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# Senate

The Senate met at 2 p.m. and was called to order by the Honorable JEFF BINGAMAN, a Senator from the State of New Mexico.

## PRAYER

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

Let us pray.

O God of love, give our lawmakers wisdom to know what they ought to do. Create in them a passion to seek the truth, the humility to accept advice, and the courage to act with integrity. Deliver them from the lack of resistance which too easily yields to temptation and from the procrastination which puts things off until it is too late. May Your wisdom motivate them to faithfully follow Your commands. Empower each of them with the grace to seek and to find, to know and to love, to obey and to live the truth.

We pray in Your great Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JEFF BINGAMAN led the Pledge of Allegiance as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 19, 2012.*

*To the Senate:*

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

DANIEL K. INOUYE,
*President pro tempore.*

Mr. BINGAMAN 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. Mr. President, following any leader remarks the Senate will be in morning business until 4:30 this afternoon. The filing deadline for all first-degree amendments to the substitute amendment to H.R. 3606 is 4 o'clock this afternoon.

Following morning business, the Senate will begin consideration of H.R. 3606, the capital formation/IPO bill.

There will be no votes today. We will have a couple of votes in the morning.

## EXPORT-IMPORT BANK

Mr. REID. Mr. President, this week the Senate resumes debate on a measure to improve innovators' access to capital. This bill passed the House on a bipartisan vote and has President Obama's support. We could make this legislation even better by passing the modest consumer protections included in the substitute amendment we will consider tomorrow. But Members of both parties agree we should pass it quickly. We will finish work on this legislation this week.

It is nice to see Democrats and Republicans standing on common ground for a change. But while this IPO proposal will be good for business—helping to give startups the flexibility they need to hire and grow—experts agree its impact on job creation will be limited. The IPO bill is a good bill, but we all recognize its job creation impact will be fairly limited.

We want to do something with this legislation to increase the amount of jobs that will be forthcoming soon, which we have done. So as part of this IPO bill, it is important Congress also reauthorize the Ex-Im Bank, and do it now.

Reauthorization of the Ex-Im Bank will help American exporters compete in a global economy and sell more of their products overseas. Last year, Ex-Im Bank financing helped 3,600 private companies and almost 300,000 jobs were added in more than 2,000 communities. That is why the Ex-Im Bank has always enjoyed broad bipartisan support.

The last time this measure came before the body, it was offered by a Republican Senator and was passed by unanimous consent. The reauthorization legislation we will vote on tomorrow is also bipartisan. It passed the Banking Committee unanimously. It has three Republican cosponsors and the strong backing of the U.S. Chamber of Commerce. Yet I read that some of my Republican colleagues don't want to advance this bipartisan measure.

Remember, it does not increase the debt whatsoever. Instead, I have been told that some Republicans want to start another drawn-out, knockdown fight over a proposal that passed unanimously the last time the Senate considered it. It doesn't make sense.

So let's review what is at stake. Unless Congress acts, Ex-Im Bank may hit its lending limit this month. American exporters could no longer rely on an even playing field with global competitors.

The Ex-Im Bank loans money to American businesses when private lending is not available. Its investments made $41 billion in U.S. exports possible last year alone. That is why Ex-Im Bank Chairman Fred Hochberg says our competitors abroad ''are licking their chops'' at the idea that America would stop backing businesses that sell their products overseas.

Many of the businesses that are growing and hiring because of Export-Import Bank financing are small businesses. But the men and women who

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

run large outfits such as Boeing, American Express, Johnson & Johnson, Caterpillar, GE, and Motorola are also on record in supporting the Ex-Im Bank.

American entrepreneurs can't afford Congress to give up on them now. China already provides three to four times as much financing as we do to help Chinese exporters. So we must help American exporters. We must continue to give American businesses a fair shot to compete in a global market. Since Ex-Im Bank doesn't add a penny to the deficit, there is no excuse for Republicans not to support it. The nonpartisan Congressional Budget Office says this commonsense legislation will actually reduce the deficit by about $1 billion.

It is critical we pass the IPO bill to help businesses access capital, but it is even more important we reauthorize the job-creating Export-Import Bank which helps those companies compete abroad. This proposal will support hundreds of thousands of more jobs in the small business capital bill. Together it will be a real knockout. It will be great for America.

Democrats brought this measure to the floor in an effort to find more common ground, and passing it would be another major accomplishment of which both parties can be proud.

## RESERVATION OF LEADER TIME

Mr. REID. Will the Chair announce the business of the day.

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, there will now be a period of morning business until 4:30 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Rhode Island.

## ORDER OF PROCEDURE

Mr. REED. Mr. President, I ask unanimous consent to speak for up to 45 minutes in morning business, and I will be prepared to yield back such time as I do not use.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

## JOBS ACT

Mr. REED. Mr. President, today I rise to discuss H.R. 3606, the so-called JOBS Act. As chairman of the Subcommittee on Securities, Insurance, and Investment of the Senate Banking Committee, I wish all of my colleagues to know this legislation, as it is currently drafted, is not ready to become law—and if it does, it could have unintended consequences that will hurt investors, seniors, and average American families.

One of the supposed premises behind this legislation is that if we just deregulate the securities market, then more companies will choose to issue public stock. The only reason they have been deterred from going to the public markets, according to this view, is the excessive regulatory burdens placed upon them.

The Banking Committee has been holding a series of hearings on different provisions in this legislation, and the reason we have discovered there have been fewer IPOs does not appear to be connected to regulatory burdens in any real way, but it appears to be more connected to economic and geographic factors. That being said, many of us hear on a daily basis, despite the recent financial crisis, about how the American regulatory system is making us less competitive, especially in the context of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In fact, in testimony before the Senate Banking Committee, Lynn Turner, a former SEC chief accountant, states that the data says otherwise. In his words:

> The reason IPOs track the economy is that investors invest to earn a return. When the economy is growing, companies can grow. . . . However, when the economy has stalled or is declining, and companies are not growing, investors simply cannot achieve the types of return they need to justify making an investment. . . . As a result of the downturns in the economy that occurred during much of the 1970s brought on in part by withdrawal from Vietnam, the recession brought on by inflation at the beginning of the 1980s, the dot com bubble and the corporate scandals, and the most recent great recession, investors became concerned about returns that could be earned in the markets and IPOs declined. As the economy and employment have recovered after each of these downturns, so has the IPO market.

Mr. Turner went on to state when he served on a Colorado commission that was exploring why so many small companies were failing in Colorado, he said:

> [W]e found that access to capital was not the primary cause of failure. Rather it was lack of sufficient expertise and management within the company including in such areas as marketing and operations. While access to sufficient capital for any company is important, I have found that those emerging companies with better management teams and proven products, or products with great growth potential are able to obtain it. Those are the types of companies VCs and private equities seek out.

VCs are venture capital companies.

As another securities expert, Professor Mercer Bullard, the Jessie D. Puckett, Jr. Lecturer and Associate Professor of Law at the University of Mississippi School of Law, wrote to me in a letter dated March 15 of this year:

> The exemption for emerging growth companies would exempt so many companies from key investor protection provisions that the world-leading brand that is the ''U.S. public company'' would be substantially weakened.

So how do we find the balance between facilitating capital formation while maintaining fair, orderly, and efficient markets and protecting investors?

As chair of the Subcommittee on Securities, Insurance and Investment, I want all of my colleagues to know this legislation, as it is currently drafted, does not have that right balance.

We are getting inundated with letters and phone calls from securities experts from around the country saying: Please slow down and let this legislation be improved and amended. On Friday, Commissioner Luis Aguilar of the Securities and Exchange Commission stated:

> It is clear to me that H.R. 3606 in its current form weakens or eliminated many regulations designed to safeguard investors. I must voice my concerns because as an SEC Commissioner, I cannot sit idly by when I see potential legislation that could harm investors. This bill seems to impose tremendous costs and potential harm on investors with little or no corresponding benefit.

The Chairman of the Securities and Exchange Commission, Mary Schapiro, wrote in a letter dated March 13, 2012:

> While I recognize that H.R. 3606 is the product of a bipartisan effort designed to facilitate capital formation and includes certain promising approaches, I believe there are provisions that should be added or modified to improve investor protections that are worthy of Senate consideration.

In a Banking Committee hearing we held on March 6, 2012, Professor Jay Ritter, the Cordell Professor of Finance of the University of Florida, also testified that we should be careful because some of these bills could actually decrease capital formation and discourage job growth. He stated:

> It is possible that by making it easier to raise money privately, creating some liquidity without being public, restricting information that stockholders have access to . . . restricting the ability of public market shareholders to constrain managers after investors contribute capital, and driving out independent research, the net effects of these bills might be to reduce capital formation and/or the number of small IPOs.

In a hearing before the Securities, Insurance, and Investment Subcommittee in December, Professor John Coates, the John F. Cogan Professor of Law and Economics at Harvard Law School told us some of the proposals in the House bill actually have the potential to harm job growth. He stated:

> Whether the proposals will in fact increase job growth depends on how intensively they will lower offer costs, how extensively new offerings will take advantage of the new means of raising capital, how much more fraud can be expected to occur as a result of the changes, how serious the fraud will be, and how much the reduction in information verifiability will be as a result of these changes. . . . Thus, the proposals could not only generate front-page scandals, but reduce the very thing they are being promoted to increase: Job growth.

In other words, if these bills don't protect investors enough more fraud will occur, and it will actually decrease access to capital for smaller companies.

We have also heard from respected business commentators about the

shortcomings of the House bill. Steve Pearlstein, the noted business columnist for the Washington Post, wrote:

What we know from painful experience—from the mortgage and credit bubble, from Enron, WorldCom and the tech and telecom boom, from the savings and loan crisis and the junk bond scandal and generations of penny-stock scandals—is that financial markets are incapable of self-regulation. In fact, they are prone to just about every type of market failure listed in economic textbooks.

Pearlstein points out the characteristics of markets that can lead to failures. First, there is the prevailing problem of asymmetric information. Insiders typically know, or should know, a lot about their company. If key information is withheld, investors are denied critical information to make informed judgments. The House bill would, under the guise of ''streamlining,'' undercut necessary disclosures which are essential to protect investors. He further notes the misalignment of incentives between promoters of securities and investors. Once the sale is complete, the promoter typically moves on to other targets.

The investor depends on the performance of the company to validate the investment, and that usually takes time. Indeed, in many respects, it is the issue of the short run versus the long run that distinguishes sound investments from get-rich-quick schemes. The disclosures inherent in the securities laws have, over 80 years, attempted to strike a balance—to provide investors with the information to make sound long-term investments and to thwart the ''fast-buck'' promoters in for a quick kill. The House bill seriously undermines these disclosures.

The editors of Bloomberg have also weighed in with telling criticism of the House bill. They point out:

Supporters of the [House] bill point to the falloff in initial public offerings as evidence that regulatory costs are dissuading entrepreneurs from creating businesses or taking them public. And they say rescinding the analyst research restrictions would benefit small companies, which Wall Street otherwise ignores. That sounds great in theory, but the reality offers a different picture. It's true the number of initial offerings has declined, but evidence suggests that has less to do with regulation and more to do with global economic trends.

That is according to the Bloomberg editors.

They go on to point out the conclusions of Professor Jay Ritter, whom I have already cited. Again according to Bloomberg, Professor Ritter ''has documented, the decline in IPOs is related to declining profitability of small business. Many are opting to merge with larger companies to quickly get bigger and more profitable, rather than go public.''

The Bloomberg editors further point out:

Many of the rules the [House] bill seeks to upend have helped companies, including the internal controls rule. An SEC study, for example, found that such audits helped companies avoid financial restatements, which are costly exercises that often drive down share prices.

They conclude:

It shouldn't be necessary to gut investor safeguards to promote job creation. If investors lose confidence because of worries about fraud, they will demand a higher return on their money, raising the cost of capital for all.

Floyd Norris, the respected financial writer for the New York Times, struck similar themes and criticisms in an article last week. He asked:

Do you remember the scandals of the dotcom era? Then Wall Street firms got business by promising companies that they would write positive research reports if the company would only hire them to underwrite an initial public offering of stock. Companies went public at a feverish pitch, often rising to amazing heights without much in the way of sales, let alone profits. Then it all came crashing down.

In the aftermath, the brokers were forced by the Securities and Exchange Commission, as well as the New York attorney general, to mend their ways. No longer would analysts be allowed to go on such IPO sales calls.

Norris goes on:

This bill would end that rule for all but the biggest new offerings—those that involved companies with sales of over $1 billion. And it would go much further. As the law stands now, to keep underwriters from making sales pitches that go beyond what companies are allowed to say, the underwriters are prohibited from publishing research on a company while its initial public offering is under way. This bill would allow such research, and would say that the company bore no responsibility for what was said in it. Effectively, there would be a second prospectus—one largely immune to securities laws and free to hype the offering by making forecasts not otherwise allowed.

He goes on:

Why is this needed? Advocates point to the fact that there are fewer initial public offerings now than there were during the Internet bubble. That most of those offerings were horrible investments is conveniently ignored. Nor is any consideration given to the idea that once-burned investors might be more wary. The explanation must be excessive and unreasonably expensive regulation.

Norris went on further to remind his readers of the relentless ingenuity of promoters trying to circumvent the disclosure laws under the securities acts. He recalled the recent activities of Chinese companies to gain access to American investors without full disclosure through the process of reverse mergers. He pointed out:

Last year, the SEC, worried about a spate of frauds, required Chinese companies to follow the same rules that American ones do, with prospectuses made public as soon as they were filed. Since last summer, there have been no new Chinese initial public offerings in the United States. That tightening of regulation would be reversed by this bill.

He went on to quote Paul Gillis, a former auditor for PricewaterhouseCoopers in China who is now a visiting professor of accounting at Peking University. Mr. Gillis's words:

If you like those e-mails from Nigerian scammers, wait until you see the new round about to come from shady Chinese companies looking for investment—and they will be legal.

In an interview, Mr. Gillis praised section 404, the part of the Sarbanes-Oxley Act of 2002 that requires companies going public to have effective internal controls and for auditors to certify them. He said:

When companies list, they hire consultants to help them design internal control systems to provide integrity in their reports. These control systems are new to these countries. They have helped significantly. . . .

The second premise behind this legislation is that access to capital, whether through crowdfunding, mini-offerings, advertising private offerings, or more IPOs, will lead to more jobs. In actuality, in this case it is unclear whether more access to capital will temporarily create jobs and then destroy them or have a minimal effect. Most of the experts we have talked to suggest the effects will be minimal. In effect, it could create a bubble like the ones we have seen with mortgages, the ones we have seen with dot-coms.

If this legislation remains unbalanced, then it is likely to result in more unsuccessful investments for investors. Recent history has shown this will result in investors ultimately pulling out of the market, reducing business access to capital and costing families and others money much needed for education and retirement.

Like many of my colleagues on both sides of the aisle, I do believe there are some innovative proposals in the House bill, and I believe the amendment I am proposing along with Senator LANDRIEU and Senator LEVIN—the substitute amendment—includes many of these ideas in a way that better balances market transparency and investor protection with improving small business's access to capital.

One of these ideas with merit is the creation of a financial framework that allows entrepreneurs and small businesses to raise capital through crowdfunding—relatively small investments from many individuals through online platforms. There is a lot of energy around this concept of crowdfunding. However, this proposal needs to be done very carefully. It is critically important to ensure appropriate regulatory oversight for crowdfunding and make sure there is a strong balance between investor protection and improving small business's access to capital.

In our bill, this is the place where we envision the smallest entrepreneurs could obtain much needed seed capital for their good ideas.

I recently visited a company in Rhode Island called Betaspring. Instead of being an incubator for small businesses, Betaspring considers itself to be a ''boot camp'' for entrepreneurs. Betaspring is constantly trying to help entrepreneurs to access capital, but sometimes it is difficult to find enough friends and family who can help out. But my colleagues, Senators JEFF MERKLEY, MICHAEL BENNET, and SCOTT BROWN, have worked long and hard on structuring a bill in this area, which we have included in the Reed-Landrieu-Levin substitute amendment. I will let

them talk to you about this part of our amendment in more detail. However, I believe their crowdfunding language is a vast improvement over the House bill, which would permit investors to invest up to the greater of $10,000 or 10 percent of their annual income without having to meet any minimum wealth or financial sophistication standards.

Not only are issuers exempt from registration from securities offerings for up to $2 million in the House bill, it would also exempt the intermediaries who seek to profit from the operation of crowdfunding markets.

I think these House provisions are corrected by the approach taken by my colleagues, Senator MERKLEY, Senator BROWN, and Senator BENNET. I believe the Senate bill they propose addresses many of the concerns expressed by Professor John Coffee of the Columbia University School of Law when he called such crowdfunding provisions the ''Boiler Room Legalization Act''—a reference to the bad old days when people gathered in what were called boiler rooms and made cold calls to try to elicit unwary investors into dubious schemes.

There is another section of our bill which will help small and medium-sized companies access larger amounts of money—up to $50 million—to infuse their businesses with much needed capital.

We have proposed a few but very important improvements to the work of Senators TESTER and TOOMEY in their legislation and to similar language in the House bill.

Let me talk about the improvements to the so-called regulation A or mini-offering section of the bill to achieve a better balance between investor protections and access to capital.

Like the House bill, our bill raises the amount of money that can be raised in a mini-offering process. However, four improvements are made in the Reed-Landrieu-Levin amendment.

We require that audited financial statements be filed with the mini-offering statement so that investors truly know what the financial situation of the company is before they invest.

Let me make a point here. The House proposal would not require audited financials be filed with the offering documents. I would think as a basic premise, if you are making an offering for up to $50 million, investors deserve to have financial statements signed off on by a third party auditor. Our legislation requires it.

We require periodic disclosures of material information to investors. For example, perhaps the investor of a certain high-tech product the company is making leaves the company or passes away or something else happens. Investors deserve to know about that type of information.

We limit the amount that can be raised through the mini-offering process to $50 million every 3 years. The House bill would allow investors to raise $50 million every 12 months, potentially allowing many companies to avoid going fully public and evading more rigorous public reporting requirements.

Finally, we require a study and report on the new mini-offering exemption from Securities Act registration. This study is to be conducted by the SEC, in consultation with the State securities administrators, and submitted to Congress no later than 5 years after the date of enactment, so that we consider whether any changes need to be made to the mini-offering concept created in this legislation.

Although this is still an experiment—to allow general solicitation and advertising to retail investors for what are bound to be risky offerings—I believe the protections we have built in will make it a safer experiment.

We also worked to make some improvements to the initial public offering or IPO on-ramp section of the bill.

The essence of this proposal in the House is to phase in certain securities laws and regulations for, in their terms, ''emerging growth companies'' so they can grow more slowly into becoming a public company, with all of its benefits and responsibilities.

There are companies that have or will outgrow either the reg D private placement method of raising capital or the new reg A mini-offering method of raising capital. But the key issue here is what we think the definition of an ''emerging growth company'' should be.

The way the House bill is written, it would exempt virtually all new public companies from nonbinding shareholder votes on say on pay and executive compensation pay in connection with a merger acquisition; the relationship between executive compensation and the performance of the issuer; the requirement under Securities Act section 7 that more than 2 years of audited financial statements be provided for an IPO; and a requirement that the company's auditor attest to the effectiveness of the company's financial systems or internal controls under section 404(b).

After discussions with many experts, it is clear that a company with $1 billion in annual revenue is not what most of them consider to be an emerging growth company. But that is the level the House has chosen, $1 billion in annual revenues.

In fact, under this definition, the House bill would have exempted more than 80 percent of current IPOs from registration requirements which, as I mentioned earlier, are requirements that only recently appear to be difficult to manage.

As a result, Senators LANDRIEU, LEVIN, and I decided this definition needed to be much more targeted toward smaller IPO companies with less than $350 million in annual revenue. Even the House bill would have allowed Enron and WorldCom to be subject to this phase-in, in terms of reporting and auditing requirements.

In addition to focusing this provision on smaller firms, we also took out the provisions in the House bill that were eliminating corporate governance improvement made in the Dodd-Frank bill, such as say on pay and requirements that the company demonstrate the connection between executive performance and company performance. We need to give these provisions more than a year to see how well they are working.

The Reed-Landrieu-Levin amendment also eliminates the provision in the House bill that interferes with independent accounting standards, and would have set up two different sets of rules, one for emerging growth companies and one for other public companies. We agreed with the Chamber of Commerce that these provisions should be taken out. The chamber stated in a letter dated February 15, 2012 that:

> The opt-out for new accounting and auditing standards would create a bifurcated financial reporting system with less certainty and comparability for investors, while creating increased liability risk for boards of directors, audit committees and Chief Financial Officers.

We also dramatically narrow the provisions in the House bill that would have eviscerated the settlement between all of the securities regulators and 10 Wall Street investment banks regarding the undue influence of the investment banking unit of a firm on the securities research unit affiliated with the same brokerage firm.

We learned at a significant cost through the 1980s and the 1990s the value of independent analysis of markets and securities. Jeff Madrick, a respected journalist, discussed this issue in his book. In his words:

> A measure of this practice was the increase in the number of buy recommendations. At the end of the 1980s, after a long run-up in stocks, buy recommendations exceeded sell recommendations by a large and suspect margin of four to one. By the early 1990s, buy recommendations exceeded sells by eight to one. By the late 1990s, only 1 percent of analysts' recommendations urged an outright sale. The low percentage remained unchanged even when stock prices were falling and the investment community was pessimistic.

After the stock market collapsed in the early 2000s, securities analysts started to admit what was happening inside these firms. Ronald Glantz, a veteran respected analyst from Paine Webber, testified before Congress in 2001 as follows:

> Now the job of analysts is to bring in investment banking clients, not provide good investment advice. This began in the mid-1980s. The prostitution of security analysts was completed during the high-tech mania of the last few years. For example, in 1997 a major investment banking firm offered to triple my pay. They had no interest in the quality of my recommendations. I was shown a list with 15 names and asked, ''How quickly can you issue buy recommendations on these potential clients?''

We believe that the wall between a financial institution's research and brokerage units needs to be maintained.

Our substitute amendment would allow a research report to be provided by a firm subject to SEC restrictions, disclosure, and filing requirements. In particular, the research cannot contain any recommendation to purchase or sell such security.

In addition, any written communications provided to potential investors must be filed with the SEC so that they can take a look at it. These written communications will become part of the issuer's prospectus, which should give investors some added protections. This too is a bit of an experiment, given the massive fraud committed on investors that led to the global research analyst settlement in 2003. But we have dramatically narrowed the scope of the experiment from the one in the House version.

Finally, we allow companies to opt out of the emerging growth company designation and fully comply with all public company regulatory requirements, which very well may improve the price of their stock, since investors will have more information regarding the company.

As I said earlier, if these changes in exemptions go too far, some believe we are doing more harm than good by weakening the value of the public company brand in the United States and actually harming our competitiveness in world markets. That is why we have tried to narrow, appropriately, the proposals in the House legislation.

Next, I want to talk about the most important changes in our bill from the House bill. The House bill effectively eliminated SEC prohibitions against soliciting or advertising about private offerings of securities. Most private placements are offered under SEC rules known as regulation D. These securities are sold without an IPO or registration statement being filed with the SEC, usually to a small number of chosen accredited investors.

In the United States, for an individual to be considered an accredited investor, he or she must have a net worth of at least $1 million, not including the value of the person's primary residence, or have made at least $200,000 each year for the last 2 years, or $300,000 together with his or her spouse, if married, and have the expectation to make the same amount in the current year.

The current net worth and income triggers were adopted 30 years ago. They have never been changed. The share of U.S. households that met the test in 1982 was 1.6 percent. It is now at least four times that share. The largest share of accredited investor households is retirees, many of whom struggled for decades to save their nest egg.

Because accredited investors are eligible for private placement, they can be targeted with slick sales pitches without any SEC review or mandatory disclosure. The House bill removes current prohibitions against general solicitation or advertising for these private offerings, which most securities experts believe will have serious consequences.

Under the current regulatory framework, if the SEC sees unregistered offerings being advertised, they can immediately close down the issuer, since they are breaking the law by publicly advertising or soliciting. Under the House bill, there will be a lot more solicitation of all investors, perhaps on late-night cable or the Internet, with the only protection being after the fact under antifraud principles or ex post inspections of sales records to see if the issuers appropriately sold only to accredited investors.

SEC Commissioner Aguilar stated in his statement on March 16, 2012, that this provision may be a ''boon to boiler room operators, Ponzi schemers, bucket shops, and garden variety fraudsters, by enabling them to cast a wider net, and make securities enforcement more difficult.''

Realizing in a world of the Internet and Twitter that even private communications to accredited investors can be broadly disseminated, our bill takes a much more targeted approach to this issue. In our amendment, we allow for limited public solicitation and advertising that is done only in ways and through methods approved by the SEC. We are sympathetic to the fact that in a world of new media, it is increasingly difficult for issuers to control their outreach efforts to accredited investors. We believe our amendment gives the SEC the tools it needs to formulate a limited exemption to the general solicitation and advertising rules allowing private offerings to still be private. None of us wants this legislation to be a boon to boiler room operators and Ponzi schemers targeting our Nation's retirees or anyone else.

Finally, I want to talk about the shareholder cap issue. What has become clear to me as a result of the capital formation hearings in the Banking Committee is that this issue of the appropriate number of shareholders to trigger routine reporting through the SEC is something that requires very careful consideration. The present 500 recordholder threshold was originally introduced to address complaints of fraudulent activity in the over-the-counter market for securities.

Since firms with fewer than the threshold number of investors were not required to routinely disclose their financial information, outside buyers were not able to make fully informed decisions regarding their investments. The exchange act mandates that investors in over-the-counter securities be provided with equivalent information to that provided to investors trading stocks on the major exchanges if the company has 500 holders of record and at least $10 million in assets.

Many believe this threshold needs to be updated. But the House bill dramatically increased the threshold from 500 to 2,000. Others believe raising this threshold to 2,000 would impair capital allocation and market efficiency, reducing public information about widely traded companies and denying investors appropriate information about companies.

First, we believe the House bill risks allowing large companies with less than 2,000 recordholders—and listen to some of these companies: Hyatt, Hertz, Chiquita Brands, Adobe Systems, HCA Holdings—Hospital Corporation of America—Kaiser Aluminum, Royal Caribbean Cruises, Towers Watson, Ralph Lauren, and Accenture—and these are just some of them—to delist and go dark without disclosure or regulatory oversight. I think that would frustrate the expectations of many of their investors.

As a result, we decided to take a more prudent approach in our amendment and raise the level from 500 to 750. At the same time, we believe the holder of record actually needs to be the beneficial owner of the security. This means he or she has power to vote the share or dispose of the share. Through our hearings on this matter, it is clear that many big firms are getting around this requirement by pooling shares in a street name, such as an investment company like JP Morgan. These big firms have many thousands or hundreds of beneficial owners that can sell and dispose of their shares and have the right to the dividends. But on the books of the company, it is just one recordholder. Our amendment eliminates this work-around and requires the holder of record to actually be the beneficial owner.

We are also sympathetic to the fact that many more companies are starting to give their employees stock as part of their compensation plan. We are sympathetic to their desire not to have this prematurely trigger the Securities Exchange Act. Companies such as WaWa and Wegmans testified before the Banking Committee that they want to give their employees shares without forcing their company to have to go public. As a result, our amendment exempts employees for the recordholder account, which should allow firms to give as many shares as they want to their employees without forcing them to go public before they are ready.

We think our provision achieves a better balance between market transparency through disclosures and investor protections and the needs of some of our most successful family-owned or privately held firms to reward their employees and maintain their private status.

As we debate H.R. 3606, which could dramatically weaken the world leading brand that is the American public company, we should realize that we are undertaking a dramatic and perhaps unfounded experiment. We should also understand that deregulating our securities markets may have no effect whatsoever on the number of IPOs.

Companies are desperate for funding since we just went through the biggest financial crisis since the Depression

and lending is down. Deregulating our capital markets could temporarily infuse our markets with more cash, but at what cost? The cost could be quite great. As Jessie Eisinger stated in his ProPublica column on March 14:

It's been about a year now since Chinese reverse-merger companies collapsed. In that scandal, dozens of those small Chinese companies went public in the United States without having to run the gauntlet of the Securities and Exchange Commission's registration rules. After they blew up by the boatload, the SEC cracked down and tightened its rules. Since then, short-sellers' pickings have been slim. By allowing new public small companies to not disclose financial information for years, the bill will provide new targets for short-selling hedge funds.

Like Mr. Eisinger, I believe the House bill as currently drafted basically makes markets less transparent and more subject to manipulation. What the House bill clearly does not do is address the needs that I hear about from employers in my State.

The economy consists of a lot of moving pieces. Economic recovery on its own will do more to reverse the decline in business activity than any provision in the House bill. Moreover, the House bill doesn't include provisions that I am hearing from Rhode Island employers would actually be helpful to creating jobs, such as Small Business Administration loans and export assistance. As a result, our amendment actually includes a number of already tried and true, tested job-creating measures. It is estimated, for example, that by reauthorizing the Export-Import Bank, our amendment would support an estimated 288,000 American jobs at more than 3,600 U.S. companies in more than 2,000 communities.

Other provisions in our amendment would expand the Small Business Investment Company Program, supporting more small business startups in communities across the United States.

Finally, we continue a modification to the Small Business Administration 504 Loan Program to allow for the refinancing for short-term commercial real estate debt. This provision has proved essential for many small businesses with short-term debt. As we have been looking at the House bill more closely, I think we have all been learning that it is not doing what it was advertised as doing, which is creating more jobs. We need to slow down and go through an appropriate amendment process in the Senate.

As Barbara Roper, director of investor protection for the Consumer Federation of America, recently stated in a March 11, 2012, San Francisco Chronicle article, the House bill as currently drafted is ''completely bipolar.'' On one hand, we are trying to make it easier and less expensive for companies to go public. On the other hand, by increasing the shareholder threshold in the legislation, the House is actually encouraging and letting companies stay private or go private and avoid an IPO.

I urge all my colleagues on both sides of the aisle to take up the Reed-Landrieu-Levin amendment as the base text of the legislation and engage in both a robust debate and amendment process. Our securities markets deserve just as much attention as our Nation's transportation system, and we spent several weeks dealing with the Transportation bill on the Senate floor. The Reed-Landrieu-Levin amendment is a much better place to start this debate on how to improve access to capital in our securities markets without opening them up to unnecessary fraud and manipulation.

With 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. JOHNSON of Wisconsin. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## ORDER OF PROCEDURE

Mr. JOHNSON of Wisconsin. I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 45 minutes.

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

## HEALTH CARE

Mr. JOHNSON of Wisconsin. Mr. President, I wasn't here when they passed the Patient Protection and Affordable Care Act. This week will mark the second anniversary of what I call a very Orwellian name for that piece of legislation because I personally do not believe it is going to protect patients, nor do I believe it is going to improve the affordability of our health care system.

The reason I ran for the Senate was primarily because of this law. I certainly recognized how it was going to result in a lower quality of health care, how it was going to lead to rationing, and how it was going to severely limit the amount of medical innovation we enjoy in this country. In particular, I was offended by the political process demonizing doctors and health care providers, demonizing the health care system in order to pass this health care law.

The reason that offended me is a very personal story. It has to do with my daughter who was born with a very serious congenital heart defect, her aorta and pulmonary artery were reversed. So her first day of life, the doctors—who President Obama said would take out a set of tonsils for a few extra dollars—saved her life within the very first few hours of life. Then, 8 months later, when her heart was only the size of a small plum, another incredibly dedicated and incredibly skilled team of medical professionals totally reconstructed the upper chamber of her heart. Her heart operates backwards now, but she is 28 years old and now she is a nurse herself in a neonatal intensive care unit and she is taking care of those babies.

So when they passed the Patient Protection and Affordable Care Act, I knew the health care system that saved my daughter was at risk. I also knew this health care law was in no way, shape or form going to reduce our Federal deficit. It is just not possible. How can we expect to add 25 million people to government-run health care and reduce the deficit at the same time?

The reason they were able to put forward that fiction is they proposed a piece of legislation that would have revenue, fees, taxes, and penalties for 10 years, while at the same time only providing benefits for the last 6 years of that time period. Basically, what they did was to say we will raise revenue for 10 years of about $1.1 trillion, and we will have 6 years' worth of cost, a little under $1 trillion. That was the fiction.

Half of that revenue generated is going to be in taxes, fees, and penalties. Personally, by increasing taxes and increasing fees on things such as medical insurance, on medical devices, and on pharmaceuticals, I don't see how that bends the cost curve down. It would not bend the cost curve down. It is the same logic this President has used when he is talking about high gasoline prices. He says by increasing taxes on oil companies we will reduce the price of gas. It is just not possible. Increasing fees on providers, reducing reimbursement rates to providers is not going to bend the cost curve down. It is basically not going to happen.

The other half of the pay-fors—the other half of that $1.1 trillion—was proposed reductions basically in payments to Medicare providers. Congress, I would say wisely, has not enacted the sustainable growth rate cuts to providers because they realize, if they do that, access for seniors to medical care will be reduced. I don't see how, if we reduce Medicare by $529 billion, that same access also would not be reduced. From my standpoint, I think it is highly unlikely Congress will actually enact that $529 billion worth of reductions to Medicare. When they do not do that, the $143 billion reduction in our deficit, that fiction, will totally go away.

Another reason for that fiction being exposed is because, fortunately, Congress realized the CLASS Act portion of ObamaCare simply wasn't going to save the money they said it was going to save. It simply wasn't sustainable. Budget Committee Chairman KENT CONRAD actually called the CLASS Act a Ponzi scheme. So this administration has decided not to move forward with its implementation. In doing so, that is removing $70 billion of revenue from that budgetary fiction.

I know Senator KYL has been following this very carefully, in terms of

what is going to happen to our Federal budget, and I am wondering if Senator KYL would want to comment on how he sees the real effect of the health care law on the Federal budget and why that is not going to save us $143 billion in the first year and probably result in far greater costs to the Federal Government if this thing is actually implemented.

Mr. KYL. Mr. President, I would say my colleague from Wisconsin is absolutely right. Let me first of all say, millions of citizens around this country have gotten engaged for the same reason as my colleague did; as a normal citizen, running his business, he saw what was happening here and he decided to get involved. Not everyone can run for the Senate successfully and come back to Washington to bring that message from America right here to the Senate Chamber, but he has done it, and I commend him for his leadership.

Yes, he is absolutely right. It turns out that his predictions and those of us who were on the Senate floor when this bill passed into law saying it was going to cost a lot more than our Democratic friends said; that it was going to cost a lot more than the Congressional Budget Office estimated, well, now the numbers are in and here they are.

The nonpartisan Congressional Budget Office last week just released its updated figures, and it shows that the real cost of the ObamaCare subsidy spending is going to almost double. When ObamaCare was passed, they estimated the cost would be $938 billion. That is on the Medicaid part as well as the taxpayer-funded health insurance subsidies. As my colleague said, that is a 10-year cost. Of course, part of the game is that they are collecting money over 10 years but only paying benefits over 6 and that can make it look pretty good, as my colleague said. But it turns out, when CBO had to reexamine, now with 2 years' experience, what they found is, looking at the entire 10-year budget window, the true size of this cost was masked. Now that we have a clearer picture, voila, CBO says the projected amount is $1.7 trillion over 10 years. In other words, ObamaCare is going to cost more than $700 billion more than CBO estimated at the time the law was passed.

How can they miscalculate by almost double, from $938 billion to now $1.7 trillion? It is not CBO's fault. CBO is a bunch of accountants. They take what we give them and do their figuring. As the Senator from Wisconsin said, what the Senate Democrats and the President gave them was just part of the picture. They said: We are going to give you 10 years' worth of revenues, but we are only going to give you 6 years' worth of expenses. See how that works out. I wish we could all do our private budgets at home that way.

Here is another way to look at it. We have all heard of a mortgage with a bubble payment at the end. That is, in effect, what this was. They basically said: Look, we know CBO has to estimate 10-year budgets, so we have a great idea on how to make this cost less. We will put some of the big expenditures in years 11 and 12. Voila, 10 years of expenditures, not too bad. But now that 2 years have passed and we are now looking at a 10-year budget that goes out 10 more years from now—12 years from when ObamaCare was first calculated—it turns out when we add in years No. 11 and 12, it adds hugely to the cost—$700 billion worth.

We all said this at the time. It was a trick. It was smoke and mirrors. They were pulling a fast one on the American people. We said that. But we heard: Oh no. You can trust CBO. Sure, we could trust CBO as far as they could calculate it. But if one had said, how about years 11 and 12, they would have had to say: That is another story, but we weren't asked about that.

I say to my friend from Wisconsin, he is exactly right. Now the chickens have come home to roost. Now we know what the real cost of this is going to be and, oh, by the way, if we want to go out over the entire period once the law is fully implemented—remember, ObamaCare has not been fully implemented yet. So what happens when we calculate its full cost when truly implemented? The Budget Committee, on which Senator SESSIONS sits, says total spending under ObamaCare will reach $2.6 trillion. So these are the real costs we have to pay attention to, not just the estimates that were made at the time they were trying to get the law passed.

I might either ask the Senator from Wisconsin or our ranking member on the Budget Committee, what about this? If we use real numbers and real costs, are the American taxpayers going to be on the hook for something akin to $2.6 trillion, according to the Budget Committee? That is a lot of money.

Mr. JOHNSON of Wisconsin. I wish to point out, the numbers Senator KYL is talking about are CBO projections, just using a different timeframe. That isn't even taking into account what I have been talking about is an even more significant risk to the deficit, and that is one particular CBO estimate that says, on net, only 1 million Americans will lose their employer-sponsored care.

