.

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors, broken out by the creditors' country of domicile and by public, quasi-public, and private creditors.

(4) For each foreign country listed in paragraph (2)—

(A) an analysis of the country's purpose in holding debt instruments of the United States and long-term intentions with regard to such debt instruments;

(B) an analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by each country's holdings of debt instruments of the United States; and

(C) a specific determination of whether the level of risk identified under subparagraph (B) is acceptable or unacceptable.

(c) PUBLIC AVAILABILITY.—The President shall make each report required by subsection (a) available, in its unclassified form,

to the public by posting it on the Internet in a conspicuous manner and location.

SEC. 206. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

(3) If the determination under paragraph (2) is that the levels of risk are unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

SEC. 207. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section 205(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce the risk level to an acceptable and sustainable level, in a manner that results in a reduction in Federal spending;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

SA 397. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, add the following:

SEC. [2__]. EXEMPTION OF SAND DUNE LIZARD FROM ENDANGERED SPECIES ACT OF 1973.

Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding at the end the following:

''(j) EXEMPTION OF SAND DUNE LIZARD.—This Act shall not apply to the sand dune lizard.''.

SA 398. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. APPLICATION TO CERTAIN SPEECH, BUSINESS DECISIONS.

(a) UNFAIR LABOR PRACTICES.—Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended by inserting before the semicolon at the end the following: '': *Provided further,* That an employer's expression of any views, argument, or opinion related to the costs associated with collective bargaining, work stoppages, or strikes, or the dissemination of such views, arguments, or opinions, whether in written, printed, graphic, digital, or visual form, shall not constitute or be evidence of antiunion animus or unlawful motive, if such expression contains no threat of reprisal or force or promise of benefit''.

(b) PREVENTION OF UNFAIR LABOR PRACTICES.—Section 10 of the National Labor Relations Act (29 U.S.C. 160) is amended—

(1) in subsection (a), by inserting after the period at the end the following: '': *Provided further,* That the Board shall have no power to order any employer to relocate, shut down, or transfer any existing or planned facility or work or employment opportunity, or prevent any employer from making such relocations, transfers, or expansions to new or existing facilities in the future, or prevent any employer from closing a facility, not developing a facility, or eliminating any employment opportunity unless and until the employer has been adjudicated finally to have unlawfully undertaken such actions—

''(1) without advance notice to the labor organization, if any, representing the bargaining unit of the affected employees, of the economic reason(s) for the relocation, shut down, or transfer of existing or future work; or

''(2) as a primary and direct response to efforts by a labor organization to organize a previously unrepresented workplace''; and

(2) by adding at the end the following:

''(n) Nothing in this Act shall prevent an employer from choosing where to locate, develop, or expand its business or facilities, or require any employer to move, transfer, or relocate any facility, production line, or employment opportunity, or require that an employer cease or refrain from doing so, or prevent any employer from closing a facility or eliminating any employment opportunity unless the employer has been adjudicated finally to have unlawfully undertaken such actions—

''(1) without advance notice to the labor organization, if any, representing the bargaining unit of the affected employees, of the economic reason(s) for the relocation, shut down, or transfer of existing or future work; or

''(2) as a primary and direct response to efforts by a labor organization to organize a previously unrepresented workplace.''.

SA 399. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL RIGHT-TO-WORK.

(a) AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.—

(1) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking ''except to'' and all that follows through ''authorized in section 8(a)(3)''.

(2) UNFAIR LABOR PRACTICES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended—

(A) in subsection (a)(3), by striking '': *Provided,* That'' and all that follows through ''retaining membership'';

(B) in subsection (b)—

(i) in paragraph (2), by striking ''or to discriminate'' and all that follows through ''retaining membership''; and

(ii) in paragraph (5), by striking ''covered by an agreement authorized under subsection (a)(3) of this section''; and

(C) in subsection (f), by striking clause (2) and redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) AMENDMENT TO THE RAILWAY LABOR ACT.—Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by striking paragraph Eleven.

SA 400. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, add the following:

SEC. 22. GAINFUL EMPLOYMENT.

The final regulation issued by the Secretary of Education on June 2, 2011, entitled ''Program Integrity: Gainful Employment—Debt Measures'' and amending part 668 of title 34, Code of Federal Regulations, shall have no force or effect.

SA 401. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, add the following:

SEC. 22. TERMINATION OF GLOBAL CLIMATE CHANGE RESPONSE FUND.

