United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, OCTOBER 4, 2011 No. 147

Senate

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

PRAYER

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

Let us pray.

Lord, we open our hearts to You in gratitude for the blessing of another day. Renew us, revitalize us with the knowledge of Your loving providence. Have mercy on our Nation and world this day. Solidify the financial foundations of teetering nations and restrain those who seek to reap gain from others' woes.

Lord, bless the many on Capitol Hill who give of their time and talents in such full measure to keep liberty's light burning brightly. May their trust in Your word sustain them with confidence in the difficult days to come.

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 the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 4, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Following leader remarks, the Senate will be in morning business for 1 hour, with the majority controlling the first half and the Republicans controlling the final half.

Following morning business, the Senate will resume consideration of the motion to proceed to S. 1619.

The Senate will recess from 12:30 to 2:15 today to allow for our weekly caucus meetings.

At 2:30, the Senate will begin consideration of S. 1619, the China currency legislation, which is how it is referred to. Rollcall votes are possible during today's session. We will notify Senators when they are scheduled. I hope Senators, both Democrats and Republicans, who wish to offer amendments will contact the managers of the bill. We need to get these amendments moving as quickly as possible. Hopefully, on most of them, we can do time agreements. This is important legislation, and we need to expedite it as much as possible.

This is a busy work period, and we have a couple of important holidays. We have Yom Kippur, which starts Friday at sundown, which is the highest of all of the holidays of the Jewish faith, and then we have Columbus Day, which is Monday. So we have a couple of short weeks.

CHINA CURRENCY MANIPULATION

Mr. REID. Madam President, last night the Senate held an overwhelming bipartisan vote to move forward with legislation preventing continued currency manipulation by the Chinese Government. This unfair practice, which gives Chinese exports an unmerited advantage in the global marketplace, injures the American economy, it hurts American manufacturers, and it costs American jobs, lots of them.

In 1990, America's trade deficit with China was $10 billion. Twenty years later, thanks to currency manipulation that gives an edge to Chinese exporters, that trade deficit has soared to $273 billion—from $10 billion to $273 billion. That trade deficit has fueled the loss of about 3 million American jobs, including 2 million manufacturing jobs, in just the last 10 years alone. In Nevada, we have lost more than 14,000 jobs to China trade, and it is all because of currency manipulation. The eight hardest hit States have lost 1.4 million positions total, and 17 States have lost more than 2 percent of their jobs.

Manufacturers simply can't compete when the Chinese Government gives its exporters advantages other countries don't get. American workers and manufacturers work as hard and are as ingenious as any in the world. They don't need special advantages to succeed; they just need a fair shot. This important jobs legislation will give them that fair shot.

Putting an end to China's deliberate actions to undervalue its currency will even the playing field. It will also support 1.6 million American jobs. Demanding a fair playing field will pump $300 billion into our economy in just a few short years.

But don't take my word for it. Just ask American manufacturers. The Alliance for American Manufacturers called this jobs bill the ''deficit-reducing, job-creating, no-cost stimulus that

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

is desperately needed.'' Business groups have lined up to testify to the adverse impacts of currency manipulation on U.S. corporate interests. The American Iron and Steel Institute, the National Association of Manufacturers, and even the U.S. Chamber of Commerce have said the problem pits American and Chinese manufacturers against one another in an unfair fight.

But this issue has also forged some strange alliances. The AFL–CIO has also called for swift action to level the playing field. The chamber of commerce and the AFL–CIO are together on this issue.

This is what the AFL–CIO said:

> The single most important job-supporting trade measure that Congress . . . can take is to address the Chinese government's manipulation of its currency.

Business and labor groups agree that American workers and manufacturers aren't getting a fair shake, and they agree on what action Congress should take to give them that fair shake. We all know that doesn't happen very often.

Here in the Senate we have heard the message loudly and clearly. We can't ignore blatant, unfair trade practices that put American workers at a disadvantage.

Supreme Court Justice Potter Stewart once said: ''Fairness is what justice really is.'' This week, the Senate is demanding justice for American companies and their employees.

I know a few of my Democratic colleagues don't support this legislation but very few. There are some Republicans who don't support this legislation but very few. Even though there are a few on each side who don't support this bill, I think this is the mark of a good piece of legislation—garnering a significant number of votes from each party. That is what bipartisanship is all about. With millions of Americans' livelihoods at stake, I am pleased to see the Senate working on a truly bipartisan bill.

RECOGNITION OF THE MINORITY LEADER

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

FREE TRADE AGREEMENTS

Mr. MCCONNELL. Madam President, there is a lot of talk these days about how Washington is broken and how, unless we do something to fix it, the solutions to our most urgent problems will remain out of reach. The fact is, that is not really true. Congress is not frozen in a state of perpetual gridlock, and the now imminent passage of three long-awaited free-trade agreements with Colombia, Panama, and South Korea shows it.

For 2½ years, I and other Republicans have stated as clearly as we could to anyone who would listen that we are willing and eager to work with the Democrats on legislation on which we know both sides agree. Free-trade agreements fall squarely into that category. That is why I have been calling on the President to approve them since his very first day in office. Yet, for reasons I will touch on in a moment, he has actually held back.

It is true that the President had to be convinced of the importance of these agreements. After all, he ran for office promising to renegotiate NAFTA. But once he did come around, his reluctance to act became an emblem for the administration's entire approach to jobs in which results have taken a back seat to ideology. All the President had to do was to follow through on his own pledge—send these trade agreements to Congress—and we would have had an early bipartisan achievement which didn't add a single dime to the deficit and which, by his own estimates, would protect tens of thousands of jobs right here at home. Instead, the President passed over what could have been a job-creating, bipartisan layup and devoted the first weeks of his Presidency to a highly partisan stimulus that has since become a national punch line.

So now, 2½ years after the stimulus was signed into law, there are 1.7 million fewer jobs in America, and the President is just this week getting around to free-trade agreements we all knew would create jobs, all of which raises a question: Why didn't we do this sooner? I think there are two reasons we didn't do it sooner.

First, the White House was under pressure from unions that don't like free trade. They have been extracting promises from the White House for 2½ years in exchange for their support. That is one reason.

The second reason the White House didn't send these agreements up sooner is that the political operators over at the White House seem to believe they benefit from the appearance—the appearance—of gridlock. They are over there telling any reporter who will listen that they plan to run against Congress next year. Their communications director said as much to the New York Times 2 weeks ago.

So that is their explicit strategy—to make people believe Congress can't get anything done. How do they make sure of that? Well, they do that by proposing legislation they know the other side won't support even when there is an entire menu of bipartisan proposals the President could choose to pursue instead. How else do we explain the President's standing before the country in January extolling the job-creating potential of these free-trade agreements, asking Congress to pass them as soon as possible, and then sitting on them until yesterday, preventing Congress from taking the vote? How else do we explain the fact that the President spent the past few weeks running around the country demanding that Congress pass a so-called jobs bill right away even as leading members of his own party admit the Democrats wouldn't have the votes to get it through Congress even if it came to the floor? As one senior Democratic aide put it yesterday: ''Nobody is all that excited about the President's jobs bill.''

That is how to create dysfunction—by refusing to acknowledge that we live under a two-party system in this country and that as long as we do, the two parties will have to cooperate to some extent in order to get legislation through Congress. It is the refusal to accept this reality that leads to inaction. The President can govern as though this is the Congress he wants or he can deal with the Congress he has. Along the first path lies gridlock, and along the second lies the kind of legislative progress Americans want. As for Republicans, well, we have been crystal clear from the outset that we prefer the latter route.

So this morning, I reiterate the same plea I have consistently made for the past 2½ years. My suggestion to the President is that he put aside proposals for which we know there is bipartisan opposition and focus instead on proposals on which we know both sides can agree. Free-trade agreements are a good first step, but they are just that—a first step. If we are going to tackle the enormous challenges we face, we need to come together on much more than that. There is bipartisan agreement, for instance, on the need to increase domestic energy exploration, to reverse job-killing regulations, and to reform the corporate tax code so we are more competitive. If the White House really wants to make a statement, it will work with us on all of these issues. If it doesn't, Americans will only conclude that it would rather have an issue to run on than an impact.

With these trade agreements, we are showing we can work together to create jobs and help the economy, and it is something we should do a lot more of around here.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Illinois.

FINDING SOLUTIONS

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

by the minority leader, Senator MCCONNELL of Kentucky, concerning the current state of affairs in the U.S. Senate. I certainly want to endorse his conclusion that we should find ways to work together, try to find solutions, bipartisan solutions, in this divided government that will actually address the problems America faces.

If you ask people across America about our problems, No. 1 on the list is the creation of jobs, the high unemployment. President Obama has come forward with a jobs plan which he is now trying to sell to Congress, as well as to the American people, with some success, certainly when it comes to appealing to the public.

When you ask the American people: Is it a good idea to give a payroll tax cut to working families so they have more spending power, so they do not have to live paycheck to paycheck, so they can fill the gas tank, go shopping? Of course. It makes sense. That is one of the pillars of the President's jobs act.

The President also proposes that we give tax breaks particularly to businesses, smaller businesses that hire the unemployed, including veterans. If you ask the American public: What do you think of that, overwhelmingly they think that is a good idea.

When you say the President's plan also tries to help those State and local governments that are facing layoffs of teachers, firefighters, and policemen by lessening the impact that would have, the American people say that is reasonable. We do not believe crowded classrooms and communities without fire and police protection are good for our future. So they endorse the President's approach to that.

The President also thinks we should invest, in this jobs act, in rebuilding the fundamental structure of the American economy—not only highways and bridges and airports but our schools—and the American people have overwhelmingly said that is a good idea.

The President said we should pay for this, and we should pay for it by making certain those who can afford to pay more in taxes—those making $1 million or more—pay a little more so we can achieve what I outlined earlier.

Well, it turns out that is not only approved by the American people, 59 percent of Republicans agree with that—raising taxes on the highest income Americans to help move this economy forward. Fifty-nine percent of Republicans agree with that. As someone said in a meeting this morning, unfortunately none of them are serving in Congress. And the Republican Senators and Members of the House are saying: No way will we consider any additional taxes on the wealthiest people in America even if the money is going to be used to give payroll tax cuts to working families and to give tax incentives and credits to small businesses and to avoid laying off and firing firefighters and policemen and teachers. They say: No way.

So when the minority leader comes to the floor of the Senate and says we have to find common agreement, let me tell you, what the President's jobs bill does is it comes up with a bipartisan-approved approach to getting this economy moving. I hope we can find a way to do exactly that.

The minority leader talked this morning about trade agreements, and our hope is to bring those up in the very near future. I think it is a good thing. But we made it clear as well that before it could be seriously considered, we needed to take a look at something called trade adjustment assistance. That is a program to help workers who lose jobs because of trade agreements or because of the trade relationship between the United States and another country. I have had it happen in my State. I am sure the Acting President pro tempore from New Hampshire has had the same experience, where people in her State have lost their jobs because of competition overseas or jobs moving overseas. Well, we want to make sure those workers have a fighting chance to pick up new skills and education so they can find another job in this economy and provide for their families.

That was a condition to bringing up the trade agreements. We passed it in the Senate. It is now pending in the House. But we can move to those trade agreements. Let the Senate and House vote accordingly. But the reason it has been delayed—if there has been any delay—is to get that part right. I think the Senate has done that.

So I heartily agree with the conclusion of the minority leader that we should work together in a bipartisan fashion. I suggest the minority leader take a look at the President's jobs act. Most of the ideas there are ideas Republicans have openly endorsed time and time again. I hope they are not going to reject the Obama jobs act because the word ''Obama'' is in the title. Let them come forward and think about ways, with us, to design an economy that is moving forward rather than to design the next Presidential campaign slogan and bumper sticker. The American people expect us to look beyond campaigns and get something done on the floor of the Senate and the House.

I might differ with the minority leader when it comes to whether we have had gridlock and obstruction here in the Senate, and I would just say for the record that it has become a matter of course, a normal part of the business of the Senate to require 60 votes on virtually everything—60 votes. That is not required in the rules of the Senate. We have reached the 60-vote threshold because of Republican filibusters. If it were simply an up-or-down majority vote, 51 votes would do it. But the Republicans, by threatening filibusters and imposing filibusters, have created a 60-vote requirement. That gives them leverage. It takes away the power of the majority and gives the minority this new empowerment. But to suggest this has not been used and things have gone along just swell around here—take a look at the RECORD. Three times now we have been knocking on the door of closing down the government and closing down the economy just this year. The American people noticed. They did not like it. Standard & Poor's noticed and downgraded the American credit rating, saying the problem is not the economy, the problem is the political system which is in gridlock in Washington. That is a reality. We can change that, we should change that, and I encourage my colleagues on both sides to look for ways to change that.

A CHOICE IN BANKS

Mr. DURBIN. Madam President, yesterday, incidentally, I spoke about Bank of America's decision to impose a $5 fee on their loyal customers who have debit cards. Bank of America announced that this fee had to be collected because they were going to be restrained in the amount of swipe fees they could charge for people who use debit cards.

Those who follow this issue know the Federal Reserve took a look at this. Every time we use a piece of plastic to pay for something—as a debit card—there is a charge imposed on the retailer—the restaurant, the bookstore, the grocery store, you name it. There is a charge imposed. So we asked the Federal Reserve to take a look at that charge that is being imposed by the credit card companies through the banks, and here is what they found. The actual cost of a bank and Visa or MasterCard processing a debit card transaction is anywhere from 4 cents to 12 cents. Remember when they used to process checks for pennies no matter what the face value was? Well, the actual cost of the debit card—the new checking account, the plastic checking account—is 4 cents to 12 cents a transaction.

Then the Federal Reserve Board said: What are they actually charging the retailers? Madam President, 44 cents is the average charge by the banks and credit card companies for the use of the debit card—more than 10 times the 4-cent rate or more than 6 times the 7-cent rate the Federal Reserve said is the reasonable cost of a debit card transaction—a 600-percent profit they are taking right out of every transaction.

Of course, it means the grocery store, the retailer has to charge more. Imagine someone comes in and gets the special—a cup of coffee and a doughnut at the Rock Island Country Market, which I visited during the break, a 99-cent special. They use their debit card to pay for it. The Country Market is now going to be charged 44 cents for a 99-cent transaction.

So it changed. The world changed last Saturday. The new law went into effect, capping for the largest banks in America the debit card swipe fee at

about 24 cents, splitting the difference. Still these banks are doing quite well. The actual cost of the transaction is 4 cents, 7 cents, 12 cents, and they are going to get 24 cents. Well, you would think they could live with a 100-percent profit on what they are doing. No way. Bank of America said to their loyal customers: Sorry, but because we cannot make as much off the retailers, we are going to nail our customers with a $5 monthly fee for the debit cards.

Yesterday, I sent a letter to the CEO of Bank of America, Mr. Moynihan. I said to Mr. Moynihan: I have just done the math here, and if your customers pay $60 a year for their debit cards, you are going to collect more money from your customers than you could possibly have lost because of this change in the law. You are overcharging your customers. It is not fair, and I want you to defend it. Let's see if he does, not just for me but for the people who bank at Bank of America and have debit cards there.

You see, what happened last Saturday is not just a change when it comes to debit card swipe fees. I think what happened last Saturday with this new law is empowering customers and retailers across America.

Now, incidentally, Chase bank, Wells Fargo, and Bank of America have all talked about imposing this debit card fee. If they decide they want to penalize their customers and nail them $5 a month or $3 a month, that is their decision. But I hope what happens next is that bank customers across America realize they have the right to change their banks, to move to banks that are not going to nail them with these fees that are driven by greed.

There is good news. There are thousands of banks across America for people to choose from and thousands of credit unions, and most of them—or many of them, I should say—have already stated publicly they are not going to join in with Bank of America in nailing their loyal customers with a debit card fee.

The Press Democrat newspaper in Santa Rosa, CA, on Friday carried an article saying, ''Local banks say no to debit card fees.'' The article lists a number of local banks and credit unions that said they would not copy Bank of America's strategy. The article quotes Tom Duryea, CEO of Summit State Bank. He said:

> It's just not something we want to do to our customers. I am not going to nickel-and-dime people over $5.

Now, that is a man speaking for a bank that I think has a future—a bank that realizes if you treat your loyal customers right, they are going to stay loyal. But if Bank of America has their way and nails their loyal customers with a $5 monthly fee, I hope some of their customers will think twice about doing business there.

Washington Federal is a regional bank in Washington State. Its spokesperson, Cathy Cooper, was quoted in the Oregonian newspaper saying:

> We have absolutely no plans to impose a debit card fee.

On Saturday, the Salisbury Post in Salisbury, NC, ran an article titled: ''Bank of America move doesn't prompt local banks to charge debit card users.''

It quotes Bruce Jones, CEO of the Community Bank of Rowan, saying that his bank will start running ads touting its lack of fees: ''We're really going to promote that,'' Jones said, ''That's such a good piece of business.''

The Pennsylvania Credit Union Association put out a statement yesterday and said this on behalf of its 500 credit union members:

> Study after study has shown that credit unions overall offer lower fees and better savings rates. The mission of a credit union is to serve its members and not Wall Street.

That is a welcome mentality.

There have even been some large banks that acknowledged the need to treat their customers fairly.

USAA, for example, is a financial institution that serves military personnel and their families. USAA has announced it will not charge consumer debit fees, or checking account fees either.

And the giant Citibank has heavily promoted its position on the issue: Citibank will not charge its customers debit fees.

It is a smart move for these banks and credit unions to treat their customers well when it comes to debit cards. Customers are ready to shop around if they don't.

Across the United States more and more banks and credit unions are making it clear they are not going to nail their customers with a debit card fee.

Now is the time for bank customers across America to say enough is enough. If you do not value me as a customer enough not to charge me a new $5 monthly fee just for trying to access my own checking account, my own bank account at your bank, I am going to do my business elsewhere. I think that is an important thing to do.

Of course, we need to stay vigilant to make sure America's consumers have good, honest information about how banks are treating them. I will be meeting later this week with the Acting Director of the Consumer Financial Protection Bureau, Raj Date. We will be talking about how to ensure customers know what their rights are when it comes to banking services.

Let me tell you, there are Republicans who hate this agency the way the devil hates holy water. The notion that the customers of America would finally have a voice in Washington keeping an eye on the activities of financial institutions scares the living heck out of some Members of Congress. But many of us believe that the scales have been tipped for too long on the other side, that many consumers are, frankly, at the mercy of these financial institutions and could use an advocate who stands up every once in a while and fights for them.

Holly Petraeus is the wife of General Petraeus, who is now heading up our CIA. She and her husband have certainly given great service to this country. I met with her just a few weeks ago, and she talked about the exploitation of men and women in uniform serving our country by many financial institutions—predatory lending and awful practices. Many of these practices, incidentally, lead to these servicemembers having to take an early discharge from service because they are so deeply in debt. I think that is a scandal, and I am glad Mrs. Petraeus has spoken out on it. She is using this agency, the Consumer Financial Protection Bureau, to come to the assistance and protection of our men and women in uniform. That is a legitimate use of their responsibility. And for those who want to do away with the Bureau, let them explain, if they can, why they think our veterans and our servicemembers do not deserve this kind of protection.

I want to see the Consumer Financial Protection Bureau up and running. I think it is about time we had some advocacy group standing up for men and women in uniform and consumers and retailers across America. I hope we can soon confirm the nominee for the head of that Bureau, Richard Cordray. I have met Mr. Cordray, and he is going to be a smart, effective watchdog for America's consumers. As I said, there are some—particularly on the other side of the aisle—who hate the notion that there would be such an advocate and such a counsel available for consumers. But I think American consumers and families at least deserve to have someone speaking out when they are about to be exploited.

The keys to a well-functioning market are competition, transparency, and choice. When these conditions are present, consumers have a fighting chance and they can thrive. So can small banks and credit unions. I am going to keep standing up for these basic principles. I believe competition and transparency are critical for a free market economy to operate in a just and fair way. It is the right thing to do.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

PROTECTING AMERICA'S PUBLIC LANDS

Mr. UDALL of Colorado. Madam President, before the Democratic whip, the assistance majority leader, leaves the floor, I wish to acknowledge the great work he has done in standing up for consumers and protecting their interests, and it fits the purpose for which I rise today, which is to talk about protecting our public lands and the importance they hold for all of us as Americans. They are really at the heart of the way of life we hold so dear in Colorado. In addition, I would like

to talk about how public lands are important to an issue that all of my colleagues care about; that is, creating jobs.

I know many of my colleagues, including the Acting President pro tempore, understand the value of public lands, but I wish to take a few minutes and list some of the reasons I think they are a vital thread in the fabric of our country.

First, we are a nation of explorers and risk-takers, constantly in search of the next challenge to overcome or the next mountain, literally, to climb. Public lands, especially in the West, are a reminder of this heritage. I wish to also acknowledge in the great Northeast of our country, where the Presiding Officer lives, that we have mountains and we have extensive public lands as well. I know that same spirit is infused in the people of New Hampshire.

But our public lands also benefit our communities across the country through the clean air and the clean water they provide. In urban and rural areas alike, open spaces filter and clean our air and water, improve the environment for surrounding communities, while lowering stormwater management and water treatment costs.

Access to the public lands and the many opportunities they provide is a key reason why many of us choose to live in the West. I know this is particularly true in Colorado, where public lands and outdoor recreation are truly in our blood. It is also one of the reasons Colorado is one of the most active and healthiest States in the country and why I have been encouraging children and families across the Nation to get outside and stay active, especially in our national parks.

The public lands are also, to coin a phrase, in our wallets. When discussing public lands, we cannot forget their importance to our economy. Our public lands have long been a source of economic value, and multiple use is a key component of the management of our public lands. An example: Extractive industries, such as oil and gas development and mining, will continue to be an important part of our economy in the West. But these uses are certainly not the only economic uses of our lands. Outdoor recreation: hunting, hiking, biking—the list goes on and on—are a major use of our lands, and outdoor recreationalists not only enjoy our land, they also support a large and growing industry of supply stores, manufacturers, guides, hotels, and other important businesses.

In fact, in this time of economic uncertainty, outdoor recreation and tourism are two of the bright spots in our economy. I wish to draw attention to the chart I brought to the floor for those viewing the floor of the Senate today. In 2006, the Outdoor Industry Foundation found that biking, hiking, and hunting and all the other outdoor recreational activities add $730 billion to our economy every single year.

Perhaps most important, this is an area of our economy that continues to grow. It has grown by more than 6 percent in 2011 alone and has outpaced U.S. economic growth more generally. These numbers tell a powerful story of the outdoor recreation industry's contribution to our economy.

We hear a lot about the problems government causes, and there are certainly areas we can reform. We can streamline government, make it more efficient. We can get government out of the way where appropriate, and we can increase oversight where necessary.

But when I was traveling my home State of Colorado over the summer, as the Presiding Officer travels her State, I heard a lot about how government is working. I heard about partnerships between national, State and local governments, private businesses and local stakeholders to preserve and protect our natural resources. These efforts are improving the lives of Coloradans. They are creating jobs. They are making communities better places to live, and they are building future economic opportunities.

I wish to share a couple examples in that vein. In July, I was in the town of Creede, which is in the historic San Luis Valley of Colorado. Among other stops, I met with the Willow Creek Reclamation Committee. This is a wonderful example—this committee—of citizens at the local level coming together to take on a problem to create solutions.

In this committee, there are retired miners, artists, local businesspeople, ranchers, vacation homesteaders and Federal and State officials who are working together to clean up pollution in their watershed.

The narrow valley that is above Creede is lined with abandoned mines. While the area boasts some of the best examples of mining structures one will find in the Western United States, pollution from these abandoned mines hurts water quality. The pollution was so bad that residents in the area feared Creede would be placed on the National Priorities List for a Superfund cleanup, a prospect that any community that has faced it understands would hurt their tourism-based economy.

So, in 1999, the residents formed this committee to do something about it themselves. They worked with the Environmental Protection Agency, the Forest Service, the Department of Agriculture, the U.S. Fish and Wildlife Service, State agencies and many others and developed a plan to clean up their watershed.

The plan they came up with is truly a comprehensive approach that recognizes the full value of their watershed to their community. What struck me most—and again I know the Presiding Officer senses and experiences the same spirit in her home State of New Hampshire—nobody was talking about whether they were a Democrat or Republican. They were not trying to wage political or partisan battles. They saw a problem affecting their livelihoods. They banded together as a community, partnered with the Federal, State and local government officials and they did something about it. Now their streams are healthier, their land is healthier, and their economy is healthier.

I would like to bring some of that Creede pragmatism to Washington, DC. Our public lands are an invaluable natural resource. I hope we can come together in the Congress with policies and solutions to wisely utilize and conserve them.

In that spirit, let me provide some additional examples of what we could do in the spirit of the people in Creede, CO. One incredibly successful government program that has been instrumental to the growth of outdoor recreation across the country is the Land and Water Conservation Fund or the LWCF. In fact, it has been proven over and over that every $1 of LWCF funding creates an additional $4 in economic value.

LWCF was developed on the belief that as we develop and exploit our oil and gas resources, we should set aside also some land for hunting, fishing, and recreation for the enjoyment of future generations. So we as a country set up a mechanism whereby royalties from oil and gas leases were to fully fund LWCF projects.

I have to say, instead of that mission being fully fulfilled, every year those dollars are taken out of LWCF for other unrelated government expenditures, leaving in its wake a huge unmet need in each State across the country. While royalties flow into the government coffers, LWCF has continually been raided, and its authorized $900 million of funding every year has been fulfilled only twice since 1964. Only twice since 1964 has that full $900 million been appropriated.

Not only are we robbing future generations of critical open spaces and outdoor recreation, we are underinvesting in our assets, our public lands, that would drive job creation.

I serve as the chairman of the National Parks Subcommittee. I have seen how these funds have been particularly useful to our parks, and there is no better example in my State than the creation of the Great Sand Dunes National Park and Preserve. This magnificent park and preserve was made possible by LWCF appropriations that were obtained with very strong local support.

Great Sand Dunes protects one of our Nation's great landmarks. It is also a source of tourist dollars for the surrounding rural communities. That is why I have joined with several of my colleagues, including Senator BINGAMAN, Senator BURR, Senator BAUCUS, the Presiding Officer, and others, to fight for full funding of LWCF.

The point I wish to emphasize to my colleagues is that when we talk about natural resources, we are not just talking about beautiful landscapes and future generations. There are incredibly

important economic benefits to preserving and protecting these lands.

In that spirit, I wish to briefly discuss another key component of our public lands system—wilderness. Lands classified as ''wilderness'' are critical to our multiple-use management strategy. Some areas should be preserved as wilderness, just as some areas are better suited to mining, oil and gas development or off-road vehicle use.

Wilderness provides opportunities for backpacking, fishing, hiking, grazing, and hunting, as well as protecting these precious landscapes for future generations. Wilderness also provides opportunities for our veterans to reenter and reconnect and heal. I have a column from the Denver Post yesterday that speaks to the ways in which veterans can reconnect to their purpose in life and to reenter society. I ask unanimous consent that it be printed in the RECORD.

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

[From the Denver Post, Oct. 3, 2011]

GUEST COMMENTARY: VETS FIND SOLACE IN MOUNTAIN FISHING

(By Shawna Bethell)

You know immediately when you are in the presence of grace. Perhaps in a cathedral of limestone and jeweled glass where centuries of ritual have left the scent of myrrh. Or, equally so, perhaps in the cleft of a canyon surrounded by high-country mountains where waterfalls arc from cut stone.

Perhaps it's where—against the roar of fast-moving water—you hear the quiet voices of two men: one of wisdom and one of youth, speaking quietly of water and fish, war and healing, the conversation flowing easily between the two—a common experience binding them.

There is with fly-fishing a serenity that comes, when the mechanics of the process no longer take thought or effort, and the mesmerizing rhythm of a cast settles into mind and memory. When all else slips away, and the fishing becomes the mission in front of you, then comes peace. Or at least, this is what I'm learning.

In late June, Project Healing Waters—a nationwide fly-fishing program for wounded soldiers and veterans—brought 15 participants from Colorado's Fort Carson and Fort Huachuca in Arizona to fish in the cold spring-melt waters around Silverton. The program is based on the principle of shared time and skill between experienced fly-fishermen and our recently returned soldiers.

Programs vary from region to region, but the basic premise is that during winter months, soldiers are taught to tie flies and build fishing rods, then in the spring and summer months, they are taken out to learn the art of fly-fishing—each component lending itself to a specific method of healing, whether it is learning physical dexterity with damaged limbs or prostheses, or giving soldiers a focus outside their memories or mental trauma.

On the day I was invited to join them, I had the opportunity to witness one of those moments of grace, when a local fisherman and a young soldier shared a conversation. It was not a monumental event, nor was the speech eloquent and tried. Instead, it was simply quiet. And the young man who had been solemn and withdrawn, moving along the stream bank with his head lowered, opened to a man who had seen his own war 40 years before.

I had been told in my initial interview with Gary Spuhler of Colorado Springs, coordinator of the Rocky Mountain Region's chapter of PHW, that he got involved because he wanted to make things better for our returning soldiers, better than the way his generation had returned from Vietnam.

And I think the country as a whole, carrying the regret of that treatment, is reaching out more readily to today's veterans, but listening to the gentle ebb and flow between the two men—the seasoned, high-country fisherman and the young soldier, moving easily from fishing to military life to hope for the future and healing, against the backdrop of broad, sheltering landscapes—I recognized something rare.

We are in a time when Congress is ever trying to decimate protections for our wildlands while at the same time these lands are lending solace to those who have been sent to war in the name of our country. It is not a stretch to say that these rivers and streams are part of what is giving back to the veterans who are coming home.

Each fisherman I spoke with, experienced or beginner, spoke of the sound of the water, the scent of the air, and how the rest of the world falls away when they are out there, taking with it the trauma they carry with them.

There is a healing power that comes from the mountains and streams, and there is healing in taking the time to listen to our military men and women.

Project Healing Waters, combining the two, gives us all a lesson worth learning.

Mr. UDALL of Colorado. It is an inspiring column. It speaks to the power of wilderness and wilderness activities in the context of our veterans returning home from standing for us in places such as Afghanistan and Iraq.

Speaking of wilderness opportunities, just this last week I introduced the San Juan Mountain Wilderness Act, along with Senator BENNET. It is similar to a bill I introduced in the last Congress. My bill would designate—we have a photograph of this wonderfully inspiring area. This bill would designate 33,000 acres in southwestern Colorado as wilderness. It would also designate about 2,000 acres as a special management area and withdraw over 6,000 acres from mineral entry lands within the Naturita Canyon area.

This bill is the work of extensive input and collaboration among and across every imaginable stakeholder group. I wish to particularly note the efforts of former Congressman John Salazar and his staff, who worked with the affected Colorado county commissioners, interested citizens, and my staff in developing this legislation over the last 4 years.

It is crafted to take into account the various ongoing uses of these lands, such as for water supplies and recreation, while also providing strong managerial protection for these sensitive lands. I do not have to tell you, when we see this photograph, among many, that this region of Colorado is blessed with stunning beauty.

Much of the land proposed for wilderness and other protections in our legislation are additions to existing wildernesses such as the Mount Sneffels Wilderness Area and the Lizard Head Wilderness Area. The bill also establishes a new area called McKenna Peak. This peak presides over imposing sandstone cliffs which rise 2,000 feet above the surrounding area. It also provides important winter wildlife habitat for large numbers of deer and elk, which then draw many hunters from all over the country every year. Over 30,000 recreational user days are recorded annually during hunting season in this one game management unit. That is a significant number of recreational user days.

The bill would also establish the Sheep Mountain Special Management Area. Since helicopter skiing currently exists in this area, the legislation designates the area in a way that protects its wilderness character but still allows this use to continue. This is, in my opinion, the type of flexibility that is a key for sound wilderness protection proposals and is a shining example of how protection can coexist with responsible use.

What I am saying is, the bill has been carefully tailored and crafted to apply deserving protections to these lands. This is how wilderness should and can be done. Between all the benefits—clean air and water, recreation and economic growth—one would think Congress could work together and enact commonsense public lands legislation such as my San Juan Wilderness bill.

But I am frustrated. I know the Presiding Officer is frustrated this Congress has not recognized the opportunities that are before us. Instead of what I saw happening on the ground in Creede, CO, it seems as if our politics inside the beltway are getting in the way of moving our country forward. A prime example of politics getting in the way, at least in the Senate—I will come back to why I say just in the Senate—is a bipartisan bill I have introduced called the Ski Area Recreation Opportunity Enhancement Act. I worked closely with Senator BARRASSO on it. We have an additional 10 cosponsors across the country. In the House of Representatives, Representative BISHOP and Representative DEGETTE have championed this bill.

Our bill would simply clarify that the Forest Service may permit year-round recreational activities, where appropriate, on ski areas on public lands.

It includes no new Federal spending. I think that is an attractive element of the legislation. It would increase the money coming into the Federal Treasury because it would likely increase permit fees.

The bill would boost year-round activity in ski resorts on public lands, providing more opportunities for outdoor recreation, creating jobs in the process and aiding the rural economies that surround ski areas.

The bill is so bipartisan and strongly supported that it passed the House last night by 394 to 0. No House Members voted against the bill.

Despite bipartisan and bicameral support for the bill, and the fact that it

would create jobs, I have not been able to get this bill to a vote on the floor of the Senate. I am tempted to ask unanimous consent that the bill pass, but I will continue to work in the regular order to move the bill to the floor of the Senate and on to passage.

I had a long career—if you want to call it that—as a high-altitude mountain climber before I came to the Congress. That experience prepared me to serve in the House and in the Senate in unexpected ways.

In 1992 I was on the south face of Mount McKinley, known to the people of Alaska as Denali, as well. We were 10 days into what was supposed to be a 7-day climb. We were out of food. The only way to get down was literally to go up and over the top of Mount McKinley.

The lesson I learned in that successful climb was, when you are faced with 20-below temperatures and high winds, the only way home is over the top. You have to work together to accomplish the impossible. When you do work together to accomplish the impossible, you find a way to make it happen.

In some ways I believe that is the choice Congress has to make as we face these challenging times. We can either work together and find a way up and over the summit—passing legislation that will create jobs, fix our budget problems, and start working on the problems Americans face every day—or we can keep fighting with each other, in effect, starving the country of the leadership I know Congress can provide and that we must provide in these challenging times.

Madam President, I close my remarks today by asking my colleagues to join me in passing this straightforward, bipartisan, and commonsense ski areas bill and to support full funding for the Land and Water Conservation Fund. I also ask my colleagues to work with me to enact locally developed wilderness proposals, such as the San Juan Wilderness Act.

As we tackle unemployment and how to grow the economy, let's not forget the important role our public lands can and will play in the future.

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

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

The legislative clerk proceeded to call the roll.

Mr. JOHANNS. 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.

HONORING OUR ARMED FORCES

NAVY MASTER-AT-ARMS PETTY OFFICER FIRST CLASS JOHN DOUANGDARA

Mr. JOHANNS. Madam President, I rise today to honor a fallen hero—Navy Master-At-Arms Petty Officer First Class John Douangdara of South Sioux City, Nebraska. Petty Officer Douangdara was part of the East Coast Based SEAL team on the Chinook helicopter that was downed by enemy fire in Afghanistan on August 6, 2011.

He was a dog handler for the SEAL team. He and his combat assault dog led their unit on patrols in order to expose dangerous explosives and hidden enemy combatants. He and 29 fellow servicemembers, and his combat assault dog Bart paid the ultimate price in support of Operation Enduring Freedom. As a dog handler, the East Coast Based SEAL team entrusted their lives to him and to his dog. His first dog Toby was killed in action in Iraq. His second dog Bart would die with him on the helicopter.

The name ''Douangdara'' can be difficult to pronounce, so his Navy comrades soon gave him the call sign ''Jet.'' Members of his unit remember him for being trustworthy and always positive. The decorations and badges earned during his distinguished service speak to his dedication and his skill. He received the Purple Heart, the Defense Meritorious Service Medal, the Bronze Star with ''V'' Device, the Joint Service Commendation Medal with ''V'' Device, the Army Commendation Medal, the Presidential Unit Citation (2 awards), the Good Conduct Medal (2 awards), the National Defense Service Medal, the Afghanistan Service Medal (3 awards), the Iraq Campaign Medal, the Global War on Terrorism Medal, the Sea Service Deployment Ribbon (3 awards), the Overseas Service Deployment Ribbon (3 awards), the Rifle Marksmanship Medal, and the Pistol Marksmanship Medal.

I am told Petty Officer Douangdara had a joyful disposition and a deep sense of commitment to American ideals that were evident to everyone he encountered. John's high school friends and teachers recall his sense of humor coupled with a competitive desire to win. Participating on the high school mock trial team was one way he directed his very considerable energy.

John was also about helping others. It was not a surprise to those who knew him that his energy, focus, and empathetic nature would lead him to military service and the challenge of working with the Navy SEALs.

John belongs to a very special family. His mother and father escaped from Laos 31 years ago and emigrated to the United States. They settled in South Sioux City, Nebraska, where they grew and nurtured a very respected family. The South Sioux City community honored John with a special memorial service on September 25, 2011. They also named a local park after John.

I know his community and Nebraskans as a whole are enormously proud of his service. I am confident they will provide his family with comfort during this very difficult time.

Today, as we bow our heads with the Douangdara family, I ask that God be with all those serving in uniform and that He bring them home safely.

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

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

The legislative clerk proceeded to call the roll.

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

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

HONORING PATRICK DELEON

Mr. INOUYE. Mr. President, I rise today to recognize my chief of staff, Dr. Patrick DeLeon, who has helped me to serve the people of Hawaii and our Nation for 38 years. Dr. DeLeon is retiring, but he leaves behind a legacy of work that has greatly improved the lives of many of our citizens in Hawaii, particularly the native Hawaiians, while advancing the professional circumstances of doctors, nurses, and psychologists.

After joining my staff in August of 1973, Pat, a psychologist and attorney, directed my efforts to create and refine health and education policy. In the later years he would also serve as chief of staff for my Washington, DC, office. Pat helped to shepherd legislation related to native Hawaiians, immigrant children, the people of the Pacific, and higher education. Under his service the importance of nurses, psychologists, and other health professionals have been properly recognized.

He has been very active in helping our community college system in Hawaii become full-fledged 4-year colleges. For example, he played a major role in the establishment of a school of pharmacy and a school of nursing at the University of Hawaii's Hilo campus.

Pat also serves as a teacher, a mentor, and psychologist to my staff, a role that will be difficult to replace.

I thank Pat for his decades of hard work, his service to the people of Hawaii and this Nation, and, most importantly, for his friendship.

FURTHER CORRECTING H.R. 2608

Mr. INOUYE. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 83, which was received from the House.

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

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 83) directing the Clerk of the House of Representatives to make a further correction in the enrollment of H.R. 2608.

Without objection, the Senate proceeded to consider the concurrent resolution.

Mr. INOUYE. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any

statements related to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 83) was agreed to.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN of Massachusetts. I ask unanimous consent 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.

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1619, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

The PRESIDING OFFICER. The Senator from Massachusetts.

WORKING TOGETHER

Mr. BROWN of Massachusetts. Mr. President, I appreciate the opportunity to come down to the floor once again to speak to you and the American people. I come to the floor today because there is something that too many people in Washington, DC, are missing right now; that is, we are Americans first.

It is a simple idea but one that seems easily forgotten in politics because Washington has a way of making elected officials act like partisans rather than problem solvers. For example, how can any one Member of the Senate be 100 percent right? I just don't know how that happens. How can they also vote 100 percent of the time with their own party? Do they honestly believe their party is right 100 percent of the time or is it easier than going with the alternative—easier than working together with people whom one doesn't agree with on every single issue?

I ran for the Senate to make a difference, and I believe the voters of this country sent us here to find ways in which we can all agree, to move our country forward and to make things better. Governing wisely doesn't mean spending all our time politicking—making the other side uncomfortable by voting a certain way or taking uncomfortable votes, putting those votes in the bank for more petty attacks during the election season. But why else would we spend hours and days trying to ram through one-sided bills that can't pass simply to highlight our differences? Is that honestly why we were sent here today? Because there is no Republican bill that is going to pass and there is no Democratic bill that is going to pass. It needs to be a bipartisan, bicameral effort that the President will sign.

We face very huge challenges. That means we must rise to the occasion and rise above politics to accomplish the very big things the American people expect from their elected officials. Our jobs and economic picture, as we all know, is bleak. The line of unemployed workers would stretch across America and back again. Our national debt and deficits are spiraling out of control. Working families are getting squeezed by the high cost of energy, high health care costs, high education costs. Businesses are squeezed by high tax rates, burdensome regulations, and uncertainty about the future and the political leadership in this country. Our housing market is frozen, and the government is making it harder and harder, rather than easier, for borrowers to refinance. Yet with all these challenges we have, the answer here in Washington is just more of the same—more threats, more gridlock, more partisanship. I say enough already, because I have said this back home in Massachusetts and people, I think, greatly appreciate the sentiments: We are Americans first. If we don't work together right now—at this moment in time, right now—then we are going to miss a great opportunity.

We need to focus on jobs. We need to focus on the economy. That is what I have done since the day I got elected. I believe the American people deserve better. They deserve better than congressional gridlock and political gamesmanship. For example, the President—not you, Mr. President, but the President—has given us a jobs bill that isn't perfect, but it is a start. The majority leader has said the Senate might consider the President's package eventually. Really? Eventually? We are in a financial emergency. We are going to talk about creating jobs eventually?

Let's be honest with those who sent us. The current proposal from the President isn't going to pass either Chamber if it relies entirely on tax increases to pay for it. I know it and the Presiding Officer knows it. So when we bring it up, are we going to try to make it better? Are we going to try to pass it?

I urge the majority leader to bring the jobs bill—or jobs bills—to the floor that can actually get 60 votes as well as have a chance of passing in the House. What would they look like? They would look like parts of the President's proposal that actually have bipartisan support and can help our fellow Americans immediately. We should take the things everybody agrees on and bring them forward now—right now. We could pass a payroll tax cut for both employers and employees. I stood when he said that. I clapped. I agree with him.

We can also pass his version of the Hire A Hero Act that provides tax incentives for employers to hire our heroes who are returning from doing incredible service for our country. It puts them back to work. Their unemployment rate is 25 percent. I am all for it. I clapped again. It is a great idea.

We can get to work on reforming our Tax Code in a way that eliminates loopholes and leads to lower rates. We can do these things. It is possible. Those are the things we agree on and we should be doing immediately—not just bringing a bill forward, knowing it is not going to pass and then spotting a particular person or party for an election season that is so far away that if we don't do something right away, we are going to be in deep trouble and miss the opportunity. We are Americans first. We can do it better and we should do it better.

I have been a little bit discouraged—it seems to go in ebbs and flows—about the ability to actually have an open amendment process. We had to sign a letter to the President guaranteeing we would actually move forward with the trade agreements. Then we had an open amendment process and, quite frankly, I think when it was done, everybody was satisfied that it was just that—an open amendment process—and we got some good suggestions and sent them off to the President. I am eager for those bills to be passed.

We need to allow our Members to offer their own ideas on job creation. There is no one particular person, whether it be the President, the majority leader, the minority leader, or any individual here, who has all the ideas on job creation. Since when? I have a vote, just as each and every one of my colleagues does. I am sure the Presiding Officer has some amendments he thinks would help job growth in his State. I know we have worked on one that was cited by independent groups as being probably the No. 1 way to actually get the economy moving, but we will not even have the opportunity to allow that to be filed as an amendment. Is that right? Of course not.

I have a number of bipartisan pieces of legislation, one of which I just referenced with the Presiding Officer, to help boost our economy in Massachusetts. Whether it is working with our fishermen to protect that industry which provides food for American citizens and throughout the world or whether it is the high-tech sector, biofarming—you name it—my bills will help solve, as will the Presiding Officer's and others, some of our economic problems. It will not be done overnight, but it is a first step. There is absolutely no reason we can't move forward to have an open amendment process on a bill that will actually create jobs. But they will make a difference in

Massachusetts today, and that is what my constituents sent me here to do.

Secondly, we need to focus on our debt and deficits. They are out of control. When I got here, we had an $11.5 trillion national debt. It is now up to $14.5 trillion in a little over 1 year. There is plenty of blame to go around. I hear my colleagues ranting and raving and blaming everybody, but everybody is at fault. Let's acknowledge that and set aside the sniping of whether we should blame this administration or that administration because, quite frankly, it doesn't matter. It doesn't matter at this point. Everyone has contributed, and now everyone needs to work together to solve these very real problems.

I am urging the debt committee to put aside partisanship and remember that we are, once again, Americans first and we have an opportunity right now—right now, in this moment in time—to do it better and to solve these very real problems. We should not get lost in party politics. We should think the way great American leaders have always thought. They didn't waste time scoring points. They took the long view. They thought about leaving a legacy for the next generation and leaving our country in a better place. I know, as the Presiding Officer does, and many others, I have pictures of my children and my family—no grandchildren yet—here in my office in Washington and in my home and in Boston. If we care about the young people in those photos, we should be demanding—absolutely demanding, we should have a lot of the folks who are not in leadership actually get up and demand a bipartisan compromise on the debt, one that finally puts us back on the track toward a balanced budget. As the Presiding Officer knows, because I believe he served with him, before I held this Senate seat, it was held by the late Senator Ted Kennedy and before that it was held by John F. Kennedy. I wish to remind my colleagues that it was President Kennedy who famously said: ''Those to whom much is given, much is expected.''

The voters have given us so much. They have given us so many opportunities to do it better and to be better in solving our country's very real problems. They have given us a responsibility and an opportunity to come here and work and get something done. Every minute we waste, we let them down. With every petty attack, they get more cynical and expect less and less from the people who serve in this great and historic Chamber. While Washington bickers, their faith in our democracy is waning. So I, for one, challenge the majority leader, the minority leader, and all the Members to finally do something for the American people who need our leadership so badly. Let's work together on these big challenges. Let's renew the faith the people of America have bestowed in us and let's remember we are Americans first and we owe it to them to do it better.

I thank the Presiding Officer. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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.

RECESS

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

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2011—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Does the Senator from Tennessee wish to be heard on the motion to proceed?

Mr. CORKER. I do.

The PRESIDING OFFICER. The Senator is recognized under the motion to proceed.

Mr. CORKER. Mr. President, I rise to speak about the bill that is about to come before us—the China currency manipulation bill, as many are calling it. I want to speak about this bill because I think it is poor public policy.

I know back home in all of our States people are concerned about the future; I am concerned about the future. People are concerned about manufacturing jobs; I am concerned about manufacturing jobs. But it seems to me what we ought to focus on are those things that will take us to the place we want to be.

I know a lot of times when we are having these types of economic situations, the country turns inward. The country tries to look for other things to blame for the cause of where we are, and I think that is exactly what this bill is doing. Here we have a situation where our economy is slow, we have a financial crisis in Europe that has created tremendous fear in every country in the world. Yet what we are looking at doing in the Senate is creating a trade war with the second largest economy in the world—an economy that is growing rapidly and where our exports to this country grew twice as fast in the year 2010 as it did, on average, with the rest of the world.

To me, Mr. President, this is one of those bills where we cut our nose off to spite our face. It is one of those bills where we try to make it look back home as though we are doing something constructive when what we are really doing is hurting the U.S. economy.

We have three free-trade bills that are coming to the floor—that have been held up now for over 900 days—and that I think are going to pass. I believe this body is going to embrace them because we know this country is losing market share in the three countries we are reaching an agreement with. We are losing market share in South Korea, we are losing market share in Colombia, and we are losing market share in Panama. In other words, the manufacturers in Tennessee and Virginia and all across this country have a lesser ability to sell their goods into these three countries because these three free-trade agreements are not in place. But it is my sense we are getting ready to do something constructive, in a bipartisan way, and approve these bills.

So what is stunning to me is that we would be actually taking up another bill that would likely hurt trade with the fastest growing other economy and the biggest other economy in the world. By the way, China does manipulate its currency. It does do that. It has something called a managed float. Their financial system is antiquated. It is being liberalized. They understand what they are doing with their currency has to change.

Over the last 5 years, the Chinese currency has actually appreciated relative to our dollar by 30 percent. China knows it has to do even more of that. The fact is, as the standard of living in China improves, people are going to want even greater access to American goods. So what we ought to be doing, instead of trying to create a trade war with a country we want to create better relationships with, is focus on the real problems that exist in China.

There is no question the Chinese Government—the Chinese Government—needs to open procurement policies. As a government, they are a large purchaser of goods. Right now they have laws in place that cause them to purchase those goods from companies that exist in China. We need to cause them to open. The Secretary General, or the person we believe to be the next leader of China, is going to be here in January. This is something our President ought to talk with him about when he comes to visit and create an opportunity for success for our companies in America to be able to sell goods to China.