There are 154 million Americans who get their employer-sponsored care from employer-sponsored plans. To assume that only 1 million people will lose that coverage and get forced into the exchanges is absurd, particularly when we have a study by a very reputable firm, McKinsey & Company, surveying 1,300 employers, which said 30 to 50 percent of employers plan on dropping coverage and having their employees go into the exchanges. It is pretty easy to understand why that might happen. Right now, the health care law is 2,700 pages; there have been another 12,000 pages of rules and regulations. So employers looking at the health care law are looking at, Do I try and comply with, do I try and understand 15,000 pages of regulations and then pay $20,000 for a family plan—which is the new CBO estimate for a family plan in the year 2016. Do I do that or pay the $2,000 penalty?

With ObamaCare, they are not exposing their employees to a financial risk. They are making them eligible for huge subsidies, $10,000, if they have a household income of $64,000.

So I will throw it over to Senator SESSIONS on the Budget Committee. My concern is we are not even beginning to contemplate what the effects of that might be. What does the Senator think of that?

Mr. SESSIONS. I couldn't agree more about the concerns the Senator raised.

Senator JOHNSON was a successful businessman. He provided health insurance for his employees. He had to purchase it. I will just ask him one quick question. Based on his experience—a year and a half ago he was doing this business. What are the incentives for a business that is already in existence, providing health care, why might they not continue to provide it? Why might a new company, a startup company, a small business that hopes to grow and have hundreds of employees—why might they never start with employer-based health care?

Mr. JOHNSON of Wisconsin. Again, it is becoming so complex. It is becoming so expensive. Again, the big difference ObamaCare throws into the equation is, in the past, responsible employers—and most employers truly care about the people who work with them—wouldn't have dreamed of exposing their employees to financial risk that would be obvious if they didn't provide health care insurance. But with ObamaCare, that is not what is happening. Now these exchanges will be available as well as huge subsidies.

I am not aware of too many large Federal subsidies that go unused, and that is my concern. So the equation is totally different now. It is going to be totally different under ObamaCare.

My question for CBO—I know they just conducted a study and did some sensitivity analysis, but they didn't go anywhere near far enough, from my standpoint. I think the largest number of employees they took a look at might have been 20 million individuals. But when we have 154 million Americans getting employer-sponsored care and the McKinsey study saying half of those, more than 75 million—I think we need to take a very serious look at what effect on our budget that would have.

Mr. SESSIONS. I think all of us need to be listening to this because it is something that was not sufficiently considered during the debate; that is, that dramatically more employers may quit providing insurance, new companies that get started will not provide it, people will be on the exchanges, and it will cost far more than was expected. That is an entirely new issue.

Assuming the low numbers the Congressional Budget Office said will go

into the exchanges, just taking the numbers they assumed, let me point out what Senator KYL said. President Obama, in an exact quote to the joint session of Congress when he was promoting this legislation, not some off-the-cuff figure, said this:

Now, add it all up. And the plan I'm proposing will cost around $900 billion over 10 years—

This was a deliberate attempt, as has been suggested, to manipulate the figures because the taxes started right away, but the spending was 4 years delayed essentially, so we only have 6 years of spending under the plan. It also excluded many other provisions.

For example, the bureaucratic implementation costs were not counted. The amount of effort, even the IRS will have to hire people who have to be involved, and this was not counted. New spending to close the Medicare doughnut hole. We didn't have the money in 2002 or 2003 to fund that provision. We have never been in worse shape. We are borrowing 40 cents of every $1 we spend, far worse than we were. Next year will be the fifth consecutive $1 trillion deficit. We don't have the money. So now we are spending more on that program that we don't have, the new or early retiree program.

So once we add all the different provisions in the health care law, total gross spending over the original 10 years, when only 6 years is being paid for—over 10 years is actually 1.4 trillion. Those are the numbers we have. So this was a misrepresentation. This is from 2010 through 2019, 1.4 trillion. But when we add all the costs over the first full 10 years of this health care bill, it will be $2.6 trillion.

The point is, the bill is not good health policy. The American people oppose it overwhelmingly. Absolutely, we do not have the money. We have never had a more systemic death threat to America, and it is so painful to see this happen.

I thank Senator JOHNSON for his energy, for the commitment he has brought to this issue. He has seen it on the other side, the real-world side, and he is helping to motivate us all to explain to the American people the dangers of the bill.

Mr. JOHNSON of Wisconsin. I wish to ask Senator SESSIONS a question. We have talked about this in the past. I know a lot of people talked about the Medicare cuts being double counted, and I never quite understood exactly what that was. Can the Senator maybe explain a little bit to the American people what that means.

Mr. SESSIONS. Yes.

As a part of the funding for the ObamaCare legislation, there was an increase in Medicare taxes and a cut in Medicare benefits totaling $400 billion. That money was used to fund the new health care bill by the U.S. Treasury, an entirely new program. But it is Medicare's money. It is not the Treasury's money. Medicare has trustees. Medicare loaned the money to the U.S. Treasury. It was borrowed money that was used to fund this bill, not money that came in new and free of charge. Since Medicare is going into default and going to claim its debt in a few years, the Federal Government is simply going to have to either raise taxes, cut spending somewhere else or, more likely, convert the borrowing from Medicare, borrow money on the open market from China and other places, and then pay Medicare back.

It is, as the CBO Director told me in a letter, December 23, the night before we voted: You are double counting the money.

No wonder this country is going broke. This isn't extra money. Half the original estimate of the bill, $900 billion, was funded by borrowed money from Medicare. This is how this country is surging in its debt and why we are in danger of the entire economy entering into collapse.

Mr. JOHNSON of Wisconsin. Does the Senator believe those Medicare savings will actually be realized? Does the Senator believe Congress will actually enact those savings?

Mr. SESSIONS. That is a good point, because in the past we have attempted and claimed we were going to make savings in Medicare and they never occurred.

What I am saying is if these savings were to occur and if the new taxes on Medicare go into effect, as they are, that money is what is being used to fund an entirely new health care program. There is real doubt it will ever achieve those savings in Medicare, because if we keep cutting doctors and we keep cutting hospitals, they can't keep doing work. They will start refusing Medicare and Medicaid work. We are in that position already on some of the cuts that we rescind every year because we know the health care system would collapse if those cuts were to go into effect.

Mr. JOHNSON of Wisconsin. That is one of my concerns. Let's say we actually do enact those cuts to Medicare and we don't reimburse providers and doctors in some cases to even cover their costs.

I know this is hard to get to, but I have read where only 60 percent of providers are willing to see and treat Medicaid patients. Now what we are going to be doing is adding 25 million new individuals onto Medicaid rolls, where only 67 percent of providers are seeing those.

I would ask Senator BOOZMAN, because he is not only a new Senator but also a doctor and he ran a business, would he comment on that as well. I think he has some comments in terms of how this health care law will be affecting employment and jobs.

Mr. BOOZMAN. I appreciate the Senator's leadership in this area. I also appreciate the fact that he jumped out and ran for the office and was elected, because we desperately need people such as Senator JOHNSON, people who were successful businessmen who understand the unintended consequences of much of what we do. I, similar to the Senator, also have a firsthand understanding of this issue from an employer's perspective and maybe a little bit unique perspective.

Before I came to Congress, I practiced optometry and helped run an eye care clinic with my nine other partners for 24 years. So when President Obama's health care bill came before us when I was in the House, I fully understood, from both the medical provider and from the business aspect, that from both accounts, it was the wrong approach to the problem of rising health care costs and, with the Doctors Caucus in the House, worked very hard to highlight the problems and to also highlight the alternative options working through the free market approach.

There is no doubt about it, we are facing a serious crisis. Health care costs are crippling Americans. Many Americans lack access to quality health care. It is stifling our Nation's overall economic development. There are real difficulties with physicians and hospitals that they face when it comes to accessibility and affordability of health care services. But despite all that, there is a right way and a wrong way to address the problem. The President's health care law is simply the wrong approach and the wrong answer.

Coming with a pricetag of $1.75 trillion, the law causes many more problems than it solves. It is not lowering health care costs, as we are seeing. In fact, it is driving them up. It is not deficit neutral. It is a budget buster.

Because of Medicare cuts, because of the way it is set up, it is going to lead to rationing and decreased quality of care. It will not help the economy. In fact, it is further stalling the recovery.

On that note, specifically, the President's health care law makes it difficult for small business owners to hire more employees. At a time when our economic recovery continues to lag, the concerns over new mandates, confusing rules, and additional taxes in the law have small business owners rightfully concerned. Again, I can appreciate this in the sense of not only being an eye care provider, a health care provider, but somebody who had 85 employees.

Far from getting jobs, as the President promised, it is estimated the law will actually result in 800,000 fewer jobs over the next decade. It is almost as if the law was written with no input from America's small business owners and the health care providers that will run it.

In the 24 years I was at our clinic in northwest Arkansas, we grew our staff from 5 employees to 85. My colleague from Wisconsin can attest to the fact that guiding one's business to the point where one can add personnel is not an easy task. It takes strategic planning and management, but it also takes an economic environment that allows small businesses to expand, invest, and

hire. Instead of doing that, the health care law furthers the climate of uncertainty that our job creators already face.

Small business owners are certainly hurting in this economy. They are worrying about tax hikes that Washington keeps threatening to force upon them. They see an enormous flood of regulations coming their way. Gas prices keep skyrocketing. Profits are way down as a result of the sluggish economy. There is so much uncertainty, what mandates will evolve from this health care law and ultimately what these costs will be for small business owners only adds to that unease.

When interviewed, business owners said that the major concern that keeps them from hiring—and I have been out and about as much as anybody in the last 2 years, and this is exactly what I am hearing—is the uncertainty caused by the cost that they believe they will incur by the new health care law. We need to repeal and replace it with health care reform based on a free market system.

Mr. JOHNSON of Wisconsin. I thank Senator BOOZMAN. I think it is extremely important for us, in the next coming weeks and months, to paint a very accurate picture for the American people about what our health care system is going to look like, what our Federal budget is going to look like, the effect on American jobs and our economy, and the effect on our freedoms that we are going to witness if this health care law is fully implemented. I think it is critical we provide the American people that type of information.

Of course I know Senator ROBERTS has some thoughts in terms of how this health care law will affect jobs and our economy. He has been very good at describing some of the nonsense regulations that are being undertaken by this administration. I want Senator ROBERTS to share his thoughts about what he thinks—paint us a picture of what is America going to look like under this health care law.

Mr. ROBERTS. No. 1, I want to give the Senator a lot of credit for leading this colloquy in regard to where we are 2 years from the passage. It is hard to say what it is. Now it is ACA, the Affordable Care Act; it used to be PPACA, the acronym, which I thought was very appropriate. Of course if you politicize it, it is called ObamaCare. I don't mean to do that in this debate. But I do thank the Senator for focusing on jobs and costs.

I thank Senator KYL for a CBO truth. He ought to start a new program like the old show ''Truth Or Consequences.'' Senator KYL pointed out the consequences. He pointed out the consequences, when you ask the CBO for a score when you are going to try to pass the bill, they will give you exactly what you want, but the truth is down the road it costs an awful lot more.

There is one person you left out in terms of the CBO telling the truth and that is Richard Foster, who is the Actuary down at the Department of Health and Human Services. That man ought to get a Purple Heart, a Medal of Honor—not a Medal of Honor, just give him a Purple Heart and maybe a Bronze Star for action in the war zone and then maybe a Medal of Freedom later.

Senator SESSIONS, who is our resident bulldog on the budget, hit it on the second counting. I thank him for that. That is a half trillion dollars. The other half of that is that it is a half trillion that goes to all these exchanges and the rules and regulations in setting up the Affordable Health Care Act. Basically, it denies Medicare reimbursement to all sorts of folks—doctors, nurses, hospices, pharmacists, ambulance drivers, hospital administrators—on and on. We had a health care summit in Topeka, KS, and 34 regulations popped out of the woodwork. We could have had 164 but we sent the 34 in to the Secretary of HHS. Then he went out to Hays, KS. That is really out there in the rural health care system. We had seven different regulations. I hope later when we have a colloquy on regulations we can certainly insert those into the RECORD.

Senator BOOZMAN, who is a physician, gave a standpoint of what happens in regard to rationing.

Let met get Senator BOOZMAN's attention for a minute. Do you know who enforces this thing, at the end of the year if you do not sign up, if you do not put on your tax return, which I assume it will be, in terms of what kind of coverage you have? It is the IRS. The IRS is going to be the enforcement entity in regard to whether you have a provider. If you do not, you get fined.

Stop and think a minute about what is going on, and all the waivers that have been going on in terms of who is enforcing this. Your friendly Internal Revenue Service—what—reinforcer? I have a lot of feeling about this.

I took the floor today to discuss something called promises made and promises not kept. I tell the distinguished Senator from Wisconsin, of all the words that come back to bite you, this one has. That is the famous statement prior to passage of the health care reform law by the President: ''If you like your health care plan, you can keep it.'' I will give him credit, he may have believed it then. But as we pointed out with Senator KYL, Senator SESSIONS, Senator BOOZMAN, Senator JOHNSON—that is not the case. I didn't believe it then and I said so. Neither did Senator SESSIONS. Neither did Senator KYL. Those two are here now, taking a good look at it. They don't believe it either.

Why? It is pretty simple. Employers and health care providers told me that when the majority of the provisions of the health care reform law would take effect, it would be more affordable for an employer to simply stop offering their employee coverage and pay a penalty rather than face the predictable increase in premiums and to continue to offer any coverage.

Now these predictions have turned into facts. A new study just released by McKinsey & Co., a consulting company, predicts large numbers of workers will be shifted into the health exchanges in 2014. That is a shift that folks should be worried about—exactly what you are talking about, Senator JOHNSON. Literally thousands of regulations and waivers are pouring out of the Department of Health and Human Services; in fact, to date, 12,307 pages of additional regulations to restrict personal freedom and micromanage the private market.

To make matters worse, there is the predictable worry that the exchanges would be better described as much like Medicaid HMOs. That is the kind of service we can expect to get and that threatens access, choice of doctors, and not to mention the rationing regime that will be the marching order of the day. I will have a lot to say about that in the colloquy in the next several days.

At the time the President made his promise, the CBO estimated that, as Senator KYL pointed out, only about 7 percent of employees covered by employer-sponsored insurance would make the switch, or be forced to switch, to taxpayer-subsidized exchanges. Now I tell the Senator, study after study is releasing facts and figures that find the health care reform law will cause many or even most employers to quit offering their current health insurance.

In a survey by benefits consultants at Lockton, when asked about the cost of notifying employees of changes required by or resulting from health care reform law, they said each notification will cost $1 to $3 per employee. Talk about cost. This would raise costs by tens of thousands of dollars or more for some firms and nearly one in five firms is considering terminating coverage outright, thanks to the law.

With each study the numbers go up. The McKinsey survey found that 45 to 50 percent of employers say they ''will definitely or probably'' pursue alternatives to their existing health care plans. Even more alarming, some 30 percent of employers will simply stop offering any coverage. Those are the facts. There are more to come.

I am going on too long here, I understand that. I simply say again I thank my colleagues. Contrary to this administration's seeming belief, there is no such thing as free health care. Somebody does pay. In this case the American taxpayers will be forced to foot the bill for workers whose employer-sponsored coverage has been dropped due to health care reform.

There is another quote I wish to mention. It should be the subject of another colloquy. There is absolutely no rationing in this bill, it is just scare talk. Want to bet? There is nothing that hurts the truth more than stretching it. With PPACA or ACA or

ObamaCare, jobs and costs will be stressed beyond the limit.

I truly thank the Senator for sponsoring this colloquy.

Mr. JOHNSON of Wisconsin. I appreciate the comments of the Senator. He mentioned rationing. What is the Independent Advisory Board for? Do you have a clue? To me that would somewhat lead, potentially, to rationing. I would be suspicious of that. Senator KYL stood up here. He may have some additional comments.

Mr. KYL. Yes. I would say when my colleague from Kansas talked about the free care, it reminded me of the old saw: You think insurance is expensive now, just wait until it is free. That is the point. Somebody has to pay for it at the end of the day, and we just happen to have some new statistics how this is working out now that CBO has had a chance to examine how ObamaCare plays out. Here is their newest estimate. We are talking about real costs to real families.

CBO now estimates that ObamaCare will increase premiums by 10 to 13 percent. To make that number real, that is a $2,100 annual increase in the cost for the average family of purchasing their own insurance coverage. Six separate private actuarial analyses have all indicated ObamaCare will increase premiums with projected increases ranging as high as 60 percent.

Why is that so? It is like a balloon; you push in on one side, it pops out the other. Health care is still going to cost. Doctors still have to treat people, hospitals still have to take care, pay the people who work in the hospitals and so on. It is not free, as our colleague from Kansas is pointing out. Somebody has to pay for it. If the government cannot afford it, then what the insurance companies have to do is charge the extra expense to the people in the private insurance market.

When the President complains about why insurance costs are going so high, he only has himself to blame. If the government is not going to reimburse the providers adequately, they have to get the money from the private sector. That is why the $2,100 annual increase in the cost of insurance for the average family, because of the cost shifting that is going on. It is a result of the way the government designs the insurance that is provided for in ObamaCare. It hits the young people especially hard because they are the ones who have to buy insurance they do not need, according to America's Health Insurance Plans. Premiums increase 48 percent for people between 18 and 29 years old. That is in only 42 of the 50 States, premium increases of 48 percent. Then of course they also tax health insurance, which we end up paying for because that cost is passed on to us in the form of higher insurance premiums. That is a $60 billion tax on health insurance added on top of the new taxes on innovation, on new pharmaceutical products, on new medical devices. The taxes that are included in ObamaCare on those are all passed on to consumers in the form of higher prices.

The bottom line is we are paying for all this one way or the other, either through new taxes, through what we pay to the government, or through what we pay in our private insurance, because the physicians and hospitals have to make up the money one way or the other.

The bottom line is that ObamaCare, which was supposed to have reduced costs, ends up increasing them. By the way, it was supposed to expand the numbers of people who are covered but now we find that, according to Milliman, which is a private association estimating the cost here, actuaries there have estimated the cost shift from government programs, Medicare and Medicaid, totals $88.8 billion a year, adding $1,788 to a family's insurance policy. That is on top of what I spoke of before.

This cost shift obviously will greatly increase with ObamaCare's Medicaid and Medicare cuts, which are further on down the road here. That will cause premiums to skyrocket even more.

The bottom line is that we were right when we said it: The law is going to drive up insurance premiums for families, it is going to drive up taxes, it is going to reduce innovation. At the end of the day, it doesn't cover more people. All in all, a great success, I would say.

Mr. JOHNSON of Wisconsin. I remember back in Oshkosh, WI, President Obama famously promised: If you pass this health care law, the average costs per family would decline by $2,500 per year. That is one of those broken promises that Senator ROBERTS was mentioning earlier.

Mr. ROBERTS. The Senator asked me about IPAB. It is not an iPad or an iPhone or whatever. I am sure Apple has nothing to do with it.

Well, the administration, in response to a lot of concern about rationing, wrote an op-ed and sent it to many different publications and said, ''[T]he claims that the board will ration care are simply false.'' At the time, I repeated my concerns over and over again. Senator KYL will remember those days in the Finance Committee. I think everybody left when I started my rant. And the health care reform law's potential to ration care—I made speech after speech—is not only IPAB; there is the CMS Innovation Center, the new authority granted to the U.S. Preventive Services Task Force, the Patient-Centered Outcomes Research Institute, and finally IPAB, and that is not a toothpaste.

At the time, the American public was told over and over that these provisions of the health care reform law would not result in the rationing of care, loss of access, or reduced quality. But once again the Medicare Actuary, Richard Foster—bravest man in the government—and many others have noted that the kinds of payment reductions contemplated by IPAB will amount to a de facto rationing by reducing access to care. The Actuary has stated that the payment reductions in the law could ''jeopardize access to care for beneficiaries''—senior beneficiaries. He also predicted that the IPAB reductions in particular would be difficult to achieve in practice because of the access-related harm to seniors that would result. That is IPAB for you.

Mr. JOHNSON of Wisconsin. Earlier Senator ROBERTS mentioned the U.S. Preventive Services Task Force. Wasn't that the agency that proposed denying women mammograms until they reached the age of 50?

Mr. ROBERTS. That is correct. For every proposal like that, thank goodness there has been a reaction by the public and the medical profession and everybody else to say: Wait a minute, this doesn't make any sense. Again, it is an agenda-oriented board or commission or whatever that comes under the banner of rationing.

I have a wonderful chart I will show to you in the next colloquy in regard to the four rations—and one was just mentioned—and then ask me about IPAB. They are a little benign. I am going to have to change the caricatures. They are like the four horsemen of the apocalypse in regard to the health care system of the United States. As you look at each one of them and what they are doing, they are rationing care. They are rationing care.

Mr. JOHNSON of Wisconsin. If this is implemented, we are just beginning to see the tip of the iceberg of the assault on our freedom that this is going to represent.

Mr. BOOZMAN. I think this rationing is such an important situation. We are already seeing rationing right now. As an optometrist more than being a Senator, I get calls all the time from people who have moved into town and they can't find a health care provider for their aunt or uncle who is in the Medicare age group. Physicians are definitely cutting back because of the payment plan.

Seniors are smart enough to figure out that you can't add 30 percent more patients under this plan, and along with that, there is no increase in physician fees, no increase in the infrastructure required to take care of them. Something has to give, and that is going to be two things: quality of care and rationing.

The same thing is true of Medicaid. In Arkansas, we are going to have to increase our Medicaid rolls by 250,000 people. Our State only has 3 million people to begin with. Again, something has to give. How do you pay for that? The reality is that will cost us in the neighborhood of $400 million. Where will that come from? It will come from providers. It will come from decreased funding for education, roads, and things like that. Again, you can't do this without rationing and consolidation.

Mr. JOHNSON of Wisconsin. I think the bottom line of this health care law is that it is basically going to increase demand while at the same time reducing supply, and that is not a good thing. It is certainly not the way you bend the cost curve down.

I understand Senator SESSIONS has a few more comments.

Mr. SESSIONS. Senator KYL and the Senator from Kansas, as he has indicated, were engaged in this cost curve-bending plan. The essence of the President's proposal—it went to the core of other proposals financially—was that by a Federal Government expansion of our authority, we would bend the cost curve and make health care cheaper for all Americans. That was a fundamental principle that was sold to businesspeople, and some businesspeople thought it was a great idea, but it has not happened. Already the premiums in private health care in America have gone up $2,000, almost $200 a month, and we are going to see it continue to go up. It does not bend the cost curve down. In fact, we are seeing the opposite occur.

We have to know that our per-person government debt—Senator JOHNSON is on the Budget Committee, and he knows this—is worse than any other Western world nation. Per capita, we have more debt than Greece, Spain, Italy, and Ireland, with $44,000 per person that every man, woman, and child owes. And if the President submitted a budget and if it were to be enacted—and certainly it will not be—that would go to $75,000 per person in 10 years.

This health care bill is dramatically adding to that. Every expert we have had at the Budget Committee has told us that we are on an unsustainable spending and debt path that will lead to financial collapse. Erskine Bowles and Alan Simpson, who chaired President Obama's debt commission, both issued a written statement that America has never faced a more predictable financial crisis. What they told us was that spending and running up debt as we are today guarantees a financial collapse that could impact every person in America and deeply impact our ability to have health care in this country.

So I think we have to recognize that the Republican-controlled House of Representatives will unveil a budget plan tomorrow. The Senate is not going to bring up a budget. The Democratic leader said it is foolish to have a budget, so we will go for the third consecutive year without even attempting to pass a budget. It is supposed to be out of the committee by April 1. It is supposed to be passed by April 15. The House is going to do it. They are going to step up to the plate, and they are going to lay out a plan like they did last year, a plan that will change the debt course of America, a plan that would put us on a sustainable path so that we don't have to fear financial collapse.

They are going to look at this legislation, and it cannot be imposed. We do not have the money. It is going to make health care worse, as we have heard, but more than that, we simply—even if it were a good idea, a nice thing to have, we do not have the money. We are borrowing 40 cents of every dollar we spend, and they misrepresented the cost. It is far higher than anyone has expected, and it is going to continue.

For example, our people have looked at the CBO score—on the Budget Committee—and they have analyzed it fairly, and I am prepared to defend these numbers. Based on CBO's scores, from 2014—the first year the law is really in effect—until 2023, it will cost $2.66 trillion. It is far more than was projected. How much money is that? Over the same 10-year period, we would spend $626 billion on Federal highways. We had been fighting over highways, and we finally passed a highway bill. The Federal money for the whole highway system would be $626 billion, while we are adding a new program that is improperly funded for $2,600 billion. Over the next 10 years, we expect to spend $1,000 billion for education, and this health care cost is going to be $2,600 billion. We have disasters. We spend a lot of money on disasters. It is expected that we will spend $111 billion on disasters, whereas we will spend $2.6 trillion on the health care bill.

This is the kind of thing that has the American people asking us: Are you crazy? How can you borrow 40 cents of every dollar you spend, as we are doing today. How can you do that to America? What is the matter with you people?

They say people back home are not smart, they are just angry. Well, aren't they right to be angry? We are adding a program that is financially unsound, that is going to make health care worse, and we don't have the money. This money needs to be used to save Medicare and Social Security—programs that are already in great jeopardy. If we have money, we have to use it to save them, not start a new program of massive proportions that, over 60, 75 years, is going to cost far more than anyone imagines.

I thank Senator JOHNSON for raising this, and I am concerned about the costs. I know Senator BOOZMAN and others have talked about the rationing. There are a lot of reasons why we simply can't go forward with this health care bill. It must be eliminated as we know it. We can make reforms, but this legislation cannot go into effect.

Mr. JOHNSON of Wisconsin. I certainly appreciate Senator SESSIONS' comments and those of Senator ROBERTS, Senator KYL, and Senator BOOZMAN.

There are two points I would like to make. It is important to understand that all these numbers we are talking about are estimates. The Federal Government is not particularly good at making those estimates because if you think back to 1965 when they first passed Medicare, they projected out about 25 years and said that in 1990 it will cost $12 billion. In fact, it ended up costing $110 billion—nine times the original cost estimate.

The other point you were making is, Does it make sense for the Federal Government to take over one-sixth of our economy? When I went back to Wisconsin, I asked that question of thousands of individuals. Do you really believe the Federal Government can take over one-sixth of our economy—the health care sector—and do it effectively and efficiently? I asked that to thousands of people. I have had two brave souls raise their hands. The fact is, the American people do not believe the American Government is capable of doing that.

In closing, I would like to remind everybody what Speaker PELOSI very famously said: We have to pass this bill so we can find out what is in it.

I know Senator SESSIONS and Senator BOOZMAN are dedicated to making sure we don't have to fully implement the health care law before we did figure out what it truly costs us because it could bankrupt this Nation.

I yield the floor.

The PRESIDING OFFICER (Mr. COONS). The Senator from Connecticut.

## GAS PRICES

Mr. BLUMENTHAL. Mr. President, yesterday the average price of gasoline in Connecticut topped $4 a gallon—the fifth highest average price in the country. Across the Nation, prices are fast approaching that amount for every American. The rising cost of gasoline is a real, harsh, and unacceptable fact of life for ordinary Americans. It is crushing to the average consumer, it is stifling economic growth, and it is hurting our businesses. For people across the country, ordinary Americans or middle-class, these dramatic increases are not a luxury. It is more than an inconvenience. It threatens their ability to go to work, to do their work, and it drives up the prices of goods for all kinds of commodities, not just gasoline. It threatens to derail our economic recovery.

Many factors contribute to the price of a gallon of gasoline. There is no question that it is complex. There is a growing consensus among energy analysts that a large part of the reason has to do with speculation. I am mindful of the fact that there are a lot of experts and a lot of debate on different sides of this issue, but there is a powerful and growing consensus that speculation is a major cause of the rising cost of gasoline.

In fact, there is a list of businesses, government organizations, and trade associations that have undertaken their own study and investigation of the oil futures market. Let me list them for you: ExxonMobil, the Petroleum Marketers Association of America, Goldman Sachs, the American Trucking Association, the Consumer

Federation of America, Delta Airlines, the International Monetary Fund, the St. Louis Federal Reserve. What do they all have in common? They have all indicated that excessive oil speculation significantly increases oil and gasoline prices. In fact, according to a recent article in Forbes—that is based on a report from Goldman Sachs—excessive oil speculation ''translates out into a premium for gasoline at the pump of $.56 a gallon.''

The Chairman of the Commodities Futures Trading Commission has stated publicly that Wall Street speculators now control more than 80 percent—in fact, as much as 85 percent—of the energy futures market, a figure that has more than doubled over the last decade. In short, people are buying contracts for future delivery of oil or gasoline they have no intention of ever taking delivery of.

Something is not working in the markets. Demand has dropped; consumption has been reduced; supply is at least at the level it was last year; yet prices are rising. The excessive oil and gasoline speculation is clearly causing market disturbances that prevent the market from accurately reflecting the forces of supply and demand. It is vital that the government use every available resource to protect Americans from markets that are not working, from price-gouging or price-fixing or illegal manipulation. The causes of the market disruption must be confronted.

Last April, the Attorney General announced the formation of a Financial Fraud Enforcement Task Force working group—I will repeat that—Financial Fraud Enforcement Task Force working group—that was specifically empowered to combat illegality in these markets.

I wrote to the Attorney General last May in the wake of the appointment of that task force, telling him respectfully that ''announcing investigations and beginning to issue subpoenas could curb some of the worst speculative activity that may well be underway at this very moment.'' I believe now that this task force has the authority, it has the mandate, it has the responsibility, and it has the obligation to be effective.

We have heard virtually nothing about it over this last year. We have heard of no investigation, no action, and certainly no prosecution. Now is the time it should be active. That is the reason I have again written to the Attorney General, and I ask unanimous consent that the letter be printed in the RECORD.

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

MARCH 18, 2011.

Hon. ERIC H. HOLDER, Jr.,

*Attorney General of the United States, U.S. Department of Justice, Pennsylvania Avenue, NW., Washington, DC.*

DEAR ATTORNEY GENERAL HOLDER: Just yesterday, the average price of a gallon of gas in my home state of Connecticut topped $4 a gallon, the fifth-highest average price in the country. The rising price of oil is putting a significant financial strain on millions of Americans. Oil prices are at their highest levels since 2008; gas prices are up an average of 12 percent in 2012, and the national average price of gasoline is now over $3.74 a gallon.

Given this situation, it is vital that the government make use of every resource available to protect Americans from price-gouging. For many consumers, the dramatic increase in price for a commodity upon which they rely is more than an inconvenience: It limits their ability to get to work, drives up prices for goods of all kinds, and threatens to hinder our nascent economic recovery.

While many factors contribute to the price of a gallon of gasoline, there is a growing consensus among energy analysts, independent observers, and businesses that operate in the oil futures market that excessive speculation is contributing significantly to these spikes in oil prices. I am very troubled by this prospect.

We must make every effort to ensure that Americans pay fair prices for gasoline and heating oil, and that the markets for these commodities operate without manipulation or fraud.

Last April, you announced the formation of a Financial Fraud Enforcement Task Force Working Group, charged with focusing on fraud in the energy markets. I believe that the recent run-up in prices in the oil futures market requires more aggressive, muscular investigation and prosecutorial action to crack down on possible widespread wrongdoing that distorts the markets and drives prices higher. By making vigorous and judicious use of your Task Force's investigative and regulatory authorities, you can send a signal to speculators that excessive manipulation and fraud in the oil futures market will not be tolerated.

In May of last year, I wrote to you following the creation of this Task Force. Citing the Department of Justice's wide-ranging criminal and civil authority to investigate and prosecute fraud and price manipulation, I maintained that ''announcing such investigations and beginning to issue subpoenas could curb some of the worst speculative activity that may well be underway at this very moment.'' I continue to believe that is the case, and I am hopeful that a renewed focus by the Task Force will help restore some stability to a market upon which millions of Americans rely.

Thank you for your attention to this important matter. I look forward to your reply.

Sincerely,

RICHARD BLUMENTHAL,
*U.S. Senate.*

Mr. BLUMENTHAL. I am seeking from the Attorney General that this task force be proactive and effective by beginning investigations and taking whatever action is necessary to combat illegality in these markets.

I believe if the Attorney General of the United States makes vigorous and effective use of his task force's broad investigatory and regulatory authorities, he can send the signal to speculators that manipulation and fraud in the oil futures market will not be tolerated.

These gasoline prices are on the minds of Americans across the country. They have economic effects, but they also have effects on consumer confidence and on the lifeblood of economic recovery. Even more than the share of dollars that go to pay for gasoline at the pump, there is an effect on consumer confidence.

This obligation on the part of our law enforcers is one that goes to the core of their credibility—not just popularity. Credibility of law enforcement demands that the Attorney General of the United States take this action to reenergize and revive the task force. I am hopeful, knowing of his reputation, that he will act accordingly to assure all of us that illegality, whether it is price-fixing or price-gouging or cornering the market, will not be tolerated and that effective action will be taken against it.

Thank you, Mr. President. I yield the floor and 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.

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

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

## ORDER OF PROCEDURE

Ms. COLLINS. Mr. President, I ask unanimous consent to proceed for up to 20 minutes in morning business.

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

## POSTAL SERVICE

Ms. COLLINS. Mr. President, the majority leader has indicated that the Senate may soon turn to legislation to reform a much needed, much beloved American institution—the U.S. Postal Service.

The Postal Service is nearly as old as our Nation itself. Our Founding Fathers recognized the importance of having a Postal Service. Article I, section 8 of the Constitution gives Congress the power to establish post offices. This is the same section that allows Congress to declare war, to coin money, to borrow money on the credit of the United States, to collect taxes, et cetera. So, clearly, the Post Office was viewed from the very beginning of our Nation as being essential to our economic well-being and to bringing together our country.

The Postal Service is also required by law to provide as nearly as practicable the entire population of the United States with adequate and efficient postal services at fair and reasonable rates. This is what is known as the universal mandate and it ensures that the Postal Service cannot leave behind our rural States or our small towns. Yet, the Postal Service, which has delivered mail to generation after generation of Americans, will not be able to meet its expenses sometime this fall, according to the Postmaster General.

In the past 2 years alone, the Postal Service has lost an astonishing $13.6

billion. First-class mail volume has dropped 26 percent since 2006, and the trends are not encouraging. Since no one wants the mail to stop being delivered later this year, that means we must pass a postal reform bill and we must do so soon.

The economic impact of the Postal Service is enormous. It is the linchpin of a mailing industry that employs more than 8.5 million people and generates almost $1 trillion of economic activity every year.

Virtually everyone—from big retailers to small businesses, to online shops—relies on the Postal Service to deliver packages, advertise services, and send out bills. The jobs of Americans in fields as diverse as direct mail, printing, catalog companies, and paper manufacturing are all linked to a viable Postal Service.

Nearly 38,000 Mainers work in jobs related to the mailing industry, including thousands at our pulp and paper mills, such as the one in Bucksport, ME, which manufactures the paper that is used for Time magazine.

My point is, many of us think in terms of the post office by way of the small post office that may be in our community or the friendly letter carrier who comes to our door. Certainly, that is an important part of the service provided by the Postal Service. But the economic impact of the Postal Service is enormous.

The crisis facing the Postal Service is dire. They cannot lose billions of dollars year after year after year and hope to stay in business. The crisis is not, however, hopeless. With the right tools and action from Congress, the administration, and the Postal Service leadership, the Postal Service can reform, rightsize, modernize, and continue to serve our country for generations to come.

My colleagues—Senator LIEBERMAN, Senator CARPER, Senator BROWN—and I have worked extremely hard during the past several months to craft bipartisan legislation to update the Postal Service's business model and give it the tools it needs to survive and succeed.

We have introduced a bill that will help the Postal Service reduce its operating costs, modernize its business model, and innovate to generate new revenue. However, the Postmaster General and I fundamentally disagree on how to save the U.S. Postal Service. I am concerned—indeed, deeply worried—that he continues to make decisions that will severely degrade the service and drive away customers, and that will undermine the opportunity for our bipartisan legislation to be successful.

It is clear we have two very different visions on how best to help the Postal Service. While each of us wants to ensure that the Postal Service is set on a sustainable path, I fear the Postmaster General's approach would shrink the Postal Service to a level that will ultimately hasten its insolvency.

I cannot think of another business that would respond to a loss of customers by further shrinking its service to its existing customers. Most businesses, whether they are large or small, would redouble their efforts to better serve their customers in hopes of retaining them and attracting new businesses.

Yet the current plan by the Postal Service would slow the delivery of first-class mail, close facilities, and ignore Congress. It flies in the face of the good-faith that I and the other negotiators have extended to the Postal Service during the many months we have worked on the reform bill.

We have worked hand in hand over a number of months with the Postmaster General to craft a bill that would save the Postal Service money in a way that prioritizes the lifeblood of the mail: the mailers and the service around which commercial mailers have built their business models and around which individual customers have developed their mailing habits.

Despite these negotiations, the Postmaster General has pushed ahead with plans to abandon the current mail service standards in favor of reduced access, slower delivery times, and higher prices. That will simply force many customers to pursue delivery alternatives. If those adjustments involve shifting to nonpostal alternatives—even in a minority of cases, say, 10 or 20 percent—the Postal Service would face an irreversible catastrophe. For once customers turn to other communications options and leave the mail system, they will not be coming back. The result will be that the Postal Service will be sucked into a death spiral from which it will be unable to recover. We simply cannot allow that to happen.

