

Dive School at the Washington Navy Yard should be provided for the Man in the Sea Memorial Monument to honor the members of the Armed Forces who have served as divers and whose service in defense of the United States has been carried out beneath the waters of the world.

S. CON. RES. 50

At the request of Mr. RUBIO, the names of the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Massachusetts (Mr. BROWN), the Senator from Oklahoma (Mr. COBURN) and the Senator from Illinois (Mr. KIRK) were added as cosponsors of S. Con. Res. 50, a concurrent resolution expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived.

S. RES. 176

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. Res. 176, a resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease.

S. RES. 181

At the request of Mr. GRAHAM, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. Res. 181, a resolution designating May 15, 2011, as "National MPS Awareness Day".

S. RES. 232

At the request of Mr. MENENDEZ, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. Res. 232, a resolution recognizing the continued persecution of Falun Gong practitioners in China on the 12th anniversary of the campaign by the Chinese Communist Party to suppress the Falun Gong movement, recognizing the Tuidang movement whereby Chinese citizens renounce their ties to the Chinese Communist Party and its affiliates, and calling for an immediate end to the campaign to persecute Falun Gong practitioners.

S. RES. 434

At the request of Mr. WARNER, the names of the Senator from West Virginia (Mr. MANCHIN), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. Res. 434, a resolution supporting the goal of preventing and effectively treating Alzheimer's disease by the year 2025, as articulated in the draft National Plan to Address Alzheimer's Disease from the Department of Health and Human Services.

S. RES. 466

At the request of Mr. DURBIN, his name and the name of the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. Res. 466, a resolution calling for the release from prison of former Prime Minister of Ukraine Yulia Tymoshenko.

S. RES. 543

At the request of Mrs. BOXER, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 543, a resolution to express the sense of the Senate on international parental child abduction.

S. RES. 556

At the request of Mr. INHOFE, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. Res. 556, a resolution expressing the sense of the Senate that foreign assistance funding to the Governments of Libya and Egypt should be suspended until the President certifies to Congress that both governments are providing proper security at United States embassies and consulates pursuant to the Vienna Convention on Consular Relations.

S. RES. 558

At the request of Mr. HELLER, his name was added as a cosponsor of S. Res. 558, a resolution congratulating the athletes from the State of Nevada and throughout the United States who participated in the 2012 Olympic and Paralympic Games as members of the United States Olympic and Paralympic Teams.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3556. A bill to provide penalties for email marketing fraud; to the Committee on the Judiciary.

#### TELEMARKETING FRAUD MODERNIZATION ACT

Mr. WHITEHOUSE. Mr. President, I rise today to talk about an issue that is extremely important to people in Rhode Island and across the United States: protecting consumers and securing the integrity of Medicare by preventing waste and fraud. Individuals who commit Medicare fraud are not simply stealing from the government, they are stealing from the men and women who have paid into the system their whole lives, they are stealing from our Nation's seniors, and they are stealing from the taxpayers. We have an obligation to ensure that Medicare dollars are spent keeping seniors healthy, and not lining the pockets of predatory opportunists.

In March, I held a hearing in Rhode Island on efforts at the Federal, State, and local levels to identify and reduce fraud in Medicare and Medicaid. I heard testimony from a representative of the Centers for Medicare and Medicaid Services, as well as State and Federal law enforcement officials, including Rhode Island's Attorney General, Peter Kilmartin; and the U.S. Attorney for Rhode Island, Peter Neronha. They discussed a number of the efforts underway to identify potentially fraudulent claims, recover im-

proper payments, and use state-of-the-art analytic software to identify and prevent improper payments.

I was pleased to hear about the steps being taken to modernize Medicare's anti-fraud efforts, but there is still much that can be done. In particular, I believe we must crack down on deceptive and fraudulent telemarketing and email schemes that force unwanted and unnecessary medical equipment onto unsuspecting seniors. I have heard from Rhode Islanders concerned about these "too-good-to-be-true" offers. During my March hearing, I heard testimony about Medicare beneficiaries receiving unsolicited phone calls from a company called Planned Eldercare, which promised to provide them with free medical products. If a senior agreed to the offer, Planned Eldercare would submit as many claims as it could to Medicare on that beneficiary's behalf, even if the products for which they were submitting claims were not medically necessary or even requested by the senior. This scheme defrauded Medicare out of more than \$2.2 million.

These schemes prey on older Americans and rob Medicare of millions of dollars that would otherwise be used to improve the health and well-being of seniors. We must do more to prevent fraud of this kind, which is why I am joining with my colleague, Senator Blumenthal, in introducing the Telemarketing Fraud Modernization Act. This bill would close loopholes in the existing telemarketing fraud statute and update the law to include Medicare, Medicaid, and health care fraud, as well as schemes to fraudulently induce investments—like Ponzi schemes. It would also expand existing law to apply to schemes perpetrated via email, instant messages, and other forms of electronic communication. Updating the telemarketing fraud statute will give law enforcement agencies the tools they need to rein in scam artists, protect our Nation's seniors, and strengthen the integrity of the Medicare program.