Secondly, we should focus on intellectual property rights. There is no question Chinese companies take advantage of U.S. companies by stealing intellectual property rights. It exists in almost every area. That is something we certainly should be talking to China about.

Thirdly, we ought to be talking about China investing in this country. The fact is, we would like to see more plants created in this country. We would like to see more manufacturing occur. So, yes, we should be talking to China about making investments in this country.

Lastly, we should certainly be creating avenues for Chinese consumers to

have greater access to American goods. Those are the types of solutions we ought to be talking about, and they can certainly be dealt with at the executive branch level. There are WTO violations we ought to be bringing to the WTO's attention.

This bill, in my opinion, is great in optics. It allows Senators to go back home—by the way, the Senate is supposed to be the cooler place. It is interesting the leadership in the House, where we might expect a bill like this to move out quickly—a hot piece of legislation—has already talked about what bad policy this is. So, hopefully, this bill will not gain traction if it passes the Senate and goes to the House of Representatives. The fact is, this is not the kind of thing the Senate ought to be taking up, and certainly not something the Senate ought to be passing.

We are now in a situation where we have an economic slowdown, the markets are continually getting worse—and have been, especially since August 2—and we have a financial crisis in Europe where contagion with those financial institutions is potentially spreading around the world. Yet the Senate, in its wisdom, is considering a trade war to add to all of that. This is exactly the kind of reaction and behavior that took place in the 1930s. Again, it is almost as if we cannot learn from the past.

Mr. President, I understand that numbers of Senators voted to proceed to this bill, and I understand we ought to have debate on this kind of bill. That is what the Senate is for. But I would encourage all of my colleagues on both sides of the aisle not to have an investment in this bill.

Again, I realize there are numbers of cosponsors, but I would encourage all my colleagues on both sides of the aisle to stand up and to realize this is terrible policy. I know back home it may sound good, but I hope when Americans understand what we are doing is pursuing the wrong issues in the name of trying to make ourselves look good back home, this bill will not see the light of day. Hopefully, we will not have the 60 votes to have cloture on this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I hear this over and over and over in this body and in the House of Representatives; that whenever the President of the United States talks about increasing taxes on millionaires—just making their tax rate the same as middle-class taxpayers—the other side yells ''class warfare, class warfare, class warfare'' against the rich. Yet we know class warfare in this country is being aimed right at the middle class and has cost so many jobs and caused so many people in the middle class to see their incomes remain flat for the last 10 years.

When I hear discussions about trade, I always hear characterizations of protectionism or trade war; we are in a trade war. Look at the number of jobs we have lost to China in the last 10 years. We don't have to look very far to know every time we go to the store and buy something, it seems darned near everything is made in China. It wasn't that way 10 years ago. It sure wasn't that way 20 years ago.

Ten years ago this body made a mistake—many of us opposed it, and I was in the House of Representatives then—with something called permanent normal trade relations with China—letting China join the World Trade Organization. In those days, there was a relatively small trade deficit with China. A trade deficit means we buy more from them than we sell to them. Today that trade deficit with China is about $750 million every single day. Every day we buy $750 million more in products from China than we sell to China.

If we are buying that much more than we sell day after day after day—7 days a week, 52 weeks a year—we end up losing jobs because these are the things we were making in this country.

Never in our history do I remember—and I am not a professional historian, but I have never heard anybody say otherwise on this—that companies in one country would shut their production down—stop producing steel in Steubenville or stop producing chemicals in Cleveland or stop producing cars in Dayton or stop producing glass in Toledo—shut down a plant, move it to another country—often China—and then sell the product back into the home country, back to the United States of America. That is not a ticket for anyone in America to gain middle-class status, and it is not good economic policy. It doesn't put us in the place we need to be.

So when I hear the opponents to this whole idea of leveling the playing field say: Oh, my gosh, the Senate, which is supposed to cool the saucer—whatever that George Washington/Thomas Jefferson saying was—cool the hot tea in the saucer, or however he said that, and then say this is a trade war, that our attempt to simply level the playing field is a trade war, that is just unilateral disarmament. The Chinese understand what a trade war is about.

Let me cite one example real quickly. I was talking to a gentleman who works for paper companies in the United States, including paper manufacturers we still have in Ohio, in Chillicothe and West Carrollton, sort of the Dayton area, and down into Butler County near Cincinnati and other places around the State, and he said the Chinese didn't even have a coated paper industry 15 years ago. That is the kind of paper that is the glossy magazine-type paper. The Chinese started this industry 15 years ago. They buy their wood pulp in Brazil, then ship it to China, and then it is milled in China. Paper is expensive to transport. It is heavy, for the cost of it, and it is bulky, for the cost of it. But the Chinese take wood pulp from Brazil, and then it is shipped and milled in China and then sold back here.

The labor cost of making paper is only 10 percent of the cost. Yet they can undercut prices here. Why is that? Well, we assume they subsidize water and capital and land and energy. We also know they get a 25-percent additional subsidy because of currency because the Chinese game the currency system. They devalue their currency. They underappreciate, if you will, their currency, meaning they, in a sense, get a bonus.

When they sell anything to the United States, they get a 25-percent discount. So they can undercut American manufacturers that could be even more efficient than they are or, if the United States sells into China, our sellers, our producers, get a 25-percent penalty.

But look at the job loss. This is the whole story. This really is the whole story. We have 10 cosponsors. We have five Democrats—Senator SCHUMER and I and Senators HAGAN, STABENOW, and CASEY—and five Republicans—Senators SNOWE and COLLINS of Maine and Senators SESSIONS of Alabama, BURR of North Carolina, and GRAHAM of South Carolina. This is a bipartisan effort that got 79 votes out of 98 yesterday.

So when I hear the other side say we are starting a trade war, look at this chart. This is California, in the last 10 years, since PNTR—since we set up this relationship with China and allowed China into the World Trade Organization. Look at the job loss. California lost almost a half million jobs. Most of these are manufacturers. Texas lost 232,000. My State lost 103,000 jobs.

These are 103,000 people that saw their plants close. We have lost 50,000 manufacturing plants in this country in the last decade or so. These are 103,596 people, our people. If they lose their job, $16-an-hour manufacturing, they often lose their health insurance; they often lose their home.

It is easy for us to talk numbers and easy for us, dressed like this and getting paid well to do these jobs, to forget what an individual suffering from this kind of job loss is all about. Imagine a family in Richmond or a family in Columbus, where they lost their job, then they lost their health care, and then they lost their home. They have to go to their 12-year-old daughter and say: Honey, we are going to have to move. We are losing our house. We can't live here anymore.

These are terrible human problems. To dismiss our efforts to try to come to an even, level playing field so we can compete is what we need to do, not using names such as trade war and protectionism and class warfare and all that.

I will conclude my remarks. There will be much more in the next 2 days' debate on these issues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. 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.

Under the previous order, all postcloture time is yielded back and the motion to proceed to S. 1619 is agreed to.

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1619) to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 694

Mr. REID. The bill having been reported, 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 Nevada [Mr. REID] proposes an amendment numbered 694.

The amendment is as follows:

At the end, add the following new section:

SEC. ___. EFFECTIVE DATE.

The provisions of this Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 695 TO AMENDMENT NO. 694

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 695 to amendment No. 694.

The amendment is as follows:

In the amendment, strike ''3 days'', insert ''2 days''.

MOTION TO COMMIT WITH AMENDMENT NO. 696

Mr. REID. I have a motion to commit the bill with instructions that is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill (S. 1619) to the Committee on Finance with instructions to report back with amendment No. 696.

The amendment is as follows:

At the end, add the following new section:

SEC. ____. EFFECTIVE DATE.

The provisions of this Act shall become effective 6 days after enactment.

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 697 TO AMENDMENT NO. 696

Mr. REID. I have an amendment to the instructions.

The PRESIDING OFFICER. The clerk will report the amendment to the instructions.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendment numbered 697 to the instructions of amendment No. 696 to the motion to recommit.

The amendment is as follows:

In the amendment, strike ''6 days'' and insert ''5 days''.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 698 TO AMENDMENT NO. 697

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 698 to amendment No. 697.

The amendment is as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President.

The PRESIDING OFFICER. The Republican leader.

JOBS BILL

Mr. MCCONNELL. Mr. President, for 3 weeks President Obama has been traveling across the country calling on Congress to pass what he calls his jobs bill right away. Here is what he will say in Texas today, if he has not said it already: At least put this jobs bill up for a vote so the entire country knows where every Member of Congress stands. Well, I agree with the President. I think he is entitled to a vote on his jobs bill.

The suggestion that the Senate Republicans are not interested in voting on his jobs bill is not true. I think he is entitled to a vote. It won't surprise anyone to know I do not think it is a good approach, a way that is likely to create jobs, but he has asked for a vote. I think we ought to accommodate the President of the United States on a matter he has been speaking frequently about over the last few weeks and give him his vote.

In fact, they have been calling for this vote with great repetition. His Press Secretary said it on October 3, and David Plouffe, the White House Senior Adviser, said the same thing on September 27. David Axelrod, his top strategist, called for us to have this vote on September 13. The President himself—let me count the number of times: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11—12 times the President of the United States himself, over the last few weeks, has called on us to have this vote. As he put it: I want Congress to pass this jobs bill right away. Well, I hope it will not pass because I do not think it is the right direction for the country to take to begin to deal with the joblessness issue, but I do think the President makes an important point—that he is entitled to a vote.

If I were to be given an opportunity by my good friend the majority leader, I would offer the President's jobs bill, which we think would be more accurately described as stimulus 2, sort of a redo of the approach and the bill we approved back in 2009, after which we have lost 1.7 million jobs. Therefore, I would ask consent to set aside the pending motion and amendments in order to offer the amendment which I have just described and hold in my hand at this moment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, reserving the right to object, I am not going to do a long dissertation on stimulus 1, the jobs bill that, in effect, did so much good for our country. I can't talk about the other 49 States, but I can talk about what the Recovery Act did for the State of Nevada. It basically saved the State of Nevada from going into bankruptcy, hundreds of millions of dollars to help State government stop massive layoffs of teachers and create tens of thousands of jobs in areas such as renewable energy. So that is enough on the American Recovery Act. I thought it was extremely important for Nevada. Other Senators can come and talk about how their own States benefited.

''Right away'' is a relative term. The President has been calling for a vote on his jobs bill and rightfully so. Why did he start calling for a vote on his jobs bill? Because there was again one of the long obstructions that took place in the Senate and in the House on an issue that was fairly simple. What was that? Funding the Federal Emergency Management Agency. These devastating floods, tornadoes, hurricanes, and fires had created a situation where FEMA was about to go broke. You would think we could move quickly past that, but, no, we couldn't because something we agreed on in late July—that we would fund the government for the rest of the year—was again brought to the forefront and because the Republicans were threatening to close down the government again. So of course the President was calling for his jobs bill. He recognized that what was going on here in the Senate and in the House was a waste of time; that is, why were we spending time unnecessarily on funding one of the essentials of government; that is, taking care of people who have been devastated by these terrible storms and other calamities.

We have moved very quickly, after we got through that slog caused by the

Republicans, to get FEMA funded and to get the CR extended for 6 weeks. We are now on something that is long overdue: China currency. China has been manipulating its currency for a long time. In the last 10 years, we have lost 2 million jobs because of this. If there were ever a jobs bill, it is this we are doing on the floor right now.

I sponsored the President's bill. I am the one who brought it to the floor. I have announced in a number of speeches I have given out here that I believe we should move to this jobs bill. We need to move to this right away, there is no question about that, but to tack this onto the China currency manipulation legislation is nothing more than a political stunt. We all know that. If we don't, we should know. I am telling everyone. I said I will bring the American Jobs Act to the floor this work period. We have 2 more weeks left in this work period.

Obviously, the Republican leader, my friend, the Senator from Kentucky, wants to do something about the jobs bill. I am glad he does. He wants us to move this forward. So my suggestion would be to modify my friend's unanimous consent request and suggest that we have the permission, for lack of a better word, of the Republicans here in the Senate to immediately move—the motion to proceed would be unnecessary. We could move to that as soon as we finish—you have two choices: either as soon as we finish the China currency legislation or we finish the trade legislation, which Senator MCCONNELL and I have talked about finishing next week. So I would move to modify my friend the Republican leader's consent agreement that we move immediately to the legislation I have introduced on behalf of the President either after we finish the China currency legislation or after the trade bill, whatever my friend would rather do.

The PRESIDING OFFICER. The pending request is a request from the Republican leader.

Mr. REID. I have asked that it be modified.

The PRESIDING OFFICER. Does the Republican leader so modify his——

Mr. MCCONNELL. Mr. President, reserving the right to object, I listened carefully to what my good friend the majority leader had to say, and he was talking about other matters debated at other times—the first stimulus bill, on which I think we probably have a basic disagreement. I think it was almost a total failure. He also talked about the debate we had with regard to the continuing resolution, which was finally worked out on a bipartisan basis. But those are things that occurred in the past.

What I am trying to do here today by suggesting that we vote on the President's jobs bill which my good friend the majority leader has previously introduced and I gather by way of introduction supports, that we honor the request of the President of the United States to vote on it now. He has been asking us repeatedly over the last few weeks to vote on it now. If my friend the majority leader is saying he doesn't want to honor the President's request and vote on it now but would like to consider voting on it later, that is something he and I can discuss as we decide how to move forward with Senate business.

But I think the President of the United States, whose policies I, generally speaking, do not support—although I am happy to support his initiatives on trade, be they ever so late—is entitled to know where the Senate stands on his proposal that he has been out talking about over and over in the last few weeks, suggesting that we are unwilling to vote on it.

What I am saying is, we don't agree that it is the right policy, but we are more than willing to vote on it. What I hear my friend the majority leader saying is that even though he supports it, he wants to vote on it some other time. Well, the President has been saying he doesn't want to vote on it some other time, he wants to vote on it now.

If my friend is saying we are not going to vote on it now, I would be happy to talk to him and reach an understanding to vote on it later. But my feeling here is that the least we can do for the President is give him a chance to have a vote on his proposal now, as he has requested on numerous occasions. So I will object to the modification, understanding full well the majority leader and I, off the floor, will have further discussions about when we might move to the President's bill and give him the vote he has been requesting.

Mr. REID. Mr. President, further reserving my right to object, there are 14 million people in this country who are out of work.

What a charade we have going on here. We are in the midst of some of the most important legislation we have done this entire year—China currency manipulation—and we now have a proposal that is ridiculous on its face; that is, we vote with no debate on the President's jobs bill. This is senseless. It is unfair to bring this up in this form. We are going to get to this, and we are going to do it either as soon as we finish this China currency or after we finish the trade bills, whatever I can work out with my Republican colleague so that I can move to it. It takes 60 votes to get to this legislation.

The American people, I am sure, can see through this very clearly, that this is nothing more than a political stunt. It is clear we need a full debate on this—we don't need a filibuster—and that time will come very soon, so I object.

The PRESIDING OFFICER. The objection is heard.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, if I may elaborate further, we have had a request from the President on multiple occasions to vote on what he calls his jobs bill and to vote on it now. Just to count again, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11—12 times the President has asked us, over the last few weeks, to vote on what he calls his jobs bill now. I don't think the President is saying he wants an extensive debate about it; I think he is saying he wants a vote on it. I wanted to disabuse him of the notion that somehow we are unwilling to vote on his proposal. We are more than happy to vote on it.

I understand why my friend the majority leader may have some reservations about going forward. I have read a number of critiques of this legislation by Democratic Senators, one part of it or another. But even though there is bipartisan opposition to the President's jobs proposal, I think he is entitled to a vote. So I am sorry it appears we will not be able to achieve this vote the President has repetitiously asked for over the last few weeks. I would like to give him that vote, and we will be talking to the majority leader about when we might have an opportunity to vote on his proposal, the President's proposal which the majority leader introduced, which he has been requesting us to vote on.

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader.

Mr. REID. Mr. President, the President introduced his jobs bill. Immediately, the Republicans continue their obstruction on issues very simple but maintain the floor. There are things going on here. You just can't automatically move to legislation. We know the Senate procedure takes 60 votes to get on a piece of legislation.

The President was calling upon Congress, and especially the Republicans in Congress, to allow his jobs bill to move forward. As I indicated, we were hung up here on issues that had very little to do with the jobs bill. In fact, we should not have been doing it. All the time, I repeat, we have been hung up on FEMA funding, on the continuing resolution, which should have been approved quickly because we agreed to that last July, but they reneged on that even, and threatened to shut down the government unless FEMA was paid for the way they wanted. We were able ultimately to win that debate, but it took a long time.

So when the President said he wants to move to his legislation right away, he was absolutely candid and forthright. He wanted to clear the unimportant things off the floor—the stalling tactics on the floor—and move to his bill, and that is what we are going to do.

What I would be willing to do, if my friend would be agreeable—would the Republican leader agree to a vote on the motion to proceed to the jobs bill? We could do that. We could interrupt this legislation right here. We could interrupt the trade bills. We could vote on a motion to proceed to the jobs bill.

Mr. MCCONNELL. Mr. President, is my friend propounding a consent agreement or simply asking a question?

Mr. REID. I think if the Republican leader is interested in the subject, I could put it in proper form, but we get the point. To get it on the floor, it needs 60 votes. I would be happy to, if the Republican leader would agree to a vote on a motion to proceed to the jobs bill.

Mr. MCCONNELL. Mr. President, let me say to my good friend, I am prepared to vote on the President's proposal today. If the majority leader wants to vote on it some other day, we can talk about that, about how to move forward with it. But the President has been repeatedly asking us to take it up and vote on it now, and I am prepared to do that. With regard to taking it up some other time and voting on it some other day, we will be happy to talk about that off the floor, as we do frequently on every issue we deal with.

Mr. REID. Mr. President, I am sure that in the immediate future—right away—the American people will see, once again, the Republicans are filibustering measures they shouldn't be filibustering—this time, the jobs bill.

Mr. MCCONNELL. Mr. President, I would just add in closing, I think my good friend's problem—and I sympathize with him—is that there is bipartisan opposition to the President's proposal.

Mr. REID. Mr. President, I heard my friend say that, and I didn't want to get into a long dissertation about bipartisan opposition. There are 53 of us. A majority of Democrats will support the President's jobs bill.

Mr. MCCONNELL. The majority leader just confirmed what I was saying, which is that there is bipartisan opposition to this, and we will discuss at what point the majority leader is comfortable with going forward with this proposal. My only reason for offering it today was to respond to the President's request that we vote on it, and we are prepared to do that. If we can't do it today, we will be happy to discuss, as we always do, the agenda of the Senate and when it would be appropriate to vote on it some other time.

Mr. REID. Mr. President, I know I only have in my head the math I learned from Mrs. Picker at Searchlight Elementary School. But I do know, when we have 53—and I have told everyone here we will get a majority of the Senate—a majority of the Senate, not a majority of the Democrats, a majority of the Senate—that is not very bipartisan opposition to this bill.

Mr. MCCONNELL. Mr. President, I can only quote my good friend the majority leader who repeatedly has said, most recently in early 2007, that in the Senate it has always been the case we need 60 votes. This is my good friend the majority leader when he was the leader of this majority in March of 2007, and he said it repeatedly both when he was in the minority as leader of the minority or leader of the majority, that it requires 60 votes certainly on measures that are controversial.

So it is not at all unusual that the President's proposal of this consequence, that would raise taxes, that would spend $½ trillion in a second stimulus bill, would have to achieve 60 votes. That is the way virtually all business is done in the Senate, certainly not extraordinarily unusual.

Mr. REID. The American people will see very soon that a majority of the Senate supports the President's jobs bill.

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 Virginia.

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

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

Mr. WEBB. I ask unanimous consent to speak for 10 minutes and that following my remarks, Senator BARRASSO be recognized.

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

Mr. WEBB. Mr. President, I wish to speak for a few minutes about an amendment I introduced that, in my view, gets to the heart of some of the more troubling Chinese trade policies that are threatening the economic security and the long-term competitiveness of our country.

It is well known that many American companies operating in China are required to transfer their intellectual property and proprietary technology to China as a prerequisite for doing business in that country. I will repeat that they are required to transfer this technology. Despite assurances from the Chinese leadership earlier this year that this was no longer ''official'' Chinese policy, China does continue to be aggressive and overt in its pursuit of foreign intellectual property as it seeks to develop its own, what it calls indigenous innovation. Companies such as General Electric and Westinghouse, among many others, have been required to transfer proprietary technology to Chinese counterparts in order to do business there.

If a private company has developed technology on its own and it makes a business decision to transfer that technology to a joint venture partner in a place such as China, unless there are national security issues, we are obligated to respect the free marketplace. They may be seeking short-term profits at the expense of long-term competitiveness, but that is a business decision. But it is a different case when the American taxpayer has financed the development of these technologies through Federal funding assistance, and I do not believe it is appropriate to allow those technologies simply to be given away to other countries.

Every American owns a piece of intellectual property that has been financed through taxpayer assistance. Federal dollars that go to R&D funding, loan guarantees, and public-private partnerships in order to help develop the next generation of technologies here are supposed to be making American businesses competitive and generating American jobs, not helping develop other industries such as those in China. My amendment would prohibit that practice.

Last year, the U.S. Chamber of Commerce issued a report entitled ''China's Drive for Indigenous Innovation.'' The Chamber noted that China's master plan for the development of science and technology ''is considered by many international technology companies to be a blueprint for technology theft on a scale the world has never seen before.''

The report went on to state that China's ''persistent'' intellectual property theft is ''compounded by the indigenous innovation industrial policies which compel technology transfers in order to have access to the China market.''

The New York Times recently reported that Ford Motor Company is looking to share proprietary technologies for electric vehicles in exchange for selling cars in China. The electric vehicle sector has been developed through Federal R&D funding, loan guarantees, and public-private partnerships—costs borne by American taxpayers. In 2009, for instance, Ford Motor Company received a $5.9 billion loan guarantee from the Department of Energy to advance its vehicle technology manufacturing program.

We see these types of transfers in other industries as well. The Washington Post reported last month that General Electric has transferred valuable aviation avionics technology to state-owned Aviation Industry Corporation of China. Our government has long supported the aviation industry through procurement initiatives and Federal research projects. The fruits of American taxpayer support will now be incorporated into Chinese commercial airliners, in line with China's desire to develop an internationally competitive aircraft industry that could rival American-based Boeing.

We see similar examples of technology transfer in the nuclear energy sector. According to the Financial Times, Westinghouse Electric has transferred more than 75,000 documents to Chinese counterparts as the initial phase of a technology transfer program in exchange for a share of China's growing nuclear market. These documents relate to the construction of four third-generation AP1000 reactors that Westinghouse is building in China.

American taxpayers supported the development of the AP1000 as well as its predecessor, the AP600, through decades of nuclear energy research and development at the Department of Energy. In other words, our taxpayers provided years of government support for the design and licensing of this reactor.

In a January 2010 letter to Obama administration officials, the heads of 19

American business and industry associations wrote of ''[s]ystemic efforts by China to develop policies that build their domestic enterprises at the expense of U.S. firms and U.S. intellectual property.'' Signatories to that letter included the Business Roundtable, the National Association of Manufacturers, and the U.S. Chamber of Commerce.

I ask unanimous consent that this letter be printed in the RECORD.

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

JANUARY 26, 2010.

Hon. HILLARY RODHAM CLINTON,
Secretary of State.
Hon. TIMOTHY GEITHNER,
Secretary of the Treasury.
Hon. ERIC H. HOLDER, JR.,
Attorney General.
Hon. GARY F. LOCKE,
Secretary of Commerce.
Hon. RON KIRK,
U.S. Trade Representative.

DEAR SECRETARY CLINTON, SECRETARY GEITHNER, ATTORNEY GENERAL HOLDER, SECRETARY LOCKE AND AMBASSADOR KIRK: We seek your urgent attention to policy developments in China that pose an immediate danger to U.S. companies. The Chinese government has promulgated a series of ''indigenous innovation'' programs as part of a long-term plan that threaten to exclude a wide array of U.S. firms from a market that is vital to their future growth and ability to create jobs here at home. Given the far-reaching impact of these policies on the American economy, we urge you to make this a strategic priority in our bilateral economic engagement with China.

For several years, the Chinese government has been implementing indigenous innovation policies aimed at carving out markets for national champions and increasing the locally owned and developed intellectual property of innovative products. We are increasingly alarmed by the means China is using to achieve these goals.

Of most immediate concern are new rules issued by the Chinese government in November to establish a national catalogue of products to receive significant preferences for government procurement. Among the criteria for eligibility for the catalogue is that the products contain intellectual property that is developed and owned in China and that any associated trademarks are originally registered in China. This represents an unprecedented use of domestic intellectual property as a market-access condition and makes it nearly impossible for the products of American companies to qualify unless they are prepared to establish Chinese brands and transfer their research and development of new products to China.

This directive targets some of our most innovative and competitive manufacturing and service industries, including computers, software, telecommunications and green technology. Once this system is in place, it is expected to be expanded to other industries. The November directive was followed in late December by the announcement that the government would develop a broader catalogue of indigenous innovation products and sectors to be afforded preferences beyond government procurement (i.e., including subsidies and other preferential treatment). The December announcement, which was issued by four Chinese agencies including the State Owned Assets Supervision and Administration Commission (SASAC), also raises the specter of China subtly encouraging its many state-owned enterprises to discriminate against foreign companies in the context of procurement, including for commercial purposes.

These particular programs are part of a broader set of government policy initiatives covering, for example, patents and standards, competition policy, encryption and tax, the effect of which is creating barriers to competition in the Chinese market for our most innovative companies.

They also run counter to repeated pledges by the Chinese government to avoid protectionism, including the joint commitment of President Hu and President Obama at their recent summit in November to pursue open trade and investment. Moreover, they do not provide a constructive framework for a positive, cooperative and mutually beneficial relationship.

U.S. economic growth relies in significant measure on access to key international markets. China is the world's third largest economy and represents a major potential growth market for the United States. A healthy U.S.-China bilateral relationship requires an expanding economic relationship based on mutual openness. Systematic efforts by China to develop policies that build their domestic enterprises at the expense of U.S. firms and U.S. intellectual property is not a framework for a positive and cooperative relationship. Additionally, we are further concerned that such policies, if left unchallenged, will be pursued by other important trading partners, compounding the impact on the U.S. economy.

We respectfully request that your agencies make this issue in particular a strategic priority in your bilateral economic engagement with China; develop, in consultation with the business community and like-minded foreign governments, a strong, fully coordinated response to the Chinese government; and raise this issue with your Chinese counterparts in all appropriate multilateral and bilateral meetings and forums.

With best regards,

Stephen J. Ubl, President and CEO, AdvaMed; Richard R. Vuylsteke, President, The American Chamber of Commerce in Hong Kong; Brenda Lei Foster, President, The American Chamber of Commerce in Shanghai; Harley Seyedin, President, The American Chamber of Commerce in South China; John Castellani, President, Business Roundtable (BRT); Robert W. Hlolleyman, II, President and CEO, Business Software Alliance (BSA); Bob Vastine, President, Coaliton of Service Industries (CSI); Gary Shapiro, President and CEO, Consumer Electronics Association (CEA); Calman J. Cohen, President, Emergency Committee for American Trade (ECAT); Dean C. Garfield, President, Information Technology Industry Council (ITI); Robert Barchiesi; President, The International AntiCounterfeiting Coalition (IACC); John Engler, President and CEO, National Association of Manufacturers (NAM); Evan R. Gaddis, President and CEO, National Electrical Manufacturers Association (NEMA); Bill Reinsch, President, National Foreign Trade Council (NFTC); Ken Wasch, President, Software & Information Industry Association (SIIA); Phillip J. Bond, President and CEO, TechAmerica; Grant Seiffert, President, Telecommunications Industry Association (TIA); Peter Robinson, President and CEO, United States Council for International Business (USCIB); Thomas J. Donohue, President and CEO, U.S. Chamber of Commerce.

Mr. WEBB. I am introducing a very simple amendment. It is intended to protect American innovation and American jobs, and it is intended to make America more competitive and to create jobs here at home. In cases where technologies are developed with the support of the American taxpayer, my legislation prohibits companies from transferring the technology to countries that by law, practice or policy, require proprietary technology transfers as a matter of doing business.

Specifically, it says: A country which, by law, practice or policy, is required to transfer proprietary technology or intellectual property as a condition of doing business in that country will not be the recipient of any of these technologies that were developed with the assistance of the American taxpayer.

Quite simply, if taxpayers supported the development of the technology, they own a piece of it, and it can't just be given away. The transfer of publicly supported proprietary technologies by American firms to China, and potentially other countries, clearly and unequivocally places the competitive advantage of the American economy at risk.

Our trade laws are designed in order to protect national security, but our economic security is also an element of our national security. Intellectual property in the civilian sector should also be protected. My amendment seeks to do that.

I believe this is an issue every Senator can support.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the floor, as I have repeatedly since the health care bill was signed into law, to offer a doctor's second opinion about issues related to that health care law.

A group of House and Senate Republican lawmakers, including Senator THUNE of South Dakota, released a startling new report about the President's health care law. The report is entitled ''CLASS' Untold Story: Taxpayers, Employers, and States on the Hook for Flawed Entitlement Program.'' I commend this report to my colleagues.

Many may remember that President Obama's health care law established a brandnew, Federal long-term care entitlement program. It is called the CLASS Program, the Community Living Assistance Services and Supports Program.

This CLASS Program pays a stipend to individuals enrolled when they are unable to perform daily living activities—dressing, bathing, eating. To qualify for the benefits, an individual would have to pay a monthly premium for 5 years—pay a monthly premium for 5 years—before the Federal Government starts to pay out any of the benefits.

The health care law mandates that the CLASS Program collect individual

premiums for those 5 years before the program actually even starts to pay out benefits.

It sounds pretty good but not so fast. When it comes to the health care law, the American people have come to realize that if it sounds too good to be true, it probably is.

The CLASS Program was supposed to start January 1, 2011—10 months ago. But the Obama administration's officials decided to delay the program because they know it does not work. It is now known that the CLASS Program was an intentionally designed budget gimmick—that is correct: an intentionally designed budget gimmick.

During Senate floor debate of the President's health care bill, I, along with many other Members of this side of the aisle, warned repeatedly—repeatedly—that the CLASS Program is a financial disaster waiting to happen.

The Congressional Budget Office estimated the CLASS Program would reduce the deficit by $70 billion over a 10-year period. These savings are mythical, and they come from the premium dollars CLASS collects those first 5 years, before it pays out a single penny.

During those first 5 years, the program is not required to pay out any benefits to any individuals. Over its first 10 years, the Congressional Budget Office says this CLASS Program will collect $83 billion in premiums and only pay out $13 billion in benefits.

But instead of holding on to the $70 billion in excess premiums collected to pay for future expenses we know are coming, Members of the Senate—Members on the other side of the aisle—used those same funds to pay for President Obama's health care law.

To add insult to injury, Washington Democrats then tried to claim that the $70 billion could also be used to pay down the deficit.

The American people immediately saw this claim was irresponsible. Even the Senate Budget Committee chairman, Senator KENT CONRAD from North Dakota, admitted the CLASS Program was ''a Ponzi scheme of the first order—something Bernie Madoff would be proud of.'' Yet the President and Washington Democrats pushed to include this CLASS Program in the health care law.

This new report provides undeniable evidence that administration officials knew the CLASS Program's design and payment structure were fiscally unsustainable. The Obama administration knew it. Yet they repeatedly ignored the explicit and persistent warnings.

One might ask: Why is that? The only logical explanation is, administration officials chose to hide the CLASS Program's true cost from congressional lawmakers and the American people—all to advance President Obama's ideological health care agenda.

This push to advance an agenda, rather than reasonable patient-centered health care reforms, served only to create yet another unsustainable entitlement program, an entitlement program this country simply cannot afford. The Obama administration's own Chief Actuary, a man named Richard Foster, repeatedly tried to tell administration officials that the CLASS Program was not fiscally sound. Internal e-mails from Mr. Foster first warned administration officials in May of 2009—well before the health care law was enacted.

According to that report, Mr. Foster's e-mail says:

> The program is intended to be ''actuarially sound'', but at first glance this goal may be impossible. Due to the limited scope of the insurance coverage, the voluntary CLASS plan would probably not attract many participants other than individuals who already meet the criteria to qualify as beneficiaries.

He went on to say:

> While the 5-year ''vesting period'' would allow the fund to accumulate a modest level of assets, all such assets could be used just to meet benefit payments due in the first few months of the 6th year.

Then, a key sentence:

> The resulting substantial premium increases required to prevent fund exhaustion would likely reduce the number of participants, and a classic ''assessment spiral'' or ''insurance death spiral'' would ensue.

What does this mean in plain English? It means the CLASS premiums will be too expensive to persuade young, healthy people to participate. It means the CLASS plan's long-term care payout is very enticing to people who know they are going to need the care; healthy people do not participate, sicker people do participate. Individuals in the health care system call this phenomenon adverse selection. When adverse selection occurs, the American taxpayer is at very serious risk of being forced to bail out the program when it fails.

The report goes on to show that Mr. Foster repeated his concerns during the summer of 2009. He writes to another administration official:

> I'm sorry to report that I remain very doubtful that this proposal is sustainable at the specified premium and benefit amounts.

He says:

> Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant federal subsidies to continue.

Let me remind everyone that the Chief Actuary is a nonpartisan, high-ranking official at the U.S. Department of Health and Human Services. The Chief Actuary's estimates are critical to understand the health care law's true fiscal impact and long-term viability.

Mr. Foster certainly does not have an ax to grind. He simply offered his analysis based on the data, and the Obama administration ignored it. Not only did Obama administration officials ignore Mr. Foster, they stopped requesting his input. But Mr. Foster was not alone.

In the fall of 2009, the Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation also raised the red flag. According to the report, one employee wrote in an e-mail on October 22:

> Seems like a recipe for disaster to me. . . . I can't imagine that CLASS would not have high levels of adverse selection given the significantly higher premiums compared to similar policies in the private market.

Just a week after Senator THUNE released this stunning new report on the floor of the Senate, media outlets indicated that the Department of Health and Human Services has closed its CLASS Program. Mr. Bob Yee, the CLASS Chief Actuary, announced the closure in an e-mail. He went on to say he would leave his position as the CLASS office Actuary effective immediately. News reports indicated the CLASS office's employees have either been reassigned or asked to leave.

Mysteriously, however, the Department of Health and Human Services issued a statement denying the office was officially closing. In fact, the statement failed to say if and when the CLASS Program would even start. The Obama administration has had 18 months to figure out how to implement this CLASS Program. Recent developments show they are not even close to resolving questions about the program's solvency.

The American people deserve more. The American people deserve the truth. The evidence is indisputable. Administration officials at the Department of Health and Human Services knew the CLASS Program was unsustainable, and they knew it before President Obama signed the health care bill into law. They knew it. Yet this Senate and the House of Representatives and the administration failed in their duty to be honest with the American people and to tell them the truth.

Were administration officials deliberately hiding CLASS's true cost for political gain? This is certainly not the first time during the last several weeks that we have seen troubling reports exposing the administration's tendency to ignore financial warnings. They ignore the warnings so they can advance politically important projects to them—projects that turn into expensive failures, with the American taxpayers being stuck with the bill.

I see this report, this incredible study, as yet one more piece of evidence that the President's health care law must be repealed. It must be repealed and replaced with reasonable, commonsense, and financially sound alternatives: patient-centered reforms that allow individuals to get the care they need, from the doctor they want, at a price they can afford.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of amendment No. 680 that we have filed. I am concerned that the bill before us will have only marginal effects on China's manipulation of its currency. My amendment offers a different approach, one which I believe

will be more effective over the long term.

Let me first say, I strongly agree with the sponsors of this bill about the need to send a strong signal to China, and other currency manipulators as well, that massive intervention in the currency markets to gain trade advantage will no longer be tolerated. For the international economic system to work, every country, including China, needs to play by the rules.

Similarly to many of my colleagues, my frustrations with China's trade and economic practices go far beyond currency manipulation. For example, China's failure to protect intellectual property rights, China's industrial policies, their limitations on American investment, and their unfair support and subsidization of State-owned and State-assisted enterprises are all very serious problems we need to address.

So while today we are focusing on currency manipulation, I look forward to working with Senator BAUCUS to examine potential solutions to these problems through Finance Committee hearings on China, which I hope we will hold soon.

The sponsors of this bill assure us that their approach is WTO consistent and will not result in a trade war with one of our largest trading partners. Given the importance of these questions, I wrote Secretary Geithner and Ambassador Kirk to request the administration's views. While they assured us they are reviewing the bill, to date, they have not publicly weighed in one way or the other. It seems to me they need to weigh in. Given that they know the Senate is debating the legislation this week, I think this is very unfortunate. If the administration is going to have any impact on this debate, I would urge them to comment soon.

Even though I have supported similar legislation in the past, I have continuing reservations about this approach. Fundamentally, we must remain focused on one question: Will this legislation actually solve the currency problem with China? After careful consideration, I have come to the conclusion it will not. While well-intentioned, the bill is too focused on unilateral remedial actions. As a result, I fear the bill will only have a marginal effect on China's practices, while at the same time potentially targeting many U.S. exporters for trade retaliation by China.

For example, the Congressional Budget Office scored this bill as generating $61 million in revenue over 10 years. To put this in context, in 2010 alone, the United States imported almost $365 billion of goods from China. Given the scope of the problem, I find it difficult to believe that unilaterally imposing an additional $6 million in antidumping and countervailing duties a year on Chinese imports will compel China to change its currency policies or have any meaningful impact on our trade deficit with China.

Many of the other remedial provisions in this bill require the U.S. Government to take other unilateral actions against China, many of which may actually harm U.S. exporters directly or expose them to potential retaliation by the Chinese. To succeed over the long term, I think we must go in a different direction.

My amendment does just that. My amendment strikes the unilateral provisions while retaining the core of the bill that actually advances our shared goal of combating Chinese currency practices. I agree with my colleagues that the exchange rates and International Economic Policy Coordination Act of 1988 is simply not working. Administration after administration refuses to exercise its authority and deem China a currency manipulator. This is enormously frustrating to all of us, especially since candidate Obama campaigned against China's current currency practices, and after being elected had his own Treasury Secretary testify before Congress that China is, in fact, manipulating its currency. Yet they refuse to act.

So I agree the Congress must tighten the criteria and establish a more objective approach to identifying fundamentally misaligned currencies and designating fundamentally misaligned currencies for priority action.

I supported this goal in the past and continue to today. I also agree we need to hold the Secretary of the Treasury and the U.S. Trade Representative accountable. So I have retained the requirements under this bill that they report to and testify before Congress on their progress. But to succeed over the long term we need to adopt a fundamentally different approach.

We have had some success in the past. For example, during the Bush administration, from 2005 to 2008, negotiations pushed China to appreciate its currency by 20 percent. Unfortunately, the Obama administration has had no such success.

My amendment builds on this successful model but also takes it a step further. First, my amendment directs the Secretary of the Treasury and the U.S. Trade Representative to initiate negotiations in the World Trade Organization and the International Monetary Fund to develop effective remedial rules and actions that will mitigate the adverse trade and economic effects of fundamentally misaligned currencies designated for priority action under this bill, and that will encourage priority action countries to adopt appropriate policies to eliminate the fundamental misalignment of their currencies.

The WTO and the IMF were designed to handle complex issues like currency, so we should start there and work with our allies to devise long-term and effective solutions. Working with like-minded countries, we should be able to agree that when individual members advance their nationalistic interests so aggressively through currency manipulation that they threaten the whole global economy and their own long-term interests, and their actions need to be addressed.

Many of my colleagues may argue that negotiations in the WTO and IMF will not work. My amendment addresses that potential problem in its second section. It provides that if the Secretary of the Treasury and the U.S. Trade Representative cannot make progress to effectively mitigate the adverse effects of fundamentally misaligned currencies within the WTO and the IMF within 90 days, then the administration shall enter into plurilateral negotiations outside of the WTO and IMF to develop agreements with our friends and allies who are also committed to open and fair currency policies.

These negotiations will need to develop mechanisms to mitigate the adverse effects of priority action country currency policies, and to encourage those priority action countries to abandon their interventions into their currencies.

We have seen multilateral approaches work in the past in combating some of China's unfair trade and economic practices. For example, China changed course on both its aggressive indigenous innovation policies and on efforts to hoard its rare earth materials primarily due to multilateral pressure against the Chinese. These important issues have not been solved and require additional efforts.

But by working with our friends and our allies, we effectively convinced the Chinese Government to take a more constructive approach. Let's build on the successes we have witnessed in recent years. Let's work together to counter, in a systematic and comprehensive way, the efforts of those priority action countries that derive trade advances through current policy.

To be clear, I am not suggesting that the United States violate any of its international obligations. That point is made clear in the amendment. But I am suggesting that the solution to the currency problem cannot be achieved unilaterally, and our negotiators must reach out to our allies to aggressively counter the behavior of China and others. So far the administration has failed to lead on the currency issue. My amendment requires that they do so.

The third section of my amendment helps maintain pressure on the administration to take concrete action. It requires the Treasury Department and the USTR to report to Congress every 180 days following enactment of this bill. In these reports the administration must identify: one, the countries with which the United States is conducting negotiations to mitigate the adverse effects of priority action currencies, and in what international fora or negotiating configurations those negotiations are taking place; two, the remedial rules and actions under discussion in those negotiations; three, any remedial rules that have been adopted and any remedial actions that

have been taken pursuant to those negotiations; and, four, what, if any, additional authority the Secretary or the U.S. Trade Representative needs from Congress to conduct these negotiations and to effectively mitigate the adverse trade and economic effects of fundamentally misaligned currencies or to implement coordinated actions with other countries.

Finally, my amendment sets up a process to immediately take advantage of ongoing international trade negotiations by establishing a new priority negotiating objective of the United States for ongoing and future trade agreements. This new objective requires that each party agree to not fundamentally misalign its currency in a manner that would result in a priority action designation and agree to work together to mitigate the adverse trade and economic effects of fundamentally misaligned currency by non-parties such as China.

For example, if the Trans-Pacific Partnership negotiations are to tackle 21st-century trade and investment issues, as the USTR continues to promise, I think this plurilateral negotiation would be a great place to start to address the challenges of fundamentally misaligned currencies. Working with this group of like-minded countries, we should be able to agree amongst all nine parties that no party will fundamentally misalign its currency.

We should also be able to agree to work together to counter the actions of other countries whose interventions in currency markets destabilize the global economy. We have seen multilateral engagement work in other areas. If we are truly going to solve this currency problem, we need to look at what other efforts have actually produced some results in moving the Chinese off a mercantilist policy course and improve the conditions for American businesses and workers competing against the Chinese.

We can all agree that China's massive interventions in its financial sector and currency have disrupted global trade and that its efforts to benefit China at the expense of others has harmed many countries and workers, including many in our own United States. But I believe rather than merely sending a message to China, we must try and find real, long-term solutions and empower and direct our negotiators to reach out to our friends and allies around the world and finally solve the problem.

If existing institutions are not working, we must modify them. If that is not possible, we must look to create new effective international agreements. The challenge that China's currency interventions present are not just to the United States but to the international economic community. We, the Congress, must demand that the administration launch these critical negotiations so we can avert further damage by currency policies of countries like China.

So I call on my colleagues to join me and to not just send a message but to take actions that could, in fact, produce results. In the end, China itself, as well as its neighbors and trading partners, will benefit from a more open, transparent, and fairly exchanged currency regime. What is at stake is far more than making a statement. We need to actually alter the international agreements and the rules of the game to address the problems of today and tomorrow.

So I urge my colleagues to support this amendment when it comes up. I hope we can get it up once we come to the final agreement on how to proceed on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, my main purpose is to address the China currency bill, particularly in regards to the remarks of Speaker BOEHNER and Chairman Bernanke. But there are two other points I wish to make on previous speakers' comments. First, Senator WEBB's amendment.

It is a very important amendment. What it says, of course, is that in cases where commercial technologies are developed with the support of U.S. taxpayers, it prohibits companies from transferring the technology to countries that force proprietary transfers as a condition of doing business. We have seen this over and over.

China, which does not play fair up and down the line, basically gets away with economic murder. One of their techniques is to say to a big American company: We will allow you to sell a ton of stuff to us. You will make lots of money. But in return you must give us your proprietary technology—basically your family jewels.

It is outrageous, and in the long run it weakens America's ability to grow and create jobs. The companies do this because in the 5- or 10-year period in which they have signed the contract, they get a lot of revenue. But it certainly hurts American workers, and it certainly hurts these companies in the long run. But the CEOs probably figure they will be long gone before that money is made. So I want to support Senator WEBB's amendment.

In regards to my good friend from Utah who proposed an alternative, I would say this: We have tried for a decade to get multilateral action. That involves getting China's acquiescence. It is not going to happen. Multilateral action—like saying to the Chinese: Please—has not worked. It will not work. Our legislation is much stronger. It can pass. It got a large vote here this week. It has bipartisan support.

I know Speaker BOEHNER—I will talk about this in a minute—has said he will not take up our bill. But there is going to be huge pressure for him to do so, as I will elaborate later.

So to my good friend from Utah—and I have tremendous respect for him, and I do not doubt for a minute his good intentions, his integrity, his hard work and desire to see things happen. To say to the Chinese: Please negotiate, is a strategy for weakness, is a strategy for failure, and multilateral action will not succeed. The Chinese understand only one thing—I will yield in a brief moment to my colleague for a question or a comment, whichever he prefers.

But the Chinese only understand one thing: being tough; telling them, if they do not discontinue these actions we are going to take action unilaterally on our own. I have been doing this for years. I can tell you, China's policies get worse and worse and worse. As one of my constituents said to me: Uncle Sam, when it comes to China, is Uncle Sam.

To have a policy that involves large multilateral actions and says to the Chinese: Come and negotiate with us, makes no sense at all.

I yield for a brief moment on my time to my colleague from Utah—for a minute or so.

Mr. HATCH. Well, I appreciate that. My colleague has always been very fair and gracious to me. I feel the same way toward him. I understand his deep feelings about this matter. I respect and appreciate them as well. But I am not talking about necessarily negotiating with China directly, other than what we can do. I am talking about dealing with nations that literally are feeling the same way we do, and gradually multiplying our effectiveness by working together—not just sending a message but getting the whole world to start saying: Yes, the United States is right; yes, this group of nations is right. And we can do that even outside of the international organizations that currently exist.

But I would like my colleague to look at that amendment and see—I think he will see some real good in it. I think it will get us farther down the pathway of doing what he knows needs to be done, and I know needs to be done, without necessarily causing a major trade war.

So I just bring that up to my colleague for that purpose, respecting him and what he is trying to do. I think this plural lateral approach I am talking about goes far beyond the IMF and some of the other worldwide organizations; it means really doing effective diplomatic work to bring worldwide pressure to get people to live within certain monetary constraints.

I thank my colleague for yielding.

Mr. SCHUMER. I thank my colleague, and I understand his good intentions and desire to get to the same place, which is to get China to behave fairly. I certainly will look at his bill.

I simply say this: Growing up in Brooklyn, we had to deal with a lot of bullies. The only time bullies give in is when you stand up to them. The proposal my colleague has made does not stand up to China.

The nations of the world have made their opinions clear. Recently, Brazil did. China doesn't care. They will only

care if there are sanctions, tough sanctions that give consequences to their unfair—and usually illegal by WTO standards—action.

Now I want to talk about Speaker BOEHNER's remarks and Ben Bernanke's remarks.

Last night was a milestone in the Senate. For years, the Government of China has been willfully breaking the rules of free trade without provoking a formal response from the U.S. Government—until yesterday. The full Senate for the first time went on record that it wanted to consider formal action to confront China's currency manipulation. It was a lopsided vote, a bipartisan majority of both parties, with 79 Senators in favor. We will spend the next few days debating the particulars, but make no mistake about it, when it comes to China's unfair trade practices, there is a consensus to act in the Senate.

It can be hard at times here to get 79 votes to turn the lights on. When the majority leader and the minority leader vote together to move forward on a major jobs-boosting measure, we should not delay in moving forward. But then today, less than 24 hours after the Senate saw the overwhelming vote in favor of moving forward to finally confront China with real action, the Speaker of the House of Representatives suggested he would not take up the bill if it passes the Senate. He called it dangerous. The Speaker's argument is behind the times. The only thing that would be dangerous would be to continue turning the other cheek while China mounts its assault on U.S. jobs, U.S. wealth, and U.S. manufacturing. Up and down the line, they oppose fair practices. They are mercantilists, maximizing their wealth at the expense of American workers, American companies, and American jobs.