What do I mean when I say businesses will adjust their business model? Companies large and small that rely on the mail tell me if service continues to deteriorate—if the Postmaster General engages in these wide-ranging closures of essential processing plants—the Postal Service's customers will conduct more business online and encourage their customers to switch to online services for bill paying and other transactions.

Other companies, such as small weekly newspapers or pharmaceutical suppliers, have told me they would seek nonpostal delivery options, such as for local delivery and transport services. Again, let's assume only a small fraction of businesses change their operations by shifting away from the Postal Service. It still could spell the end for the U.S. mail system. Listen to this statistic: For every 5 percent drop in first-class mail volume, the Postal Service loses $1.6 billion in revenue.

That is why the downsizing of the labor force and excess capacity the Postmaster General states is so critical to saving the Postal Service must be carried out in a way that preserves service and does not inflict avoidable harm on dedicated postal workers.

Too many in the Postal Service leadership have assumed this simply cannot be done, that it is impossible. But the fact is there are many options to cut costs and expand revenue while preserving service. Let me just mention some of them. Several of them are in the bipartisan bill.

First, we could reduce the size of processing plants without closing them. I have suggested this for the processing plant in Hampden, ME, that is on the chopping block. It should not be because it means that mail from northern Maine would have to make a 622-mile round trip for some northern Maine communities in order to be processed. But if the processing plant is too big, reduce its footprint. Rent out part of the plant. That would even generate revenue and rightsize the processing plant without hurting delivery times.

We could move tiny post offices into local grocery stores. We could and should and must reform an expensive and unfair workers' compensation program that costs the Postal Service more than $1 billion a year.

We could allow the Postal Service to ship wine and beer the way its competitors can.

We could refund and should refund an overpayment into the Federal retirement system that amounts to between $10 billion and $11 billion.

The Postmaster General says he can develop a new health care plan that would greatly decrease the need to prefund future retiree benefits.

We could use buyouts authorized by our bill to encourage employees to retire. Many postal workers are eligible for retirement.

But, sadly, the Postmaster General is, instead, proceeding with a disastrously flawed plan, as is evidenced by the recent announcement of Draconian processing plant closures. This coupled with the still-pending closures of nearly 4,000 mostly rural post offices and the Postmaster General's push to eliminate overnight and Saturday delivery tell me the current postal leadership is gravely underestimating the consequences of lesser service on revenue from customers who depend on the service as it is provided today. That is not to say there is not excess capacity. That is not to say the workforce should not be reduced, but it can be done so in a smart way and a compassionate way.

It also suggests the Postmaster General is prepared to have rural America bear the brunt of severe reductions in service that violates the universal service mandate.

The Postal Regulatory Commission concluded just that in its analysis of the impact of the proposal to end Saturday delivery. It found the savings were far less than the Postmaster General had estimated.

The Postal Service will not be saved by a bare-bones approach that will require massive adjustments by its customers. That will drive more of them out of the Postal Service. Perhaps that might have worked in a time when customers had no alternatives, such as

would have been the case decades ago. But today the massive shift to online publications and commerce provides many businesses and individual consumers with alternatives to using the mail. A good portion of them may well explore and settle on those alternatives if the Postal Service makes it harder for them to serve their customers. For customers who simply cannot adjust their business model, they could be forced out of business, taking much needed jobs with them.

The approach taken by our postal reform bill, the 21st Century Postal Service Act, would be to reduce excess capacity while still preserving service for the customers of the Postal Service. Our bill would not ban the closure of every single postal facility, but it would establish service standards and allow for meaningful public comment procedures that would ensure that delivery delays and the impact on customers are considered. The result would be that most facilities would remain open so as to preserve overnight delivery, Saturday delivery, and easy access to bulk processing for commercial mailers.

Our bill would still allow the Postal Service to reduce the workforce using buyouts, and it would still allow processing capacity to be reduced to match the declining volume. For example, rather than closing a plant that has excess capacity, our plan would allow the plant to downsize its labor and volume capacity. This could mean running one shift instead of two or a half shift instead of a whole shift or using one sorting machine rather than two or using half the space and renting out the rest, and so forth. That way the plant could still process the mail in the region in a timely fashion while saving money and, indeed, in some cases, generating more revenue.

Under the Postmaster General's plan, however, that plant would close, and its volume would be processed much further away, thus degrading service. The loss in revenue due to dramatically reduced service under the Postmaster General's plan would not take place under our plan, and the negative ripple effects on customers, jobs, and the broader economy would be avoided with our bill set to come to the floor very soon.

The Postmaster General has nonetheless moved forward with preparations for sweeping closures and service reductions. That means even if our bill were to pass quickly, get through conference, be sent to the President's desk, and start to be implemented over a matter of just a few months, the Postal Service's ill-conceived actions would already have done damage to its customer base.

After all, customers have to plan now for what they fear may be coming. Customers are already making contingency plans and exploring alternatives. In this way the Postal Service has already triggered the potential hemorrhaging of customers that our bill would prevent should it become law. But on top of the damage already incurred, what this reckless move demonstrates is an attitude that is dead set on letting the Service deteriorate and ignoring what customers want.

That attitude seems to be so stubbornly entrenched among the senior leaders of the Postal Service that I worry that even if our bill were to become law next week, the current Postal Service leadership would not enact it properly. Without an attitude of service first, I am concerned that all the important processes and considerations we put in the bill could just become box-checking exercises for the Postal Service; that it is looking to just maintain the appearance of compliance rather than embarking on a new path.

Mr. President, I ask unanimous consent for 2 additional minutes.

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

Ms. COLLINS. This approach by the Postal Service is all the more inexcusable given its unfortunate reputation for fuzzy math. By cutting service and raising prices and not fully calculating the resulting disastrous revenue losses, the Postal Service has put forth numbers that we simply cannot rely upon. Unfortunately, this is not new.

The Postal Service's assumptions about the projected losses and savings from service cuts have proven unreliable in the past, as the Postal Regulatory Commission has found. Furthermore, we are relying on the Postal Service's data and projections without giving the Postal Regulatory Commission the opportunity to provide its advisory opinion, which is expected this summer.

I hope my concerns can be addressed. But it raises real questions about whether proceeding with the postal reform bill is futile. If the Postmaster General is eroding the customer base and implementing service cuts before we can enact legislation, are we just wasting time trying to pass a bill? Can we still save the Postal Service?

So I find myself in a quandary, one created by the Postmaster General himself as he shifts from plan to plan, from negotiation to negotiation. This makes it extraordinarily difficult for those of us who are so committed to saving the historic Postal Service so it can continue to be a vital American institution for generations to come.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## JUMPSTART OUR BUSINESS STARTUPS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3606, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3606) to increase American job creation and economic growth by improving access to public capital markets for emerging growth companies.

Pending:

Reid (for Reed) amendment No. 1833, in the nature of a substitute.

Reid amendment No. 1834 (to amendment No. 1833), to change the enactment date.

Reid amendment No. 1835 (to amendment No. 1834), of a perfecting nature.

Reid (for Cantwell) amendment No. 1836 (to the language proposed to be stricken by amendment No. 1833), to reauthorize the Export-Import Bank of the United States.

Reid amendment No. 1837 (to amendment No. 1836), to change the enactment date.

Reid motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs, with instructions, Reid amendment No. 1838, to change the enactment date.

Reid amendment No. 1839 (to (the instructions) amendment No. 1838), of a perfecting nature.

Reid amendment No. 1840 (to amendment No. 1839), of a perfecting nature.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON of South Dakota. Mr. President, I rise today to speak about an amendment I am cosponsoring with Senator CANTWELL as well as Senator GRAHAM and Senator SHELBY to reauthorize the Export-Import Bank. This amendment is important to thousands of workers in Senator CANTWELL's home State of Washington, and I thank her for offering it with me.

This amendment is not just important to the State of Washington; it is important to our national economy. It will create and support more jobs than any other provision in the underlying bill before us today. I believe this is why there was unanimous bipartisan support last year when Senator SHELBY and I passed this bill out of the Banking Committee, and it is why we should pass it this week.

This legislation would ensure that the bank is able to continue to provide support for U.S. exporters and workers. The amendment extends the authorization of the bank for 4 years and will increase the bank's lending authority to $140 billion by 2015. It also strengthens transparency and accountability at the bank, strengthens restrictions against companies doing business with Iran, and provides for greater oversight of the bank's financing and any risks it may have to taxpayers.

The Export-Import Bank is the official export credit agency of the United States. It assists in the financing exports of U.S. goods and services to international markets. Following the financial crisis, the bank experienced a dramatic increase in its activities, as many companies struggled to find financing in the private market.

In fiscal year 2010, the bank saw a 70-percent increase in authorizations from 2008. Last year the bank committed to almost $33 billion in support of U.S. exports, a new record.

The bank has been self-funding since 2008, returning nearly $2 billion to the Treasury. In fiscal year 2011 alone the bank generated $400 million to offset

Federal spending and bring down the budget deficit. It is not often that we discuss government programs that reduce the deficit. So let me repeat that. The Export-Import Bank returned $400 million to American taxpayers last year.

We cannot take future success for granted, however. So I am pleased this legislation will implement reforms to help ensure that the bank is working as efficiently and effectively as possible to protect the taxpayers. We must not forget American companies are competing in a truly global marketplace. The Export-Import Bank plays a vital role in ensuring that the global marketplace is also a fair one. When other countries are helping their own companies with export financing, we cannot afford to unilaterally disarm in the face of this global competition.

Let me be clear. This is the JOBS bill. The Export-Import Bank charter directs it to use exports to create and maintain jobs at home. Last year the Export-Import Bank supported almost 290,000 American jobs. These are jobs in cities and towns across the Nation, at large companies as well as small businesses. In fact last year, the Export-Import Bank financed more than $6 billion in exports by small businesses, the engine of economic growth.

In my home State of South Dakota, Ex-Im has worked with large and small businesses to help export goods all over the world. In the last 5 years alone it has helped support over $20 million worth of export sales. This support has been critical to many companies in my State as they look to expand their customer base. More importantly, Ex-Im financing has helped support good-paying American jobs in South Dakota, something we need to make sure there are more of.

I believe while the bank is doing a good job, they can and must do more. I believe this legislation will help the bank reach that goal. This measure was a bipartisan effort in the Senate Banking Committee. I thank Senator SHELBY for his support. In addition, I thank Senator WARNER, Senator BENNET, and Senator HAGAN for their important input into this legislation.

The bank's current authorization expires on May 30, 2012—in just 2 months. It is important that we pass this jobs amendment today. I hope my colleagues will support the Cantwell-Johnson-Graham-Shelby amendment to ensure that the bank continues to carry out its mission of supporting American jobs and exports.

I would also like to briefly address a filed amendment on which Majority Leader REID and Senator UDALL have spoken, the credit union member business lending amendment. As chairman of the Banking Committee, I held a hearing on this issue last June. My staff and I have told the leader and his staff since then that this is a very controversial matter.

From the testimony of the credit union and banking industry witnesses at that hearing, and the ongoing competition over the past month, it is clear there is no consensus. If the Senate chooses to go forward on this issue, I urge the Senate to move forward carefully.

Finally, with respect to the underlying House bill, I would like to make a few comments.

This is not the bill I would have drafted. Over the last several months, I have worked to enhance the investor protections contained in the capital formation proposals passed by the House in a thoughtful manner while helping to support entrepreneurs, grow small businesses, and put Americans back to work.

I will have a separate statement laying out my views in more detail.

I am pleased to have assisted my colleagues in crafting the Senate substitute amendment that addresses investor protection concerns. I urge my colleagues to support the Senate substitute.

If this body chooses to reject the enhanced investor protections in the Senate substitute, we must remember that all Members of Congress have a duty to keep an eye on the effects of these changes. We are plowing new ground here, and we have a shared responsibility to ensure that, going forward, the new changes we enact into law will truly benefit, and not undermine, both startups and investors alike.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I support the chairman of the Banking Committee and his call for us to come together this week to support the expansion of the Export-Import Bank. It is an extremely successful tool to use to help small, medium, and large businesses to be able to compete overseas and to give small businesses—particularly Main Street businesses—the help they need to succeed in overseas markets, which can be very daunting. I thank the chairman for his strong support and the way he worked in a bipartisan manner. I plan to vote for that amendment tomorrow.

The biggest vote we are going to take tomorrow is not on the Ex-Im Bank. That is something that I think there is generally broad support for, a general understanding, and a general level of comfort with, although there will be some who do not vote for the expansion of the bank because they philosophically are opposed to a muscular role of government. Those of us who believe that the private sector, the government, and nonprofits all need to have muscle working together on behalf of the people we seek to serve will most certainly not allow ideology to get in the way of voting for a good idea such as the Ex-Im Bank.

That is not our problem. Our problem is the IPO legislation. I call this the ''ill-advised political opportunity'' bill, the Jumpstart America bill, the JOBS bill. It has several names, but what it does is deregulate financial markets under the guise of job creation.

Over the weekend, there were literally dozens and dozens of editorials against the House bill that we are going to vote on tomorrow. I know we are not coming fully into session in the morning, as not all the Senators are back in Washington at this hour on Monday. But I know their staffs are watching the goings-on on the floor. I want to call everyone's attention to this IPO bill flying over here from the House of Representatives. It is not what you think it is. It is not what you have been told it is. It is flying under the guise of job creation. It is flying under the guise of democratizing the credit market. It is flying under the guise of we have to do something to get money into the hands of mom-and-pop operators.

I said this last week. I don't think anyone has spent as much time on the floor of the Senate arguing to get more credit into the hands of small business. I hope my credibility on that issue raises some questions, at least, if I am on the floor saying vote against the House bill; do not vote for cloture on the House bill. I hope Senators can support the substitute, which I have offered in good faith with Senators LEVIN and REED, the second ranking member on the Banking Committee, and Senator LEVIN, who chairs the investigatory committee for the entire Senate, the committee that has looked into financial scandal after financial scandal. And I am chair of the Small Business Committee. We have come together, the three of us, to say: Wait a minute, slow down; this bill coming from the House, which had broad support, no doubt, is not what it looks like. It needs more work. It needs more investor protections. It is a major change in the way people can raise money, which is illegal now, for private companies on the Internet. If you want to start a company in America, you can ask your friends, your parents, your children, or your neighbors—you can do a small circle of investors. But once you sort of make that known publicly, in a public way, such as in a radio announcement, or on a billboard, or in a public way, such as on the Internet, there are rules and regulations you have to follow to make sure you are telling the truth. Those regulations, in large measure, have been taken out of the House bill, generally.

Let me share with you, besides this name ''ill-advised political opportunity''—and look, some good people voted for the House bill, people of good will, but I kind of think this bill got cobbled together because the majority on the House side can sort of put something in a Rules Committee and that is the way it will be and, thank you, if you have any opposition, the minority voice is quelled over there. That is the nature of the House. But the minority should not be silent over here, and our rules allow for a more full debate.

This is the time for the Senate to act as the Senate and slow this down, cool

it off, get the right safeguards, and maybe it can be an excellent opportunity for changes to our financial markets. But it has to go through the process. This bill didn't even go through the Banking Committee. It was going to go through the Banking Committee, and then the decision was made to step on the gas, let's go for it, before it went through a markup in the Banking Committee. A part of it came through our committee. We didn't even have a markup, but the two pieces from the SBA are not controversial, and we would be happy to mark up the bill if given a chance. We could do it later this week.

Let me share with you some of the headlines. The New York Times, which, if there was any newspaper in America that understands Wall Street, both its great strengths, its weaknesses—if there was any newspaper that understands the financial markets, the New York Times would be one of them. They said—and they are talking about the House bill—they said the JOBS Act is ''Paving a Path to Fraud on Wall Street.''

We don't need to go back. We are just leaving the path to fraud. We are moving away from fraud. Now what are we going to do? Turn and go back to it?

The Washington Post said: ''Wall Street Credo: Ripping Out Their Eyeballs.''

The PC World: '' 'JOBS Act Would Revive Dot-com Abuses,' official claims.''

Investment News: ''Job Act Merits Greater Scrutiny.''

Most shocking to me was the Bloomberg News: ''Small Biz JOBS Act Is a Bipartisan Bridge Too Far: View.''

They wrote an excellent piece on this, which I will read some of into the RECORD. Senator JACK REED spoke about this. I am saying, Members, whatever you have been told about this bill, please read the details and please read some of the very credible articles that are being written about the House bill.

There are good parts to it. I am a general supporter of crowdfunding, which is what I described—to make it legal for the first time in history for people to go on the Internet and raise money for private entities. I think the idea is a very good one. With the right safeguards in place, it could be a boon to small businesses and growing businesses that sometimes are shut out of those very fancy boardrooms where decisions are made behind closed doors and in very secretive meetings. I have been an advocate my whole life for opening this, so that ordinary people, middle-class people, can get involved in creating wealth through investing, instead of it being a small club of those who may go to the same school or go to the same social events and have the same social network. We want to move beyond that. America is a great experiment on how to create a middle class and give ordinary people the opportunity to create great wealth. We do that very well.

America has also been a place where we almost took down the whole world financial community with us. That is how big we are, how strong we are, and how careful we must be. We are not being careful; we are being too political with the House bill. We are not being careful.

What does Bloomberg say? They say this:

> A spirit of bipartisanship is sweeping Capitol Hill, with lawmakers poised to approve a package of bills aimed at reducing regulatory burdens on small businesses. We wish we could raise a glass. This moment has been too long in coming. But the legislation it has spawned would be dangerous for investors and could harm already fragile financial markets.

This is Bloomberg. Please listen. Bloomberg is not right on everything—no one is, no publication is, no Senator is; but this is Bloomberg, the New York Times, and the Washington Post, and this is the head of the Securities and Exchange Commission saying the bill is good but it lacks investor protections that are essential for its proper implementation.

They go on to say:

> We agree that redtape can needlessly tie up small companies. We also agree that security laws that bar start-ups from harnessing the power of the Internet to raise funds could use updating. And it makes sense to allow, as the bill does, an initial public offering onramp, which could give start-ups a chance to grow. But the JOBS Act goes too far. It would gut many of the investor protections established just a decade ago in Sarbanes-Oxley. A wave of accounting scandals had upended Enron and WorldCom and destroyed nest eggs of millions of Americans and upended investor confidence in Wall Street.

We have to be careful. That is why the AARP sent out a strongly worded letter. This is one of the most powerful organizations in the country. Some of their members—the ones who were so grossly hurt by the greed of Wall Street and the insatiable appetite of some of these large investment banks to make more money, because people need to make more than $5 million a month. I don't know how you spend $5 million in a month, but some people think they are entitled to make $60 million or $240 million a year. It is beyond comprehension. It wasn't enough for them. They had to make more and more and more.

Millions of people whom I represent, and some in New York and in Florida, lost their life savings. Are we going to go back to those days, just because we want a bumper sticker that says we are about creating jobs here? We are creating jobs now in America. Maybe it is not fast enough for everyone, but every month the reports come out. Let's not rush and do something that will set us back.

This is what AARP said:

> We are writing to reiterate our opposition to the lack of investment protections in H.R. 3606.

If you vote for cloture on H.R. 3606 tomorrow, I hope when you go back home, the members of AARP—the largest and one of the most politically powerful groups in the country—will ask you why did you vote on that bill? Please don't tell me it is about creating jobs. It is really about pulling the rug out from under investor protections, of which many older Americans who have a lifetime of savings in investments are disproportionately represented among victims of investment fraud.

They go on to say:

> We share the concerns raised by SEC Chair Mary Schapiro, the North American Securities administrator, law professors, investor advocates, and others that absent safeguards ensuring proper oversight, the various provisions in H.R. 3606 may well open the floodgates to repeat the kind of penny stock and other frauds that ensnared financially unsophisticated and other vulnerable investors in the past. AARP urges the Senate to take a more balanced approach.

Mr. President, that is what we are trying to do, to take a balanced approach. I am not trying to kill the crowdfunding idea. I am not trying to kill the IPO onramp idea, which is to help fast-growing gazelles, they call them, to grow a little before they have to bear the burden of some of those regulations, which, while important, can be burdensome. I understand that. My committee has been working for months coming up with some very interesting ideas about how to get capital into the hands of small businesses. It is not something that I am unaware of, but the House bill is not the way to go.

Even President Obama sent a statement. The White House sent a statement that I will get in just a minute because I think it is important to see the nuances. Yes, it is true the President supported the House bill. It is true some very good Democrats who are very good watchdogs on this issue voted for the bill. But let me read the last sentence of the President's latest Statement of Administration Policy because the nuance is important.

The administration did say it supports the House passage of the bill—meaning H.R. 3606—but the last sentence says:

> The administration looks forward to continuing to work with the House and the Senate to craft legislation that facilitates capital formation and job growth for small business and provides appropriate investor protections.

The nuance is very important. The White House is signaling that while they do support H.R. 3606, they would also welcome additional work to put investor protections into the law. I think that is good. I know this President, this administration has worked hard to clean up Wall Street. They have kept the automobile industry from the brink of financial collapse and have brought it back. That has restored confidence in Wall Street, under great controversy and great criticism. I know it is one of the proudest achievements of this administration. So under no circumstance would we want to go backward, not at this crucial point. That is why I am afraid, if

we don't fix this bill, that is exactly what will happen.

I wish I could have this in a larger format because I don't know if the camera can see this, but this reflects the loss of jobs under the former administration and the loss of jobs when President Obama took office. Now we can see this almost reversing itself, with jobs being created in almost every month and every quarter. More than 3.9 million private sector jobs have been created in the past 24 months. And, yes, we need to do more, but the House bill goes too far.

But don't just take my word for it; listen to the Bloomberg editorial, the Boston Globe op-ed against the House bill, the Investment News editorials—''JOBS Act Merits Greater Scrutiny'' from the Business Journal. Now, this is blog 3, but these are pretty reputable blogs. We just don't bring any blogs to the floor of the Senate. These are reputable bloggers that have received some kind of following—''Why the JOBS Act Should Be In Trouble.'' New York Times column: ''Paving Path to Fraud on Wall Street. JOBS Act to Rewrite the Rules of Silicon Valley Investing.''

This is very interesting because my staff tells me the ''bio community'' and the ''high-tech community'' are for this bill. I get that. But this is what I don't understand, and I am quoting from one of the blogs by Rafi Needleman, and he is writing as if he is in Silicon Valley, and he is:

> There is a lot of smart money looking for new places to land, and these funding sources cannot only write sizable checks, they can offer start-ups or other material benefits—connections, tactical and strategic advice, and partnerships with other start-ups in their portfolio.

So the question he is asking is, Why, basically, is it necessary to move outside of these traditional sources when there is plenty of money? They are just looking for some good ideas. Throwing more money through an unregulated financial scheme is not going to create any new ideas. It is just going to create a lot of money that could be taken advantage of by very sophisticated people who understand how to take good ideas and twist them into greed and fraud, if we don't have the right protections.

So there is a lot of capital out there. It is just not necessarily in the right place. There is some opportunity for us to do some things. But the last thing the Senate would want to do is debate this bill on the floor of the Senate. This needs committee work. This bill needs to go to a markup where it can be, in a few days, debated, negotiated, and there can be amendments back and forth and we can fix some of the problems. The last thing we need to be doing is flying a bill of this nature right through the Senate.

As I said, there has not been a jobs bill where I haven't kind of rushed to the floor. It may not have been perfect, but I have said: Look, we have to create jobs. Let's try it. Let's do it. And we have tried some new things. But when I saw this bill from the House was coming directly to the floor without going through the Banking Committee, that made me nervous. It made my political instincts stand up and say: Wait, wait, why are we rushing? The more I learned and the more I read, it became apparent to me this bill from the House is not ready for prime time. It is not ready to go to the President's desk for signature.

So here we have Senator REED, the ranking member on the Banking Committee, and Senator LEVIN of Michigan, who has been a voice of reason and wisdom on financial deregulation and fraud and the scams that have occurred not just on Wall Street but offshore in secret island accounts where people have ripped off our citizens and then run for the hills and we can't find them or run to the islands. Who knows about these things? And he said: Wait a minute. What is going on here? So that is why we are here.

I know the Senator from Michigan is here to speak, so let me wrap up by saying we have offered, in the spirit of trying to improve the House bill, a substitute. I am going to vote for the substitute. It is the Reed-Landrieu-Levin substitute. I hope our Members and some Republicans—I hope many Republicans; but if we could get a few, that would be good—will vote for our substitute. If we get cloture on that then we will go to a 30-hour debate on our substitute.

I want that bill to be open to amendment. I am not trying to ram anything through. We should be open to amendments—maybe 10 on the Republican side, 10 on our side or whatever the leadership can agree to so that we can address some of the problems even in our own bill. We had to rush so quickly to get in a substitute, there are one or two things we would like to correct in our bill that have been brought to our attention.

In conclusion, if you can't vote for our substitute, please vote no on cloture on the House bill—on the ill-advised political opportunity bill, or whatever they call it, the IPO bill, the JOBS Act bill, the onramp bill. They have a dozen names for it, but what it does is just what the New York Times said: It is a pathway to fraud.

We don't want to go back there. It is just what Bloomberg said. It is bipartisanship that we cannot raise a glass to. They said: We wish we could toast it, but we cannot raise a glass. It goes too far.

So we have an opportunity to do something good for our markets, and our Presiding Officer, Senator BLUMENTHAL, who is from the State of Connecticut, which has a tremendous amount of financial sophistication—he is well aware, as a former prosecutor, how important some of these issues are. So it is important to get this right.

The bill, again, has come over from the House, rushed over here, and has not gone through our Banking Committee. I will be happy to negotiate with anyone on this floor. I am not wedded to any specific or particular position on the small business pieces. They can be in there—I think they are good—or we can take them out, and it can just be a banking bill, although we have a lot of support for the increase in the SBICs and the 504 lending, which is very important to the small business community.

But I feel so strongly about getting the deregulation part of this correct, I would take that out if it would help my Republican colleagues to negotiate on the other part of the bill.

So I see Senator LEVIN on the Senate floor. I will turn it over to him now. But, please, I am pleading with my colleagues to take a look at this House bill. Just read some of the details. Read some of the comments of some great financial columnists, both on the left and right, who have written us against the House bill and urged further consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before the Senator from Louisiana leaves the floor, I just want to commend her for the passion she has brought to this debate, as well as the reason and the wisdom she has brought to this debate. This is a bill that is extremely complex. The House bill comes over and it has had almost zero the attention it deserves because of the complexity in this bill. But Senator LANDRIEU has been a voice appealing to us to do what the Senate should do, which is deliberate.

If there has ever been a bill which cried out for deliberation, it is this bill. The way it stands now, amendments are not going to be in order, and that is not the way we should proceed in this body. We are all grateful—I hope everyone is grateful—to Senator LANDRIEU for kind of blowing the whistle on the 100-mile-an-hour train that is moving through this Senate unless we stop it tomorrow and say: Slow this down. Let's look at the details of the provisions of this bill.

In the years since the financial crisis sent our economy into a tailspin, many of us in the Senate have sought to do what we could to create the conditions for a rebound in the job market so that American workers could find the jobs they needed. We have fought, we have debated, scratched, and clawed our way to do everything we could to boost job creation. Now before us is a bill called the Jumpstart Our Business Startups Act—the acronym being the JOBS Act. Just because you can come up with an acronym which spells ''jobs'' should not lead anybody to believe this necessarily makes it a jobs bill. It is obviously a clever acronym that has been picked up by many people in the media, so all of a sudden it is a jobs bill.

But when you look at this bill and when you look at the people who are in

this field who have analyzed it, including people who are in the investment world, including the people who protect investors from fraud and abuse, from their perspective and the SEC's perspective and the Council of Institutional Investors' perspective, this is not a jobs bill. This is a bill which threatens jobs in this country.

Its supporters say it will create jobs. But, again, making it possible for an acronym to spell jobs doesn't make it a jobs bill. In ''Alice in Wonderland,'' Humpty Dumpty could confidently declare to Alice: When I use a word, it means just what I choose it to mean. Well, we don't have that luxury here in the Senate. Calling it a jobs bill doesn't make it a jobs bill. And there is a rising wave of overwhelming concern among those who know this area the best that the ground we are about to tread on, far from helping to create jobs, is going to put jobs in jeopardy.

The House bill before us would, its supporters tell us, allow companies—especially small growing companies that account for a large share of the jobs created in our economy—greater access to the capital they need to grow, market their products, and hire new workers. Its supporters say it will create new links between investors seeking new opportunities and the companies that can put those investments to work.

For that to take place, investors need confidence that the new opportunities we seek to create are sound investments. But what are the investors telling us? They are telling us just the opposite. If this bill will help businesses attract new investors, why is the Council of Institutional Investors and some of the largest pension and investment funds in the Nation telling us it will frighten investors away rather than attract them? If this bill will create new growth opportunities for small businesses, why are business groups from the Main Street Alliance to the U.S. Chamber of Commerce appealing to us for changes? If this bill will allow companies to access capital more easily, why are the current Chairman of the SEC and former SEC Chairmen of both political parties telling us this legislation will dampen capital formation rather than speeding it?

The problem is that in the guise of job creation, this legislation rolls back important investor protections and transparency requirements that are fundamental to our capital markets. Under the legislation the House has sent us, investors will know less about the companies they are solicited to invest in, they will have less confidence those companies follow standard accounting practices, they will have no assurance that the solicitation they have just received over the Internet or by telephone is for a legitimate company and not for a boiler room fraud operation.

It does not have to be this way. We can remove obstacles to small business growth without creating new opportunities for fraud. We don't need to endanger jobs in the guise of helping to create jobs. Senator JACK REED, Senator LANDRIEU, Senator BROWN, and I believe we can create new opportunities for growing companies without creating a Wild West mentality in our capital markets.

I am now going to outline a few of the ways in which we seek to repair the flaws of the House bill and enable real growth in job creation.

Right now companies that need capital to grow and add jobs are allowed to sell stock in some cases without oversight by the SEC and under looser legal liability rules. But in return for that reduced oversight, the companies must sell almost exclusively to investors who meet high income or asset thresholds that help to ensure they are able to understand and absorb the high risk of these investments. Right now, companies making these largely unregulated offerings are not generally allowed to offer them to the public. The House bill will allow companies to market these unregulated stock sales, known as private offerings, to the general public. They could advertise on billboards or on TV or in cold calls to senior living centers, and offer them to investors regardless of the investor's ability to absorb the risk, and with almost no oversight.

Our substitute would ensure that firms could sell these unregulated offerings only to investors better able to withstand the risks, and we direct the SEC to develop advertising standards. These provisions in our substitute heed the lesson from an earlier mistake. In 1992, the SEC loosened rules on these unregulated stock sales but reestablished restrictions 7 years later in part due to widespread fraud.

That is why groups such as the AARP say:

> [The House] legislation represents a very considerable redrawing of the lines between the public and private markets, and should not be enacted without greater attention to the potential risks of such an approach. We urge the Senate to . . . adopt a much more narrowly targeted approach.

The State Securities Administrators say:

> State securities regulators are deeply concerned that . . . the Internet will be flooded with new securities offerings, and . . . there will be no way for regulators—or prospective investors—to reasonably determine if the particular issuer is a legitimate business, or a criminal with good computer skills.

There is another problem. Right now companies with more than 500 shareholders and $10 million or more in assets are deemed large enough and public enough that they must register with the SEC. Registration means they must provide the SEC and the public with regular financial reports and other information to help ensure that investors and regulators have an accurate picture of the company's finances. That is the current situation. It also means that companies must comply with accounting and other transparency standards that help to ensure the integrity of the market.

What does the House bill do? The House bill allows firms with up to 2,000 shareholders—and perhaps significantly more—and with billions of dollars in assets to avoid registration and disclosure requirements, meaning investors in even very large companies would have almost no meaningful information on these firms. It would allow banks of any size to avoid oversight if they have fewer than 1,200 shareholders. This is not a small business bill; this is a big business bill in many key respects.

What do we do in our substitute? We ensure that large companies with wide public stock ownership register with the SEC, file regular financial reports, and follow standard accounting rules. We eliminate a loophole that allows one shareholder to hold shares for many beneficial owners by clarifying, as our substitute does, that when determining whether a stock is widely enough held to trigger the disclosure requirements, what counts is beneficial owners, not just owners of record. And we do ease regulatory requirements, as does the House bill, for growing companies that use stock to recruit and compensate employees by exempting them from shareholder account requirements.

What do some of the outside independent viewers say about this?

Main Street Alliance:

> Rolling back basic transparency rules, like SEC registration, won't help small businesses. Instead, it will tilt the playing field toward unscrupulous actors who are looking to game the system.

Americans for Financial Reform:

> The House bill would make it possible for companies, including very large companies with a large number of shareholders, to avoid making the periodic disclosures on which market transparency depends.

The House bill's combination of unregulated stock offerings marketed to the general public, along with allowing even large, widely held companies to dodge meaningful transparency requirements, means that very large companies could market their shares to the general public with no meaningful oversight. They could do so without ever giving investors an accurate picture of their financial condition and without following standard accounting practices.

The House bill is a recipe for widespread fraud that could undermine the integrity of stock markets, frighten investors away from the market, and kill jobs instead of creating them.

What else exists currently that would be changed by the House bill and what would be corrected by our substitute? Right now, rules are in place to prevent conflicts of interest in investment banks by building a wall between research analysts who advise investors and salespeople who try to convince investors to buy new stocks that they are underwriting.

For example, at investment banks competing for the lucrative business of helping companies go public, the current rules help to prevent the investment banks from competing for that

business by promising companies that their research analysts will give favorable recommendations on the company's new stock. These rules were put in place based on the lessons of the dotcom bubble of the 1990s.

What would the House bill do? It would largely dissolve the wall, tear down the wall between research analysts and sales staffs for companies in advance of and up to 5 years following an initial public offering of stock. This has raised concern among regulators, investment groups, and businesses that investment banks might issue misleading research in order to attract underwriting business.

What does the Chairman of the SEC say?

The House bill could return us to conflicts of interest which ultimately severely harm investor confidence.

We in our substitute would keep these conflict-of-interest rules in place as they currently exist.

What does the Chamber of Commerce say? This is called a jobs bill, pro-business bill. This is what the Chamber says about this provision:

There may be a blurring of boundaries that could create potential conflicts of interest between the research and investment components of broker dealers.

The SEC Chairman, what does she say?

I am concerned that the House bill could foster a return to those [conflicted] practices and cause real and significant damage to investors.

What do the State Securities Administrators say? These are the folks in each of our States who try to protect us from fraudulent or erroneous representations relative to securities.

[W]eakening the standards applicable to research analysts . . . could create a conflict of interest resulting in devastating losses for Main Street investors.

That is our State Securities Administrators.

The Financial Analyst Institute:

In particular, we are concerned that the proposal to permit brokerage firm analysts to write and distribute research on companies whose IPO shares their firms are underwriting will lead to the kind of conflicted research that decimated investor confidence in the late 1990s and early 2000s.

In another provision in current law, companies that want to raise money by selling stock to the public must comply with accounting and disclosure rules to help give investors accurate information on company finances. These companies must obey standard accounting rules and have adequate internal controls. Many of these rules were a response to high-profile accounting frauds such as Enron and WorldCom, and some were in the Dodd-Frank act in the wake of the financial crisis.

My Permanent Subcommittee on Investigations investigated Enron. We saw what happened in the absence of these kinds of standard accounting rules being followed by companies. So what does the House bill do? It creates a new class of company called emerging growth companies with up to $1 billion in annual revenues. How is that for small business, $1 billion in annual revenues? It would be exempt from many of these accounting standards and financial disclosures. This $1 billion figure is so high that it would have exempted well over 80 percent of all companies that made initial public stock offerings from meaningful disclosure and integrity rules in recent years. One billion dollars in revenue is not anybody's reasonable definition of a small company.

What would we do in our substitute? We would reduce the House bill's revenue exemption from $1 billion to $350 million, making it easier for truly small firms to raise the money to grow, but we maintain important transparency requirements for large companies. And what do the outside independent folks have to say about this particular provision?

The Council of Institutional Investors, again representing the largest investors in this country, pension funds and so forth, says:

The Council is concerned that the threshold may be too high in establishing an appropriate balance between facilitating capital formation and protecting investors.

The Chairman of the SEC says:

The definition of ''emerging growth company'' is so broad that it would eliminate important protections for investors even in very large companies.

The former SEC chief accountant, Lynn Turner, says:

The House bill's changes for companies of up to $1 billion in revenues is a ''fundamental reduction in the level of transparency and regulation for companies going public.''

And, finally, the issue of crowdfunding, so-called, where there are small investments by large numbers of people. Right now, the rules generally prohibit a company from raising very small amounts from ordinary investors without significant costs. Some businesses would like to attract small investments from ordinary investors by selling shares through the Internet through using intermediaries or funding portals—a practice known as ''crowdfunding.'' If done right, this could be a useful tool of the Internet age that helps innovative companies find the funding they need to grow and add jobs.

But the House bill allows crowdfunding with almost no oversight or investor protections. Under their bill, companies could solicit investors through the Internet with virtually no regulatory oversight, liability for misstatements, transparency, or other investor protections. Senior citizens, state securities regulators, and others worry that this will give rise to money laundering and fraud risks. One expert calls it the ''Boiler Room Legalization Act.'' By allowing companies and funding intermediaries to solicit small investments with no oversight or accountability, the House bill essentially legalizes the business model of unscrupulous boiler rooms.