I look forward to continuing to work with my colleagues on both sides of the aisle on this important issue.

By Mr. FRANKEN (for himself, Mr. HARKIN, Mr. SANDERS, Mr. DURBIN, Mr. BEGICH, Mr. LEAHY, Mr. BLUMENTHAL, and Mr. WHITEHOUSE):

S. 3557. A bill to amend the Higher Education Act of 1965 to prohibit institutions of higher education that participate in programs under title IV of such Act from including predispute arbitration agreements in enrollment contracts; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, I rise today to talk about a bill I have just introduced, the Arbitration Fairness for Students Act, and to talk about why it is so important to protect our Nation's students.

Access to higher education is becoming increasingly important in our Nation. In 2018, 70 percent of the jobs in

our State, Minnesota, will require some postsecondary education. We must also make sure access to higher education remains and stays a positive experience and not a damaging one. Colleges and universities need to deliver on the promises they make to students. If they don't, students need to be able to hold them accountable.

That is why I have introduced this bill today along with Senator HARKIN and six cosponsors, including Senator SANDERS. It would prohibit any school participating in the title IV Federal student aid system from forcing its students to forego access to the courts when they have a valid dispute and instead forcing them into private arbitration proceedings. This bill is simply about accountability. It is about the basic American right to seek justice in our court system—a right that is, unfortunately, being denied now to thousands of students after the landmark Supreme Court decision in the *AT&T Mobility v. Concepcion* case.

A recent report from Public Citizen and the National Association of Consumer Advocates highlights how that decision is harming students. Before that decision, thousands of students who had attended a chain of culinary schools formed a class action lawsuit alleging that the school had exaggerated the salaries of its graduates, and they won. The students received payments of up to \$20,000 each, which they desperately needed since, according to the lawsuits, these students typically had more than \$40,000 in student loan debt.

But that was before the *Concepcion* decision, which now allows corporations to block class action lawsuits through the use of mandatory arbitration clauses in their contracts. Now, a group of students who can prove they were lied to by their college can be barred from accessing our court system. I think that is wrong, and my bill would change that.

But don't just take it from me. Take it from judges who are ruling in the post-*Concepcion* world and who believe that students are being hurt. In one recent case students alleged that a school misrepresented basic facts, such as the cost of education and the school's accreditation status. The students even showed they had to sign the enrollment contract, which contained the mandatory arbitration clause, before they were allowed to speak to financial aid counselors.

The court ruled against the students, citing the *Concepcion* decision. According to the court:

The argument had considerable validity and the court would likely have found the Arbitration Agreements at issue here unconscionable . . . if it were issuing this decision pre-*Concepcion*.

The court also said that *Concepcion* "likely foreclosed the possibility of any recovery for many wronged individuals."

As I said, this bill is about accountability. It is also about college afford-

ability. Our higher education system often requires students to take on tens of thousands of dollars in debt. In exchange for this debt, students believe they are receiving an education that will allow them to pay that money back, often because that is exactly what the school is telling them. But what if the school is lying? Students need to be able to hold those schools accountable for their actions. Otherwise, what is going to stop other schools from charging whatever they want and convincing their students they can afford it by lying? We can stop these anticonsumer, antistudent contracts, and my bill would do just that.

Congress has acted several times to protect individual industries from abuse of mandatory arbitration clauses. In 2001, Congress heard from William Shack, a long-time automobile dealer from Nevada. He told his story to Congress about how he and a partner had been working together to open a Saturn dealership, investing a lot of money, when Saturn suddenly pulled the deal.

As a result of the arbitration clause in their contract, Mr. Shack and his partner were required to arbitrate the dispute. In his testimony, he said Federal legislation was the only remedy available to protect auto dealers from the imposition of these unfair contract provisions and to preserve State procedural and substantive protections. He explained:

We reject categorically the idea that we "voluntarily" agreed to submit to mandatory binding arbitration.

The most compelling portion of Mr. Shack's testimony was this:

[T]he dispute drove home to us in a drastic fashion just how one-sided the mandatory binding arbitration process can be for dealers. We were surprised to learn that, despite the great system of justice that we have in this country, we could be deprived of the basic right to an impartial decision on the merits of our case. That is a grave injustice.

In response to stories like Mr. Shack's, Senator ORRIN HATCH introduced the Motor Vehicle Franchise Contract Arbitration Fairness Act. The bill had 66 cosponsors—an equal number of Democrats and Republicans. Unsurprisingly, there was opposition to this legislation—the Chamber of Commerce testified against it. But Congress decided to prioritize the rights of auto dealers to seek justice in our courts, and in November of 2002, Congress passed this bill and made it law.