Critics like the Speaker say the bill could start a trade war with China. Well, I have news, Mr. President: We are already in a trade war with China, and it is not going that well. American companies are fighting for survival in the United States and around the globe, battling subsidized Chinese exports with a built-in price advantage of 20 to 40 percent.

We cannot raise the white flag on American jobs, American wealth, and American manufacturing. We can compete successfully against Chinese competition at home and in China and around the world but only—only—if we level the playing field. Our bill helps level that playing field.

There is already a trade war going on, I say to the Speaker. China is cheating to gain unfair advantage. It is about time we do something about it. As Mr. Samuelson said in his article in the Washington Post, the only thing worse than a trade war—and I believe that won't happen because China has more to lose in a trade war than we do, and if they are one thing, they are smart, and they won't cut off their nose to spite their face. They may take a few sanctions, but they won't create a trade war. The only thing worse than even a trade war is continuing our present policies where, 5 and 10 years from now, America cannot get up off the ground because of unfair Chinese policies.

The House Speaker seems to want to sit out this fight. He seems to want us to take a hands-off approach to China. He says, ''This is well beyond what Congress should be doing.'' I am aghast at that notion, that the Speaker says that fighting for American jobs against unfair practices China foists upon us is well beyond what Congress should be doing. What should we be doing? There is nothing else Congress should be doing except rising to defend American jobs.

If he doesn't believe these practices are unfair, he should just listen—the Speaker should—to Chairman Bernanke. This is what he said this morning:

> The Chinese currency policy is blocking what might be a more normal recovery process in the global economy. It is . . . hurting the recovery.

He is the top economist in the land. It is hurting the recovery, I say to the Speaker. That is what Ben Bernanke said. Does the Speaker really think it is beyond what Congress should be doing—to confront something that is hurting the recovery, that everyone who studies it says is unfair, that nobody has come up with a solution to? Multilateral negotiations? Give me a break. China won't budge. We know that.

I find it ironic that the Speaker wants a hands-off approach on China's unfair currency practices considering he, along with the rest of the Republican leadership in both the House and the Senate, just sent a letter a couple weeks ago seeking to meddle in U.S. currency policies. Just 2 weeks ago, the Republican leadership in the House and Senate sent a letter to Chairman Bernanke trying to influence his handling of monetary policies in a highly inappropriate way. It was nothing short of a breach of a protocol that has long been observed, which is that you don't put political pressure on the Federal Reserve because they need to handle monetary policy in an economic way, not a political way. A former Fed official called that attempt to politically meddle in the Fed's independent policymaking outrageous. Politico wrote that the letter was ''an audacious move against a central bank that prizes its political independence.'' A leading economist said that ''it crosses a line that shouldn't be crossed.''

Let me get this straight. The Speaker and the House leadership feel it is OK to cross the line and try to strong-arm the Fed but it is not OK to have the will to stand up to China. This is totally inconsistent, and it is hard to figure out how you could do one thing one week and say another the next week—unless, of course, the House leadership's goal is to hold back our economic recovery. I fear to think that. I fear to think their goal is to make sure the economy is so bad that they might do what our Republican leader said was his No. 1 goal: unseat President Obama. I shudder to think that the millions of American households without jobs, with people looking and searching to find a way to provide some dignity for their families, have to be political fodder for a goal to hold the economy back. I don't want to embrace that conclusion, but it is hard to see another explanation for, on the one hand, trying to twist the arm of the Fed when it comes to U.S. monetary policy but when it comes to fighting back against China, to say: Hands off. That is totally inconsistent.

I also find the Speaker's position on this China currency measure strange because if he blocks this measure, he is effectively thwarting the will of his own Members in the House, where there are 225 cosponsors—61 Republicans at last count—for a measure similar to the one being debated in the Senate right now. It is clear there is a consensus in the House very similar to the one here in the Senate. So I urge the Speaker to heed his own Chamber and put this bill on the floor. Don't thwart your own Members who want to support this measure. Give it an up-or-down vote. Even if the leadership doesn't want to vote for it, they should at least allow the will of the House to go forward. They should not suppress the collective will of their Chamber because at the end of the day you have to ask yourself which side you are on.

Two major candidates for President on the Republican side support this legislation. John Huntsman, who just got back from China—hardly known as a radical—said he would sign this bill. I haven't talked to him, but I can tell you, having worked on this issue for 6 years, I am sure that former Ambassador Huntsman is totally frustrated with the Chinese, and he knows that, unfortunately, the legislation introduced by his fellow Utahan doesn't address it and that the Chinese don't react when you ask nicely. They don't react when you ask, period. They only react when there are consequences that are harmful to them if they continue the unfair, anti-free-trade policy.

For some inexplicable reason, the Republican leadership in the House is siding with the Chinese Government. This is not the time to go soft on China. The top economist in the country tells us China is holding back the recovery. Many other economists say that China, in its currency policies, is thwarting and distorting world trade. I have seen some list it as one of the causes for the international recession we have. We know—we know—it costs America in jobs.

I want to relate what I did yesterday. Just one company in upstate New York—and I remind some of the editorial writers and pundits who say this will just move jobs from China to Bangladesh, that they are 5 years behind

the times. We are not talking about jobs that are in labor-intensive industries such as toys, clothing, or furniture. Those are gone, and they are not coming back. They are talking about top-end, middle-size, and smaller size American manufacturers and producers who have to fight with one hand tied behind their back because of Chinese currency.

This company, which makes a ceramic that is put in generators, electric generators, prevents pollution. They have a great ceramic tool. They are doing fine. But a few years ago, China stole it; they just took it. The head of the company told me he didn't mind because his growth was so large just from selling these in the United States and Europe that if China wanted to sell them in China, where they are building lots of powerplants, so be it. But now China is not only producing them for consumption in China—his product—it is producing them to export to America, and this gentleman said he cannot compete with them head to head. But when China gets a built-in 30 percent advantage on intellectual property that they stole, how is he going to survive?

That story can be repeated over and over. Of course China is holding back our recovery. Of course China's policies lose us millions of American jobs and hundreds of billions of dollars of American wealth. And finally this body, in a strictly bipartisan way, with five lead Republicans and five lead Democrats as cosponsors—and we have criticized both Presidents Bush and Obama for their failure to act—this body gets some resolve, and the Speaker says no.

Do you know what, I don't believe his ''no'' is going to stand. This is an issue the American people know has to happen. This is something they care about—Democrats and Republicans. Look at the polling. There is no partisan divide; it includes both liberals and conservatives. You don't have to have a Ph.D. in economics to know that China is cheating us and playing unfairly with us.

I believe the pressure from Members on both sides of the aisle in the other body and, more importantly, from the American people and manufacturers all over the country could work, could get the Speaker to reconsider his view. And I plead, pray, and hope that it does because there is no greater step we can take to restore jobs in America than to pass this important bill, get it enacted into law, and see, for once, our top-notch American companies be able to compete evenly—a fair fight—with Chinese manufacturers.

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

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

The bill clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Madam President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

EPA INSPECTOR GENERAL REPORT

Mr. INHOFE. Madam President, I wanted to come to the floor today because 2 days ago I got the results of an inspector general's report that I requested 18 months ago having to do with the endangerment finding of the EPA. While it is a little bit complicated, I will go back and put this in perspective.

Back in the 1990s, we were asked by the then-Clinton administration to ratify a treaty called the Kyoto treaty. This was a treaty that was aimed at the reduction of greenhouse gases—anthropogenic gases and this type of thing. Well, it didn't pass. It went down 95 to 0 because of two reasons: We all declared in this body we weren't going to ratify any treaty that, No. 1, was damaging economically to the country; and, No. 2, we would treat developing countries differently than developed nations. Of course this missed on both those criteria.

After that happened, it became popular by some of the more radical environmentalist groups who enjoy the overregulation we have so much of in this country to seek the introduction of different bills. We had the McCain-Lieberman bill of 2003 and again in 2005. We had the Warner-Lieberman bill and several others—the Sanders-Boxer bill—and then, I guess, the last one was a House bill called the Waxman-Markey bill.

Anyway, these bills were all aimed at what we can do in this country in order to restrict our use of CO_2. Obviously—and there is no disagreement on this—if we in the United States unilaterally reduce our CO_2, it will not affect the CO_2 emissions worldwide because this isn't where the problem lies.

Even when I asked Lisa Jackson, the Obama-appointed Administrator at the EPA, for whom I have a great deal of respect, if we were to pass any of these bills I just mentioned—that would have the effect of the Kyoto treaty but only on the United States in reducing anthropogenic gases—would this have the effect of reducing CO_2 emissions, she said, no, because, as I pointed out, this would only affect the United States.

I would take the argument one step further and say it would have the effect of increasing, not decreasing, emissions because, as our manufacturing base has to find power to generate itself, they have to go where that is. Anyway, I only wanted to bring that up because that effort is still going on today.

With all these bills that have been before us—and at the time of most of them the Republicans were in the majority and I was the chairman of the Environment and Public Works Committee which had jurisdiction over this subject—I was the one who stood on the floor of the Senate to defeat these bills, and it became easier as each bill came along because people recognized that while the science is in question, the economics are not.

It had been determined by a number of sources—including a branch of the Wharton School of Economics, MIT, and CRA, or Charles River Associates—that the range of the cost of a cap-and-trade bill is always in the range of between $300 billion and $400 billion a year.

It is confusing when we talk about these large numbers. Peoples' eyes glaze over. They do not understand, and even I have a hard time understanding how this affects me and my 20 kids and grandkids out in Oklahoma. So I have a system—and I recommend it to my friends in the Senate—that I take the number of family income tax returns that are filed each year—get a current figure—and then I do my math. So this range between $300 billion and $400 billion, when we reduce it down to what it would cost each family, is in excess of $3,000 a year. Even if we were to pass something like this, it still wouldn't reduce the emissions, and that is what we need to get over.

Anyway, when President Obama saw this, he saw there was no way in the world the Senate or the House would pass a cap-and-trade bill. So he decided to do it just by regulation, and we have been talking about overregulation in the Senate. Sometimes we are inclined to think the antibusiness attitude of this administration is just in overtaxation and this type of thing. That is not true. Overregulation is also a killer. In this case, we are talking about the overregulation of something we cannot sustain.

So in order for the President to be able to do through regulation what he could not do through legislation, he had to have what they call an endangerment finding; that is, the Environmental Protection Agency had to come up with a conclusion that CO_2 is dangerous to our health. It is called an endangerment finding.

I was getting ready to go over to a meeting in Copenhagen they have every year. These people who are promoting these programs have these meetings, and I was getting ready to go over there, and we had Administrator Jackson before our committee. I remember looking at her and saying: I am leaving for Copenhagen tomorrow. Shall I assume you are going to have an endangerment finding as soon as I leave town? She didn't answer, but she smiled. She smiles a lot. Anyway, that is what happened when I left.

An endangerment finding has to be based on science, and that is where this inspector general's report came in. Again, this is new stuff, just 2 days ago. I had requested 18 months ago that they look into the endangerment finding to see if this, in fact, is based on science. Of course, they came out with

this report, which was just released. It confirms the endangerment finding, which was the very foundation of President Obama's job-destroying regulatory agenda, was rushed—and I am using their words, ''rushed, biased and flawed.'' It calls the scientific integrity of the EPA's decisionmaking process into question and undermines the credibility of the endangerment finding.

Keep in mind, we have to have an endangerment finding before we can start regulating all this stuff. Well, the inspector general's investigation uncovered the EPA's failure to engage in the required recordkeeping process leading up to the endangerment finding. That is a requirement by law. So they did not comply with the law at that time. It also did not follow its own peer review procedures. Peer review is something that is required, and they didn't do it.

Administrator Jackson readily admitted way back in 2009 that the EPA had outsourced its scientific review to the United Nations' Intergovernmental Panel on Climate Change.

Now, this is interesting because they are going back to say: All right, you guys. You do the peer review on the very thing you have developed. Well, it doesn't work that way, and I think at that time we were complaining about that. So the EPA still refused to conduct its own independent review of the science, as the EPA inspector general found. Whatever one thinks of the U.N. science, the EPA is still required by its own procedures, by law, to conduct an independent review.

Of course, I have long warned about the IPCC process and what they have been doing in the past. In fact, it was 6 years ago that I sent a letter to Dr. Pachauri, the head of the IPCC, specifically raising the many weaknesses of the IPCC's peer review process. But Dr. Pachauri dismissed my concerns, and here is what Reuters said in their article on how Dr. Pachauri responded to my request. I am quoting now from Reuters:

In the one-page letter, [Pachauri] denies the IPCC has an alarmist bias and says ''I have a deep commitment to the integrity and objectivity of the IPCC process.'' Pachauri's main argument is that the IPCC comprises both scientists and more than 130 governments who approve IPCC reports line by line.

Now, that is what he said, as reported. As I predicted, it all came apart for the IPCC. On the Senate floor last year I highlighted several media reports uncovering serious errors and possible fraud by the IPCC. This is the United Nations we are talking about. They are the ones that started all this.

ABC News, the Economist, Time magazine, and the Times of London—among many others—reported that the IPCC's research contains embarrassing flaws—using their language—and the IPCC chairman and scientists knew of the flaws but published them anyway. Media reports uncovered a number of non-peer-reviewed studies that the IPCC used to make baseless claims, including that global warming would—and listen to this; this is the IPCC stuff that has totally been rebuked—melt the Himalayan glaciers by 2035. Didn't happen.

It had 40 percent of the Amazon rainforest endangered by global warming. It didn't happen.

Melt mountain ice in the Alps, Andes, and Africa. It didn't happen.

Slash crop production by 50 percent in North Africa by 2020. It is something that is not even going on.

These embarrassments led to a number of these same publications to demand that the IPCC come clean on the review process of the IPCC.

I am going to read this to let everyone know how serious this is.

The Financial Times, talking about the IPCC:

Now it is time to implement fundamental reforms that would reduce the risk of bias and errors appearing in future IPCC assessments, increase transparency and open up the whole field of climate research to the widest possible range of scientific views.

Time Magazine has always kind of been on the other side of this issue. We might remember, Time Magazine had on their cover this last polar bear standing on the last cube of ice and we are all going to die. Time Magazine, when they talked about the glaciers all melting, said:

Glaciergate is a black eye for the IPCC and for the climate science community as a whole.

The Economist:

This mixture of sloppiness, lack of communication, and high-handedness gives the IPCC's critics a lot to work with.

Newsweek came out:

Some of the IPCC's most-quoted data and recommendations were taken straight out of unchecked activist brochures, newspaper articles, and corporate reports—including claims of plummeting crop yields in Africa and the rising cost of warming-related natural disasters, both of which have been refuted by academic studies. Just as damaging, many climate scientists have responded to critiques by questioning the integrity of their critics, rather than by supplying data and reasoned arguments.

That was in Newsweek. So their analysis was that they are doing all this stuff, and they resort to name-calling and this type of thing because they don't have a logical response for it.

Last year—and keeping in mind this is after I requested the inspector general's report and before; and still 1 year ago in a speech I made right here I said:

There is a crisis of confidence in the IPCC. The challenges to the integrity and credibility of the IPCC merit a closer examination by the U.S. Congress. The ramifications of the IPCC spread far and wide, most notably to the Environmental Protection Agency's finding that greenhouse gases from mobile sources endanger public health and welfare. EPA's finding rests in large measure on the IPCC's conclusions—and EPA has accepted them wholesale, without an independent assessment. At this pivotal time, as the Obama EPA is preparing to enact policies potentially costing trillions of dollars and thousands of jobs, the IPCC's errors make plain that we need openness, transparency, and accountability in the scientific research financed by the U.S. taxpayers.

That was a year before the IG report came out, and it is almost exactly what the IG report said just this last week.

Two months before that speech, I asked EPA Administrator Lisa Jackson to delay the EPA endangerment finding based on Climategate. She told me—and I have a lot of respect for her, by the way. I have professed that many times. She is one whom normally I will ask her a question, and she will come out and give an answer, even though it may be an unpopular answer with her boss, President Obama. She said:

I do not agree that the IPCC has been totally discredited in any way. In fact, I think it is important to understand that the IPCC is a body that follows impartial and open and objective assessments.

She is saying essentially the same thing:

Yes, they had concerns about e-mail. I do not defend the conduct of those who sent those e-mails.

Here, they are talking about Climategate. We all remember those secret e-mails going back and forth between the principals to somehow fraudulently manipulate the science. She goes on to say:

There is peer-review, which is part of the IPCC process. There are numerous, numerous groups of teams and independent researchers all a part of coming up with IPCC findings, such that even the IPCC has said that while we need to investigate and ensure that our scientists are to a standard of scientific conduct that we can be proud of, we stand behind our findings.

So they are all whitewashing the work of the IPCC—again, that was before the IG report came out—but it didn't work because there are magazines throughout the world, publications which generally were on the other side of this argument or their side of the argument. The Guardian, for example, talking about Climategate and how they are a disgrace, said:

Pretending that this isn't a real crisis isn't going to make it go away.

The Daily Telegraph said:

This scandal could well be the greatest in modern science.

This is what they are talking about with Climategate.

The Atlantic Monthly:

The stink of intellectual corruption is overpowering.

Let's remember, the economic ramifications of global warming regulations imposed upon the EPA under the Clean Air Act will cost American consumers somewhere in the range of $300 billion to $400 billion a year. This is not to mention the absurd result that EPA readily admits they need to hire 230,000 additional employees and spend an additional $21 billion to implement its greenhouse gas regime if they are not given wide discretion to circumvent the law, and all this economic pain is

for nothing—no gain at all. As the EPA Administrator admitted before our committee, it would have no effect on the overall release of anthropogenic gases.

Also, of note, what happened to the EPA's vow in 2009 that the Agency would commit to high standards of transparency because ''the success of our environmental efforts depends on earning and maintaining the trust of the public we serve'' or Obama adviser John Holdren's promise that the administration would make decisions based on the best science possible because, as the President said, ''the public must be able to trust the science and scientific process informing public decisions.'' Given what has come to light in this report, it appears the Obama EPA cannot be trusted on the most consequential decision the Agency has ever made.

I have already called upon the committees in the Senate—this would be my committee of which I am the ranking member, the Environment and Public Works Committee—to have an investigation. My gosh, I don't ever recall in the years I have been here an IG report coming out where there weren't numerous hearings to find out and to probe into why they came up with the decisions they made.

I have tried for 10 years now to pursue this thing with the various bills that were introduced to do legislatively—to implement the requirements. Then, when we see they are unable to do it—and if we look around this Senate, there are only about 30 votes now. They don't have half the number of votes to impose cap and trade. They don't have it. It is not here. That is why the President is trying to do it through regulations.

It is kind of interesting, if we put this in perspective. This supercommittee they keep talking about, the 12 people—6 Democrats, 6 Republicans, 3 from the House, 3 from the Senate—their goal is to find $1.5 trillion in 10 years. We have a President in his own budget—and this isn't Democrats or Republicans or House or Senate. This is the President. His three budgets he came out with have just under a $5 trillion deficit. That is inconceivable.

I can remember coming down here in the mid-1990s, when President Clinton was in power. The first $1.5 trillion budget we had, I complained this is not sustainable. Now it is $1.5 trillion over and above what it costs to run America. Obviously, that can't be done.

So when we stop to think about the fact that it should be fairly easy to find $1.5 trillion, that would just be his deficit for 1 year to find $1.5 trillion.

This is kind of hard to follow. But if they were successful in implementing what they could not do by legislation and have a cap and trade, that would cost a minimum of $300 billion a year; or, multiply that by 10, that would be $3 trillion.

So we have this supercommittee out there trying to find $1.5 trillion; at the same time, they are advocating increasing the cost to America by $3 trillion. It is not believable.

I think it is very important, and I am on the floor now trying to gather support for having a hearing. We can't have an IG report talking about the flawed product of the EPA, of the IPCC, of the United Nations and not have some kind of investigation. I hope we will be able to do that.

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

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

The bill clerk proceeded to call the roll.

Mr. CASEY. Madam President, I ask the order for the quorum call be rescinded.

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

Mr. CASEY. Madam President, I rise to speak this afternoon about the legislation that is before us, the Currency Exchange Rate Oversight Reform Act, which got an overwhelming vote yesterday. There are not many times when a piece of legislation on a specific topic gets the kind of overwhelming support to move forward as we saw yesterday in the vote that took place, and now we are considering the bill.

When you go across Pennsylvania, if you drew a line down the middle of our State and moved to the east, a lot of communities were devastated by flooding. Other than that issue, the No. 1 issue for the people of our State—and I think the people of the United States in total—is the issue of jobs. In their frustration, they look to Washington for action and for solutions. Too often what they see when they turn on the television set or read about what is happening here, they see a lot of fighting, a lot of bickering, a lot of back and forth and, frankly, a lot of politics but not enough action on the question of jobs.

What we have before us is not some esoteric bill about currency, although it is somewhat about that. Obviously, it truly is not that. This is a bill that speaks directly to the frustration Americans feel and I know the people of Pennsylvania feel. There are not many places in Pennsylvania I can go where I talk about this issue of China for many years cheating on currency and us losing lots and lots of jobs because of it. Hundreds and thousands of jobs are lost because of that. There are not many places in our State where I can go to talk about that where the point of view that I express doesn't receive unanimous support.

This is a very real issue for people. This isn't far off. They know that, just as in other aspects of life, especially on something as consequential and significant as international trade—most people understand that when we are involved in that kind of endeavor, we have to play by the rules. Every country should play by the rules. When we have a country as big and as significant in the international economy or the international marketplace as China not playing by the rules, cheating time after time after time, giving their workers and their industries an unfair advantage, I think most people know what that means. It is not just a question of fairness and playing by the rules; it is the impact of that cheating, as Americans lose jobs and have lost jobs. So we have to take action. The time is up. We have been talking about this for years. We have been pleading with China in one way or another, urging them, pushing them, but the time for that is over. The time to act is now.

This is a prudent piece of legislation. It does a couple of things. Basically what it does is to at long last help American manufacturers and our workers by clarifying that our trade enforcement laws can and should be used to address currency undervaluation. It also provides an opportunity for us to improve oversight by establishing objective criteria to identify misaligned currencies and imposing tough consequences for offenders. So it doesn't put into place a new rule for international trade; it just says that if you violate the rules, there are going to be consequences and that our Treasury Department and our Commerce Department are going to take action no matter what administration is in office, a Democratic administration or a Republican administration.

I can point to a number of Senators in both parties—and I think I am one of them—who have been urging this administration and the prior administration to take stronger, more decisive action. For a variety of reasons, they haven't done that. That is not to say they haven't been working on it and not to say they haven't been pushing their counterparts in China, but I think we have been far too timid in the approach we take because, again, this isn't some far-off issue. This is about American jobs and whether we are going to stand by and allow more and more—tens of thousands or hundreds of thousands more—American jobs to be lost in the next decade as we have seen hemorrhage from our society in the last 10 years. One of the causes, one of the substantial factors in that job loss—not the only but one—is the cheating China does on its currency.

It is as if we are telling our workers and our companies: Look, we are going to have a foot race with Chinese companies and Chinese workers, and we are going to have this competition, as we have every day in the international marketplace, but China is going to start at the—if this is a 100-yard dash, they are going to start at the 20- or 25- or 30-yard line and then we are going to start the race and see how we do.

It is completely unfair to our workers. It undermines their ability to compete even if they are working as hard as they can, even if they have a high skill level, even if the company has invested time and training in those workers, has invested capital in the

equipment and the technology. Sometimes it doesn't matter what the company does to improve its production, to improve its efficiency. It doesn't matter what the workers do. They can go to school and learn and prepare and get trained. But if they are at a 15- or 20- or 25-percent disadvantage—by the way, those are the lowest estimates. This has been a problem of above 30 percent or higher at times. But no matter what the percentage is, we know there has been a lot of cheating and we know it is costing us jobs. So it is time for action.

This morning at the Joint Economic Committee hearing, we had Federal Reserve Chairman Ben Bernanke. I asked him about currency, and I actually read to him some statements he has made in the past about currency and about the adverse role China has played, the role about which I am as frustrated as any American. I asked him about that. The summation of his comments has been reported already, but in addition to commenting about the impact on our workers and our companies, he talked about the impact of China's currency policies on the global economic recovery. So this isn't just an adverse consequence for America, for the United States, this is an impediment to a full and robust recovery around the world. So this isn't just limited to the impact on our workers and our companies, it has worldwide reach, worldwide impact, and worldwide consequences.

So the United States is unwilling, so far, to crack down on China's currency and to crack down on what I would assert is manipulation. Some will say: Well, it might be something different than that, but I think it is basic manipulation—cheating. I think it is a step we have to take now, to have rules in place for how we react to their cheating and then to have very tough consequences. That is what is in the bill.

Unfortunately, this inability to respond appropriately or assertively or aggressively is one of many, I would argue, pieces of a flawed trade strategy that have been a prevailing point of view over the course of two administrations. We are going to have some debate about trade coming up, and we are going to see some interesting alliances, some interesting coalitions here. But our flawed trade strategy—if we can even call it a strategy—has failed over many years, failed our workers and failed our companies.

We will get to the debate on the trade agreements later, but at least today and this week we can finally make progress on an issue that has cost the American people lots and lots of jobs.

Let me give my colleagues a sense of what could happen if we are able to pass this legislation. In a report dated June 17 of this year from the Economic Policy Institute—one of the many think tanks across Washington of various points of view that have studied this issue—and I am broadly summarizing, but one of the many conclusions they reached about this issue is that if China revalued its currency by 28.5 percent—now, many would say it is a bigger problem than a 28.5-percent or 28.5-percent advantage their workers and their companies have—if they revalued to that level, at 28.5 percent, the growth in our gross domestic product in the United States would support 1,631,000 U.S. jobs. If other Asian countries also revalued their currency, then 2,250,000 American jobs would be created. So even if someone could prove those numbers are off by 10,000 or 20,000 or even if we could debate the number being off because some might reach different numbers—but I have seen numbers that high, and I have also seen numbers in the hundreds and hundreds of thousands of jobs.

So any policy we can enact here—in this case, being appropriately tough with China on the cheating they do on currency—if passage of legislation such as this, the one we are considering, leads to the creation of 1.6 million jobs just as it relates to having China play by the rules, why wouldn't we pass legislation to do that?

People are saying over and over to us, please do something about jobs. And sometimes the response is, well, we are trying, but we can't get agreement or we are trying, but we don't have all the solutions. We finally have a piece of legislation that will create jobs for sure and has broad and substantial bipartisan support.

We should pass this bill because it will send two messages that are badly needed right now from us to the American people—No. 1, that we are focused on job creation in the near term, not 10 years from now but in the next year or two. So it is a very specific answer to their request of us as their elected representatives that we focus on enacting legislation that will create jobs. Secondly, the message we will send to the American people is that we finally get it. Finally, Democrats and Republicans can come together on a very serious issue of great consequence to families who have been devastated by job loss; that we are finally coming together, Democrats and Republicans, working together to have a unanimous vote on a job-creation bill.

It is that simple. Anyone who tries to make it more complicated than that is probably trying to mislead because it is that simple. We need to focus our attention in the days ahead to get this legislation passed and to finally take action in a way that is directed at job creation in a bipartisan way.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Mr. President, I appreciate the Presiding Officer's comments earlier in support of the Currency Exchange Rate Oversight Reform Act of 2011. The Presiding Officer and I—both Democrats—joined by five Republicans and three other Democrats—are the prime sponsors of the Currency Exchange Rate Oversight Reform Act of 2011.

The cloture motion on the motion to proceed was agreed to—the rules in the Senate are sometimes a bit impenetrable, but the cloture motion on the motion to proceed to the bill was agreed to last night with 79 votes out of 98. So there is clear interest in this body to debate one of the most important jobs bills we have seen in front of us, I say to the Presiding Officer, in our almost 5 years in the Senate. I have not seen in my time here another jobs bill be voted on this overwhelmingly, this bipartisanly, that was this important for putting people back to work.

Let me sort of expand on that. First of all, this Currency Exchange Rate Oversight Reform Act of 2011 has broad support from business and labor. It creates jobs without spending taxpayer dollars. In fact, this legislation raises revenue and reduces our deficit, clearly, because when people go back to work, people who are now on unemployment benefits—sometimes receiving food stamps, sometimes getting other subsidies, maybe trade adjustment assistance, which the Presiding Officer has been so involved in—instead, people going back to work will be paying taxes and not be the beneficiaries of those programs. So it is a plus both ways in terms of reducing our government's budget deficit.

Most important, it is in response to an enormous problem, an enormous economic threat, brought on by the Chinese Communist Party Government. Senators SCHUMER, CASEY, SNOWE, STABENOW, SESSIONS, BURR, HAGAN, COLLINS and I have been working closely to bring this bill to the floor. I thank the majority leader, who usually sits at this desk, for bringing this bill to the floor to respond, purely and simply, to China's protectionist trade policies. This is not the United States turning inward and pointing fingers at other countries. This is a response to Chinese protectionism, to Chinese economic policies and trade policies that have been unfair, that cheat—the Chinese have cheated—and that cost us American jobs.

We know when a factory closes—we have had 50,000; Senator SANDERS said earlier today, we have had 50,000 factories close in this country in the last decade or so, not all because of China. I do not blame them nearly for all that. But when a factory closes, we know what it does to a community, whether it is in Harrisburg, whether it is in Sharon, whether it is in Erie, whether it is in Cleveland or Akron or Canton.

I am encouraged by my colleagues on both sides of the aisle who support this bill who see how China's protectionist trade policies have undermined businesses, have disadvantaged manufacturers, and ultimately, most importantly, have cost American jobs. We all know the problem. For years, China subsidized its exports by adopting artificial, manipulated exchange rates not based on market forces. As a result, China's exports to the United States remain cheap, our exports to China remain more expensive. In other words, because they cheat on their currency, a product made in Wuhan and sold in Lima or Dayton, OH, will be cheaper because they have subsidized their production by weakening their currency.

At the same time, if a company in Lima or Dayton, OH, tries to sell into China, the cost of that item is 25 percent more because China has gamed the currency system. So by keeping the value of the renminbi, the RMB or the yuan, the words for the Chinese currency, by keeping the RMB artificially low, China incentivizes foreign corporations to shift production there because it reduces the price of investing in China and makes Chinese exports cheaper.

In this continued devaluation—I use the percentage 25 percent, some economists say it may be as high as 40 percent, but clearly it is that range—they are cheating, they are gaming the system 25 to 40 percent. Think about in Pennsylvania and Ohio, two States that have a lot in common. Think about a company, think of two gas stations on opposite corners. One buys its oil 25, 30 or 35 or 40 percent less expensively, pays a lower price than the competitor across the street. It is clear what is going to happen. The competitor that cannot get the break, get the subsidy, is going to go out of business pretty quickly.

It is that phenomenon that has caused serious harm to the U.S. economy and has cost America jobs. In 1993, the Chinese currency, the RMB, was valued at approximately 5.5 to 1 U.S. dollar. Then, from 1995 to 2005, it was valued at about 8.28 without change during that period. That can mean one of two things: a huge coincidence or blatant currency manipulation.

Our trade deficit with China in 1993 was about $30 billion, $40 billion—in that range. Today, we run a deficit 8, 9, 10 times that, of $275 billion—a bilateral deficit just in our relationship with the Chinese. According to a recent Economic Policies Institute report, since China joined the WTO, the World Trade Organization, in 2001, 2.8 million jobs have been lost or displaced in the United States as a result of the U.S. trade deficit—2.8 million jobs. That is hundreds of thousands in my State. It is tens of thousands in States as small as West Virginia. It is hundreds of thousands in States as large as Pennsylvania.

Currency manipulation is not the only reason China enjoys an enormous trade surplus, but it is certainly a big part of the reason. From 2005 to the middle of 2008, we started to fight back and were headed in the right direction, however slowly. The Senate overwhelmingly supported a measure offered by New York Democratic Senator SCHUMER and South Carolina Republican Senator GRAHAM that would put tariffs on Chinese imports if the government did not let its currency appreciate.

All it did was it wiped clean the advantage China had created by manipulating its currency. That bill passed the Senate, but it did not pass the House. It was never signed by the President. But what it did do was get China's attention. Beginning in 2005, China began to do a slight currency appreciation, which allowed for a few years of modest progress toward letting its currency appreciate.

But then in the summer of 2008, China abandoned its feigned interest in fairness. It once again fixed the value of the renminbi against the U.S. dollar. Then, in June 2010, China vowed to allow its currency to float more freely against the dollar and other foreign currencies. The Peterson Institute for International Economics found that, despite the intervention appreciation, the RMB is even more undervalued today against the dollar than it was 1 year ago. That is the recent history of China's currency manipulation.

The Chinese, in other words, when they know people are watching, when they see the U.S. Government, with our very strong economy—even when we look weak internally and way too many people unemployed, we are the major economic force on Earth—when they see us doing something, they respond. They start to act a little better. It is a little bit similar to a naughty kid. When the parents are watching, they are going to act better. When the Chinese—we hope our kids do not break the law the way the Chinese do, international trade law, but when we watch them, they behave better. When we exert discipline on them, in other words, we are going to change this law the way they have gamed the system on currency, they begin to let the currency float and let it appreciate and do some better, more fairminded things.

New research by economists at MIT shows how much damage China's trade and export policies have done to our labor market and to our communities. The report shows China imports actually have effects on jobs but also increased use of Federal programs such as the Social Security and disability insurance program. Of course it does. When people get laid off, all kinds of things happen in their lives. They apply for food stamps. They may lose their home, causing, if they are foreclosed on, the values of homes in the neighborhood to decline, and the public schools do not have quite the support. They may not be able to hire one teacher as a result of a handful of people losing their jobs. All those things happen. So when the Chinese game the currency system and jobs are lost in Pittsburgh or in Dayton, then bad things happen in Pittsburgh and Dayton to those families, to those communities, to those States.

What has been our response when our trading partners use any means necessary—low labor costs, direct subsidies, currency manipulation—to compete? What has been our response? It has been inaction. We have not done very much. It has been adherence to the status quo, and we can no longer afford to do that. Some like the Presiding Officer from Pennsylvania and others of us around here have been beating the drum for a long time that these trade agreements are not fair, that they are not fair to the American worker and to Americans, particularly small manufacturers. Bigger manufacturers kind of take care of themselves. They kind of do it by moving production overseas. Small manufacturers usually cannot do that.

We know what it does to our workers—bad tax law, bad trade law, bad currency policy. This bill is a modest measure. It is not as sweeping as I would like to do. But it is a modest measure that gives our government the tools to fight back. With different parts authored by several of my colleagues, this bill came from two other bills we put together. The bill updates the processes and tools the government would have at its disposal when it comes to countries that are currency manipulators, that are in some ways repeat currency manipulators.

Senator SNOWE from Maine, a Republican, and I, a Democrat, have worked on a part that would immediately designate unfair subsidies as an unfair trade practice. That means jobs for a number of industries: coated paper in southwest Ohio, tires in Finley, OH, aluminum extrusion, tubular steel in northeast Ohio. It means more American manufacturers, from autos to clean energy, can petition the government against unfair subsidies from importing countries.

That measure is combined with comprehensive measures to reform the structural deficiencies in our government's approach to combating currency manipulation. That part of the bill was spearheaded by Senators SCHUMER and GRAHAM. It would improve oversight of currency exchange rates—and I would add Senator STABENOW was involved in that.

It would improve oversight of currency exchange rates. It would ensure that the Treasury Department properly identifies countries that undervalue their currency. Under the Omnibus Trade Act of 1988, the Treasury Department is required to formally identify countries that manipulate their currency for the purpose of gaining an unfair competitive trade advantage. In recent years, Treasury has found that certain country's currencies were undervalued. It was pretty clear and pretty obvious.

Reputable economists from the Reagan administration, from the Carter administration, for years respectable economists were saying these currencies were undervalued 25 percent, 35 percent, some have said as high as 50 percent. It was pretty hard for the Treasury Department to say anything other than these countries' currencies were undervalued.

However, based on the interpretation of the law's legal standard for a finding of manipulation, the finding of the word ''manipulation,'' Treasury has refused and continues to cite such countries as currency manipulators.

Our legislation is bipartisan. As I said, five Republicans, five Democrats are the primary sponsors. It got 79 votes. Three Democrats voted against moving the bill forward yesterday; 16 Republicans voted against it. So it has broad bipartisan support.

But what is amazing is the President of the United States, in either party—President Bush was negligent in finding of manipulation. President Obama has been negligent in finding manipulation. I will give some credit to President Obama in his move, in some cases, of actually doing real enforcement of trade rules and trade laws. It has turned immediately into job growth in the Mahoning Valley, a new steel mill, in Finley with tires, in southwest Ohio with paper. But the President and the Treasury Department have just neglected to do their duty; that is, interpreting and saying China has manipulated currency.

The biannual release of this statutorily required report to Congress is almost a Washington charade. Last year, Secretary Geithner even announced he would delay the report's release. I care less about the exact timing of this report than I do the administration's willingness to be open with Congress and the American people about what it is doing and why it is doing it. But here is why it is important.

Some argue the Commerce Department already has the authority to treat currency manipulation as an export subsidy and apply countervailing duties. But the Commerce Department has tended to also kick these decisions down the road, duck the issue of currency manipulation when it investigates other subsidies. The bill puts an end to that bureaucratic end-around.

I told a story earlier today on the Senate floor. I would like to repeat it, briefly. A trade lawyer representing a southwest Ohio paper company told me China did not even have a coated paper industry, the glossy paper magazines are typically printed on—did not even have that technology until a decade or so ago.

When they started those companies in China, they bought their wood pulp in Brazil, they shipped it to China, they milled it in China, and they sold it back here—at the high cost of transporting something as heavy as paper, as bulky as paper, for the price of paper; it is a pretty expensive move to ship it from Brazil to China to the United States. The cost of labor is only about 10 percent of the production of paper. Yet China has found a way to underprice Ohio paper and underprice paper made in other parts of the country.

It is pretty clear that is, in part, because they get a 25-, 30-, 35-, 40-percent basically add-on benefit for their price because of currency manipulation. That is why, in part, they are being able to do that. They are probably subsidizing their water, their energy and their land and their capital also, so that they can underprice us. That is why this is so serious.

Ohio workers have lost jobs because China has gamed the currency system. That is all we should need to know. American companies have folded, have gone out of business, because China has cheated on its trade policies, not following the rule of law in the World Trade Organization. That should be enough to get 100 votes in this body.

It got us 79 yesterday. Our bill makes it clear that countervailing duties can be applied when imported goods benefit from currency manipulation as an export subsidy.

The bill would establish new criteria to identify countries misaligning currency—and trigger tougher consequences for those who engage in such unfair trade practices.

We can no longer accept China and other countries doing whatever it takes to make their exports cheaper. We can no longer accept that China continues to mount a massive trade surplus in the United States.

It is time to enforce the trade laws, and it is time the WTO enforces its rules.

Critics claim this bill would ignite a trade war with China. Frankly, they declared a trade war at least one decade ago. If it is not a trade war, critics assert this bill is not compliant with our World Trade Organization obligations.

I have listened to many multinational companies argue our bill will provoke retaliation by China. My question to these detractors is, How can China impose retaliation against something that is, in fact, WTO legal? But since receiving PNTR status and the benefits of WTO membership, China has taken money from American consumers and investors without fully opening its markets to American businesses and workers.

The results are record trade deficits and millions of lost jobs in Ohio and across the United States.

These arguments come from the same proponents of giving China PNTR status and WTO membership, so China would adhere to a rules-based trading system—and they predicted and promised in 2000, when it passed, that China would adhere to a rules-based trading system. They have not been. People care about our exports to China, as do I. Remember, currency undervaluation makes exports harder to sell also. Yes, our exports have grown in China. But while U.S. exports to China have increased to China, they have not come close to balancing imports from China. Imports from China have grown faster—in fact, about three times as many as we export to China.

Look at our trade deficit with China versus the rest of the world. In 2000, China represented 26 percent of our total trade deficit. Last year, it was just over 70 percent. In the space of 10 years, look how this changed. That is the whole story.

Currency is a big factor that cannot be denied. While many multinational companies don't say it, I think it is clear that even the most ardent proponents of China PNTR are feeling a bit of buyer's remorse because of China's aggressive protectionism.

Others, in criticizing this bill, will say there is nothing we can do to bring back the jobs we have lost—that Americans don't want to work at those jobs anymore anyway. That is a pretty naive view of American manufacturing. My State is No. 3 in manufacturing. California, which has three times the population, and Texas make more than we do.

If we don't act, we are not just talking about jobs in textiles or steel or tires, which are important; we are talking about jobs in clean energy, semiconductors, and auto supplies.

A trade war? WTO compliance? Retaliation? We welcome this debate. I want colleagues to come to the floor—some of the 19 who opposed moving this bill forward, when they say China will start a trade war and talk about WTO compliance and retaliation. The fact is China has been playing that trade war for 10 years.

The American people have been patient as the administration continues a strategy of talk without action. But our patience is up, as more U.S. businesses are undercut and more U.S. jobs are eliminated.

This bill is about economic competitiveness, where everyone is competing in the market by the same set of rules.

I have been to maybe 150 manufacturing plants in my State in the last 3, 4 years. I know American businesses can compete and American workers can compete. Let's make the playing field level, and S. 1619 will help us do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first, I commend the Senator from Ohio for his leadership on this bill. This has been a long time in coming. It is a long battle that is being fought over Chinese unfair trade practices. One of the most significant and damaging unfair trade practices is the manipulation of currency by the Chinese. Senator BROWN is taking the lead in getting this finally rectified. I commend him for it. I know the Presiding Officer, the Senator from Pennsylvania, is also a real fighter in this area, trying to correct the unfairness that has been allowed to exist

when the Chinese currency is manipulated. Senator CASEY, I believe, has been a leader and is an original cosponsor. I am proud to be a cosponsor of the bill.

I have long supported the effort to take action against unfair currency manipulation by our trading partners. I think for at least the last 8 years we have had bills that have been introduced to address the issue of unfair currency manipulation. This is an unfair trade practice that contributes to large U.S. trade deficits and to job loss.

The reality is that when American companies do business in the global marketplace, they are not competing against companies overseas; they are competing against foreign governments that support those companies. That is especially true with foreign governments such as China and, in the past, Japan and other countries that manipulate the value of their currency to keep its value artificially low. Currency manipulation makes Chinese exports unfairly cheap and U.S. products more expensive in China, displacing U.S. production and jobs. This is nothing short, as Senator BROWN has said, of a Chinese Government subsidy, and we should be fighting against it—hard.

Trade creates new jobs when we export. Trade results in the loss of jobs when imports replace goods that were once produced here. When trade deficits rise, we are losing jobs to imports. The reality is, we have been running massive, unsustainable trade deficits with China. Just in the first 7 months of this year, we had a trade deficit of more than $160 billion with China. That is four times larger than our deficit with any other trading partner. Last year, we exported $92 billion of goods to China, and we imported an astounding $365 billion from China. So there is a growing trade surplus, as illustrated by the charts Senator BROWN has presented to us.

China's growing trade surplus with the United States and the rest of the world has been fueled by massive currency manipulation, subsidies, and other unfair trade practices. Estimates are, the Chinese currency is undervalued by up to 40 percent, which makes U.S. goods that much more expensive for Chinese consumers and makes Chinese goods artificially cheap in the United States and around the world. As a result, U.S. imports from China have increased, and U.S. exports to China have been suppressed.

Senator BROWN has gone through some of the numbers, and I will repeat them because I think it is important that every American focus on these numbers and the growth of this trade deficit with China.

In 2001, our trade deficit with China was $84 billion. It grew to $278 billion in 2010. According to an Economic Policy Institute study, released in September, this deficit resulted in the loss or displacement of nearly 2.8 million U.S. jobs over that period. The report blamed part of our deficit with China on their manipulation of its currency, and it is simply long overdue that we enact legislation to end that unfair advantage because the tools we have to combat the problem have been, so far, unequal to the task.

The International Monetary Fund has what it calls articles of agreement. Those articles prohibit countries from manipulating their currency for the purpose of gaining unfair trade advantage. But the words are hollow because the IMF has no means to enforce that prohibition.

Our current laws give the administration, on paper, the power to act to combat currency manipulation. But those laws are easily bypassed and too easily ignored. Both Republican and Democratic administrations have failed to take action. The Treasury Department is required to issue a semiannual report on international economic and exchange rate policies, in which it could conclude—as almost every independent observer concludes—that China is manipulating its currency. To date, the Treasury Department has never made such a finding since the 1988 Trade Act mandated the report. Instead, what it does—the Treasury Department—is hint, suggests, and sometimes threatens, but it doesn't act.

A couple examples. The Bush administration's 2006 exchange rate report said the following:

> China needs to move quickly to introduce exchange rate flexibility at a far faster pace than it has done to date. Given our strong disappointment [5 years ago] and the importance of China to the world economy, the Treasury Department will closely monitor China's progress in implementing its economic rebalancing strategy, remain fully engaged at every opportunity with China, and continue actively and frankly to press China to quicken the pace of renminbi flexibility.

That was the Bush administration 6 years ago. In May of 2011, under the Obama administration, here is what the exchange rate report states:

> Treasury's view, however, is that progress thus far is insufficient and that more rapid progress is needed. Treasury will continue to closely monitor—

Those were the same words used 5 years ago. Maybe they took this from the computer and moved it from 2006 to 2011.

> the pace of appreciation of the renminbi by China. It is a high priority for Treasury—

Really? That is good news. The trouble is, the facts don't support the statement.

> working through the G–20, the IMF, and through direct bilateral discussions to encourage policies that will produce greater exchange rate flexibility.

The failure of administration after administration to do more than closely monitor rather than take action is why Congress must act to pass legislation to require action against foreign countries that are unfairly manipulating their currency.

So the bill before us, S. 1619, the Currency Exchange Rate Oversight Act, which is a bipartisan bill, combines several earlier currency manipulation bills. It clarifies that U.S. countervailing duty laws can address currency undervaluation, giving American companies and manufacturers stronger tools to fight back against these unfair trade practices. It would also replace the weak and flawed currency provisions in current law with a new framework, based on objective criteria that will require Treasury to identify misaligned currencies and require action by the administration if countries fail to correct the misalignment.

Under this bill, the administration would be required to take specific action if a country with a priority currency designation does not adopt policies to eliminate the misalignment within specified periods of time. For instance, if no policies are adopted after 90 days, the legislation directs the administration to, among other things, prohibit Federal procurement of goods and services from the designated country, unless that country is a member of the WTO Agreement on Government Procurement, of which China is not. After 360 days of failure to adopt appropriate policies, the USTR—the Trade Representative—is required to request a dispute settlement in the WTO with the government responsible for the misaligned currency.

Congress is on record in support of fighting currency manipulation. In 2007, a majority of Senators went on record supporting a currency manipulation bill that was brought up as an amendment to a State Department reauthorization bill. That bill would have imposed tariffs on Chinese imports to compensate for currency manipulation by China. But it was withdrawn by its sponsors in exchange for a promise to develop and vote on a WTO-compliant bill. The pending bill is a WTO-compliant bill. Last Congress, the House of Representatives passed a bill, H.R. 2378, the Currency Reform For Fair Trade Act. That narrower currency manipulation bill made it clear that the Department of Commerce is to fight the illegal subsidization of foreign currencies by using U.S. countervailing duty laws. Unfortunately, the Senate ran out of time at the end of the session and we did not take up the bill.

So the bill before us, S. 1619, will allow us to deal with any country that is found to be manipulating its currency, not just China, which is at the moment the worst offender. In the 1990s and early 2000s, Japan manipulated its currency, and this was a major problem for our manufacturers and put them at an unfair competitive disadvantage vis-a-vis Japanese manufacturers. For instance, when the Japanese Government was intervening in currency markets to hold the yen at 116 yen to the dollar, that translated into an $8,000 subsidy for every large vehicle imported into the United States from Japan. The market share

gained by Japanese auto manufacturers was to a significant degree the result of the currency manipulation undertaken by the Japanese Government on behalf of its exporters. Because today the Japanese yen is at historic highs, Japanese currency is not an immediate concern. This could change at any time because Japan has recently indicated it is willing to intervene again in currency markets.

So, Mr. President, with both Chambers now on record supporting currency manipulation legislation, there is no reason we should not pass this legislation quickly and send it to the President for his signature. I hope our colleagues will support this bipartisan legislation because it will finally—finally, long overdue, years too late—address the very problematic and costly practice of our trade competitors who manipulate their currencies to create jobs in their countries at the expense of jobs here in the United States.