(a) IN GENERAL.—Effective beginning October, 1, 2011, section 1609 of the Energy Policy Act of 1992 (42 U.S.C. 13388) is repealed.

(b) REMAINING AMOUNTS.—Any unobligated amounts remaining in the Global Climate Change Response Fund on October 1, 2011, shall be deposited in the general fund of the Treasury.

SA 402. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC. 22. PERMANENT ESTATE TAX RELIEF.

(a) IN GENERAL.—Title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the amendments made thereby, are repealed; and the Internal Revenue Code of 1986 shall be applied as if such title, and amendments, had never been enacted.

(b) EFFECTIVE DATE.—The repeal made by this section shall apply to estates of decedents dying, gifts made, and generation skipping transfers after December 31, 2009.

SA 403. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ECONOMIC DEVELOPMENT ADMINISTRATION.

(a) TERMINATION OF AUTHORITY.—Beginning on October 1, 2011, the Economic Development Administration is terminated.

(b) COLLECTION AUTHORITY.—The Secretary of the Treasury may collect any amounts owed to the Federal Government under any loan agreement entered into by the Economic Development Administration in effect on September 30, 2011—

(1) in accordance with the terms or conditions of that loan agreement; or

(2) as otherwise provided by law.

SA 404. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON AWARD AND DESIGNATION OF FUNDS.

Notwithstanding any other provision of law, none of the funds made available under this Act or an amendment made by this Act shall be awarded to or designated for an area or entity named for any living Member of Congress.

SA 405. Mr. BROWN of Massachusetts (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

(b) RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds, $39,000,000,000 in appropriated discretionary funds are hereby permanently rescinded.

(2) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under paragraph (1) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under the preceding sentence.

(3) EXCEPTION.—This subsection shall not apply to the unobligated funds of the Department of Defense or the Department of Veterans Affairs.

SA 406. Mrs. HUTCHISON (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, add the following:

SEC. _____. EXTENSION OF CERTAIN OUTER CONTINENTAL SHELF LEASES.

(a) DEFINITION OF COVERED LEASE.—In this section, the term ''covered lease'' means each oil and gas lease for the Gulf of Mexico outer Continental Shelf region issued under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) that was—

(1) not producing as of April 30, 2010; or

(2) suspended from operations, permit processing, or consideration, in accordance with the moratorium set forth in the Minerals Management Service Notice to Lessees and Operators No. 2010–N04, dated May 30, 2010, or the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010.

(b) EXTENSION OF COVERED LEASES.—The Secretary of the Interior shall extend the term of a covered lease by 1 year.

(c) EFFECT ON SUSPENSIONS OF OPERATIONS OR PRODUCTION.—The extension of covered leases under this Act is in addition to any suspension of operations or suspension of production granted by the Minerals Management Service or Bureau of Ocean Energy Management, Regulation and Enforcement after May 1, 2010.

SA 407. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 22. PROHIBITION ON INTEREST CHARGES FOR ON-TIME PRINCIPAL PAYMENTS.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

''(z) PROHIBITION ON INTEREST CHARGES FOR ON-TIME PRINCIPAL PAYMENTS.—Each mortgagee (or servicer) with respect to a mortgage under this section may not impose, nor may the Secretary require the imposition of, any interest charge on such a mortgage as a result of the loss of any time period provided by the mortgagee (or servicer) within which the mortgagor may fully repay the principal balance amount of the mortgage, with respect to—

''(1) any days in the billing cycle that precedes the most recent billing cycle in which such amounts were repaid; or

''(2) any amounts repaid in the current billing cycle that were repaid within such time period.''.

SA 408. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REMOVAL OF INSURANCE MORATORIUM FOR INDUSTRIAL BANKS.

Section 603(a) of the Bank and Savings Association Holding Company and Depository Institution Regulatory Improvements Act of 2010 (12 U.S.C. 1815 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by adding ''and'' at the end;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in each of paragraphs (2) and (3), by striking ''an industrial bank, a credit card bank,'' each place that term appears and inserting ''a credit card bank''; and

(3) in paragraph (3), by striking ''the industrial bank, credit card bank,'' each place that term appears and inserting ''credit card bank''.

SA 409. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITED ANTITRUST EXEMPTION.

(a) IN GENERAL.—The antitrust laws, as defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), and the law of unfair competition under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) shall not apply to any joint discussion, consideration, review, or action by or among merchants, financial institutions, or payment networks negotiating and entering into agreements with respect to fees.