Today automobile dealers cannot be bound by mandatory arbitration provisions in their contracts with their manufacturers. This change didn't result in a flood of litigation. It simply provided some equal footing for small auto dealerships to bargain with the large manufacturers. Once Congress determined that this particular industry was subject to the abuse, it took action to protect the vulnerable party.

Congress again acted in 2007 to protect members of our Armed Services.

Congress heard from military leaders that predatory lending targeted at our Nation's servicemembers was impairing our country's military readiness. In response, Republican Senator Jim Talent from Missouri, along with his colleague Senator BILL NELSON of Florida, a Democrat, introduced an amendment to the 2006 national defense authorization bill. Their provision prohibited predatory lending practices, including a prohibition on enforcing mandatory arbitration clauses in financial agreements with servicemembers. This amendment passed the Senate unanimously, and it went into effect in 2007.

Despite strong opposition from the Wall Street lobby, Congress came together in a bipartisan manner to target abuses against our servicemembers.

In addition to auto dealers and servicemembers, Congress has also taken up the plight of poultry growers. In a 2007 hearing in the Senate Agriculture Committee, one witness shared this terrible story. Gertrude Overstreet was a 67-year-old contract poultry farmer. She operated two chicken houses, so her total monthly income, including food stamps, was less than \$1,000 a month for her and her husband. Mrs. Overstreet had a 10th grade education.

When the poultry producer for whom she worked violated the terms of their agreement, that company required Mrs. Overstreet to bring her claim into arbitration, where she was required to pay \$27,000 in upfront costs before she could even get a hearing. Mrs. Overstreet didn't know what arbitration was or that her legal remedies had been stripped from her. This is an elderly couple who could not afford the cost of their medication, much less \$20,000 in upfront arbitration fees.

This might be the most compelling example of disparate bargaining power, a giant poultry processor versus Mrs. Overstreet. But Senator GRASSLEY took up this cause and introduced the Fair Contracts for Growers Act. Thanks to his efforts, when the farm bill passed the following year, it included provisions that enabled poultry farmers to opt out of mandatory arbitration clauses imposed by the big processors.

Most recently, Congress took up an amendment that I introduced in the national defense authorization bill in the fall of 2009. Some of the most offensive uses of mandatory arbitration clauses that I have seen are by overseas military contractors against women who have been victimized on the job. Too many women working for military contractors have had to endure unimaginable workplace harassment and environments. Those women deserve their right to a day in court just like the auto dealers, the servicemembers, and the poultry farmers. Once again, the amendment passed with broad bipartisan support. Once again, Congress took steps to tackle the most egregious abuses of mandatory arbitration.

When confronted with a group that has been victimized by mandatory arbitration clauses, Congress has repeatedly taken steps to protect the little guy and their right to a day in court, and we have done so on a bipartisan basis. I believe Minnesota's students—and students across the country—deserve the same protection we have afforded to auto dealers, to servicemembers, poultry farmers, and employees of military contractors. The Arbitration Fairness for Students Act would provide that protection, and I urge my colleagues to support it.

By Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mr. KERRY, Ms. MIKULSKI, Mr. BEGICH, Mr. AKAKA, Mr. DURBIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. LEAHY, Mr. WYDEN, Mr. FRANKEN, Mrs. BOXER, Mr. JOHNSON of South Dakota, Mr. MERKLEY, and Mr. MENENDEZ):

S. 3562. A bill to reauthorize and improve the Older Americans Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANDERS. Mr. President, today I am very proud to introduce the Older Americans Act reauthorization of 2012 bill along with 14 of my colleagues, including Senators BLUMENTHAL, KERRY, MIKULSKI, BEGICH, AKAKA, DURBIN, GILLIBRAND, KLOBUCHAR, LEAHY, WYDEN, FRANKEN, JOHNSON, and MERKLEY. This bill is the result of an impressive team effort. We have reached out to a number of members on the committee and others who have brought forth ideas of their own, and I am very proud as chairman of the Subcommittee on Primary Health and Aging to have introduced this bill. I wish to thank the director of the subcommittee, Ashley Carson Cottingham, for her work, as well as Sophie Kasimow and Erica Solway.

It is disappointing to me that this important piece of legislation has not been dealt with during this session, but on behalf of the millions of elderly people to whom it applies and for whom it will make life better, I am introducing it today because it will lay the groundwork for what we have to do next session.

Originally enacted in 1965, the Older Americans Act was the first edition by the Federal Government to help senior citizens remain independent in their homes and in their communities. The Older Americans Act has historically received bipartisan support.