I again thank Senator BROWN of Ohio for his great work on this bill. I know he and the Presiding Officer, Senator CASEY, and others, including my colleague from Michigan, have been working hard on this bill, and hopefully in the next couple of days it will come to a fruitful conclusion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I thank Senator LEVIN. There is no better team in any State in the country than Senator LEVIN and Senator STABENOW. With all the troubles they have had in that State with manufacturing, as has my State, they are always on the right side of these issues and advocating for local companies, especially small companies that feed into the auto supply chain, and for the workers of those companies. So I am appreciative of his leadership for so many years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, I rise today to speak in support of the Currency Exchange Rate Oversight Reform Act of 2011, and I would note the presence on the floor of one of its principal sponsors, Senator SHERROD BROWN of Ohio, whom I have been very pleased to work with on this legislation.

I am proud to be one of the original cosponsors of this bill, an important piece of bipartisan legislation that will help protect American workers from the trade-distorting effects of currency manipulation. In particular, this legislation will allow us to fight back against policies China has used to gain an unfair advantage over American manufacturers.

Our American trade deficit with China rose from $83 billion in 2001—the year China joined the World Trade Organization—to $273 billion in 2010. That trend is discouraging enough on its own, but it is more troubling to consider that the growing trade deficit ultimately represents goods no longer made in the United States by U.S. workers. In fact, the Economic Policy Institute estimates that the trade deficit with China has cost 2.8 million American jobs over the past decade, including nearly 12,000 jobs in my home State of Rhode Island.

With so many families still struggling with unemployment in the wake of the recession, it is important that we examine just how we came to lose so many jobs to a single country and respond accordingly. It would be one thing if the answer was that China's workers are just more talented, their products are of higher quality, and they have simply bested us in the open market. But that is not the case. The evidence suggests another explanation: that China is gaming the international system.

First, China provides subsidies to critical industries, which likely violates World Trade Organization rules and gives Chinese companies an unfair competitive advantage over American manufacturers.

Second, by restricting exports of their raw materials, China drives up the cost of making products here in the United States.

Third, by turning a blind eye to or even facilitating the rampant theft of American intellectual property, China benefits from what may be the largest illicit transfer of wealth in history.

Finally, of course, China appears to be intentionally manipulating the value of its currency. Indeed, through controlled purchases of massive amounts of U.S. currency, the Chinese central bank has made the value of its currency—the yuan—artificially cheap relative to the U.S. dollar. Economists estimate the yuan is currently undervalued by as much as 28 percent against our dollar. The depressed value makes it 28 percent cheaper to buy goods from China than from the United States and it makes U.S. goods correspondingly more expensive. It is essentially a subsidy for Chinese products and a tax on U.S. products.

This is much more than a problem of abstract economic theory. The consequences of currency manipulation are deeply felt in households in Rhode Island and across the country. In the Presiding Officer's home State of Pennsylvania, in the floor manager's home State of Ohio, and all across the United States, it is felt by families who for generations have contributed to our growth as a nation by going to work every day and building things, from cars and boats to toys and electronics. These workers helped define our American character, from the start of the industrial revolution at Slater Mill on the banks of Rhode Island's Blackstone River through the first decade of the 21st century. But they have watched in recent years as job after job has been lost to China.

This unfair competition needs to stop. The advantage the undervalued currency gives to Chinese companies has put American manufacturers out of business and middle-class Americans out of work.

The Wall Street Journal reported last week on a study that measured the impact of unbalanced trade with China on communities across the country. The research shows that areas with industries exposed to Chinese import competition have higher unemployment rates and lower wages, and the people in these areas are forced to rely more heavily on government safety net programs.

That study ranked the Greater Providence, RI, area second among regions exposed to competition from China. This comes as no surprise to Rhode Islanders.

Rhode Island was once a world leader in textiles and jewelry manufacturing. But these industries have been hit hard by a flood of cheap imports from China, greatly straining our State's economy. If we regained the nearly 12,000 jobs estimated to have been lost to China over the past decade, our unemployment rate in Rhode Island would drop by two full percentage points.

As I travel around Rhode Island, I have heard time and time again from workers and business owners about the costs of Chinese currency manipulation.

George Shuster is the CEO of Cranston Print Works, a textile manufacturer that traces its roots in Rhode Island back to 1807. He told me:

> We know first-hand the impact that China's disruptive policies have had as we have seen factory after factory close their doors around us. Addressing China's manipulation of its currency would be a good first step to bringing our trade policy to where it needs to be to help get American manufacturers moving in the right direction again.

Leslie Taito is the CEO of the nonprofit Rhode Island Manufacturing Extension Service. She has worked with a diverse set of manufacturers across the State to help them increase their efficiency and become more competitive. She told me this:

> U.S. manufacturers are resourceful, agile, and fully capable to meet national and international demand. Currency manipulation creates an uneven playing field that has cost the United States countless jobs and has dramatically increased our trade deficit. I equate it to telling a boxer to go into the ring with one hand tied behind his back and asking him to come out the victor. Manufacturers in this country aren't asking for special consideration, they just want it to be fair.

Mr. President, this is why I made addressing currency manipulation a central part of my ''Making It in Rhode Island'' manufacturing agenda, and why I was one of the original cosponsors of

the legislation that is before the Senate today.

The Currency Exchange Rate Oversight Reform Act of 2011 will strengthen the tools that we have at our disposal to counter the actions of countries such as China that choose to manipulate their currency rates. This legislation will first improve the oversight of exchange rates and allow us to identify currencies that are misaligned. For countries found to manipulate their currency values or that fail to correct a misalignment, this law will trigger tough consequences. Our trade enforcement agencies will gain clear authority to eliminate the advantage created by currency manipulation by imposing tariffs on products imported from offending countries. This should send a clear message to China, or any currency manipulator, that if they abuse the currency markets, they will not benefit.

Simply put, this legislation will help level the playing field for American companies. Economists have predicted that a fair market for our exports would reduce our annual trade deficit by between $100 billion and $200 billion. The resulting increase in production would add over one-quarter of $1 trillion to our GDP and create up to 2.25 million American jobs.

Are the Chinese squawking about this? Are the big multinational corporations who have no allegiance to any flag or nation squawking about this? Yes. Of course, they are. America has for too long been taken advantage of, allowing the wiles of others to erode our wealth. The winners at a rigged game will always object when the other party gets wise to the fact that the game is rigged and begin to do something about it.

But if we are to solve the problem of China's currency manipulation and stand up for American companies, American manufacturers, and American workers, we should pass this legislation.

I applaud my colleagues from both sides of the aisle for their work on this bill, and I commend in particular Senator SHERROD BROWN of Ohio who is here on the Senate floor managing the bill right now.

I yield the floor.

Ms. COLLINS. Mr. President, with unemployment stuck at 9.1 percent, and consumer confidence plummeting, we must take action now to help put Americans back to work.

Our Nation's job creators have been telling us for some time that the lack of jobs is largely due to a climate of uncertainty, most notably the uncertainty and cost created by new Federal regulations.

America needs a ''time-out'' from regulations that discourage job creation and hurt our economy. If a proposed rule would have an adverse impact on jobs, the economy, or America's international competitiveness, it should not go into effect.

Today, I am filing an amendment to provide a 1-year moratorium on final rules that could have an adverse effect on the economy. The amendment is based on S. 1538, The Regulatory Time-Out Act, which I introduced last month with 16 of my colleagues. The timeout would cover major rules costing more than $100 million per year, and other rules that have been considered ''significant'' under Executive orders going back to President Clinton and followed by President George W. Bush and President Obama.

The point of my amendment is to provide job creators with a sensible breather from burdensome new regulations. This would give businesses time to get back on their feet, create the jobs that Americans so desperately need, and enhance the global competitiveness of American workers.

This moratorium would also provide us with the time we need to review and improve the regulatory process. Earlier this year, I proposed the CURB Act, which stands for clearing unnecessary regulatory burdens, which would reform the regulatory process in several important ways. Many of our colleagues have also introduced regulatory reform proposals, and the Homeland Security and Governmental Affairs Committee has already held three hearings on the topic this year. I expect this issue will be a priority for our committee this fall.

In sports, a ''time-out'' gives athletes a chance to catch their breaths. American workers and businesses are the athletes in a global competition that we must win. Our workers need policies that will get them off the sidelines and back on the job. Our economy needs a time-out from excessive and costly regulations. My amendment will provide this needed time-out. I am pleased that Senators BLUNT, COATS, COBURN, ENZI, HUTCHISON, and THUNE have joined me in offering this amendment, and I urge my colleagues to support it.

Mr. President, I rise today to speak in favor of the Currency Exchange Rate Oversight Reform Act, which I was pleased to join with Senators BROWN of Ohio, SCHUMER, GRAHAM, SNOWE, and others in introducing. This legislation will ensure that the U.S. government finally gets tough with countries, like China, that manipulate their currency to gain an unfair trade advantage.

Maine's manufacturers and their employees can compete with the best in the world, but not when the competition is gaming the system to get a leg up. Time and time again, I hear from Maine manufacturers whose efforts to compete successfully in the global economy simply cannot overcome the practices of illegal pricing and subsidies of countries such as China. The results of these unfair practices are lost jobs, shuttered factories, and decimated economies.

A recent study by the Economic Policy Institute estimates that between 2001 and 2008, the U.S. trade deficit with China eliminated or displaced 2.8 million American jobs, including 9,500 jobs in the State of Maine. China's policy of intervening in currency markets to limit the appreciation of its currency against the dollar has played a major role in driving this deficit by making Chinese exports cheaper and imports more expensive.

The bill that we are now considering is an important step toward holding accountable countries, such as China, that manipulate their currency for the purpose of gaining an unfair trade advantage. I thank the leader for bringing this bill to the floor, and I urge my colleagues to support this legislation.

CLOTURE MOTION

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

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

Harry Reid, Sherrod Brown, Charles E. Schumer, Al Franken, Jeanne Shaheen, Kay R. Hagan, Robert P. Casey, Jr., Richard J. Durbin, Michael F. Bennet, Richard Blumenthal, Carl Levin, Kent Conrad, Jim Webb, Benjamin L. Cardin, Sheldon Whitehouse, Tom Harkin, Daniel K. Inouye.

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

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

MORNING BUSINESS

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

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

FOREST JOBS AND RECREATION ACT

Mr. INOUYE. Mr. President, this summer my wife and I spent some time visiting the forests in the Rocky Mountains and we were horrified at the rate of dead and dying trees throughout the region from the mountain pine beetle epidemic. Upon returning to the Senate and visiting with my colleagues, I learned that Montana has almost 5 million acres of trees impacted by this epidemic. Additionally, Wyoming has approximately 3½ million acres also impacted by this epidemic. These forests are in dire need and we must step up and empower the Forest Service to address this looming issue. The tactic of waiting for these trees to decompose while we solve our forest management battles does not work. While we wait, the timber infrastructure which can address this problem is also dying and

those jobs will be lost forever. The cost of performing timber work in the future will become more and more cost prohibitive, consuming the Forest Service budget.

We must step up and help our forest communities with this problem by providing the timber industry new tools and piloting different tactics to address these red and gray forests, all while balancing the needs of conservation. We must do this while restoring these lands and setting aside other lands for future generations. I believe Senator TESTER's Forest Jobs and Recreation Act accomplishes this aim by designating 666,000 acres of wilderness for hunting, fishing, and hiking. This bill also puts another 375,000 acres into areas specifically for recreation so people can bike, ride, and snowmobile in more places. Additionally, this bill focuses on recovering our forests from the impacts of beetles and restoring these woods to prime habitat for fish, birds, and big game. All of this will create much-needed jobs, healthier forests, and more opportunities for outdoor recreation—and the economy it supports.

Decisions on how to use and protect our natural resources are never simple or clear cut. They require commitment and fortitude. They force conversations and compromise. They make us stronger by overcoming differences and looking toward the future. That is something the U.S. Senate could reflect upon. Senator TESTER's collaborative approach of listening to his constituents who came together and found solutions to the problems facing their communities is a positive example of people working together to achieve their common goals of bettering this landscape for future generations. We cannot wait. The dead and dying trees become more of a hazard each day and the ability of mills to make something from this decomposing product will not last. The more proactive we can be, the less this will cost us in the long run.

Senator TESTER's efforts and collaborative approach to address the beetle epidemic should be commended. This is why I am a cosponsor of S. 268, the Forest Jobs and Recreation Act, introduced by Senator TESTER.

EXPANDING DIVERSITY OF AMERICA'S AIRWAVES

Mr. MENENDEZ. Mr. President, the lack of diversity in our Nation's radio and television media ownership is a far cry from the reality in which we live. Multilingual and multicultural stations are critical to the fabric of communities all across this country, yet their access to the airwaves increasingly has been disappearing.

It is clearly in the best interest of our democracy that media ownership reflects the wealth of this Nation's diversity.

That is why today I pause to applaud Clear Channel and Minority Media and Telecommunications Council, MMTC, for their efforts to expand the diversity in media ownership with their recent partnership. Clear Channel has donated six radio stations to MMTC to use for training purposes and ultimately for sale to minority and women broadcasters.

I am pleased to say that one of these stations is in my home State of New Jersey. Through this program, ''Radio Vision Cristiana,'' a minority broadcast company, has purchased WTOC, based in Newton, NJ, and will use the station to broadcast Hispanic religious programming.

Diversity in media ownership enhances diverse perspectives and better serves the community as a whole. It provides a window into communities, into languages, views, and values that might otherwise be totally suppressed without those outlets.

So I am pleased to acknowledge the partnership between Clear Channel and MMTC to furthering this goal, and I only hope that this deal will encourage others to donate stations so that the American airwaves can one day reflect the diverse makeup of the country's people.

TRIBUTE TO ADMIRAL MICHAEL G. MULLEN

Mr. LEAHY. Mr. President, I would like to take a moment to pay tribute to ADM Michael Mullen, a man who served our country with distinction for 43 years.

During his tenure as Chairman of the Joint Chiefs of Staff, he has presided over the wars in Afghanistan and Iraq, the historic repeal of the don't ask, don't tell policy, the successful operation against Osama bin Laden, and an episode of unprecedented change in the Middle East. He has been tireless in his job, having visited our troops in Iraq and Afghanistan so many times that we have lost count. Moreover, his tenure as Chairman has been noteworthy for the amount of time he has spent with our troops on the front lines of war.

Before becoming Chairman, Admiral Mullen served as the Navy's Chief and Vice Chief of Naval Operations, as the Commander of U.S. Naval Forces in Europe, and as the Commander of the Allied Joint Force Command in Naples, Italy. Over the course of his career, Admiral Mullen has served aboard seven warships, three times as the commanding officer. In the U.S. Navy's history, he is only the third naval officer ever to be appointed to four different four-star assignments. He is also one of the few remaining veterans of the Vietnam War serving in the top ranks of our military.

When the Vermont National Guard's 1–86th Infantry Brigade Combat Team deployed to Afghanistan in 2010, Admiral Mullen traveled to Vermont to visit the troops at one of their departure ceremonies. On a cold January morning, joined by his wife Deborah, he spoke to a hall packed with families and friends seeing their soldiers off to war. He thanked them for their service to our Nation, and he assured them all—the troops and their families—that they had the full support of our country's highest ranking military officer. It was a great comfort to the Guard, and they will not forget his expression of support. Neither will I.

In fact, Admiral Mullen and his wife, Deborah, have dedicated much of their time to advancing a range of initiatives to support troops and their families. These include wounded warrior care, veteran employment and education, survivor benefits, suicide prevention, and mental health. Again, these efforts speak to the type of man and leader Admiral Mullen is and to his commitment to our men and women in uniform.

I wish Mike and Deborah all the best. He departs the U.S. military with the sincere thanks of a grateful nation. I know that I have benefitted from his wise counsel over the years. America is fortunate to have such a leader.

ADDITIONAL STATEMENTS

ANGEL IN ADOPTION

● Mr. BOOZMAN. Mr. President, today I honor Theresa K. Reeves of Fort Smith, AR, as a 2011 Angel in Adoption. Theresa serves as executive director of Heart to Heart Pregnancy Support Center, an organization that provides services to assist women, men, and families facing unplanned pregnancies and dealing with pregnancy related concerns. In the past 7 years that Theresa has served as executive director, Heart to Heart has helped more than 14,000 individuals.

Theresa's strong advocacy for adoption makes her an ideal recipient of this recognition. Through working alongside birth mothers throughout the adoption process and speaking to local high schools, colleges, and community groups about the benefits of adoption, Theresa has facilitated more than 30 adoptions. In 2008, Theresa received accreditation as a life affirming specialist. In addition, she has completed the adoption liaison training from the National Council of Adoption.

I am proud of Theresa for her dedication to adoption services and for investing in the lives of families in the Arkansas River Valley. I commend her for her service and ask my colleagues to join me in honoring her and the many other Angels in Adoption who continue to selflessly work to ensure that all children grow up in safe, healthy, and loving homes.●

REMEMBERING THE HONORABLE STEPHAN M. MINIKES

● Mr. CARDIN. Mr. President, today I wish to honor the memory of Ambassador Stephan Minikes, and send my condolences to his wife Dede and their family. Born in Berlin, Germany, and

immigrating to the United States as a young boy, Stephan exemplified the American spirit through a life of hard work and public service. I worked closely with Stephan while he served as the U.S. Ambassador to the Organization for Security and Cooperation in Europe from 2001 until 2005. During that period, he made significant advances in Europe, the Caucasus and Central Asia on a wide range of security-related concerns, including counterterrorism, arms control, human rights, democratization, and economic development.

Prior to his appointment, Ambassador Minikes practiced law for more than 30 years in Washington, DC and New York. He worked in public law and policy strategy, while more recently he represented clients in national defense, energy, transportation, and international trade. A well known member of the Washington political, legal and diplomatic communities, Ambassador Minikes combined knowledge of business and government from the perspectives of the White House, the U.S. Congress and Federal agencies, as well as of the roles of U.S. embassies and foreign embassies in Washington, DC.

Ambassador Minikes was a 1961 graduate of Cornell University and a 1964 graduate of Yale Law School. He was a member of the bars of the District of Columbia, the State of New York, the U.S. Supreme Court and various other Federal courts, including the U.S. Court of Military Appeals, and a member of the American Bar Association, the District of Columbia Bar Association, the Federal Bar Association, the American Society of International Law and the Association of the Bar of the city of New York.

Along with these bar association memberships and his impressive educational background, Stephan was a wonderful public servant throughout his lifetime. He lectured to students around the world on issues ranging from foreign policy to national defense, traveled to more than 100 countries representing the U.S. Government and private interests, served as the director of the Washington Opera at the Kennedy Center, was a member of the Executive Committee of the Yale Law School and a member of the board of directors of the American Council on Germany.

Ambassador Minikes was devoted not only to his country, the promotion of human rights and the improvement of global policies, but to his family. Colleagues, please join me in honoring and remembering of Ambassador Stephan Minikes, a true leader and patriot.●

DELTA COUNTY

● Mr. LEVIN. Mr. President, there are thousands of small and medium size counties across our country that form the backbone of our shared history and cultural heritage. These communities shape our political, economic, and social structure. Each has a unique history that defines its region and its citizens. Delta County, MI, set along Lake Michigan in Michigan's Upper Peninsula, is one such place, and since its inception 150 years ago, has contributed much to the rich and proud history of my home State.

While human life in this region dates back to at least 500 A.D. as evidenced by cliff paintings found in the area, the area was first surveyed in 1843, and in 1861, a triangle shaped section of this land was incorporated as Delta County. At one point in the early 1850s, the mouth of the Escanaba River was home to the largest timber producer in the world; built by one of the county's founding fathers, Nelson Ludington. Two years after the county's incorporation, the Chicago and Northwestern Railroad constructed Delta County's first iron ore dock. Over the ensuing decade, the residents of Delta County witnessed the construction of the first frame houses and a hotel, in addition to the Sand Point Lighthouse in Escanaba. The Delta County Historical Society restored this lighthouse in 1987, and it still stands today along Delta County's majestic coastline.

The years following Escanaba's establishment were prosperous, as Delta County grew as a transportation hub for iron in the north, powering the growth of the Great Lakes region's manufacturing prowess. In 1877, the city of Gladstone was incorporated at the end of the Soo Line railroad. Twenty-one years after its founding, Delta County constructed its first courthouse, and a year later, in 1883, the village of Escanaba, the county seat, incorporated as a city. Today, the county takes pride in its continued role in transporting ore, partnered with a diversified paper industry and its popularity as a destination for tourists visiting one of our Nation's most pristine regions.

The Hiawatha National Forest accounts for more than half of Delta County's land area. This beautiful natural resource stretches across Michigan's Upper Peninsula, touching three of the five Great Lakes and contains 413 inland lakes, making it a popular destination for campers and outdoor enthusiasts. A respect for the environment is a central part of the culture of Delta County residents, and in 1991, Delta County was awarded one of six statewide ''model'' program grants for a recycling and composting program.

Delta County's sesquicentennial marks a great moment for the countless citizens who have contributed much to the success of this region and have helped shape the cultural fabric of this area over the last century and a half. On June 22, Delta County held a ceremony reminiscent of its 100th anniversary celebration, raising a flag and exploring in depth the long, rich history of the county. I know my colleagues in the Senate join me and thousands of citizens across Michigan in wishing the residents of Delta County the best as they chart a course for another century of accomplishment.●

REMEMBERING AMOS McCLURE

● Mrs. McCASKILL. Mr. President, today I pay tribute to Mr. Amos McClure, who passed away on October 1, 2011, at the Veterans Administration Hospital in St. Louis, MO. A veteran of the Korean war, during which he was taken prisoner, Amos lived the life of an American patriot.

Just out of high school, Amos joined the U.S. Army in 1948 at the age of 17. At the U.S. Armed Forces Institute in Fort Lewis, WA, he became an expert rifleman before specializing in heavy infantry during the Korean war. On November 29, 1950—just 19 days shy of his 20th birthday—Amos was captured by the enemy while serving his nation in Korea. He spent almost 3 years as a prisoner of war, until his release on August 8, 1953—Armistance Day.

Amos was shot and wounded as a prisoner of war. But Amos was a survivor and his strength and determination helped him overcome both the physical and emotional wounds that were inflicted on so many American POWs. For his service, and in recognition of the sacrifices he made for his country, CPL Amos McClure received numerous military awards, including the Prisoner of War Medal.

Amos returned home from serving in Korea to marry his sweetheart, Norma Jean Southerland. They were married for almost 52 years before she passed away. They leave behind five children.

After his discharge, Amos worked for the Atomic Energy Commission as a storage battery technician. Later, as a civilian for the U.S. Air Force, he worked as a storage battery technician before moving to St. Louis to become a service manager and electrician until his retirement in 2004.

I honor Amos today out of appreciation for the sacrifices he made on behalf of his fellow Americans, for his contributions to his community, and for the example he set for his children. He had the benefit of a strong family support system and a work ethic that allowed him to move forward from the horrors of war. His spirited approach to life is emblematic of the courage, honor, and strength of our veterans who fought for our freedom.

I join his family, the people of Missouri, and all Americans, in saluting Amos McClure's courage, and I humbly recognize him for all that he has done and for all that he endured for this country. Amos McClure was a true American hero.●

TRIBUTE TO MAUREEN BEAUREGARD

● Mrs. SHAHEEN. Mr. President, today I honor Families in Transition President and Founder Maureen Beauregard for her outstanding service to New Hampshire families over the last two decades.

Twenty years ago, Maureen Beauregard made a commitment to help homeless and at-risk families find safe,

affordable housing. Thanks to Ms. Beauregard's leadership and vision, Families in Transition has grown from serving just a handful of families to supporting over 300 adults and children every night. Today Families in Transition provides essential services including substance abuse treatment, mental health counseling, childcare services, and is spread out over ten housing units, two retail outlets, and 53 employees.

A leader and role model to others in the non-profit field, it is no surprise that earlier this year Maureen Beauregard was honored for her hard work and dedication by New Hampshire Business Review as an Outstanding Woman in Business. Her accomplishments over the years have truly been remarkable, and she will continue to have a positive impact on countless at-risk families in New Hampshire.

As we mark the 20th anniversary of Families in Transition, I would like to recognize Maureen Beauregard and thank her for all that she has done to make New Hampshire a better place to live and raise a family.●

TRIBUTE TO JOHN RIST

● Mrs. SHAHEEN. Mr. President, today I honor educator and principal John Rist for his outstanding service to the Manchester School District for the last 29 years.

Throughout his years with the Manchester School of Technology and Central High School, John has always been committed to improving the lives of our young people. As he retires as principal of Central High School, I thank him for his service to the people of Manchester and the State of New Hampshire.

John first came to Central High School in 1999 as interim principal. With his strong personality and generous nature, he successfully led Central through challenging times. He was named principal of the school in 2002 and during his tenure John helped Central gain full accreditation, established the Central Pride Foundation to support school activities, and oversaw major renovations. Under John's leadership, Central's standardized test scores increased and the dropout rate decreased.

John's commitment to our young people extended well beyond the principal's office. He was a constant presence in the band room, cafeteria, and at Central's many sporting events. He will truly be missed.

I am pleased that even as John retires from Central High School, he will continue to serve on the New Hampshire State Board of Education.

I thank John, a model educator, mentor, and public servant, for his service. He truly embodies what it means to have Central pride.●

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 470. An act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

H.R. 473. An act to provide for the conveyance of approximately 140 acres of land in the Ouachita National Forest in Oklahoma to the Indian Nations Council, Inc., of the Boy Scouts of America, and for other purposes.

H.R. 489. An act to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes.

H.R. 670. An act to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.

H.R. 686. An act to require the conveyance of certain public land within the boundaries of Camp Williams, Utah, to support the training and readiness of the Utah National Guard.

H.R. 765. An act to amend the National Forest Ski Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other purposes.

The message also announced that the House agreed to the following concurrent resolution, without amendment:

S. Con. Res. 29. Concurrent resolution authorizing the use of the rotunda of the United States Capitol for an event to present the Congressional Gold Medal, collectively, to Neil A. Armstrong, Edwin E. ''Buzz'' Aldrin, Jr., Michael Collins, and John Herschel Glenn, Jr., in recognition of their significant contributions to society.

The message further announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 83. Concurrent resolution directing the Clerk of the House of Representatives to make a further correction in the enrollment of H.R. 2608.

At 2:52 p.m., a message from the House of Representatives, delivered by Mr. Cole, one of its reading clerks, announced that the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2608) entitled ''An Act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.''.

ENROLLED BILL SIGNED

At 3:20 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2608. An act making continuing appropriations for fiscal year 2012, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES REFERRED

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

H.R. 473. An act to provide for the conveyance of approximately 140 acres of land in the Ouachita National Forest in Oklahoma to the Indian Nations Council, Inc., of the Boy Scouts of America, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 670. An act to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands; to the Committee on Energy and Natural Resources.

H.R. 686. An act to require the conveyance of certain public land within the boundaries of Camp Williams, Utah, to support the training and readiness of the Utah National Guard; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 470. An act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

H.R. 489. An act to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes.

H.R. 765. An act to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other purposes.

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–3395. A communication from the Administrator, Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Intergovernmental Review'' (7 CFR Parts 1778, 1942, 1944, 1948, 1951, 1980, 3560, 3565, 3570, 4274) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3396. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Expansion of 911 Access; Telecommunications Loan Program'' (RIN0572–AC24) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3397. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Foreign Futures and Options Contracts on a Non-Narrow-Based Security Index; Commission Certification Procedures'' ((17 CFR Part 30) (RIN3038–AC54)) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the

Committee on Agriculture, Nutrition, and Forestry.

EC–3398. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Retail Foreign Exchange Transactions; Conforming Changes to Existing Regulations in Response to the Dodd-Frank Wall Street Reform and Consumer Protection Act'' (17 CFR Part 5) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3399. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Golden Nematode; Removal of Regulated Areas'' (Docket No. APHIS–2011–0036) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3400. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Phytosanitary Treatments; Location of and Process for Updating Treatment Schedules; Technical Amendment'' (Docket No. APHIS–2008–0022) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3401. 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 ''Isaria fumosorosea Apopka strain 97; Exemption from the Requirement of a Tolerance'' (FRL No. 8889–8) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3402. 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 ''Amisulbrom; Pesticide Tolerances'' (FRL No. 8885–3) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3403. 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 ''Protection of Stratospheric Ozone: The 2011 Critical Use Exemption From the Phaseout of Methyl Bromide'' (FRL No. 9473–5) received in the Office of the President of the Senate on September 29, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3404. A joint communication from the Under Secretary of Defense (Comptroller) and the Associate Director of National Intelligence, transmitting, pursuant to law, a report relative to violations of the Antideficiency Act that occurred within the National Intelligence Program and the Military Intelligence Program and was assigned National Geospatial-Intelligence Agency case number 10–04; to the Committee on Appropriations.

EC–3405. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to violations of the Antideficiency Act that occurred within the Operation and Maintenance, Marine Corps account, during fiscal year 2008 at the Marine Corps Base, Camp Pendleton, and the Marine Corps Air Station, Miramar and was assigned Navy case number 10–02; to the Committee on Appropriations.

EC–3406. 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: Responsibility and Liability for Government Property'' ((RIN0750–AG94) (DFARS Case 2010–D018)) received in the Office of the President of the Senate on October 3, 2011; to the Committee on Armed Services.

EC–3407. 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: Administering Trafficking in Persons Regulations'' ((RIN0750–AH41) (DFARS Case 2011–D051)) received in the Office of the President of the Senate on October 3, 2011; to the Committee on Armed Services.

EC–3408. 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: Accelerate Small Business Payments'' ((RIN0750–AH19) (DFARS Case 2011–D008)) received in the Office of the President of the Senate on October 3, 2011; to the Committee on Armed Services.

EC–3409. 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: Definition of 'Qualifying Country End Product''' ((RIN0750–AH21) (DFARS Case 2011–D028)) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Armed Services.

EC–3410. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Dana T. Atkins, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–3411. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General David P. Fridovich, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–3412. A communication from the Deputy to the Chairman for External Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Standards: Advanced Capital Adequacy Framework—Basel II; Establishment of a Risk-Based Capital Floor'' (RIN3064–AD58) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3413. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Golden Parachute and Indemnification Payments'' (RIN3133–AD73) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3414. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Accuracy of Advertising and Notice of Insured Status'' (RIN3133–AD83) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3415. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Share Insurance and Appendix'' (RIN3133–AD79) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3416. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3417. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Irvin Charles McCullough III, of Maryland, to be Inspector General of the Intelligence Community, Office of the Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 1644. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. CASEY:

S. 1645. A bill to establish an Oleoresin Capsicum Spray Pilot Program in the Bureau of Prisons, and for other purposes; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 1646. A bill to repeal the Zimbabwe Democracy and Economic Recovery Act of 2001; to the Committee on Foreign Relations.

By Mr. CRAPO:

S. 1647. A bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gain rates; to the Committee on Finance.

By Mr. PAUL (for himself, Mr. MCCONNELL, and Mr. COATS):

S. 1648. A bill to terminate the Transportation Enhancement Program and transfer the funding dedicated to such program to carry out the most critical emergency transportation projects identified by the Secretary of Transportation, after consultation with State and local transportation officials; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 1649. A bill to amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAPO (for himself, Mr. JOHANNS, Mr. SHELBY, Mr. VITTER, Mr. TOOMEY, Mr. MORAN, and Mr. KIRK):

S. 1650. A bill to provide for the orderly implementation of the provisions of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1651. A bill to provide for greater transparency and honesty in the Federal budget process; to the Committee on the Budget.

By Mr. BLUMENTHAL (for himself, Mr. FRANKEN, and Mr. WHITEHOUSE):

S. 1652. A bill to amend title 9 of the United States Code to prohibit mandatory arbitration clauses in contracts for mobile service; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself, Mr. BLUNT, Mr. HELLER, and Mr. BEGICH):

S. 1653. A bill to make minor modifications to the procedures relating to the issuance of visas; to the Committee on the Judiciary.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 1654. A bill to establish an alternative accountability model; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 25

At the request of Mrs. SHAHEEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 25, a bill to phase out the Federal sugar program, and for other purposes.

S. 119

At the request of Mr. VITTER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor 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. BROWN of Massachusetts, the name of the Senator from Montana (Mr. TESTER) 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. 211

At the request of Mr. ISAKSON, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 306

At the request of Mr. WEBB, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 341

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 341, a bill to require the rescission or termination of Federal contracts and subcontracts with enemies of the United States.

S. 362

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

S. 418

At the request of Mr. HARKIN, the name of the Senator from Wyoming (Mr. ENZI) 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. 436

At the request of Mr. SCHUMER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 436, a bill to ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale.

S. 510

At the request of Mr. UDALL of New Mexico, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 510, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 595

At the request of Mrs. MURRAY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 595, a bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for such payments within 3 fiscal years.

S. 838

At the request of Mr. TESTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 838, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from a definition under that Act.

S. 949

At the request of Mrs. SHAHEEN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor 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. 1029

At the request of Mr. UDALL of Colorado, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1029, a bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes.

S. 1048

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. 1219

At the request of Mr. BARRASSO, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. 1219, a bill to require Federal agencies to assess the impact of Federal action on jobs and job opportunities, and for other purposes.

S. 1299

At the request of Mr. MORAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1301

At the request of Mr. LEAHY, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 to 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

S. 1315

At the request of Mr. BLUMENTHAL, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1315, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend public safety officers' death benefits to fire police officers.

S. 1447

At the request of Mr. CRAPO, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1447, a bill to amend the Safe and Drug-Free Schools and Communities Act to authorize the use of grant funds for dating violence prevention, and for other purposes.

S. 1472

At the request of Mrs. GILLIBRAND, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1472, a bill to impose sanctions on persons making certain investments

that directly and significantly contribute to the enhancement of the ability of Syria to develop its petroleum resources, and for other purposes.

S. 1479

At the request of Mr. CASEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1479, a bill to preserve Medicare beneficiary choice by restoring and expanding Medicare open enrollment and disenrollment opportunities.

S. 1508

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1508, a bill to extend loan limits for programs of the Federal Housing Administration, the government-sponsored enterprises, and the Department of Veterans Affairs, and for other purposes.

S. 1512

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 1514

At the request of Mr. TESTER, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1514, a bill to authorize the President to award a gold medal on behalf of the Congress to Elouise Pepion Cobell, in recognition of her outstanding and enduring contributions to American Indians, Alaska Natives, and the Nation through her tireless pursuit of justice.

S. 1527

At the request of Mrs. HAGAN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1527, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

S. 1539

At the request of Mr. CORNYN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1539, a bill to provide Taiwan with critically needed United States-built multirole fighter aircraft to strengthen its self-defense capability against the increasing military threat from China.

S. 1588

At the request of Mr. WEBB, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1588, a bill to protect the right of individuals to bear arms at water resources development projects administered by the Secretary of the Army, and for other purposes.

S. 1620

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1620, a bill to ensure the icebreaking capabilities of the United States and for other purposes.

S. 1629

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1629, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 1632

At the request of Mr. MENENDEZ, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1632, a bill to amend the Internal Revenue Code of 1986 to provide a look back rule in the case of federally declared disasters for determining earned income for purposes of the child tax credit and the earned income credit, and for other purposes.

S.J. RES. 6

At the request of Mrs. HUTCHISON, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S.J. Res. 6, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to regulating the Internet and broadband industry practices.

S.J. RES. 21

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S.J. Res. 21, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

S. RES. 132

At the request of Mr. NELSON of Nebraska, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 132, a resolution recognizing and honoring the zoos and aquariums of the United States.

S. RES. 251

At the request of Mr. CARPER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Res. 251, a resolution expressing support for improvement in the collection, processing, and consumption of recyclable materials throughout the United States.

AMENDMENT NO. 669

At the request of Mr. MERKLEY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of amendment No. 669 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 1644. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

Mr. CORNYN. Mr. President, I rise to introduce the Workforce Health Improvement Program Act of 2011, otherwise known as the WHIP Act. I am very pleased to be joined again by my good friend and colleague, Senator TOM HARKIN, who shares my commitment to helping keep America fit.

Public health experts unanimously agree that people who maintain active and healthy lifestyles dramatically reduce their risk of contracting chronic diseases. And as the government works to reign in the high cost of health care, it is worth talking about what we all can do to help ourselves. As you know, prevention is key, and exercise is a primary component in the prevention of many adverse health conditions that can arise over one's lifetime. A physically fit population helps to decrease health-care costs, reduce governmental spending, reduce illnesses, and improve worker productivity.

According to the Centers for Disease Control and Prevention, CDC, the economic cost alone to businesses in the form of health insurance and absenteeism is more that $15 billion. Additionally, the CDC estimates that more than one-third of all U.S. adults fail to meet minimum recommendations for aerobic physical activity. With physical inactivity being a key contributing factor to overweight and obesity, and adversely affecting workforce productivity, we quite simply need to do more to help employers encourage exercise.

Given the tremendous benefits exercise provides, I believe Congress has a duty to create as many incentives as possible to get Americans off the couch, up, and moving.

With this in mind, I am reintroducing the WHIP Act.

Current law already permits businesses to deduct the cost of on-site workout facilities, which are provided for the benefit of employees on a pre-tax basis. But if a business wants or needs to outsource these health benefits, they and/or their employees are required to bear the full cost. In other words, employees who receive off-site fitness center subsidies are required to pay income tax on the benefits, and their employers bear the associated administrative costs of complying with the IRS rules.

The WHIP Act would correct this inequity in the tax code to the benefit of many smaller businesses and their employees. Specifically, it would provide an employer's right to deduct up to $900 of the cost of providing health club benefits off-site for their employees. In addition, the employer's contribution to the cost of the health club fees would not be taxable income for employees—creating an incentive for more employers to contribute to the health and welfare of their employees.

The WHIP Act is an important step in reversing the largely preventable

health crisis that our country is facing, through the promotion of physical activity and disease prevention. It is a critical component of America's health care policy: prevention. It will improve our nation's quality of life by promoting physical activity and preventing disease.

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. 1644

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 ''Workforce Health Improvement Program Act of 2011''.

SEC. 2. EMPLOYER-PROVIDED OFF-PREMISES HEALTH CLUB SERVICES.

(a) TREATMENT AS FRINGE BENEFIT.—Subparagraph (A) of section 132(j)(4) of the Internal Revenue Code of 1986 (relating to on-premises gyms and other athletic facilities) is amended to read as follows:

''(A) IN GENERAL.—Gross income shall not include—

''(i) the value of any on-premises athletic facility provided by an employer to its employees, and

''(ii) so much of the fees, dues, or membership expenses paid by an employer to an athletic or fitness facility described in subparagraph (C) on behalf of its employees as does not exceed $900 per employee per year.''.

(b) ATHLETIC FACILITIES DESCRIBED.—Paragraph (4) of section 132(j) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN ATHLETIC OR FITNESS FACILITIES DESCRIBED.—For purposes of subparagraph (A)(ii), an athletic or fitness facility described in this subparagraph is a facility—

''(i) which provides instruction in a program of physical exercise, offers facilities for the preservation, maintenance, encouragement, or development of physical fitness, or is the site of such a program of a State or local government,

''(ii) which is not a private club owned and operated by its members,

''(iii) which does not offer golf, hunting, sailing, or riding facilities,

''(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

''(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.''.

(c) EXCLUSION APPLIES TO HIGHLY COMPENSATED EMPLOYEES ONLY IF NO DISCRIMINATION.—Section 132(j)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Paragraphs (1) and (2) of subsection (a)'' and inserting ''Subsections (a)(1), (a)(2), and (j)(4)'', and

(2) by striking the heading thereof through ''(2) APPLY'' and inserting ''CERTAIN EXCLUSIONS APPLY''.

(d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN ATHLETIC FACILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 274(a) of the Internal Revenue Code of 1986 (relating to denial of deduction for club dues) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to so much of the fees, dues, or membership expenses paid to athletic or fitness facilities (within the meaning of section 132(j)(4)(C)) as does not exceed $900 per employee per year.''.

(2) CONFORMING AMENDMENT.—The last sentence of section 274(e)(4) of such Code is amended by inserting ''the first sentence of'' before ''subsection (a)(3)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. BAUCUS:

S. 1649. A bill to amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1649

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Postal Service Pension Obligation Recalculation and Restoration Act of 2011''.

SEC. 2. MODIFIED METHODOLOGY.

(a) IN GENERAL.—Section 8348(h) of title 5, United States Code, is amended by adding at the end the following:

''(4)(A) To the extent that a determination under paragraph (1), relating to benefits attributable to civilian employment with the United States Postal Service, is based on any provision of law described in subparagraph (C), such determination shall be made in accordance with such provision and any otherwise applicable provisions of law, subject to the following:

''(i) The 'average pay' used in the case of any individual shall be a single amount, determined in accordance with section 8331(4), taking into account the rates of basic pay in effect for such individual during the periods of creditable service performed by such individual. Nothing in this subsection shall be considered to permit or require—

''(I) one determination of average pay with respect to service performed with the United States Postal Service; and

''(II) a separate determination of average pay with respect to service performed with its predecessor entity in function.

''(ii) In determining the portion of an annuity attributable to civilian employment with the United States Postal Service, with respect to any period of employment with the United States Postal Service that follows any other period of employment creditable under section 8332 (without regard to whether such employment was with an entity referred to in clause (i)(II)), the total service of an employee for purposes of any provision of law described in subparagraph (C) shall be the sum of—

''(I) any period of employment with the United States Postal Service; and

''(II) any period of employment creditable under section 8332 that precedes the period described in subclause (I).

''(B)(i) Not later than 6 months after the date of enactment of this paragraph, the Office shall determine (or, if applicable, redetermine) the amount of the Postal surplus or supplemental liability as of the close of the fiscal year most recently ending before such date of enactment, in conformance with the methodology required under subparagraph (A).

''(ii)(I) If the result of the determination or redetermination under clause (i) is a surplus, the Office shall transfer the amount of such surplus to the Postal Service Retiree Health Benefits Fund not later than 15 days after the date of such determination or redetermination.

''(II) If a determination or redetermination under clause (i) for a fiscal year is made before the Office makes a redetermination under paragraph (2)(B) with respect to the fiscal year, the Office may not make a determination under paragraph (2)(B) with respect to the fiscal year.

''(C) The provisions of law described in this subparagraph are—

''(i) the first sentence of section 8339(a); and

''(ii) section 8339(d)(1).

''(5) For purposes of this subsection—

''(A) the term 'Postal Service Retiree Health Benefits Fund' means the fund established under section 8909a; and

''(B) the term 'Postal Service Fund' means the fund established under section 2003 of title 39.''.

(b) COORDINATION PROVISIONS.—

(1) AMENDMENT.—Section 8909a of title 5, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding any other provision of law, the amount payable by the Postal Service under subsection (d) in any fiscal year ending on or before September 30, 2021, shall be determined without regard to the requirements under section 8348(h)(4).''.

(2) RULE OF CONSTRUCTION.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the amount of any benefits otherwise payable from the Civil Service Retirement and Disability Fund to any individual.

(c) TECHNICAL AMENDMENT.—The heading for section 8909a of title 5, United States Code, is amended by striking ''**Benefit**'' and inserting ''**Benefits**''.

SEC. 3. ADDITIONAL PROVISIONS.

(a) IN GENERAL.—Section 8348(h)(2) of title 5, United States Code, is amended by adding at the end the following:

''(F) Notwithstanding any other provision of this subsection, for purposes of determining the Postal surplus or supplemental liability for each of fiscal years 2016, 2017, 2018, 2019, and 2020—

''(i) paragraph (4)(A) shall not apply to a determination under paragraph (1); and

''(ii) the determination under paragraph (1) shall be made by applying the methodology that was used to carry out this paragraph with respect to the fiscal year preceding the fiscal year referred to in paragraph (4)(B)(i).''.

(b) RELATING TO A POSTAL SURPLUS.—Section 8348(h)(2)(C) of title 5, United States Code, is amended—

(1) by inserting ''2021,'' after ''2015,''; and

(2) by striking ''if the result is'' and all that follows through ''terminated.'' and inserting the following: ''if the result is a surplus—

''(i) that amount shall be transferred—

''(I) to the Postal Service Retiree Health Benefits Fund, if the surplus is for fiscal year 2020 or a preceding fiscal year; and

''(II) to the Postal Service Fund, if the surplus is for fiscal year 2021 or a subsequent fiscal year; and

''(ii) any prior amortization schedule for payments shall be terminated.''.

SEC. 4. TREATMENT OF CERTAIN SURPLUS RETIREMENT CONTRIBUTIONS.

Section 8423(b) of title 5, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) If, for fiscal year 2010, the amount computed under paragraph (1)(B) is less than zero (in this section referred to as 'surplus postal contributions'), the amount of such surplus postal contributions shall be transferred—

''(A) to the Postal Service Retiree Health Benefits Fund to pay any liability to the Postal Service Retiree Health Benefits Fund for fiscal year 2011;

''(B) if all liability to the Postal Service Retiree Health Benefits Fund for fiscal year 2011 has been paid, to the Employees' Compensation Fund established under section 8147; and

''(C) if all liability of the United States Postal Service to the Employees' Compensation Fund has been paid, to the United States Postal Service for the repayment of any obligation issued under section 2005 of title 39.''.

SEC. 5. RURAL POST OFFICES.

Section 404(d) of title 39, United States Code, is amended by adding at the end the following:

''(7) Notwithstanding any other provision of this subsection, in making any determination under subsection (a)(3) as to the necessity for the closing or consolidation of any post office, the Postal Service may not close any post office which is located more than 10 miles from any other post office.''.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) INTENT OF CONGRESS.—It is the intent of Congress that this Act apply with respect to the allocation of past, present, and future benefit liabilities between the United States Postal Service and the Treasury of the United States.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 1654. A bill to establish an alternative accountability model; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, I come to the floor to speak about a Colorado common-sense approach to solving a national problem facing schools because of the current No Child Left Behind, NCLB law. Today, I am introducing the Growth to Excellence Act, along with my friend and colleague Senator Bennet.

In my travels across the great state of Colorado, educators from Pueblo to Grand Junction have shared with me the difficulties and cumbersome burdens placed on them by NCLB. Although well-intentioned, NCLB has continued to suffer from under-funding and poor implementation, which have in turn hurt our nation's students.

A major component of the current law is the measurement of Annual Yearly Progress, or AYP for short, for a group of students. Current law requires States to compare one year's class of students to the next year's class, and it fails to measure the progress of individual students over time.

This is problematic for schools because it doesn't adequately represent true educational progress, focusing instead on anonymous students' test scores. Likewise, the information is meaningless to parents and students because it does not properly measure individual students' growth over time. Unfortunately, under current law, schools are punished when such groups of students do not meet the required level of AYP, even if individual students actually displayed substantial growth over that time. Our bill would fix that.

Using the nationally recognized Colorado Growth Model as its inspiration, the Growth to Excellence Act would amend current law to allow all states to move toward an accountability system that measures student growth rates together with their attainment of college and career readiness. Growth models, which track students from year to year, provide schools, parents, teachers, and students alike with the information they need to see where individual student improvements have been made and where there is still room for continued learning.

This legislation, I believe, will provide a proven system of tracking actual student growth aimed at preparing our students for college and for their careers, without unnecessarily punishing schools in a one-size-fits-all approach. This will ultimately improve accountability standards for teachers, principals and school systems nationwide as it will provide us with the data we need to ensure America's students are prepared to win the global economic race in the 21st Century.

As Congress continues its important work on the reauthorization of the Elementary and Secondary Education Act, I urge my colleagues to join both Senator Bennet and me in supporting the Growth to Excellence Act.

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. 1654

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 ''Growth to Excellence Act of 2011''.

SEC. 2. ACCOUNTABILITY MODEL.

Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended—

(1) in paragraph (3), by adding at the end the following:

''(E) ASSESSMENTS ABOVE AND BELOW GRADE LEVEL.—

''(i) IN GENERAL.—Notwithstanding any other requirement of this paragraph, a State may carry out this paragraph through the use of adaptive assessments that—

''(I) are administered through a computerized means;

''(II) are aligned with grade-level academic content standards; and

''(III) measure academic growth above and below grade level.

''(ii) REQUIREMENTS FOR ADAPTIVE ASSESSMENTS.—For the results of any adaptive assessment to be included in the accountability model described under paragraph (12), such results must provide the information necessary to determine adequate student growth in accordance with paragraph (12)(C)(i).''; and

(2) by adding at the end the following:

''(11) CRITERIA AND IMPLEMENTATION OF ACCOUNTABILITY MODEL.—

''(A) IN GENERAL.—

''(i) TRANSITIONAL PARTICIPATION.—Prior to a State's adoption of college and career ready academic content standards and college and career ready assessments, as defined in subparagraphs (B) and (C) of paragraph (13), a State may apply to the Secretary to replace the State plan requirements under paragraph (2) with the accountability requirements under paragraph (12).