(b) DEFINITIONS.—In this section:

(1) FINANCIAL INSTITUTION.—The term ''financial institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and includes a Federal credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(2) PAYMENT NETWORKS.—The term ''payment network'' means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure or software that route information and data to conduct transaction authorization, clearance, or settlement, and that a person uses in order to accept as a form of payment.

SA 410. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. _____. POSTAL SERVICE POLICY.

Section 101(b) of title 39, United States Code, is amended—

(1) in the first sentence, by striking ''a maximum degree of''; and

(2) by striking ''where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being'' and inserting ''. It is''.

SA 411. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. PROHIBITION ON USE OF FEDERAL FUNDS TO CONSTRUCT ETHANOL BLENDER PUMPS OR ETHANOL STORAGE FACILITIES.

Effective beginning on the date of enactment of this Act, no funds made available by Federal law (including funds in any trust fund to which funds are made by Federal law) shall be expended for the construction of an ethanol blender pump or an ethanol storage facility.

SA 412. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. ___. REPEAL OF DAVIS-BACON WAGE REQUIREMENTS.

(a) IN GENERAL.—Subchapter IV of chapter 31 of title 40, United States Code, is repealed.

(b) REFERENCE.—Any reference in any law to a wage requirement of subchapter IV of chapter 31 of title 40, United States Code, shall after the date of the enactment of this Act be null and void.

(c) EFFECTIVE DATE AND LIMITATION.—The amendments made by this section shall not affect any contract in existence on the date of enactment of this Act or made pursuant to invitation for bids outstanding on such date of enactment.

SA 413. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON PRINTING THE CONGRESSIONAL RECORD.

(a) PROHIBITION ON PRINTING.—

(1) IN GENERAL.—Chapter 9 of title 44, United States Code, is amended by striking section 903 and inserting the following:

''§ 903. Congressional Record: daily and permanent forms

''(a) IN GENERAL.—The public proceedings of each House of Congress as reported by the Official Reporters, shall be included in the Congressional Record, which shall be issued in daily form during each session and shall be revised and made electronically available promptly, as directed by the Joint Committee on Printing, for distribution during and after the close of each session of Congress. The daily and the permanent Record shall bear the same date, which shall be that of the actual day's proceedings reported. The Government Printing Office shall not print the Congressional Record.

''(b) ELECTRONIC AVAILABILITY.—

''(1) GOVERNMENT PRINTING OFFICE.—The Government Printing Office shall make the Congressional Record available to the Secretary of the Senate and the Chief Administrative Officer of the House of Representatives in an electronic form in a timely manner to ensure the implementation of subsection (a).

''(2) WEBSITE.—The Secretary of the Senate and the Chief Administrative Officer of the House of Representatives shall make the Congressional Record available—

''(A) to the public on the websites of the Secretary of the Senate and the Chief Administrative Officer of the House of Representatives; and

''(B) in a format which enables the Congressional Record to be downloaded and printed by users of the website.''.

(b) CONGRESSIONAL RECORD.—

(1) IN GENERAL.—Chapter 9 of title 44, United States Code, is amended—

(A) in section 905, in the first sentence, by striking ''printing'' and inserting ''inclusion''; and

(B) by striking sections 906, 909, and 910.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 9 of title 44, United States Code, is amended by striking the items relating to sections 906, 909, and 910.

SA 414. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

(a) FINDING.—The Congress finds that the President's budget proposal, Budget of the United States Government, Fiscal Year 2012, necessitates an increase in the statutory debt limit of $2,406,000,000,000.

(b) INCREASE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof ''$16,700,000,000,000''.

SA 415. Mr. BARRASSO (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. ___. STATE HEALTH CARE CHOICE.

(a) PURPOSE.—It is the purpose of this section to protect States' rights and to ensure that States have the option to continue to implement State laws relating to health care delivery and health insurance that were in effect prior to the date of enactment of the Patient Protection and Affordable Care Act (Public Law 111–148).

(b) PROTECTION OF STATE FLEXIBILITY TO PROVIDE HEALTH COVERAGE.—

(1) STATE OPT OUT OF CERTAIN PROVISIONS OF PPACA.—

(A) IN GENERAL.—A State described in paragraph (2) may elect to limit the application of any or all of the provisions of the Patient Protection and Affordable Care Act (Public Law 111–148) described in subparagraph (B) with respect to health insurance coverage within that State.