This act provides Federal funding for some important programs with which many Americans are familiar. Among others is the Meals on Wheels Program. All over America we have seniors who are frail, who are unable to leave their homes, and every single day all over this country there are volunteers who are delivering hot, nutritious meals to seniors. I wish to thank all of those volunteers and to tell them we are going to do the best we can to increase

funding to end some of those waiting lines that now exist throughout this country in terms of seniors being able to get the Meals on Wheels Program.

Another important nutrition program the Older Americans Act deals with is the Congregate Meal Program. Every day in Vermont and I know all over this country the elderly come to senior centers, where they socialize and have a good time and are able to break through their isolation and also receive nutritious meals. The meals they receive are significantly funded by the Congregate Meal Program. In my view, they are inadequately funded, and we want to increase funding for that program as well.

I would mention that in the State of Vermont alone—just one small State—almost 1 million Congregate and Meals on Wheels are served every single year. That is 1 million meals in a small State such as Vermont.

Mr. President, we are in the midst of a terrible recession. Unemployment is too high, wages are too low, and many people have lost their homes. But in the midst of this recession, we do not talk enough about the plight of many elderly people. They are living their lives, often in great financial distress, under the radar screen. I think we are not paying enough attention to their problems.

Today, incredibly enough, one in five seniors over the age of 65 is living on an average income of \$7,500 per year, and the number of seniors going hungry is rising. Hunger among seniors in the United States today is a serious problem. In fact, there are over 5 million seniors who face the threat of hunger and others who are struggling every single day to make sure they have enough food in the refrigerator to take care of their most basic needs.

The very good news is that the Older Americans Act has developed programs to address these needs. Yet, because we have more seniors who are in need of these programs, it is absolutely imperative that we address the problems of hunger and make sure every senior in this country gets the nutrition he or she needs.

This bill we are submitting today with 14 cosponsors will request higher authorization for nutrition programs, for supportive services, and for jobs programs. One of the things the Older Americans Act does—and not a lot of people know this—is it provides employment opportunities for many seniors. This is important because not only does it allow hard-pressed seniors to earn additional revenue, but it also allows them to go out into the workforce and put meaning into their lives, which is extremely important. This legislation also provides for chronic disease self-management and the Long-Term Care Ombudsman Program. The bill also strengthens efforts to identify and prevent elder abuse—a serious problem in our country—support for family caregivers and care coordination activities, workforce for seniors,

and increases protections for seniors living in nursing homes and receiving home care services.

Mr. President, we need to see the reauthorization of the Older Americans Act early in the next Congress. With 10,000 baby boomers turning 65 each day and middle-class families experiencing rising costs from education to health care as well as the need to provide care to their aging relatives, we are at a critical moment in terms of how we address the very serious problems facing senior citizens.

The interesting point about the Older Americans Act and about the Nutrition Program is that while, yes, it is an investment of Federal dollars, in the long run it actually saves us money. We had a very interesting hearing on this issue, and we heard from physicians who told us what common sense would suggest. If seniors do not get the nutrition they need, if they become malnourished, they are obviously more likely to become ill, end up in an emergency room or in the hospital. In addition, when we have senior citizens who are not getting the care and attention they need at home, the nutrition they need, they are more likely to suffer serious falls, break hips, and end up in a hospital, at great expense.

So the bottom line here is not really rocket science. It is that if we make sure seniors throughout the country—those who are vulnerable, who are frail, who do not have a lot of money—get the nutrition and the attention they deserve while at home, they will be healthier and less likely to end up in emergency rooms and in hospitals at great expense to our health care system. So investing in the Older Americans Act is not only the right thing to do, it is not only the humane thing to do in terms of taking care of the most vulnerable and fragile people in our society, it also makes good financial sense for our country.

Mr. President, I thank very much the 14 cosponsors we have. We are going to aggressively do our best to make sure this legislation is passed either in the lameduck session or when we return next year.

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

Mr. FRANKEN. Mr. President, I would like to associate myself with the remarks of the Senator from Vermont. I am one of the cosponsors of the reauthorization of the Older Americans Act, and before I talk about a bill I have just introduced, I would like to underscore the fact that the Older Americans Act was introduced in 1965, and it allows seniors to stay in their homes and also saves money. It costs \$6 a day to do Meals on Wheels per senior. This allows a senior to stay in their home and not go to a nursing home. We know what a nursing home costs every day. So this is an example of common sense. Seniors want to stay in their homes if they can.

I have been with the Presiding Officer, my colleague from the State of

Minnesota, doing roundtables on the Older Americans Act. It is a great program that we need to reauthorize in order to do really a commonsense thing, which is allow seniors to stay where they want to stay—in their homes—and at the same time not have them spending the kind of money they would be spending in a nursing home or in that kind of facility. So I commend the Senator from Vermont.