''(ii) REQUIRED PARTICIPATION.—After the adoption of college and career ready academic content standards and college and career ready assessments, as defined in subparagraphs (B) and (C) of paragraph (13) and required under this subsection—

''(I) a State shall comply with this paragraph and paragraph (12) in lieu of paragraph (2); and

''(II) references in this Act to section 1111(b)(2) shall be deemed to be references to this paragraph and paragraph (12).

''(B) CRITERIA.—A State that participates in the accountability model described in paragraph (12) shall carry out the following activities:

''(i) Implement challenging college and career ready academic content standards, as defined in paragraph (13)(B).

''(ii) Implement college and career ready assessments, as defined in paragraph 13(C).

''(iii) For a secondary school, measure graduation rates as defined in section 200.19(b)(1) of title 34, Code of Federal Regulations.

''(iv) Assess not less than 2 additional indicators of whether students are college and career ready, such as—

''(I) student scores on the ACT;

''(II) student scores on the SAT;

''(III) the percentage of students who attend an institution of higher education;

''(IV) college remediation rates;

''(V) results from Advance Placement or International Baccalaureate exams;

''(VI) student grade point averages at an institution of higher education; or

''(VII) rates of completion of the first year at an institution of higher education.

''(v) Provide a comprehensive State system of accountability for schools that do not meet the standard for adequate student growth, as described in paragraph (12), which aims to ensure that each student is college and career ready before such student graduates from secondary school and which shall include, at a minimum—

''(I) the evaluation of each school and each group of students described in paragraph (2)(C)(v)(II) against annual progress targets described in subclauses (V) and (VI) of paragraph (12)(B)(i) that are aligned with the goal of ensuring that each student is college and career ready before such student graduates from secondary school;

''(II) a system of categorization that will group schools based on—

''(aa) how the overall performance of students, and the performance of each subgroup of students described in paragraph (2)(C)(v)(II), at such school compares to each annual progress target described in subclauses (V) and (VI) of paragraph (12)(B)(i); and

''(bb) if the school is a secondary school, how students at such school perform when measured against key indicators of college and career readiness, as described in clauses (iii) and (iv);

''(III) supports and consequences for each school in the State, as appropriate for each school based on the categorization described in subclause (II); and

''(IV) incentives for schools that consistently exceed the annual progress targets described in subclauses (V) and (VI) of paragraph (12)(B)(i).

''(vi) Adopt intervention mechanisms for schools, as described in section 1116.

''(vii) Ensure that adequate student growth reports are delivered, in a timely manner, to parents and teachers (as appropriate) to enable parents and teachers to examine student progress toward becoming college and career ready.

''(C) ASSESSMENTS ABOVE AND BELOW GRADE LEVEL.—

''(i) IN GENERAL.—In carrying out the assessment requirements described in subparagraph (B)(ii), a State may use adaptive assessments described in paragraph (3)(E).

''(ii) REQUIREMENTS FOR ADAPTIVE ASSESSMENTS.—For the results of any adaptive assessment to be included in the accountability model described under paragraph (12), such results must provide the information necessary to determine adequate student growth in accordance with paragraph (12)(C)(i).

''(12) ACCOUNTABILITY MODEL.—

''(A) IN GENERAL.—Each State that will use an accountability model under this paragraph shall submit a plan to the Secretary, which shall demonstrate that the State has developed and will implement a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools meet the standard of adequate student growth as defined under this paragraph.

''(B) COMPONENTS OF THE ACCOUNTABILITY MODEL.—

''(i) IN GENERAL.—Each State accountability model shall—

''(I) be based on the academic standards and academic assessments adopted under paragraphs (1), (3), and (11), and other academic indicators consistent with subparagraph (C)(ii);

''(II) take into account the achievement of all public elementary school and secondary school students;

''(III) be the same accountability model that the State uses for all public elementary schools and secondary schools or all local educational agencies in the State;

''(IV) include components that recognize successful schools and that require intervention measures in struggling schools, which the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that such agencies and schools meet the standard of adequate student growth as described in subparagraph (C), in accordance with this paragraph;

''(V) establish annual progress targets for each school that aim to reduce by half, in less than 6 years—

''(aa) the difference between the percentage of students at the top performing schools in the State who meet the college and career ready academic content standards described in paragraph (13)(B) or make adequate student growth, as described in subparagraph (C), and the percentage of such students at each school that is not a top performing school; and

''(bb) for each category of students described in paragraph (2)(C)(v)(II), the difference between the percentage of students who meet the college and career ready academic content standards described in paragraph (13)(B) or make adequate student growth, as described in subparagraph (C), at the top performing schools in the State, and the percentage of such students at each school that is not a top performing school; and

''(VI) establish annual progress targets for each secondary school that aim to reduce by half, in less than 6 years, the difference between the percentage of students who graduate from such secondary school and 90 percent.

''(ii) DEFINITION OF TOP PERFORMING SCHOOL.—In this paragraph, the term 'top performing school' means a school that is ranked at the 90th percentile when all schools in a State are ranked (with separate rankings for elementary schools and for secondary schools) from lowest to highest, based on the percentage of students at each school who meet challenging college and career ready academic content standards.

''(iii) TOP PERFORMING SCHOOLS.—A top performing school shall be considered a school that is meeting annual progress targets under subclauses (V) and (VI) of clause (i), for such time as the school remains a top performing school.

''(C) ADEQUATE STUDENT GROWTH.—

''(i) IN GENERAL.—The term 'adequate student growth' shall be defined by a State—

''(I) to mean—

''(aa) for each student at a school who is not on track to being college and career ready in a subject, a rate of growth indicating that the student will be on track to being college and career ready within 3 years, or by the last year of student testing, whichever is earlier; and

''(bb) for a student who is on track to being college and career ready in a subject, but is not yet college and career ready, a rate of growth equal to not less than 1 year of academic growth;

''(II) in a manner that—

''(aa) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

''(bb) is statistically rigorous, valid, and reliable;

''(cc) results in continuous and substantial academic improvement for all students; and

''(dd) measures the progress of public elementary schools, secondary schools, local educational agencies, and the State based on the academic assessments described in paragraphs (3) and (11).

''(ii) MEASURES OF ADEQUATE SCHOOL PERFORMANCE.—

''(I) IN GENERAL.—A State may develop a composite measure of a school's adequate student growth, as described under this paragraph, to be used for public reporting, that may incorporate 1 or more of the following indicators:

''(aa) Overall student cohort proficiency or growth to proficiency on the assessments adopted under paragraphs (3) and (11) over a period of 2 or more years.

''(bb) The percentage of students who are making sufficient growth to meet the college and career ready academic content standards, as described in paragraph (13)(B), before the last year that the student is in the student's current school, or in less than 3 years, whichever occurs earlier.

''(cc) Progress in closing achievement gaps between each group of students listed in paragraph (2)(C)(v)(II) and the overall student population of the school over a period of 2 or more years.

''(dd) For secondary schools, a continuous and substantial increase in the graduation rate (as defined in section 200.19(b)(1) of title 34, Code of Federal Regulations).

''(ee) Year-to-year growth and growth to proficiency on the assessments adopted under paragraphs (3) and (11).

''(ff) Attendance for all public elementary school students.

''(gg) The percentage of students who earn sufficient credits to be promoted to the next grade.

''(hh) The percentage of secondary school graduates who attend an institution of higher education.

''(ii) The percentage of secondary school graduates who do not require remediation at an institution of higher education.

''(II) VALIDITY AND RELIABILITY.—The State shall ensure that each indicator described in this clause is rigorous, valid for the indicator's assigned use, reliable, and consistent with any relevant nationally recognized professional and technical standards.

''(III) REPORTING OF INDICATORS.—A State shall publicly report each of the indicators that are included within the composite measure of adequate school performance, as described in this clause, in the aggregate and disaggregated by each group of students described in paragraph (2)(C)(v)(II).

''(D) ANNUAL IMPROVEMENT FOR SCHOOLS.—Each year, for a school to meet the standard for adequate student growth under this paragraph, not less than 95 percent of each group of students described in paragraph (2)(C)(v)(II) who are enrolled in the school are required to take the assessments, consistent with paragraph (3), including subparagraph (C)(xi) of such paragraph, and with—

''(i) accommodations provided in the same manner as those provided under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

''(ii) accommodations and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act.

''(E) EVALUATION.—

''(i) SECRETARIAL DUTIES.—The Secretary shall—

''(I) establish a rigorous peer-review process, which shall include a diverse board of experts and community stakeholders, to assist in the review of State accountability model plans, based on the criteria described in subparagraphs (B) and (C)(i);

''(II) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;

''(III) if the Secretary determines that the State plan does not meet the requirements of this paragraph, immediately notify the State of such determination and the reasons for such determination;

''(IV) not decline to approve a State's accountability model plan before—

''(aa) offering the State an opportunity to revise its accountability model plan;

''(bb) providing technical assistance in order to assist the State to meet the requirements of this paragraph;

''(cc) providing a hearing; and

''(dd) allowing the State to communicate with peer reviewers in order to further explain or justify the merits of the State's accountability model plan; and

''(V) have the authority to disapprove a State accountability model plan for not meeting the requirements of this paragraph, but shall not have the authority to require a State, as a condition of approval of the State accountability model plan, to include in, or delete from, such plan 1 or more specific elements of the State's academic content standards or to use specific academic assessment instruments or items.

''(ii) STATE REVISIONS.—A State accountability model plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this paragraph.

''(F) APPROVED SCHOOLS.—If, as of the date of enactment of the Growth to Excellence

Act of 2011, a State has already received approval from the Secretary to use an accountability model, the Secretary may allow such State a period of not more than 2 years from the date of enactment of such Act to transition to the use of the accountability model described in this paragraph.

''(13) DEFINITIONS.—In this subsection:

''(A) COLLEGE AND CAREER READY.—The term 'college and career ready' when used with respect to a student means that the student meets the requirements necessary to be admitted into credit-bearing, nonremedial, entry level coursework at a State public institution of higher education.

''(B) COLLEGE AND CAREER READY ACADEMIC CONTENT STANDARDS.—The term 'college and career ready academic content standards' means challenging academic content standards (as required under paragraph (1)) that are—

''(i) developed based on evidence that mastery of such standards corresponds to being college and career ready without the need for remediation; and

''(ii)(I) common to a significant number of States; or

''(II) approved by a system of public 4-year institutions of higher education in the State, such that mastery of such standards leads to placement into credit-bearing, nonremedial, first-year coursework for a student admitted to an institution of higher education that is part of such system.

''(C) COLLEGE AND CAREER READY ASSESSMENTS.—The term 'college and career ready assessments' means an assessment for mathematics and an assessment for reading or language arts that—

''(i) measures the annual academic growth of individual students;

''(ii) is aligned with the college and career ready academic content standards described in this paragraph; and

''(iii) meets the requirements under paragraph (3).

''(D) ON TRACK TO BEING COLLEGE AND CAREER READY.—The term 'on track to being college and career ready' in a subject means that a student is performing at or above grade level, such that the student will be college and career ready in the subject before graduation from secondary school, as measured by the State assessment system.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 670. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table.

SA 671. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 672. Mr. BARRASSO (for himself, Mr. MANCHIN, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 673. Ms. MURKOWSKI (for herself and Mr. HELLER) submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 674. Mr. HELLER (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 675. Mr. MENENDEZ (for himself and Mr. CARDIN) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 676. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 677. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 678. Mr. PAUL (for himself, Mr. VITTER, Mr. DEMINT, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 679. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 680. Mr. HATCH (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 681. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 682. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 683. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 684. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 685. Mr. CRAPO (for himself, Mr. JOHANNS, Mr. SHELBY, Mr. VITTER, Mr. TOOMEY, Mr. MORAN, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 686. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 687. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 688. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 689. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 690. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 691. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 692. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 693. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 694. Mr. REID proposed an amendment to the bill S. 1619, supra.

SA 695. Mr. REID proposed an amendment to amendment SA 694 proposed by Mr. REID to the bill S. 1619, supra.

SA 696. Mr. REID proposed an amendment to the bill S. 1619, supra.

SA 697. Mr. REID proposed an amendment to amendment SA 696 proposed by Mr. REID to the bill S. 1619, supra.

SA 698. Mr. REID proposed an amendment to amendment SA 697 proposed by Mr. REID to the amendment SA 696 proposed by Mr. REID to the bill S. 1619, supra.

SA 699. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 700. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 701. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 702. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 703. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 704. Ms. STABENOW (for herself and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 705. Mr. UDALL, of Colorado submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 706. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 707. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 708. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 709. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 710. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 711. Mr. BROWN, of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 712. Mr. SHELBY (for himself, Mr. CRAPO, Mr. CORKER, Mr. DEMINT, Mr. VITTER, Mr. JOHANNS, Mr. TOOMEY, Mr. KIRK, Mr. MORAN, and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 713. Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 714. Mr. WYDEN (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 715. Mr. WYDEN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. PORTMAN, Mr. BLUNT, and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 716. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 717. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 718. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 719. Mr. THUNE submitted an amendment intended to be proposed by him to the

bill S. 1619, supra; which was ordered to lie on the table.

SA 720. Mr. ROBERTS (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 721. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 670. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, add the following:

SEC. 16. PROHIBITION ON FOREIGN AID TO COUNTRIES HOLDING MORE THAN $10,000,000,000 IN UNITED STATES DEBT.

(a) PROHIBITION ON FUNDING.—Except as provided in subsection (c), no funds may be appropriated or otherwise made available to provide assistance to the people or government of a country that is listed by the United States Treasury as owning more than $10,000,000,000 in United States debt. This prohibition includes both direct bilateral assistance and assistance provided by the United States Agency for International Development to nongovernmental organizations and multilateral organizations, including the United Nations and affiliated organizations, for programs designed to assist the residents of any country that owns more than $10,000,000,000 in United States debt.

(b) RESCISSION OF FISCAL YEAR 2012 FUNDS.—Any funds appropriated or otherwise made available for fiscal year 2012 for assistance prohibited under subsection (a) and available for obligation as of the date of the enactment of this Act are hereby rescinded.

(c) EXCEPTIONS.—

(1) EXEMPTED ASSISTANCE.—The prohibition under subsection (a) does not apply to—

(A) Foreign Military Financing assistance;

(B) assistance for programs to strengthen the rule of law and good governance; and

(C) assistance for programs to promote religious liberty and freedom.

(2) PRESIDENTIAL WAIVER.—

(A) IN GENERAL.—The President may waive the prohibition on assistance under subsection (a) if the President determines that providing such assistance is necessary to respond to an emergency requirement.

(B) EMERGENCY REQUIREMENT DEFINED.—

(i) DEFINITION.—For purposes of this paragraph, an emergency requirement is—

(I) necessary, essential, or vital (not merely useful or beneficial);

(II) sudden, quickly coming into being, and not building up over time;

(III) an urgent, pressing, and compelling need requiring immediate action;

(IV) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(V) not permanent in nature.

(ii) MEANING OF UNFORESEEN.—For purposes of this subparagraph, an emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(C) CONGRESSIONAL NOTIFICATION.—The President shall notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives not later than 15 days after exercising a waiver under this paragraph.

SA 671. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ASSESSMENTS OF EMPLOYMENT IMPACT.

(a) SHORT TITLE.—This section may be cited as the ''Employment Impact Act of 2011''.

(b) PURPOSE.—The purposes of this section are the following:

(1) To declare that the impact of Federal regulations on jobs and job prospects in the United States is a significant and relevant consideration to all Federal regulatory policy actions and henceforth should be taken into account by Federal regulators when they decide to take actions under their respective statutory authorities.

(2) To express the concern of Congress that Federal regulators consider the cumulative impact of multiple proposed Federal regulations on jobs and jobs prospects in the United States and that the cumulative impact of such regulations should be given all due consideration and weighed in the balance with the other purposes sought to be achieved by such regulatory measures.

(c) DUTY TO ASSESS THE IMPACT OF FEDERAL ACTION ON JOBS AND JOB OPPORTUNITIES.—

(1) IN GENERAL.—The Congress authorizes and directs, to the fullest extent possible, that all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which shall insure the integrated use of the relevant fields of research and learning in planning and decisionmaking which may have an impact on jobs and job opportunities;

(B) identify and develop methods and procedures, in consultation with the Council on Economic Advisors, Office of the President, which will insure that presently unquantified impacts on job and job opportunities may be given appropriate consideration in decisionmaking along with environmental and other considerations; and

(C) include in every recommendation or report on proposals for legislation and other major Federal actions with potentially significant effects on jobs and job opportunities, a jobs impact statement as described in paragraph (2).

(2) JOBS IMPACT STATEMENT.—

(A) CONTENTS.—A jobs impact statement required under paragraph (1) shall include a detailed statement by the responsible official on—

(i) the impact of the proposed action on jobs and job opportunities, including an assessment of the jobs that would be lost, gained, or sent overseas as a result of the proposed action;

(ii) any adverse effect on jobs and job opportunities which could not be avoided should the proposal be implemented;

(iii) alternatives and modifications to the proposed action that could avoid negative impacts on jobs and job opportunities; and

(iv) the relationship between any local short-term impacts on jobs and job opportunities and the maintenance and enhancements of long-term productivity and environmental values.

(B) CONSULTATION WITH RELEVANT FEDERAL AGENCIES.—Prior to preparing a jobs impact statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any jobs or job opportunities impacts involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies that are authorized to develop and enforce policies and programs relevant to jobs and job opportunities, shall be made available to the Council of Economic Advisors and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review process.

(C) CUMULATIVE IMPACT OF PROPOSED ACTIONS.—In determining the impact of a proposed action on jobs and job opportunities, the responsible Federal official shall take into account the cumulative impact on jobs and job opportunities of concurrently pending proposals affecting a particular industry or sector of the economy, and shall not make a finding of no significant impact solely on the basis of examining the impacts of a single proposal in isolation from other pending proposals.

(D) COMBINING ENVIRONMENTAL AND JOB IMPACT STATEMENTS.—A jobs impact statement required under this section may be combined with a detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if both statements are required with respect to the same proposed action.

(d) CONFORMITY OF ADMINISTRATIVE PROCEDURES.—All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this section, and shall propose to the President not later than one year after enactment of this Act, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this section.

(e) NO JUDICIAL REVIEW OF JOBS IMPACT STATEMENTS.—Implementation of this section, including a jobs impact statement prepared in accordance with this section, shall not be subject to judicial review.

SA 672. Mr. BARRASSO (for himself, Mr. MANCHIN, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XX—STANDARDS FOR CEMENT MANUFACTURING

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Cement Sector Regulatory Relief Act of 2011''.

SEC. ___02. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In lieu of the rules specified in subsection (b), and notwithstanding the date by which those rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (referred to in this title as the ''Administrator'') shall—

(1) propose regulations for the Portland cement manufacturing industry and Portland cement plants that are subject to any of the rules specified in subsection (b) that—

(A) establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identify nonhazardous secondary materials that, when used as fuels in combustion units of that industry and those plants, qualify as solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) for purposes of determining the extent to which the combustion units are required to meet the emission standards under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429); and

(2) promulgate final versions of those regulations by not later than—

(A) the date that is 15 months after the date of enactment of this Act; or

(B) such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—

(1) PORTLAND-SPECIFIC RULES.—The final rule entitled ''National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants'' (75 Fed. Reg. 54970 (September 9, 2010)) shall be—

(A) of no force or effect;

(B) treated as though the rule had never taken effect; and

(C) replaced in accordance with subsection (a).

(2) OTHER RULES.—

(A) IN GENERAL.—The final rules described in subparagraph (B), to the extent that those rules apply to the Portland cement manufacturing industry and Portland cement plants, shall be—

(i) of no force or effect;

(ii) treated as though the rules had never taken effect; and

(iii) replaced in accordance with subsection (a).

(B) DESCRIPTION OF RULES.—The final rules described in this subparagraph are—

(i) the final rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (76 Fed. Reg. 15704 (March 21, 2011)); and

(ii) the final rule entitled ''Identification of Non-Hazardous Secondary Materials That Are Solid Waste'' (76 Fed. Reg. 15456 (March 21, 2011)).

SEC. ___03. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section __02(a), the Administrator—

(1) shall establish a date for compliance with standards and requirements under the regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for that compliance, shall take into consideration—

(A) the costs of achieving emission reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time necessary—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Administrator; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section __02(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying—

(1) the definition of the term ''new source'' under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)); or

(2) the definition of the term ''new solid waste incineration unit'' under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this title restricts or otherwise affects paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. ___04. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), in promulgating regulations under section __02(a) addressing the subject matter of the rules specified in section __02(b)(2), the Administrator shall—

(1) adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material to be solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) only if—

(A) the material meets that definition of commercial and industrial waste; or

(B) if the material is a gas, the material meets that definition of contained gaseous material.

SEC. ___05. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating regulations under section __02(a), the Administrator shall ensure, to the maximum extent practicable, that emission standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants covered by regulations applicable to the source category, taking into account—

(1) variability in actual source performance;

(2) source design;

(3) fuels;

(4) inputs;

(5) controls;

(6) ability to measure the pollutant emissions; and

(7) operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated under section __02(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including work practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

SA 673. Ms. MURKOWSKI (for herself and Mr. HELLER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—CRITICAL MINERALS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Critical Minerals Policy Act of 2011''.

SEC. ___02. DEFINITIONS.

In this title:

(1) APPLICABLE COMMITTEES.—The term ''applicable committees'' means—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Natural Resources of the House of Representatives;

(C) the Committee on Energy and Commerce of the House of Representatives; and

(D) the Committee on Science, Space, and Technology of the House of Representatives.

(2) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means a technology related to the production, use, transmission, storage, control, or conservation of energy that—

(A) reduces the need for additional energy supplies by using existing energy supplies with greater efficiency or by transmitting, distributing, storing, or transporting energy with greater effectiveness in or through the infrastructure of the United States;

(B) diversifies the sources of energy supply of the United States to strengthen energy security and to increase supplies with a favorable balance of environmental effects if the entire technology system is considered; or

(C) contributes to a stabilization of atmospheric greenhouse gas concentrations through reduction, avoidance, or sequestration of energy-related greenhouse gas emissions.

(3) CRITICAL MINERAL.—

(A) IN GENERAL.—The term ''critical mineral'' means any mineral designated as a critical mineral pursuant to section __11.

(B) EXCLUSIONS.—The term ''critical mineral'' does not include coal, oil, natural gas, or any other fossil fuels.

(4) CRITICAL MINERAL MANUFACTURING.—The term ''critical mineral manufacturing'' means—

(A) the production, processing, refining, alloying, separation, concentration, magnetic sintering, melting, or beneficiation of critical minerals within the United States;

(B) the fabrication, assembly, or production, within the United States, of clean energy technologies (including technologies related to wind, solar, and geothermal energy, efficient lighting, electrical superconducting materials, permanent magnet motors, batteries, and other energy storage devices), military equipment, and consumer electronics, or components necessary for applications; or

(C) any other value-added, manufacturing-related use of critical minerals undertaken within the United States.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) MILITARY EQUIPMENT.—The term ''military equipment'' means equipment used directly by the armed forces to carry out military operations.

(7) RARE EARTH ELEMENT.—

(A) IN GENERAL.—The term ''rare earth element'' means the chemical elements in the periodic table from lanthanum (atomic number 57) up to and including lutetium (atomic number 71).

(B) INCLUSIONS.—The term ''rare earth element'' includes the similar chemical elements yttrium (atomic number 39) and scandium (atomic number 21).

(8) SECRETARY.—

(A) SUBTITLE A.—In subtitle A, the term ''Secretary'' means the Secretary of the Interior—

(i) acting through the Director of the United States Geological Survey; and

(ii) in consultation with (as appropriate)—

(I) the Secretary of Energy;

(II) the Secretary of Defense;

(III) the Secretary of Commerce;

(IV) the Secretary of State;

(V) the Secretary of Agriculture;

(VI) the United States Trade Representative; and

(VII) the heads of other applicable Federal agencies.

(B) SUBTITLE B.—In subtitle B, the term ''Secretary'' means the Secretary of Energy.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

(10) VALUE-ADDED.—The term ''value-added'' means, with respect to an activity, an activity that changes the form, fit, or function of a product, service, raw material, or physical good such that the resultant market price is greater than the cost of making the changes.

(11) WORKING GROUP.—The term ''Working Group'' means the Critical Minerals Working Group established under section __14(a).

Subtitle A—Designations and Policies

SEC. ___11. DESIGNATIONS.

(a) DRAFT METHODOLOGY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register for public comment a draft methodology for determining which minerals qualify as critical minerals based on an assessment of whether the minerals are—

(1) subject to potential supply restrictions (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, and anti-competitive or protectionist behaviors); and

(2) important in use (including clean energy technology-, defense-, agriculture-, and health care-related applications).

(b) AVAILABILITY OF DATA.—If available data is insufficient to provide a quantitative basis for the methodology developed under this section, qualitative evidence may be used.

(c) FINAL METHODOLOGY.—After reviewing public comments on the draft methodology under subsection (a) and updating that draft methodology as appropriate, the Secretary shall enter into an arrangement with the National Academy of Sciences and the National Academy of Engineering to obtain, not later than 120 days after the date of enactment of this Act—

(1) a review of the methodology; and

(2) recommendations for improving the methodology.

(d) FINAL METHODOLOGY.—After reviewing the recommendations under subsection (c), not later than 150 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a description of the final methodology for determining which minerals qualify as critical minerals.

(e) DESIGNATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of minerals designated as critical, pursuant to the final methodology under subsection (d), for purposes of carrying out this title.

(f) SUBSEQUENT REVIEW.—The methodology and designations developed under subsections (d) and (e) shall be updated at least every 5 years, or in more regular intervals if considered appropriate by the Secretary.

(g) NOTICE.—On finalization of the methodology under subsection (d), the list under subsection (e), or any update to the list under subsection (f), the Secretary shall submit to the applicable committees written notice of the action.

SEC. ___12. POLICY.

(a) POLICY.—It is the policy of the United States to promote an adequate, reliable, domestic, and stable supply of critical minerals, produced in an environmentally responsible manner, in order to strengthen and sustain the economic security, and the manufacturing, industrial, energy, technological, and competitive stature, of the United States.

(b) COORDINATION.—The President, acting through the Executive Office of the President, shall coordinate the actions of Federal agencies under this and other Acts—

(1) to encourage Federal agencies to facilitate the availability, development, and environmentally responsible production of domestic resources to meet national critical minerals needs;

(2) to minimize duplication, needless paperwork, and delays in the administration of applicable laws (including regulations) and the issuance of permits and authorizations necessary to explore for, develop, and produce critical minerals and construct and operate critical mineral manufacturing facilities in an environmentally responsible manner;

(3) to promote the development of economically stable and environmentally responsible domestic critical mineral production and manufacturing;

(4) to establish an analytical and forecasting capability for identifying critical mineral demand, supply, and other market dynamics relevant to policy formulation such that informed actions can be taken to avoid supply shortages, mitigate price volatility, and prepare for demand growth and other market shifts;

(5) to strengthen educational and research capabilities and workforce training;

(6) to bolster international cooperation through technology transfer, information sharing, and other means;

(7) to promote the efficient production, use, and recycling of critical minerals;

(8) to develop alternatives to critical minerals; and

(9) to establish contingencies for the production of, or access to, critical minerals for which viable sources do not exist within the United States.

SEC. ___13. RESOURCE ASSESSMENT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, in consultation with applicable State (including geological surveys), local, academic, industry, and other entities, the Secretary shall complete a comprehensive national assessment of each critical mineral that—

(1) identifies and quantifies known critical mineral resources, using all available public and private information and datasets, including exploration histories;

(2) estimates the cost of production of the critical mineral resources identified and quantified under this section, using all available public and private information and datasets, including exploration histories;

(3) provides a quantitative and qualitative assessment of undiscovered critical mineral resources throughout the United States, including probability estimates of tonnage and grade, using all available public and private information and datasets, including exploration histories;

(4) provides qualitative information on the environmental attributes of the critical mineral resources identified under this section; and

(5) pays particular attention to the identification and quantification of critical mineral resources on Federal land that is open to location and entry for exploration, development, and other uses.

(b) FIELD WORK.—If existing information and datasets prove insufficient to complete the assessment under this section and there is no reasonable opportunity to obtain the information and datasets from nongovernmental entities, the Secretary may carry out field work (including drilling, remote sensing, geophysical surveys, geological mapping, and geochemical sampling and analysis) to supplement existing information and datasets available for determining the existence of critical minerals on—

(1) Federal land that is open to location and entry for exploration, development, and other uses;

(2) Indian tribe land, at the request and with the written permission of the Indian tribe; and

(3) State land, at the request and with the written permission of the Governor of a State.

(c) TECHNICAL ASSISTANCE.—At the request of the Governor of a State or an Indian tribe, the Secretary may provide technical assistance to State governments and Indian tribes conducting critical mineral resource assessments on non-Federal land.

(d) FINANCIAL ASSISTANCE.—The Secretary may make grants to State governments, or Indian tribes and economic development entities of Indian tribes, to cover the costs associated with assessments of critical mineral resources on State or Indian tribe land.

(e) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report describing the results of the assessment conducted under this section.

(f) PRIORITIZATION.—

(1) IN GENERAL.—The Secretary may sequence the completion of resource assessments for each critical mineral such that critical materials considered to be most critical under the methodology established pursuant to section __11 are completed first.

(2) REPORTING.—If the Secretary sequences the completion of resource assessments for each critical material, the Secretary shall submit a report under subsection (e) on an iterative basis over the 4-year period beginning on the date of enactment of this Act.

(g) UPDATES.—The Secretary shall periodically update the assessment conducted under this section based on—

(1) the generation of new information or datasets by the Federal government; or

(2) the receipt of new information or datasets from critical mineral producers, State geological surveys, academic institutions, trade associations, or other entities or individuals.

SEC. ___14. PERMITTING.

(a) CRITICAL MINERALS WORKING GROUP.—

(1) IN GENERAL.—There is established within the Department of the Interior a working group to be known as the ''Critical Minerals Working Group'', which shall report to the President and Congress through the Secretary.

(2) COMPOSITION.—The Working Group shall be composed of the following:

(A) The Secretary of the Interior (or a designee), who shall serve as chair of the Working Group.

(B) A Presidential designee from the Executive Office of the President, who shall serve as vice-chair of the Working Group.

(C) The Secretary of Energy (or a designee).

(D) The Secretary of Agriculture (or a designee).

(E) The Secretary of Defense (or a designee).

(F) The Secretary of Commerce (or a designee).

(G) The Secretary of State (or a designee).
(H) The United States Trade Representative (or a designee).
(I) The Administrator of the Environmental Protection Agency (or a designee).
(J) The Chief of Engineers of the Corps of Engineers (or a designee).
(b) CONSULTATION.—The Working Group shall operate in consultation with private sector, academic, and other applicable stakeholders with experience related to—
(1) critical minerals exploration;
(2) critical minerals permitting;
(3) critical minerals production; and
(4) critical minerals manufacturing.
(c) DUTIES.—The Working Group shall—
(1) facilitate Federal agency efforts to optimize efficiencies associated with the permitting of activities that will increase exploration and development of domestic, critical minerals, while maintaining environmental standards;
(2) facilitate Federal agency review of laws (including regulations) and policies that discourage investment in exploration and development of domestic, critical minerals;
(3) assess whether Federal policies adversely impact the global competitiveness of the domestic, critical minerals exploration and development sector (including taxes, fees, regulatory burdens, and access restrictions);
(4) evaluate the sufficiency of existing mechanisms for the provision of tenure on Federal land and the role of the mechanisms in attracting capital investment for the exploration and development of domestic, critical minerals; and
(5) generate such other information and take such other actions as the Working Group considers appropriate to achieve the policy described in section __12(a).
(d) REPORT.—Not later than 300 days after the date of enactment of this Act, the Working Group shall submit to the applicable committees a report that—
(1) describes the results of actions taken under subsection (c);
(2) evaluates the amount of time typically required (including range derived from minimum and maximum durations, mean, median, variance, and other statistical measures or representations) to complete each step (including those aspects outside the control of the executive branch of the Federal Government, such as judicial review, applicant decisions, or State and local government involvement) associated with the processing of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land, which shall serve as a baseline for the performance metric developed and finalized under subsections (e) and (f), respectively;
(3) identifies measures (including regulatory changes and legislative proposals) that would optimize efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals; and
(4) identifies options (including cost recovery paid by applicants) for ensuring adequate staffing of divisions, field offices, or other entities responsible for the consideration of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land.
(e) DRAFT PERFORMANCE METRIC.—Not later than 330 days after the date of enactment of this Act, and upon completion of the report required under subsection (d), the Working Group shall publish in the Federal Register for public comment a draft description of a performance metric for evaluating the progress made by the executive branch of the Federal Government on matters within the control of that branch towards optimizing efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals (referred to in this section as the ''performance metric'').
(f) FINAL PERFORMANCE METRIC.—Not later than 1 year after the date of enactment of this Act, and after consideration of public comments received pursuant to subsection (e), the Working Group shall publish in the Federal Register a description of the final performance metric.
(g) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, using the performance metric under subsection (f), and annually thereafter, the Working Group shall submit to the applicable committees, as part of the budget request of the Department of the Interior for each fiscal year, each report that—
(1) describes the progress made by the executive branch of the Federal Government on matters within the control of that branch towards optimizing efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals; and
(2) compares the United States to other countries in terms of permitting efficiency, environmental standards, and other criteria relevant to a globally competitive economic sector.
(h) REPORT OF SMALL BUSINESS ADMINISTRATION.—Not later than 300 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the applicable committees a report that assesses the performance of Federal agencies in—
(1) complying with chapter 6 of title 5, United States Code (commonly known as the ''Regulatory Flexibility Act''), in promulgating regulations applicable to the critical minerals industry; and
(2) performing an analysis of regulations applicable to the critical minerals industry that may be outmoded, inefficient, duplicative, or excessively burdensome.
(i) JUDICIAL REVIEW.—
(1) IN GENERAL.—Nothing in this section affects any judicial review of an agency action under any other provision of law.
(2) CONSTRUCTION.—This section—
(A) is intended to improve the internal management of the Federal Government; and
(B) does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States (including an agency, instrumentality, officer, or employee thereof) or any other person.

SEC. ___15. MANUFACTURING.

(a) AGREEMENT.—At the request of the Governor of a State, the President (or a designee) may enter into a cooperative agreement with the State for the processing of permits for critical mineral manufacturing facilities (including those related to wind, solar, and geothermal energy, efficient lighting, electrical superconducting materials, permanent magnet motors, and batteries and other energy storage devices) under which each party to the agreement identifies steps, including timelines, that the party will take to optimize efficiencies, while maintaining environmental standards, associated with the environmental review and consideration of Federal and State permits for a new critical mineral manufacturing facility.
(b) AUTHORITY UNDER AGREEMENT.—In carrying out this section, the President may—
(1) accept from an applicant a consolidated application for all permits required by the Federal Government, to the extent consistent with other applicable law;
(2) facilitate memoranda of agreement between Federal agencies to coordinate consideration of applications and permits among Federal agencies; and
(3) enter into memoranda of agreement with a State, under which Federal and State review of permit applications will be coordinated and concurrently considered, to the maximum extent practicable.
(c) STATE ASSISTANCE.—The President may provide technical, legal, or other assistance to State governments to facilitate State review of applications to build new critical mineral manufacturing facilities.

SEC. ___16. RECYCLING AND ALTERNATIVES.

(a) ESTABLISHMENT.—The Secretary of Energy shall conduct a program of research and development to promote the efficient production, use, and recycling of, and alternatives to, critical minerals.
(b) COOPERATION.—In carrying out the program, the Secretary of Energy shall cooperate with appropriate—
(1) Federal agencies and National Laboratories;
(2) critical mineral producers;
(3) critical mineral manufacturers;
(4) trade associations;
(5) academic institutions;
(6) small businesses; and
(7) other relevant entities or individuals.
(c) ACTIVITIES.—Under the program, the Secretary shall carry out activities that include the identification and development of—
(1) advanced critical mineral production or processing technologies that decrease the environmental impact, and costs of production, of such activities;
(2) techniques and practices that minimize or lead to more efficient use of critical minerals;
(3) techniques and practices that facilitate the recycling of critical minerals, including options for improving the rates of collection of post-consumer products containing critical minerals;
(4) commercial markets, advanced storage methods, energy applications, and other beneficial uses of critical minerals processing byproducts; and
(5) alternative minerals, metals, and materials, particularly those available in abundance within the United States and not subject to potential supply restrictions, that lessen the need for critical minerals.
(d) REPORT.—Not later than 2 years after the date of enactment of this Act and every 5 years thereafter, the Secretaries shall submit to the applicable committees a report summarizing the activities, findings, and progress of the program.

SEC. ___17. ANALYSIS AND FORECASTING.

(a) CAPABILITIES.—In order to evaluate existing critical mineral policies and inform future actions that may be taken to avoid supply shortages, mitigate price volatility, and prepare for demand growth and other market shifts, the Secretary, in consultation with academic institutions, the Energy Information Administration, and others in order to maximize the application of existing competencies related to developing and maintaining computer-models and similar analytical tools, shall conduct and publish the results of an annual report that includes—
(1) as part of the annually published Mineral Commodity Summaries from the United States Geological Survey, a comprehensive review of critical mineral production, consumption, and recycling patterns, including—
(A) the quantity of each critical mineral domestically produced during the preceding year;

(B) the quantity of each critical mineral domestically consumed during the preceding year;

(C) market price data for each critical mineral;

(D) an assessment of—

(i) critical mineral requirements to meet the national security, energy, economic, industrial, technological, and other needs of the United States during the preceding year;

(ii) the reliance of the United States on foreign sources to meet those needs during the preceding year; and

(iii) the implications of any supply shortages, restrictions, or disruptions during the preceding year;

(E) the quantity of each critical mineral domestically recycled during the preceding year;

(F) the market penetration during the preceding year of alternatives to each critical mineral;

(G) a discussion of applicable international trends associated with the discovery, production, consumption, use, costs of production, prices, and recycling of each critical mineral as well as the development of alternatives to critical minerals; and

(H) such other data, analyses, and evaluations as the Secretary finds are necessary to achieve the purposes of this section; and

(2) a comprehensive forecast, entitled the ''Annual Critical Minerals Outlook'', of projected critical mineral production, consumption, and recycling patterns, including—

(A) the quantity of each critical mineral projected to be domestically produced over the subsequent 1-year, 5-year, and 10-year periods;

(B) the quantity of each critical mineral projected to be domestically consumed over the subsequent 1-year, 5-year, and 10-year periods;

(C) market price projections for each critical mineral, to the maximum extent practicable and based on the best available information;

(D) an assessment of—

(i) critical mineral requirements to meet projected national security, energy, economic, industrial, technological, and other needs of the United States;

(ii) the projected reliance of the United States on foreign sources to meet those needs; and

(iii) the projected implications of potential supply shortages, restrictions, or disruptions;

(E) the quantity of each critical mineral projected to be domestically recycled over the subsequent 1-year, 5-year, and 10-year periods;

(F) the market penetration of alternatives to each critical mineral projected to take place over the subsequent 1-year, 5-year, and 10-year periods;

(G) a discussion of reasonably foreseeable international trends associated with the discovery, production, consumption, use, costs of production, prices, and recycling of each critical mineral as well as the development of alternatives to critical minerals; and

(H) such other projections relating to each critical mineral as the Secretary determines to be necessary to achieve the purposes of this section.

(b) PROPRIETARY INFORMATION.—In preparing a report described in subsection (a), the Secretary shall ensure that—

(1) no person uses the information and data collected for the report for a purpose other than the development of or reporting of aggregate data in a manner such that the identity of the person who supplied the information is not discernible and is not material to the intended uses of the information;

(2) no person discloses any information or data collected for the report unless the information or data has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information; and

(3) procedures are established to require the withholding of any information or data collected for the report if the Secretary determines that withholding is necessary to protect proprietary information, including any trade secrets or other confidential information.

SEC. ___18. EDUCATION AND WORKFORCE.

(a) WORKFORCE ASSESSMENT.—Not later than 300 days after the date of enactment of this Act, the Secretary of Labor (in consultation with the Secretary of the Interior, the Director of the National Science Foundation, and employers in the critical minerals sector) shall submit to Congress an assessment of the domestic availability of technically trained personnel necessary for critical mineral assessment, production, manufacturing, recycling, analysis, forecasting, education, and research, including an analysis of—

(1) skills that are in the shortest supply as of the date of the assessment;

(2) skills that are projected to be in short supply in the future;

(3) the demographics of the critical minerals industry and how the demographics will evolve under the influence of factors such as an aging workforce;

(4) the effectiveness of training and education programs in addressing skills shortages;

(5) opportunities to hire locally for new and existing critical mineral activities;

(6) the sufficiency of personnel within relevant areas of the Federal Government for achieving the policy described in section __12(a); and

(7) the potential need for new training programs to have a measurable effect on the supply of trained workers in the critical minerals industry.

(b) CURRICULUM STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of Labor shall jointly enter into an arrangement with the National Academy of Sciences and the National Academy of Engineering under which the Academies shall coordinate with the National Science Foundation on conducting a study—

(A) to design an interdisciplinary program on critical minerals that will support the critical mineral supply chain and improve the ability of the United States to increase domestic, critical mineral exploration, development, and manufacturing;

(B) to address undergraduate and graduate education, especially to assist in the development of graduate level programs of research and instruction that lead to advanced degrees with an emphasis on the critical mineral supply chain or other positions that will increase domestic, critical mineral exploration, development, and manufacturing;

(C) to develop guidelines for proposals from institutions of higher education with substantial capabilities in the required disciplines to improve the critical mineral supply chain and advance the capacity of the United States to increase domestic, critical mineral exploration, development, and manufacturing; and

(D) to outline criteria for evaluating performance and recommendations for the amount of funding that will be necessary to establish and carry out the grant program described in subsection (c).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a description of the results of the study required under paragraph (1).

(c) GRANT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary and the National Science Foundation shall jointly conduct a competitive grant program under which institutions of higher education may apply for and receive 4-year grants for—

(A) startup costs for newly designated faculty positions in integrated critical mineral education, research, innovation, training, and workforce development programs consistent with subsection (b);

(B) internships, scholarships, and fellowships for students enrolled in critical mineral programs; and

(C) equipment necessary for integrated critical mineral innovation, training, and workforce development programs.

(2) RENEWAL.—A grant under this subsection shall be renewable for up to 2 additional 3-year terms based on performance criteria outlined under subsection (b)(1)(D).

SEC. ___19. INTERNATIONAL COOPERATION.

(a) ESTABLISHMENT.—The Secretary of State, in coordination with the Secretary, shall carry out a program to promote international cooperation on critical mineral supply chain issues with allies of the United States.

(b) ACTIVITIES.—Under the program, the Secretary may work with allies of the United States—

(1) to increase the global, responsible production of critical minerals, if a determination is made by the Secretary that there is no viable production capacity for the critical minerals within the United States;

(2) to improve the efficiency and environmental performance of extraction techniques;

(3) to increase the recycling of, and deployment of alternatives to, critical minerals;

(4) to assist in the development and transfer of critical mineral extraction, processing, and manufacturing technologies that would have a beneficial impact on world commodity markets and the environment;

(5) to strengthen and maintain intellectual property protections; and

(6) to facilitate the collection of information necessary for analyses and forecasts conducted pursuant to section __17.

Subtitle B—Mineral-specific Actions

SEC. ___21. ADMINISTRATION.

Nothing in this subtitle or an amendment made by this subtitle affects the methodology or designations established under section __11.

SEC. ___22. COBALT.

(a) AUTHORIZATION.—The Secretary shall support research programs that focus on novel uses for cobalt (including energy technologies and super-alloys), including—

(1) use in clean energy technologies (including, for purposes of this section, rechargeable batteries, catalysts, photovoltaic cells, permanent magnets, and fuel cells);

(2) use in alloys with military equipment, civil aviation, and electricity generation applications; and

(3) use as coal-to-gas and coal-to-liquid catalysts.

(b) CATEGORIES.—Research under this section shall be conducted in—

(1) a fundamental category, including laboratory and literature research; and

(2) an applied category, including plant and field research.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report describing—

(1) the research programs carried out under this section;

(2) the findings of the programs; and

(3) future research efforts planned.

SEC. ___23. LEAD.

(a) IN GENERAL.—The Secretary shall support research programs that focus on advanced lead manufacturing processes, including programs that—

(1) contribute to the establishment of a secure, domestic supply of lead;

(2) produce technologies that represent an environmental improvement compared to conventional production processes; or

(3) produce technologies that attain a higher efficiency level compared to conventional production processes.

(b) COORDINATION.—In carrying out the programs under subsection (a), the Secretary shall coordinate with other entities to promote the development of environmentally responsible lead manufacturing, including—

(1) other Federal agencies;

(2) States with affected interests;

(3) manufacturers;

(4) clean energy technology manufacturers, including producers of batteries and other energy storage technologies; and

(5) any others considered appropriate by the Secretary.

SEC. ___24. LITHIUM.

Subtitle E of title VI of the Energy Independence and Security Act of 2007 (42 U.S.C. 17241 et seq.) is amended by adding at the end the following:

''SEC. 657. GRANTS FOR LITHIUM PRODUCTION RESEARCH AND DEVELOPMENT.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a private partnership or other entity that is—

''(A) organized in accordance with Federal law; and

''(B) engaged in lithium production for use in advanced battery technologies;

''(2) a public entity, such as a State, tribal, or local governmental entity; or

''(3) a consortium of entities described in paragraphs (1) and (2).

''(b) GRANTS.—The Secretary shall provide grants to eligible entities for research, development, demonstration, and commercial application of domestic industrial processes that are designed to enhance domestic lithium production for use in advanced battery technologies, as determined by the Secretary.

''(c) USE.—An eligible entity shall use a grant provided under this section to develop or enhance—

''(1) domestic industrial processes that increase lithium production, processing, or recycling for use in advanced lithium batteries; or

''(2) industrial processes associated with new formulations of lithium feedstock for use in advanced lithium batteries.''.

SEC. ___25. THORIUM.

(a) STUDY.—The Secretary, in consultation with the Nuclear Regulatory Commission, shall conduct a study on the technical, economic, and policy issues (including nonproliferation) associated with establishing a licensing pathway for the complete thorium nuclear fuel cycle (including mining, milling, processing, fabrication, reactors, disposal, and decommissioning) that—

(1) identifies the gaps in the technical knowledge that could lead to a licensing pathway; and

(2) considers technologies and applications for any thorium byproducts of critical mineral production or processing.

(b) COOPERATION.—In conducting the study under subsection (a), the Secretary shall cooperate with appropriate—

(1) trade associations;

(2) equipment manufacturers;

(3) National Laboratories;

(4) institutions of higher education; and

(5) other applicable entities.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report summarizing the findings of the study.

SEC. ___26. UPDATED RESOURCE INFORMATION.

(a) RESOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall complete an update of existing resource information for phosphate and rare earth elements.

(b) CONSULTATION.—In updating resource information under this section, the Secretary of the Interior shall consult with—

(1) the heads of appropriate State geological surveys;

(2) mineral producers;

(3) mineral processors;

(4) trade associations;

(5) academic institutions; and

(6) such other entities or individuals as the Secretary of the Interior considers appropriate.

(c) LIMITATION.—

(1) IN GENERAL.—Resource information updates carried out pursuant to this section shall be limited to collection of existing information.

(2) ADMINISTRATION.—If any mineral covered by this section is designated as a critical mineral under section __11, this section shall not apply.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the applicable committees written notification certifying that the resource information for phosphate and rare earth elements is up-to-date.

Subtitle C—Miscellaneous

SEC. ___31. OFFSETS.

(a) IN GENERAL.—The following Acts are repealed:

(1) The National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 et seq.), other than subsections (e) and (f) of section 5 of that Act (30 U.S.C. 1604).

(2) The National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.).

(b) CONFORMING AMENDMENT.—Section 3(d) of the National Superconductivity and Competitiveness Act of 1988 (15 U.S.C. 5202(d)) is amended in the first sentence by striking '', with the assistance of the National Critical Materials Council as specified in the National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.),''.

SEC. ___32. ADMINISTRATION.

Nothing in this title or an amendment made by this title modifies any requirement or authority provided by the matter under the heading ''GEOLOGICAL SURVEY'' of the first section of the Act of March 3, 1879 (43 U.S.C. 31(a)).