(B) PROVISIONS DESCRIBED.—The provisions of the Patient Protection and Affordable Care Act described in this subparagraph are as follows:

(i) Subtitles A through C of title I (and the amendments made by such subtitles), except for sections 1253 and 1254.

(ii) Parts I, II, III, and V of subtitle D of title I (and the amendments made by such parts).

(iii) Part I of subtitle E of title I (and the amendments made by such part).

(iv) Subtitle F of title I (and the amendments made by such part).

(v) Section 1561 (and the amendment made by such section).

(vi) Sections 2001 through 2006 and subtitle C of title II (and the amendments made by such sections and subtitle).

(vii) Sections 10101 through 10107 (and the amendments made by such sections).

(2) STATE DESCRIBED.—

(A) ENACTMENT OF STATE LAW.—A State described in this paragraph is a State that enacts a law after the date of enactment of this Act that—

(i) expresses the intent of the State to opt out of one or more of the provisions of the Patient Protection and Affordable Care Act (Public Law 111–148) described in paragraph (1);

(ii) contains a list of the provisions of such Act which will not apply to the State under the State law; and

(iii) expresses the intent of the State to continue to administer health coverage-related laws as in effect in the State on March 23, 2010, or that provides for the implementation of related State laws enacted after such date.

(B) REPEAL.—If a State repeals a law described in subparagraph (A), the provisions of the Patient Protection and Affordable Care Act listed in such law shall apply with respect to such State beginning on the date of such repeal.

(3) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall promulgate regulations to provide for the implementation of this section.

NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Subcommittee on Children and Families of the HELP Committee will meet on Thursday, June 9, 2011, at 10:00 a.m. to conduct a hearing entitled ''Getting the Most Bang for the Buck: Quality Early Education and Care.''

For further information regarding this hearing, please contact Jessica McNiece at the subcommittee on (202) 224-9243.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 7, 2011, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 7, 2011, at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 7, 2011, at 2:30 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate to conduct a hearing entitled ''Drowning in Debt: Financial Outcomes of Students at For-Profit Colleges'' on June 7, 2011, at 10 am, in 430 Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 7, 2011, at 2:30 p.m.

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

ORDERS FOR WEDNESDAY, JUNE 8, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow, Wednesday, June 8, at 9:30 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each during that time, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of S. 782, the Economic Development Act, under the previous order.

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

PROGRAM

Mr. REID. Mr. President, there will be a rollcall vote on the Tester amendment tomorrow at approximately 2 p.m. That amendment will be subject to a 60-vote threshold.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of Senators MORAN and ISAKSON.

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

Mr. REID. Mr. President, while awaiting the arrival of Senators ISAKSON and MORAN, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Kansas.

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

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

JOB CREATION

Mr. MORAN. Mr. President, on Friday of last week, the U.S. Department of Labor released a dismal update on our Nation's economy. Not only did our Nation's unemployment rate rise to 9.1 percent, but the number of Americans looking for work increased to 14 million, and those who have been jobless for at least 6 months climbed 45.1 percent.

It is clear the current economic policies are not working in our favor. In fact, I suggest they are working against us, creating an environment of uncertainty and hampering job growth in America. When the message coming from Washington, DC, is more taxes, more regulation, and more intrusion in the free market system, it is no wonder businesses are not hiring additional workers.

Americans are looking for leadership to get our economy back on its feet so they can find a job and provide for their families. In a recent survey, 90 percent of Americans said the economy is in bad shape and, by a margin of 2 to 1, Americans said our economy is on the wrong track. I couldn't agree more. Changing the course of our economy will require Washington, DC, changing its course.

Instead of creating barriers to job growth, Congress and the Obama administration should be implementing policies that encourage job creation. History shows that sustainable economic growth starts with the private sector. So Congress and the administration have a responsibility to create an environment where businesses can flourish and start hiring again, and that starts by pursuing a series of progrowth policies.

First, in my view, Congress must rein in government regulation and stop passing burdensome mandates that come at the expense of that job creation. As I tour manufacturing plants and other businesses in my home State of Kansas, owners often ask: What is the next thing coming from Washington that will put me out of business? Jobs in this country are undercut with each new government regulation because it drives up the cost of doing business, erodes our global competitiveness, and limits the access to credit that businesses need to grow. Rather than hiring new employees, businesses are spending their resources on complying with these burdensome regulations and costly mandates—from the EPA's effort to regulate carbon to the mandates imposed by the new health care law.