By Ms. COLLINS (for herself, Ms. MIKULSKI, Mrs. HUTCHISON, Mr. LIEBERMAN, Mrs. MURRAY, Mr. AKAKA, Mr. MERKLEY, Ms. KLOBUCHAR, Ms. STABENOW, Ms. MURKOWSKI, Ms. LANDRIEU, Mrs. SHAHEEN, and Mrs. BOXER):

S. 3567. A bill to establish the Commission to Study the Potential Creation of a National Women's History Museum, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, I rise to introduce the National Women's History Museum Commission Act of 2012, a bill that would create a commission to evaluate and plan into the establishment of a museum that would be dedicated to women's history in our Nation's capital city. I appreciate the co-sponsorship of Senator MIKULSKI, Senator HUTCHINSON, Senator LIEBERMAN, Senator MURRAY, Senator AKAKA, Senator MERKLEY, Senator KLOBUCHAR, Senator STABENOW, Senator MURKOWSKI, Senator LANDRIEU, Senator SHAHEEN, and Senator BOXER.

American women have made invaluable contributions to our country in such diverse fields as government, business, medicine, law, literature, sports, entertainment, the arts, and the military. The need for a museum recognizing the contributions of American women is long overdue.

In 1999, a Presidential commission on commemorating women in American history concluded that, "Efforts to implement an appropriate celebration of women's history in the next millennium should include the designation of a focal point for women's history in our Nation's capital."

Although Congress has made commendable provisions for the National Museum for African American History and Culture, the National Law Enforcement Museum, and the National Museum of the American Indian, there is still no institution in the capital region dedicated to women's role in our country's history.

This bill would be a good step toward rectifying this oversight. The bill would simply establish a commission, similar to what was done for the African American History and Culture Museum, to develop a feasible plan for establishing such a museum in here in Washington, D.C.

It is important to note that, unlike previous museum commissions, taxpayers will not shoulder the funding of this project. The proposed legislation calls for the commission to fund its own costs.

A museum dedicated to women's history would help ensure that future generations understand what we owe to the many generations of American women who have helped build, sustain, and advance our society. They deserve a museum to present the stories of pioneering women like abolitionist Harriet Tubman, founder of the Girl Scouts Juliette Gordon Low, Supreme Court Justice Sandra Day O'Connor, astronaut Sally Ride, and Senator Margaret Chase Smith.

Yes, of special pride to the State of Maine is a legendary predecessor in the Senate seat I now hold: Margaret Chase Smith, the first woman nominated for President of the United States by a major political party, and the first woman elected to both houses of Congress. Senator Smith began representing Maine in the U.S. House of Representatives in 1940, won election to the Senate in 1948, and enjoyed bipartisan respect over her long career for her independence, integrity, wisdom, and courage. She remains my role model and, through the example of her public service, an exemplar of the virtues that would be honored in the National Women's History Museum.

Again, I urge my colleagues to support this legislation.

By Ms. SNOWE:

S. 3572. A bill to amend the Internal Revenue Code of 1986, title 5, United States Code, the Small Business Act, and the Small Business Investment Act of 1958 to provide certainty for small business concerns, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that will boost America's small businesses and help them escape unnecessary regulations that are stifling creativity, growth, and job creation. This legislation will encourage small businesses to invest and hire, giving the economy a much needed lift.

Two of the most vital issues looming over small business job creators are tax and regulatory uncertainty. This bill aims to, among other things, deliver targeted tax relief to small businesses with eight different tax provisions, and protect small businesses from burdensome regulations. The Restoring Tax and Regulatory Certainty to Small Businesses Act of 2012 will provide small business owners and entrepreneurs with the confidence they need to expand, thrive, and prosper in today's insecure economy.

My friend and colleague, Small Business Committee Chair LANDRIEU, recently proposed a small business relief act with some similar measures. However, Chair LANDRIEU's bill lacks many of the tax and regulatory reforms that small businesses are seeking. While her bill does contain some measures that I support, and which I have worked with her to include in a freestanding bipartisan small business jobs bill, it does not include any provisions to protect small businesses from arduous regula-

tions. Additionally, it omits tax provisions that were included in our joint bill, S. 2050, that need to be addressed. By and large, this bill has some merits and I commend Chair LANDRIEU for pressing forward the national conversation on these critical issues, but the bill I am introducing today goes further by including both regulatory, and additional tax relief for small businesses.

The Restoring Tax and Regulatory Certainty to Small Businesses Act includes eight indispensable tax extenders that will provide targeted tax relief to small businesses and extend the essential tax relief provisions that were included in the bipartisan Small Business Jobs Act of 2010, P.L. 111-240. We have endured more than 40 straight months of unemployment over 8 percent and have yet to see changes implemented to ease the burdens on job creators. With this bill, the Nation's small businesses, which create at least two-thirds of all new jobs, will finally enjoy tax relief in many different forms.