SEC. ___33. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title and the amendments made by this title $53,250,000, of which—

(1) $500,000 may be used to carry out section __11, to remain available until expended;

(2) $20,000,000 may be used to carry out section __13, to remain available until expended;

(3) $2,000,000 may be used to carry out section __14, to remain available until expended;

(4) $1,000,000 for each of fiscal years 2012 through 2016 may be used to carry out section __16 and the amendment made by that section, to remain available until expended;

(5)(A) $1,500,000 for each of fiscal years 2012 and 2013 may be used to carry out section __17, to remain available until expended; and

(B) $750,000 for each of fiscal years 2014 through 2016 may be used to carry out section __17;

(6) $1,000,000 for each of fiscal years 2012 through 2016 may be used to carry out section __18, to remain available until expended;

(7) $500,000 for each of fiscal years 2012 through 2016 may be used to carry out section __19, to remain available until expended;

(8) $1,000,000 for each of fiscal years 2012 through 2014 may be used to carry out sections __22, __23, __24, and __25 and the amendments made by those sections; and

(9) $1,000,000 may be used to carry out section __26, to remain available until expended.

SA 674. Mr. HELLER (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE __—NO BUDGET, NO PAY ACT

SEC. 01. SHORT TITLE.

This title may be cited as the ''No Budget, No Pay Act''.

SEC. 02. DEFINITION.

In this title, the term ''Member of Congress''—

(1) has the meaning given under section 2106 of title 5, United States Code; and

(2) does not include the Vice President.

SEC. 03. TIMELY APPROVAL OF CONCURRENT RESOLUTION ON THE BUDGET.

If both Houses of Congress have not approved a concurrent resolution on the budget as described under section 301 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 632) for a fiscal year before October 1 of that fiscal year, the pay of each Member of Congress may not be paid for each day following that October 1 until the date on which both Houses of Congress approve a concurrent resolution on the budget for that fiscal year.

SEC. 04. NO PAY WITHOUT CONCURRENT RESOLUTION ON THE BUDGET.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds may be appropriated or otherwise be made available from the United States Treasury for the pay of any Member of Congress during any period determined by the Chairperson of the Committee on the Budget of the Senate or the Chairperson of the Committee on the Budget of the House of Representatives under section 05.

(b) NO RETROACTIVE PAY.—A Member of Congress may not receive pay for any period determined by the Chairperson of the Committee on the Budget of the Senate or the Chairperson of the Committee on the Budget of the House of Representatives under section 05, at any time after the end of that period.

SEC. 05. DETERMINATIONS.

(a) SENATE.—

(1) REQUEST FOR CERTIFICATIONS.—On October 1 of each year, the Secretary of the Senate shall submit a request to the Chairperson of the Committee on the Budget of the Senate for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairperson of the Committee on the Budget of the Senate shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section 04 and whether Senators may not be paid under that section; and

(B) determine the period of days following each October 1 that Senators may not be paid under section 04; and

(C) provide timely certification of the determinations under subparagraphs (A) and

(B) upon the request of the Secretary of the Senate.

(b) HOUSE OF REPRESENTATIVES.—

(1) REQUEST FOR CERTIFICATIONS.—On October 1 of each year, the Chief Administrative Officer of the House of Representatives shall submit a request to the Chairperson of the Committee on the Budget of the House of Representatives for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairperson of the Committee on the Budget of the House of Representatives shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section 04 and whether Senators may not be paid under that section; and

(B) determine the period of days following each October 1 that Senators may not be paid under section 04; and

(C) provide timely certification of the determinations under subparagraph (A) and (B) upon the request of the Chief Administrative Officer of the House of Representatives.

SEC. 06. EFFECTIVE DATE.

This title shall take effect on February 1, 2013.

SA 675. Mr. MENENDEZ (for himself and Mr. CARDIN) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—MISCELLANEOUS

SEC. __01. RENEWAL OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

(a) EXTENSIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking everything after ''suitable for use in men's and boys' shirts'' in the article description column and by striking the date in the effective date column and inserting ''12/31/2013'':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).

(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''amounts determined by the Secretary'' and all that follows through ''5208.59.80'' and inserting ''amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208''; and

(B) in paragraph (2), by striking ''October 1, 2008'' and inserting ''December 31, 2013'';

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''beginning in fiscal year 2007'' and inserting ''for fiscal year 2011 and each fiscal year thereafter'';

(B) by striking ''grown in the United States'' each place it appears; and

(C) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''that produce ring spun cotton yarns in the United States'' after ''of pima cotton'';

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''imported cotton fabric''; and

(4) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1)—

(i) by striking ''grown in the United States'' and inserting ''during the year in which the affidavit is filed and''; and

(ii) by inserting ''in the United States'' after ''cotton yarns''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

SEC. __02. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended—

(1) in subparagraph (A), by striking ''subject to the limitation in subparagraph (B)'' and inserting ''subject to subparagraphs (B) and (C)''; and

(2) by adding at the end the following new subparagraph:

''(C) ALTERNATIVE FUNDING SOURCE.—Subparagraph (A) shall be applied and administered by substituting 'chapter 62' for 'chapter 51' for any period of time with respect to which the Secretary notifies Congress that amounts determined by the Secretary to be equivalent to amounts received in the general fund of the Treasury of the United States that are attributable to the duty received on articles classified under chapter 51 of the Harmonized Tariff Schedule of the United States are not sufficient to make payments under paragraph (3) or grants under paragraph (6).''.

(b) FULL RESTORATION OF PAYMENT LEVELS IN CALENDAR YEARS 2010 AND 2011.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 51 or chapter 62 of the Harmonized Tariff Schedule of the United States (as determined under section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600)), subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar years 2010 and 2011, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar years 2010 and 2011; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar years 2010 and 2011, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar years 2010 and 2011.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—Title IV of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking ''Bureau of Customs and Border Protection'' each place it appears and inserting ''U.S. Customs and Border Protection''.

(e) DISCRETIONARY AUTHORITY.—

(1) IN GENERAL.—Section 4002(c)(3) of Public Law 108–429 is amended by inserting ''(or to protect domestic manufacturing employment, and at the sole discretion of the U.S. Customs and Border Protection, no later than April 15)'' after ''March 1 of the year of the payment''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective for payment year 2011 and thereafter.

SA 676. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for

identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE __—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. __02. 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. __03. 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. __04. 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. __05. 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. __06. 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 _____04(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 677. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SALE OF F–16 AIRCRAFT TO TAIWAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense, in its 2011 report to Congress on ''Military and Security Developments Involving the People's Republic of China,'' found that ''China continued modernizing its military in 2010, with a focus on Taiwan contingencies, even as cross-Strait relations improved. The PLA seeks the capability to deter Taiwan independence and influence Taiwan to settle the dispute on Beijing's terms. In pursuit of this objective, Beijing is developing capabilities intended to deter, delay, or deny possible U.S. support for the island in the event of conflict. The balance of cross-Strait military forces and capabilities continues to shift in the mainland's favor.'' In this report, the Department of Defense also concludes that, over the next decade, China's air force will remain primarily focused on ''building the capabilities required to pose a credible military threat to Taiwan and U.S. forces in East Asia, deter Taiwan independence, or influence Taiwan to settle the dispute on Beijing's terms''.

(2) The Defense Intelligence Agency (DIA) conducted a preliminary assessment of the status and capabilities of Taiwan's air force in an unclassified report, dated January 21, 2010. The DIA found that, ''[a]lthough Taiwan has nearly 400 combat aircraft in service, far fewer of these are operationally capable.'' The report concluded, ''Many of Taiwan's fighter aircraft are close to or beyond service life, and many require extensive maintenance support. The retirement of Mirage and F–5 aircraft will reduce the total size of the Taiwan Air Force.''

(3) Since 2006, authorities from Taiwan have made repeated requests to purchase 66 F–16C/D multirole fighter aircraft from the United States, in an effort to modernize the air force of Taiwan and maintain its self-defense capability.

(4) According to a report by the Perryman Group, a private economic research and analysis firm, the requested sale of F–16C/Ds to Taiwan ''would generate some $8,700,000,000 in output (gross product) and more than 87,664 person-years of employment in the US,'' including 23,407 direct jobs, while ''economic benefits would likely be realized in 44 states and the District of Columbia''.

(5) The sale of F–16C/Ds to Taiwan would both sustain existing high-skilled jobs in key United States manufacturing sectors and create new ones.

(6) On August 1, 2011, a bipartisan group of 181 members of the House of Representatives sent a letter to the President, expressing support for the sale of F–16C/Ds to Taiwan. On May 26, 2011, a bipartisan group of 45 members of the Senate sent a similar letter to the President, expressing support for the sale. Two other members of the Senate wrote separately to the President or the Secretary of State in 2011 and expressed support for this sale.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical element to maintaining peace and stability in Asia in the face of China's two-decade-long program of military modernization and expansion of military capabilities is ensuring a militarily strong and confident Taiwan;

(2) a Taiwan that is confident in its ability to deter Chinese aggression will increase its ability to proceed in developing peaceful relations with China in areas of mutual interest;

(3) the cross-Strait military balance between China and our longstanding strategic partner, Taiwan, has clearly shifted in China's favor;

(4) China's military expansion poses a clear and present danger to Taiwan, and this threat has very serious implications for the ability of the United States to fulfill its security obligations to allies in the region and protect our vital United States national interests in East Asia;

(5) Taiwan's air force continues to deteriorate, and it needs additional advanced multirole fighter aircraft in order to modernize its fleet and maintain a sufficient self-defense capability;

(6) the United States has a statutory obligation under the Taiwan Relations Act (22 U.S.C. 3301 et seq.) to provide Taiwan the defense articles necessary to enable Taiwan to maintain sufficient self-defense capabilities, in furtherance of maintaining peace and stability in the western Pacific region;

(7) in order to comply with the Taiwan Relations Act, the United States must provide Taiwan with additional advanced multirole fighter aircraft, as well as significant upgrades to Taiwan's existing fleet of multirole fighter aircraft; and

(8) the proposed sale of F–16C/D multirole fighter aircraft to Taiwan would have significant economic benefits to the United States economy.

(c) SALE OF AIRCRAFT.—The President shall carry out the sale of no fewer than 66 F–16C/D multirole fighter aircraft to Taiwan.

SA 678. Mr. PAUL (for himself, Mr. VITTER, Mr. DEMINT, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Notwithstanding section 714 of title 31, United States Code, or any other provision of law, an audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) of such section 714 shall be completed before the end of 2012.

(b) REPORT.—

(1) IN GENERAL.—A report on the audit required under subsection (a) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to the Speaker of the House of Representatives, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the chairman and ranking member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests it.

(2) CONTENTS.—The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(c) REPEAL OF CERTAIN LIMITATIONS.—Subsection (b) of section 714 of title 31, United States Code, is amended by striking all after ''in writing.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 714 of title 31, United States Code, is amended by striking subsection (f).

SA 679. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. ANNUAL REPORT ON TRADE ENFORCEMENT ACTIVITIES OF THE UNITED STATES TRADE REPRESENTATIVE.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) describing the trade enforcement activities carried out by the Office of the United States Trade Representative during the year preceding the submission of the report, including any consultations initiated by the United States Trade Representative to resolve disputes under existing trade agreements;

(2) assessing the economic impact of each such activity, including the impact on bilateral trade and on employment in the United States; and

(3) assessing the cost of, and resources dedicated to, each such activity.

SA 680. Mr. MENENDEZ (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, 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. SHORT TITLE.

This Act may be cited as the ''Currency Misalignment Mitigation and Reform Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTRY.—The term ''country'' means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(2) FUNDAMENTAL MISALIGNMENT.—The term ''fundamental misalignment'' means a significant and sustained undervaluation of the prevailing real effective exchange rate, adjusted for cyclical and transitory factors, from its medium-term equilibrium level.

(3) FUNDAMENTALLY MISALIGNED CURRENCY.—The term ''fundamentally misaligned currency'' means a foreign currency that is in fundamental misalignment.

(4) REAL EFFECTIVE EXCHANGE RATE.—The term ''real effective exchange rate'' means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) STERILIZATION.—The term ''sterilization'' means domestic monetary operations taken to neutralize the monetary impact of increases in reserves associated with intervention in the currency exchange market.

SEC. 3. REPORT ON INTERNATIONAL MONETARY POLICY AND CURRENCY EXCHANGE RATES.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than March 15 and September 15 of each calendar year, the Secretary, after consulting with the Chairman of the Board of Governors of the Federal Reserve System and the Advisory Committee on International Exchange Rate Policy, shall submit to Congress and make public, a written report on international monetary policy and currency exchange rates.

(2) CONSULTATIONS.—On or before March 30 and September 30 of each calendar year, the Secretary shall appear, if requested, before the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives to provide testimony on the reports submitted pursuant to paragraph (1).

(b) CONTENT OF REPORTS.—Each report submitted under subsection (a) shall contain the following:

(1) An analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies and trading partners of the United States.

(2) A review of the economic and monetary policies of major economies and trading partners of the United States, and an evaluation of how such policies impact currency exchange rates.

(3) A description of any currency intervention by the United States or other major economies or trading partners of the United States, or other actions undertaken to adjust the actual exchange rate relative to the United States dollar.

(4) An evaluation of the domestic and global factors that underlie the conditions in the currency markets, including—

(A) monetary and financial conditions;

(B) accumulation of foreign assets;

(C) macroeconomic trends;

(D) trends in current and financial account balances;

(E) the size, composition, and growth of international capital flows;

(F) the impact of the external sector on economic growth;

(G) the size and growth of external indebtedness;

(H) trends in the net level of international investment; and

(I) capital controls, trade, and exchange restrictions.

(5) A list of currencies designated as fundamentally misaligned currencies pursuant to section 4(a)(2), and a description of any economic models or methodologies used to establish the list.

(6) A list of currencies designated for priority action pursuant to section 4(a)(3).

(7) An identification of the nominal value associated with the medium-term equilibrium exchange rate, relative to the United States dollar, for each currency listed under paragraph (6).

(8) A description of any consultations conducted or other steps taken pursuant to section 5, including any actions taken to eliminate the fundamental misalignment.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Board of Governors of the Federal Reserve System

and the Advisory Committee on International Exchange Rate Policy with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board of Governors of the Federal Reserve System or the Advisory Committee on International Exchange Rate Policy shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report to Congress after taking into account all comments received from the Chairman and the Advisory Committee.

SEC. 4. IDENTIFICATION OF FUNDAMENTALLY MISALIGNED CURRENCIES.

(a) IDENTIFICATION.—

(1) IN GENERAL.—The Secretary shall analyze on a semiannual basis the prevailing real effective exchange rates of foreign currencies.

(2) DESIGNATION OF FUNDAMENTALLY MISALIGNED CURRENCIES.—With respect to the currencies of countries that have significant bilateral trade flows with the United States, and currencies that are otherwise significant to the operation, stability, or orderly development of regional or global capital markets, the Secretary shall determine whether any such currency is in fundamental misalignment and shall designate such currency as a fundamentally misaligned currency.

(3) DESIGNATION OF CURRENCIES FOR PRIORITY ACTION.—The Secretary shall designate a currency identified under paragraph (2) for priority action if the country that issues such currency is—

(A) engaging in protracted large-scale intervention in the currency exchange market, particularly if accompanied by partial or full sterilization;

(B) engaging in excessive and prolonged official or quasi-official accumulation of foreign exchange reserves and other foreign assets, for balance of payments purposes;

(C) introducing or substantially modifying for balance of payments purposes a restriction on, or incentive for, the inflow or outflow of capital, that is inconsistent with the goal of achieving full currency convertibility; or

(D) pursuing any other policy or action that, in the view of the Secretary, warrants designation for priority action.

(b) REPORTS.—The Secretary shall include a list of any foreign currency designated under paragraph (2) or (3) of subsection (a) and the data and reasoning underlying such designations in each report required by section 3.

SEC. 5. NEGOTIATIONS AND CONSULTATIONS.

(a) IN GENERAL.—Upon designation of a currency pursuant to section 4(a)(2), the Secretary shall seek to consult bilaterally with the country that issues such currency in order to facilitate the adoption of appropriate policies to address the fundamental misalignment.

(b) CONSULTATIONS INVOLVING CURRENCIES DESIGNATED FOR PRIORITY ACTION.—With respect to each currency designated for priority action pursuant to section 4(a)(3), the Secretary shall, in addition to seeking to consult with a country pursuant to subsection (a), seek the advice of the International Monetary Fund with respect to the Secretary's findings in the report submitted to Congress pursuant to section 3(a).

(c) PLURILATERAL NEGOTIATIONS RELATING TO FUNDAMENTALLY MISALIGNED CURRENCIES.—

(1) NEGOTIATIONS THROUGH WORLD TRADE ORGANIZATION AND INTERNATIONAL MONETARY FUND.—The Secretary and the United States Trade Representative shall enter into plurilateral or multilateral negotiations through the World Trade Organization and the International Monetary Fund to develop effective remedial rules and actions—

(A) to mitigate the adverse trade and economic effects of fundamentally misaligned currencies designated for priority action pursuant to section 4(a)(3); and

(B) to encourage countries that issue such currencies to adopt appropriate policies to eliminate the fundamental misalignment of their currencies.

(2) ADDITIONAL PLURILATERAL NEGOTIATIONS.—If the negotiations required by paragraph (1) do not result in agreement on the development of effective remedial rules and actions described in that paragraph within 90 days, the Secretary and the United States Trade Representative shall enter into plurilateral negotiations outside the World Trade Organization and the International Monetary Fund to develop agreements with countries the currencies of which have not been designated for priority action pursuant to section 4(a)(3), consistent with international obligations—

(A) to mitigate the adverse trade and economic effects of fundamentally misaligned currencies designated for such priority action;

(B) to encourage countries that issue such currencies to adopt appropriate policies to eliminate the fundamental misalignment of their currencies; and

(C) to implement, if necessary, coordinated actions with respect to countries that issue such currencies to prevent or address currency exchange actions taken by those countries that are inconsistent with the obligations of those countries as members of the World Trade Organization and the International Monetary Fund.

(3) REPORTS.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until the date on which all countries that issue currencies designated for priority action pursuant to section 4(a)(3) have eliminated the fundamental misalignment of their currencies, the Secretary and the United States Trade Representative shall submit to Congress a report on the results of the negotiations described in paragraphs (1) and (2).

(B) CONTENTS.—The report required by subparagraph (A) shall identify—

(i) the countries with which the United States is conducting negotiations under paragraphs (1) and (2) and the international fora in which those negotiations are taking place;

(ii) the remedial rules and actions under discussion in those negotiations;

(iii) any remedial rules that have been adopted and any remedial actions that have been taken pursuant to those negotiations; and

(iv) what, if any, additional authority the Secretary and the United States Trade Representative need from Congress to conduct negotiations under this subsection—

(I) to effectively mitigate the adverse trade and economic effects of fundamentally misaligned currencies; or

(II) to implement coordinated actions with countries the currencies of which have not been designated for priority action pursuant to section 4(a)(3) to prevent or address exchange rate actions—

(aa) taken by countries that issue currencies that have been designated for such priority action; and

(bb) that are inconsistent with the obligations of those countries as members of the World Trade Organization and the International Monetary Fund.

(C) CONSULTATIONS.—On or before the date that is 15 days after the date on which each report is required to be submitted under subparagraph (A), the Secretary shall appear, if requested, before the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives to provide testimony on the report submitted pursuant to subparagraph (A).

(4) NEGOTIATING OBJECTIVE FOR ONGOING AND FUTURE NEGOTIATIONS.—

(A) IN GENERAL.—For any negotiation with respect to an agreement relating to trade or international monetary policy, it shall be a priority negotiating objective of the United States to negotiate with each party to the agreement a commitment—

(i) to prohibit fundamental misalignment of the currency issued by the party that would result in the designation of the currency for priority action pursuant to section 4(a)(3); and

(ii) to cooperate with the other parties to the agreement to mitigate adverse trade and economic effects of the fundamental misalignment of currencies designated for such priority action.

(B) APPLICABILITY.—Subparagraph (A) shall apply with respect to an agreement described in that subparagraph that—

(i) is commenced on or after the date of the enactment of this Act; or

(ii) was commenced before such date of enactment and is ongoing on such date of enactment.

SEC. 6. ADVISORY COMMITTEE ON INTERNATIONAL EXCHANGE RATE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Advisory Committee on International Exchange Rate Policy (in this section referred to as the ''Committee''). The Committee shall be responsible for—

(A) advising the Secretary in the preparation of each report to Congress on international monetary policy and currency exchange rates, provided for in section 3; and

(B) advising Congress and the President with respect to—

(i) international exchange rates and financial policies; and

(ii) the impact of such policies on the economy of the United States.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall be composed of 9 members as follows, none of whom shall be employees of the Federal Government:

(i) CONGRESSIONAL APPOINTEES.—

(I) SENATE APPOINTEES.—Four persons shall be appointed by the President pro tempore of the Senate, upon the recommendation of the chairmen and ranking members of the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

(II) HOUSE APPOINTEES.—Four persons shall be appointed by the Speaker of the House of Representatives upon the recommendation of the chairmen and ranking members of the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(ii) PRESIDENTIAL APPOINTEE.—One person shall be appointed by the President.

(B) QUALIFICATIONS.—Persons shall be selected under subparagraph (A) on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

(3) TERMS.—Members shall be appointed for a term of 4 years or until the Committee terminates. An individual may be reappointed to the Committee for additional terms.

(4) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(b) DURATION OF COMMITTEE.—Notwithstanding section 14(c) of the Federal Advisory Committee Act (5 U.S.C. App.), the Committee shall terminate on the date that is 4 years after the date of the enactment of this Act unless renewed by the President pursuant to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) for a subsequent 4-year period. The President may continue to renew the Committee for successive 4-year periods by taking appropriate action prior to the date on which the Committee would otherwise terminate.

(c) PUBLIC MEETINGS.—The Committee shall hold at least 2 public meetings each year for the purpose of accepting public comments, including comments from small business owners. The Committee shall also meet as needed at the call of the Secretary or at the call of two-thirds of the members of the Committee.

(d) CHAIRPERSON.—The Committee shall elect from among its members a chairperson for a term of 4 years or until the Committee terminates. A chairperson of the Committee may be reelected chairperson but is ineligible to serve consecutive terms as chairperson.

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out its activities.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) EXCEPTION.—Except for the 2 annual public meetings required under subsection (c), meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the Secretary that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of monetary and financial policy.

SEC. 7. REPEAL OF THE EXCHANGE RATES AND ECONOMIC POLICY COORDINATION ACT OF 1988.

The Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5301 et seq.) is repealed.

SA 681. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. SENSE OF CONGRESS ON ACCESSION OF THE RUSSIAN FEDERATION TO THE WORLD TRADE ORGANIZATION.

It is the sense of Congress that, before the United States can support the accession of the Russian Federation to the World Trade Organization, the Government of the Russian Federation needs to make considerable and demonstrative progress toward complying with the major obligations of members of the World Trade Organization, including—

(1) strengthening protection of intellectual property rights, including significantly increasing enforcement efforts with respect to Internet piracy;

(2) curtailing the use of unjustified sanitary restrictions to limit exports of agricultural products from the United States to the Russian Federation;

(3) eliminating technical barriers to trade that affect the information technology industry; and

(4) generally strengthening respect for the rule of law.

SA 682. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. SENSE OF CONGRESS ON BRAZIL AND THE INFORMATION TECHNOLOGY AGREEMENT OF THE WORLD TRADE ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) Under the Ministerial Declaration on Trade in Information Technology Products of the World Trade Organization, agreed to at Singapore December 13, 1996 (in this section referred to as the ''Information Technology Agreement''), 70 countries have eliminated their tariffs on information technology products. Those countries represent about 97 percent of the global trade of information technology products.

(2) The United States is a signatory to the Information Technology Agreement, as are other developed countries as well as developing countries.

(3) By liberalizing the trade of information technology products, the Information Technology Agreement improves global interconnectedness and promotes economic development in signatory countries, including developing countries.

(4) The list of signatories to the Information Technology Agreement does not include Brazil, a major trading partner of the United States.

(5) Brazil is one of the 10 largest economies in the world, is the fifth largest consumer market for information technology products in the world, and is the largest consumer market for such products in Latin America. Brazil ranks seventh in the world in the use of the Internet.

(6) Brazil is a major market for information technology products and it imposes tariffs on information technology products imported from the United States, but the United States imposes no tariffs on such products imported from Brazil.

(7) Morever, because the United States designates Brazil as a beneficiary developing country under the Generalized System of Preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), over $2,000,000,000 in imports from Brazil entered the United States duty-free under the Generalized System of Preferences in 2010.

(8) It is reasonable for the United States to expect Brazil to provide tariff reciprocity and, at a minimum, to become a signatory to the Information Technology Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should make it a priority to urge Brazil to become a signatory to the Information Technology Agreement.

(c) REPORT.—Not later than the date that is 180 days after the date of the enactment of this Act and not later than the date that is 1 year after such date of enactment, the United States Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the progress made in efforts to urge Brazil to become a signatory to the Information Technology Agreement.

SA 683. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. REPORT ON TRADE AGENCY REORGANIZATION PROPOSAL.

Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) on the analysis undertaken by the Office of Management and Budget of the President's proposal to reorganize the Federal agencies with responsibilities relating to international trade, as provided for in the memorandum of the President for the heads of executive departments and agencies relating to government reform for competitiveness and innovation, dated March 11, 2011; and

(2) that includes—

(A) the proposed options for reorganization of those agencies considered by the Office of Management and Budget during its review of those agencies;

(B) conclusions derived from that review; and

(C) recommendations for reorganizing those agencies.

SA 684. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROMOTION OF JOB CREATION.

(a) FINDINGS.—Congress makes the following findings:

(1) In terms of bilateral surveillance, Article IV of the International Monetary Fund (referred to in this section as the ''IMF'') Articles of Agreement lays out a code of conduct for countries' exchange rate and domestic policies. Within this setting, Article IV consultations use exchange rate assessments to monitor countries competitiveness and vulnerabilities to balance of payments crises.

(2) The IMF uses three complementary measures to perform exchange rate assessments and to help determine exchange rate misalignments, a ''macroeconomic balance'' approach, an ''equilibrium real exchange rate'' approach, and an ''external sustainability'' approach.

(3) Exchange rate assessments are based on the notion of equilibrium, which the IMF has identified as ''consistency with external and internal balance over the medium to long run''.

(4) The ''medium term,'' according to IMF definitions relevant to exchange rate assessments, is a horizon over which domestic and partner-country output gaps are closed and the lagged effects of past exchange rate changes are fully realized.

(5) An output gap is measured by the difference between actual output in an economy and potential output.

(6) Potential output is the level of output in an economy that would be realized if labor, capital, and other resources were at high levels of utilization.

(7) Negative output gaps mean that actual output in an economy is below potential output.

(8) This Act seeks to help close a negative output gap in the United States by promoting the elimination of global imbalances and currency misalignments, and relies partly on IMF determinations of exchange rate misalignments which, in turn, rely on the concept of the output gap.

(9) Negative output gaps are typically consistent with unemployed labor resources. The more negative the gap, the larger tends to be the unemployment rate and the greater the need for job creation.

(10) Negative output gaps for the United States mean the difference between the actual gross domestic product and ''potential gross domestic product''.

(b) DEFINITIONS.—In this section:

(1) OUTPUT GAP COMPUTED BY THE CBO.—The term ''output gap computed by the Congressional Budget Office'' means the difference, computed by the Congressional Budget Office, between actual gross domestic product and the Congressional Budget Office's measure of potential gross domestic product.

(2) POTENTIAL GROSS DOMESTIC PRODUCT.—The term ''potential gross domestic product'' means the Congressional Budget Office's estimate of ''full-employment'' gross domestic product, according to the Congressional Budget Office's definition of full-employment as taken from statistical procedures grounded in economic theory.

(3) UNEMPLOYMENT RATE.—The term ''unemployment rate'' means the U-3 measure as computed by the Bureau of Labor Statistics, which is the total number of unemployed as a percentage of the civilian labor force as reported in the Bureau of Labor Statistic's Current Population Survey (commonly known as the ''Household Survey'').

(c) DAVIS-BACON AND MCNAMARA-O'HARA NOT APPLICABLE.—

(1) IN GENERAL.—No Federal funds shall be used to administer or enforce the wage-rate requirements of subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the ''Davis-Bacon Act''), or of the Service Contract Act of 1965 (Public Law 89-286; commonly referred to as the ''McNamara-O'Hara Service Contract Act''), with respect to any project or program funded by the United States, during any calendar quarter following a calendar quarter for which the output gap computed by the Congressional Budget Office is negative or the unemployment rate as computed by the Bureau of Labor Statistics averages five percent or more, until such time as the Congressional Budget Office makes the determinations under paragraph (2).

(2) FUTURE APPLICATION.—The limitation provided for in paragraph (1) shall cease to apply and the wage-rate requirements described in paragraph (1) shall apply beginning in the first calendar quarter that follows four or more consecutive calendar quarters of non-negative output gaps as computed by the Congressional Budget Office and four or more consecutive quarters of average unemployment rates that are below the level of the unemployment rate deemed consistent with the Congressional Budget Office's estimate of full employment.

SA 685. Mr. CRAPO (for himself, Mr. JOHANNS, Mr. SHELBY, Mr. VITTER, Mr. TOOMEY, Mr. MORAN, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. DODD-FRANK IMPROVEMENTS REGARDING REGULATION OF DERIVATIVES.

(a) ESTABLISHMENT.—Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(j) OFFICE OF DERIVATIVES.—

''(1) OFFICE ESTABLISHED.—There is established within the Commission the Office of Derivatives (referred to in this subsection as the 'Office')—

''(A) to administer the rules of the Commission with respect to security-based swaps and, as necessary, to make recommendations to the Commission for new rules or changes to existing rules with respect to security-based swaps;

''(B) to coordinate oversight of the market for swaps and security-based swaps, participants in that market, and infrastructure providers for that market with other relevant domestic and international regulators; and

''(C) to monitor developments in the market for swaps and security-based swaps.

''(2) DIRECTOR OF THE OFFICE.—The head of the Office shall be the Director, who shall report to the Director of the Division of Trading and Markets and the Director of Risk, Strategy, and Financial Innovation.

''(3) STAFFING.—

''(A) IN GENERAL.—The Office shall be staffed by persons transferred in accordance with subparagraph (B), including persons having knowledge of and expertise in the uses for, trading in, execution of, and clearing of swaps and security-based swaps.

''(B) TRANSFERS.—The Director of the Office of Derivatives, the Director of the Division of Trading and Markets, the Director of Risk, Strategy, and Financial Innovation, and the Director of the Office of Compliance, Inspections, and Examinations shall jointly identify employees to be transferred from the Division of Trading and Markets, the Division of Risk, Strategy, and Financial Innovation, and the Office of Compliance, Inspections, and Examinations, respectively, to the Office of Derivatives, in numbers sufficient to carry out fully the requirements of this subsection.

''(4) ENFORCEMENT.—The Division of Enforcement shall consult with the Office before presenting a recommendation with respect to security-based swaps to the Commission.

''(5) INSPECTIONS AND EXAMINATIONS.—A representative of the Office shall be afforded the opportunity to participate in any inspection or examination of a security-based swap dealer, major security-based swap participant, security-based swap data repository, or clearing agency that clears security-based swaps.

''(6) ANNUAL REPORT.—On or before the date that is one year after the Office is established and annually thereafter, the Director shall submit to the Chairman and publish on the public website of the Commission a report that describes the activities of the Office during the preceding year, and the developments in the swaps and security-based swaps market.''

(b) ORDERLY IMPLEMENTATION OF DERIVATIVES PROVISIONS.—

(1) REVIEW OF REGULATORY AUTHORITY.—Section 712 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8302) is amended—

(A) in each of subsections (a)(3) and (e), by striking ''360'' each place that term appears and inserting ''720''; and

(B) by adding at the end the following:

''(g) ORDERLY IMPLEMENTATION SCHEDULE.—

''(1) IN GENERAL.—Not later than December 31, 2011, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the prudential regulators shall jointly, pursuant to the notice and comment requirements contained in title 5, United States Code, adopt an implementation schedule for this title.

''(2) SCHEDULE CONTENT.—Such implementation schedule shall—

''(A) set forth a schedule for the publication of final rules required by this title, except that, unless otherwise specifically provided by a provision of this title, the rules required by subsection (d)(1) shall be adopted before any other required rules;

''(B) set forth a schedule for the effective dates for provisions of this title, including provisions that require a rulemaking and provisions that do not require a rulemaking;

''(C) take into consideration—

''(i) a quantitative analysis of the effects of this title on United States economic growth and job creation;

''(ii) the implications of this title for cross-border activity by, and international competitiveness of, United States financial institutions, companies, and investors;

''(iii) whether and how the definitional, clearing, trading, reporting, recordkeeping, real-time reporting, registration, capital, margin, business conduct, position limits and other requirements of this title work together, and how they affect market depth and liquidity; and

''(iv) the implications of any lack of harmonization by the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators with respect to the timing and the substance of their rules.

''(h) ORDERLY IMPLEMENTATION AUTHORITY.—Notwithstanding any other provision of law, the Commodity Futures Trading Commission, the Securities and Exchange Commission and the prudential regulators, by rule, regulation, or order, may conditionally or unconditionally exempt any person, swap, security-based swap, activity, or transaction, or any class or classes of persons, swaps, security-based swaps, activities, or transactions, from any provision or provisions of this title administered thereby, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and is in furtherance of the objectives of this title, such as the orderly implementation and international harmonization of the timing and substance of derivatives regulatory reform.''.

(2) EFFECTIVE DATES.—Title VII of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203, 124 Stat. 1641) is amended—

(A) in section 754 (7 U.S.C. 7a note), by striking ''the later of'' and all that follows through the period and inserting ''the dates specified in the implementation schedule adopted pursuant to section 712(g).''; and

(B) in section 774 (15 U.S.C. 77b note), by striking ''the later of'' and all that follows through the period and inserting ''the dates specified in the implementation schedule adopted pursuant to section 712(g).''.

(c) CLARIFICATION OF END USER STATUS.—

(1) END USERS OF SWAPS.—

(A) MARGIN REQUIREMENTS.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)), as added by section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The margin requirements of this subsection shall not apply to a swap in which 1 of the counterparties is not—

''(A) a swap dealer or major swap participant;

''(B) an investment fund that—

''(i) has issued securities (other than debt securities) to more than 5 unaffiliated persons;

''(ii) would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) but for paragraph (1) or (7) of subsection (c) of that section; and

''(iii) is not primarily invested in physical assets (including commercial real estate) directly or through an interest in an affiliate that owns the physical assets;

''(C) a regulated entity, as defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502); or

''(D) a commodity pool that is predominantly invested in any combination of commodities, commodity swaps, commodity options, or commodity futures.

''(5) MARGIN TRANSITION RULES.—Swaps entered into before the date on which final rules under section 712(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8302(e)) become effective shall be exempt from the margin requirements under this subsection.''.

(B) MAJOR SWAP PARTICIPANT.—Section 1a(33)(A) of the Commodity Exchange Act (7 U.S.C. 1a(33)(A)) is amended by striking clause (ii) and inserting the following:

''(ii) whose outstanding swaps create substantial net uncollateralized counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or''.

(C) EFFECTIVE DATE.—The amendments made by subsection (a) shall have the same effective date as provided in section 754 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, as amended by section 1(b) of this Act.

(2) END USERS OF SECURITY-BASED SWAPS.—

(A) MARGIN REQUIREMENTS.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 780–10(e)), as added by section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The margin requirements of this subsection shall not apply to a security-based swap in which 1 of the counterparties is not—

''(A) a security-based swap dealer or major security-based swap participant;

''(B) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)), but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a–3(c)), that is not primarily invested in physical assets (including commercial real estate) directly or through interest in its affiliates that own such assets;

''(C) a regulated entity, as defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502); or

''(D) a commodity pool that is predominantly invested in any combination of commodities, commodity swaps, commodity options or commodity futures.

''(5) MARGIN TRANSITION RULES.—Security-based swaps entered into before the date on which final rules under section 712(e) of the Dodd–Frank Wall Street Reform and Consumer Protection Act become effective are exempt from the margin requirements of this subsection.''.

(B) MAJOR SECURITY-BASED SWAP PARTICIPANT.—Section 3(a)(67)(A)(ii)(II) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(67)(A)(ii)(II)), is amended to read as follows:

''(II) whose outstanding security-based swaps create substantial net uncollateralized counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets;''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall have the same effective date as provided in section 774 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, as amended by this Act.

(d) TREATMENT OF AFFILIATE TRANSACTIONS.—Title VII of the Dodd–Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) is amended by inserting after section 713 (15 U.S.C. the following new section:

''SEC. 713A. TREATMENT OF AFFILIATE TRANSACTIONS.

''(a) IN GENERAL.—An agreement, contract, or transaction that would otherwise be a swap or security-based swap, and that is entered into by a party that is controlling, controlled by, or under common control with its counterparty shall not be deemed to be a 'swap' or 'security-based swap' for purposes of this Act.

''(b) REPORTING.—All agreements, contracts, or transactions described in subsection (a) shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such transaction reports, to the Commission pursuant to sections 729 and 766. within such time period as the Commission may prescribe by rule or regulation.''.

(e) INTERNATIONAL COMPETITIVENESS AND HARMONIZATION.—

(1) STUDY ON INTERNATIONAL SWAP REGULATION.—Section 719(c)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8307(c)(2)) is amended—

(A) by striking ''18'' and inserting ''30'';

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

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

(D) by adding at the end the following:

''(E) an analysis of the progress of members of the Group of 20 and other countries toward implementing derivatives regulatory reform, including material differences in the schedule for implementation (as well as material differences in definitions, clearing, trading, reporting, registration, capital, margin, business conduct, and position limits) and their possible and likely effects on United States competitiveness, market liquidity, and financial stability.''.

(2) APPLICABILITY.—The Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after section 719 the following new section:

''SEC. 719A. APPLICABILITY.

''(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of this title, no activities conducted outside of the United States between counterparties established under the laws of any jurisdiction outside of the United States (including a non-United States branch of a United States entity licensed and recognized under local law outside of the United States) shall be considered—

''(1) to have a direct and significant connection with activities in, or effect on, commerce of the United States;

''(2) to constitute a business within the jurisdiction of the United States; or

''(3) to constitute evasion of any provision of this title, unless those activities contravene such rules as may be adopted by the Commodity Futures Trading Commission and the Securities and Exchange Commission pursuant to subsection (b).

''(b) RULEMAKING.—After completing the report required by section 719(c)(2), the Commodity Futures Trading Commission and the Securities and Exchange Commission may jointly issue such rules as are necessary to prohibit transactions or activities, or classes of transactions or activities conducted outside of the United States that the agencies find—

''(1) have no valid business purpose;

''(2) are structured with the sole purpose of evading the requirements of this title; and

''(3) might reasonably be expected to have a serious adverse effect on the stability of the United States financial system.

''(c) EXCEPTION.—Subsection (a) shall not apply to any provision of this title prohibiting fraud or manipulation or any rule or regulation thereunder.''.

SA 686. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GOLD AND SILVER COINS THAT ARE LEGAL TENDER NOT SUBJECT TO TAXATION.

(a) IN GENERAL.—Gold and silver coins declared legal tender by the Federal Government or any State government shall not be subject to taxation.

(b) CONFORMING AMENDMENT.—Section 1(h)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''(as defined in section 408(m) without regard to paragraph (3) thereof)'' in subparagraph (A), and

(2) by adding at the end the following new subparagraph:

''(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' has the meaning given such term by section 408(m), determined without regard to subparagraphs (A)(iii), (A)(iv), and (B).''.

(c) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall take effect on the date of the enactment of this Act.

SA 687. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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 688. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NULLIFICATION OF FINAL RULE.

As of the date of enactment of this Act, the final rule entitled ''Use of Ozone-Depleting

Substances; Removal of Essential-Use Designation (Epinephrine)'' (73 Fed. Reg. 69532 (November 19, 2008)) shall have no force or effect.

SA 689. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYEE FREE CHOICE.

(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 690. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, between lines 9 and 10, insert the following:

(4) A description of currency intervention by the United States that includes an assessment, based on factors that include economic growth, job creation, inflation, and commodities prices, of the effects in the United States and internationally of actions taken by the Board of Governors of the Federal Reserve System and the Federal Open Market Committee, including—

(A) significantly increasing in the size of the Federal Reserve's balance sheet;

(B) conducting multiple rounds of quantitative easing; and

(C) maintaining exceptionally low interest rates for an extended period of time.

SA 691. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. MODIFICATION AND PERMANENT EXTENSION OF THE INCENTIVES TO REINVEST FOREIGN EARNINGS IN THE UNITED STATES.

(a) REPATRIATION SUBJECT TO 5 PERCENT TAX RATE.—Subsection (a)(1) of section 965 of the Internal Revenue Code of 1986 is amended by striking ''85 percent'' and inserting ''85.7 percent''.

(b) PERMANENT EXTENSION TO ELECT REPATRIATION.—Subsection (f) of section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) ELECTION.—The taxpayer may elect to apply this section to any taxable year only if made on or before the due date (including extensions) for filing the return of tax for such taxable year.''.

(c) REPATRIATION INCLUDES CURRENT AND ACCUMULATED FOREIGN EARNINGS.—

(1) IN GENERAL.—Paragraph (1) of section 965(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) shall not exceed the sum of the current and accumulated earnings and profits described in section 959(c)(3) for the year a deduction is claimed under subsection (a), without diminution by reason of any distributions made during the election year, for all controlled foreign corporations of the United States shareholder.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 965(b) of such Code is amended by striking paragraphs (2) and (4) and by redesignating paragraph (3) as paragraph (2).

(B) Section 965(c) of such Code is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(C) Paragraph (3) of section 965(c) of such Code, as redesignated by subparagraph (B), is amended to read as follows:

''(3) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.''.

(d) CLERICAL AMENDMENTS.—

(1) The heading for section 965 of the Internal Revenue Code of 1986 is amended by striking ''**TEMPORARY**''.

(2) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking ''Temporary dividends'' and inserting ''Dividends''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 692. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FARM DUST REGULATION PREVENTION

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Farm Dust Regulation Prevention Act of 2011''.

SEC. ___02. NUISANCE DUST.

Part A of title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY STATE, TRIBAL, AND LOCAL GOVERNMENTS.

''(a) DEFINITION OF NUISANCE DUST.—In this section, the term 'nuisance dust' means particulate matter—

''(1) generated from natural sources, unpaved roads, agricultural activities, earth moving, or other activities typically conducted in rural areas; or

''(2) consisting primarily of soil, windblown dust, or other natural or biological materials, or some combination of those materials.

''(b) APPLICABILITY.—Except as provided in subsection (c), this Act does not apply to, and references in this Act to particulate matter are deemed to exclude, nuisance dust.

''(c) EXCEPTION.—Subsection (b) does not apply with respect to any geographical area in which nuisance dust is not regulated under State, tribal, or local law to the extent that the Administrator finds that—

''(1) nuisance dust (or any subcategory of nuisance dust) causes substantial adverse public health and welfare effects at ambient concentrations; and

''(2) the benefits of applying standards and other requirements of this Act to nuisance dust (or such a subcategory of nuisance dust) outweigh the costs (including local and regional economic and employment impacts) of applying those standards and other requirements to nuisance dust (or such a subcategory).''.

SEC. ___03. TEMPORARY PROHIBITION AGAINST REVISING ANY NATIONAL AMBIENT AIR QUALITY STANDARD APPLICABLE TO COARSE PARTICULATE MATTER.

Before the date that is 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency may not propose, finalize, implement, or enforce any regulation revising the national primary ambient air quality standard or the national secondary ambient air quality standard applicable to particulate matter with an aerodynamic diameter greater than 2.5 micrometers under section 109 of the Clean Air Act (42 U.S.C. 7409).

SA 693. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. PROHIBITION ON TRANSFER OF PROPRIETARY TECHNOLOGY AND INTELLECTUAL PROPERTY DEVELOPED WITH FUNDING PROVIDED BY THE UNITED STATES GOVERNMENT TO ENTITIES OF CERTAIN COUNTRIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, a United States commercial entity may not transfer to any entity described in subsection (b) any proprietary technology or intellectual property that was researched, developed, or commercialized using a contract, grant, loan, loan guarantee, or other financial assistance provided or awarded by the United States Government.

(b) ENTITIES DESCRIBED.—

(1) IN GENERAL.—An entity described in this subsection is an entity—

(A) owned or controlled by the government of a country described in paragraph (2); or

(B) in which citizens of such a country hold interests representing at least 5 percent of the capital structure of the entity.

(2) COUNTRIES DESCRIBED.—A country described in this paragraph is a country in which, by law, practice, or policy, any United States entity is required to transfer proprietary technology or intellectual property as a condition of doing business in that country.

(c) WAIVER.—The Secretary of Commerce may waive the prohibition in subsection (a) with respect to a transfer of proprietary technology or intellectual property if the Secretary determines that the transfer would not compromise the economic interests or competitiveness of the United States.

(d) APPLICABILITY.—This section applies with respect to the transfer on or after the date of the enactment of this Act of any proprietary technology or intellectual property developed before, on, or after such date of enactment.

(e) REGULATIONS.—The Secretary of Commerce, in consultation with other relevant Federal agencies, shall prescribe such regulations as may be necessary to carry out this section.

(f) UNITED STATES COMMERCIAL ENTITY DEFINED.—In this section, the term ''United States commercial entity'' means a commercial entity organized under the laws of the United States or any jurisdiction within the United States.

SA 694. Mr. REID proposed an amendment to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

At the end, add the following new section:

SECTION ___. EFFECTIVE DATE.

The provisions of this Act shall become effective 3 days after enactment.

SA 695. Mr. REID proposed an amendment to amendment SA 694 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''3 days'', insert ''2 days''.

SA 696. Mr. REID proposed an amendment to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

At the end, add the following new section:

SECTION ___. EFFECTIVE DATE.

The provisions of this Act shall become effective 6 days after enactment.

SA 697. Mr. REID proposed an amendment to amendment SA 696 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''6 days'' and insert ''5 days''.

SA 698. Mr. REID proposed an amendment to amendment SA 697 proposed by Mr. REID to the amendment SA 696 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

SA 699. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) MAINTENANCE OF LONG RUN GROWTH; PRICE STABILITY AND LOW INFLATION.—Section 2A of the Federal Reserve Act (12 U.S.C. 225a) is amended—

(1) by striking ''maximum employment, stable prices,'' and inserting ''long-term price stability, a low rate of inflation,''; and

(2) by at the end the following: ''The Board shall establish an explicit numerical definition of the term 'long-term price stability' and shall maintain monetary policy that effectively promotes such long-term price stability.''.

(b) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed as a limitation on the authority or responsibility of the Board of Governors of the Federal Reserve System—

(1) to provide liquidity to markets in the event of a disruption that threatens the smooth functioning and stability of the financial sector; or

(2) to serve as a lender of last resort under the Federal Reserve Act when the Board determines such action is necessary.

(c) CONGRESSIONAL OVERSIGHT.—The Board of Governors of the Federal Reserve System shall, concurrent with each semiannual hearing to Congress, submit a written report to the Congress containing—

(1) numerical measures to help Congress assess the extent to which the Board and the Federal Open Market Committee are achieving and maintaining a legitimate definition of the term long-term price stability, as such term is defined or modified pursuant to the second sentence of section 2A of the Federal Reserve Act (as added by this Act);

(2) a description of the intermediate variables used by the Board to gauge the prospects for achieving the objective of long-term price stability; and

(3) the definition, or any modifications thereto, of the term long-term price stability, as such term is defined or modified pursuant to the second sentence of section 2A of the Federal Reserve Act (as added by this section).

SA 700. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, 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) 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, the Occupational Safety and Health Administration of the Department of Labor, and the Bureau of Consumer Financial Protection shall be—

''(A) agencies designated under this subsection; and

''(B) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 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''.

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 701. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, insert the following:

SEC. 16. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION TAX.

Subsection (a) of section 1402 of the Health Care and Education Reconciliation Act of 2010, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsection and amendments had never been enacted.

SA 702. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF AMERICAN JOBS.

Notwithstanding any other provision of law, no Federal funds shall be used by the Centers for Medicare & Medicaid Services to implement or enforce any regulation promulgated pursuant to the Patient Protection and Affordable Care Act until such time as the Office of the Actuary of such Centers—

(1) publishes an analysis of the impact that such regulation would have on health care premiums in the individual and group markets; and

(2) estimates, based on the analysis published under paragraph (1), that the implementation of such regulation will not result in an increase in individual or group market premiums in excess of 5 percent.