According to the Small Business Administration, the smallest businesses—those with less than 20 employees—spend 36 percent more per employee than larger firms to comply with Federal regulations. That is roughly $10,585 per employee to comply with all Federal regulations, and very small firms are burdened even more per employee.

Small business, as we know, is the backbone of the American economy. Those businesses employ half our private sector workers and have generated 65 percent of new jobs over the last 20 years. So it makes no sense to drive up their operating costs with additional government regulations because that leaves them with fewer resources to hire new workers.

Second, Congress can spur economic growth by replacing our convoluted and burdensome Tax Code with one that is fair, simple, and certain. When businesses know what to expect, they can better plan for future expenses and will invest in their companies, grow, and hire new workers.

Unfortunately, Congress is often too shortsighted when it comes to tax policy. A 1-year or 2-year extension of tax cuts does not give businesses the certainty they need to plan for that future. Employers have to make decisions about the future of their business today, and given the fact that their taxes will rise in the near future, they are reluctant to hire new workers or expand their business. If we are serious about creating jobs in this country, we have to give our country's job creators the ability to plan for the future and a Tax Code that encourages investment.

Third, Congress must open foreign markets for American manufactured goods and agricultural products. Across the country, thousands of Americans depend upon exports for jobs, including more than one-quarter of all manufacturing workers in Kansas. By increasing our Nation's exports, we will create jobs and opportunities for all Americans without raising taxes or increasing the Federal budget. We should be exporting our manufactured goods and agriculture products, not our jobs.

Unfortunately, trade agreements with Colombia, Panama, and South Korea, for example, have been stalled for 4 years, and each day that passes, we risk losing more of our market share to our competitors. During this delay, Colombia has moved forward on trade deals with Canada, Chile, the European Union, Brazil, and Argentina. On July 1, a pending agreement between the European Union and Korea will go into effect. We cannot afford to sit on the sidelines while other countries continue to move forward in their trading relationships with our trading partners.

Together, the trade agreements with Colombia, Panama, and South Korea are worth an estimated $13 billion in U.S. exports. The agreement with Korea alone is worth $11 billion and would create an estimated 70,000 new jobs for Americans.

It is past time for the President to send Congress implementing language for these trade agreements so we can open more markets for American goods and agricultural commodities. When American businesses are given the opportunity to compete on a level playing field for these markets, they will succeed and more jobs will be created here at home.

Fourth, the United States, to remain competitive in the global market, must develop a comprehensive energy policy that allows for ample energy supply that is both affordable and reliable. Rising gas prices and recent events in the Middle East have again demonstrated the importance of having access to a reliable energy supply. Higher energy prices are not only threatening

our global competitiveness, they are also hampering our economic recovery. I don't know how we can expect our economy to recover when energy prices are what they are. But when employers have access to reliable energy supplies, they can spend their resources on hiring new workers rather than on those escalating energy costs.

In my view, no single form of energy can provide the answer. To meet our country's energy needs, we must develop traditional sources of oil, natural gas and coal, encourage the development of renewable energy sources such as biofuels, wind, solar, geothermal and hydropower and expand the use of nuclear energy, as well as encourage conservation.

A recent report from the Congressional Research Service found that our country's resources are far greater than those of Saudi Arabia, China, and Canada combined. In fact, our combined recoverable oil, natural gas, and coal supplies are the largest on the planet. Yet, in 2009, the administration canceled 77 oil and gas leases in Utah and last year suspended 61 leases in Montana. The administration has also restricted access to oil and gas exploration in the eastern Gulf of Mexico and off the Atlantic coast—although these two areas hold commercial oil reserves of 28 billion barrels and up to 142 trillion cubic feet of natural gas. More production of energy in the U.S. means more jobs in the U.S. and more U.S. workers at work and lower energy costs for businesses and their employees.

Finally, Congress must reduce government spending to bring about this economic growth. I think the debate on government spending is often seen as some philosophical discussion or a partisan political bickering opportunity here in Washington, DC. But the reality is out of control government borrowing and spending has very real consequences for the daily lives of Americans. Our failure to balance the budget will result in increased inflation, higher interest rates, fewer jobs, and a lower standard of living for every American. But this reality has not yet sunk in here in Washington, DC, despite several recent warnings.