Our bill creates new opportunities for crowdfunding but establishes basic regulatory oversight, liability, and disclosure rules that will give investors the confidence to participate in this promising emerging source of money for growing companies.

What do outside groups say about crowdfunding?

AARP:

Crowd-funding web sites could become the new turbo-charged pump-and-dump boiler room operations of the internet age. Meanwhile, money that could have been invested in small companies with real potential for growth would be siphoned off into these financially shakier, more speculative ventures. The net effect would likely be to undermine rather than support sustainable job growth.

Consumer Federation of America:

Allowing direct issuer to investor solicitation over the Internet, and preventing appropriate regulation of crowd-funding portals, as the House bill would do, is a recipe for disaster.

Professor John Coffee, who has written a textbook on this, says:

Without some changes . . ., one of these bills [which forms the base text of the JOBS Act] could well be titled the ''Boiler Room Legalization Act of 2011.''

Mr. President, the provisions of the House bill send the message that the only way we can grow our economy and create new jobs is to lower the protections that give investors confidence in financial markets. The House bill we must subject investors to greater risk of fraud, that we must put pension funds and church endowments at greater peril, that we must endanger the financial stability of families, and indeed the stability of our entire economy, in order to grow.

We have walked this path before. Lowering our defenses to fraud and abuse has repeatedly brought our economy low. We lowered defenses to fraud in the savings and loan industry, and suffered the collapse of hundreds of financial institutions. We dropped defenses against fraud and abuse in financial statements and swaps markets, and created the Enron crisis. We lowered our defenses against heedless risk and conflicts of interest in the financial system, and created the Great Recession.

Did any of those steps help our economy grow? Did lowering those defenses create a single job? There are 8.6 million reasons to believe that eliminating barriers to fraud and abuse destroys jobs instead of creating them—the 8.6 million Americans who lost their jobs in the financial crisis.

We need not make that same mistake. We need not embrace without amendment a House bill that threatens fraud, abuse, investor doubt and renewed crisis. We can embrace reforms that give small companies, the engine of our economy, the chance to grow without endangering the economy.

We need not just to debate but to offer amendments to the House bill.

Our substitute is one amendment. We should not deny this Senate, which is supposed to be a deliberative body, the opportunity to amend the bill which will have such major consequences as the House bill would.

I hope tomorrow after we vote on our substitute, assuming it does not pass, we will then vote on the House bill and I do hope we will not make the terrible, tragic mistake of denying ourselves the opportunity to amend that House bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to urge my colleagues to support the INVEST in America Act—the Senate substitute amendment to H.R. 3606—that would add critical improvements in investor and market protections to the bill that we received from the House.

In order to keep our Nation on the path to economic recovery, we must help small businesses access capital and reduce barriers for start-ups. However, we should not do so at the price of consumer safety or market integrity. We must be very careful to do all we can to promote robust capital investment and at the same time ensure investor protections are securely in place.

Many groups have voiced their staunch opposition to passing an unamended H.R. 3606—for fear of its effects on the investors and the market. Opponents include the: AARP, AFLCIO, AFSCME, Americans for Financial Reform, Consumer Action, the Consumer Federation of America, Public Citizen, The Economists' Committee for Stable, Accountable, Fair, and Efficient Financial Reform, US PIRG, and other consumer and investor protection groups.

They have said that the bill ''will in fact only make it more difficult for small businesses to access investment capital''—and it ''risks exposing investors to a new round of damaging fraud and abuse, while undermining market transparency.''

President Obama recently urged the Senate ''to find common ground by supporting the most effective aspects of the House Bill to increase capital formation for growing businesses while also improving the House bill to ensure there are sufficient safeguards to prevent abuse and protect investors.''

I cosponsored the substitute amendment offered by Senators REED, LANDRIEU, and LEVIN because it does precisely what the President asked—it adds essential provisions to the House legislation.

Among other things, the INVEST Act amendment would: retain protections put in place after the Internet stock bubble burst; ensure that banks and other large companies, with lots of shareholders, are subject to basic transparency, integrity, and accountability protections; and reauthorize the Export-Import Bank, which provides crucial funding to American businesses and supports almost 300,000 jobs yearly.

Most importantly, this amendment fulfills the original intent of this bill. It provides new opportunities for small businesses and entrepreneurs to grow by raising capital in a way that protects investors, provides financing so businesses can expand and hire more workers, and encourages U.S. companies to export and compete in a global marketplace.

In short, it truly invests in America.

I yield the floor and suggest 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 (Mr. FRANKEN). The Senator from North Carolina.

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

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

Mrs. HAGAN. Mr. President, I rise today to speak in support of the Cantwell-Johnson amendment to the JOBS Act. This amendment, which reauthorizes the Export-Import Bank through 2015, is a critical step in our job-creation efforts here in Congress. We approved this bipartisan legislation out of the Senate Banking Committee by voice vote in October. It is fiscally responsible, bipartisan, and will allow U.S. businesses to create jobs by leveling the playing field for American exporters.

If we do not act with urgency to pass this reauthorization, the Ex-Im Bank will not be able to guarantee new loans starting May 31. As our economy is finally showing some hopeful signs of recovery, now is not the time to let partisanship tie the hands of our small business owners who are ready to expand their companies and export their products.

For decades, the Export-Import Bank has supported job creation in America. In fiscal year 2011, the bank supported nearly 300,000 American jobs throughout the country and $41 billion in exports. In North Carolina in 2007, the Ex-Im Bank supported over $1.8 billion in export sales by 169 companies, and 116 of those North Carolina companies are small businesses—the backbone of our economy.

The Ex-Im Bank has made small business growth a top priority, and this is not just lipservice on their part. In conjunction with the bank, I have convened two global access forums in North Carolina, one in Charlotte and one in Greensboro, with bank President and Chairman Fred Hochberg. We had over 400 North Carolina small business owners attend the workshops to learn more about exporting their products. My four favorite words are ''made in North Carolina,'' and I am proud to work with the Ex-Im Bank to help get that label shipped around the world.

This bill also includes an amendment I sponsored that would add a representative from the textile industry to the bank advisory committee. The textile industry has a rich history in North Carolina, where we have more than 1,500 textile facilities employing over 130,000 people. But the U.S. textile and apparel industry has faced a lack of reliable supply chain financing that has caused them to fall behind. Fortunately, the Export-Import Bank is well positioned to provide liquidity and financing to this industry.

I worked hard with my friend Chairman JOHNSON to include language that would give textile and apparel producers a voice at this important agency. But whether it is a small yarn company in Sanford, NC, a furniture producer in Morganton, NC, or a turbine manufacturer in Charlotte, just to name a few, the Export-Import Bank is truly a lifeline for growth for thousands of businesses that are ready to expand, to hire, and to export.

Given the fiscal situation our country finds itself in right now, I wish to stress the following point for my colleagues on both sides of the aisle and on both sides of the Capitol: The Export-Import Bank does not add a dime to our deficit. It is a self-financed agency that pays for itself. In fact, it more than pays for itself. Since 2005, $3.7 billion has been sent to the U.S. Treasury by the Ex-Im Bank, and the nonpartisan Congressional Budget Office estimates that a reauthorization will reduce the deficit by $900 million over 5 years.

We simply cannot afford to let partisan bickering hold up progress on job creation. The people of North Carolina didn't send me to Washington to sit on my hands while jobs take a backseat to partisan gamesmanship.

Reauthorizing the Export-Import Bank is common sense, it is bipartisan, it is fiscally responsible, and it is necessary for continued job growth.

I urge my colleagues to support the Export-Import Bank reauthorization of 2012.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise today to urge my colleagues to support H.R. 3606, Reopening American Capital Markets to Emerging Growth Companies Act of 2011, or JOBS Act, that passed in the House with 390 votes. The components of this legislation have received bipartisan support in the House and broad bipartisan support from the Senate, President Obama, successful entrepreneurs, and a broad coalition of startups, small and large businesses. I urge my colleagues to also support the amendment I offered with Senator LANDRIEU to increase access to capital for small businesses and entrepreneurs.

First, I want to say a few words regarding the JOBS Act. This is a solid measure that would allow more companies to access capital without the burdens of unnecessary compliance. Most of us agree that well-intentioned regulations aimed at protecting the public and investors have unintentionally placed significant burdens on the large number of smaller companies. As a result, fewer high-growth entrepreneurial

companies are going public, and more are opting to provide liquidity by selling out to larger companies, thus hurting job creation. At a time when millions of Americans have been unemployed for the longest period in post-WWII history, we simply cannot afford to be in the way of job creation.

The amendment I and Senator LANDRIEU introduced would also help small companies access capital by modifying the Small Business Investment Company, SBIC, Program to raise the amount of SBIC debt the Small Business Administration, SBA, can guarantee from $3 billion to $4 billion. It would also increase the amount of SBA guaranteed debt a team of SBIC fund managers who operate multiple funds can borrow. The SBIC provisions in this amendment have bipartisan support, are noncontroversial, come at no cost to taxpayers and will create jobs. We do not get many bills of this kind in the Senate anymore.

One of the most difficult challenges facing new small businesses today is access to capital. The SBIC Program has helped companies like Apple, FedEx, Callaway Golf, and Outback Steakhouse become household names. As entrepreneurs and other aspiring small business owners well know, it takes money to make money. This legislation ensures that our entrepreneurs and high-growth companies have access to the resources they need so they can continue to drive America's economic growth and job creation in these challenging times. There is no reason why Congress should not approve this amendment to ensure capital is getting into the hands of America's job creators.

This amendment will spur investment in capital-starved startup small businesses, which will play a critical role in leading the Nation of the devastating economic downturn from which we have yet to emerge. For those who may be unfamiliar, despite significant entrepreneurial demand for small amounts of capital, because of their substantial size, most private investment funds cannot dedicate resources to transactions below $5 million. The Nation's SBICs are working to fill that gap, especially even during these challenging times.

According to the SBA, over 300 SBICs have more than $17 billion of capital under management. During fiscal year 2011, the SBA licensed an additional 22 SBICs, which amounts to additional $840 million in private capital. Further, during fiscal year 2011 SBA issued approximately $1.8 billion in new debenture commitments to SBICs, a 50-percent increase over the 4-year average from fiscal year 2006 to fiscal year 2009 of $750 million. In fiscal year 2011, the SBA provided $2.6 billion in debenture capital to SBICs, which in turn was distributed to over 1,300 small businesses, which SBA estimates supported 61,000 jobs. In the most recent budget request for fiscal year 2013, SBA requested $4 billion in authority for the SBIC debenture program, which operates at zero subsidy and requires no congressional appropriations.

The amendment I and Senator LANDRIEU introduced would also extend for 1 year the refinancing option provided in the Small Business Jobs Act of 2010 to allow small business owners to use 504 loans to refinance up to 90 percent of existing commercial mortgages. The 504 Loan Program provides approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for expansion or modernization. According to the SBA, as of February 15, 2012, the $50 billion in 504 loans has created over 2 million jobs. The refinancing option in the Small Business Jobs Act authorized $7.5 billion in refinancing until September 27, 2012. Unfortunately, because of a delay in promulgating regulations to enable refinancing, the program did not become operational until a few months ago, significantly shortening the period of time that business could refinance existing 504 loans. Like the SBIC Program, the 504 Loan Program also comes at no cost to taxpayers, has created jobs, and will provide much needed relief to businesses for 1 additional year.

Mr. President, as I mentioned at the outset of my remarks, the SBIC Program is a true job creator that does not receive any appropriated funds. The 1-year extension of the refinancing for the 504 Loan Program will allow businesses to retain employees, and it also comes at zero cost to taxpayers. There are solid measures that will help small businesses at a time when many small enterprises are struggling to keep their employees and run basic operations. I ask my colleagues to support this critical legislation as swiftly as possible, as our Nation's capital-starved small businesses deserve no less.

The PRESIDING OFFICER. The Senator from Illinois.

REMEMBERING LYN LUSI

Mr. DURBIN. Mr. President, we are given an opportunity in the Senate to witness many things that have an impact on our values and on our votes. I have found that, of course, representing my own State and knowing the challenges families face from one end of the State to the other has really driven me in terms of my legislative agenda—the things that are important to me. That is my first priority.

As I have traveled across the United States, I have found other issues that are of great magnitude and have real import when it comes to the lives of people across this Nation. I have also taken some time to visit countries overseas, knowing that the United States is part of a world community and that even though the amount of money we may invest may be small, it can have a profound impact on some of the poorest places on Earth.

It was about 6 years ago that I made my first visit to the Democratic Republic of Congo. This was a part of Africa that I had never seen before, and I went to the city of Goma. Goma, in the eastern reaches of the Democratic Republic of Congo, is remote from the capital of that country and has unfortunately become a site where thousands of innocent people have been killed.

When I visited Goma, it was clear that it suffered from some of the worst problems of the region: poverty, obviously; disease and war; and troops who left Rwanda after the genocide were living in the jungles of Goma. People were being preyed upon and killed, raped, mutilated. Then, on top of all of that, in Goma sits a volcano that erupts with some frequency, so as one walks through the streets and into the refugee camps, one finds this dried crystalline lava that is almost like broken glass, people walking on it, living on it, trying to make a life in little holes dug out in the lava. It is something one never forgets and I have never forgotten. I went there, of course, taking a look at some of our important programs we deal with. The most important, of course, is trying to bring peace to the region.

One of the most serious issues in the Democratic Republic of Congo is the fact that in these eastern regions are precious minerals which are critical for the development of new technology. We carry in our cell phones minerals which are found more frequently in that part of Africa than in most other places around the world. Because there is little or no government reach in these areas, there are people who have taken over the mining of these minerals and make millions of dollars off of them using slave labor and terrorizing the local people, pushing them into refugee camps.

I am working with Congressman JIM MCDERMOTT of the State of Washington to try to establish some standards, as well as former Senator Sam Brownback of Kansas. The object behind that, of course, is to trace the minerals so that those respectable, law-abiding companies in the West will not be buying these conflict minerals. We are working. It is hard. The Securities and Exchange Commission is trying to promulgate a rule to implement something we passed in Dodd-Frank with Senator Brownback's leadership on a bipartisan basis.

My memory of Goma goes back to a specific scene and a specific visit. It was more than 6 years ago. We were invited to tour a hospital. We went to this hospital. And to say it was a hospital by American standards—no American would agree. Searching inside the hospital, we found one modern surgical suite. It was paid for by the United Nations. Then we went to the wards where the patients were—virtually all women—and found them two to a bed recovering from surgeries.

Outside the hospital, sitting on this lava bed that really covers the city, along the road were dozens of women waiting for their turn. They are the victims of something known as obstetric fistula, which means they have either been brutally attacked, sexually

attacked, or were bearing children at such an early age that it caused damage to them, which has left them incontinent. Because of their incontinence, they were rejected by their families and neighbors and forced to walk hundreds of miles to sit in the roadway and pray that they could get inside that hospital for a surgery to repair this obstetric fistula. Many of them, because of the severity of their injuries, went through multiple surgeries, so they would sit on the road and wait for weeks, go in for a surgery, recover, and then go to the back of the line and start over for the next surgery. That was the reality of the hospital we visited. The scene was grim, even horrific. I still remember it well.

The reason I come to the floor today is that I made a return trip 2 years ago with Senator SHERROD BROWN to Goma and to look up this hospital—this small little oasis of hope—to try to find a handful of doctors who had been there when I visited just a few years before to see what had happened. I knew the hospital continued to treat desperately poor and brutalized women of the region who had suffered because of brutal rape and horrific violence.

For two decades now, this war has gone on, which has led to these victims. Regional militias have been fighting over these minerals I mentioned earlier, too often using rape as a weapon of war. According to the United Nations, the Democratic Republic of Congo is the worst place on Earth to be a woman. Regional war and rape leave an estimated 1,000 or more women assaulted every single day, so 1,000 or more rapes and sexual assaults every day, or 12 percent of Congolese women—one of eight—have been victims.

Yet there is hope. That small hospital I saw years ago gave me hope. The two people who started that hospital were Lyn Lusi and her Congolese husband Dr. Jo Lusi. They founded this hospital and called it Heal Africa. It is in one of the most forgotten and dangerous places on the Earth—Goma in eastern Congo. Lyn and her husband Jo provided a place of love, hope, rebirth, and healing.

There was a special on PBS's ''NewsHour'' recently that talked about Heal Africa, the hospital, and Lyn and Jo Lusi. They survive on $13 million a year—a huge sum in that part of the world but by global standards or American standards hardly overwhelming. They get private grants from overseas. They provide antiretroviral drugs to those suffering from HIV, and they try to repair the bodies of these traumatized women.

The PBS ''NewsHour'' special on Heal Africa showed how the hospital works with the American Bar Association—and I want to give a shoutout to them for the work they are doing in Goma—to help rape victims pursue justice against their attackers. The country virtually has no judicial system. It is the only facility offering services to an area population of 8 million people. Eight million people—I try to imagine one hospital in metropolitan Chicago, and that is what Heal Africa is in Goma.

In a moving ''NewsHour'' interview, Lyn Lusi said:

> I have no illusions that we're dealing with major issues that are pulling Congo apart. There is so much evil and so much cruelty, so much selfishness, and it is like darkness. But if we can bring in some light, the darkness will not overcome the light, and that's where faith is, if you believe that. I don't think Heal Africa is going to empty the ocean, but we can take out a bucketful here and a bucketful there.

That sentiment and that hope—amid such cruelty and devastation—summed up Lyn Lusi's heroic work and the work of her husband.

As I reflect on what I saw in my first trip to Goma and what I saw when I returned, there was a dramatic change in just a few short years. This Heal Africa, which was barely existing, with a handful of surgeons, now has become a training hospital, with American universities taking part.

Secretary of State Hillary Clinton visited Goma and Heal Africa—this very hospital—to focus the world's attention on the region. The violence in eastern Congo is part of an ongoing conflict and about 3 million to 5 million people have died there so far—and it continues.

As I said, the roots of the conflict go back to the Rwandan genocide, the fight over minerals, elements of the Ugandan Lord's Resistance Army—this Kony fella, who now people are starting to take notice of, a butcher in his own right—and elements of the Congolese Army who have been involved in human rights abuses.

There is a 20,000 member United Nations peacekeeping force in the region. It has been there for more than 10 years. I do not know how they can maintain any semblance of order without them. I salute the United Nations and those who are on the ground trying to keep a peaceful situation.

We saw sprawling refugee camps on broken lava, human rights workers who bravely documented horrific sexual violence, and dire poverty and warlords amid any semblance of a functional national or local government. Stopping at Lyn and Jo Lusi's hospital was the highlight of the trip.

When I was at Heal Africa on the second visit, I looked and saw a classroom filled with doctors. In fact, standing in front of them was a doctor from the University of Wisconsin. He was wearing a T-shirt which had the Wisconsin Badger on it. That is how I noticed it right off the bat. That is where my daughter went to college. He said: Yes, these are all students from medical schools around the United States, coming here to learn and to help.

Today, the hospital has trained 30 young Congolese doctors and many other health workers. They will have an important job for many years to come.

The reason I come to the floor is because we received sad news. Lyn Lusi—whose picture I show here in the Chamber with her husband Jo—was truly the heart and soul of Heal Africa in Goma. The two of them gave their lives for the poorest people on Earth. They struggled and persevered and conquered so many obstacles that many of us never ever see in life.

We just got word this morning that Lyn passed away from cancer. I wished to come to the floor and remember her and the great work she has done, which I am sure will be carried on by Jo her husband and all those who have been inspired by our visit.

To think that this woman would go to one of the poorest places on Earth and dedicate her life to help others should inspire every single one of us.

Lyn Lusi was like a mother to 400 employees of Heal Africa and to thousands and thousands of women, children, and even men, for whom Heal Africa was their only source of quality, professional medical care.

Her death this weekend due to cancer is a terrible loss for Goma, it is a terrible loss for the Democratic Republic of the Congo and for Africa, and it is a terrible loss for every single one of us.

We need to make certain that what she gave her life to does not end but continues. We have to make certain her heroic efforts continue through her husband Jo and through all who have participated in making sure this lonely, tragic corner of the world is never forgotten.

I come to the floor to salute Lyn Lusi, her memory, her legacy, and her inspiration.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

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

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

## TRIBUTE TO THE MORTIMER FAMILY

Mr. MCCONNELL. Madam President, today I wish to pay tribute to a family who has built their lives around the legacy of their heritage but has not turned a blind eye toward progress in their pursuit for a better future: the Mortimer family of the town of Salyersville, in Magoffin County, KY. Doug, his wife Sue, and their son Ritter have spent the greater part of their

lives investing in the future of their local community, to make it not only a better place for themselves, but for all of the residents of their beloved town.

The Mortimer family is active in several different areas of the business world, but they got their start in the media industry. Doug and Sue were photographers for WSAZ–TV in Huntington, WV, for quite some time. But what they found was that Huntington was too far away to be covering Magoffin County news. One day when Ritter told his parents that he wanted to do something ''creative'' instead of return to school, it sparked a crazy idea in Sue. She thought of the potential that a local TV news station could have, and she proposed her idea to her husband and son. They were sold. And YNT, ''Your News Today,'' took off.

Ritter is the sole proprietor of the 30-minute news show that started in 1998. He operates virtually every part of the show that airs every weekday. The family has found that the town cherishes their local news. Ritter believes its success comes from the fact that the material his news show covers can't be heard anywhere else in the world. The show covers serious topics such as fatal accidents as well as happier topics like Little League softball games, making it really local news for local people.

As the news station continues to grow, so do the other projects of the innovative Mortimer family. The family opened up two restaurant franchise locations, a Dairy Queen and a Lee's Famous Recipe Chicken, on the city's new parkway. The location on the parkway was necessary to bring in business because of the heavy traffic flow in the area. But Doug and Sue remember a time when downtown Salyersville was the place to be. The downtown area has been slowly decaying in the town of Salyersville as businesses move to the parkway, downtown buildings get older, and times change.

Sue, however, believes that downtown still has a lot more potential than one may think. She has headed up a movement called Renaissance on Main that is devoted to renovating and restoring the historic buildings of the once-popular downtown area. The movement has already made major headway in the downtown area, thanks to the superb leadership of Mrs. Mortimer.

Whether it is delivering the news, serving up the day's meal, restoring a building to its former glory, or taking wonderful photographs, the Mortimers have a driving force behind every move that they make, and that force is family. The good of the family is at the heart of every decision they have made, the greatest of these probably being the decision to stay in the small town of Salyersville despite their many chances to move away. Doug, Sue, and Ritter believe they have an obligation to stay and serve the town in which they were born and raised, and they are saddened when young and talented residents move away. The Mortimers are constantly fighting to better their community so that young ones are motivated to take a stake in their heritage and invest in the future of their hometown.

The Mortimer family treasures the past and embraces the future. They have come to understand the importance of their heritage and to respect the legacy of those before them. They have also realized that change is necessary, and if you embrace the future and prepare for it, you can be more in control of the changes brought on by time. The Mortimer family is passionate about bettering their local community, providing jobs, delivering information, and beautifying their surroundings—all things that contribute to helping their fellow residents of Salyersville. That is why I would like to take the time today to give them the credit they most assuredly deserve.

Mr. President, I would ask my Senate colleagues to join me in recognizing the Mortimer family of Salyersville, KY, for honoring and preserving the past, as well as preparing and embracing for the future.

In 2011, an article was included in a publication released by the Southeast Kentucky Chamber of Commerce that highlighted the many accomplishments of this remarkable family over the years. Mr. President, I ask unanimous consent that said article be printed in the RECORD.

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

[From the Southeast Kentucky Chamber of Commerce, 2011]

THE MORTIMERS—A GOOD PLACE TO CALL HOME

Spending time with Salyersville's Mortimer family—Doug, Sue, and their son, Ritter—is almost like being in two time periods simultaneously.

Doug and Sue live in the same home Doug's mother's parents lived in, and Ritter lives in the previous home of Doug's father's parents. Doug and Sue have decorated the first floor of their home with the charming period furnishings; they even have a family tree on display they've created from their study of Doug's North Carolina genealogy. They are enthusiastic supporters of the Magoffin County Historical Society and have recently bought two buildings downtown which they are planning to restore.

Then there's Ritter. Ritter owns his own television news broadcast, YNT (Your News Today), and is getting ready to stream his news show online. The innovative technology of today is something that was not even dreamed about in the era when the homes were built. The Mortimers have seamlessly embraced respect for the past and enthusiasm for the future.

Perhaps the most impressive dynamic among the family is their obviously deep love and admiration for one another, and not just among the three of them, but towards all their family. When asked why, with their talent and business acumen, they chose to stay in Magoffin County, Doug says without hesitation, ''It's family first—nothing would matter if we couldn't be near family.''

Sue continues, ''My siblings had left here and when we married, Doug said, 'Look, there's not going to be anyone here to take care of our parents when they get older. I've tried working away and I don't like it. It'll be hard, but I think we just need to stay here,''' she laughs. ''Whatever it takes, he's going to stay here.''

So how did they make it in a small town in eastern Kentucky? ''Sue and I have been photographers for 40 years,'' Doug says, ''since just after we were married. My dad was a photographer, too, so it was an outcrop of that.''

''Besides photography, we've been in the restaurant business about 25 years with the DQ and Lee's Famous Chicken on the Parkway,'' Sue continues. ''We've tried the oil business, an outcrop of my dad's business, which was always boom and bust. This whole area has been a big part of our success, especially our photography—it's not just our town and county.''

Years ago, both Doug and Sue were stringers for WSAZ–TV in Huntington, West Virginia. ''During that time,'' Sue explains, ''if something newsworthy happened here, I'd grab a camera, cover the story, and stick it on a Greyhound bus to Huntington. Then when the bus service stopped it finished the whole thing because it wasn't worth the effort to drive it to Huntington—but we still had those connections. They'd call and say, 'We're going to be up there next week and do three or four stories. Can you set something up for us?' Well, then Ritter came around one day and said, 'I'm not going back to school. It might sound crazy, but I know I have to do something creative, and I want to stay here.' I thought, 'Oh, gosh, if we try something and it fails, he could go into a tailspin and never find his way—that can be typical of young people. What could he do that was ''guaranteed'' to succeed?' Then I thought of the news thing. They both thought I was crazy.''

Doug agrees. ''We both thought it sounded crazy, but Sue was right. She knew the potential.''

''Well,'' Sue explains, ''we had done videos of weddings, so we had a lot of the basic equipment.''

When asked why he decided to pursue TV, Ritter laughs and says, ''Because my mother pushed me! It really was her idea.'' He continues, ''I had a camera and a VCR and a few pieces of equipment and just started doing it.''

YNT News, referred to locally as RittTV, first aired on November 2nd of 1998. It's carried on local cable network Howard's Cable, which goes into Magoffin, Morgan, and Johnson counties and averages 3,500 to 3,700 subscribers. The show is 30 minutes long and airs at 6:00 and 11:00 p.m. every weekday. It is now approaching 4,000 broadcasts.

Sue says, ''When it started out, the local cable advertised it was coming maybe the week before it started, and people were already like, 'When's the new show going to start?' It was the buzz around here.''

''I don't really know what got it off the ground,'' Ritter says, ''but I think it's successful today because it's material no one can see any other way. I'll cover a court meeting or a child doing well in school. One family has told us they have a 92-year-old grandmother who lives where she can't get TV cable, so they record the show every night and take it to her so she can watch the show.''

Ritter does it all—covers and prepares the stories for the air, sells and produces the commercials, everything needed to get the story on and make a living doing it.

''No two days are alike,'' Ritter says, ''and that makes it interesting. One day I might do a reconstruction of a fatal accident. I'm also on the rescue squad, so Thursday I was up helping with emergency service. Then

after that's over, I do pictures and get back to the news. Another day, I'll cover a city council meeting, an ATV story, the softball championship game, or someone knocking down mailboxes!''

''He's very versatile. He's like his daddy—he can do just about anything,'' Sue says proudly. ''All the new technology has made Ritter's station possible. The change from tapes has allowed him to work with less manpower.''

The Mortimers' devotion to where they live goes beyond lip-service. They are very involved with the Renaissance on Main program, as well as personally investing in restoring downtown Salyersville.

''We bought a couple of buildings downtown that we're in the process of restoring,'' Sue says. ''When Doug's parents were young, they had the Tavern Restaurant, and people would come and just sit and visit.

''Downtown was a hopping little place then. We'd like to see that again. It does make you stop and think about the need to revitalize downtown.

''The second floor of one of our buildings is going to be the Mortimer Inn—a B&B without the breakfast. There's no place here at all for families to stay who have sold the homeplace and want to come back for a visit, or whatever reason. Paintsville or Prestonsburg are the closest. So we'll try it and see how it works.''

Doug explains, ''The first floor in one building is rented to a gas company. The other—which we bought just about four months ago—we haven't done much with yet. We couldn't do a lot with the first as far as restoration, but the second one, we may be able to take it back to the original '30s when it was built; it's in good enough shape, we think, to do a true restoration. It was originally a grocery store—the oldest business in town—run by a woman named Grace Howard for as long as she could breathe. She owned the building and lived upstairs.''

Sue continues the story. ''Eight or 10 years ago, I put together the local Renaissance on Main group and I guess I took myself too seriously. When we saw the building, I thought, 'Oh, we can do something with that.' We put two businesses on the Parkway, but they had to be there to get the traffic. The strip is in the city limits, and the business and restaurant taxes do help different things in the city. Still, we've helped pull things out of the downtown area, so maybe what we're doing now will help bring it back.''

''One of the greatest things downtown, I think,'' says Doug, ''is the Pioneer Village, a project of the Magoffin County Historical Society led by Todd Preston. It's just amazing what a handful of people have done. Those are original homes and schools from out in the county that have been dismantled and reassembled. It's very active—open to tourists. At Christmas, we have a beautiful parade, and on that night the cabins are opened up, with fires in the grates, and people come in with banjos. It is really nice.''

Sue talks further about the Renaissance on Main program. ''Our headquarters are in an old stone building, probably the second location of Salyersville National Bank, and they donated it to Renaissance. They had already made some changes on the first floor added—sheetrock and took out tin—but now we've got it and we're looking at restoring it. We've gotten the money to finish the second floor. Behind the building, there's a garden area that we've had put in using stone from a two-story, hand-carved stone drug store that was being torn down. Renaissance saved all that stone and used it for the garden area and will use the rest for the base of the stage of a theatre.

''Behind the Judicial Center, there's a mural you can see on your way out of town. We raised money through donations and picked out some historic locations to have painted on the wall. Renaissance also did a water feature when you first come into town,'' Sue finished. ''We've really worked hard.''

When looking at the future, it's clear to see that to the Mortimers, the history and heritage of the past is an important part of the future.

When Ritter is asked what lies ahead for him, he smiles and says, ''I spend so much time getting stories, I don't have much time to look down the road.''

Sue adds, ''He was offered a top position at a Knoxville station several years ago, but moving doesn't interest him. A regional station called him also—he told them, 'You don't have enough money.' ''

Doug says, ''From all of us, we couldn't imagine living anywhere else—we just wouldn't. Right now, there are lots of changes happening. It may not happen overnight, but Salyersville and Magoffin County are only going to keep getting better. It's easy for a community to lose its way, but I think people are realizing they need to be involved and to claim it. When young, talented people think about leaving, we need to tell them, 'You're really going to be sorry if you leave; the bright lights of the big city aren't all they're cut out to be.' They need to understand they have a sort of obligation to stay around and help this region get better. After all, you can travel to wherever you want—you're not that far from Lexington or wherever you want to go—but this is a good place to call home.''

''We've taken advantage of opportunities here and we've been successful and happy,'' Sue goes on. ''Take Ritter, not many people his age can say 'I love what I'm doing and I'm making a living out of it—and I stayed home.' ''

Ritter's sisters, Kim and Cindy, live in Atlanta and Birmingham. ''Their growing-up years were in the South, but they and their children share the same enchantment for this area that we do.''

In the midst of the Mortimers, it is easy to see they're a family with both roots and wings—and very comfortable with both.

## TRIBUTE TO GERVIS SINGLETON

Mr. MCCONNELL. Madam President, today I wish to pay tribute to a man who has shown the utmost compassion and care for Kentucky families who are grieving the death of a loved one. Mr. Gervis Singleton of Laurel County, KY, has been established in the funeral and mortuary services business for over 50 years. He has treated each and every family who has had the unfortunate need for his services as if they were his own.

Mr. Singleton owns Cumberland Memorial Gardens and Mausoleum and is a partner, along with his son, Craig Singleton, of Singleton Embalming Service. Gervis has experienced firsthand the grief process thousands of families have gone through during the death of their loved ones; his father passed away when he was only 11 years old. He believes that mourning is a very important part of the grieving process, and he takes pride in knowing that he is doing what he can to help them through such difficult circumstances. As someone who is experienced in an area that is new to many of us, he is more than happy to assist the deceased's loved ones in whatever way he can.

Gervis knows that his job is very much linked to emotion, but as a mortician, he understands that he must block out his own emotions while working on the important process of restoring the deceased individual to more closely resemble how their loved ones remember them in life. He feels that if he can assist the family during their time of mourning, that they will more likely gain closure on the loss.

During his half century working in the business, he has seen fads come and go. Mr. Singleton remembers the day when it was almost a requirement to wear all black to a funeral, a custom that he has seen almost completely go away. He has also seen families transition to more cremations in the past few decades. Cremation is a cheaper, sometimes more convenient alternative. The increase in number of cremations sparked an idea for Mr. Singleton, and in 1995 he built a signature addition to the Cumberland Memorial Gardens. The result was a 360-crypt mausoleum along with accommodations for 48 cremains.

Mr. Singleton takes a walk through his 16-acre cemetery every day, and reflects on the lives of the many who have passed away and are buried there. It is inspiring to see someone who is so involved and compassionate in an industry that is an uncomfortable topic for some, but still a vital service. Although the passing of loved ones is something we may prefer not to think about, it will most assuredly befall upon each of us at some point in time, which is why knowing there are those like Gervis to help is a comforting thought. There is a need for individuals like Gervis Singleton, who are so deeply convicted to lend a helping hand in whatever way they can.

I would like to ask my Senate colleagues to join me in commemorating Mr. Gervis Singleton. He is a fine Kentuckian who has made many a family feel comforted at a difficult time thanks to his deep respect for those who have passed away.

Recently, an article appeared in the Laurel County-area publication, the Sentinel Echo, that illustrated the contributions of Mr. Singleton to the people of Laurel County, KY. Mr. President, I ask unanimous consent that said article be printed in the RECORD.

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

[From the Sentinel Echo, Sept. 5, 2011]

SINGLETON TAKES PRIDE IN HELPING FAMILIES

(By Magen McCrarey)

Cemeteries are citadels for those who mourn the death of a lost loved one, and treating them with the ultimate respect is Gervis Singleton's calling.

Singleton is the owner of Cumberland Memorial Gardens and Mausoleum, and is partner in Singleton Embalming Service with his son, Craig Singleton. He was the second born of seven children. His father passed away when he was only 11 years old.

''I don't know if it has something to do with my father passing away,'' Singleton

said about his start in the funeral business. ''(But) I grew fascinated.''

To embalm a body, Singleton said emotions should never play a part. In order to do his job, he must turn off parts of his limbic system, the primarily emotional core of his brain. After 50 years of being in the funeral and embalming business, he still struggles with the emotions of his job.

''There are certain things you don't let in your mind. You close them out,'' he said. Although, emotions play a large part in one of the reasons he still finds zeal within his career, comfort.

''I take great pride in being able to do something that makes it easier for families during those times. It's not that you're going to grieve with them, although you may, to some extent,'' he said. ''You are trying to help them through their grief.''

Singleton's embalming business handles roughly 1,500 bodies a year. A single body takes about three hours to embalm. In a way, it's an art, he said. His team of five provides services for funeral homes in northeastern Tennessee and southeastern Kentucky.

Families may furnish Singleton with a photograph to preserve the body to its original state, and they may not. It's up to the embalmer to transform the unknown deceased into who they were remembered as. Singleton found that some facial features after death need to be improved on, and he brings them back to life, visually.

But appearance isn't everything, especially when it comes to funeral attire, he said. It's not customary anymore to wear all black. Another uncustomary practice that's become popular in the past 30 years is cremation, he said. ''It's a growing thing, becoming more popular, and cheaper,'' he added.

Singleton said mourning the deceased is important to gain closure, not only for children but adults, too. So in 1995, he built a mausoleum to accommodate 360 bodies and 48 cremation ashes.

A Laurel County Medal of Honor recipient is buried at Cumberland Memorial Gardens. There is a flag flown above the grave of Carl H. Dodd, a veteran of World War II and the Korean War.

''It's the only site I'll allow a flag to fly,'' Singleton said.

Every day, Singleton walks through the 16-acre cemetery behind his office on south U.S. 25. About 80 individuals a year are buried on the grounds that offer three reflection stations and feature Little Laurel River and a wooded area from behind.

## BIG GOVERNMENT

Mr. KYL. Madam President, Mark Steyn is one of the most gifted writers of our time. His trenchant analysis appears regularly in National Review. Steyn writes with biting humor and personal experience with government censorship and has chronicled the concomitant growth in government power and loss of freedom in Europe and North America.

In the March 5, 2012, issue of National Review he warns that America, which he calls the ''last religious Nation in the Western world,'' is in danger of going the way of European nations in replacing faith and family with the all powerful national government as the source of everything we need. He calls his piece ''The Church of Big Government.'' It reminds me of Barry Goldwater's warning that ''a government big enough to give you everything you want is a government that is big enough to take away everything you have.''