SA 703. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, 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, $30,000,000,000 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 704. Ms. STABENOW (for herself and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CHIEF TRADE ENFORCEMENT OFFICER.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Chief Trade Enforcement Officer who shall all be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Chief Trade Enforcement Officer submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Chief Trade Enforcement Officer shall hold office at the pleasure of the President and shall have the rank of Ambassador.''.

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6) The principal function of the Chief Trade Enforcement Officer shall be to ensure that United States trading partners comply with trade agreements to which the United States is a party. The Chief Trade Enforcement Officer shall assist the United States Trade Representative in investigating and prosecuting disputes pursuant to trade agreements to which the United States is a party, including before the World Trade Organization, and shall assist the United States Trade Representative in carrying out the Trade Representative's functions under subsection (d). The Chief Trade Enforcement Officer shall make recommendations with respect to the administration of United States trade laws relating to foreign government barriers to United States goods, services, investment, and intellectual property, and with respect to government procurement and other trade matters. The Chief Trade Enforcement Officer shall perform such other functions as the United States Trade Representative may direct.''.

(c) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by inserting after ''Chief Agricultural Negotiator.'' the following:

''Chief Trade Enforcement Officer.''.

(d) TECHNICAL AMENDMENTS.—Section 141(e) of the Trade Act of 1974 (19 U.S.C. 2171(e)) is amended—

(1) in paragraph (1), by striking ''5314'' and inserting ''5315''; and

(2) in paragraph (2), by striking ''the maximum rate of pay for grade GS–18 as provided in section 5332'' and inserting ''the maximum rate of pay for level IV of the Executive Schedule in section 5315''.

SA 705. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ___—CRITICAL MINERALS AND MATERIALS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Critical Minerals and Materials Promotion Act of 2011''.

SEC. ___02. DEFINITION OF CRITICAL MINERALS AND MATERIALS.

In this title:

(1) IN GENERAL.—The term ''critical minerals and materials'' means naturally occurring, nonliving, nonfuel substances with a definite chemical composition—

(A) that perform an essential function for which no satisfactory substitutes exist; and

(B) the supply of which has a high probability of becoming restricted, leading to physical unavailability or excessive costs for the applicable minerals and materials in key applications.

(2) EXCLUSIONS.—The term ''critical minerals and materials'' does not include ice, water, or snow.

SEC. ___03. PROGRAM TO DETERMINE PRESENCE OF AND FUTURE NEEDS FOR CRITICAL MINERALS AND MATERIALS.

(a) IN GENERAL.—The Secretary of the Interior, acting through the United States Geological Survey, shall establish a research and development program—

(1) to provide data and scientific analyses for research on, and assessments of the potential for, undiscovered and discovered resources of critical minerals and materials in the United States and other countries; and

(2) to analyze and assess current and future critical minerals and materials supply chains—

(A) with advice from the Energy Information Administration on future energy technology market penetration; and

(B) using the Mineral Commodity Summaries produced by the United States Geological Survey.

(b) GLOBAL SUPPLY CHAIN.—The Secretary shall, if appropriate, cooperate with international partners to ensure that the program established under subsection (a) provides analyses of the global supply chain of critical minerals and materials.

SEC. ___04. PROGRAM TO STRENGTHEN THE DOMESTIC CRITICAL MINERALS AND MATERIALS SUPPLY CHAIN FOR CLEAN ENERGY TECHNOLOGIES.

The Secretary of Energy shall conduct a program of research, development, and demonstration to strengthen the domestic critical minerals and materials supply chain for clean energy technologies and to ensure the long-term, secure, and sustainable supply of critical minerals and materials sufficient to strengthen the national security of the United States and meet the clean energy production needs of the United States, including—

(1) critical minerals and materials production, processing, and refining;

(2) minimization of critical minerals and materials in energy technologies;

(3) recycling of critical minerals and materials; and

(4) substitutes for critical minerals and materials in energy technologies.

SEC. ___05. STRENGTHENING EDUCATION AND TRAINING IN MINERAL AND MATERIAL SCIENCE AND ENGINEERING FOR CRITICAL MINERALS AND MATERIALS PRODUCTION.

(a) IN GENERAL.—The Secretary of Energy shall promote the development of the critical minerals and materials industry workforce in the United States.

(b) SUPPORT.—In carrying out subsection (a), the Secretary shall support—

(1) critical minerals and materials education by providing undergraduate and graduate scholarships and fellowships at institutions of higher education, including technical and community colleges;

(2) partnerships between industry and institutions of higher education, including technical and community colleges, to provide onsite job training; and

(3) development of courses and curricula on critical minerals and materials.

SEC. ___06. SUPPLY OF CRITICAL MINERALS AND MATERIALS.

(a) POLICY.—It is the policy of the United States to promote an adequate and stable supply of critical minerals and materials necessary to maintain national security, economic well-being, and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation, and social needs.

(b) IMPLEMENTATION.—To implement the policy described in subsection (a), the President, acting through the Executive Office of the President, shall—

(1) coordinate the actions of applicable Federal agencies;

(2) identify critical minerals and materials needs and establish early warning systems for critical minerals and materials supply problems;

(3) establish a mechanism for the coordination and evaluation of Federal critical minerals and materials programs, including programs involving research and development, in a manner that complements related efforts carried out by the private sector and other domestic and international agencies and organizations;

(4) promote and encourage private enterprise in the development of economically sound and stable domestic critical minerals and materials supply chains;

(5) promote and encourage the recycling of critical minerals and materials, taking into account the logistics, economic viability, environmental sustainability, and research and development needs for completing the recycling process;

(6) assess the need for and make recommendations concerning the availability and adequacy of the supply of technically trained personnel necessary for critical minerals and materials research, development, extraction, and industrial practice, with a particular focus on the problem of attracting and maintaining high-quality professionals for maintaining an adequate supply of critical minerals and materials; and

(7) report to Congress on activities and findings under this subsection.

SA 706. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON THE TRANSFER TO ENTITIES IN THE PEOPLE'S REPUBLIC OF CHINA OF TECHNOLOGY DEVELOPED USING FUNDS PROVIDED BY THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—Not later than March 30, 2012, the Comptroller General of the United States shall submit to Congress a report on the transfer by United States persons of technology developed using grants, loans, or other financial assistance provided by the United States Government to entities in the People's Republic of China or entities owned or controlled by the Government of China that includes an assessment of the following:

(1) The degree to which the United States Government has expressly or tacitly acquiesced to the transfer of such technology to such entities.

(2) The strategic benefit to the Government of China and to industries in China of obtaining such technology.

(3) The extent to which there is a concerted effort by the Government of China to obtain certain types of technology from United States persons.

(4) Any instances of the transfer of technology to entities in China or entities owned or controlled by the Government of China that are of national security concern to the United States Government.

(5) The degree to which the transfer of technology to such an entity by a United States person has caused other United States persons to need to compete against other such entities.

(6) Any instances of the transfer of technology that have enabled such entities to advance beyond the technological capabilities of industries in the United States or to make significant gains in technological development relative to the technological capabilities of such industries.

(7) The cost to United States taxpayers of research that—

(A) has been carried out using grants, loans, or other financial assistance provided by the United States Government; and

(B) has resulted in technology that has been transferred to an entity in China or an entity owned or controlled by the Government of China.

(8) Any other notable instances of transfer of technology to such entities that are a cause for concern for the United States Government or the global technological leadership of the United States.

(b) UNITED STATES PERSON DEFINED.—In this section, the term ''United States person'' means—

(1) an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence to the United States; or

(2) an entity organized under the laws of the United States or of any jurisdiction within the United States.

SA 707. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON THE TRANSFER TO ENTITIES IN THE PEOPLE'S REPUBLIC OF CHINA OF TECHNOLOGY DEVELOPED USING FUNDS PROVIDED BY THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—Not later than March 30, 2012, the Comptroller General of the United States shall submit to Congress a report on the transfer by United States persons of technology developed using grants, loans, or other financial assistance provided by the United States Government to entities in the People's Republic of China or entities owned or controlled by the Government of China that includes an assessment of the following:

(1) The degree to which the United States Government has expressly or tacitly acquiesced to the transfer of such technology to such entities.

(2) The strategic benefit to the Government of China and to industries in China of obtaining such technology.

(3) The extent to which there is a concerted effort by the Government of China to obtain certain types of technology from United States persons.

(4) Any instances of the transfer of technology to entities in China or entities owned or controlled by the Government of China that are of national security concern to the United States Government.

(5) The degree to which the transfer of technology to such an entity by a United States person has caused other United States persons to need to compete against other such entities.

(6) Any instances of the transfer of technology that have enabled such entities to advance beyond the technological capabilities of industries in the United States or to make significant gains in technological development relative to the technological capabilities of such industries.

(7) The cost to United States taxpayers of research that—

(A) has been carried out using grants, loans, or other financial assistance provided by the United States Government; and

(B) has resulted in technology that has been transferred to an entity in China or an entity owned or controlled by the Government of China.

(8) Any other notable instances of transfer of technology to such entities that are a cause for concern for the United States Government or the global technological leadership of the United States.

(b) UNITED STATES PERSON DEFINED.—In this section, the term ''United States person'' means—

(1) an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence to the United States; or

(2) an entity organized under the laws of the United States or of any jurisdiction within the United States.

SA 708. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. IMPROVING ACCESS TO INTERNATIONAL MARKETS.

There are authorized to be appropriated to the United States Trade Representative $2,000,000 for each of the fiscal years 2012 through 2014 to initiate any proceeding to resolve a dispute relating to a barrier to market access with a country—

(1) that is a WTO member (as that term is defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))); or

(2) with which the United States has a free trade agreement in effect.

SA 709. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. IMPROVING ACCESS TO INTERNATIONAL MARKETS.

There are authorized to be appropriated to the United States Trade Representative $2,000,000 for each of the fiscal years 2012 through 2014 to initiate any proceeding to resolve a dispute relating to a barrier to market access with a country—

(1) that is a WTO member (as that term is defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))); or

(2) with which the United States has a free trade agreement in effect.

SA 710. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. INCLUSION OF EXPEDITED DISPUTE SETTLEMENT PROCESS WITH RESPECT TO NONTARIFF BARRIERS IN THE TRANS-PACIFIC PARTNERSHIP AGREEMENT.

(a) IN GENERAL.—In negotiations with respect to the Trans-Pacific Partnership Agreement, it shall be a negotiating objective of the United States to include in the Agreement a process for settling disputes with respect to nontariff barriers on an expedited basis.

(b) CONSULTATIONS.—The United States Trade Representative shall consult with small- and medium-sized businesses in the United States and other interested parties in determining how to make the expedited dispute settlement process described in subsection (a) most effective.

SA 711. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. INCLUSION OF EXPEDITED DISPUTE SETTLEMENT PROCESS WITH RESPECT TO NONTARIFF BARRIERS IN THE TRANS-PACIFIC PARTNERSHIP AGREEMENT.

(a) IN GENERAL.—In negotiations with respect to the Trans-Pacific Partnership Agreement, it shall be a negotiating objective of the United States to include in the Agreement a process for settling disputes with respect to nontariff barriers on an expedited basis.

(b) CONSULTATIONS.—The United States Trade Representative shall consult with small- and medium-sized businesses in the United States and other interested parties in determining how to make the expedited dispute settlement process described in subsection (a) most effective.

SA 712. Mr. SHELBY (for himself, Mr. CRAPO, Mr. CORKER, Mr. DEMINT, Mr. VITTER, Mr. JOHANNS, Mr. TOOMEY, Mr. KIRK, Mr. MORAN, and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—FINANCIAL REGULATORY RESPONSIBILITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Financial Regulatory Responsibility Act of 2011''.

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term ''agency'' means the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Financial Stability Oversight Council, the Office of the Comptroller of the Currency, the Office of Financial Research, the National Credit Union Administration, and the Securities and Exchange Commission;

(2) the term ''chief economist'' means—

(A) with respect to the Board of Governors of the Federal Reserve System, the Director of the Division of Research and Statistics, or an employee of the agency with comparable authority;

(B) with respect to the Bureau of Consumer Financial Protection, the Assistant Director for Research, or an employee of the agency with comparable authority;

(C) with respect to the Commodity Futures Trading Commission, the Chief Economist, or an employee of the agency with comparable authority;

(D) with respect to the Federal Deposit Insurance Corporation, the Director of the Division of Insurance and Research, or an employee of the agency with comparable authority;

(E) with respect to the Federal Housing Finance Agency, the Chief Economist, or an employee of the agency with comparable authority;

(F) with respect to the Financial Stability Oversight Council, the Chief Economist, or an employee of the agency with comparable authority;

(G) with respect to the Office of the Comptroller of the Currency, the Director for Policy Analysis, or an employee of the agency with comparable authority;

(H) with respect to the Office of Financial Research, the Director, or an employee of the agency with comparable authority;

(I) with respect to the National Credit Union Administration, the Chief Economist, or an employee of the agency with comparable authority; and

(J) with respect to the Securities and Exchange Commission, the Director of the Division of Risk, Strategy, and Financial Innovation, or an employee of the agency with comparable authority;

(3) the term ''Council'' means the Chief Economists Council established under section 209; and

(4) the term ''regulation''—

(A) means an agency statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the agency intends to have the force and effect of law;

(B) does not include—

(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

(ii) a regulation that is limited to agency organization, management, or personnel matters;

(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision;

(iv) a regulation that is certified by the agency to be an emergency action, if such certification is published in the Federal Register; or

(v) a regulation that is promulgated by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee under section 10A, 10B, 13, 13A, or 19 of the Federal Reserve Act, or any of subsections (a) through (f) of section 14 of that Act.

SEC. 203. REQUIRED REGULATORY ANALYSIS.

(a) REQUIREMENTS FOR NOTICES OF PROPOSED RULEMAKING.—An agency may not issue a notice of proposed rulemaking unless the agency includes in the notice of proposed rulemaking an analysis that contains, at a minimum, with respect to each regulation that is being proposed—

(1) an identification of the need for the regulation and the regulatory objective, including identification of the nature and significance of the market failure, regulatory failure, or other problem that necessitates the regulation;

(2) an explanation of why the private market or State, local, or tribal authorities cannot adequately address the identified market failure or other problem;

(3) an analysis of the adverse impacts to regulated entities, other market participants, economic activity, or agency effectiveness that are engendered by the regulation and the magnitude of such adverse impacts;

(4) a quantitative and qualitative assessment of all anticipated direct and indirect costs and benefits of the regulation (as compared to a benchmark that assumes the absence of the regulation), including—

(A) compliance costs;

(B) effects on economic activity, net job creation (excluding jobs related to ensuring compliance with the regulation), efficiency, competition, and capital formation;

(C) regulatory administrative costs; and

(D) costs imposed by the regulation on State, local, or tribal governments or other regulatory authorities;

(5) if quantified benefits do not outweigh quantitative costs, a justification for the regulation;

(6) identification and assessment of all available alternatives to the regulation, including modification of an existing regulation or statute, together with—

(A) an explanation of why the regulation meets the objectives of the regulation more effectively than the alternatives, and if the agency is proposing multiple alternatives, an explanation of why a notice of proposed rulemaking, rather than an advanced notice of proposed rulemaking, is appropriate; and

(B) if the regulation is not a pilot program, an explanation of why a pilot program is not appropriate;

(7) if the regulation specifies the behavior or manner of compliance, an explanation of why the agency did not instead specify performance objectives;

(8) an assessment of how the burden imposed by the regulation will be distributed among market participants, including whether consumers, investors, or small businesses will be disproportionately burdened;

(9) an assessment of the extent to which the regulation is inconsistent, incompatible, or duplicative with the existing regulations of the agency or those of other domestic and international regulatory authorities with overlapping jurisdiction;

(10) a description of any studies, surveys, or other data relied upon in preparing the analysis;

(11) an assessment of the degree to which the key assumptions underlying the analysis are subject to uncertainty; and

(12) an explanation of predicted changes in market structure and infrastructure and in behavior by market participants, including consumers and investors, assuming that they will pursue their economic interests.

(b) REQUIREMENTS FOR NOTICES OF FINAL RULEMAKING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an agency may not issue a notice of final rulemaking with respect to a regulation unless the agency—

(A) has issued a notice of proposed rulemaking for the relevant regulation;

(B) has conducted and includes in the notice of final rulemaking an analysis that contains, at a minimum, the elements required under subsection (a); and

(C) includes in the notice of final rulemaking regulatory impact metrics selected by the chief economist to be used in preparing the report required pursuant to section 206.

(2) CONSIDERATION OF COMMENTS.—The agency shall incorporate in the elements described in paragraph (1)(B) the data and analyses provided to the agency by commenters during the comment period, or explain why the data or analyses are not being incorporated.

(3) COMMENT PERIOD.—An agency shall not publish a notice of final rulemaking with respect to a regulation, unless the agency—

(A) has allowed at least 90 days from the date of publication in the Federal Register of the notice of proposed rulemaking for the submission of public comments; or

(B) includes in the notice of final rulemaking an explanation of why the agency was not able to provide a 90-day comment period.

(4) PROHIBITED RULES.—

(A) IN GENERAL.—An agency may not publish a notice of final rulemaking if the agency, in its analysis under paragraph (1)(B), determines that the quantified costs are greater than the quantified benefits under subsection (a)(5).

(B) PUBLICATION OF ANALYSIS.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, the agency shall publish in the Federal Register and on the public website of the agency its analysis under paragraph (1)(B), and provide the analysis to each House of Congress.

(C) CONGRESSIONAL WAIVER.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, Congress, by joint resolution pursuant to the procedures set forth for joint resolutions in section 802 of title 5, United States Code, may direct the agency to publish a notice of final rulemaking notwithstanding the prohibition contained in subparagraph (A). In applying section 802 of title 5, United States Code, for purposes of this paragraph, section 802(e)(2) shall not apply and the term—

(i) ''joint resolution'' or ''joint resolution described in subsection (a)'' means only a joint resolution introduced during the period beginning on the submission or publication date and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ''That Congress directs, notwithstanding the prohibition contained in (3)(b)(4)(A) of the Financial Regulatory Responsibility Act of 2011, the ____ to publish the notice of final rulemaking for the regulation or regulations that were the subject of the analysis submitted by the ____ to Congress on ____.'' (The blank spaces being appropriately filled in.); and

(ii) ''submission or publication date'' means—

(I) the date on which the analysis under paragraph (1)(B) is submitted to Congress under paragraph (4)(B); or

(II) if the analysis is submitted to Congress less than 60 session days or 60 legislative days before the date on which the Congress adjourns a session of Congress, the date on which the same or succeeding Congress first convenes its next session.

SEC. 204. RULE OF CONSTRUCTION.

For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), obtaining, causing to be obtained, or soliciting information for purposes of complying with section 203 with respect to a proposed rulemaking shall not be construed to be a collection of information, provided that the agency has first issued an advanced notice of proposed rulemaking in connection with the regulation, identifies that advanced notice of proposed rulemaking in its solicitation of information, and informs the person from whom the information is obtained or solicited that the provision of information is voluntary.

SEC. 205. PUBLIC AVAILABILITY OF DATA AND REGULATORY ANALYSIS.

(a) IN GENERAL.—At or before the commencement of the public comment period with respect to a regulation, the agency shall make available on its public website sufficient information about the data, methodologies, and assumptions underlying the analyses performed pursuant to section 203 so that the analytical results of the agency are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(b) CONFIDENTIALITY.—The agency shall comply with subsection (a) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

SEC. 206. FIVE-YEAR REGULATORY IMPACT ANALYSIS.

(a) IN GENERAL.—Not later than 5 years after the date of publication in the Federal Register of a notice of final rulemaking, the chief economist of the agency shall issue a report that examines the economic impact of the subject regulation, including the direct and indirect costs and benefits of the regulation.

(b) REGULATORY IMPACT METRICS.—In preparing the report required by subsection (a), the chief economist shall employ the regulatory impact metrics included in the notice of final rulemaking pursuant to section 203(b)(1)(C).

(c) REPRODUCIBILITY.—The report shall include the data, methodologies, and assumptions underlying the evaluation so that the agency's analytical results are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(d) CONFIDENTIALITY.—The agency shall comply with subsection (c) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

(e) REPORT.—The agency shall submit the report required by subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and post it on the public website of the agency. The Commodity Futures Trading Commission shall also submit its report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 207. RETROSPECTIVE REVIEW OF EXISTING RULES.

(a) REGULATORY IMPROVEMENT PLAN.—Not later than 1 year after the date of enactment of this Act and every 5 years thereafter, each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a plan, consistent with law and its resources and regulatory priorities, under which the agency will modify, streamline, expand, or repeal existing regulations so as to make the regulatory program of the agency more effective or less burdensome in achieving the regulatory objectives. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

(b) IMPLEMENTATION PROGRESS REPORT.—Two years after the date of submission of each plan required under subsection (a), each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a report of the steps that it has taken to implement the plan, steps that remain to be taken to implement the plan, and, if any parts of the plan will not be implemented, reasons for not implementing those parts of the plan. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 208. JUDICIAL REVIEW.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning on the date on which a notice of

final rulemaking for a regulation is published in the Federal Register and ending 1 year later, a person that is adversely affected or aggrieved by the regulation is entitled to bring an action in the United States Court of Appeals for the District of Columbia Circuit for judicial review of agency compliance with the requirements of section 203.

(b) STAY.—The court may stay the effective date of the regulation or any provision thereof.

(c) RELIEF.—If the court finds that an agency has not complied with the requirements of section 203, the court shall vacate the subject regulation, unless the agency shows by clear and convincing evidence that vacating the regulation would result in irreparable harm. Nothing in this section affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground.

SEC. 209. CHIEF ECONOMISTS COUNCIL.

(a) ESTABLISHMENT.—There is established the Chief Economists Council.

(b) MEMBERSHIP.—The Council shall consist of the chief economist of each agency. The members of the Council shall select the first chairperson of the Council. Thereafter the position of Chairperson shall rotate annually among the members of the Council.

(c) MEETINGS.—The Council shall meet at the call of the Chairperson, but not less frequently than quarterly.

(d) REPORT.—One year after the effective date of this Act and annually thereafter, the Council shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Financial Services and the Committee on Agriculture of the House of Representatives a report on—

(1) the benefits and costs of regulations adopted by the agencies during the past 12 months;

(2) the regulatory actions planned by the agencies for the upcoming 12 months;

(3) the cumulative effect of the existing regulations of the agencies on economic activity, innovation, international competitiveness of entities regulated by the agencies, and net job creation (excluding jobs related to ensuring compliance with the regulation);

(4) the training and qualifications of the persons who prepared the cost-benefit analyses of each agency during the past 12 months;

(5) the sufficiency of the resources available to the chief economists during the past 12 months for the conduct of the activities required by this Act; and

(6) recommendations for legislative or regulatory action to enhance the efficiency and effectiveness of financial regulation in the United States.

SEC. 210. CONFORMING AMENDMENTS.

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking (2) and all that follows through ''light of—'' and inserting the following:

''(1) CONSIDERATIONS.—Before promulgating a regulation under this chapter or issuing an order (except as provided in paragraph (2)), the Commission shall take into consideration—'';

(3) in paragraph (1), as so redesignated—

(A) in subparagraph (B), by striking ''futures'' and inserting ''the relevant'';

(B) in subparagraph (C), by adding ''and'' at the end;

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

(D) by striking subparagraph (E); and

(4) by redesignating paragraph (3) as paragraph (2).

SEC. 211. OTHER REGULATORY ENTITIES.

(a) SECURITIES AND EXCHANGE COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report setting forth a plan for subjecting the Public Company Accounting Oversight Board, the Municipal Securities Rulemaking Board, and any national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(a)) to the requirements of this Act, other than direct representation on the Council.

(b) COMMODITY FUTURES TRADING COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report setting forth a plan for subjecting any futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) to the requirements of this Act, other than direct representation on the Council.

SEC. 212. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

An agency may perform the analyses required by this Act in conjunction with, or as a part of, any other agenda or analysis required by any other provision of law, if such other analysis satisfies the provisions this Act.

SEC. 213. SEVERABILITY.

If any provision of this Act or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SA 713. Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and

(L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) of such Code is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) of such Code is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) of such Code is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SA 714. Mr. WYDEN (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—DUTY-FREE TREATMENT OF CERTAIN RECREATIONAL PERFORMANCE OUTERWEAR

SEC. _01. SHORT TITLE.

This title may be cited as the ''United States Optimal Use of Trade to Develop Outerwear and Outdoor Recreation Act'' or the ''U.S. OUTDOOR Act''.

SEC. _02. FINDINGS.

Congress finds the following:

(1) The outdoor industry contributes $730,000,000,000 to the United States economy annually.

(2) Outdoor activities are vitally important to the health and well-being of the people of the United States.

(3) Duty rates on recreational performance apparel are among the highest duty rates imposed by the United States Government, with duties on some recreational performance apparel as high as 28.2 percent.

(4) The duties currently imposed by the United States on recreational performance apparel were set in an era during which high rates of duty were intended to protect the production of other apparel in the United States, and before the technologies and innovations that create today's recreational performance apparel industry were developed.

(5) In July 2007, the United States International Trade Commission confirmed in USITC Publication 3937 that recreational performance apparel produced in the United States makes up less than 1 percent of the total recreational performance apparel market and therefore concluded that there is no commercially viable production of recreational performance apparel in the United States.

(6) On November 1, 2005, the Committee for the Implementation of Textile Agreements confirmed in the Federal Register that imports of certain recreational performance apparel do not contribute to domestic market disruption or adversely affect United States textile and apparel producers (70 Fed. Reg. 65889).

(7) The elimination of duties on the importation of certain recreational performance apparel would provide an economic benefit to United States consumers of outdoor products and would promote increased participation in healthy and active lifestyles.

SEC. _03. KNIT APPAREL AND ACCESSORIES.

(a) DEFINITIONS.—The Additional U.S. Note to Chapter 61 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the heading, by striking ''Additional U.S. Note'' and inserting ''Additional U.S. Notes''; and

(2) by adding at the end the following new notes:

''2.(a) For purposes of this chapter, the term 'recreational performance outerwear' means trousers (including, but not limited to, paddling pants, ski or snowboard pants, and ski or snowboard pants intended for sale as parts of ski-suits), coveralls and bib overalls, and jackets (including, but not limited to, full zip jackets, paddling jackets, ski jackets, and ski jackets intended for sale as parts of ski-suits), windbreakers, and similar articles (including padded, sleeveless jackets) composed of knit fabrics of cotton, wool, hemp, bamboo, silk, or manmade fiber, or a combination of such fibers, that are either water-resistant or visibly coated, or both, with critically sealed seams, and with 5 or more of the following features:

''(i) Insulation for cold weather protection.

''(ii) Pockets, at least one of which has a zippered, hook and loop, or other type of closure.

''(iii) Elastic, drawcord, or other means of tightening around the waist or leg hems, including hidden leg sleeves with a means of tightening at the ankle for trousers and tightening around the waist or bottom hem for jackets.

''(iv) Venting, not including grommet(s).

''(v) Articulated elbows or knees.

''(vi) Reinforcement in one of the following areas: the elbows, shoulders, seat, knees, ankles, or cuffs.

''(vii) Weatherproof closure at the waist or front.

''(viii) Multi-adjustable hood or adjustable collar.

''(ix) Adjustable powder skirt, inner protective skirt, or adjustable inner protective cuff at sleeve hem.

''(x) Construction at the arm gusset that utilizes fabric, design, or patterning to allow radial arm movement.

''(xi) Odor control technology.

The term 'recreational performance outerwear' does not include occupational outerwear or garments with an outer surface of looped pile.

''(b) For purposes of this Note, the following terms have the following meanings:

''(i) The term 'water-resistant' means that a garment must have a water resistance (see ASTM designations D 3779–81 and D 7017) such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with the current version of AATCC Test Method 35. The water resistance of the garment is the result of a rubber or plastics application to the outer shell, lining, or inner lining.

''(ii) The term 'visibly coated' refers to fabric that is impregnated, coated, covered, or laminated with plastics, such as fabrics described in Note 2 to chapter 59.

''(iii) The term 'sealed seams' means seams that have been covered by means of taping, gluing, bonding, cementing, fusing, welding, or a similar process so that water cannot pass through the seams when tested in accordance with the current version of AATCC Test Method 35.

''(iv) The term 'critically sealed seams' means—

''(A) for jackets, sealed seams that are sealed at the front and back yokes, or at the shoulders, arm holes, or both, where applicable; and

''(B) for trousers, sealed seams that are sealed at the front (up to the zipper or other means of closure) and back rise.

''(v) The term 'insulation for cold weather protection' means insulation with either synthetic fill, down, a laminated thermal backing, or other lining for thermal protection from cold weather.

''(vi) The term 'venting' refers to closeable or permanent constructed openings in a garment (excluding front, primary zipper closures and grommet(s)) to allow increased expulsion of built-up heat during outdoor activities. In a jacket, such openings are often positioned on the underarm seam of a garment but may also be placed along other seams in the front or back of a garment. In trousers, such openings are often positioned on the inner or outer leg seams of a garment but may also be placed along other seams in the front or back of a garment.

''(vii) The term 'articulated elbows or knees' refers to the construction of a sleeve (or pant leg) to allow improved mobility at the elbow (or knee) through the use of extra seams, darts, gussets, or other means.

''(viii) The term 'reinforcement' refers to the use of a double layer of fabric or section(s) of fabric that is abrasion-resistant or otherwise more durable than the face fabric of the garment.

''(ix) The term 'weatherproof closure' means a closure (including, but not limited to, laminated or coated zippers, storm flaps, or other weatherproof construction) that has been reinforced or engineered in a manner to reduce the penetration or absorption of moisture or air through an opening in the garment.

''(x) The term 'multi-adjustable hood or adjustable collar' means a draw cord, adjustment tab, or elastic incorporated into the hood or collar construction to allow volume adjustments around a helmet, the crown of the head, neck, or face.

''(xi) The terms 'adjustable powder skirt' and 'inner protective skirt' refer to a partial lower inner lining with means of tightening around the waist for additional protection from the elements.

''(xii) The term 'arm gusset' means construction at the arm of a gusset that utilizes an extra fabric piece in the under arm usually diamond- or triangular-shaped, design, or pattern to allow radial arm movement.

''(xiii) The term 'radial arm movement' refers to unrestricted, 180-degree range of motion for the arm while wearing performance outerwear.

''(xiv) The term 'odor control technology' means an additive in a fabric or garment capable of adsorbing, absorbing, or reacting with human odors, or effective in reducing odor-causing bacteria, including but not limited to activated carbon, silver, copper, or any combination thereof.

''(xv) The term 'occupational outerwear' means outerwear garments, including uniforms, designed or marketed for use in the workplace or at a worksite to provide durable protection from cold or inclement weather and/or workplace hazards, such as fire,

electrical, abrasion, or chemical hazards, or impacts, cuts, punctures, or similar hazards.

''3. For purposes of this chapter, the importer of record shall specify upon entry whether garments claimed as recreational performance outerwear have an outer surface that is water-resistant, visibly coated, or a combination thereof, and shall further enumerate the specific features that make the garments eligible to be classified as recreational performance outerwear.''.

(b) TARIFF CLASSIFICATIONS.—Chapter 61 of the Harmonized Tariff Schedule of the United States is amended as follows:

(1) By striking subheading 6101.20.00 and inserting the following, with the article description for subheading 6101.20 having the same degree of indentation as the article description for subheading 6101.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6101.20	Of cotton:				
	6101.20.05	Recreational performance outerwear	Free		50%	
	6101.20.10	Other	15.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	50%	''.

(2) By striking subheadings 6101.30.10 through 6101.30.20 and inserting the following, with the article description for subheading 6101.30.05 having the same degree of indentation as the article description for subheading 6101.30.10 (as in effect on the day before the date of the enactment of this Act):

''	6101.30.05	Recreational performance outerwear	Free		35%	
		Other:				
	6101.30.10	Containing 25 percent or more by weight of leather	5.6%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				5% (AU)	35%	
	6101.30.15	Containing 23 percent or more by weight of wool or fine animal hair	38.6¢/kg + 10%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	77.2¢/kg + 54.5%	
	6101.30.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	''.

(3) By striking subheadings 6101.90.05 through 6101.90.90 and inserting the following, with the article description for subheading 6101.90.01 having the same degree of indentation as the article description for subheading 6101.90.05 (as in effect on the day before the date of the enactment of this Act):

''	6101.90.01	Recreational performance outerwear	Free		45%	
		Other:				
	6101.90.05	Of wool or fine animal hair	61.7¢/kg + 16%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)		
				43.1¢/kg + 11.2% (OM)	77.2¢/kg + 54.5%	
	6101.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	45%	
	6101.90.90	Other	5.7%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)		
				5.1% (AU)	45%	''.

(4) By striking subheading 6102.10.00 and inserting the following, with the article description for subheading 6102.10 having the same degree of indentation as the article description for subheading 6102.10.00 (as in effect on the day before the date of the enactment of this Act):

''	6102.10	Of wool or fine animal hair:				

6102.10.05	Recreational performance outerwear	Free		68.3¢/kg + 54.5%	
6102.10.10	Other	55.9¢/kg + 16.4%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 39.1¢/kg + 11.4% (OM)	68.3¢/kg + 54.5%	''.

(5) By striking subheading 6102.20.00 and inserting the following, with the article description for subheading 6102.20 having the same degree of indentation as the article description for subheading 6102.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6102.20	Of cotton:			
	6102.20.05	Recreational performance outerwear	Free	50%	
	6102.20.10	Other	15.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	50% ''.

(6) By striking subheadings 6102.30.05 through 6102.30.20 and inserting the following, with the article description for subheading 6102.30.01 having the same degree of indentation as the article description for subheading 6102.30.05 (as in effect on the day before the date of the enactment of this Act):

''	6102.30.01	Recreational performance outerwear	Free		35%
		Other:			
	6102.30.05	Containing 25 percent or more by weight of leather	5.3%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 4.7% (AU)	35%
	6102.30.10	Containing 23 percent or more by weight of wool or fine animal hair	64.4¢/kg + 18.8%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	68.3¢/kg + 54.5%
	6102.30.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72% ''.

(7) By striking subheadings 6102.90.10 and 6102.90.90 and inserting the following, with the article description for subheading 6102.90.05 having the same degree of indentation as the article description for subheading 6102.90.10 (as in effect on the day before the date of the enactment of this Act):

''	6102.90.05	Recreational performance outerwear	Free		45%
		Other:			
	6102.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	45%
	6102.90.90	Other	5.7%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 5.1% (AU)	45% ''.

(8) By striking subheadings 6103.41.10 and 6103.41.20 and inserting the following, with the article description for subheading 6103.41.05 having the same degree of indentation as the article description for subheading 6103.41.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.41.05	Recreational performance outerwear	Free		77.2¢/kg + 54.5%
		Other:			

	6103.41.10	Trousers, breeches and shorts	61.1¢/kg + 15.8%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				42.7¢/kg + 11% (OM)	77.2¢/kg + 54.5%	
	6103.41.20	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				9.5% (OM)	54.5%	''.

(9) By striking subheadings 6103.42.10 and 6103.42.20 and inserting the following, with the article description for subheading 6103.42.05 having the same degree of indentation as the article description for subheading 6103.42.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.42.05	Recreational performance outerwear	Free		45%	
		Other:				
	6103.42.10	Trousers, breeches and shorts	16.1%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	45%	
	6103.42.20	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	''.

(10) By striking subheadings 6103.43.10 through 6103.43.20 and inserting the following, with the article description for subheading 6103.43.05 having the same degree of indentation as the article description for subheading 6103.43.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.43.05	Recreational performance outerwear	Free		77.2¢/kg + 54.5%	
		Other:				
		Trousers, breeches and shorts:				
	6103.43.10	Containing 23 percent or more by weight of wool or fine animal hair	58.5¢/kg + 15.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	77.2¢/kg + 54.5%	
	6103.43.15	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	
	6103.43.20	Bib and brace overalls	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	''.

(11) By striking subheadings 6103.49 through 6103.49.80 and inserting the following, with the article description for subheading 6103.49 having the same degree of indentation as the article description for subheading 6103.49 (as in effect on the day before the date of the enactment of this Act):

''	6103.49	Of other textile materials:				
		Of artificial fibers:				
	6103.49.05	Recreational performance outerwear	Free		72%	
		Other:				

6103.49.10	Trousers, breeches and shorts	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%		
6103.49.20	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%		
6103.49.40	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	35%		
6103.49.80	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 5% (AU)	35%		''.

(12) By striking subheading 6104.61.00 and inserting the following, with the article description for subheading 6104.61 having the same degree of indentation as the article description for subheading 6104.61.00 (as in effect on the day before the date of the enactment of this Act):

''	6104.61	Of wool and fine animal hair:				
	6104.61.05	Recreational performance outerwear	Free		54.5%	
	6104.61.10	Other	14.9%	Free (BH, CA, CL, IL, JO,MA, MX, P, PE, SG) 8% (AU) 10.4% (OM)	54.5%	''.

(13) By striking subheadings 6104.62.10 and 6104.62.20 and inserting the following, with the article description for subheading 6104.62.05 having the same degree of indentation as the article description for subheading 6104.62.10 (as in effect on the day before the date of the enactment of this Act):

''	6104.62.05	Recreational performance outerwear	Free		90%	
		Other:				
	6104.62.10	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.01–9912.61.02 (MA)	90%	
	6104.62.20	Other	14.9%	Free (BH, CA, CL, JO, IL, MX, OM, P, PE, SG) 8% (AU) See 9912.61.01, 9912.61.03 (MA)	90%	''.

(14) By striking subheadings 6104.63.10 through 6104.63.20 and inserting the following, with the article description for subheading 6104.63.05 having the same degree of indentation as the article description for subheading 6104.63.10 (as in effect on the day before the date of the enactment of this Act):

''	6104.63.05	Recreational performance outerwear	Free		72%	
		Other:				

6104.63.10	Bib and brace overalls	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05–9912.61.06 (MA)	72%	
	Other:				
6104.63.15	Containing 23 percent or more by weight of wool or fine animal hair	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05–9912.61.06 (MA)	54.5%	
6104.63.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05, 9912.61.07 (MA)	72%	''.

(15) By striking subheadings 6104.69 through 6104.69.80 and inserting the following, with the article description for subheading 6104.69 having the same degree of indentation as the article description for subheading 6104.69 (as in effect on the day before the date of the enactment of this Act):

''	6104.69	Of other textile materials:				
		Of artificial fibers:				
	6104.69.05	Recreational performance outerwear	Free		72%	
		Other:				
	6104.69.10	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG) 8% (AU)	72%	
	6104.69.20	Trousers, breeches and shorts	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%	
	6104.69.40	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	60%	
	6104.69.80	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P,PE, SG) 5% (AU)	60%	''.

(16) By striking subheadings 6112.20.10 and 6112.20.20 and inserting the following, with the article description for subheading 6112.20.05 having the same degree of indentation as the article description for subheading 6112.20.10 (as in effect on the day before the date of the enactment of this Act):

''	6112.20.05	Recreational performance outerwear	Free		72%
		Other:			
	6112.20.10	Of man-made fibers	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%

	6112.20.20	Other	8.3%	Free (BH, CA, CL, E*, IL, JO, MA, MX,OM, P, PE, SG)		
				7.4% (AU)	90%	''.

(17) By striking subheadings 6113.00.10 and 6113.00.90 and inserting the following, with the article description for subheading 6113.00.05 having the same degree of indentation as the article description for subheading 6113.00.10 (as in effect on the day before the date of the enactment of this Act):

''	6113.00.05	Recreational performance outerwear	Free		65%	
		Other:				
	6113.00.10	Having an outer surface impregnated, coated, covered, or laminated with rubber or plastics material which completely obscures the underlying fabric	3.8%	Free (AU, BH, CA, CL, E,IL, JO, MA, MX, OM, P, PE, SG)	65%	
	6113.00.90	Other	7.1%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	65%	''.

(18) By striking subheading 6114.20.00 and inserting the following, with the article description for subheading 6114.20 having the same degree of indentation as the article description for subheading 6114.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6114.20	Of cotton:				
	6114.20.05	Recreational performance outerwear	Free		90%	
	6114.20.10	Other	10.8%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				4.3% (OM)	90%	''.

(19) By striking subheadings 6114.30.10 through 6114.30.30 and inserting the following, with the article description for subheading 6114.30.05 having the same degree of indentation as the article description for subheading 6114.30.10 (as in effect on the day before the date of the enactment of this Act):

''	6114.30.05	Recreational performance outerwear	Free		90%	
		Other:				
	6114.30.10	Tops	28.2%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG)		
				8% (AU)	90%	
	6114.30.20	Bodysuits and bodyshirts	32%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	
	6114.30.30	Other	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	''.

(20) By striking subheadings 6114.90.05 through 6114.90.90 and inserting the following, with the article description for subheading 6114.90.01 having the same degree of indentation as the article description for subheading 6114.90.05 (as in effect on the day before the date of the enactment of this Act):

''	6114.90.01	Recreational performance outerwear	Free		90%	
		Other:				
	6114.90.05	Of wool or fine animal hair	12%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				8.4% (OM)	90%	

6114.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	60%	
6114.90.90	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	60%	
			5% (AU)		''.

SEC. 4. APPAREL ARTICLES AND ACCESSORIES OF OTHER MATERIALS, NOT KNITTED OR CROCHETED.

(a) NOTES.—The Additional U.S. Notes to chapter 62 of the Harmonized Tariff Schedule of the United States are amended—

(1) in Additional U.S. Note 2, by striking ''For purposes of subheadings'' and all that follows through ''6211.20.15'' and inserting ''For purposes of this chapter''; and

(2) by adding at the end the following new notes:

''3.(a) For purposes of this chapter, the term 'recreational performance outerwear' means trousers (including, but not limited to, paddling pants, ski or snowboard pants, and ski or snowboard pants intended for sale as parts of ski-suits), coveralls and bib overalls, and jackets (including, but not limited to, full zip jackets, paddling jackets, ski jackets, and ski jackets intended for sale as parts of ski-suits), windbreakers, and similar articles (including padded, sleeveless jackets), the outer surface of which is composed of non-knit, non-crocheted fabrics of cotton, wool, hemp, bamboo, silk, or manmade fiber, or a combination of such fibers, that are water-resistant, visibly coated, or both, with critically sealed seams, and with 5 or more of the following options:

''(i) Insulation for cold weather protection.

''(ii) Pockets, at least one of which has a zippered, hook and loop, or other type of closure.

''(iii) Elastic, drawcord, or other means of tightening around the waist or leg hems, including hidden leg sleeves with a means of tightening at the ankle for trousers and tightening around the waist or bottom hem for jackets.

''(iv) Venting, not including grommet(s).

''(v) Articulated elbows or knees.

''(vi) Reinforcement in one of the following areas: the elbows, shoulders, seat, knees, ankles, or cuffs.

''(vii) Weatherproof closure at the waist or front.

''(viii) Multi-adjustable hood or adjustable collar.

''(ix) Adjustable powder skirt, inner protective skirt, or adjustable inner protective cuff at sleeve hem.

''(x) Construction at the arm gusset that utilizes fabric, design, or patterning to allow radial arm movement.

''(xi) Odor control technology.

The term 'recreational performance outerwear' does not include occupational outerwear.

''(b) For purposes of this Note, the following terms have the following meanings:

''(i) The term 'water-resistant' means that a garment must have a water resistance (see ASTM designations D 3779–81 and D 7017) such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with the current version of AATCC Test Method 35. The water resistance of the garment is the result of a rubber or plastics application to the outer shell, lining, or inner lining.

''(ii) The term 'visibly coated' refers to fabric that is impregnated, coated, covered, or laminated with plastics, such as fabrics described in Note 2 to chapter 59.

''(iii) The term 'sealed seams' means seams that have been covered by means of taping, gluing, bonding, cementing, fusing, welding, or a similar process so that water cannot pass through the seams when tested in accordance with the current version of AATCC Test Method 35.

''(iv) The term 'critically sealed seams' means seams' that are sealed—

''(A) for jackets, at the front and back yokes, or at the shoulders, arm holes, or both, where applicable; and

''(B) for trousers, at the front (up to the zipper or other means of closure) and back rise.

''(v) The term 'insulation for cold weather protection' means insulation with either synthetic fill, down, a laminated thermal backing, or other lining for thermal protection from cold weather.

''(vi) The term 'venting' refers to closeable or permanent constructed openings in a garment (excluding front, primary zipper closures and grommet(s)) to allow increased expulsion of built-up heat during outdoor activities. In a jacket, such openings are often positioned on the underarm seam of a garment but may also be placed along other seams in the front or back of a garment. In trousers, such openings are often positioned on the inner or outer leg seams of a garment but may also be placed along other seams in the front or back of a garment.

''(vii) The term 'articulated elbows or knees' refers to the construction of a sleeve (or pant leg) to allow improved mobility at the elbow (or knee) through the use of extra seams, darts, gussets, or other means.

''(viii) The term 'reinforcement' refers to the use of a double layer of fabric or section(s) of fabric that is abrasion-resistant or otherwise more durable than the face fabric of the garment.

''(ix) The term 'weatherproof closure' means a closure (including, but not limited to, laminated or coated zippers, storm flaps, or other weatherproof construction) that has been reinforced or engineered in a manner to reduce the penetration or absorption of moisture or air through an opening in the garment.

''(x) The term 'multi-adjustable hood or adjustable collar' means a draw cord, adjustment tab, or elastic incorporated into the hood or collar construction to allow volume adjustments around a helmet, the crown of the head, neck, or face.

''(xi) The terms 'adjustable powder skirt' and 'inner protective skirt' refer to a partial lower inner lining with means of tightening around the waist for additional protection from the elements.

''(xii) The term 'arm gusset' means construction at the arm of a gusset that utilizes an extra fabric piece in the under arm usually diamond- or triangular-shaped, design, or pattern to allow radial arm movement.

''(xiii) The term 'radial arm movement' refers to unrestricted, 180-degree range of motion for the arm while wearing performance outerwear.

''(xiv) The term 'odor control technology' means an additive in a fabric or garment capable of adsorbing, absorbing, or reacting with human odors, or effective in reducing odor-causing bacteria, including but not limited to activated carbon, silver, copper, or any combination thereof.

''(xv) The term 'occupational outerwear' means outerwear garments, including uniforms, designed or marketed for use in the workplace or at a worksite to provide durable protection from cold or inclement weather and/or workplace hazards, such as fire, electrical, abrasion, or chemical hazards, or impacts, cuts, punctures, or similar hazards.

''4. For purposes of this chapter, the importer of record shall specify upon entry whether garments claimed as 'recreational performance outerwear' have an outer surface that is water-resistant, visibly coated, or a combination thereof, and shall further enumerate the specific features that make the garments eligible to be classified as recreational performance outerwear.''.

(b) TARIFF CLASSIFICATIONS.—Chapter 62 of the Harmonized Tariff Schedule of the United States is amended as follows:

(1) By striking subheading 6201.11.00 and inserting the following, with the article description for subheading 6201.11 having the same degree of indentation as the article description for subheading 6201.11.00 (as in effect on the day before the date of the enactment of this Act):

''	6201.11	Of wool or fine animal hair:				
	6201.11.05	Recreational performance outerwear	Free		52.9¢/kg + 58.5%	
	6201.11.10	Other	41¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 28.7¢/kg + 11.4% (OM)	52.9¢/kg + 58.5%	''.

(2) By striking subheadings 6201.12.10 and 6201.12.20 and inserting the following, with the article description for subheading 6201.12.05 having the same degree of indentation as the article description for subheading 6201.12.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.12.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.12.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
	6201.12.20	Other	9.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(3) By striking subheadings 6201.13.10 through 6201.13.40 and inserting the following, with the article description for subheading 6201.13.05 having the same degree of indentation as the article description for subheading 6201.13.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.13.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.13.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 0.4% (MA) 3.9% (AU)	60%	
		Other:				
	6201.13.30	Containing 36 percent or more by weight of wool or fine animal hair	49.7¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	52.9¢/kg + 58.5%	
	6201.13.40	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(4) By striking subheadings 6201.19.10 and 6201.19.90 and inserting the following, with the article description for subheading 6201.19.05 having the same degree of indentation as the article description for subheading 6201.19.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.19.05	Recreational performance outerwear	Free		35%	
		Other:				
	6201.19.10	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6201.19.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(5) By striking subheadings 6201.91.10 and 6201.91.20 and inserting the following, with the article description for subheading 6201.91.05 having the same degree of indentation as the article description for subheading 6201.91.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.91.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6201.91.10	Padded, sleeveless jackets	8.5%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 7.6% (AU) 5.9% (OM)	58.5%	

6201.91.20	Other	49.7¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 34.7¢/kg + 13.7% (OM)	52.9¢/kg + 58.5%	''.

(6) By striking subheadings 6201.92.10 through 6201.92.20 and inserting the following, with the article description for subheading 6201.92.05 having the same degree of indentation as the article description for subheading 6201.92.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.92.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.92.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.00–9912.62.01 (MA)	60%	
		Other:				
	6201.92.15	Water resistant	6.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 5.5% (AU) See 9912.62.00, 9912.62.02 (MA)	37.5%	
	6201.92.20	Other	9.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.00, 9912.62.03 (MA)	90%	''.