At the end of April, Standard & Poor's, one of the world's big three credit rating agencies, downgraded our Nation's future financial outlook from ''stable'' to ''negative.'' S&P said our country has ''very large budget deficits and rising government indebtedness—and the path to addressing these is not clear.''

Furthermore, just last week another credit rating agency, Moody's—if we needed another reminder—warned that our failure to reduce our growing deficit could prompt them to downgrade their outlook on our AAA rating to negative. Without a ''credible agreement on substantial deficit reduction''—this is Moody's talking—this could happen as soon as next month. This would have a devastating impact on our already struggling economy.

Reducing our Nation's debt will require us to work together to craft a serious plan. President Obama's proposal to balance budgets in part by raising taxes on businesses, in my view, would only make our economic circumstances worse.

Washington does not have a revenue problem; it has a spending problem. It is time for us to work together and pass a responsible budget to reduce our deficit this year, next year, and far into the future. The plan should include significant spending reductions, a balanced budget amendment to restrict Washington's future ability to borrow money that would put us right back in the mess we are in today, and should address our long-term unfunded mandates.

As John Adams once quipped: ''Facts are stubborn.'' And the facts tell us that Washington must change direction if we are to grow our economy and put people back to work. The failed economy we are experiencing and the financial collapse around the corner is the most expected economic crisis in our lifetime. We know what is going to happen if we do not act, and it would be immoral for us to look the other way or to kick the can down the road because the politics of these issues are too difficult to deal with.

Americans deserve leadership here in our Nation's Capital to confront these challenges and not to push them off to the next generation of Americans. If we do so, if we confront these issues correctly in a responsible way, businesses will succeed, profits will be made, employees will be hired, and Americans will again be able to live and pursue the American dream.

Mr. President, I yield the floor.

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

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

QUALIFIED RESIDENTIAL MORTGAGES

Mr. ISAKSON. Mr. President, I commend the Senator from Kansas. I had no idea when I came to make my remarks that they would be so in keeping with a part of his speech with regard to regulation and what the regulatory regimen of the current administration is doing to economic improvement and economic development in the United States of America.

I rise for a moment to talk about the Dodd-Frank legislation, to talk about the qualified residential mortgage provision, and to talk about the six regulators of financial services and a recent decision they made.

Shaun Donovan, Ben Bernanke, Sheila Bair, Edward Demarco, John Walsh, and Mary Schapiro were challenged with carrying out and writing the rules of intent for Dodd-Frank. When they published, a few weeks ago—about 2 months ago now—the proposed rule on qualified residential mortgages, it created a firestorm and created a number of speeches on the floor of the U.S. Senate. It also created a letter from 39 Members of the U.S. Senate, which I ask unanimous consent be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 26, 2011.

Hon. SHAUN L.S. DONOVAN,
Secretary, Department of Housing & Urban Development, 7th Street, SW, Washington, DC.

Hon. BEN S. BERNANKE,
Chairman, Board of Governors of The Federal Reserve System, 20th & Constitution Avenue, NW, Washington, DC.

Hon. SHEILA C. BAIR,
Chairman, Federal Deposit Insurance Corp., 17th Street, NW, Washington, DC.

Hon. MARY L. SCHAPIRO,
Chairman, Securities and Exchange Commission, F Street, NE, Washington, DC.

JOHN G. WALSH,
Acting Comptroller, Office of the Comptroller Of the Currency, E Street, SW, Washington, DC.

EDWARD J. DEMARCO,
Acting Director, Federal Housing Agency, G Street, NW, Washington, DC.

LADIES AND GENTLEMEN: We the undersigned intended to create a broad exemption from risk retention for historically safe mortgage products when we included the Qualified Residential Mortgage (QRM) exemption in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The statute requires the QRM definition to be based on ''underwriting and product features that historical loan performance data indicate result in a lower risk of default,'' and provides clear guidance on the types of factors that can be used, including:

Documentation of income and assets;

Debt-to-income ratios and residual income standards;

Product features that mitigate payment shock;

Restrictions or prohibitions on non-traditional features like negative amortization, balloon payments, and prepayment penalties; and

Mortgage insurance on low down payment loans.

The proposed regulation goes beyond the intent and language of the statute by imposing unnecessarily tight down payment restrictions. These restrictions unduly narrow the QRM definition and would necessarily increase consumer costs and reduce access to affordable credit. Well underwritten loans, regardless of down payment, were not the cause of the mortgage crisis. The proposed regulation also establishes overly narrow debt to income guidelines that will preclude capable, creditworthy homebuyers from access to affordable housing finance.