Madam President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the National Review, Mar. 5, 2012]

THE CHURCH OF BIG GOVERNMENT

LEVIATHAN IS NIBBLING YOUR RELIGIOUS FREEDOM AWAY

(By Mark Steyn)

Discussing the constitutionality of Obamacare's ''preventive health'' measures on MSNBC, Melinda Henneberger of the Washington Post told Chris Matthews that she reasons thus with her liberal friends: ''Maybe the Founders were wrong to guarantee free exercise of religion in the First Amendment, but they did.''

Maybe. A lot of other constitutional types in the Western world have grown increasingly comfortable with circumscribing religious liberty. In 2002, the Swedish constitution was amended to criminalize criticism of homosexuality. ''Disrespect'' of the differently orientated became punishable by up to two years in jail, and ''especially offensive'' disrespect by up to four years. Shortly thereafter, Pastor Ake Green preached a sermon referencing the more robust verses of scripture, and was convicted of ''hate crimes'' for doing so.

Conversely, the 1937 Irish Constitution recognized ''the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith.'' But times change. In 2003, the Vatican issued a ruminative document on homosexual unions. The Irish Council for Civil Liberties warned Catholic bishops that merely distributing the statement could lead to prosecution under the 1989 Incitement to Hatred Act, and six months in the slammer.

In Canada, Hugh Owens took out an advertisement in the Saskatoon Star-Phoenix, and he and the paper wound up getting fined $9,000 for ''exposing homosexuals to hatred or ridicule.'' Here is the entire text of the offending advertisement:

Romans 1:26

Leviticus 18:22 and 20:13

I Corinthians 6:9

That's it. Mr. Owens cited chapter and verse—and nothing but. Yet it was enough for the Saskatchewan ''Human Rights'' Tribunal. The newspaper accepted the fine; Mr. Owens appealed. That was in 1997. In 2002, the Court of Queen's Bench upheld the conviction. Mr. Owens appealed again. In 2006, the Court of Appeal reversed the decision. This time the ''Human Rights'' Commission appealed. The supreme court of Canada heard the case last autumn, and will issue its judgment sometime this year—or a decade and a half after Mr. Owens's original conviction. It doesn't really matter which way their Lordships rule. If you were to attempt to place the same advertisement with the Star-Phoenix or any other Canadian paper today, they would all politely decline. So, in practical terms, the ''Human Rights'' Tribunal has achieved its goal: It has successfully shriveled the public space for religious expression—and, ultimately, for ''exercise of religion.''

In the modern era, America has been different. It is the last religious nation in the Western world, the last in which a majority of the population are (kinda) practicing believers and (sorta) regular attenders of church. The ''free exercise''—or free market—enabled religion to thrive. Elsewhere, the established church, whether de jure (the Church of England, the Church of Denmark) or de facto (as in Catholic Italy and Spain), did for religion what the state monopoly did for the British car industry. As the Episcopal and Congregational churches degenerated into a bunch of mushy doubt-ridden wimps, Americans went elsewhere. As the Lutheran Church of Sweden underwent similar institutional decay, Swedes gave up on God entirely.

Nevertheless, this distinction shouldn't obscure an important truth—that, in America as in Europe, the mainstream churches were cheerleaders for the rise of their usurper: the Church of Big Government. Instead of the Old World's state church or the New World's separation of church and state, most of the West now believes in the state as church—an all-powerful deity who provides day-care for your babies and takes your aged parents off your hands. America's Catholic hierarchy, in particular, colluded in the redefinition of the tiresome individual obligation to Christian charity as the painless universal guarantee of state welfare. Barack Obama himself provided the neatest distillation of this convenient transformation when he declared, in a TV infomercial a few days before his election, that his ''fundamental belief'' was that ''I am my brother's keeper.''

Back in Kenya, his brother lived in a shack on $12 a year. If Barack is his brother's keeper, why can't he shove a sawbuck and a couple singles in an envelope and double the guy's income? Ah, well: When the president claims that ''I am my brother's keeper,'' what he means is that the government should be his brother's keeper. And, for the most part, the Catholic Church agreed. They were gung ho for Obamacare. It never seemed to occur to them that, if you agitate for state health care, the state gets to define what health care is.

According to that spurious bon mot of Chesterton's, when men cease to believe in God, they do not believe in nothing; they believe in anything. But, in practice, the anything most of the West now believes in is government. As Tocqueville saw it, what prevents the ''state popular'' from declining into a ''state despotic'' is the strength of the intermediary institutions between the sovereign and the individual. But in the course of the 20th century, the intermediary institutions, the independent pillars of a free society, were gradually chopped away—from church to civic associations to family. Very little now stands between the individual and the sovereign, which is why the latter assumes the right to insert himself into every aspect of daily life, including the provisions a Catholic college president makes for his secretary's IUD.

Seven years ago, George Weigel published a book called ''The Cube and the Cathedral,'' whose title contrasts two Parisian landmarks—the Cathedral of Notre Dame and the giant modernist cube of La Grande Arche de la Defénse, commissioned by President Mitterrand to mark the bicentenary of the French Revolution. As La Grande Arche boasts, the entire cathedral, including its spires and tower, would fit easily inside the cold geometry of Mitterrand's cube. In Europe, the cube—the state—has swallowed the cathedral—the church. I've had conversations with a handful of senior EU officials in recent years in which all five casually deployed the phrase ''post-Christian Europe'' or ''post-Christian future,'' and meant both approvingly. These men hold that religious faith is incompatible with progressive society. Or as Alastair Campbell, Tony Blair's control-freak spin doctor, once put it, cutting short the prime minister before he could answer an interviewer's question about his religious faith: ''We don't do God.''

For the moment, American politicians still do God, and indeed not being seen to do him remains something of a disadvantage on the national stage. But in private many Democrats agree with those ''post-Christian'' Europeans, and in public they legislate that way. Words matter, as then-senator Barack Obama informed us in 2008. And, as president, his choice of words has been revealing: He prefers, one notes, the formulation ''freedom of worship'' to ''freedom of religion.'' Example: ''We're a nation that guarantees the freedom to worship as one chooses.'' (The president after the Fort Hood murders in 2009.) Er, no, ''we're a nation that guarantees'' rather more than that. But Obama's rhetorical sleight prefigured Commissar Sebelius's edict, under which ''religious liberty''—i.e., the freedom to decline to facilitate condom dispensing, sterilization, and pharmacological abortion—is confined to those institutions engaged in religious instruction for card-carrying believers.

This is a very Euro-secularist view of religion: It's tolerated as a private members' club for consenting adults. But don't confuse ''freedom to worship'' for an hour or so on Sunday morning with any kind of license to carry on the rest of the week. You can be a practicing Godomite just so long as you don't (per Mrs. Patrick Campbell) do it in the street and frighten the horses. The American bishops are not the most impressive body of men even if one discounts the explicitly Obamaphile rubes among them, and they have unwittingly endorsed this attenuated view of religious ''liberty.''

The Catholic Church is the oldest continuously operating entity in the Western world. The earliest recorded use of the brand first appears in Saint Ignatius's letter to the Smyrnaeans of circa A.D. 110—that's 1,902 years ago: ''Wherever Jesus Christ is,'' wrote Ignatius, ''there is the Catholic Church,'' a usage that suggests his readers were already familiar with the term. Obama's ''freedom to worship'' inverts Ignatius: Wherever there is a Catholic church, there Jesus Christ is—in a quaint-looking building with a bit of choral music, a psalm or two, and a light homily on the need for ''social justice'' and action on ''climate change.'' The bishops plead, No, no, don't forget our colleges and hospitals, too. In a garden of sexual Eden, the last guys not chowing down on once-forbidden fruits are the ones begging for the fig leaf. But neither is a definition of ''religion'' that Ignatius would have recognized. ''Katholikos'' means ''universal'': The Church cannot agree to the confines Obama wishes to impose and still be, in any sense, catholic.

If you think a Catholic owner of a sawmill or software business should be as free of state coercion as a Catholic college, the term ''freedom of conscience'' is more relevant than ''freedom of religion.'' For one thing, it makes it less easy for a secular media to present the issue as one of a recalcitrant institution out of step with popular progressivism. NPR dispatched its reporter Allison Keyes to a ''typical'' Catholic church in Washington, D.C., where she found congregants disinclined to follow their bishops. To a man (or, more often, woman), they disliked ''the way the Church injects itself into political debates.'' But, if contraceptives and abortion and conception and birth and chastity and fidelity and sexual morality are now ''politics,'' then what's left for religion? Back in the late first century, Ignatius injected himself into enough ''political debates'' that he wound up getting eaten by lions at the Coliseum. But no doubt tut-tutting NPR listeners would have deplored the way the Church had injected itself into live theater.

Ignatius's successor bishops have opted for an ignobler end, agreeing to be nibbled to death by Leviathan. Even in their objections to the Obama administration, the bishops endorse the state's view of the church—as something separate and segregated from society, albeit ever more nominally. At the airport recently, I fell into conversation with a lady whose employer, a Catholic college, had paid for her to get her tubes tied. Why not accept that this is just one of those areas where one has to render under Caesar? Especially when Caesar sees ''health care'' as a state-funded toga party.

But once government starts (in Commissar Sebelius's phrase) ''striking a balance,'' it never stops. What's next? How about a religious test for public office? In the old days, England's Test Acts required holders of office to forswear Catholic teaching on matters such as transubstantiation and the invocation of saints. Today in the European Union holders of office are required to forswear Catholic teaching on more pressing matters such as abortion and homosexuality. Rocco Buttiglione's views on these subjects would have been utterly unremarkable for an Italian Catholic of half a century ago. By 2004, they were enough to render him ineligible to serve as a European commissioner. To the college of Eurocardinals, a man such as Signor Buttiglione can have no place in public life. The Catholic hierarchy's fawning indulgence of the Beltway's abortion zealots and serial annullers is not reciprocated: The Church of Government punishes apostasy ever more zealously.

The state no longer criminalizes a belief in transubstantiation, mainly because most people have no idea what that is. But they know what sex is, and, if the price of Pierre Trudeau's assertion that ''the state has no place in the bedrooms of the nation'' is that the state has to take an ever larger place in the churches and colleges and hospitals and insurance agencies and small businesses of the nation, they're cool with that. The developed world's massive expansion of sexual liberty has provided a useful cover for the shriveling of almost every other kind. Free speech, property rights, economic liberty, and the right to self-defense are under continuous assault by Big Government. In New York and California and many other places, sexual license is about the only thing you don't need a license for.

Even if you profoundly disagree with Pope Paul VI's predictions that artificial birth control would lead to ''conjugal infidelity and the general lowering of morality,'' the objectification of women, and governments' ''imposing upon their peoples'' state-approved methods of contraception, or even if you think he was pretty much on the money but that the collective damage they have done does not outweigh the individual freedom they have brought to many, it ought to bother you that in the cause of delegitimizing two millennia of moral teaching the state is willing to intrude on core rights—rights to property, rights of association, even rights to private conversation. In 2009, David Booker was suspended from his job at a hostel for the homeless run by the Church of England's Society of St James after a late-night chit-chat with a colleague, Fiona Vardy, in which he chanced to mention that he did not believe that vicars should be allowed to wed their gay partners. Miss Vardy raised no objection at the time, but the following day mentioned the private conversation to her superiors. They recognized the gravity of the situation and acted immediately, suspending Mr. Booker from his job and announcing that ''action has been taken to safeguard both residents and staff.'' If you let private citizens run around engaging in free exercise of religion in private conversation, there's no telling where it might end.

And so the peoples of the West are enlightened enough to have cast off the stultifying oppressiveness of religion for a world in which the state regulates every aspect of life. In 1944, at a terrible moment of the most terrible century, Henri de Lubac wrote a reflection on Europe's civilizational crisis, Le drame de l'humanisme athée. By ''atheistic humanism,'' he meant the organized rejection of God—not the freelance atheism of individual skeptics but atheism as an ideology and political project in its own right. As M. de Lubac wrote, ''It is not true, as is sometimes said, that man cannot organize the world without God. What is true is that, without God, he can only organize it against man.'' ''Atheistic humanism'' became inhumanism in the hands of the Nazis and Communists and, in its less malign form in today's European Union, a kind of dehumanism in which a present-tense culture amuses itself to extinction. ''Post-Christian Europe'' is a bubble of 50-year-old retirees, 30-year-old students, empty maternity wards . . . and a surging successor population already restive to move beyond its Muslim ghettoes.

Already, Islam commands more respect in the public square. In Britain, police sniffer dogs wear booties to search the homes of suspected Muslim terrorists. Government health care? The Scottish NHS enjoined its employees not to be seen eating in their offices during Ramadan. In the United Kingdom's disease-ridden hospitals, staff were told to wear short sleeves in the interests of better hygiene. Muslim nurses said this was disrespectful and were granted leave to retain their long sleeves as long as they rolled them up and scrubbed carefully. But mandatory scrubbing is also disrespectful on the grounds that it requires women to bare their arms. So the bureaucracy mulled it over and issued them with disposable over-sleeves. A deference to conscience survives, at least for certain approved identity groups.

The irrationalism of the hyper-rational state ought by now to be evident in everything from the euro-zone crisis to the latest CBO projections: The paradox of the Church of Big Government is that it weans people away from both the conventional family impulse and the traditional transcendent purpose necessary to sustain it. So what is the future of the American Catholic Church if it accepts the straitjacket of Obama's ''freedom to worship''? North of the border, motoring around the once-Catholic bastion of Quebec, you'll pass every couple of miles one of the province's many, many churches, and invariably out front you'll see a prominent billboard bearing the slogan ''Notre patrimoine religieux—c'est sacré!'' ''Our religious heritage—it's sacred!'' Which translated from the statist code-speak means: ''Our religious heritage—it's over!'' But it's left every Quebec community with a lot of big, prominently positioned buildings, and not all of them can be, as Montreal's Saint-Jean de la Croix and Couvent de Marie Réparatrice were, converted into luxury three-quarter-million-dollar condos. So to prevent them from decaying into downtown eyesores, there's a government-funded program to preserve them as spiffy-looking husks.

The Obama administration's ''freedom to worship'' leads to the same soulless destination: a church whose moral teachings must be first subordinated to the caprices of the hyper-regulatory Leviathan, and then, as on the Continent, rendered incompatible with public office, and finally, as in that Southampton homeless shelter, hounded even from private utterance. This is the world the ''social justice'' bishops have made. What's left are hymns and stained glass, and then, in the emptiness, the mere echo:

The Sea of Faith
Was once, too, at the full, and round earth's shore
Lay like the folds of a bright girdle furl'd.
But now I only hear
Its melancholy, long, withdrawing roar . . .

## ADDITIONAL STATEMENTS

### REMEMBERING CHAIRMAN RICHARD MILANOVICH

● Mrs. BOXER. Madam President, I ask my colleagues to join me in honoring the life, work, and legacy of Richard Milanovich, longtime chairman of the Agua Caliente Band of Cahuilla Indians. Chairman Milanovich, my good friend and California neighbor, died in Rancho Mirage on Sunday at age 69 after a courageous fight with cancer.

During his quarter century as tribal chairman, Richard Milanovich worked tirelessly to bring prosperity and security to the Agua Caliente. All the while, he worked closely with surrounding communities and local governments to ensure that Agua Caliente's success would benefit not just the tribe but also the entire Coachella Valley.

Richard grew up in the Palm Springs neighborhood known as Section 14, where members of the Agua Caliente dreamed of a better future. Richard's mother, LaVerne Saubel, was a member of the Nation's first-ever all-female tribal council. In 1957 the council successfully lobbied Congress to enact legislation allowing the Agua Caliente Band to govern itself, though it would take another 20 years for them to gain full control over tribal lands.

At age 17, Richard left home to join the Army. After serving in Europe, he returned to California and worked in Los Angeles as a door-to-door salesman, honing the persuasive powers that served him so well in later life. Returning to Palm Springs, he joined the tribal council in 1978 and began his lifetime of service to the tribe.

The Agua Caliente owned parcels of land all around Palm Springs, Cathedral City, and Rancho Mirage. As a tribal councilor and then as chairman, Richard turned this checkerboard pattern of land ownership into an asset. He forged mutually beneficial land-use agreements with all three local governments and then worked together to develop commerce and improve infrastructure. After taking over a rundown spa in downtown Palm Springs and turning it into a thriving resort, the Agua Caliente developed casinos and other businesses that brought prosperity to the tribe and hundreds of jobs to the community.

Chairman Milanovich became a State and national leader in business and public policy, but he never forgot his roots or the long-term interests of his people. He worked to ensure that the Agua Caliente preserved its proud heritage while succeeding in the modern world and diversified its interests to maintain growth and prosperity.

Like many other Californians, I am very sad to lose Richard Milanovich's voice for his tribe and for the communities he loved so much. My thoughts and prayers go out to his family, especially his wife Melissa and their six children, and his many friends in the Coachella Valley and across America. He will be deeply missed.●

### REMEMBERING JAMES KIMO CAMPBELL

● Mrs. BOXER. Madam President, today I honor the life of James Kimo Campbell, a longtime resident and pillar of the Marin County community, who passed away on February 16, 2012, due to complications from Lou Gehrig's disease. Over the years, Kimo worked with numerous nonprofit organizations and was a tireless advocate for a healthy environment and just world.

Born in Los Angeles in 1947, Kimo was raised in Hawaii, where he attended the Punahou School before going on to begin a career in journalism at the College of Marin and study history at the University of California at Berkeley. As a student, he was recognized by the Marin Independent Journal for his outstanding journalism and later worked for the Journal and several other area papers as a freelance journalist.

As with many of his generation, Kimo became involved in the protest movement of the 1960s and was drawn to political activism that laid the foundation for his later involvement in philanthropy and community service. At the age of 27, Kimo Campbell was elected to the board of trustees for the College of Marin and served in that capacity for the next 16 years, before being named to the College of Marin Foundation's board of directors, where he remained committed to supporting the school's mission.

The time Kimo spent in Hawaii during his youth left a lasting impression on him. Through his publishing company, Pueo Press, Kimo shared his affinity for his home State by publishing books dedicated to the topic. Through the Pohaku Fund, he supported the promotion of environmental protection, social justice, and respect for the culture of his beloved Hawaii.

Kimo will be deeply missed by all of us lucky enough to have known him. I send my heartfelt condolences to his wife, Kerry Tepperman Campbell, as well as his children, Mahealani and Kawika.●

### REMEMBERING HAROLD ''HAL'' C. BROWN, JR.

● Mrs. BOXER. Madam President, today I ask my colleagues to join me in honoring the life of Harold C. Brown, Jr. The longest serving supervisor in the history of Marin County, Hal was a pillar of the community who embodied the best characteristics of civic leadership: accessibility, honesty, integrity, and compassion. Mr. Brown passed away on March 2, 2012, after a long battle with pancreatic cancer.

Hal grew up in San Francisco, graduating from Lowell High School and receiving a degree in business from the University of San Francisco before moving to Marin County in the early 1970s. While working in the insurance industry, he became involved in his community and began serving on the board of his neighborhood association. In 1982, Gov. Jerry Brown appointed him to replace me on the Marin County Board of Supervisors, following my election to Congress.

For the next 29 years, Supervisor Brown served the people of Marin with extraordinary dedication and focus. He would often say that he had the best job in the world and that he loved the camaraderie of working with others to solve the county's problems: improving fire safety in a county known for towering redwood trees, developing the Safe Routes to Schools Program to promote walking and biking as a safe and healthy way for children to get to school, and working to prevent floods.

His dedication to his community extended beyond his work as a county supervisor. Supervisor Brown established the Marin Valentine's Ball in 1997 as an annual auction and fundraiser to support children, families, and older adults in need throughout the county. Even in the face of his illness, Hal hosted the 16th annual ball this past February and refused to stop serving the people and community he had represented for decades.

I send my deepest condolences to his family, including Gloria Brown; his children, Michael and Chris; and his grandchildren. The county of Marin has lost a true public servant, and he will be missed by all of us lucky enough to have known him.●

### TRIBUTE TO GEORGE R. WHITAKER

● Mr. JOHNSON of South Dakota. Madam President, today I wish to recognize George R. Whitaker of Rapid City, SD, who is retiring from Federal service after a career spanning over 29 years.

George served in the U.S. Army for nearly 2 years in the early 1960s with overseas tours in Germany and Vietnam as a combat military policeman. He then served over 18 years with the U.S. Air Force with tours in Alaska and Turkey as a law enforcement supervisor and personnel technician. He retired from Active Duty in September 1982.

After his military service, George worked with Black Hills Workshop and South Dakota Department of Social Services. He also served as a vocational rehabilitation and addiction counselor with the Fort Meade VA hospital and for the past 7 years has served in various capacities at the Rapid City Vet Center, including readjustment counselor and team leader.

I want to commend George Whitaker for his steadfast and tireless service to our Nation, first for his over 20 years of military service in the U.S. Army and U.S. Air Force, and then for his service to veterans with the Department of Veterans Affairs and Vet Center. Countless veterans have benefitted from George's dedication and commitment. Through his own military experiences and combined with his counseling experiences, George has worked directly with veterans and servicemembers through parts of six decades. This timespan has produced many wars, conflicts, and military operations and with it, changes in health services, problems, and issues that affect our military soldiers and veterans. George has been able to share his own experiences and work with returning servicemembers as they deal with the physical and mental health impacts of their military experiences, as well as the impacts on their families and communities.

George will now have more time in his retirement to enjoy hunting, fishing, leather crafts, and other pursuits. I commend George for his dedicated service to veterans and wish him and his wife Eddie all the best in his retirement.●

## TRIBUTE TO ROBIN DOUTHITT

● Mr. KOHL. Madam President, I would like to take time to recognize Robin A. Douthitt, who is stepping down as Dean of the School of Human Ecology at the University of Wisconsin—Madison. I would also like to wish her a happy birthday. As a proud alumnus of UW—Madison, it is an honor to congratulate Dean Douthitt on her outstanding and exemplary service at UW over the years.

For the past 12 years, Dean Douthitt has given her unwavering commitment to students, faculty, staff, campus, the community, and the State. She began as a professor in the Consumer Science Department, was appointed Interim Dean of the School of Human Ecology in 1999, and was named Dean in 2001. She will be leaving a legacy of courage and visionary leadership. Dean Douthitt has been called the ''People's Dean,'' because she is always approachable and has touched the lives of many of her colleagues and friends.

Dean Douthitt made countless contributions to the University of Wisconsin during her service. She founded the UW Women's Faculty Mentoring Program that has led to the university's retention of female faculty and has become a model for other universities. She helped establish the Nancy Denney House, a cooperative undergraduate residence for single parents and their children. In recognition of her teaching and publishing extensive research on women's unpaid work and its social value, Dean Douthitt has been named a Vaughan Bascom Professor of Women and Philanthropy and a Vilas Associate in the Social Sciences.

Her contributions at UW do not stop there. Dean Douthitt served on the UW Athletic Board, chairing its Academic Affairs Committee and representing UW faculty to the Big Ten. She has been honored on the School of Human Ecology's Roster of 100 Women—Wall of Honor, in recognition of her contributions to family, community, and her embodiment of the School's mission to improve the quality of human life. In addition, Dean Douthitt provided vision in leading a successful $52 million effort to renovate the School of Human Ecology's historic 1914 building and build a new addition to ensure the School's continued presence at the forefront of education, research, creative scholarship, and outreach in the 21st century.

On behalf of my constituents from the great State of Wisconsin, we say a heartfelt thank you and happy birthday to Dean Robin A. Douthitt. We wish her all the very best in her future endeavors.●

## RECOGNIZING LAFAYETTE, LOUISIANA

● Mr. VITTER. Madam President, I wish to recognize the city of Lafayette. Southern Living magazine has named Lafayette ''South's Tastiest Town.'' Lafayette was chosen as the winning city by nearly 35,000 votes in the first annual competition, with more than 500,000 online votes cast for the 10 finalist cities. Lafayette will be formally recognized in Southern Living's April issue, along with third-place finisher New Orleans. In fact, both Louisiana cities combined to receive nearly half the total votes, and Lafayette received almost 200,000 votes.

Southern Living's top 10 towns were chosen based on a number of criteria: food as a cultural identity, growth of a culinary-minded community, diverse cuisine at a variety of price points, local sustainable food practices, chefs on the rise, and an abundance of significant food events. Clearly, Lafayette excels in all these categories, and I am proud of this achievement.

Lafayette and its people are at the heart of all the great Cajun and Creole qualities that have made Louisiana's cuisine unparalleled. Throughout our State's great history, our unique culinary identity and love of food have been at the center of many of family and friend gatherings. Louisianians take tremendous pride in the dishes that represent our culture, the traditions they symbolize about who we are, and the devotion to preserving our heritage.

It is my pleasure to congratulate the city of Lafayette on this honor.●

## MESSAGES FROM THE PRESIDENT

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

## EXECUTIVE MESSAGES REFERRED

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

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

## MEASURES DISCHARGED

The following bill was discharged from the Committee on Homeland Security and Governmental Affairs, and referred as indicated:

S. 2076. A bill to improve security at State and local courthouses; to the Committee on the Judiciary.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2204. A bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation.

## 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. SCHUMER:

S. 2203. A bill to establish the African Burial Ground International Memorial Museum and Education Center in New York, New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ:

S. 2204. A bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; read the first time.

By Mr. MORAN:

S. 2205. A bill to prohibit funding to negotiate a United Nations Arms Trade Treaty that restricts the Second Amendment rights of United States citizens; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MENENDEZ (for himself, Mr. KIRK, Mrs. BOXER, Mr. LIEBERMAN, Mr. BENNET, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. LEVIN, and Mr. REED):

S. Res. 399. A resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, crimes against humanity, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 418

At the request of Mr. HARKIN, the names of the Senator from Florida (Mr. RUBIO), the Senator from Georgia (Mr.

CHAMBLISS), the Senator from Indiana (Mr. COATS), the Senator from Indiana (Mr. LUGAR), the Senator from Ohio (Mr. BROWN), the Senator from Rhode Island (Mr. REED) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 434

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 434, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 641

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 641, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis within six years by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 685

At the request of Mr. LUGAR, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 685, a bill to repeal the Federal sugar program.

S. 740

At the request of Mr. REED, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 740, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 987

At the request of Mr. FRANKEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 987, a bill to amend title 9 of the United States Code with respect to arbitration.

S. 1270

At the request of Mr. WHITEHOUSE, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1270, a bill to prohibit the export from the United States of certain electronic waste, and for other purposes.

S. 1299

At the request of Mr. MORAN, the name of the Senator from Mississippi (Mr. COCHRAN) 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 Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 through 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

S. 1329

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1329, a bill to amend the Workforce Investment Act of 1998 to establish a pilot program to facilitate the provision of education and training programs in the field of advanced manufacturing.

S. 1591

At the request of Mrs. GILLIBRAND, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1597

At the request of Mr. BROWN of Ohio, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1597, a bill to provide assistance for the modernization, renovation, and repair of elementary school and secondary school buildings in public school districts and community colleges across the United States in order to support the achievement of improved educational outcomes in those schools, and for other purposes.

S. 1906

At the request of Mr. TESTER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1906, a bill to modify the Forest Service Recreation Residence Program as the program applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

S. 1935

At the request of Mrs. HAGAN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1981

At the request of Mr. HELLER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1981, a bill to provide that Members of Congress may not receive pay after October 1 of any fiscal year in which Congress has not approved a concurrent resolution on the budget and passed the regular appropriations bills.

S. 2032

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2032, a bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

S. 2134

At the request of Mr. BLUMENTHAL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2134, a bill to amend title 10, United States Code, to provide for certain requirements relating to the retirement, adoption, care, and recognition of military working dogs, and for other purposes.

S. 2135

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2135, a bill to amend the Child Care and Development Block Grant Act of 1990 to authorize a national toll-free hotline and website, to develop and disseminate child care consumer education information for parents and to help parents access child care in their community, and for other purposes.

S. 2143

At the request of Ms. STABENOW, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2143, a bill to amend the Internal Revenue Code of 1986 to clarify that paper which is commonly recycled does not constitute a qualified energy resource under the section 45 credit for renewable electricity production.

S. 2160

At the request of Mr. MORAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2160, a bill to improve the examination of depository institutions, and for other purposes.

S. 2165

At the request of Mrs. BOXER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 2165, a bill to enhance strategic cooperation between the United States and Israel, and for other purposes.

S. 2179

At the request of Mr. WEBB, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2179, a bill to amend title 38, United States Code, to improve oversight of educational assistance provided under laws administered by the Secretary of Veterans Affairs and the Secretary of Defense, and for other purposes.

S. 2188

At the request of Mr. BEGICH, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2188, a bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

AMENDMENT NO. 1843

At the request of Mr. MORAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 1843 intended to be proposed to H.R. 3606, a bill to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 399—CALLING UPON THE PRESIDENT TO ENSURE THAT THE FOREIGN POLICY OF THE UNITED STATES REFLECTS APPROPRIATE UNDERSTANDING AND SENSITIVITY CONCERNING ISSUES RELATED TO HUMAN RIGHTS, CRIMES AGAINST HUMANITY, ETHNIC CLEANSING, AND GENOCIDE DOCUMENTED IN THE UNITED STATES RECORD RELATING TO THE ARMENIAN GENOCIDE, AND FOR OTHER PURPOSES

Mr. MENENDEZ (for himself, Mr. KIRK, Mrs. BOXER, Mr. LIEBERMAN, Mr. BENNET, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. LEVIN, and Mr. REED of Rhode Island) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 399

*Resolved,*

SHORT TITLE

SEC. 1. This resolution may be cited as the ''Affirmation of the United States Record on the Armenian Genocide Resolution''.

FINDINGS

SEC. 2. The Senate finds the following:

(1) The Armenian Genocide was conceived and carried out by the Ottoman Empire from 1915 to 1923, resulting in the deportation of nearly 2,000,000 Armenians, of whom 1,500,000 men, women, and children were killed, 500,000 survivors were expelled from their homes, and the elimination of the over 2,500-year presence of Armenians in their historic homeland.

(2) On May 24, 1915, the Allied Powers of England, France, and Russia, jointly issued a statement explicitly charging for the first time ever another government of committing ''a crime against humanity''.

(3) This joint statement stated that ''the Allied Governments announce publicly to the Sublime Porte that they will hold personally responsible for these crimes all members of the Ottoman Government, as well as those of their agents who are implicated in such massacres''.

(4) The post-World War I Turkish Government indicted the top leaders involved in the ''organization and execution'' of the Armenian Genocide and in the ''massacre and destruction of the Armenians''.

(5) In a series of courts-martial, officials of the Young Turk Regime were tried and convicted, as charged, for organizing and executing massacres against the Armenian people.

(6) The chief organizers of the Armenian Genocide, Minister of War Enver, Minister of the Interior Talaat, and Minister of the Navy Jemal were all condemned to death for their crimes, but, the verdicts of the courts were not enforced.

(7) The Armenian Genocide and these domestic judicial failures are documented with overwhelming evidence in the national archives of Austria, France, Germany, Great Britain, Russia, the United States, the Vatican and many other countries, and this vast body of evidence attests to the same facts, the same events, and the same consequences.

(8) The United States National Archives and Record Administration holds extensive and thorough documentation on the Armenian Genocide, especially in its holdings under Record Group 59 of the United States Department of State, files 867.00 and 867.40, which are open and widely available to the public and interested institutions.

(9) The Honorable Henry Morgenthau, United States Ambassador to the Ottoman Empire from 1913 to 1916, organized and led protests by officials of many countries, among them the allies of the Ottoman Empire, against the Armenian Genocide.

(10) Ambassador Morgenthau explicitly described to the Department of State the policy of the Government of the Ottoman Empire as ''a campaign of race extermination,'' and was instructed on July 16, 1915, by Secretary of State Robert Lansing that the ''Department approves your procedure . . . to stop Armenian persecution''.

(11) Senate Concurrent Resolution 12, 64th Congress, agreed to February 9, 1916, resolved that ''the President of the United States be respectfully asked to designate a day on which the citizens of this country may give expression to their sympathy by contributing funds now being raised for the relief of the Armenians,'' who at the time were enduring ''starvation, disease, and untold suffering''.

(12) President Woodrow Wilson concurred and also encouraged the formation of the organization known as Near East Relief, chartered by the Act of August 6, 1919, 66th Congress (41 Stat. 273, chapter 32), which contributed some $116,000,000 from 1915 to 1930 to aid Armenian Genocide survivors, including 132,000 orphans who became foster children of the American people.

(13) Senate Resolution 359, 66th Congress, agreed to May 11, 1920, stated in part that ''the testimony adduced at the hearings conducted by the sub-committee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered''.

(14) The resolution followed the April 13, 1920, report to the Senate of the American Military Mission to Armenia led by General James Harbord, that stated ''[m]utilation, violation, torture, and death have left their haunting memories in a hundred beautiful Armenian valleys, and the traveler in that region is seldom free from the evidence of this most colossal crime of all the ages''.

(15) As displayed in the United States Holocaust Memorial Museum, Adolf Hitler, on ordering his military commanders to attack Poland without provocation in 1939, dismissed objections by saying ''[w]ho, after all, speaks today of the annihilation of the Armenians?'' and thus set the stage for the Holocaust.

(16) Raphael Lemkin, who coined the term ''genocide'' in 1944, and who was the earliest proponent of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, invoked the Armenian case as a definitive example of genocide in the 20th century.

(17) The first resolution on genocide adopted by the United Nations at Mr. Lemkin's urging, the December 11, 1946, United Nations General Assembly Resolution 96(1), and the United Nations Convention on the Prevention and Punishment of the Crime of Genocide recognized the Armenian Genocide as the type of crime the United Nations intended to prevent and punish by codifying existing standards.

(18) In 1948, the United Nations War Crimes Commission invoked the Armenian Genocide, ''precisely . . . one of the types of acts which the modern term 'crimes against humanity' is intended to cover,'' as a precedent for the Nuremberg tribunals.

(19) The Commission stated that ''[t]he provisions of Article 230 of the Peace Treaty of Sevres were obviously intended to cover, in conformity with the Allied note of 1915 . . ., offenses which had been committed on Turkish territory against persons of Turkish citizenship, though of Armenian or Greek race. This article constitutes therefore a precedent for Article 6c and 5c of the Nuremberg and Tokyo Charters, and offers an example of one of the categories of 'crimes against humanity' as understood by these enactments''.

(20) On May 28, 1951, in a written statement submitted to the International Court of Justice concerning the Convention on the Prevention and Punishment of the Crime of Genocide, the United States Government stated, ''The Genocide Convention resulted from the inhuman and barbarous practices which prevailed in certain countries prior to and during World War II, when entire religious, racial and national minority groups were threatened with and subjected to deliberate extermination. The practice of genocide has occurred throughout human history. The Roman persecution of the Christians, the Turkish massacres of Armenians, the extermination of millions of Jews and Poles by the Nazis are outstanding examples of the crime of genocide. This was the background when the General Assembly of the United Nations considered the problem of genocide. Not once, but twice, that body declared unanimously that the practice of genocide is criminal under international law and that States ought to take steps to prevent and punish genocide.''.

(21) House Joint Resolution 148, 94th Congress, adopted on April 8, 1975, resolved, ''That April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry . . .''.

(22) President Ronald Reagan, in proclamation number 4838, dated April 22, 1981 (95 Stat. 1813), stated that, in part ''[l]ike the genocide of the Armenians before it, and the genocide of the Cambodians, which followed it—and like too many other persecutions of too many other people—the lessons of the Holocaust must never be forgotten''.

(23) House Joint Resolution 247, 98th Congress, adopted on September 10, 1984, resolved, ''That April 24, 1985, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially the one and one-half million people of Armenian ancestry . . .''.

(24) In August 1985, after extensive study and deliberation, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities voted 14 to 1 to accept a report entitled ''Study of the Question of the Prevention and Punishment of the Crime of Genocide,'' which stated that ''[t]he Nazi aberration has unfortunately not been the only case of genocide in the 20th century. Among other examples which can be cited as qualifying are . . . the Ottoman massacre of Armenians in 1915–1916''.

(25) This report also explained that ''[a]t least 1,000,000, and possibly well over half of the Armenian population, are reliably estimated to have been killed or death marched by independent authorities and eye-witnesses. This is corroborated by reports in United States, German and British archives and of contemporary diplomats in the Ottoman Empire, including those of its ally Germany''.

(26) The United States Holocaust Memorial Council, an independent Federal agency,

unanimously resolved on April 30, 1981, that the United States Holocaust Memorial Museum would include the Armenian Genocide in the Museum and has since done so.

(27) Reviewing an aberrant 1982 expression (later retracted) by the Department of State asserting that the facts of the Armenian Genocide may be ambiguous, the United States Court of Appeals for the District of Columbia in 1993, after a review of documents pertaining to the policy record of the United States, noted that the assertion on ambiguity in the United States record about the Armenian Genocide ''contradicted longstanding United States policy and was eventually retracted''.

(28) On June 5, 1996, the House of Representatives adopted an amendment to House Bill 3540, 104th Congress (the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997), to reduce aid to Turkey by $3,000,000 (an estimate of its payment of lobbying fees in the United States) until the Government of Turkey acknowledged the Armenian Genocide and took steps to honor the memory of its victims.

(29) President William Jefferson Clinton, on April 24, 1998, stated: ''This year, as in the past, we join with Armenian-Americans throughout the nation in commemorating one of the saddest chapters in the history of this century, the deportations and massacres of a million and a half Armenians in the Ottoman Empire in the years 1915–1923.''.