Small businesses should be rewarded for taking risks and increasing investments. Under this bill, the 100-percent capital gains exclusion will be extended, as will the availability of Section 179 expensing, which gives businesses the option of writing off the cost of qualifying capital expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Additionally, the carryback of general business credits to offset 5 years of taxes as a cash-flow tool for businesses that are currently not realizing profits will be extended, giving small businesses even more funds to put toward future endeavors.

Prior to the enactment of the Small Business Jobs Act, taxpayers could generally only claim allowable general business credits against their regular tax liability, and only to the extent that their regular tax liability exceeded their alternative minimum tax—AMT—liability. With this bill, qualified small businesses will now be able to reduce their AMT liability for general business credits by allowing credits to be applied against regular income tax and AMT liability.

Additionally, this bill will permit contractors that do not complete contracts within a single year to benefit from bonus depreciation. Another provision was designed to benefit businesses that were initially C corporations, but elected to be taxed as S corporations and had net built-in gains when they made the S corporation election. Under this bill, small businesses will also be able to deduct more for startup costs, and be able to deduct health insurance premiums against payroll taxes, both of which are significant matters to new and developing small business owners. Thanks to these new tax provisions, business owners will be empowered to increase participation in domestic and global markets.

Besides these critical tax provisions, the bill also provides real, meaningful

regulatory relief for job creators. Since the enactment of the Small Business Regulatory Enforcement Fairness Act of 1996, P.L. 104-121, more than 50,000 new rules have gone into effect, each with an estimated impact of more than \$100 million annually. More than 3,000 new Federal rules are established each year. And alarmingly, small firms with fewer than 20 employees bear a disproportionate burden of complying with Federal regulations. These small firms pay an annual regulatory cost of \$10,585 per employee, which is 36 percent higher than the regulatory costs facing larger firms. This bill will strengthen existing laws and enable the SBA Office of Advocacy to protect small businesses from these burdensome regulations.

The Restoring Tax and Regulatory Certainty to Small Businesses Act incorporates the latest version of the Freedom from Restrictive, Excessive, Executive Demands and Onerous Mandates, FREEDOM, Act—a necessary, targeted regulatory reform bill that will provide small businesses with much needed relief from onerous, one-size-fits-all Federal regulations. These provisions would: (a) require agencies to consider foreseeable indirect costs of rules; (b) increase the number of small business review panels charged with helping agencies better consider small businesses during the rulemaking process; (c) add teeth to the existing requirement that agencies regularly review the regulations on their books to determine if they are outdated or needlessly burdensome; and (d) allow small businesses to seek judicial review during the proposed rule stage, concerning whether an agency complied with its legal obligation to conduct an economic impact analysis with the rulemaking. Regrettably, current law does not allow small businesses to challenge this in court until after a burdensome rule is finalized, when it is already too late.

A recent survey of 500 small business owners along the east coast found that 71 percent of employers plan to maintain current employee levels and only 21 percent plan to hire one or two more workers in the near future. Business owners are reluctant to hire because of the sluggish pace at which the U.S. economy is recovering, the uncertain fiscal future, and the overly burdensome regulations currently in existence. The NFIB reported that small business optimism is also at its lowest level since October 2011. Now is the time to reverse these trends and give small businesses, our one bright spot of job creation, the certainty and motivation they need to grow and provide more jobs.

By Mr. LEAHY (for himself and Mr. INHOFE):

S. 3577. A bill to eliminate conditions in foreign prisons and other detention facilities that do not meet primary indicators of health, sanitation, and safety, and for other purposes; to the Committee on Foreign Relations.

Mr. LEAHY. Mr. President, I am very pleased to join today with the senior Senator from Oklahoma, Senator INHOFE, in introducing legislation that has already attracted broad support—from across the social and political spectrum.

This bill, titled the Foreign Prison Conditions Improvement Act of 2012, seeks to address a much neglected, global human rights and humanitarian problem—the inhumane treatment of people in foreign prisons and other detention facilities.

On any given day, millions of people are languishing in foreign prisons, many in pretrial detention having never been brought before a judge or formally charged or proven guilty of anything, deprived of their freedom in abysmal conditions, often for years longer than they could have been sentenced to prison if convicted.

Others are imprisoned after being convicted of offenses, often after woefully unfair trials, including for nothing more than peacefully expressing political or religious beliefs or defending human rights. Regardless of their status they have one thing in common. They are deprived of the most basic rights and necessities—safe water, adequate food, essential medical care, personal safety, and dignity.

Anyone who has been inside one of these facilities, or seen photographs or press reports of what they are like, understands that this is about the mistreatment of human beings in ways that are reminiscent of the Dark Ages.

A few examples illustrate the point. In Haiti's National Penitentiary before the 2010 earthquake, more than 4,000 prisoners were confined in a space built for less than 900. Many did not have room to lie down and had to sleep standing up. Sanitation was practically non-existent. Deadly contagious diseases were rampant. The overwhelming majority of inmates had never been formally charged, never seen a lawyer or a judge. The earthquake damaged the prison and the prison guards fled, leaving the inmates to fend for themselves without food or water. They managed to get out, but the squalid facility filled up again.