The extensive additional requirements for QRMs in the proposed rule swing the pendulum too far and reduce the availability of affordable mortgage capital for otherwise qualified consumers. Many borrowers would simply be forced to pay much higher rates and fees for safe loans that nevertheless did not meet the exceedingly narrow QRM criteria. Sadly, in many cases, some creditworthy borrowers may not be able to get a mortgage at all.

Congress included the QRM to exempt safe, well-underwritten mortgages that have stood the test of time from the risk retention requirement. We urge you to follow our intent as you modify the proposed risk retention rule.

Sincerely,

Mary L. Landrieu, U.S. Senator; Kay R. Hagan, U.S. Senator; Johnny Isakson,

U.S. Senator; Saxby Chambliss; Bob Casey, Jr.; Jeff Sessions; Richard Burr; Chris Coons; Ron Wyden; Mark Pryor; Scott P. Brown; Tom Carper; Robert Menendez; Claire McCaskill; Richard Blumenthal; Mike Enzi; Lindsey Graham; Roy Blunt; John Hoeven; Thad Cochran; Mike Crapo; John Barrasso; Max Baucus; Jeanne Shaheen; Kent Conrad; Joe Lieberman; Sheldon Whitehouse; Daniel K. Akaka; E. Benjamin Nelson; John Boozman; Mark Udall; Bernard Sanders; Michael F. Bennet; Debbie Stabenow; Jon Tester; Herb Kohl; Jeffrey A. Merkley; James E. Risch; Mark Begich.

Mr. ISAKSON. These 39 Senators wrote specifically to these regulators to express their concern with the possible effects of the proposed regulation that the regulators were proposing on qualified residential mortgages. I am pleased to say that a few days ago the six regulators extended the comment period from June 20 now to August 1. I have not talked to them, but I hope it is because they have been listening to speeches, they have been reading the comments, they have been seeing the testimony, and they understand, if left uncorrected, and if put in place, the current rule on qualified residential mortgages will be a second hit to what is already a very fragile U.S. housing market.

Just last week, the reports for the most recent month in terms of residential home sales saw the beginning of a second dip in residential housing. This morning the Wall Street Journal reported 40 percent of the homes in America that contain a second mortgage or an equity line of credit are now under water—40 percent.

One of the reasons they are is because prices are continuing to decline. One of the reasons prices are declining is the buyers are not there. It is a seller's market, we have too many foreclosures, and too many short sales.

The impact of the qualified residential mortgage amendment to Dodd-Frank was an amendment offered by Mrs. HAGAN, Ms. LANDRIEU, and myself—all with experience in housing and knowledge about the marketplace. We put it in because the original Dodd-Frank legislation said mortgage people making mortgages were going to have to hold risk retention of 5 percent in that mortgage, which basically would put most everybody in the mortgage business out of the mortgage business, except a handful of people. We put in the qualified residential mortgage amendment the specific parameters by which a mortgage could be exempt from risk retention, which were a downpayment of at least 20 percent or, if the downpayment was less than that, it had to carry private mortgage insurance to insure the effect of an 80 percent loan; second, qualified ratios that demonstrated the couple could pay back the mortgage under any reasonable assumption; third, the house had to appraise; fourth, the credit worthiness of the individual had to demonstrate they could pay for the mortgage.

Those were all the reasonable underwriting criteria that existed before the financial collapse of mid 2006–2007. The rule that was proposed by the six regulators, on which now they have extended the commentary time, completely avoided and made no mention of the private mortgage insurance requirement and said for a qualified residential mortgage to exempt risk retention, the buyer would have to put down at least 20 percent. Most buyers in America do not have at least 20 percent, and under current economic times and what has happened, they have a lot less than that.

But for years—and I was in the housing business for 33 years—the 90 and 95 percent conventional loans made in this country were the backbone of the loans that helped support the housing market, and those loans required a private mortgage insurance policy on any amount of loan exceeding 80 percent, up to 95 percent. We need the ultimate rule coming back from these regulators, by August 1, to contain that provision so as to exempt from risk retention any mortgage that meets the underwriting criteria, including private mortgage insurance on any amount above 80 percent, and up to 95 percent.

If we do not do it, I want to tell you what will be the outcome, and it is without question. You will remember, Mr. President, when we got into trouble in housing it was because we directed Freddie and Fannie to buy affordable housing loans, which became a consumer of subprime packages that were generated on Wall Street. Subprime packages were loans that had high coupon rates, and they were made to risky borrowers. They were intended to get more people into housing, but they became an abused process.