(7) By striking subheadings 6201.93.10 through 6201.93.35 and inserting the following, with the article description for subheading 6201.93.05 having the same degree of indentation as the article description for subheading 6201.93.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.93.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.93.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL,IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.04–9912.62.05 (MA)	60%	
		Other:				
	6201.93.20	Padded, sleveless jackets	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.06 (MA)	76%	
		Other:				

6201.93.25	Containing 36 percent or more by weght of wool or fine animal hair	49.5¢/kg + 19.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.07 (MA)	52.9¢/kg + 58.5%	
	Other:				
6201.93.30	Water resistant	7.1%	Free (BH,CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.04, 9912.62.08 (MA)	65%	
6201.93.35	Other	27.7%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.09 (MA)	90%	''.

(8) By striking subheadings 6201.99.10 and 6201.99.90 and inserting the following, with the article description for subheading 6201.99.05 having the same degree of indentation as the article description for subheading 6201.99.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.99.05	Recreational performance outerwear	Free		35%	
		Other:				
	6201.99.10	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6201.99.90	Other	4.2%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 3.7% (AU)	35%	''.

(9) By striking subheading 6202.11.00 and inserting the following, with the article description for subheading 6202.11 having the same degree of indentation as the article description for subheading 6202.11.00 (as in effect on the day before the date of the enactment of this Act):

''	6202.11	Of wool or fine animal hair:				
	6202.11.05	Recreational performance outerwear	Free		46.3¢/kg + 58.5%	
	6202.11.10	Other	41¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 28.7¢/kg + 11.4% (OM)	46.3¢/kg + 58.5%	''.

(10) By striking subheadings 6202.12.10 and 6202.12.20 and inserting the following, with the article description for subheading 6202.12.05 having the same degree of indentation as the article description for subheading 6202.12.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.12.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.12.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	

	6202.12.20	Other	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 1.8% (MA) 8% (AU)	90%	''.

(11) By striking subheadings 6202.13.10 through 6202.13.40 and inserting the following, with the article description for subheading 6202.13.05 having the same degree of indentation as the article description for subheading 6202.13.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.13.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.13.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
		Other:				
	6202.13.30	Containing 36 percent or more by weight of wool or fine animal hair	43.5¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	46.3¢/kg + 58.5%	
	6202.13.40	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG) 8% (AU)	90%	''.

(12) By striking subheadings 6202.19.10 and 6202.19.90 and inserting the following, with the article description for subheading 6202.19.05 having the same degree of indentation as the article description for subheading 6202.19.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.19.05	Recreational performance outerwear	Free		35%	
		Other:				
	6202.19.10	Containing 70 percent or more by weight or silk or silk waste	Free		35%	
	6202.19.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(13) By striking subheadings 6202.91.10 and 6202.91.20 and inserting the following, with the article description for subheading 6202.91.05 having the same degree of indentation as the article description for subheading 6202.91.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.91.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6202.91.10	Padded, sleeveless jackets	14%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 9.8% (OM)	58.5%	
	6202.91.20	Other	36¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 25.2¢/kg + 11.4% (OM)	46.3¢/kg + 58.5%	''.

(14) By striking subheadings 6202.92.10 through 6202.92.20 and inserting the following, with the article description for subheading 6202.92.05 having the same degree of indentation as the article description for subheading 6202.92.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.92.05	Recreational performance outerwear	Free		60%	
		Other:				

6202.92.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.10–9912.62.11 (MA)	60%	
	Other:				
6202.92.15	Water resistant	6.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 5.5% (AU) See 9912.62.10, 9912.62.12 (MA)	37.5%	
6202.92.20	Other	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.10, 9912.62.13 (MA)	90%	''.

(15) By striking subheadings 6202.93.10 through 6202.93.50 and inserting the following, with the article description for subheading 6202.93.05 having the same degree of indentation as the article description for subheading 6202.93.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.93.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.93.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
		Other:				
	6202.93.20	Padded, sleveless jackets	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	76%	
		Other:				
	6202.93.40	Containing 36 percent or more by weight of wool or fine animal hair	43.4¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	46.3¢/kg + 58.5%	
		Other:				
	6202.93.45	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 6.3% (AU)	65%	
	6202.93.50	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(16) By striking subheadings 6202.99.10 and 6202.99.90 and inserting the following, with the article description for subheading 6202.99.05 having the same degree of indentation as the article description for subheading 6202.99.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.99.05	Recreational performance outerwear	Free		35%	
		Other:				
	6202.99.10	Containing 70 percent or more by weight or silk or silk waste	Free		35%	
	6202.99.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(17) By striking subheadings 6203.41 and 6203.41.05 and inserting the following, with the article description for subheadings 6203.41 having the same degree of indentation as the article description for subheading 6203.41 (as in effect on the day before the date of the enactment of this Act):

''	6203.41	Of wool or fine animal hair:				
	6203.41.05	Recreational performance outerwear	Free		52.9¢/kg + 58.5%	
		Trousers, breeches, and shorts:				
	6203.41.10	Trousers, breeches, or shorts containing elastomeric fiber, water resistant, without beltloops, weighing more than 9 kg per dozen	7.6%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 6.8% (AU) 5.3% (OM)	52.9¢/kg + 58.5%	''.

(18) By striking subheadings 6203.42.10 through 6203.42.40 and inserting the following, with the article description for subheading 6203.42.05 having the same degree of indentation as the article description for subheading 6203.42.10 (as in effect on the day before the date of the enactment of this Act):

''	6203.42.05	Recreational performance outerwear	Free		60%	
		Other:				
	6203.42.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
	6203.42.20	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.22–9912.62.23 (MA)	90%	
	6203.42.40	Other	16.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.22, 9912.62.24 (MA)	90%	''.

(19) By striking subheadings 6203.43.10 through 6203.43.40 and inserting the following, with the article description for subheading 6203.43.05 having the same degree of indentation as the article description for subheading 6203.43.10 (as in effect on the day before the date of the enactment of this Act):

''	6203.43.05	Recreational performance outerwear	Free		60%	
		Other:				
	6203.43.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
		Bib and brace overalls:				
	6203.43.15	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.25–9912.62.26 (MA)	65%	

6203.43.20	Other	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.27 (MA)	76%	
	Other:				
6203.43.25	Certified hand-loomed and folklore products	12.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.28 (MA)	76%	
	Other:				
6203.43.30	Containing 36 percent or more by weight of wool or fine animal hair	49.6¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.29 (MA)	52.9¢/kg + 58.5%	
	Other:				
6203.43.35	Water resistant trousers or breeches	7.1%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 6.3% (AU) See 9912.62.25–9912.62.26 (MA)	65%	
6203.43.40	Other	27.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.30 (MA)	90%	''.

(20) By striking subheadings 6203.49 through 6203.49.80 and inserting the following, with the article description for subheading 6203.49 having the same degree of indentation as the article description for subheading 6203.49 (as in effect on the day before the date of the enactment of this Act):

''	6203.49	Of other textile materials:			
	6203.49.05	Recreational performance outerwear	Free		76%
		Other:			
		Of artificial fibers:			
	6203.49.10	Bib and brace overalls	8.5%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 7.6% (AU)	76%
		Trousers, breeches and shorts:			
	6203.49.15	Certified hand-loomed and folklore products	12.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	76%

	6203.49.20	Other	27.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	
	6203.49.40	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6203.49.80	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(21) By striking subheadings 6204.61.10 and 6204.61.90 and inserting the following, with the article description for subheading 6204.61.05 having the same degree of indentation as the article description for subheading 6204.61.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.61.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6204.61.10	Trousers and breeches, containing elastomeric fiber, water resistant, without belt loops, weighing more than 6 kg per dozen	7.6%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 5.3% (OM) 6.8% (AU) See 9912.62.57–9912.62.58 (MA)	58.5%	
	6204.61.90	Other	13.6%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 9.5% (OM) 8% (AU) See 9912.62.57, 9912.62.59 (MA)	58.5%	''.

(22) By striking subheadings 6204.62.10 through 6204.62.40 and inserting the following, with the article description for subheading 6204.62.05 having the same degree of indentation as the article description for subheading 6204.62.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.62.05	Recreational performance outerwear	Free		60%	
		Other:				
	6204.62.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
	6204.62.20	Bib and brace overalls	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.60–9912.62.61 (MA)	90%	
		Other:				
	6204.62.30	Certified hand-loomed and folklore products	7.1%	Free (BH, CA, CL, E, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.60, 9912.62.62 (MA)	37.5%	

	6204.62.40	Other	16.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.60, 9912.62.63 (MA)	90%	''.

(23) By striking subheadings 6204.63.10 through 6204.63.35 and inserting the following, with the article description for subheading 6204.63.05 having the same degree of indentation as the article description for subheading 6204.63.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.63.05	Recreational performance outerwear	Free		60%	
		Other:				
	6204.63.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
		Bib and brace overalls:				
	6204.63.12	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.64–9912.62.65 (MA)	65%	
	6204.63.15	Other	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.66 (MA)	76%	
		Other:				
	6204.63.20	Certified hand-loomed and folklore products	11.3%	Free (BH, CA, CL, E, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.67 (MA)	76%	
		Other:				
	6204.63.25	Containing 36 percent or more by weight of wool or fine animal hair	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.68 (MA)	58.5%	
		Other:				
	6204.63.30	Water resistant trousers or breeches	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.64–9912.62.65 (MA)	65%	

	6204.63.35	Other	28.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.69 (MA)	90%	''.

(24) By striking subheadings 6204.69 through 6204.69.90 and inserting the following, with the article description for subheading 6204.69 having the same degree of indentation as the article description for subheading 6204.69 (as in effect on the day before the date of the enactment of this Act):

''	6204.69	Of other textile materials:				
	6204.69.05	Recreational performance outerwear	Free		76%	
		Other:				
		Of artificial fibers:				
	6204.69.10	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70–9912.62.71 (MA)	76%	
		Trousers, breeches and shorts:				
	6204.69.20	Containing 36 percent or more by weight of wool or fine animal hair	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70–9912.62.71 (MA)	58.5%	
	6204.69.25	Other	28.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70, 9912.62.72 (MA)	90%	
		Of silk or silk waste:				
	6204.69.40	Containing 70 percent or more by weight of silk waste	1.1%	Free (AU, BH, CA, CL, E, IL, J, JO, MX, OM, P, PE, SG) See 9912.62.70, 9912.62.73 (MA)	65%	
	6204.69.60	Other	7.1%	Free (BH, CA, CL, E*, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.70, 9912.62.74 (MA)	65%	

6204.69.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MX, OM, P, PE, SG) See 9912.62.70, 9912.62.75 (MA)	35%	''.

(25) By striking subheading 6211.32.00 and inserting the following, with the article description for subheading 6211.32 having the same degree of indentation as the article description for subheading 6211.32.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.32	Of cotton:			
	6211.32.05	Recreational performance outerwear	Free		90%
	6211.32.10	Other	8.1%	Free (AU, BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 3.2% (OM)	90% ''.

(26) By striking subheading 6211.33.00 and inserting the following, with the article description for subheading 6211.33 having the same degree of indentation as the article description for subheading 6211.33.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.33	Of man-made fibers:			
	6211.33.05	Recreational performance outerwear	Free		76%
	6211.33.10	Other	16%	Free (AU, BH, CA, CL, IL, JO, MX, P, PE, SG) 11.2% (OM) See 9912.62.99–9912.63.00 (MA)	76% ''.

(27) By striking subheadings 6211.39 and 6211.39.05 and inserting the following, with the article description for subheading 6211.39 having the same degree of indentation as the article description for subheading 6211.39 (as in effect on the day before the date of the enactment of this Act):

''	6211.39	Of other textile materials:			
	6211.39.04	Recreational performance outerwear	Free		58.5%
	6211.39.08	Of wool or fine animal hair	12%	Free (AU, BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8.4% (OM)	58.5% ''.

(28) By striking subheading 6211.41.00 and inserting the following, with the article description for subheading 6211.41 having the same degree of indentation as the article description for subheading 6211.41.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.41	Of wool or fine animal hair:			
	6211.41.05	Recreational performance outerwear	Free		58.5%
	6211.41.10	Other	12%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 8.4% (OM)	58.5% ''.

(29) By striking subheading 6211.42.00 and inserting the following, with the article description for subheading 6211.42 having the same degree of indentation as the article description for subheading 6211.42.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.42	Of cotton:			
	6211.42.05	Recreational performance outerwear	Free		90%
	6211.42.10	Other	8.1%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 3.2% (OM) 7.2% (AU) See 9912.63.01–9912.63.02 (MA)	90% ''.

(30) By striking subheading 6211.43.00 and inserting the following, with the article description for subheading 6211.43 having the same degree of indentation as the article description for subheading 6211.43.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.43	Of man-made fibers:				
	6211.43.05	Recreational performance outerwear	Free		90%	
	6211.43.10	Other	16%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU)		
				11.2% (OM)	90%	''.

(31) By striking subheadings 6211.49.10 and 6211.49.90 and inserting the following, with the article description for subheading 6211.49.05 having the same degree of indentation as the article description for subheading 6211.49.10 (as in effect on the day before the date of the enactment of this Act):

''	6211.49.05	Recreational performance outerwear	Free		35%	
		Other:				
	6211.49.10	Containing 70 percent or more by weight or silk or silk waste	1.2%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	35%	
	6211.49.90	Other	7.3%	Free (BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)		
				6.5% (AU)	35%	''.

SEC. _05. SUSTAINABLE TEXTILE AND APPAREL RESEARCH FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Sustainable Textile and Apparel Research Fund (in this section referred to as the ''STAR Fund'').

(b) DEPOSITS.—There shall be deposited into the STAR Fund amounts equal to the fees collected on recreational performance outerwear under subsection (d).

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The STAR Fund shall be administered by a board of directors (in this section referred to as the ''Board'') composed of 5 individuals familiar with the recreational performance outerwear textile and apparel industry, including the production of raw materials and the finished products thereof, who shall be appointed by the President.

(2) MEMBERS.—Not fewer than 2 of the individuals appointed to the Board under paragraph (1) shall be representatives of entities involved in the production of fabrics or raw materials for use in recreational performance outerwear in the United States, and not fewer than 2 of such individuals shall be representatives of entities involved in the production of recreational performance outerwear that pay the fees imposed on the importation of such outerwear under subsection (d).

(3) INELIGIBLE INDIVIDUALS.—The President may not appoint individuals to the Board under paragraph (1) who are representatives of entities not involved in the production of recreational performance outerwear, such as customs brokers, converters, forwarders, or shippers.

(d) FUNDING.—

(1) FEE.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect upon entry, or withdrawal from warehouse for consumption, a fee of 1.5 percent of the appraised value of imported garments (as determined under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a)) that are classifiable under the Harmonized Tariff Schedule of the United States as recreational performance outerwear (as defined in Additional U.S. Note 2 to chapter 61 and Additional U.S. Note 3 to chapter 62 of the Harmonized Tariff Schedule of the United States).

(2) EXCLUSIONS.—The assessment of fees under paragraph (1) shall not apply to imports of recreational performance outerwear from the following:

(A) Any country that is party to a free trade agreement with the United States that—

(i) is in effect on the day before the date of the enactment of this Act; or

(ii) enters into force under the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.), or similar subsequent authority.

(B) Any country designated as a CBTPA beneficiary country under section 213(b)(5)(B) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)(B)).

(C) Any country designated as a beneficiary sub-Saharan African country under section 506A(a)(1) of the Trade Act of 1974 (19 U.S.C. 2466a(a)(1)), if the President has determined that the country has satisfied the requirements of section 113(a) of the African Growth and Opportunity Act (19 U.S.C. 3722(a)), and has published that determination in the Federal Register.

(D) Any country that was designated as an ATPDEA beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)) on February 12, 2011.

(3) TERMINATION.—The fee under paragraph (1) shall apply only to entries, or withdrawals from warehouse for consumption, that are made during the 10-year period beginning on the date of the enactment of this Act.

(e) DISTRIBUTION.—

(1) QUARTERLY DISTRIBUTIONS.—The Secretary of Commerce, upon a majority vote of the Board, taken annually, shall, not later than 60 days after the end of each calendar quarter, distribute amounts in the STAR Fund to one or more entities that the Board considers appropriate to use the funds in accordance with subsection (f).

(2) ELIGIBILITY REQUIREMENTS.—An entity may receive funds under paragraph (1) only if the entity—

(A) is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from tax under section 501(a) of such Code;

(B) is an organization having at least 10 years of experience providing applied research, technology development, and education to all parts of the textile and apparel supply chain, with a research capability demonstrated through past research programs involving supply chain management, product development, fit specifications, operations management, lean manufacturing, or digital supply chain technologies on behalf of the textile and sewn products industries in the United States; and

(C) is comprised of members representing the following segments of the supply chain:

(i) One or more of the following types of producers: fiber, yarn, or fabric producers in the United States.

(ii) Apparel producers in the United States.

(iii) Retail companies in the United States.

(f) USE OF FUNDS.—Funds distributed under subsection (e) may be used only to conduct applied research, development, and education activities to enhance the competitiveness of businesses in the United States in clean, eco-friendly apparel, other textile and apparel articles, and sewn-product design and manufacturing.

(g) REQUIREMENTS.—The Secretary of Commerce may impose such requirements on the use of funds distributed under subsection (e) as the Secretary considers necessary to ensure compliance with subsection (f), including requiring reporting and assurances by the entities using the funds.

(h) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress a report, not later than April 1 of each year, explaining in detail how amounts in the STAR Fund were distributed under subsection (e) and used under subsection (f) during the preceding calendar year.

SEC. _06. EFFECTIVE DATE.

This title and the amendments made by this title shall—

(1) take effect on the 15th day after the date of the enactment of this Act; and

(2) apply to articles entered, or withdrawn from warehouse for consumption, on or after such day.

SA 715. Mr. WYDEN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. PORTMAN, Mr. BLUNT, and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned

currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—PREVENTION OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

SECTION __01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Enforcing Orders and Reducing Customs Evasion Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Procedures

SEC. __11. PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 516A (19 U.S.C. 1516a) the following:

''SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' has the meaning given that term in section 771(1).

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Finance and the Committee on Appropriations of the Senate; and

''(B) the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives.

''(3) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for U.S. Customs and Border Protection.

''(4) COVERED MERCHANDISE.—The term 'covered merchandise' means merchandise that is subject to—

''(A) an antidumping duty order issued under section 736;

''(B) a finding issued under the Antidumping Act, 1921; or

''(C) a countervailing duty order issued under section 706.

''(5) ENTER; ENTRY.—The terms 'enter' and 'entry' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

''(6) EVADE; EVASION.—The terms 'evade' and 'evasion' refer to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

''(7) INTERESTED PARTY.—The term 'interested party' has the meaning given that term in section 771(9).

''(b) PROCEDURES FOR INVESTIGATING ALLEGATIONS OF EVASION.—

''(1) INITIATION BY PETITION OR REFERRAL.—

''(A) IN GENERAL.—Not later than 10 days after the date on which the Commissioner receives a petition described in subparagraph (B) or a referral described in subparagraph (C), the Commissioner shall initiate an investigation pursuant to this paragraph if the Commissioner determines that the information provided in the petition or the referral, as the case may be, is accurate and reasonably suggests that covered merchandise has been entered into the customs territory of the United States through evasion.

''(B) PETITION DESCRIBED.—A petition described in this subparagraph is a petition that—

''(i) is filed with the Commissioner by any party who is an interested party with respect to covered merchandise;

''(ii) alleges that a person has entered covered merchandise into the customs territory of the United States through evasion; and

''(iii) is accompanied by information reasonably available to the petitioner supporting the allegation.

''(C) REFERRAL DESCRIBED.—A referral described in this subparagraph is information submitted to the Commissioner by any other Federal agency, including the Department of Commerce or the United States International Trade Commission, indicating that a person has entered covered merchandise into the customs territory of the United States through evasion.

''(2) DETERMINATIONS.—

''(A) PRELIMINARY DETERMINATION.—

''(i) IN GENERAL.—Not later than 90 days after the date on which the Commissioner initiates an investigation under paragraph (1), the Commissioner shall issue a preliminary determination, based on information available to the Commissioner at the time of the determination, with respect to whether there is a reasonable basis to believe or suspect that the covered merchandise was entered into the customs territory of the United States through evasion.

''(ii) EXTENSION.—The Commissioner may extend by not more than 45 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a preliminary determination under that clause is not available within that time period or the inquiry is unusually complex.

''(B) FINAL DETERMINATION.—

''(i) IN GENERAL.—Not later than 120 days after making a preliminary determination under subparagraph (A), the Commissioner shall make a final determination, based on substantial evidence, with respect to whether covered merchandise was entered into the customs territory of the United States through evasion.

''(ii) EXTENSION.—The Commissioner may extend by not more than 60 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a final determination under that clause is not available within that time period or the inquiry is unusually complex.

''(C) OPPORTUNITY FOR COMMENT; HEARING.—Before issuing a preliminary determination under subparagraph (A) or a final determination under subparagraph (B) with respect to whether covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(i) provide any person alleged to have entered the merchandise into the customs territory of the United States through evasion, and any person that is an interested party with respect to the merchandise, with an opportunity to be heard;

''(ii) upon request, hold a hearing with respect to whether the covered merchandise was entered into the customs territory of the United States through evasion; and

''(iii) provide an opportunity for public comment.

''(D) AUTHORITY TO COLLECT AND VERIFY ADDITIONAL INFORMATION.—In making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), the Commissioner—

''(i) shall exercise all existing authorities to collect information needed to make the determination; and

''(ii) may collect such additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by—

''(I) issuing a questionnaire with respect to covered merchandise to—

''(aa) a person that filed a petition under paragraph (1)(B);

''(bb) a person alleged to have entered covered merchandise into the customs territory of the United States through evasion; or

''(cc) any other person that is an interested party with respect to the covered merchandise; or

''(II) conducting verifications, including on-site verifications, of any relevant information.

''(E) ADVERSE INFERENCE.—

''(i) IN GENERAL.—If the Commissioner finds that a person that filed a petition under paragraph (1)(B), a person alleged to have entered covered merchandise into the customs territory of the United States through evasion, or a foreign producer or exporter, has failed to cooperate by not acting to the best of the person's ability to comply with a request for information, the Commissioner may, in making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), use an inference that is adverse to the interests of that person in selecting from among the facts otherwise available to determine whether evasion has occurred.

''(ii) ADVERSE INFERENCE DESCRIBED.—An adverse inference used under clause (i) may include reliance on information derived from—

''(I) the petition, if any, submitted under paragraph (1)(B) with respect to the covered merchandise;

''(II) a determination by the Commissioner in another investigation under this section;

''(III) an investigation or review by the administering authority under title VII; or

''(IV) any other information placed on the record.

''(F) NOTIFICATION AND PUBLICATION.—Not later than 7 days after making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), the Commissioner shall—

''(i) provide notification of the determination to—

''(I) the administering authority; and

''(II) the person that submitted the petition under paragraph (1)(B) or the Federal agency that submitted the referral under paragraph (1)(C); and

''(ii) provide the determination for publication in the Federal Register.

''(3) BUSINESS PROPRIETARY INFORMATION.—

''(A) ESTABLISHMENT OF PROCEDURES.—For each investigation initiated under paragraph (1), the Commissioner shall establish procedures for the submission of business proprietary information under an administrative protective order that—

''(i) protects against public disclosure of such information; and

''(ii) for purposes of submitting comments to the Commissioner, provides limited access to such information for—

''(I) the person that submitted the petition under paragraph (1)(B) or the Federal agency that submitted the referral under paragraph (1)(C); and

''(II) the person alleged to have entered covered merchandise into the customs territory of the United States through evasion.

''(B) ADMINISTRATION IN ACCORDANCE WITH OTHER PROCEDURES.—The procedures established under subparagraph (A) shall be administered—

''(i) to the maximum extent practicable, in a manner similar to the manner in which the administering authority administers the administrative protective order procedures under section 777;

''(ii) in accordance with section 1905 of title 18, United States Code; and

''(iii) in a manner that is consistent with the obligations of the United States under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)) (relating to customs valuation).

''(C) DISCLOSURE OF BUSINESS PROPRIETARY INFORMATION.—The Commissioner shall, in accordance with the procedures established under subparagraph (A) and consistent with subparagraph (B), make all business proprietary information presented to, or obtained by, the Commissioner during an investigation available to the persons specified in subparagraph (A)(ii) under an administrative protective order, regardless of when such information is submitted during an investigation.

''(4) REFERRALS TO OTHER FEDERAL AGENCIES.—

''(A) AFTER PRELIMINARY DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative preliminary determination under paragraph (2)(A), the Commissioner shall, at the request of the head of another Federal agency, transmit the administrative record to the head of that agency.

''(B) AFTER FINAL DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative final determination under paragraph (2)(B), the Commissioner shall, at the request of the head of another Federal agency, transmit the complete administrative record to the head of that agency.

''(C) PROTECTIVE ORDERS.—Before transmitting an administrative record to the head of another Federal agency under subparagraph (A) or (B), the Commissioner shall verify that the other agency has in effect with respect to the administrative record a protective order that provides the same or a similar level of protection for the information in the administrative record as the protective order in effect with respect to such information under this subsection.

''(c) EFFECT OF DETERMINATIONS.—

''(1) EFFECT OF AFFIRMATIVE PRELIMINARY DETERMINATION.—If the Commissioner makes a preliminary determination in accordance with subsection (b)(2)(A) that there is a reasonable basis to believe or suspect that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(A) suspend the liquidation of each unliquidated entry of the covered merchandise that is subject to the preliminary determination and that entered on or after the date of the initiation of the investigation under paragraph (1);

''(B) pursuant to the Commissioner's authority under section 504(b), extend the period in which to liquidate each unliquidated entry of the covered merchandise that is subject to the preliminary determination and that entered before the date of the initiation of the investigation under paragraph (1);

''(C) review and reassess the amount of bond or other security the importer is required to post for each entry of merchandise described in subparagraph (A) or (B);

''(D) require the posting of a cash deposit with respect to each entry of merchandise described in subparagraph (A) or (B); and

''(E) take such other measures as the Commissioner determines appropriate to ensure the collection of any duties that may be owed with respect to merchandise described in subparagraph (A) or (B) as a result of a final determination under subsection (b)(2)(B).

''(2) EFFECT OF NEGATIVE PRELIMINARY DETERMINATION.—If the Commissioner makes a preliminary determination in accordance with subsection (b)(2)(A) that there is not a reasonable basis to believe or suspect that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall continue the investigation and notify the administering authority pending a final determination under subsection (b)(2)(B).

''(3) EFFECT OF AFFIRMATIVE FINAL DETERMINATION.—If the Commissioner makes a final determination in accordance with subsection (b)(2)(B) that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(A) suspend or continue to suspend, as the case may be, the liquidation of each entry of the covered merchandise that is subject to the determination and that enters on or after the date of the determination;

''(B) pursuant to the Commissioner's authority under section 504(b), extend or continue to extend, as the case may be, the period in which to liquidate each entry of the covered merchandise that is subject to the determination and that entered before the date of the determination;

''(C) notify the administering authority of the determination and request that the administering authority—

''(i) identify the applicable antidumping or countervailing duty assessment rate for the entries for which liquidation is suspended or extended under subparagraph (A) or (B) of paragraph (1) or subparagraph (A) or (B) of this paragraph; or

''(ii) if no such assessment rates are available at the time, identify the applicable cash deposit rate to be applied to the entries described in subparagraph (A) or (B), with the applicable antidumping or countervailing duty assessment rates to be provided as soon as such rates become available;

''(D) require the posting of cash deposits and assess duties on each entry of merchandise described in subparagraph (A) or (B) in accordance with the instructions received from the administering authority under paragraph (5);

''(E) review and reassess the amount of bond or other security the importer is required to post for merchandise described in subparagraph (A) or (B) to ensure the protection of revenue and compliance with the law; and

''(F) take such additional enforcement measures as the Commissioner determines appropriate, such as—

''(i) initiating proceedings under section 592 or 596;

''(ii) implementing, in consultation with the relevant Federal agencies, rule sets or modifications to rules sets for identifying, particularly through the Automated Targeting System and the Automated Commercial Environment, importers, other parties, and merchandise that may be associated with evasion;

''(iii) requiring, with respect to merchandise for which the importer has repeatedly provided incomplete or erroneous entry summary information in connection with determinations of evasion, the importer to submit entry summary documentation and to deposit estimated duties at the time of entry;

''(iv) referring the record in whole or in part to U.S. Immigration and Customs Enforcement for civil or criminal investigation; and

''(v) transmitting the administrative record to the administering authority for further appropriate proceedings.

''(4) EFFECT OF NEGATIVE FINAL DETERMINATION.—If the Commissioner makes a final determination in accordance with subsection (b)(2)(B) that covered merchandise was not entered into the customs territory of the United States through evasion, the Commissioner shall terminate the suspension or extension of liquidation pursuant to subparagraph (A) or (B) of paragraph (1) and refund any cash deposits collected pursuant to paragraph (1)(D) that are in excess of the cash deposit rate that would otherwise have been applicable the merchandise.

''(5) COOPERATION OF ADMINISTERING AUTHORITY.—

''(A) IN GENERAL.—Upon receiving a notification from the Commissioner under paragraph (3)(C), the administering authority shall promptly provide to the Commissioner the applicable cash deposit rates and antidumping or countervailing duty assessment rates and any necessary liquidation instructions.

''(B) SPECIAL RULE FOR CASES IN WHICH THE PRODUCER OR EXPORTER IS UNKNOWN.—If the Commissioner and administering authority are unable to determine the producer or exporter of the merchandise with respect to which a notification is made under paragraph (3)(C), the administering authority shall identify, as the applicable cash deposit rate or antidumping or countervailing duty assessment rate, the cash deposit or duty (as the case may be) in the highest amount applicable to any producer or exporter, including the 'all-others' rate of the merchandise subject to an antidumping order or countervailing duty order under section 736 or 706, respectively, or a finding issued under the Antidumping Act, 1921, or any administrative review conducted under section 751.

''(d) SPECIAL RULES.—

''(1) EFFECT ON OTHER AUTHORITIES.—Neither the initiation of an investigation under subsection (b)(1) nor a preliminary determination or a final determination under subsection (b)(2) shall affect the authority of the Commissioner—

''(A) to pursue such other enforcement measures with respect to the evasion of antidumping or countervailing duties as the Commissioner determines necessary, including enforcement measures described in clauses (i) through (iv) of subsection (c)(3)(F); or

''(B) to assess any penalties or collect any applicable duties, taxes, and fees, including pursuant to section 592.

''(2) EFFECT OF DETERMINATIONS ON FRAUD ACTIONS.—Neither a preliminary determination nor a final determination under subsection (b)(2) shall be determinative in a proceeding under section 592.

''(3) NEGLIGENCE OR INTENT.—The Commissioner shall investigate and make a preliminary determination or a final determination under this section with respect to whether a person has entered covered merchandise into the customs territory of the United States through evasion without regard to whether the person—

''(A) intended to violate an antidumping duty order or countervailing duty order under section 736 or 706, respectively, or a finding issued under the Antidumping Act, 1921; or

''(B) exercised reasonable care with respect to avoiding a violation of such an order or finding.''.

(b) TECHNICAL AMENDMENT.—Clause (ii) of section 777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)(1)(A)) is amended to read as follows:

''(ii) to an officer or employee of U.S. Customs and Border Protection who is directly involved in conducting an investigation regarding fraud under this title or claims of evasion under section 516B.''.

(c) JUDICIAL REVIEW.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)(III), by striking ''or'' at the end;

(B) in clause (ii), by adding ''or'' at the end; and

(C) by inserting after clause (ii) the following:

''(iii) the date of publication in the Federal Register of a determination described in clause (ix) of subparagraph (B),''; and

(2) in subparagraph (B), by adding at the end the following new clause:

''(ix) A determination by the Commissioner responsible for U.S. Customs and Border Protection under section 516B that merchandise has been entered into the customs territory of the United States through evasion.''.

(d) FINALITY OF DETERMINATIONS.—Section 514(b) of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by striking ''section 303'' and all that follows through ''which are reviewable'' and inserting ''section 516B or title VII that are reviewable''.

SEC. __12. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Subtitle B—Other Matters

SEC. __21. DEFINITIONS.

In this subtitle, the terms ''appropriate congressional committees'', ''Commissioner'', ''covered merchandise'', ''enter'' and ''entry'', and ''evade'' and ''evasion'' have the meanings given those terms in section 516B(a) of the Tariff Act of 1930 (as added by section __11 of this title).

SEC. __22. ALLOCATION OF U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

(a) REASSIGNMENT AND ALLOCATION.—The Commissioner shall, to the maximum extent possible, ensure that U.S. Customs and Border Protection—

(1) employs sufficient personnel who have expertise in, and responsibility for, preventing the entry of covered merchandise into the customs territory of the United States through evasion; and

(2) on the basis of risk assessment metrics, assigns sufficient personnel with primary responsibility for preventing the entry of covered merchandise into the customs territory of the United States through evasion to the ports of entry in the United States at which the Commissioner determines potential evasion presents the most substantial threats to the revenue of the United States.

(b) COMMERCIAL ENFORCEMENT OFFICERS.—Not later than September 30, 2011, the Secretary of Homeland Security, the Commissioner, and the Assistant Secretary for U.S. Immigration and Customs Enforcement shall assess and properly allocate the resources of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement—

(1) to effectively implement the provisions of, and amendments made by, this Act; and

(2) to improve efforts to investigate and combat evasion.

SEC. __23. REGULATIONS.

(a) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Commissioner shall issue regulations to carry out this title and the amendments made by title I.

(b) COOPERATION BETWEEN U.S. CUSTOMS AND BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, AND DEPARTMENT OF COMMERCE.—Not later than 240 days after the date of the enactment of this Act, the Commissioner, the Assistant Secretary for U.S. Immigration and Customs Enforcement, and the Secretary of Commerce shall establish procedures to ensure maximum cooperation and communication between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Department of Commerce in order to quickly, efficiently, and accurately investigate allegations of evasion under section 516B of the Tariff Act of 1930 (as added by section __11 of this Act).

SEC. __24. ANNUAL REPORT ON PREVENTION OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Not later than February 28 of each year, beginning in 2012, the Commissioner, in consultation with the Secretary of Commerce, shall submit to the appropriate congressional committees a report on the efforts being taken pursuant to section 516B of the Tariff Act of 1930 (as added by section __11 of this title) to prevent the entry of covered merchandise into the customs territory of the United States through evasion.

(b) CONTENTS.—Each report required under subsection (a) shall include—

(1) for the fiscal year preceding the submission of the report—

(A) the number and a brief description of petitions and referrals received pursuant to section 516B(b)(1) of the Tariff Act of 1930 (as added by section __11 of this title);

(B) the results of the investigations initiated under such section, including any related enforcement actions, and the amount of antidumping and countervailing duties collected as a result of those investigations; and

(C) to the extent appropriate, a summary of the efforts of U.S. Customs and Border Protection, other than efforts initiated pursuant section 516B of the Tariff Act of 1930 (as added by section __11 of this title), to prevent the entry of covered merchandise into the customs territory of the United States through evasion; and

(2) for the 3 fiscal years preceding the submission of the report, an estimate of—

(A) the amount of covered merchandise that entered the customs territory of the United States through evasion; and

(B) the amount of duties that could not be collected on such merchandise because the Commissioner did not have the authority to reliquidate the entries of such merchandise.

SEC. __25. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON RELIQUIDATION AUTHORITY.

Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees, and make available to the public, a report estimating the amount of duties that could not be collected on covered merchandise that entered the customs territory of the United States through evasion during fiscal years 2009 and 2010 because the Commissioner did not have the authority to reliquidate the entries of such merchandise.

SA 716. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, insert the following:

SEC. 16. REPEAL OF MEDICAL DEVICE EXCISE TAX.

Subsections (a), (b), and (c) of section 1405 of the Health Care and Education Reconciliation Act of 2010, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section and amendments had never been enacted.

SA 717. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REGULATORY TIME-OUT.

(a) SHORT TITLE.—This section may be cited as the ''Regulatory Time-Out Act of 2011''.

(b) DEFINITIONS.—In this section—

(1) the term ''agency'' has the meaning given that term under section 3502(1) of title 44, United States Code; and

(2) the term ''covered regulation'' means a final regulation that—

(A) directly or indirectly increases costs on businesses in a manner which will have an adverse effect on job creation, job retention, productivity, competitiveness, or the efficient functioning of the economy;

(B) is likely to—

(i) have an annual effect on the economy of $100,000,000 or more;

(ii) adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(iii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(iv) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(v) raise novel legal or policy issues; and

(C) did not take effect before September 1, 2011.

(c) TIME-OUT PERIOD FOR REGULATIONS.—

(1) PRIOR REGULATIONS.—A covered regulation that took effect before the date of enactment of this Act shall be treated as though that regulation never took effect for the 1-year period beginning on the date of enactment of this Act.

(2) PROSPECTIVE REGULATIONS.—A covered regulation that has not taken effect before the date of enactment of this Act, may not take effect during the 1-year period beginning on the date of enactment of this Act.

(d) EXEMPTIONS.—

(1) IN GENERAL.—The head of an agency may exempt a covered regulation prescribed by that agency from the application of subsection (c), if the head of the agency—

(A) makes a specific finding that the covered regulation—

(i) is necessary due to an imminent threat to human health or safety, or any other emergency;

(ii) is necessary for the enforcement of a criminal law;

(iii) has as its principal effect—

(I) fostering private sector job creation and the enhancement of the competitiveness of workers in the United States;

(II) encouraging economic growth; or

(III) repealing, narrowing, or streamlining a rule, regulation, or administrative process, or otherwise reducing regulatory burdens;

(iv) pertains to a military or foreign affairs function of the United States; or

(v) is limited to interpreting, implementing, or administering the Internal Revenue Code of 1986; and

(B) submits the finding to Congress and publishes the finding in the Federal Register.

(2) REVIEW.—Not later than 10 days after the date of enactment of this Act each agency shall submit any covered regulation that the head of the agency determines is exempt under this section to the Office of Management and Budget and Congress.

(3) NONDELEGABLE AUTHORITY.—The head of an agency may not delegate the authority provided under this subsection to exempt the application of any provision of this section.

SA 718. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—REGULATORY RELIEF

SEC. ___01. SHORT TITLE.

This title may be cited as the ''EPA Regulatory Relief Act of 2011''.

SEC. ___02. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this title referred to as the ''Administrator'') shall—

(1) propose regulations for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units, subject to any of the rules specified in subsection (b)—

(A) establishing maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act'') for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act.

(b) STAY OF EARLIER RULES.—The following rules are of no force or effect, shall be treated as though such rules had never taken effect, and shall be replaced as described in subsection (a):

(1) ''National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters'', published at 76 Fed. Reg. 15608 (March 21, 2011).

(2) ''National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers'', published at 76 Fed. Reg. 15554 (March 21, 2011).

(3) ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 76 Fed. Reg. 15704 (March 21, 2011).

(4) ''Identification of Non-Hazardous Secondary Materials That Are Solid Waste'', published at 76 Fed. Reg. 15456 (March 21, 2011).

(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—With respect to any standard required by subsection (a) to be promulgated in regulations under section 112 of the Clean Air Act (42 U.S.C. 7412), the provisions of subsections (g)(2) and (j) of such section 112 shall not apply prior to the effective date of the standard specified in such regulations.

SEC. ___03. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section ___02, the Administrator—

(1) shall establish a date for compliance with standards and requirements under such regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for such compliance, shall take into consideration—

(A) the costs of achieving emissions reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time needed to—

(i) obtain necessary permit approvals; and

(ii) procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section ___02(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of such Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid waste incineration unit under section 129(g)(2) of such Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or otherwise affect the provisions of paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. ___04. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act''), in promulgating rules under section __02(a) addressing the subject matter of the rules specified in paragraphs (3) and (4) of section ___02(b), the Administrator—

(1) shall adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 65 Fed. Reg. 75338 (December 1, 2000); and

(2) shall identify non-hazardous secondary material to be solid waste only if—

(A) the material meets such definition of commercial and industrial waste; or

(B) if the material is a gas, it meets such definition of contained gaseous material.

SEC. ___05. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section ___02(a), the Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section ___02(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).

SA 719. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. REPEAL OF CLASS PROGRAM.

(a) REPEAL.—Title XXXII of the Public Health Service Act (42 U.S.C. 300ll et seq.; relating to the CLASS program) is repealed.

(b) CONFORMING CHANGES.—

(1) Title VIII of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 119, 846–847) is repealed.

(2) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking paragraphs (81) and (82);

(B) in paragraph (80), by inserting ''and'' at the end; and

(C) by redesignating paragraph (83) as paragraph (81).

(3) Paragraphs (2) and (3) of section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) are amended to read as such paragraphs were in effect on the day before the date of the enactment of section 8002(d) of the Patient Protection and Affordable Care Act (Public Law 111–148). Of the funds appropriated by paragraph (3) of such section 6021(d), as amended by the Patient Protection and Affordable Care Act, the unobligated balance is rescinded.

(c) RESCISSION OF UNOBLIGATED DISCRETIONARY APPROPRIATIONS.—

(1) IN GENERAL.—Of the unobligated balances of discretionary appropriations on the date of enactment of this Act, $86,000,000,000 is rescinded.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—The Director of the Office of Management and Budget shall determine

which appropriation accounts the rescission under paragraph (1) shall apply to and the amount that each such account shall be reduced by pursuant to such rescission.

(B) REPORT.—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 listing the accounts reduced by the rescission in paragraph (1) and the amounts rescinded from each such account.

(3) EXCEPTIONS.—The rescission under paragraph (1) shall not apply to the Department of Defense, the Department of Veterans Affairs, or the Social Security Administration.

SA 720. Mr. ROBERTS (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. USE OF PESTICIDES IN OR NEAR NAVIGABLE WATERS.

(a) USE OF AUTHORIZED PESTICIDES.—Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF AUTHORIZED PESTICIDES.—Except as provided in section 402(s) of the Federal Water Pollution Control Act, the Administrator or a State may not require a permit under that Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of such a pesticide, resulting from the application of the pesticide.''.

(b) DISCHARGES OF PESTICIDES.—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(s) DISCHARGES OF PESTICIDES.—

''(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), or the residue of such a pesticide, resulting from the application of the pesticide.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

''(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

''(i) the discharge would not have occurred but for the violation; or

''(ii) the quantity of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

''(B) Stormwater discharges subject to regulation under subsection (p).

''(C) The following discharges subject to regulation under this section:

''(i) Manufacturing or industrial effluent.

''(ii) Treatment works effluent.

''(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.''.

SA 721. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. PROHIBITION ON TREASURY REGULATIONS WITH RESPECT TO INFORMATION REPORTING ON CERTAIN INTEREST PAID TO NONRESIDENT ALIENS.

Except to the extent provided in Treasury Regulations as in effect on February 21, 2011, the Secretary of the Treasury shall not require (by regulation or otherwise) that an information return be made by a payor of interest in the case of interest—

(1) which is described in section 871(i)(2)(A) of the Internal Revenue Code of 1986, and

(2) which is paid—

(A) to a nonresident alien, and

(B) on a deposit maintained at an office within the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. 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 October 4, 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 THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 4, 2011, at 3 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 4, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVENMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on October 4, 2011, at 10:30 a.m. to conduct a hearing entitled, ''Costs of Prescription Drug Abuse in the Medicare Part D Program.''

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER PROTECTION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Financial Institutions and Consumer Protection be authorized to meet during the session of the Senate on October 4, 2011 at 3 p.m. to conduct a hearing entitled ''Consumer Protection and Middle Class Wealth Building in an Age of Growing Household Debt.''

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

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Immigration, Refugees, and Border Security, be authorized to meet during the session of the Senate, on October 4, 2011, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''America's Agricultural Labor Crisis: Enacting a Practical Solution.''

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Water and wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate, on October 4, 2011, at 2:30 p.m. in Dirksen 406 to conduct a hearing entitled ''Nutrient Pollution: an Overview of Nutrient Reduction Approaches.''

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 361; that the Senate proceed to vote without intervening action or debate the motion to reconsider be considered made and laid on the table with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, the clerk will report the nomination.

The legislative clerk read the nomination of Francis Joseph Ricciardone, Jr., of Massachusetts, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

The PRESIDING OFFICER. Is there further debate on the nomination?

If not, the question is on confirmation of the nomination.

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

DESIGNATING THE SCHERTZ VETERANS POST OFFICE

DESIGNATING THE SERGEANT CHRIS DAVIS POST OFFICE

Mr. REID. Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from the following post office naming bills en bloc and the Senate proceed to their consideration en bloc: H.R. 771 and H.R. 1632.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senate proceeded to consider the bills.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any related statements be printed in the RECORD.

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

The bill (H.R. 771) to designate the facility of the United States Postal Service located at 1081 Elbel Road in Schertz, Texas, as the ''Schertz Veterans Post Office,'' was ordered to a third reading, was read the third time, and passed.

The bill (H.R. 1632) to designate the facility of the United States Postal Service located at 5014 Gary Avenue in Lubbock, Texas, as the ''Sergeant Chris Davis Post Office,'' was ordered to a third reading, was read the third time, and passed.

NATIONAL SAVE FOR RETIREMENT WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Res. 266 and the Senate proceed to its consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 266) supporting the goals and ideals of ''National Save for Retirement Week,'' including raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 266

Whereas people in the United States are living longer, and the cost of retirement is increasing significantly;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement, and the actual amount of retirement savings of workers is much less than the amount needed to adequately fund their retirement years;

Whereas the financial literacy of workers in the United States is an important factor to workers understanding the true need to save for retirement;

Whereas saving for retirement is a key component to overall financial health and security during retirement years, and the importance of financial literacy in planning for retirement must be advocated;

Whereas many workers may not be aware of their options in saving for retirement or may not have focused on the importance of, and need for, saving for retirement;

Whereas many employees have available to them, through their employers, access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of those employees may not be taking advantage of those plans at all or to the full extent allowed by Federal law;

Whereas the need to save for retirement is important even during economic downturns or market declines, which make continued contributions all the more important;

Whereas all workers, including public and private sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to develop personal budgets and financial plans that include retirement savings strategies and to take advantage of the availability of tax-preferred savings vehicles to assist workers in saving for retirement; and

Whereas October 16 through October 22, 2011, has been designated as ''National Save for Retirement Week'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Save for Retirement Week'', including raising public awareness of the various tax-preferred retirement vehicles as important tools for personal savings and retirement financial security;

(2) supports the need to raise public awareness of the availability of a variety of ways to save for retirement which are favored under the Internal Revenue Code of 1986 and are utilized by many people in the United States, but which should be utilized by more;

(3) supports the need to raise public awareness of the importance of saving adequately for retirement and the continued existence of tax-preferred employer-sponsored retirement savings vehicles; and

(4) calls on the States, localities, schools, universities, nonprofit organizations, businesses, other entities, and the people of the United States to observe National Save for Retirement Week with appropriate programs and activities, with the goal of increasing retirement savings for all people in the United States.

ORDERS FOR WEDNESDAY, OCTOBER 5, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Wednesday, October 5, 2011; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 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; and that following morning business, the Senate resume consideration of S. 1619, the Currency Exchange Rate Oversight Reform Act.

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

PROGRAM

Mr. REID. Mr. President, cloture was filed tonight on S. 1619. Unless an agreement is reached, this vote will occur Thursday morning an hour after we come in session. The filing deadline for first-degree amendments to S. 1619 is 1 p.m. tomorrow, Wednesday. Votes on amendments to the bill are possible during Wednesday's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:43 p.m., adjourned until Wednesday, October 5, 2011, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 4, 2011:

DEPARTMENT OF STATE

FRANCIS JOSEPH RICCIARDONE, JR., OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM DECEMBER 22, 2010, TO JANUARY 5, 2011.