I recall a newspaper article about how in Benin, in West Africa, the skin of prisoners was ragged from the extraction of fly larvae, an affliction that is symptomatic of the deplorable conditions. Many inmates suffer from tuberculosis, scabies, parasites, lung infections or other illnesses. The prison in Abomey, located in southern Benin, was built in 1904 to house a maximum of 150 prisoners. More than 1,000 have reportedly been confined there.

In February of this year, a fire at the Comayagua Prison in Honduras killed 360 inmates. In one overcrowded cell block only 4 of 105 prisoners survived. More than half of those who died were waiting to be charged or tried.

It is common in prisons from Latin America to the Middle East, Africa, and Asia for inmates to be severely

malnourished and to go for months without being able to wash. Many prisoners depend for survival on food brought to them by relatives. In many countries individuals awaiting trial, young and old, are housed together with convicted, violent criminals.

Prisoners and other detainees in many countries are also routinely victimized by poorly trained, abusive guards who are virtually unsupervised and unaccountable to any higher authority. Sexual abuse of men, women and children is common.

A government commission in Cameroon reported that an average of five prisoners die per month in a prison there, simply from lack of proper medical care. Inmates in many countries suffer from HIV/AIDS and other illnesses in prisons with no medical records, where doctors do not enter. Prisoners intentionally cut or otherwise harm themselves in the hope of receiving medical attention for life-threatening illnesses. If and when they are released they infect the local population.

A New York Times article described how prisoners in Zambia were punished by being stripped naked and held in solitary confinement in small, windowless cells, sometimes for days on end, in ankle-to-calf-high water contaminated with their own excrement. It is like something out of The Count of Monte Cristo, only worse because it is happening in the 21st Century. But the article went on to describe how Zambia's Prison Service conducted its own internal audit, appointed a new medical director, and allowed human rights workers access to its facilities. The legislation Senator INHOFE and I are introducing seeks to provide incentives for those kinds of improvements. Our bill would do the following:

First, it calls attention to this long ignored problem. Most people know little if anything about what goes on inside foreign prisons, and many would prefer not to know.

Second, it sets forth primary indicators for the elimination of inhumane conditions in foreign prisons and other detention facilities, such as human waste facilities that are sanitary and accessible, and adequate ventilation, food and safe drinking water.

Third, it requires the Secretary of State to report annually on the conditions in prisons and other detention facilities in at least 30 countries receiving United States assistance or under sanction by the United States, selected by the Secretary's determination that such conditions raise the most serious human rights or humanitarian concerns.

Fourth, it encourages the Secretary and the Administrator of the U.S. Agency for International Development to furnish assistance for the purpose of eliminating inhumane conditions where such assistance would be appropriate and beneficial.

For countries that are not making significant efforts to eliminate such

conditions, the Secretary is to enter into consultations with their government to achieve the purposes of the Act.

The legislation also provides for training of Foreign Service Officers, and directs the Secretary to designate, within the Department of State's Bureau for Democracy, Human Rights, and Labor, an official with responsibility for implementing the provisions of the Act.

Finally, it authorizes the expenditure of funds to implement the Act.

Once enacted, the Foreign Prison Conditions Improvement Act of 2012 will help foreign governments ensure that prisoners in their countries are treated as any people deprived of their freedom should be—as human beings, with dignity, in safety, and provided the basic necessities of life.

In countries around the world, the United States is helping to reform justice systems and strengthen the rule of law. No justice system can claim to deliver justice if prisoners and other detainees are treated like animals, or worse. By helping to change attitudes, and showing how with relatively little money prison conditions can be significantly improved, we can help advance the cause of justice more broadly.

Millions of people around the world look to the United States as a defender of justice. This legislation will further that goal and it reflects the best instincts of the American people. It has already been endorsed by a wide range of groups, including Amnesty International, USA; Baptist World Alliance, Division of Freedom and Justice; Ethics and Religious Liberty Commission of the Southern Baptist Convention; Human Rights First; Human Rights Watch; International CURE; International Justice Mission; International Prison Chaplains' Association; Jewish Council for Public Affairs; Just Detention International; Justice Fellowship/Prison Fellowship Ministries; National Association of Evangelicals; National Religious Campaign Against Torture; New Evangelical Partnership for the Common Good; Open Society Policy Center; Penal Reform International; Religious Action Center of Reform Judaism; United Methodist Church, General Board of Church and Society; and the United States Conference of Catholic Bishops. I want to thank these groups for their support and their efforts to focus attention on this urgent problem.

Identical legislation is being introduced today in the House by Representatives CHRIS SMITH and RUSS CARNAHAN, both of whom care deeply about this issue, so this is a bipartisan, bicameral effort.