Because we directed Freddie and Fannie to buy that type of paper, it created a demand for that type of paper, which Wall Street fulfilled. So, in other words, you had a premium pricing on the coupon, which made the security attractive, but the risk was greater because the loans were to people with less good credit.

We have now gone the other way. The pendulum has swung 180 degrees the other way. With the pending rule being circulated, upon which this commentary time has been extended, if it goes into place, you will create 90 and 95 percent loans being priced just like loans that were subprimer priced because very few people will make those loans—only a few large lenders. They will price the interest rate on those loans high because of scarcity. In other words, a borrower borrowing 95 percent or 90 percent with private mortgage insurance will end up paying a premium—a premium in interest rate or discount points—in order to get that loan because there will not be a wide distribution or availability of that type of conventional financing.

The unintended consequence of the rule being proposed—which we, fortunately, have an extension on comment time—would create another ability for lenders with the capacity of risk retention to price a loan at such a rate that it is too high for the average consumer.

The other thing it is going to do is a lot of consumers who cannot get a qualified residential mortgage of 90 or 95 percent will be out of the housing market.

What is the result of that? The result of that is an extension of what the most recent figures demonstrated: lower demand, declining housing prices, and a protracting continuance of the worst housing recession in the history of the United States of America.

So I come to the floor today, first of all, to say thank you to the six regulators for extending the comment period; second, to urge my colleagues to urge the lending institutions, the real estate industry, the consumer interest groups, the housing advocacy groups, to have their input with these regulators on the proposed qualified residential mortgage rule, because if left unamended—as it currently is proposed by the regulators—it will make housing less affordable in America; the access to conventional credit less available in America; it will decline the demand that exists already, which is historically too low; it will protract the continuing decline of housing values in America; and it will cause our economy to continue to slide in an even deeper, deeper depression.

It is critically important what the Senator from Kansas said be recognized: Be sure when you pass a regulation that the unintended consequence does not cause a bigger problem than the problem you are trying to correct.

I admire our regulators. I appreciate the hard job we have given them. I appreciate the fact they have extended the comment time. I hope now they will also listen to the comments being made, come back, and make a qualified residential mortgage rule that includes the provision for private mortgage insurance on loans in excess of 80 percent and no more than 95 percent.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 5:55 p.m., adjourned until Wednesday, June 8, 2011, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

MARGO KITSY BRODIE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE ALLYNE R. ROSS, RETIRED.

JESSE M. FURMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ALVIN K. HELLERSTEIN, RETIRED.

SUSIE MORGAN, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE G. THOMAS PORTEOUS, JR.

MARY ELIZABETH PHILLIPS, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI, VICE ORTRIE D. SMITH, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

WALTER L. OUZTS, JR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BRADLEY A. HEITHOLD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. GIOVANNI K. TUCK

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. KEITH M. HUBER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. A. C. ROPER, JR.

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE REGULAR ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MATTHEW B. PHILLIPS

THE FOLLOWING NAMED INDIVIDUALS TO THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MICHAEL E. LOESCHER
LESLIE W. ROBERSON

THE FOLLOWING NAMED INDIVIDUALS TO THE GRADES INDICATED IN THE REGULAR ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

ERIC G. PUTTLER

To be major

SIGNE H. O'NEALE
CHARLES A. SANZ
MARC O. SHOKEIR
PRASAD V. YALAVARTHI

THE FOLLOWING NAMED OFFICERS IN THE GRADE INDICATED IN THE REGULAR ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be major

JAMES L. BENJAMIN
JERROD E. MELANDER
GILBERTO RUIZ

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ENRIQUE A. ARANIZ
VERNON C. ATKINSON II
JOSEPH R. BALDWIN
JOHN P. DERNBERGER
DAVID G. DIPPOLD
WILLIAM J. EDWARDS
ROBERT A. JOHNSON
MARY L. MAYHUGH
JOHN K. MILLS
TERRY M. ORANGE
JOSEPH K. PEARCE
WESLEY A. ROBINSON
EDWARD J. SIEGFRIED
SCOTT J. SMITH
JON T. TANABE
CLIFFORD W. WILKINS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

ROGER S. THOMPSON

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

MONSERRAT JORDEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

TIMOTHY W. GRASMICK