(30) President George W. Bush, on April 24, 2004, stated: ''On this day, we pause in remembrance of one of the most horrible tragedies of the 20th century, the annihilation of as many as 1,500,000 Armenians through forced exile and murder at the end of the Ottoman Empire.''.

(31) President Barack Obama, on April 24, 2010, explicitly employed the expression Meds Yeghern, a term used by Armenians to reference the Armenian Genocide. The statement reads in part: ''On this solemn day of remembrance, we pause to recall that 95 years ago one of the worst atrocities of the 20th century began. In that dark moment of history, 1,500,000 Armenians were massacred or marched to their death in the final days of the Ottoman Empire. . . . The Meds Yeghern is a devastating chapter in the history of the Armenian people, and we must keep its memory alive in honor of those who were murdered and so that we do not repeat the grave mistakes of the past.''.

(32) Despite the international recognition and affirmation of the Armenian Genocide, the failure of the domestic and international authorities to punish those responsible for the Armenian Genocide is a reason why similar genocides have recurred and may recur in the future, and that just resolution of this issue will help prevent future genocides.

DECLARATION OF POLICY

SEC. 3. The Senate—

(1) calls upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, crimes against humanity, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution; and

(2) calls upon the President in the President's annual message commemorating the Armenian Genocide issued on or about April 24, to accurately characterize the systematic and deliberate annihilation of 1,500,000 Armenians as genocide and to recall the proud history of United States intervention in opposition to the Armenian Genocide.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1848. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table.

SA 1849. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1850. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1851. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1852. Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mr. CARDIN, and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1853. Mr. REED submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1854. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1855. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1856. Mr. LEE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1857. Mr. LEE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1858. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1859. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1860. Mr. HELLER submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1861. Ms. SNOWE (for herself, Ms. LANDRIEU, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1862. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1863. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1864. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1865. Mr. REID submitted an amendment intended to be proposed to amendment SA 1864 submitted by Mr. REID and intended to be proposed to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1866. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1867. Mr. REID submitted an amendment intended to be proposed to amendment SA 1866 submitted by Mr. REID and intended to be proposed to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1868. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1869. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1870. Mr. CARDIN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1871. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1872. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1873. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1874. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1875. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1876. Mrs. HAGAN (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1877. Mrs. HAGAN (for herself and Mr. CASEY) submitted an amendment intended to

be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1878. Mr. PORTMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1879. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1880. Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1881. Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1882. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1883. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1884. Mr. MERKLEY (for himself, Mr. BENNET, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1885. Mr. FRANKEN (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1886. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1887. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1888. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1889. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1890. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1891. Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mr. CARDIN, Mr. FRANKEN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1892. Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1893. Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1894. Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1895. Mr. JOHNSON, of Wisconsin submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1896. Ms. SNOWE (for herself, Mrs. GILLIBRAND, Ms. MURKOWSKI, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1897. Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1898. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1899. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1900. Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. COBURN, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1901. Mr. RUBIO (for himself, Mr. NELSON of Florida, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1902. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3606, supra; which was ordered to lie on the table.

SA 1903. Mr. REID (for Mrs. BOXER) proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

## TEXT OF AMENDMENTS

**SA 1848.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

**SEC. 304. OCCURRENCE OF FRAUD.**

(a) REPORT ON OCCURRENCE OF FRAUD.—

(1) IN GENERAL.—The Commission shall, once every 2 years, beginning on the date of enactment of this Act, submit a report to Congress which includes an affirmative finding that the amount of fraud related to issuances made pursuant to section 4(6) of the Securities Act of 1933, as amended by this title, was not excessive during the reporting period.

(2) FINDING OF EXCESSIVE FRAUD.—If the Commission finds that the amount of fraud related to issuances made pursuant to section 4(6) of the Securities Act of 1933, as amended by this title, was excessive during the reporting period, the Commission shall—

(A) report such finding to the Congress, together with the reports required by this section; and

(B) initiate a rulemaking pursuant to subsection (b).

(b) RULEMAKING.—

(1) IN GENERAL.—If the Commission makes a finding of excessive fraud, as described in subsection (a)(2), the Commission shall amend its rules issued, amended, or enforced under this title, as necessary to reduce the incidence of fraud related to crowdfunding exemptions provided under this title.

(2) TIMING.—Amended rules shall be issued under paragraph (1) as interim final rules not later than 30 days after a finding by the Commission of excessive fraud, with public comments accepted for 30 days after the date of publication of the interim final rules.

**SA 1849.** Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 50, between lines 10 and 11, insert the following:

(e) REPORT ON OCCURRENCE OF FRAUD.—

(1) IN GENERAL.—In addition to the information included under subsection (b), the Commission shall include in each report to Congress required by this section an affirmative finding that the amount of fraud related to issuances made pursuant to section 4(6) of the Securities Act of 1933, as amended by this title, was not excessive during the reporting period.

(2) FINDING OF EXCESSIVE FRAUD.—If the Commission finds that the amount of fraud related to issuances made pursuant to section 4(6) of the Securities Act of 1933, as

amended by this title, was excessive during the reporting period, the Commission shall—

(A) report such finding to the Congress, together with the reports required by this section; and

(B) initiate a rulemaking pursuant to paragraph (3).

(3) RULEMAKING.—

(A) IN GENERAL.—If the Commission makes a finding of excessive fraud, as described in paragraph (2), the Commission shall amend its rules issued, amended, or enforced under this title, as necessary to reduce the incidence of fraud related to crowdfunding exemptions provided under this title.

(B) TIMING.—Amended rules shall be issued under subparagraph (A) as interim final rules not later than 30 days after a finding by the Commission of excessive fraud, with public comments accepted for 30 days after the date of publication of the interim final rules.

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**SA 1850.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 41, line 19, strike ''Section'' and insert the following:

(a) DISCLOSURES REQUIRED FOR EMPLOYEE SECURITY HOLDERS.—Any issuer having equity securities of any class held of record by 500 or more employee security holders shall provide to all such employee security holders—

(1) audited financial statements, if available, or if not available—

(A) financial statements certified by the principal executive officer of the issuer to be true and complete in all material respects; and

(B) income tax returns filed by the issuer for the most recently completed year (if any);

(2) a description of the ownership and capital structure of the issuer, including—

(A) the terms of each class of security of the issuer, including how such terms may be modified and a summary of the differences between such securities, including how the rights of the securities owned by the employee may be materially limited, diluted, or qualified by the rights of any other class of security of the issuer;

(B) the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer;

(C) the risks to employee security holders—

(i) relating to minority ownership in the issuer; and

(ii) associated with corporate actions, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties; and

(3) such other information as the Commission may, by rule, prescribe for the protection of employee security holders.

(b) DEFINITION.—As used in this section, the term ''employee security holder'' means an individual who received securities of the issuer pursuant to an employee compensation plan, which securities are exempt from registration requirements by virtue of the provisions of section 12(g)(5) of the Securities Exchange Act of 1934, as amended by this section.

(c) EXEMPTION.—Section

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**SA 1851.** Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 69, line 16, strike ''Section'' and insert the following:

(a) DISCLOSURES REQUIRED FOR EMPLOYEE SECURITY HOLDERS.—Any issuer having equity securities of any class held of record by 500 or more employee security holders shall provide to all such employee security holders—

(1) audited financial statements, if available, or if not available—

(A) financial statements certified by the principal executive officer of the issuer to be true and complete in all material respects; and

(B) income tax returns filed by the issuer for the most recently completed year (if any);

(2) a description of the ownership and capital structure of the issuer, including—

(A) the terms of each class of security of the issuer, including how such terms may be modified and a summary of the differences between such securities, including how the rights of the securities owned by the employee may be materially limited, diluted, or qualified by the rights of any other class of security of the issuer;

(B) the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer;

(C) the risks to employee security holders—

(i) relating to minority ownership in the issuer; and

(ii) associated with corporate actions, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties; and

(3) such other information as the Commission may, by rule, prescribe for the protection of employee security holders.

(b) DEFINITION.—As used in this section, the term ''employee security holder'' means an individual who received securities of the issuer pursuant to an employee compensation plan, which securities are exempt from registration requirements by virtue of the provisions of section 12(g)(5) of the Securities Exchange Act of 1934, as amended by this section.

(c) EXEMPTION.—Section

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**SA 1852.** Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mr. CARDIN, and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 1___. ENERGY MARKETS.**

(a) FINDINGS.—Congress finds that—

(1) the Commodity Futures Trading Commission was created as an independent agency, in 1974, with a mandate—

(A) to enforce and administer the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) to ensure market integrity;

(C) to protect market users from fraud and abusive trading practices; and

(D) to prevent and prosecute manipulation of the price of any commodity in interstate commerce;

(2) Congress has given the Commodity Futures Trading Commission authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to take necessary actions to address market emergencies;

(3) the Commodity Futures Trading Commission may use the emergency authority of the Commission with respect to any major market disturbance that prevents the market from accurately reflecting the forces of supply and demand for a commodity;

(4) Congress declared in section 4a of the Commodity Exchange Act (7 U.S.C. 6a) that excessive speculation imposes an undue and unnecessary burden on interstate commerce;

(5) according to an article published in Forbes on February 27, 2012, excessive oil speculation ''translates out into a premium for gasoline at the pump of $.56 a gallon'' based on a recent report from Goldman Sachs;

(6) on March 9, 2012—

(A) the supply of crude oil and gasoline was higher than the supply was on March 6, 2009, when the national average price for a gallon of regular unleaded gasoline was just $1.94; and

(B) demand for gasoline in the United States was lower than demand was on June 20, 1997;

(7) on March 12, 2012, the national average price of regular unleaded gasoline was over $3.82 a gallon, the highest price ever recorded in the United States during the month of March;

(8) during the last quarter of 2011, according to the International Energy Agency—

(A) the world oil supply rose by 1,300,000 barrels per day while demand only increased by 700,000 barrels per day; but

(B) the price of Texas light sweet crude rose by over 12 percent;

(9) on November 3, 2011, Gary Gensler, the Chairman of the Commodity Futures Trading Commission testified before the Senate Permanent Subcommittee on Investigations that ''80 to 87 percent of the [oil futures] market'' is dominated by ''financial participants, swap dealers, hedge funds, and other financials,'' a figure that has more than doubled over the past decade;

(10) excessive oil and gasoline speculation is creating major market disturbances that prevent the market from accurately reflecting the forces of supply and demand; and

(11) the Commodity Futures Trading Commission has a responsibility —

(A) to ensure that the price discovery for oil and gasoline accurately reflects the fundamentals of supply and demand; and

(B) to take immediate action to implement strong and meaningful position limits to regulated exchange markets to eliminate excessive oil speculation.

(b) ACTIONS.—Not later than 14 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall use the authority of the Commission (including emergency powers)—

(1) to curb immediately the role of excessive speculation in any contract market within the jurisdiction and control of the Commission, on or through which energy futures are traded; and

(2) to eliminate excessive speculation, price distortion, sudden or unreasonable fluctuations, or unwarranted changes in prices, or other unlawful activity that is causing major market disturbances that prevent the market from accurately reflecting the forces of supply and demand for energy commodities.

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**SA 1853.** Mr. REED submitted an amendment intended to be proposed

to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 5, line 2, strike ''may'' and insert ''shall''.

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**SA 1854.** Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VIII—LIMITATION ON CHANGES TO U.S. AND CANADIAN COMPANIES**

**SEC. 801. LIMITATION OF CHANGES TO U.S. AND CANADIAN COMPANIES.**

No issuer of securities (as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), other than an issuer that is domiciled in the United States or Canada, shall be affected by, subject to, or eligible for any exemption under, this Act, the amendments made by this Act, or any rules or regulations adopted or issued pursuant to this Act.

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**SA 1855.** Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 3, before line 1, insert the following:

**SEC. 3. PROSPECTIVE REPEAL.**

This Act and the amendments made by this Act are repealed effective on the date that is 5 years after the date of enactment of this Act.

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**SA 1856.** Mr. LEE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. TERMINATION OF EXPORT-IMPORT BANK OF THE UNITED STATES.**

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Notwithstanding any other provision of this Act or any other provision of law, the authority of the Export-Import Bank of the United States under section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) terminates on May 31, 2013.

(b) TERMINATION OF AUTHORITY.—Notwithstanding any other provision of this Act or any other provision of law, on and after June 1, 2013—

(1) the Export-Import Bank of the United States may not enter into any new agreement for the provision of a loan, a loan guarantee, or insurance, the extension of credit, or any other form of financing;

(2) the Bank shall continue to operate only to the extent necessary to fulfill the obligations of the Bank pursuant to agreements described in paragraph (1) entered into before June 1, 2013; and

(3) the President of the Bank shall take such measures as are necessary to wind up the affairs of the Bank, including by reducing the operations of the Bank and the number of employees of the Bank as the number of remaining agreements described in paragraph (1) decreases.

(c) REPEAL OF EXPORT-IMPORT BANK ACT OF 1945.—Notwithstanding any other provision of this Act or any other provision of law, effective on the date on which the Export-Import Bank of the United States has fulfilled all outstanding obligations of the Bank pursuant to agreements described in subsection (b)(1) entered into before June 1, 2013, the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is repealed.

**SEC. ___. NEGOTIATIONS TO END EXPORT CREDIT FINANCING.**

(a) IN GENERAL.—The President shall initiate and pursue negotiations with other major exporting countries, including members of the Organisation for Economic Co-operation and Development and countries that are not members of that Organisation, to end subsidized export financing programs and other forms of export subsidies.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit 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 on the progress of the negotiations described in subsection (a) until the President certifies in writing to those committees that all countries that support subsidized export financing programs have agreed to end the support.

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**SA 1857.** Mr. LEE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**TITLE VIII—TERMINATION OF EXPORT-IMPORT BANK OF THE UNITED STATES**

**SEC. 801. TERMINATION OF EXPORT-IMPORT BANK OF THE UNITED STATES.**

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''September 30, 2011'' and inserting ''May 31, 2013''.

(b) TERMINATION OF NEW FINANCING AUTHORITY.—On and after June 1, 2013, the Export-Import Bank of the United States may not enter into any new agreement for the provision of a loan, a loan guarantee, or insurance, the extension of credit, or any other form of financing.

(c) WIND UP OF AFFAIRS.—

(1) IN GENERAL.—On and after June 1, 2013, the Export-Import Bank of the United States shall continue to operate only to the extent necessary to fulfill the obligations of the Bank pursuant to agreements described in subsection (b) entered into before June 1, 2013.

(2) REDUCTIONS IN OPERATIONS AND PERSONNEL.—The President of the Export-Import Bank shall take such measures as are necessary to wind up the affairs of the Bank, including by reducing the operations of the Bank and the number of employees of the Bank as the number of remaining agreements described in subsection (b) decreases.

(d) REPEAL OF EXPORT-IMPORT BANK ACT OF 1945.—Effective on the date on which the Export-Import Bank of the United States has fulfilled all outstanding obligations of the Bank pursuant to agreements described in subsection (b) entered into before June 1, 2013, the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is repealed.

**SEC. 802. NEGOTIATIONS TO END EXPORT CREDIT FINANCING.**

(a) IN GENERAL.—The President shall initiate and pursue negotiations with other major exporting countries, including members of the Organisation for Economic Co-operation and Development and countries that are not members of that Organisation, to end subsidized export financing programs and other forms of export subsidies.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit 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 on the progress of the negotiations described in subsection (a) until the President certifies in writing to those committees that all countries that support subsidized export financing programs have agreed to end the support.

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**SA 1858.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. 817. FINANCING OF DOMESTIC FOSSIL FUEL PROJECTS; RESTRICTION ON FINANCING OF FOSSIL FUEL PROJECTS OUTSIDE THE UNITED STATES.**

(a) IDENTIFICATION OF DOMESTIC FOSSIL FUEL PROJECTS.—Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall identify projects involving the production of fossil fuels in the United States that could benefit from the provision of financing by the Bank.

(b) FINANCING OF FOSSIL FUEL PROJECTS.—Notwithstanding any other provision of law,

if the Export-Import Bank of the United States identifies projects involving the production of fossil fuels in the United States that could benefit from the provision of financing by the Bank under subsection (a)—

(1) the Bank may provide financing (including guarantees, insurance, or extensions of credit, or participation in the extension of credit) with respect to those projects; and

(2) the Bank shall not provide financing with respect to any project that involves the production of fossil fuels in a foreign country until the Bank certifies to Congress that—

(A) all projects identified under subsection (a) have been reviewed; and

(B) with respect to each such project, the Bank—

(i) has provided financing; or

(ii) has determined that the persons conducting the project have no interest in receiving financing from the Bank.

(c) DEFINITION OF FOSSIL FUEL.—In this section, the term ''fossil fuel'' means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from natural gas, petroleum, or coal.

**SEC. 818. PROHIBITION ON, AND REPEAL OF MINIMUM INVESTMENT GOALS FOR, FINANCING OF RENEWABLE ENERGY PROJECTS.**

(a) PROHIBITION ON FINANCING OF CERTAIN RENEWABLE ENERGY PROJECTS.—Notwithstanding any other provision of law, the Export-Import Bank of the United States may not provide any guarantee, insurance, or extension of credit (or participate in the extension of credit) with respect to any project that involves the manufacture of renewable energy products in a foreign country.

(b) REPEAL OF MINIMUM INVESTMENT GOAL FOR FINANCING OF RENEWABLE ENERGY PROJECTS.—Section 534(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (12 U.S.C. 635g note) is repealed.

**SEC. 819. PROHIBITION ON PROVIDING OR GUARANTEEING LOANS THAT ARE SUBORDINATE TO OTHER LOANS.**

Notwithstanding any other provision of law, the Export-Import Bank of the United States may not make or guarantee a loan that is subordinate to any other loan.

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**SA 1859.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. 817. PROHIBITION ON PROVIDING OR GUARANTEEING LOANS THAT ARE SUBORDINATE TO OTHER LOANS.**

Notwithstanding any other provision of law, the Export-Import Bank of the United States may not make or guarantee a loan that is subordinate to any other loan.

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**SA 1860.** Mr. HELLER submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, 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 AND THE APPROPRIATIONS BILLS.**

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 and have not passed all the regular appropriations bills for the next 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 and all the regular appropriations bills.

**SEC. __04. NO PAY WITHOUT CONCURRENT RESOLUTION ON THE BUDGET AND THE APPROPRIATIONS BILLS.**

(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 Chairpersons of the Committee on the Budget and the Committee on Appropriations of the Senate or the Chairpersons of the Committee on the Budget and the Committee on Appropriations 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 Chairpersons of the Committee on the Budget and the Committee on Appropriations of the Senate or the Chairpersons of the Committee on the Budget and the Committee on Appropriations 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 Chairpersons of the Committee on the Budget and the Committee on Appropriations of the Senate for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairpersons of the Committee on the Budget and the Committee on Appropriations of the Senate shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section __03 and whether Senators may not be paid under that section;

(B) determine the period of days following each October 1 that Senators may not be paid under section __03; 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 Chairpersons of the Committee on the Budget and the Committee on Appropriations of the House of Representatives for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairpersons of the Committee on the Budget and the Committee on Appropriations of the House of Representatives shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section __03 and whether Member of the House of Representatives may not be paid under that section;

(B) determine the period of days following each October 1 that Member of the House of Representatives may not be paid under section __03; 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.

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**SA 1861.** Ms. SNOWE (for herself, Ms. LANDRIEU, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE __—SMALL BUSINESS TAX EXTENDERS**

**SEC. __01. SHORT TITLE; REFERENCES.**

(a) SHORT TITLE.—This title may be cited as the ''Small Business Tax Extenders Act of 2012''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. __02. EXTENSION OF TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.**

(a) IN GENERAL.—Paragraph (4) of section 1202(a) is amended—

(1) by striking ''January 1, 2012'' and inserting ''January 1, 2013'', and

(2) by striking ''AND 2011'' and inserting '', 2011, AND 2012'' in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after December 31, 2011.

**SEC. __03. EXTENSION OF 5-YEAR CARRYBACK OF GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES.**

(a) IN GENERAL.—Subparagraph (A) of section 39(a)(4) is amended by inserting '', 2011, or 2012'' after ''2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to credits determined in taxable years beginning after December 31, 2010.

**SEC. __04. EXTENSION OF ALTERNATIVE MINIMUM TAX RULES FOR GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES.**

(a) IN GENERAL.—Subparagraph (A) of section 38(c)(5) is amended by inserting '', 2011, or 2012'' after ''2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2010, and to carrybacks of such credits.

**SEC. __05. EXTENSION OF REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.**

(a) IN GENERAL.—Clause (ii) of section 1374(d)(7)(B) of the Internal Revenue Code of 1986 is amended by inserting ''or 2012'' after ''2011''.

(b) CONFORMING AMENDMENT.—The heading for section 1374(d)(7)(B) is amended by striking ''AND 2011'' and inserting ''2011, AND 2012''.

(c) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1374(d)(7) of such Code is amended by striking ''The preceding sentence'' and inserting the following: ''For purposes of applying this subparagraph to an installment sale, each portion of such installment sale shall be treated as a sale occurring in the taxable year in which the first portion of such installment sale occurred. This subparagraph''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. __06. EXTENSION OF INCREASED EXPENSING LIMITATIONS AND TREATMENT OF CERTAIN REAL PROPERTY AS SECTION 179 PROPERTY.**

(a) IN GENERAL.—Section 179(b) is amended—

(1) by striking ''2010 or 2011'' each place it appears in paragraph (1)(B) and (2)(B) and inserting ''2010, 2011, or 2012'',

(2) by striking ''2012'' each place it appears in paragraph (1)(C) and (2)(C) and inserting ''2013'', and

(3) by striking ''2012'' each place it appears in paragraph (1)(D) and (2)(D) and inserting ''2013''.

(b) INFLATION ADJUSTMENT.—Subparagraph (A) of section 179(b)(6) is amended by striking ''2012'' and inserting ''2013''.

(c) COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking ''2013'' and inserting ''2014''.

(d) ELECTION.—Section 179(c)(2) is amended by striking ''2013'' and inserting ''2014''.

(e) SPECIAL RULES FOR TREATMENT OF QUALIFIED REAL PROPERTY.—Section 179(f)(1) is amended by striking ''2010 or 2011'' and inserting ''2010, 2011, or 2012''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. __07. EXTENSION OF SPECIAL RULE FOR LONG-TERM CONTRACT ACCOUNTING.**

(a) IN GENERAL.—Clause (ii) of section 460(c)(6)(B) is amended by striking ''January 1, 2011 (January 1, 2012'' and inserting ''January 1, 2013 (January 1, 2014''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2010.

**SEC. __08. EXTENSION OF INCREASED AMOUNT ALLOWED AS A DEDUCTION FOR START-UP EXPENDITURES.**

(a) IN GENERAL.—Paragraph (3) of section 195(b) is amended—

(1) by inserting '', 2001, or 2012'' after ''2010'', and

(2) by inserting ''2011, AND 2012'' in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2010.

**SEC. __09. EXTENSION OF ALLOWANCE OF DEDUCTION FOR HEALTH INSURANCE IN COMPUTING SELF-EMPLOYMENT TAXES.**

(a) IN GENERAL.—Paragraph (4) of section 162(l) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

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**SA 1862.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

( ) EFFECTIVE DATE.

This section shall become effective 14 days after enactment.

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**SA 1863.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

( ) EFFECTIVE DATE.

This section shall become effective 13 days after enactment.

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**SA 1864.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

**SEC. ___. EFFECTIVE DATE.**

This Act shall become effective 12 days after enactment.

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**SA 1865.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1864 submitted by Mr. REID and intended to be proposed to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

In the amendment, strike ''12 days'' and insert ''11 days''.

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**SA 1866.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. ___. EFFECTIVE DATE.**

This Act shall become effective 10 days after enactment.

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**SA 1867.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1866 submitted by Mr. REID and intended to be proposed to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

In the amendment, strike ''10 days'' and insert ''9 days''.

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**SA 1868.** Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VIII—MISCELLANEOUS**

**SEC. 801. LIMITATION ON ENTRY INTO FORCE OF CERTAIN TRADE AGREEMENTS.**

Notwithstanding section 303 of the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (15 U.S.C. 8113) or any other provision of law, the President may not accept, or provide for the entry into force with respect to the United States of, any legally binding trade agreement that imposes obligations on the United States with respect to the enforcement of intellectual property rights, including the Anti-Counterfeiting Trade Agreement, without the formal and express approval of Congress.

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**SA 1869.** Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VIII—TRADE**

**SEC. 801. DISCLOSURE OF UNITED STATES POSITIONS RELATING TO INTELLECTUAL PROPERTY OR THE INTERNET IN THE TRANS-PACIFIC PARTNERSHIP NEGOTIATIONS.**

(a) DISCLOSURE OF EXISTING DOCUMENTS.—Not later than 30 days after the date of the enactment of this Act, the President shall make available to the public on the website of the Office of the United States Trade Representative each document—

(1) describing a position of, or proposal made by, the United States with respect to intellectual property, the Internet, or entities that use the Internet, including electronic commerce; and

(2) that was shared with other parties to negotiations for a Trans-Pacific Partnership Agreement before such date of enactment.

(b) ONGOING DISCLOSURE OF DOCUMENTS.—On and after the date of the enactment of this Act, the President shall make available to the public on the website of the Office of the United States Trade Representative any document describing a position of, or proposal made by, the United States with respect to intellectual property, the Internet, or entities that use the Internet, including electronic commerce, not later than 24 hours after the document is shared with other parties to negotiations for a Trans-Pacific Partnership Agreement.

(c) WAIVER.—The President may waive the application of subsection (a) or (b) if the President—

(1) determines that making a document described in subsection (a) or (b) (as the case may be) available to the public would pose a threat to the national security of the United States; and

(2) submits to Congress a report describing the reasons for that determination.

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**SA 1870.** Mr. CARDIN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE __—OTHER PROVISIONS**

**SEC. __01. EXTENSION OF REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.**

(a) IN GENERAL.—Clause (ii) of section 1374(d)(7)(B) of the Internal Revenue Code of 1986 is amended by inserting ''2012, or 2013,'' after ''2011,''.

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1374(d)(7) of such Code is

amended by striking ''The preceding sentence'' and inserting the following: ''For purposes of applying this subparagraph to an installment sale, each portion of such installment sale shall be treated as a sale occurring in the taxable year in which the first portion of such installment sale occurred. This subparagraph''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this subsection (a) shall apply to taxable years beginning after December 31, 2011.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

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**SA 1871.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. RESTRICTIONS ON FINANCING OF CERTAIN FOSSIL FUEL PROJECTS BY THE EXPORT-IMPORT BANK OF THE UNITED STATES.**

(a) IN GENERAL.—The Export-Import Bank of the United States may not provide any financing (including any guarantee, insurance, extension of credit, or participation in the extension of credit) with respect to any project that involves the exploration for or production of fossil fuels in a foreign country if similar exploration or production is illegal in the United States or is largely prohibited in certain areas within the United States.

(b) DEFINITION OF FOSSIL FUEL.—In this section, the term ''fossil fuel'' means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from any such material.

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**SA 1872.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. 817. ELIMINATION OF EXEMPTION FROM SUBSTANTIAL INJURY DETERMINATIONS FOR TRANSACTIONS OF LESS THAN $10,000,000.**

Section 2(e)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)) is amended, in the matter preceding subparagraph (A)—

(1) by striking ''credit of financial'' and inserting ''credit or financial''; and

(2) by inserting ''without regard to whether the credit or guarantee relates to a transaction involving more than $10,000,000,'' after ''United States,''.

**SEC. 818. PUBLICATION OF GUIDELINES FOR ECONOMIC IMPACT ANALYSES AND DOCUMENTATION OF SUCH ANALYSES.**

Section 2(e)(7) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(7)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) GUIDELINES FOR ECONOMIC IMPACT ANALYSES.—Not later than 90 days after the date of the enactment of the Export-Import Bank Reauthorization Act of 2012, the Bank shall develop and make publicly available methodological guidelines to be used by the Bank in conducting economic impact analyses or similar studies under this subsection. In developing such guidelines, the Bank shall take into consideration any relevant guidance from the Office of Management and Budget.

''(F) MAINTENANCE OF DOCUMENTATION.—The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.''.

**SEC. 819. LIMITATION ON ASSISTANCE TO FOREIGN AIR CARRIERS.**

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(h) LIMITATION ON ASSISTANCE TO FOREIGN AIR CARRIERS.—

''(1) DEFINITIONS.—In this subsection:

''(A) HOME COUNTRY.—A country is the 'home country' of an applicant for a loan or financial guarantee if—

''(i) in the case of an individual, the individual is a citizen or resident of that country; and

''(ii) in the case of an entity, the entity is organized under the laws of that country or otherwise subject to the jurisdiction of the government of that country.

''(B) LONG-RANGE AIRCRAFT.—The term 'long-range aircraft', with respect to an aircraft that may be purchased by an applicant for a loan or financial guarantee, means an aircraft with a range that is equal to or greater than the shortest distance between the home country of the applicant and the continental United States.

''(C) UNITED STATES AIR CARRIER.—The term 'United States air carrier' means an air carrier organized under the laws of the United States or any jurisdiction within the United States.

''(2) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON UNITED STATES AIR CARRIERS AND EMPLOYMENT IN UNITED STATES.—

''(A) NOTICE AND COMMENT REQUIREMENTS.—

''(i) IN GENERAL.—Before considering or approving any application for any loan or financial guarantee that may be used in whole or in part to purchase any long-range aircraft, the Bank shall—

''(I) publish in the Federal Register a notice of the application;

''(II) provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic or other potentially adverse effects of the provision of the loan or guarantee; and

''(III) seek comments on the economic or other potentially adverse effects of the provision of the loan or guarantee from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(ii) CONTENT OF NOTICE.—The notice published under clause (i)(I) with respect to an application for any loan or financial guarantee that may be used in whole or in part to purchase any long-range aircraft shall include appropriate information about—

''(I) the country to which the aircraft will be shipped;

''(II) the type of aircraft being exported;

''(III) the amount of the loan or guarantee;

''(IV) the number of aircraft that would be produced as a result of the provision of the loan or guarantee;

''(V) the number of available seats on flights that would result from the provision of the loan or guarantee;

''(VI) the percentage of each aircraft that would be manufactured exclusively within the United States;

''(VII) the number of jobs for pilots, flight attendants, and other employees of United States air carriers that would be lost if the aircraft to be purchased using the loan or guarantee were to displace aircraft operated by a United States air carrier on any route between the United States and any foreign country; and

''(VIII) the number of other jobs in the United States that would be lost if the loan or guarantee were approved.

''(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

''(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft after a notice with respect to the application is published under clause (i), the Bank shall publish in the Federal Register a revised notice of the application and shall provide for an additional comment period as described in clause (i)(II).

''(II) MATERIAL CHANGE DEFINED.—For purposes of subclause (I), the term 'material change', with respect to application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, includes—

''(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; or

''(bb) a change in the type or number of aircraft to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

''(B) REQUIREMENT TO CONSIDER VIEWS OF ADVERSELY AFFECTED PERSONS.—Before issuing a final commitment for, or otherwise taking final action on, an application for any loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, the Board of Directors of the Bank shall consider the views of any person that submitted comments pursuant to subparagraph (A).

''(C) NOTIFICATION OF FINAL DECISION.—Not later than 7 days after the Board of Directors issues a final commitment for, or otherwise takes final action on, an application for any loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, the Bank shall provide notice of the commitment or action in the Federal Register.

''(D) PUBLICATION OF CONCLUSIONS.—Not later than 30 days after a party affected by a final decision of the Board of Directors to issue a final commitment for, or otherwise take final action on, an application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft makes a written request for an explanation of the decision, the Bank shall provide to the affected party a reasoned explanation for the decision that includes a nonarbitrary and noncapricious response to any comments that the party submitted pursuant to subparagraph (A).

''(3) PROHIBITION ON LOANS OR GUARANTEES THAT WILL CAUSE SUBSTANTIAL INJURY TO UNITED STATES AIR CARRIERS OR THEIR EMPLOYEES.—

''(A) PROHIBITION.—Notwithstanding any other provision of this Act, the Bank may not provide any loan or financial guarantee

that may be used in whole or in part to purchase any long-range aircraft if the provision of the loan or guarantee will cause substantial injury to any United States air carrier or the employees of any United States air carrier.

''(B) DEFINITION.—For purposes of subparagraph (A), the provision of a loan or guarantee will cause substantial injury to a United States air carrier or its employees if the number of available seats on flights between the United States and the home country of the applicant for the loan or guarantee that will result from the provision of the loan or guarantee will equal or exceed 1 percent of the number of available seats on flights operated by United States air carriers between the United States and the home country of the applicant.

''(C) CALCULATION.—In calculating under subparagraph (B) the number of available seats on flights between the United States and the home country of an applicant for a loan or financial guarantee that will result from the provision of the loan or guarantee, the Bank shall—

''(i) presume that the applicant will use 20 percent of the long-range aircraft specified in the application, or 20 percent of the total long-range aircraft specified in all applications approved by the Bank for the applicant in the preceding 12 months, whichever is larger, to fly between the United States and the home country of the applicant; and

''(ii) multiply the number of aircraft determined under clause (i) by the average number of seats on all long-range aircraft specified in the application.

''(4) ADMINISTRATIVE PROCEDURE ACT.—The actions of the Bank under this subsection shall comply with, and be reviewable under, chapter 7 of title 5, United States Code. This subsection shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.''.

**SEC. 820. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit 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 on the progress of the Bank in implementing the recommendations contained in the report of the Government Accountability Office entitled ''Export-Import Bank: Improvements Needed in Assessment of Economic Impact'', dated September 12, 2007 (GAO–07–1071), that includes—

(1) a detailed description of the progress made in implementing each such recommendation; and

(2) for any such recommendation that has not yet been implemented, an explanation of the reasons the recommendation has not been implemented.

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**SA 1873.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. RESTRICTION ON FINANCING OF EXPORTATION OF AIRCRAFT BY THE EXPORT-IMPORT BANK OF THE UNITED STATES.**

(a) IN GENERAL.—The Export-Import Bank of the United States may not provide any financing (including any guarantee, insurance, extension of credit, or participation in the extension of credit), on or after the date of the enactment of this Act, with respect to the exportation of an aircraft unless each entity to which the financing will be provided certifies to the Bank that the entity will not subsequently enter into an agreement with a United States entity for the sale and leaseback of the aircraft.

(b) UNITED STATES ENTITY DEFINED.—In this section, the term ''United States entity'' means an entity organized under the laws of the United States or any jurisdiction within the United States.

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**SA 1874.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VIII—EXPORT-IMPORT BANK OF THE UNITED STATES**

**SEC. 801. ELIMINATION OF EXEMPTION FROM SUBSTANTIAL INJURY DETERMINATIONS FOR TRANSACTIONS OF LESS THAN $10,000,000.**

Section 2(e)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)) is amended, in the matter preceding subparagraph (A)—

(1) by striking ''credit of financial'' and inserting ''credit or financial''; and

(2) by inserting ''without regard to whether the credit or guarantee relates to a transaction involving more than $10,000,000,'' after ''United States,''.

**SEC. 802. PUBLICATION OF GUIDELINES FOR ECONOMIC IMPACT ANALYSES AND DOCUMENTATION OF SUCH ANALYSES.**

Section 2(e)(7) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(7)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) GUIDELINES FOR ECONOMIC IMPACT ANALYSES.—Not later than 90 days after the date of the enactment of the Jumpstart Our Business Startups Act, the Bank shall develop and make publicly available methodological guidelines to be used by the Bank in conducting economic impact analyses or similar studies under this subsection. In developing such guidelines, the Bank shall take into consideration any relevant guidance from the Office of Management and Budget.

''(F) MAINTENANCE OF DOCUMENTATION.—The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.''.

**SEC. 803. LIMITATION ON ASSISTANCE TO FOREIGN AIR CARRIERS.**

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(h) LIMITATION ON ASSISTANCE TO FOREIGN AIR CARRIERS.—

''(1) DEFINITIONS.—In this subsection:

''(A) HOME COUNTRY.—A country is the 'home country' of an applicant for a loan or financial guarantee if—

''(i) in the case of an individual, the individual is a citizen or resident of that country; and

''(ii) in the case of an entity, the entity is organized under the laws of that country or otherwise subject to the jurisdiction of the government of that country.

''(B) LONG-RANGE AIRCRAFT.—The term 'long-range aircraft', with respect to an aircraft that may be purchased by an applicant for a loan or financial guarantee, means an aircraft with a range that is equal to or greater than the shortest distance between the home country of the applicant and the continental United States.

''(C) UNITED STATES AIR CARRIER.—The term 'United States air carrier' means an air carrier organized under the laws of the United States or any jurisdiction within the United States.