Finally, I want to thank Senator INHOFE, who has visited many African countries and has witnessed the problems this legislation seeks to address, as well as his staff, who have been very helpful in this process. At a time when some people seem to get satisfaction from calling Washington broken, this

is another example of how two Senators and two Representatives, of different parties, whose political views often differ, can work together in furtherance of a just cause.

Mr. INHOFE. Mr. President, it is with great pleasure that I introduce the Foreign Prison Conditions Improvement Act along with my friend from Vermont, Senator PATRICK LEAHY.

This bill seeks to identify and eliminate unhealthy and unsafe prison conditions found in developing countries like Haiti and on the African continent where millions suffer in inhumane conditions.

Overcrowded, unsanitary detention and incarceration facilities endanger lives. This extremely high risk environment is a breeding ground for disease, particularly HIV/AIDs and tuberculosis, and creates grave risks to communities in which released prisoners live. Studies estimate that HIV infection rates in prisons in developing countries can be as much as 50 times higher than in the general population, and tuberculosis infection rates in prisons there are more than 20 times higher than in the general population.

Our bill encourages these developing nations to provide humane and sanitary prison conditions so that prisoners can be released in good health, and thus stem one of the causes of the spread of HIV and tuberculosis among the general public. Our bill also focuses on eliminating excessive pre-trial detention and dysfunctional justice systems which frequently result in prisoners and other detainees spending years in unhealthy prison conditions before their cases are even adjudicated. Tragically, inadequate, misplaced or lost records often result in the incarcerated being held indefinitely because their cases have never been heard. Unbelievably, such poor recordkeeping has kept many in prison long after their sentences have been served.

Specifically, our bill calls upon the Department of State to submit to Congress an annual report that describes inhuman prison conditions in at least 30 countries receiving U.S. foreign assistance. It gives the Secretary of State and Administrator of the U.S. Agency for International Development the discretion to restructure, reprogram or reduce U.S. foreign assistance to these countries based upon whether they are making "significant efforts" to eliminate inhuman conditions in their prisons and other detention facilities.

The goals of this bill are noble, but it will take close monitoring and hard work by our U.S. Foreign Service personnel on the ground overseas to fulfill this work. That is why our bill directs the Secretary of State to provide training to these embassy and consulate personnel so that they can effectively investigate and assess prison conditions in foreign prisons as well as assist these foreign governments to adopt substantive prison reforms. The Sec-

retary is also directed to designate and task a Deputy Assistant Secretary of State within the Bureau of Democracy, Human Rights and Labor with the responsibility for gathering the information for the annual report and make recommendations to the Secretary based off its conclusions.

I have visited Africa frequently, and I believe that given the chance, the majority of Africa's leaders will welcome the opportunity to interact with our embassy and consulate personnel and adopt the best practices for achieving the elimination of unhealthy and unsafe conditions in their prisons and other detention facilities.

The task at hand reminds me of the teaching of Jesus in Matthew 25:39:40 when he said, "when did we see you sick or in prison and visit you?" And the King will answer them, 'Truly, I say to you, as you did it to one of the least of these my brothers, you did it to me.'

We are all our brothers' keepers.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 559—HONORING REAR ADMIRAL JONATHAN W. BAILEY FOR HIS LIFETIME OF SELFLESS COMMITMENT AND EXEMPLARY SERVICE TO THE UNITED STATES

Mr. BEGICH (for himself and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 559

Whereas Rear Admiral Jonathan W. Bailey, the Director of the National Oceanic and Atmospheric Administration (referred to in this preamble as "NOAA") Commissioned Officer Corps (referred to in this preamble as the "NOAA Corps"), retires from the NOAA Corps on September 30, 2012, after 32 distinguished years of service;

Whereas Rear Admiral Bailey was appointed Director of the NOAA Corps by Secretary of Commerce Carlos M. Gutierrez on October 1, 2007, after nomination for the position by President George W. Bush and confirmation by the United States Senate;

Whereas Rear Admiral Bailey has commanded with distinction and provided exceptional leadership to the NOAA Corps since 2007, and has upheld the NOAA Corps values of honor, respect, and commitment;

Whereas Rear Admiral Bailey has had a balanced operational career, with 7 years of sea duty and almost 9 years of flight duty piloting aircraft for NOAA;

Whereas Rear Admiral Bailey played a critical role in developing innovative strategies to improve the NOAA Corps workforce;

Whereas Rear Admiral Bailey oversaw the aerial- and ground-based mapping operations by NOAA that aided search and recovery efforts at the World Trade Center and Pentagon after the September 11, 2001, terrorist attacks;

Whereas Rear Admiral Bailey has ensured that the NOAA Corps provides NOAA with a cadre of officers trained in engineering and science who operate ships, fly aircraft, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA;