United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, TUESDAY, JULY 27, 2010 No. 111

Senate

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

PRAYER

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

Let us pray.

Eternal Lord God, center of our joy, give to the Members of this body the gifts of grace, compassion, and kindness. May Your gift of grace prompt them to exemplify civility. May Your gift of compassion motivate them to become voices for the voiceless. May Your gift of kindness empower them to treat others as they themselves desire to be treated, to forgive those who may have wronged them, and to cultivate renewed trust in those with whom they labor. Lord, renew them this day by the power of Your spirit that they may walk in unity for the good of this land we love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 2010.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SCHEDULE

Mr. REID. Madam President, there will be a period of morning business, with Senators permitted to speak for up to 10 minutes each. The time until 12:30 will be equally divided and controlled between the two leaders or their designees. The majority will control the first 30 minutes and the Republicans will control the next 30 minutes.

The Senate will be in recess from 12:30 until 2:15 today for the weekly caucus meetings.

Following the caucus, the time between 2:15 and 2:45 will be equally divided and controlled between the two leaders or their designees, with the majority controlling the final 15 minutes. At 2:45, the Senate will proceed to a rollcall vote on the motion to invoke cloture on the motion to proceed to S. 3628, the DISCLOSE Act.

CORRECTING ENROLLMENT OF H.R. 725

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to H. Con. Res. 304.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 304) directing the Clerk of the House of Representatives to correct the enrollment of H.R. 725.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 304) was agreed to.

Mr. REID. Would the Chair announce the business for the day.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes.

The Senator from Illinois.

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

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THANKING TOM FALETTI

Mr. DURBIN. Madam President, I come to the floor to say thank you to someone who has, for more than 20 years, been my right hand on Capitol Hill. Tom Faletti is one of the most decent, honest, and caring persons I have ever known. Tom came to work for me 24 years ago, when I was an unknown second-term Congressman from downstate Illinois and he was a 20-something idealist with a master's degree in public policy and a determination to change the world. We have been a team for 24 years.

Now Tom is preparing to leave Capitol Hill for a new career—not to cash in as a K Street lobbyist but to work at an inner-city high school as a teacher. I know he is going to be an excellent teacher because I know how much he has taught me about how to turn noble ideas into good laws. Among the legislative accomplishments of which I am most proud, almost all of them bear Tom's fingerprints.

Tom Faletti is a quiet, effective person, who has achieved more than many of the most celebrated on Capitol Hill. He is a profoundly good person, too—deeply spiritual, with a deep devotion to his faith, and he is a remarkably patient man. How else could he have survived 24 years with me? One of his greatest personal qualities is his persistence. He has great staying power, and when you consider that many of the historic bills he has worked on require that kind of patience, you understand that is the key to his success.

Tom Faletti grew up in Antioch, CA, about an hour east of San Francisco. He was one of six kids, all boys. His father worked in the accounting department of a steel mill. His mom was mostly a stay-at-home mom who sometimes did child care to help make ends meet. He grew up in a neighborhood surrounded by aunts, uncles, cousins, and grandparents, all living within blocks of each other. It was the Faletti equivalent to Hyannis Port. He met his wife Sonia in the freshman dorm at Stanford University and they have been inseparable ever since. In fact, July 26 was their 30th wedding anniversary.

After earning his master's degree from Berkeley, Tom turned down some good job offers in California because the issues he cared most about, such as ending poverty and hunger, were national issues. He asked his Congressman and my good friend GEORGE MILLER for advice on how to get a job in Washington. GEORGE MILLER replied: You have to be there. So, in 1986, Tom and Sonia packed their belongings and drove across America in their 1978 blue Ford Fairmont. On the way they stopped in Chicago to see the Cubs beat Tom's favorite San Francisco Giants at Wrigley Field—the only time, until then, Tom had ever set foot in my State of Illinois.

Both Sonia and Tom arrived in DC without a job. Within a week, Sonia—who Tom will concede is the much more talented of the two—landed a job as a teacher. Tom had two interviews with both the U.S. Catholic Conference and Bread for the World. Both of them liked his resume but told him: Tom, you need some Hill experience.

Fortunately for me and the people of my State, Tom heard through a friend of a friend that this fledgling Congressman was looking for a part-time legislative correspondent. Well, my office offered him a job, trying to get rid of the growing backlog of mail in my congressional office. We told him we just had enough money to pay him for 3 months, and we weren't sure what would happen after that. But 3 months later, Tom Faletti turned a routine legislative correspondence assignment into proof positive of his potential. We promoted him to a legislative assistant position handling agricultural issues—not necessarily his forte, but I learned then and have learned ever since you can hand Tom Faletti any assignment and, in a short period of time, he will become a resident expert.