''(2) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON UNITED STATES AIR CARRIERS AND EMPLOYMENT IN UNITED STATES.—

''(A) NOTICE AND COMMENT REQUIREMENTS.—

''(i) IN GENERAL.—Before considering or approving any application for any loan or financial guarantee that may be used in whole or in part to purchase any long-range aircraft, the Bank shall—

''(I) publish in the Federal Register a notice of the application;

''(II) provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic or other potentially adverse effects of the provision of the loan or guarantee; and

''(III) seek comments on the economic or other potentially adverse effects of the provision of the loan or guarantee from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(ii) CONTENT OF NOTICE.—The notice published under clause (i)(I) with respect to an application for any loan or financial guarantee that may be used in whole or in part to purchase any long-range aircraft shall include appropriate information about—

''(I) the country to which the aircraft will be shipped;

''(II) the type of aircraft being exported;

''(III) the amount of the loan or guarantee;

''(IV) the number of aircraft that would be produced as a result of the provision of the loan or guarantee;

''(V) the number of available seats on flights that would result from the provision of the loan or guarantee;

''(VI) the percentage of each aircraft that would be manufactured exclusively within the United States;

''(VII) the number of jobs for pilots, flight attendants, and other employees of United States air carriers that would be lost if the aircraft to be purchased using the loan or guarantee were to displace aircraft operated by a United States air carrier on any route between the United States and any foreign country; and

''(VIII) the number of other jobs in the United States that would be lost if the loan or guarantee were approved.

''(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

''(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft after a notice with respect to the application is published under clause (i), the Bank shall publish in the Federal Register a revised notice of the application and shall provide for an additional comment period as described in clause (i)(II).

''(II) MATERIAL CHANGE DEFINED.—For purposes of subclause (I), the term 'material change', with respect to application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, includes—

''(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; or

''(bb) a change in the type or number of aircraft to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

''(B) REQUIREMENT TO CONSIDER VIEWS OF ADVERSELY AFFECTED PERSONS.—Before issuing a final commitment for, or otherwise taking final action on, an application for any loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, the Board of Directors of the Bank shall consider the views of any person that submitted comments pursuant to subparagraph (A).

''(C) NOTIFICATION OF FINAL DECISION.—Not later than 7 days after the Board of Directors issues a final commitment for, or otherwise takes final action on, an application for any loan or guarantee that may be used in whole or in part to purchase any long-range aircraft, the Bank shall provide notice of the commitment or action in the Federal Register.

''(D) PUBLICATION OF CONCLUSIONS.—Not later than 30 days after a party affected by a final decision of the Board of Directors to issue a final commitment for, or otherwise take final action on, an application for a loan or guarantee that may be used in whole or in part to purchase any long-range aircraft makes a written request for an explanation of the decision, the Bank shall provide to the affected party a reasoned explanation for the decision that includes a nonarbitrary and noncapricious response to any comments that the party submitted pursuant to subparagraph (A).

''(3) PROHIBITION ON LOANS OR GUARANTEES THAT WILL CAUSE SUBSTANTIAL INJURY TO UNITED STATES AIR CARRIERS OR THEIR EMPLOYEES.—

''(A) PROHIBITION.—Notwithstanding any other provision of this Act, the Bank may not provide any loan or financial guarantee that may be used in whole or in part to purchase any long-range aircraft if the provision of the loan or guarantee will cause substantial injury to any United States air carrier or the employees of any United States air carrier.

''(B) DEFINITION.—For purposes of subparagraph (A), the provision of a loan or guarantee will cause substantial injury to a United States air carrier or its employees if the number of available seats on flights between the United States and the home country of the applicant for the loan or guarantee that will result from the provision of the loan or guarantee will equal or exceed 1 percent of the number of available seats on flights operated by United States air carriers between the United States and the home country of the applicant.

''(C) CALCULATION.—In calculating under subparagraph (B) the number of available seats on flights between the United States and the home country of an applicant for a loan or financial guarantee that will result from the provision of the loan or guarantee, the Bank shall—

''(i) presume that the applicant will use 20 percent of the long-range aircraft specified in the application, or 20 percent of the total long-range aircraft specified in all applications approved by the Bank for the applicant in the preceding 12 months, whichever is larger, to fly between the United States and the home country of the applicant; and

''(ii) multiply the number of aircraft determined under clause (i) by the average number of seats on all long-range aircraft specified in the application.

''(4) ADMINISTRATIVE PROCEDURE ACT.—The actions of the Bank under this subsection shall comply with, and be reviewable under, chapter 7 of title 5, United States Code. This subsection shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.''.

**SEC. 804. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit 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 on the progress of the Bank in implementing the recommendations contained in the report of the Government Accountability Office entitled ''Export-Import Bank: Improvements Needed in Assessment of Economic Impact'', dated September 12, 2007 (GAO–07–1071), that includes—

(1) a detailed description of the progress made in implementing each such recommendation; and

(2) for any such recommendation that has not yet been implemented, an explanation of the reasons the recommendation has not been implemented.

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**SA 1875.** Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE ____—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES**

**SEC. __01. SHORT TITLE.**

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012''.

**SEC. __02. FINDINGS.**

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

**SEC. __03. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.**

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

**SEC. __04. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.**

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

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

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

**SEC. __05. PERIODIC REVIEW.**

Section 610 of title 5, United States Code, is amended to read as follows:

**''§ 610. Periodic review of rules**

''(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b) Each plan established under subsection (a) shall provide for—

''(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

''(B) every 9 years thereafter; and

''(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

''(A) not later than 9 years after the publication of the final rule in the Federal Register; and

''(B) every 9 years thereafter.

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the economic impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

''(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

''(B) notify the head of the agency of—

''(i) the results of the determination under subparagraph (A); and

''(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

''(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

''(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

''(i) determine whether the agency has addressed the issues identified in the notice; and

''(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

''(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

''(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).''.

**SEC. __06. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.**

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''a covered agency'' and inserting ''an agency designated under subsection (d)''; and

(B) by striking ''a covered agency'' each place it appears and inserting ''the agency'';

(2) by striking subsection (d) and inserting the following:

''(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, the Environmental Protection Agency, the Bureau of Consumer Financial Protection, and the Occupational Safety and Health Administration of the Department of Labor shall be—

''(A) agencies designated under this subsection; and

''(B) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012;

''(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012; and

''(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012.

''(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.''; and

(3) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

**SEC. __07. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.**

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

**SEC. __08. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.**

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon

which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section __03 of this title, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

**SEC. __09. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.**

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking ''Each agency'' and inserting the following:

''(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency''; and

(B) by adding at the end the following:

''(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.''; and

(2) in subsection (c)—

(A) by striking ''Agencies shall report'' and all that follows through ''the scope'' and inserting ''Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope''; and

(B) by striking ''and the total amount of penalty reductions and waivers'' and inserting ''the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)''.

**SEC. __10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.**

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

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

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

**''§ 607. Quantification requirements**

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

**SEC. __11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.**

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

**SEC. __12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.**

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

**SEC. __13. FUNDING AND OFFSET.**

(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 2013;

(2) $2,000,000 for fiscal year 2014; and

(3) $3,000,000 for fiscal year 2015.

(b) OFFSET.—The amount appropriated for the appropriations account appropriated under the heading ''SALARIES AND EXPENSES'' under the heading ''SMALL BUSINESS ADMINISTRATION'' under the heading ''INDEPENDENT AGENCIES''—

(1) for fiscal year 2013 may not exceed the amount that is $1,000,000 less than the amount so appropriated for fiscal year 2012;

(2) for fiscal year 2014 may not exceed the amount that is $2,000,000 less than the amount so appropriated for fiscal year 2012; and

(3) for fiscal year 2015 may not exceed the amount that is $3,000,000 less than the amount so appropriated for fiscal year 2012.

**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.''.

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**SA 1876.** Mrs. HAGAN (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

**SEC. 304. RULE OF CONSTRUCTION.**

Notwithstanding any other provision of this title, the amendments made by this title shall not apply to a security offered or sold in any State or territory of the United States or the District of Columbia pursuant to an exemption that is substantially equivalent to a model crowdfunding rule adopted or amended, through the affirmative vote of a majority of duly constituted representatives of State governments, by an association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States.

**SEC. 305. SEVERABILITY.**

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

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**SA 1877.** Mrs. HAGAN (for herself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 46, line 8, strike ''in which'' and all that follows through line 22 and insert the following: ''in which—

''(i) the principal place of business of a registered funding portal is located, provided that such law, rule, regulation, or administrative action is not in addition to or different from the requirements for registered funding portals established by the Commission; or

''(ii) the State has established a crowdfunding exemption that is substantially equivalent to a model crowdfunding rule adopted or amended, through the affirmative vote of a majority of duly constituted representatives of State governments, by an association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States.

''(C) DEFINITION.—For purposes of this paragraph, the term 'State' includes the District of Columbia and the territories of the United States.''.

(2) STATE FRAUD AUTHORITY.—Section 18(c)(1) of the Securities Act of 1933 (15 U.S.C. 77r(c)(1)) is amended by striking ''or dealer'' and inserting '', dealer, or funding portal''.

(e) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not apply to a security offered or sold in any State or territory of the United States or the District of Columbia pursuant to an exemption that is substantially equivalent to a model crowdfunding rule adopted or amended, through the affirmative vote of a majority of duly constituted representatives of State governments, by an association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States.

**SEC. 306. SEVERABILITY.**

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SEC. 307. REPORTS TO CONGRESS.**

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**SA 1878.** Mr. PORTMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—INDEPENDENT AGENCY REGULATORY PLANNING AND ANALYSIS**

**SEC. ___1. SHORT TITLE.**

This title may be cited as the ''Independent Agency Regulatory Planning and Analysis Act of 2012''.

**SEC. ___2. DEFINITIONS.**

In this title—

(1) the term ''Administrator'' means the Administrator of the Office of Information and Regulatory Affairs;

(2) the term ''agency'' has the same meaning as in section 3502(1) of title 44, United States Code;

(3) the term ''independent regulatory agency'' has the same meaning as in section 3502(5) of title 44, United States Code;

(4) the term ''rule''—

(A) means a rule, as that term is defined in section 551 of title 5, United States Code; and

(B) does not include a rule of the Board of Governors of the Federal Reserve System or the Federal Open Market Committee relating to monetary policy; and

(5) the term ''significant rule'' means any rule that the Administrator determines is likely to—

(A) have an annual effect on the economy of $100,000,000 or more;

(B) 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;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

**SEC. ___3. REGULATORY ANALYSIS BY INDEPENDENT AGENCIES.**

(a) IN GENERAL.—The President may, by executive order, require an independent regulatory agency to comply with regulatory planning and analysis requirements applicable to other agencies, including the requirements to—

(1) assess the costs and the benefits of a rule;

(2) adopt a rule only upon a reasoned determination that the benefits of the rule justify the costs of the rule;

(3) use the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, a rule;

(4) identify and assess alternative forms of regulation and, to the extent feasible, specific performance objectives, rather than specifying the behavior or manner of compliance that regulated entities are required adopt;

(5) seek the views, whenever feasible, of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect State, local, or tribal governmental entities;

(6) avoid rules that are inconsistent or incompatible with, or duplicative of, other rules of the independent regulatory agency or other agencies;

(7) examine whether an existing rule (or other law) has created, or contributed to, the problem that a new rule is intended to correct and whether the rule (or other law) should be modified to achieve the intended goal of the rule more effectively;

(8) tailor the rules of the independent regulatory agency to impose the least burden on society, consistent with achieving the regulatory objectives, and taking into account, among other factors, and to the extent practicable, the cumulative cost of rules; and

(9) draft each rule to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from uncertainty.

(b) REVIEW BY OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—

(1) REQUIREMENT TO SEEK REVIEW.—The President may, by executive order, require an independent regulatory agency to submit any proposed or final significant rule to the Administrator for review.

(2) NONBINDING DETERMINATION.—An executive order issued under paragraph (1) may require that the Administrator place in the rulemaking record of a significant rule the Administrator's determination whether the rule complies with any regulatory planning and analysis requirement made applicable to the independent regulatory agency by executive order.

(3) REASONED EXPLANATION BY INDEPENDENT AGENCY.—An executive order issued under

paragraph (1) may require that, if the Administrator makes a determination under paragraph (2) that a proposed or final significant rule does not comply with the requirements described in paragraph (2), the head of the independent regulatory agency that issued the rule shall include in the record of the rulemaking—

(A) a reasoned determination that the rule complies with the requirements, notwithstanding the determination of the Administrator; or

(B) a reasoned determination, based on the statute authorizing the rule, why the independent regulatory agency chose not to comply with the requirements.

**SEC. ___4. LIMITED JUDICIAL REVIEW.**

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this title shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action.

(b) REVIEW.—

(1) JURISDICTION.—Except as provided in paragraph (2), any person that is adversely affected or aggrieved by a determination by the head of an independent regulatory agency under section ___3(b)(3) is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(2) STANDARD OF REVIEW.—A court reviewing a determination by the head of an independent regulatory agency under section ___3(b)(3) shall hold unlawful and set aside the determination if the determination is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

**SEC. ___5. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed to limit the authority of the President with respect to independent regulatory agencies under any other applicable law.

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**SA 1879.** Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___—INDEPENDENT AGENCY REGULATORY PLANNING AND ANALYSIS**

**SEC. ___1. SHORT TITLE.**

This title may be cited as the ''Independent Agency Regulatory Planning and Analysis Act of 2012''.

**SEC. ___2. DEFINITIONS.**

In this title—

(1) the term ''Administrator'' means the Administrator of the Office of Information and Regulatory Affairs;

(2) the term ''agency'' has the same meaning as in section 3502(1) of title 44, United States Code;

(3) the term ''independent regulatory agency'' has the same meaning as in section 3502(5) of title 44, United States Code;

(4) the term ''rule''—

(A) means a rule, as that term is defined in section 551 of title 5, United States Code; and

(B) does not include a rule of the Board of Governors of the Federal Reserve System or the Federal Open Market Committee relating to monetary policy; and

(5) the term ''significant rule'' means any rule that the Administrator determines is likely to—

(A) have an annual effect on the economy of $100,000,000 or more;

(B) 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;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

**SEC. ___3. REGULATORY ANALYSIS BY INDEPENDENT AGENCIES.**

(a) IN GENERAL.—The President may, by executive order, require an independent regulatory agency to comply with regulatory planning and analysis requirements applicable to other agencies, including the requirements to—

(1) assess the costs and the benefits of a rule;

(2) adopt a rule only upon a reasoned determination that the benefits of the rule justify the costs of the rule;

(3) use the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, a rule;

(4) identify and assess alternative forms of regulation and, to the extent feasible, specific performance objectives, rather than specifying the behavior or manner of compliance that regulated entities are required adopt;

(5) seek the views, whenever feasible, of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect State, local, or tribal governmental entities;

(6) avoid rules that are inconsistent or incompatible with, or duplicative of, other rules of the independent regulatory agency or other agencies;

(7) examine whether an existing rule (or other law) has created, or contributed to, the problem that a new rule is intended to correct and whether the rule (or other law) should be modified to achieve the intended goal of the rule more effectively;

(8) tailor the rules of the independent regulatory agency to impose the least burden on society, consistent with achieving the regulatory objectives, and taking into account, among other factors, and to the extent practicable, the cumulative cost of rules; and

(9) draft each rule to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from uncertainty.

(b) REVIEW BY OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—

(1) REQUIREMENT TO SEEK REVIEW.—The President may, by executive order, require an independent regulatory agency to submit any proposed or final significant rule to the Administrator for review.

(2) NONBINDING DETERMINATION.—An executive order issued under paragraph (1) may require that the Administrator place in the rulemaking record of a significant rule the Administrator's determination whether the rule complies with any regulatory planning and analysis requirement made applicable to the independent regulatory agency by executive order.

(3) REASONED EXPLANATION BY INDEPENDENT AGENCY.—An executive order issued under paragraph (1) may require that, if the Administrator makes a determination under paragraph (2) that a proposed or final significant rule does not comply with the requirements described in paragraph (2), the head of the independent regulatory agency that issued the rule shall include in the record of the rulemaking—

(A) a reasoned determination that the rule complies with the requirements, notwithstanding the determination of the Administrator; or

(B) a reasoned determination, based on the statute authorizing the rule, why the independent regulatory agency chose not to comply with the requirements.

**SEC. ___4. LIMITED JUDICIAL REVIEW.**

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this title shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action.

(b) REVIEW.—

(1) JURISDICTION.—Except as provided in paragraph (2), any person that is adversely affected or aggrieved by a determination by the head of an independent regulatory agency under section ___3(b)(3) is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(2) STANDARD OF REVIEW.—A court reviewing a determination by the head of an independent regulatory agency under section ___3(b)(3) shall hold unlawful and set aside the determination if the determination is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

**SEC. ___5. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed to limit the authority of the President with respect to independent regulatory agencies under any other applicable law.

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**SA 1880.** Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title IV of the amendment, add the following:

**SEC. 817. REPORT BY THE EXPORT-IMPORT BANK OF THE UNITED STATES ON IMPLEMENTATION OF RECOMMENDATIONS OF THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit 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 on the progress of the Bank in implementing the recommendations contained in the report of the Government Accountability Office entitled ''Export-Import Bank: Improvements Needed in Assessment of Economic Impact'', dated September 12, 2007 (GAO–07–1071), that includes—

(1) a detailed description of the progress made in implementing each such recommendation; and

(2) for any such recommendation that has not yet been implemented, an explanation of the reasons the recommendation has not been implemented.

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**SA 1881.** Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R.

3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title IV of the amendment, add the following:

**SEC. 417. REPORT BY THE EXPORT-IMPORT BANK OF THE UNITED STATES ON IMPLEMENTATION OF RECOMMENDATIONS OF THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit 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 on the progress of the Bank in implementing the recommendations contained in the report of the Government Accountability Office entitled ''Export-Import Bank: Improvements Needed in Assessment of Economic Impact'', dated September 12, 2007 (GAO–07–1071), that includes—

(1) a detailed description of the progress made in implementing each such recommendation; and

(2) for any such recommendation that has not yet been implemented, an explanation of the reasons the recommendation has not been implemented.

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**SA 1882.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. SUBCONTRACTOR NOTIFICATIONS.**

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) NOTIFICATION REQUIREMENT.—An offeror with respect to a contract let by a Federal agency that is to be awarded pursuant to the negotiated method of procurement that intends to identify a small business concern as a potential subcontractor in the offer relating to the contract shall notify the small business concern that the offeror intends to identify the small business concern as a potential subcontractor in the offer.

''(14) REPORTING BY SUBCONTRACTORS.—The Administrator shall establish a reporting mechanism that allows a subcontractor to report fraudulent activity by a contractor with respect to a subcontracting plan submitted to a procurement authority under paragraph (4)(B).''.

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**SA 1883.** Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 72, after line 25, add the following:

(d) DEFINITION OF ACCREDITED INVESTOR RULES.—Not later than the date on which the Commission revises its rules pursuant to subsection (a), the Commission shall, by rule or regulation, revise its rules to modify the definition of the term ''accredited investor'' in section 230.501 of title 17, Code of Federal Regulations—

(1) to include a natural person under section 230.501(a)(5) of title 17, Code of Federal Regulations, only if the person has an individual net worth, or joint net worth with the spouse of that person, at the time of the purchase that exceeds $3,000,000, or such higher amount as the Commission may determine better serves the public interest;

(2) to include a natural person under section 230.501(a)(6) of title 17, Code of Federal Regulations, only if the person—

(A) had an individual income in excess of $600,000 in each of the 2 most recently completed calendar years, or joint income with the spouse of that person in excess of $900,000 in each of those years; and

(B) has a reasonable expectation of reaching the same income level in the current year, or such higher amounts as the Commission may determine better serve the public interest; and

(3) to increase the amounts specified in paragraphs (1) and (2) (or such higher amounts as the Commission may determine better serve the public interest) not less than frequently than annually, at a rate at least equal to the rate of any growth in the gross national product for the preceding year.

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**SA 1884.** Mr. MERKLEY (for himself, Mr. BENNET, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

**TITLE III—CROWDFUNDING**

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Capital Raising Online While Deterring Fraud and Unethical Non-Disclosure Act of 2012'' or the ''CROWDFUND Act''.

**SEC. 302. CROWDFUNDING EXEMPTION.**

(a) SECURITIES ACT OF 1933.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end the following:

''(6) transactions involving the offer or sale of securities by an issuer (including all entities controlled by or under common control with the issuer), provided that—

''(A) the aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this paragraph during the 12-month period preceding the date of such transaction, is not more than $1,000,000;

''(B) the aggregate amount sold to any investor by an issuer, including any amount sold in reliance on the exemption provided under this paragraph during the 12-month period preceding the date of such transaction, does not exceed—

''(i) the greater of $2,000 or 5 percent of the annual income or net worth of such investor, as applicable, if either the annual income or the net worth of the investor is less than $100,000; and

''(ii) 10 percent of the annual income or net worth of such investor, as applicable, not to exceed a maximum aggregate amount sold of $100,000, if either the annual income or net worth of the investor is equal to or more than $100,000;

''(C) the transaction is conducted through a broker or funding portal that complies with the requirements of section 4A(a); and

''(D) the issuer complies with the requirements of section 4A(b).''.

(b) REQUIREMENTS TO QUALIFY FOR CROWDFUNDING EXEMPTION.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 4 the following:

**''SEC. 4A. REQUIREMENTS WITH RESPECT TO CERTAIN SMALL TRANSACTIONS.**

''(a) REQUIREMENTS ON INTERMEDIARIES.—A person acting as an intermediary in a transaction involving the offer or sale of securities for the account of others pursuant to section 4(6) shall—

''(1) register with the Commission as—

''(A) a broker; or

''(B) a funding portal (as defined in section 3(a)(80) of the Securities Exchange Act of 1934);

''(2) register with any applicable self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934);

''(3) provide such disclosures, including disclosures related to risks and other investor education materials, as the Commission shall, by rule, determine appropriate;

''(4) ensure that each investor—

''(A) reviews investor-education information, in accordance with standards established by the Commission, by rule;

''(B) positively affirms that the investor understands that the investor is risking the loss of the entire investment, and that the investor could bear such a loss; and

''(C) answers questions demonstrating—

''(i) an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers;

''(ii) an understanding of the risk of illiquidity; and

''(iii) an understanding of such other matters as the Commission determines appropriate, by rule;

''(5) take such measures to reduce the risk of fraud with respect to such transactions, as established by the Commission, by rule, including obtaining a background and securities enforcement regulatory history check on each officer, director, and person holding more than 20 percent of the outstanding equity of every issuer whose securities are offered by such person;

''(6) not later than 21 days prior to the first day on which securities are sold to any investor (or such other period as the Commission may establish), make available to the Commission and to potential investors any information provided by the issuer pursuant to subsection (b);

''(7) ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than a target offering amount, and allow all investors to cancel their commitments to invest, as the Commission shall, by rule, determine appropriate;

''(8) make such efforts as the Commission determines appropriate, by rule, to ensure that no investor in a 12-month period has purchased securities offered pursuant to section 4(6) that, in the aggregate, from all issuers, exceed the investment limits set forth in section 4(6)(B);

''(9) take such steps to protect the privacy of information collected from investors as the Commission shall, by rule, determine appropriate;

''(10) not compensate promoters, finders, or lead generators for providing the broker or funding portal with the personal identifying information of any potential investor;

''(11) prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services; and

''(12) meet such other requirements as the Commission may, by rule, prescribe, for the

protection of investors and in the public interest.

''(b) REQUIREMENTS FOR ISSUERS.—For purposes of section 4(6), an issuer who offers or sells securities shall—

''(1) file with the Commission and provide to investors and the relevant broker or funding portal, and make available to potential investors—

''(A) the name, legal status, physical address, and website address of the issuer;

''(B) the names of the directors and officers (and any persons occupying a similar status or performing a similar function), and each person holding more than 20 percent of the shares of the issuer;

''(C) a description of the business of the issuer and the anticipated business plan of the issuer;

''(D) a description of the financial condition of the issuer, including, for offerings that, together with all other offerings of the issuer under section 4(6) within the preceding 12-month period, have, in the aggregate, target offering amounts of—

''(i) $100,000 or less—

''(I) the income tax returns filed by the issuer for the most recently completed year (if any); and

''(II) financial statements of the issuer, which shall be certified by the principal executive officer of the issuer to be true and complete in all material respects;

''(ii) more than $100,000, but not more than $500,000, financial statements reviewed by a public accountant who is independent of the issuer, using professional standards and procedures for such review or standards and procedures established by the Commission, by rule, for such purpose; and

''(iii) more than $500,000 (or such other amount as the Commission may establish, by rule), audited financial statements;

''(E) a description of the stated purpose and intended use of the proceeds of the offering sought by the issuer with respect to the target offering amount;

''(F) the target offering amount, the deadline to reach the target offering amount, and regular updates regarding the progress of the issuer in meeting the target offering amount;

''(G) the price to the public of the securities or the method for determining the price, provided that, prior to sale, each investor shall be provided in writing the final price and all required disclosures, with a reasonable opportunity to rescind the commitment to purchase the securities;

''(H) a description of the ownership and capital structure of the issuer, including—

''(i) terms of the securities of the issuer being offered and each other class of security of the issuer, including how such terms may be modified, and a summary of the differences between such securities, including how the rights of the securities being offered may be materially limited, diluted, or qualified by the rights of any other class of security of the issuer;

''(ii) a description of how the exercise of the rights held by the principal shareholders of the issuer could negatively impact the purchasers of the securities being offered;

''(iii) the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer;

''(iv) how the securities being offered are being valued, and examples of methods for how such securities may be valued by the issuer in the future, including during subsequent corporate actions; and

''(v) the risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate actions, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties; and

''(I) such other information as the Commission may, by rule, prescribe, for the protection of investors and in the public interest;

''(2) not advertise the terms of the offering, except for notices which direct investors to the funding portal or broker;

''(3) not compensate or commit to compensate, directly or indirectly, any person to promote its offerings through communication channels provided by a broker or funding portal, without taking such steps as the Commission shall, by rule, require to ensure that such person clearly discloses the receipt, past or prospective, of such compensation, upon each instance of such promotional communication;

''(4) not less than annually, file with the Commission and provide to investors reports of the results of operations and financial statements of the issuer, as the Commission shall, by rule, determine appropriate, subject to such exceptions and termination dates as the Commission may establish, by rule; and

''(5) comply with such other requirements as the Commission may, by rule, prescribe, for the protection of investors and in the public interest.

''(c) LIABILITY FOR MATERIAL MISSTATEMENTS AND OMISSIONS.—

''(1) ACTIONS AUTHORIZED.—

''(A) IN GENERAL.—Subject to paragraph (2), a person who purchases a security in a transaction exempted by the provisions of section 4(6) may bring an action against an issuer described in paragraph (2), either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if such person no longer owns the security.

''(B) LIABILITY.—An action brought under this paragraph shall be subject to the provisions of section 12(b) and section 13, as if the liability were created under section 12(a)(2).

''(2) APPLICABILITY.—An issuer shall be liable in an action under paragraph (1), if the issuer—

''(A) by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by any means of any written or oral communication, in the offering or sale of a security in a transaction exempted by the provisions of section 4(6), makes an untrue statement of a material fact or omits to state a material fact required to be stated or necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading, provided that the purchaser did not know of such untruth or omission; and

''(B) does not sustain the burden of proof that such issuer did not know, and in the exercise of reasonable care could not have known, of such untruth or omission.

''(3) DEFINITION.—As used in this subsection, the term 'issuer' includes any person who is a director or partner of the issuer, and the principal executive officer or officers, principal financial officer, and controller or principal accounting officer of the issuer (and any person occupying a similar status or performing a similar function) that offers or sells a security in a transaction exempted by the provisions of section 4(6), and any person who offers or sells the security in such offering.

''(d) INFORMATION AVAILABLE TO STATES.—The Commission shall make, or shall cause to be made by the relevant broker or funding portal, the information described in subsection (b) and such other information as the Commission, by rule, determines appropriate, available to the securities commission (or any agency or office performing like functions) of each State and territory of the United States and the District of Columbia.

''(e) RESTRICTIONS ON SALES.—Securities issued pursuant to a transaction described in section 4(6)—

''(1) may not be transferred by the purchaser of such securities during the 1-year period beginning on the date of purchase, unless such securities are transferred—

''(A) to the issuer of the securities;

''(B) to an accredited investor;

''(C) as part of an offering registered with the Commission; or

''(D) to a member of the family of the purchaser or the equivalent, or in connection with the death or divorce of the purchaser or other similar circumstance, in the discretion of the Commission; and

''(2) shall be subject to such other limitations as the Commission shall, by rule, establish.

''(f) APPLICABILITY.—Section 4(6) shall not apply to transactions involving the offer or sale of securities by any issuer that—

''(1) is not organized under and subject to the laws of a State or territory of the United States or the District of Columbia;

''(2) is subject to the requirement to file reports pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934;

''(3) is an investment company, as defined in section 3 of the Investment Company Act of 1940, or is excluded from the definition of investment company by section 3(b) or section 3(c) of that Act; or

''(4) the Commission, by rule or regulation, determines appropriate.

''(g) RULE OF CONSTRUCTION.—Nothing in this section or section 4(6) shall be construed as preventing an issuer from raising capital through methods not described under section 4(6).

''(h) CERTAIN CALCULATIONS.—

''(1) DOLLAR AMOUNTS.—Dollar amounts in section 4(6) and subsection (b) of this section shall be adjusted by the Commission not less frequently than once every 5 years, by notice published in the Federal Register to reflect any change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

''(2) INCOME AND NET WORTH.—The income and net worth of a natural person under section 4(6)(B) shall be calculated in accordance with any rules of the Commission under this title regarding the calculation of the income and net worth, respectively, of an accredited investor.''.

(c) RULEMAKING.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission (in this title referred to as the ''Commission'') shall issue such rules as the Commission determines may be necessary or appropriate for the protection of investors to carry out sections 4(6) and section 4A of the Securities Act of 1933, as added by this title. In carrying out this section, the Commission shall consult with any securities commission (or any agency or office performing like functions) of the States, any territory of the United States, and the District of Columbia, which seeks to consult with the Commission, and with any applicable national securities association.

(d) DISQUALIFICATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Commission shall, by rule, establish disqualification provisions under which—

(A) an issuer shall not be eligible to offer securities pursuant to section 4(6) of the Securities Act of 1933, as added by this title; and

(B) a broker or funding portal shall not be eligible to effect or participate in transactions pursuant to that section 4(6).

(2) INCLUSIONS.—Disqualification provisions required by this subsection shall—

(A) be substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations (or any successor thereto); and

(B) disqualify any offering or sale of securities by a person that—

(i) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(I) bars the person from—

(aa) association with an entity regulated by such commission, authority, agency, or officer;

(bb) engaging in the business of securities, insurance, or banking; or

(cc) engaging in savings association or credit union activities; or

(II) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or

(ii) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

**SEC. 303. EXCLUSION OF CROWDFUNDING INVESTORS FROM SHAREHOLDER CAP.**

(a) EXEMPTION.—Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 781(g)) is amended by adding at the end the following:

''(6) EXCLUSION FOR PERSONS HOLDING CERTAIN SECURITIES.—The Commission shall, by rule, exempt, conditionally or unconditionally, securities acquired pursuant to an offering made under section 4(6) of the Securities Act of 1933 from the provisions of this subsection.''.

(b) RULEMAKING.—The Commission shall issue a rule to carry out section 12(g)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), as added by this section, not later than 270 days after the date of enactment of this Act.

**SEC. 304. FUNDING PORTAL REGULATION.**

(a) EXEMPTION.—

(1) IN GENERAL.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

''(h) LIMITED EXEMPTION FOR FUNDING PORTALS.—

''(1) IN GENERAL.—The Commission shall, by rule, exempt, conditionally or unconditionally, a registered funding portal from the requirement to register as a broker or dealer under section 15(a)(1), provided that such funding portal—

''(A) remains subject to the examination, enforcement, and other rulemaking authority of the Commission;

''(B) is a member of a national securities association registered under section 15A; and

''(C) is subject to such other requirements under this title as the Commission determines appropriate under such rule.

''(2) NATIONAL SECURITIES ASSOCIATION MEMBERSHIP.—For purposes of sections 15(b)(8) and 15A, the term 'broker or dealer' includes a funding portal and the term 'registered broker or dealer' includes a registered funding portal, except to the extent that the Commission, by rule, determines otherwise, provided that a national securities association shall only examine for and enforce against a registered funding portal rules of such national securities association written specifically for registered funding portals.''.

(2) RULEMAKING.—The Commission shall issue a rule to carry out section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), as added by this subsection, not later than 270 days after the date of enactment of this Act.

(b) DEFINITION.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

''(80) FUNDING PORTAL.—The term 'funding portal' means any person acting as an intermediary in a transaction involving the offer or sale of securities for the account of others, solely pursuant to section 4(6) of the Securities Act of 1933 (15 U.S.C. 77d(6)), that does not—

''(A) offer investment advice or recommendations;

''(B) solicit purchases, sales, or offers to buy the securities offered or displayed on its website or portal;

''(C) compensate employees, agents, or other persons for such solicitation or based on the sale of securities displayed or referenced on its website or portal;

''(D) hold, manage, possess, or otherwise handle investor funds or securities; or

''(E) engage in such other activities as the Commission, by rule, determines appropriate.''.

**SEC. 305. RELATIONSHIP WITH STATE LAW.**

(a) IN GENERAL.—Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

''(C) section 4(6);''.

(b) CLARIFICATION OF THE PRESERVATION OF STATE ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The amendments made by subsection (a) relate solely to State registration, documentation, and offering requirements, as described under section 18(a) of Securities Act of 1933 (15 U.S.C. 77r(a)), and shall have no impact or limitation on other State authority to take enforcement action with regard to an issuer, funding portal, or any other person or entity using the exemption from registration provided by section 4(6) of that Act.

(2) CLARIFICATION OF STATE JURISDICTION OVER UNLAWFUL CONDUCT OF FUNDING PORTALS AND ISSUERS.—Section 18(c)(1) of the Securities Act of 1933 (15 U.S.C. 77r(c)(1)) is amended by striking ''with respect to fraud or deceit, or unlawful conduct by a broker or dealer, in connection with securities or securities transactions.'' and inserting the following: '', in connection with securities or securities transactions

''(A) with respect to—

''(i) fraud or deceit; or

''(ii) unlawful conduct by a broker or dealer; and

''(B) in connection to a transaction described under section 4(6), with respect to—

''(i) fraud or deceit; or

''(ii) unlawful conduct by a broker, dealer, funding portal, or issuer.''.

(c) NOTICE FILINGS PERMITTED.—Section 18(c)(2) of the Securities Act of 1933 (15 U.S.C. 77r(c)(2)) is amended by adding at the end the following:

''(F) FEES NOT PERMITTED ON CROWDFUNDED SECURITIES.—Notwithstanding subparagraphs (A), (B), and (C), no filing or fee may be required with respect to any security that is a covered security pursuant to subsection (b)(4)(B), or will be such a covered security upon completion of the transaction, except for the securities commission (or any agency or office performing like functions) of the State of the principal place of business of the issuer, or any State in which purchasers of 50 percent or greater of the aggregate amount of the issue are residents, provided that for purposes of this subparagraph, the term 'State' includes the District of Columbia and the territories of the United States.''.

(d) FUNDING PORTALS.—

(1) STATE EXEMPTIONS AND OVERSIGHT.—Section 15(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(i)) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

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

''(2) FUNDING PORTALS.—

''(A) LIMITATION ON STATE LAWS.—Except as provided in subparagraph (B), no State or political subdivision thereof may enforce any law, rule, regulation, or other administrative action against a registered funding portal with respect to its business as such.

''(B) EXAMINATION AND ENFORCEMENT AUTHORITY.—Subparagraph (A) does not apply with respect to the examination and enforcement of any law, rule, regulation, or administrative action of a State or political subdivision thereof in which the principal place of business of a registered funding portal is located, provided that such law, rule, regulation, or administrative action is not in addition to or different from the requirements for registered funding portals established by the Commission.

''(C) DEFINITION.—For purposes of this paragraph, the term 'State' includes the District of Columbia and the territories of the United States.''.

(2) STATE FRAUD AUTHORITY.—Section 18(c)(1) of the Securities Act of 1933 (15 U.S.C. 77r(c)(1)) is amended by striking ''or dealer'' and inserting '', dealer, or funding portal''.

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**SA 1885.** Mr. FRANKEN (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. TIMELY PAYMENT OF SMALL BUSINESS CONCERNS.**

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(s) REGULATIONS RELATING TO TIMELY PAYMENTS.—

''(1) REGULATIONS REQUIRED.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 12 months after the date of enactment of this subsection, the Federal Acquisition Regulatory Council, in consultation with the Director of the Office of Management and Budget and the Administrator, shall propose regulations to require prime contractors awarded a contract by the Federal Government to make timely payments to their subcontractors that are small business concerns. Such regulations may provide for exemptions, as appropriate.

''(B) OTHER REGULATIONS.—If the Administrator, in consultation with the Federal Acquisition Regulatory Council and the Director of the Office of Management and Budget, determines that the requirements under section 8(d)(12) are sufficient to ensure that prime contractors make timely payments to subcontractors that are small business concerns, the regulations issued under section 8(d)(12)(E) shall be deemed to satisfy the requirement to propose regulations under subparagraph (A) of this paragraph.

''(2) CONSIDERATIONS.—In proposing the regulations under paragraph (1), the Administrator, in consultation with the Federal

Acquisition Regulatory Council and the Director of the Office of Management and Budget, shall consider—

''(A) requiring a prime contractor to pay a subcontractor that is a small business concern for satisfactory performance that fulfills the terms of the subcontract not later than 30 days after the date on which the prime contractor receives a payment from the Federal Government, unless the prime contractor has a legal obligation to make an earlier payment;

''(B) developing—

''(i) incentives for prime contractors that pay subcontractors in accordance with the regulations; or

''(ii) late interest payments or penalties for prime contractors that do not pay subcontractors in accordance with the regulations;

''(C) requiring that any subcontracting plan under paragraph (4) or (5) of section 8(d) contain a detailed description of when and how subcontractors will be paid; and

''(D) including data in the Past Performance Information Retrieval System relating to whether contractors have made timely payments to subcontractors that are small business concerns.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8(d)(6) of the Small Business Act (15 U.S.C. 638(d)(6)) is amended—

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

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

(3) by adding at the end the following:

''(H) any information required to be included under the regulations issued under section 15(s).''.

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**SA 1886.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKELY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title IV of the amendment, add the following:

**SEC. 417. POLICY OF THE UNITED STATES WITH RESPECT TO FINANCING BY EXPORT CREDIT AGENCIES FOR THE SALE OF LONG-RANGE AIRCRAFT.**

(a) IN GENERAL.—It is the policy of the United States, when negotiating export credit arrangements or similar agreements at the Organisation for Economic Co-operation and Development or similar multilateral institutions, to seek the elimination of financial assistance provided by export credit agencies for the sale of long-range aircraft.

(b) LONG-RANGE AIRCRAFT DEFINED.—In this section, the term ''long-range aircraft'', with respect to the sale of aircraft for which an export credit agency provides export financing, means aircraft that have a range that is equal to or greater than the shortest distance between—

(1) the country the government of which has primary jurisdiction over the air carrier that receives the export financing; and

(2) the country in which the export credit agency is located.

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**SA 1887.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKELY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title IV of the amendment, add the following:

**SEC. 417. REPORT ON MEASURES TO REMEDY SUBSIDIES PROVIDED BY FOREIGN EXPORT CREDIT AGENCIES TO UNITED STATES ENTITIES.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the United States Trade Representative and the Secretary of Commerce shall jointly submit to Congress a report identifying and assessing measures that may be taken by the United States Government to counteract subsidies described in subsection (b).

(b) SUBSIDIES DESCRIBED.—A subsidy described in this subsection is a subsidy—

(1) provided by an export credit agency of a foreign country to a United States entity; and

(2) that is inconsistent with the limitations imposed on the Export-Import Bank of the United States—

(A) by the Organisation for Economic Co-operation and Development or any other multilateral institution; or

(B) pursuant to any international agreement.

(c) UNITED STATES ENTITIES DEFINED.—In this section, the term ''United States entity'' means an entity organized under the laws of the United States or any jurisdiction within the United States.

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**SA 1888.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKELY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

Strike section 413.

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**SA 1889.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1833 proposed by Mr. REID (for Mr. REED (for himself, Ms. LANDRIEU, Mr. LEVIN, Mr. BROWN of Ohio, Mr. MERKELY, Mr. AKAKA, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. HARKIN, and Mr. DURBIN)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VIII—STORM SHELTER TAX RELIEF**

**SEC. 801. DEDUCTION FOR PURCHASE, CONSTRUCTION, AND INSTALLATION OF A SAFE ROOM OR STORM SHELTER.**

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

**''SEC. 224. SAFE ROOM OR STORM SHELTER PURCHASE, CONSTRUCTION, AND INSTALLATION EXPENSES.**

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the qualified storm shelter expenses paid by the taxpayer during the taxable year.

''(2) MAXIMUM DOLLAR AMOUNT PER SHELTER.—The deduction allowed by paragraph (1) with respect to each qualified storm shelter shall not exceed $2,500.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED STORM SHELTER EXPENSES.—The term 'qualified storm shelter expenses' means expenses (including labor) for the purchase, construction, and installation of a qualified storm shelter.

''(2) QUALIFIED STORM SHELTER.—The term 'qualified storm shelter' means a storm shelter or safe room—

''(A) the design of which is capable of withstanding an EF5 tornado, and

''(B) which is first placed in service by the taxpayer as an attachment to a dwelling—

''(i) which was placed in service prior to the placed in service date of such storm shelter or safe room,

''(ii) which serves as the principal residence (within the meaning of section 121) of the taxpayer, and

''(iii) with respect to which no other qualified storm shelter is attached.

''(c) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed to the taxpayer under any other provision of this chapter.

''(2) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2012.''.

(b) CONFORMING AMENDMENT.—Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 224(c)(2).''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 224 and inserting the following new items:

''224. Safe room or storm shelter purchase, construction, and installation expenses.
''225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. 802. COMMUNITY DEVELOPMENT FUND.**

Of amounts made available under the heading ''COMMUNITY DEVELOPMENT FUND'' under the heading ''COMMUNITY PLANNING AND DEVELOPMENT'' under the heading ''DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'' under title II of the Department of Housing and Urban Development Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3083) and under section 2240 of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Public Law 112–10; 125 Stat. 195) and not otherwise obligated, $60,000,000 are rescinded.

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**SA 1890.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging

growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. REGISTRATION AND REPORTING EXEMPTIONS RELATING TO PRIVATE EQUITY FUNDS ADVISORS.**

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

''(o) EXEMPTION OF AND REPORTING REQUIREMENTS BY PRIVATE EQUITY FUNDS ADVISORS.—

''(1) IN GENERAL.—Except as provided in this subsection, no investment adviser shall be subject to the registration or reporting requirements of this title with respect to the provision of investment advice relating to a private equity fund or funds, provided that each such fund has not borrowed and does not have outstanding a principal amount in excess of twice its invested capital commitments.

''(2) MAINTENANCE OF RECORDS AND ACCESS BY COMMISSION.—Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules—

''(A) to require investment advisers described in paragraph (1) to maintain such records and provide to the Commission such annual or other reports as the Commission taking into account fund size, governance, investment strategy, risk, and other factors, as the Commission determines necessary and appropriate in the public interest and for the protection of investors; and

''(B) to define the term private equity fund for purposes of this subsection.''.

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**SA 1891.** Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mr. CARDIN, Mr. FRANKEN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 1 ___. ENERGY MARKETS.**

(a) FINDINGS.—Congress finds that—

(1) the Commodity Futures Trading Commission was created as an independent agency, in 1974, with a mandate—

(A) to enforce and administer the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) to ensure market integrity;

(C) to protect market users from fraud and abusive trading practices; and

(D) to prevent and prosecute manipulation of the price of any commodity in interstate commerce;

(2) Congress has given the Commodity Futures Trading Commission authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to take necessary actions to address market emergencies;

(3) the Commodity Futures Trading Commission may use the emergency authority of the Commission with respect to any major market disturbance that prevents the market from accurately reflecting the forces of supply and demand for a commodity;

(4) Congress declared in section 4a of the Commodity Exchange Act (7 U.S.C. 6a) that excessive speculation imposes an undue and unnecessary burden on interstate commerce;

(5) according to an article published in Forbes on February 27, 2012, excessive oil speculation ''translates out into a premium for gasoline at the pump of $.56 a gallon'' based on a recent report from Goldman Sachs;

(6) on March 9, 2012—

(A) the supply of crude oil and gasoline was higher than the supply was on March 6, 2009, when the national average price for a gallon of regular unleaded gasoline was just $1.94; and

(B) demand for gasoline in the United States was lower than demand was on June 20, 1997;

(7) on March 12, 2012, the national average price of regular unleaded gasoline was over $3.82 a gallon, the highest price ever recorded in the United States during the month of March;

(8) during the last quarter of 2011, according to the International Energy Agency—

(A) the world oil supply rose by 1,300,000 barrels per day while demand only increased by 700,000 barrels per day; but

(B) the price of Texas light sweet crude rose by over 12 percent;

(9) on November 3, 2011, Gary Gensler, the Chairman of the Commodity Futures Trading Commission testified before the Senate Permanent Subcommittee on Investigations that ''80 to 87 percent of the [oil futures] market'' is dominated by ''financial participants, swap dealers, hedge funds, and other financials,'' a figure that has more than doubled over the past decade;

(10) excessive oil and gasoline speculation is creating major market disturbances that prevent the market from accurately reflecting the forces of supply and demand; and

(11) the Commodity Futures Trading Commission has a responsibility —

(A) to ensure that the price discovery for oil and gasoline accurately reflects the fundamentals of supply and demand; and

(B) to take immediate action to implement strong and meaningful position limits to regulated exchange markets to eliminate excessive oil speculation.

(b) ACTIONS.—Not later than 14 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall use the authority of the Commission (including emergency powers)—

(1) to curb immediately the role of excessive speculation in any contract market within the jurisdiction and control of the Commission, on or through which energy futures are traded; and

(2) to eliminate excessive speculation, price distortion, sudden or unreasonable fluctuations, or unwarranted changes in prices, or other unlawful activity that is causing major market disturbances that prevent the market from accurately reflecting the forces of supply and demand for energy commodities.

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**SA 1892.** Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION ON FINANCING BY THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR PERSONS OR PROJECTS IN COUNTRIES THAT HOLD DEBT INSTRUMENTS OF THE UNITED STATES.**

(a) IN GENERAL.—Notwithstanding any other provision of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.), the Export-Import Bank of the United States may not provide any guarantee, insurance, or extension of credit (or participate in the extension of credit) to a person or with respect to a project in a country the government or central bank of which holds debt instruments of the United States.

(b) DEBT INSTRUMENTS OF THE UNITED STATES DEFINED.—In this section, the term ''debt instruments of the United States'' means bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government.

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**SA 1893.** Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. PROHIBITION ON FINANCING BY THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR ENTITIES THAT GENERATE MORE THAN $1,000,000,000 IN REVENUE ANNUALLY.**

Notwithstanding any other provision of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.), the Export-Import Bank of the United States may not provide any financing (including any guarantee, insurance, extension of credit, or participation in the extension of credit) to an entity that generated more than $1,000,000,000 in revenue in the preceding calendar year.

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**SA 1894.** Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. LIMITATION ON FINANCING BY THE EXPORT-IMPORT BANK OF THE UNITED STATES TO FINANCING EXPORTS BY SMALL BUSINESS CONCERNS.**

Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by striking ''20 percent'' and inserting ''100 percent''.

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**SA 1895.** Mr. JOHNSON of Wisconsin submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

On page 9, line 8, strike ''company'' and all that follows through page 10, line 4 and insert the following: ''company need not

present more than 2 years of audited financial statements in order for the registration statement of such emerging growth company with respect to an initial public offering of its common equity securities to be effective, and in any other registration statement to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations (or any successor thereto), for any period prior to the earliest audited period presented in connection with its initial public offering.''.

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**SA 1896.** Ms. SNOWE (for herself, Mrs. GILLIBRAND, Ms. MURKOWSKI and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. FAIRNESS IN WOMEN-OWNED SMALL BUSINESS CONTRACTING.**

(a) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''who are economically disadvantaged'';

(B) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(C) by striking subparagraph (D); and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) by adding at the end the following:

''(7) SOLE SOURCE CONTRACTS.—A contracting officer may award a sole source contract under this subsection to a small business concern owned and controlled by women under the same conditions as a sole source contract may be awarded to a qualified HUBZone small business concern under section 31(b)(2)(A).''.

(b) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify any United States industry, as defined under the North American Industry Classification System, in which women are underrepresented.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

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**SA 1897.** Mr. PAUL submitted an amendment intended to be proposed to amendment SA 1836 proposed by Mr. REID (for Ms. CANTWELL (for herself, Mr. JOHNSON of South Dakota, Mr. GRAHAM, Mr. SHELBY, Mr. WARNER, Mr. SCHUMER, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. COONS, Mr. AKAKA, Mrs. MURRAY, Ms. LANDRIEU, Mr. KERRY, and Mr. KIRK)) to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. LIMITATION ON AMOUNT OF FINANCING THAT MAY BE PROVIDED TO AN ENTITY BY THE EXPORT-IMPORT BANK OF THE UNITED STATES.**

Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended by adding at the end the following:

''(4) LIMITATION.—The Bank shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of 5 percent of the applicable amount in paragraph (2) with respect to exports by a single entity (including any entities owned or controlled by that entity).''.

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**SA 1898.** Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION.**

(a) AUTHORIZATION.—For fiscal year 2013, the Administrator may make $4,000,000,000 in guarantees of debentures for programs under title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.).

(b) FAMILY OF FUNDS.—Section 303(b)(2)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(2)(B)) is amended by striking ''$225,000,000'' and inserting ''$350,000,000''.

(c) LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.—Section 1122(b) of the Small Business Jobs Act of 2010 (15 U.S.C. 696 note) is amended by striking ''2 years'' and inserting ''3 years''.

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**SA 1899.** Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—JUMPSTARTING SMALL BUSINESSES**

**Subtitle A—Small Business Administration**

**SEC. _11. FAIRNESS IN WOMEN-OWNED SMALL BUSINESS CONTRACTING.**

(a) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''who are economically disadvantaged'';

(B) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(C) by striking subparagraph (D); and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) by adding at the end the following:

''(7) SOLE SOURCE CONTRACTS.—A contracting officer may award a sole source contract under this subsection to a small business concern owned and controlled by women under the same conditions as a sole source contract may be awarded to a qualified HUBZone small business concern under section 31(b)(2)(A).''.

(b) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify any United States industry, as defined under the North American Industry Classification System, in which women are underrepresented.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

**SEC. _12. GUARANTEES OF DEBENTURES UNDER THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

(a) AUTHORIZATION.—For fiscal year 2013, the Administrator may make $4,000,000,000 in guarantees of debentures for programs under title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.).

(b) FAMILY OF FUNDS.—Section 303(b)(2)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(2)(B)) is amended by striking ''$225,000,000'' and inserting ''$350,000,000''.

(c) LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.—Section 1122(b) of the Small Business Jobs Act of 2010 (15 U.S.C. 696 note) is amended by striking ''2 years'' and inserting ''3 years''.

**SEC. _13. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by striking section 33 (15 U.S.C. 657c).

(b) CORPORATION.—On and after the date of enactment of this Act, the National Veterans Business Development Corporation and any successor thereto may not represent that the corporation is federally chartered or in any other manner authorized by the Federal Government.

(c) CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.), as amended by this section, is amended—

(A) by redesignating sections 34 through 45 as sections 33 through 44, respectively;

(B) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking ''section 34(d)'' and inserting ''section 33(d)'';

(C) in section 33 (15 U.S.C. 657d), as so redesignated—

(i) by striking ''section 35'' each place it appears and inserting ''section 34'';

(ii) in subsection (a)—

(I) in paragraph (2), by striking ''section 35(c)(2)(B)'' and inserting ''section 34(c)(2)(B)'';

(II) in paragraph (4), by striking ''section 35(c)(2)'' and inserting ''section 34(c)(2)''; and

(III) in paragraph (5), by striking ''section 35(c)'' and inserting ''section 34(c)''; and

(iii) in subsection (h)(2), by striking ''section 35(d)'' and inserting ''section 34(d)'';

(D) in section 34 (15 U.S.C. 657e), as so redesignated—

(i) by striking ''section 34'' each place it appears and inserting ''section 33''; and

(ii) in subsection (c)(1), by striking section ''34(c)(1)(E)(ii)'' and inserting section ''33(c)(1)(E)(ii)'';

(E) in section 36(d) (15 U.S.C. 657i(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42'';

(F) in section 39(d) (15 U.S.C. 657l(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42''; and

(G) in section 40(b) (15 U.S.C. 657m(b)), as so redesignated, by striking ''section 43'' and inserting ''section 42''.

(2) TITLE 10.—Section 1142(b)(13) of title 10, United States Code, is amended by striking ''and the National Veterans Business Development Corporation''.

(3) TITLE 38.—Section 3452(h) of title 38, United States Code, is amended by striking ''any of the'' and all that follows and inserting ''any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).''.

(4) FOOD, CONSERVATION, AND ENERGY ACT OF 2008.—Section 12072(c)(2) of the Food, Conservation, and Energy Act of 2008 (15 U.S.C. 636g(c)(2)) is amended by striking ''section 43 of the Small Business Act, as added by this Act'' and inserting ''section 42 of the Small Business Act (15 U.S.C. 657o)''.

(5) VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999.—Section 203(c)(5) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking ''In cooperation with the National Veterans Business Development Corporation, develop'' and inserting ''Develop''.

**SEC. __14. SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM TECHNICAL CORRECTION.**

Section 7(l)(4)(B) of the Small Business Act (15 U.S.C. 636(l)(4)(B)) is amended by inserting ''under the Program'' after ''to the eligible intermediary by the Administrator''.

**SEC. __15. REMOVAL OF SUNSET DATES FOR CERTAIN PROVISIONS OF THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended by striking ''does not exceed'' and all that follows and inserting ''does not exceed $5,000,000.''.

(b) DENIAL OF LIABILITY.—Section 411(e)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)(2)) is amended by striking ''bonds exceeds'' and all that follows and inserting ''bonds exceeds $5,000,000,''.

**Subtitle B—Contracting Fraud Prevention**

**SEC. __21. SHORT TITLE.**

This subtitle may be cited as the ''Small Business Contracting Fraud Prevention Act of 2012''.

**SEC. __22. DEFINITIONS.**

In this subtitle—

(1) the term ''8(a) program'' means the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(2) the term ''Administrator'' means the Administrator of the Small Business Administration;

(3) the terms ''HUBZone'' and ''HUBZone small business concern'' and ''HUBZone map'' have the meanings given those terms in section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as amended by this subtitle; and

(4) the term ''recertification'' means a determination by the Administrator that a business concern that was previously determined to be a qualified HUBZone small business concern is a qualified HUBZone small business concern under section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)).

**SEC. __23. FRAUD DETERRENCE AT THE SMALL BUSINESS ADMINISTRATION.**

Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''Whoever'' and all that follows through ''oneself or another'' and inserting the following: ''A person shall be subject to the penalties and remedies described in paragraph (2) if the person misrepresents the status of any concern or person as a small business concern, a qualified HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, a small business concern owned and controlled by women, or a small business concern owned and controlled by service-disabled veterans, in order to obtain for any person'';

(ii) by amending subparagraph (A) to read as follows:

''(A) prime contract, subcontract, grant, or cooperative agreement to be awarded under subsection (a) or (m) of section 8, or section 9, 15, 31, or 35;'';

(iii) by striking subparagraph (B);

(iv) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(v) in subparagraph (C), as so redesignated, by striking '', shall be'' and all that follows and inserting a period;

(B) in paragraph (2)—

(i) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(ii) by inserting after subparagraph (B) the following:

''(C) be subject to the civil remedies under subchapter III of chapter 37 of title 31, United States Code (commonly known as the 'False Claims Act');''; and

(C) by adding at the end the following:

''(3)(A) In the case of a violation of paragraph (1)(A), (g), or (h), for purposes of a proceeding described in subparagraph (A) or (C) of paragraph (2), the amount of the loss to the Federal Government or the damages sustained by the Federal Government, as applicable, shall be an amount equal to the amount that the Federal Government paid to the person that received a contract, grant, or cooperative agreement described in paragraph (1)(A), (g), or (h), respectively.

''(B) In the case of a violation of subparagraph (B) or (C) of paragraph (1), for the purpose of a proceeding described in subparagraph (A) or (C) of paragraph (2), the amount of the loss to the Federal Government or the damages sustained by the Federal Government, as applicable, shall be an amount equal to the portion of any payment by the Federal Government under a prime contract that was used for a subcontract described in subparagraph (B) or (C) of paragraph (1), respectively.

''(C) In a proceeding described in subparagraph (A) or (B), no credit shall be applied against any loss or damages to the Federal Government for the fair market value of the property or services provided to the Federal Government.'';

(2) by striking subsection (e) and inserting the following:

''(e) Any representation of the status of any concern or person as a small business concern, a HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, a small business concern owned and controlled by women, or a small business concern owned and controlled by service-disabled veterans, in order to obtain any prime contract, subcontract, grant, or cooperative agreement described in subsection (d)(1) shall be made in writing or through the Online Representations and Certifications Application process required under section 4.1201 of the Federal Acquisition Regulation, or any successor thereto.''; and

(3) by adding at the end the following:

''(g) A person shall be subject to the penalties and remedies described in subsection (d)(2) if the person misrepresents the status of any concern or person as a small business concern, a qualified HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, a small business concern owned and controlled by women, or a small business concern owned and controlled by service-disabled veterans—

''(1) in order to allow any person to participate in any program of the Administration; or

''(2) in relation to a protest of a contract award or proposed contract award made under regulations issued by the Administration.

''(h)(1) A person that submits a request for payment on a contract or subcontract that is awarded under subsection (a) or (m) of section 8, or section 9, 15, 31, or 35, shall be deemed to have submitted a certification that the person complied with regulations issued by the Administration governing the percentage of work that the person is required to perform on the contract or subcontract, unless the person states, in writing, that the person did not comply with the regulations.

''(2) A person shall be subject to the penalties and remedies described in subsection (d)(2) if the person—

''(A) uses the services of a business other than the business awarded the contract or subcontract to perform a greater percentage of work under a contract than is permitted by regulations issued by the Administration; or

''(B) willfully participates in a scheme to circumvent regulations issued by the Administration governing the percentage of work that a contractor is required to perform on a contract.''.

**SEC. __24. VETERANS INTEGRITY IN CONTRACTING.**

(a) DEFINITION.—Section 3(q)(1) of the Small Business Act (15 U.S.C. 632(q)(1)) is amended by striking ''means a veteran'' and all that follows and inserting the following: ''means—

''(A) a veteran with a service-connected disability rated by the Secretary of Veterans Affairs as zero percent or more disabling; or

''(B) a former member of the Armed Forces who is retired, separated, or placed on the temporary disability retired list for physical disability under chapter 61 of title 10, United States Code.''.

(b) VETERANS CONTRACTING.—Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following:

''(g) VETERAN STATUS.—

''(1) IN GENERAL.—A business concern seeking status as a small business concern owned and controlled by service-disabled veterans shall—

''(A) submit an annual certification indicating that the business concern is a small business concern owned and controlled by service-disabled veterans by means of the Online Representations and Certifications Application process required under section 4.1201 of the Federal Acquisition Regulation, or any successor thereto; and

''(B) register with—

''(i) the Central Contractor Registration database maintained under subpart 4.11 of the Federal Acquisition Regulation, or any successor thereto; and

''(ii) the VetBiz database of the Department of Veterans Affairs, or any successor thereto.

''(2) VERIFICATION OF STATUS.—

''(A) VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall determine whether a business concern registered with the VetBiz database of the Department of Veterans Affairs, or any successor thereto, as a small

business concern owned and controlled by veterans or a small business concern owned and controlled by service-disabled veterans is owned and controlled by a veteran or a service-disabled veteran, as the case may be.

''(B) FEDERAL AGENCIES GENERALLY.—The head of each Federal agency shall—

''(i) for a sole source contract awarded to a small business concern owned and controlled by service-disabled veterans or a contract awarded with competition restricted to small business concerns owned and controlled by service-disabled veterans under section 36, determine whether a business concern submitting a proposal for the contract is a small business concern owned and controlled by service-disabled veterans; and

''(ii) use the VetBiz database of the Department of Veterans Affairs, or any successor thereto, in determining whether a business concern is a small business concern owned and controlled by service-disabled veterans.

''(3) DEBARMENT AND SUSPENSION.—If the Administrator determines that a business concern knowingly and willfully misrepresented that the business concern is a small business concern owned and controlled by service-disabled veterans, the Administrator may debar or suspend the business concern from contracting with the United States.''.

(c) INTEGRATION OF DATABASES.—Not later than 1 year after the date of enactment of this Act, the Administrator for Federal Procurement Policy and the Secretary of Veterans Affairs shall ensure that data is shared on an ongoing basis between the VetBiz database of the Department of Veterans Affairs and the Central Contractor Registration database maintained under subpart 4.11 of the Federal Acquisition Regulation.

**SEC. __25. SECTION 8(a) PROGRAM IMPROVEMENTS.**

(a) REVIEW OF EFFECTIVENESS.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end the following:

''(22) Not later than 3 years after the date of enactment of this paragraph, and every 3 years thereafter, the Comptroller General of the United States shall—

''(A) conduct an evaluation of the effectiveness of the program under this subsection, including an examination of—

''(i) the number and size of contracts applied for, as compared to the number received by, small business concerns after successfully completing the program;

''(ii) the percentage of small business concerns that continue to operate during the 3-year period beginning on the date on which the small business concerns successfully complete the program;

''(iii) whether the business of small business concerns increases during the 3-year period beginning on the date on which the small business concerns successfully complete the program; and

''(iv) the number of training sessions offered under the program; and

''(B) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding each evaluation under subparagraph (A).''.

(b) OTHER IMPROVEMENTS.—In order to improve the 8(a) program, the Administrator shall—

(1) not later than 90 days after the date of enactment of this Act, begin to—

(A) evaluate the feasibility of—

(i) using additional third-party data sources;

(ii) making unannounced visits of sites that are selected randomly or using risk-based criteria;

(iii) using fraud detection tools, including data-mining techniques; and

(iv) conducting financial and analytical training for the business opportunity specialists of the Administration;

(B) evaluate the feasibility and advisability of amending regulations applicable the 8(a) program to require that calculations of the adjusted net worth or total assets of an individual include assets held by the spouse of the individual; and

(C) develop a more consistent enforcement strategy that includes the suspension or debarment of contractors that knowingly make misrepresentations in order to qualify for the 8(a) program; and

(2) not later than 1 year after the date on which the Comptroller General submits the report under section 8(a)(22)(B) of the Small Business Act, as added by subsection (c), issue, in final form, proposed regulations of the Administration that—

(A) determine the economic disadvantage of a participant in the 8(a) program based on the income and asset levels of the participant at the time of application and annual recertification for the 8(a) program; and

(B) limit the ability of a small business concern to participate in the 8(a) program if an immediate family member of an owner of the small business concern is, or has been, a participant in the 8(a) program, in the same industry.

**SEC. __26. HUBZONE IMPROVEMENTS.**

(a) PURPOSE.—The purpose of this section is to reform and improve the HUBZone program of the Administration.

(b) IN GENERAL.—The Administrator shall—

(1) ensure the HUBZone map is—

(A) accurate and up-to-date; and

(B) revised as new data is made available to maintain the accuracy and currency of the HUBZone map;

(2) implement policies for ensuring that only HUBZone small business concerns determined to be qualified under section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)) are participating in the HUBZone program, including through the appropriate use of technology to control costs and maximize, among other benefits, uniformity, completeness, simplicity, and efficiency;

(3) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding any application to be designated as a HUBZone small business concern or for recertification for which the Administrator has not made a determination as of the date that is 60 days after the date on which the application was submitted or initiated, which shall include a plan and timetable for ensuring the timely processing of the applications; and

(4) develop measures and implement plans to assess the effectiveness of the HUBZone program that—

(A) require the identification of a baseline point in time to allow the assessment of economic development under the HUBZone program, including creating additional jobs; and

(B) take into account—

(i) the economic characteristics of the HUBZone; and

(ii) contracts being counted under multiple socioeconomic subcategories.

(c) EMPLOYMENT PERCENTAGE.—Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended—

(1) in paragraph (5), by adding at the end the following:

''(E) EMPLOYMENT PERCENTAGE DURING INTERIM PERIOD.—

''(i) DEFINITION.—In this subparagraph, the term 'interim period' means the period beginning on the date on which the Administrator determines that a HUBZone small business concern is qualified under subparagraph (A) and ending on the day before the date on which a contract under the HUBZone program for which the HUBZone small business concern submits a bid is awarded.

''(ii) INTERIM PERIOD.—During the interim period, the Administrator may not determine that the HUBZone small business is not qualified under subparagraph (A) based on a failure to meet the applicable employment percentage under subparagraph (A)(i)(I), unless the HUBZone small business concern—

''(I) has not attempted to maintain the applicable employment percentage under subparagraph (A)(i)(I); or

''(II) does not meet the applicable employment percentage—

''(aa) on the date on which the HUBZone small business concern submits a bid for a contract under the HUBZone program; or

''(bb) on the date on which the HUBZone small business concern is awarded a contract under the HUBZone program.''; and

(2) by adding at the end the following:

''(8) HUBZONE PROGRAM.—The term 'HUBZone program' means the program established under section 31.

''(9) HUBZONE MAP.—The term 'HUBZone map' means the map used by the Administration to identify HUBZones.''.

(d) REDESIGNATED AREAS.—Section 3(p)(4)(C)(i) of the Small Business Act (15 U.S.C. 632(p)(4)(C)(i)) is amended to read as follows:

''(i) 3 years after the first date on which the Administrator publishes a HUBZone map that is based on the results from the 2010 decennial census; or''.

**SEC. __27. ANNUAL REPORT ON SUSPENSION, DEBARMENT, AND PROSECUTION.**

The Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

(1) the number of debarments from participation in programs of the Administration issued by the Administrator during the 1-year period preceding the date of the report, including—

(A) the number of debarments that were based on a conviction; and

(B) the number of debarments that were fact-based and did not involve a conviction;

(2) the number of suspensions from participation in programs of the Administration issued by the Administrator during the 1-year period preceding the date of the report, including—

(A) the number of suspensions issued that were based upon indictments; and

(B) the number of suspensions issued that were fact-based and did not involve an indictment;

(3) the number of suspension and debarments issued by the Administrator during the 1-year period preceding the date of the report that were based upon referrals from offices of the Administration, other than the Office of Inspector General;

(4) the number of suspension and debarments issued by the Administrator during the 1-year period preceding the date of the report based upon referrals from the Office of Inspector General; and

(5) the number of persons that the Administrator declined to debar or suspend after a referral described in paragraph (4), and the reason for each such decision.

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**SA 1900.** Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. COBURN, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for

emerging growth companies; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by striking section 33 (15 U.S.C. 657c).

(b) CORPORATION.—On and after the date of enactment of this Act, the National Veterans Business Development Corporation and any successor thereto may not represent that the corporation is federally chartered or in any other manner authorized by the Federal Government.

(c) CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.), as amended by this section, is amended—

(A) by redesignating sections 34 through 45 as sections 33 through 44, respectively;

(B) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking ''section 34(d)'' and inserting ''section 33(d)'';

(C) in section 33 (15 U.S.C. 657d), as so redesignated—

(i) by striking ''section 35'' each place it appears and inserting ''section 34'';

(ii) in subsection (a)—

(I) in paragraph (2), by striking ''section 35(c)(2)(B)'' and inserting ''section 34(c)(2)(B)'';

(II) in paragraph (4), by striking ''section 35(c)(2)'' and inserting ''section 34(c)(2)''; and

(III) in paragraph (5), by striking ''section 35(c)'' and inserting ''section 34(c)''; and

(iii) in subsection (h)(2), by striking ''section 35(d)'' and inserting ''section 34(d)'';

(D) in section 34 (15 U.S.C. 657e), as so redesignated—

(i) by striking ''section 34'' each place it appears and inserting ''section 33''; and

(ii) in subsection (c)(1), by striking section ''34(c)(1)(E)(ii)'' and inserting section ''33(c)(1)(E)(ii)'';

(E) in section 36(d) (15 U.S.C. 657i(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42'';

(F) in section 39(d) (15 U.S.C. 657l(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42''; and

(G) in section 40(b) (15 U.S.C. 657m(b)), as so redesignated, by striking ''section 43'' and inserting ''section 42''.

(2) TITLE 10.—Section 1142(b)(13) of title 10, United States Code, is amended by striking ''and the National Veterans Business Development Corporation''.

(3) TITLE 38.—Section 3452(h) of title 38, United States Code, is amended by striking ''any of the'' and all that follows and inserting ''any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).''.

(4) FOOD, CONSERVATION, AND ENERGY ACT OF 2008.—Section 12072(c)(2) of the Food, Conservation, and Energy Act of 2008 (15 U.S.C. 636g(c)(2)) is amended by striking ''section 43 of the Small Business Act, as added by this Act'' and inserting ''section 42 of the Small Business Act (15 U.S.C. 657o)''.

(5) VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999.—Section 203(c)(5) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking ''In cooperation with the National Veterans Business Development Corporation, develop'' and inserting ''Develop''.

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**SA 1901.** Mr. RUBIO (for himself, Mr. NELSON of Florida, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE __—OTHER PROVISIONS**

**SEC. __01. 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.

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**SA 1902.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3606, to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies; which was ordered to lie on the table; as follows:

Strike section 602 and insert the following:

**SEC. 602. THRESHOLD FOR REGISTRATION.**

Section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)) is amended by striking ''shall—'' and all that follows through ''register such'' and inserting ''shall, not later than 120 days after the last day of any fiscal year of the issuer on which the issuer has total assets exceeding $10,000,000 and a class of equity securities (other than an exempted security) held of record by 750 persons or more (or, in the case of an issuer that is a bank or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), by 1,250 persons or more), register such''.

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**SA 1903.** Mr. REID (for Mrs. BOXER) proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

Strike title V of division C with the heading entitled ''Research and Innovative Technology Administration Reauthorization Act of 2012''.

## PRIVILEGES OF THE FLOOR

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that Ingianni Acosta, an intern for the Banking Committee, be granted floor privileges for the remainder of today's session.

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

## UNANIMOUS CONSENT AGREEMENT—S. 1813

Mr. REID. Madam President, I ask unanimous consent that notwithstanding passage of S. 1813, the Moving Ahead for Progress in the 21st Century Act, the Boxer amendment No. 1903 be agreed to. The Boxer amendment is technical in nature. It strikes title V of division C with the heading entitled ''Research and Innovative Technology Administrative Reauthorization Act of 2012,'' which was moved to division E.

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

The amendment (No. 1903) was agreed to, as follows:

AMENDMENT NO. 1903

(Purpose: To make a technical correction)

Strike title V of division C with the heading entitled ''Research and Innovative Technology Administration Reauthorization Act of 2012''.

## DISCHARGE AND REFERRAL—S. 2076

Mr. REID. Madam President, I ask unanimous consent that S. 2076 be discharged from the Committee on Homeland Security and be referred to the Committee on the Judiciary.

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

## MEASURE READ THE FIRST TIME—S. 2204

Mr. REID. Madam President, S. 2204 is at the desk and due for its first reading.

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

The bill clerk read as follows:

A bill (S. 2204) to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation.

Mr. REID. Madam President, I ask for a second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

## ORDERS FOR TUESDAY, MARCH 20, 2012

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, March 20, at 10 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for 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 the final half; that following that morning business, the Senate resume consideration of Calendar No. 334, H.R. 3606, with the time until 11:30 a.m. equally divided and controlled between the two leaders or their designees, prior to the cloture vote on the Reed of Rhode Island substitute amendment; further,

that the filing deadline for second-degree amendments to the Reed substitute amendment, the Cantwell amendment, and H.R. 3606 be at 11 a.m. Tuesday; finally, that the Senate recess subject to the call of the Chair at 12:30 p.m. to allow for the weekly caucus meetings and the official photograph of the 112th Congress.

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

## PROGRAM

Mr. REID. Madam President, there will be as many as three rollcall votes beginning at approximately 11:30 a.m. tomorrow.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam 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 6:44 p.m., adjourned until Tuesday, March 20, 2012, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

AFRICAN DEVELOPMENT FOUNDATION

EDWARD W. BREHM, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2017. (REAPPOINTMENT)

DEPARTMENT OF STATE

MARK L. ASQUINO, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

NATIONAL BOARD FOR EDUCATION SCIENCES

SUSANNA LOEB, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING MARCH 15, 2016, VICE CRAIG T. RAMEY, TERM EXPIRED.

DEPARTMENT OF DEFENSE

DEREK H. CHOLLET, OF NEBRASKA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ALEXANDER VERSHBOW.

KATHLEEN H. HICKS, OF VIRGINIA, TO BE A PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE, VICE JAMES N. MILLER, JR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. BURTON M. FIELD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. BRUCE A. LITCHFIELD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. CHARLES R. DAVIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. SALVATORE A. ANGELELLA

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. THOMAS D. WALDHAUSER

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) ELIZABETH L. TRAIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) JONATHAN W. WHITE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) RICHARD D. BERKEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) RICHARD P. BRECKENRIDGE
REAR ADM. (LH) WALTER E. CARTER, JR.
REAR ADM. (LH) CRAIG S. FALLER
REAR ADM. (LH) JAMES G. FOGGO III
REAR ADM. (LH) PETER A. GUMATAOTAO
REAR ADM. (LH) JOHN R. HALEY
REAR ADM. (LH) PATRICK J. LORGE
REAR ADM. (LH) MICHAEL C. MANAZIR
REAR ADM. (LH) SAMUEL PEREZ, JR.
REAR ADM. (LH) JOSEPH W. RIXEY
REAR ADM. (LH) KEVIN D. SCOTT
REAR ADM. (LH) JAMES J. SHANNON
REAR ADM. (LH) THOMAS K. SHANNON
REAR ADM. (LH) HERMAN A. SHELANSKI

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral upper half*

REAR ADM. (LH) JOHN S. WELCH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C, SECTION 211(A)(2):

*To be lieutenant commander*

JASON A. BOYER
ERIC A. CAIN
WILLIAM E. DONOHUE
ROY EIDEM
MATTHEW A. PICKARD

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR ARMY UNDER TITLE 10, U.S.C., SECTION 531:

*To be major*

CAROL A. FENSAND

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR ARMY UNDER TITLE 10, U.S.C., SECTION 531:

*To be major*

KELLEY R. BARNES
DAVID L. GARDNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be colonel*

TROY W. ROSS

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

SEAN D. PITMAN

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

WALTER S. CARR

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

MARC E. PATRICK

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

DEMETRES WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

ALYSSA ADAMS
DONALD L. POTTS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

DAVID T. CARPENTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICHAEL JUNGE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

MARC E. BERNATH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

JASON D. WEDDLE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant commander*

STEVEN A. KHALIL