Two years later, the position of health care adviser opened on my staff. Tom jumped at the chance and a real legislative partnership began. Tom's tireless and meticulous work on health care reform and tobacco control has literally saved lives in America. Tom helped to draft the bill which I am so proud of, in which we banned smoking on all domestic airline flights more than 25 years ago.

Neither Tom nor I realized at that moment that that bill was a tipping point. The American people finally opened their eyes and said: If it is unsafe to smoke on an airplane, then why is it safe to smoke on a bus, on a train, in an office, in a hospital? Twenty-five years later, we live in a different nation because that bill came at the right moment. That bill would not have happened were it not for Tom Faletti's good work.

He also drafted a bill that banned smoking in Head Start and other Federal children's programs—unthinkable, but it was considered pretty bold at the time. In 1998, he helped me organize the first International Conference on Tobacco Control that brought together cancer researchers and advocates from nearly 30 nations to help advance the cause of tobacco control around the world.

He also worked to help preserve the historic settlement between tobacco companies and States when it appeared the Justice Department, under President George W. Bush, might gut the settlement.

In the early 1990s, Tom Faletti helped draft what may have been the first meaningful regulation of tobacco.

It was the simple statement that captured where we ended up so many years later, and it said:

> The Food and Drug Administration shall regulate tobacco but shall not ban it.

That was the political sweet spot, the middle ground where we eventually ended up many years later.

At the time it seemed impossible, but FDA regulation passed last year and is now the law of the land.

In 1992, Tom helped draft a bill called health status rating in the small business health insurance market. That bill said simply that insurers can't charge more because of a preexisting condition. Have you heard that phrase before? Do you remember that cause? It was the propelling force behind our health care reform that we just completed. People suggested then we could not prevail.

Tom knew where we needed to be as a nation, and today that bill—with minor changes—is the law of the land. It was included in the historic health care reform that President Obama signed into law.

Tom has helped achieve lifesaving change for America in so many other ways, including increasing organ donations and improving health care for veterans and their family caregivers.

In the early 1990s, he drafted a bill to create a pilot program of long-term substance abuse treatment centers for women where they could bring their children with them, thus removing one of the main impediments to women receiving lifesaving treatment.

The list of accomplishments bearing Tom Faletti's imprint goes on and on.

When President Obama invited me to the White House a little over a year ago to see him sign the Family Smoking Prevention and Control Act, granting FDA the very power to regulate tobacco, which Tom Faletti called for so many years ago, I invited Tom to be by my side. I can recall a dinner a few months ago when I was given recognition for all the work I have done in the field of tobacco and looking out over the audience and all the people who have been helpful and spotting Tom. I told the people there—and I say it today—that none of this would have happened without Tom Faletti.

When President Obama signed the Patient Protection and Affordable Care Act last March, I again asked Tom Faletti to join me at the White House and witness that historic event and see the new law, including the preexisting conditions.

No member of my staff—or any other Senate staff—worked harder, over more years, to make those two great achievements a reality.

There is one downside to finally winning so many long-fought battles; that is, Tom has decided to retire—well, to retire from the Senate. He has decided it is time to try a profession that he told me he always wanted to try, to become a high school teacher. He is going to teach at Archbishop Carroll, an inner-city Catholic high school in Washington, DC. I was not surprised because Tom has been a teacher for as long as I have known him. He taught hundreds of my staff everything from spelling and grammar to the inside information on moving a bill and changing a nation.

I know Tom and Sonia decided long ago that life on Earth is about more

than material wealth. The lure of K Street never touched Tom Faletti. Instead of cashing in on his time in the Senate and his amazing experience on Capitol Hill, Tom is actually leaving the Senate to take a pay cut and teach in an inner-city high school. Those of us who know and love him are not surprised.

He will be teaching government and political science to 11th graders and a religion class on social justice—his great passion.

Tom said above the chalkboard in his classroom he will hang a sign that reads: ''You can change your world.'' Tom has proven he can change the world because he has changed America. He wants to show his students how they, too, can reach that goal in their lives.

Tom will not need a textbook for that lesson. He can teach from his own experience because that is what Tom has done for 24 years as a dedicated staff member in the House of Representatives and the Senate. I was always proud to be Tom's friend and to learn so much from this good man.

I thank Tom for his service, and I thank his wife Sonia and their children, Timothy, Joanna, and Luke, for sharing him with us for all these years. I wish him the best of luck, and I say to the students at Archbishop Carroll: Listen carefully to Tom. I have for 24 years, and it has worked out pretty well.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

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

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

CYBERSECURITY

Mr. WHITEHOUSE. Madam President, I will speak about a topic that is central to our national security and economic prosperity and which gets far too little notice and attention; that is, the vulnerability of America's network information systems, and the economic danger and national security risks we face from cyber-theft, cyber-piracy, and cyber-attack.

We live in a wired society. If we sever those wires and the social, economic, and communications linkages that make our way of life possible, we will cease to function. I am gravely concerned that we are not taking the necessary steps to guard against this threat, which I believe is the greatest unmet national security need facing the United States.

Earlier this month, the Intelligence Committee Cyber Task Force submitted a classified final report to the chair and vice chair of the Intelligence Committee. It was an honor to chair this bipartisan initiative and to serve with my distinguished colleagues, Senator MIKULSKI and Senator SNOWE. I thank them for their diligence, their leadership, and their important contributions to this effort. They were excellent and we made a good team.

We spent 6 months investigating cybersecurity threats and our current posture for countering those threats, with a particular focus on the intelligence community. It was a very sobering experience.

There is a concerted and systematic effort underway by nation states to steal our cutting edge technologies. At the same time, criminal hacker communities are conspiring to penetrate financial industry networks, rob consumers of their personal data, and transform our personal computers into botnet zombies that can spread malware and chaos.

It is difficult to put a precise dollar figure on the damage and loss these malicious activities are causing, but it is safe to say it numbers in the many tens of billions of dollars—perhaps as high as $1 trillion.

I believe we are suffering what is probably the biggest transfer of wealth through theft and piracy in the history of mankind.

In addition, we face the risk of attacks—attacks designed to disable critical infrastructure, with grave potential harm to our national security and to our financial, communications, utility, and transportation sectors.

The intelligence community is keenly aware of the threat and is doing all it can within existing laws and authorities to counter it. The bad news is the rest of our country—including the rest of the Federal Government—is not keeping pace with the threat.

I am encouraged by the growing interest in Congress, where there are now more than 40 bills pertaining to cyber. I want to commend Senator ROCKEFELLER and Senator SNOWE, in particular, for being at the leading edge of the Senate's efforts. They have spent more than a year fine-tuning their legislation, which speaks of their commitment to protecting the country and their recognition that we cannot reduce our vulnerabilities without careful study and thoughtful engagement.

Much of the current debate on cybersecurity in the Congress focuses on executive branch organization dealing with this threat. This is obviously an important issue, and it is one that we must resolve sooner rather than later. But the question of how this all gets organized within the executive branch is merely one of the many problem areas we saw during the course of the work of the task force.

What are these other areas? Well, first of all, an overarching issue, we must raise the public's awareness about cyber-threats; otherwise, we face an uphill battle trying to legislate in this challenging and sensitive policy sphere.

What is the problem? Well, threat information affecting the dot.gov and dot.mil domains is largely classified—often very highly classified—and entities in the dot.com, dot.net, and dot.org domains often consider threat information to be proprietary and disclosing it could be a risk to their business. So the result overall is that the public knows very little about the size and scope of the threat their Nation faces.

If the public knew the stakes—knew the cyber-criminals, for example, have pulled off bank heists that would make Willie Sutton, Bonnie and Clyde, and the James Gang look like a bunch of petty thieves, they would demand swift action. If they knew the extent of the cyber-piracy against our intellectual property, and the economic loss that has resulted, the public would demand swift action. If they knew how vulnerable America's critical infrastructure is and the national security risk that has resulted, they would demand action. It is hard to legislate in a democracy when the public has been denied so much of the relevant information.

The first key point is public awareness. We have to share more information with the public about what is going on out there.

Second, we need to establish basic rules of the road. One of the signal features of our cybersecurity risk profile is that the overwhelming majority of malicious cyber-activity could be prevented if some computer users installed simple antivirus protections and allowed automatic updates of their software.

If we followed basic rules of the road, there would be a national security advantage: The Federal Government could focus its cybersecurity efforts on that narrower subset of threats that can evade commercial, off-the-shelf technology. There would be economic advantage from the potentially massive reduction in cyber-crimes, such as identity theft and credit card fraud.

Third, we need to empower the private sector to adopt a more proactive stance against cyber-threats. I am from Rhode Island. My State was founded as a sea trading State. When our traders were attacked by pirates, they got out their guns and fought back. Under current law, companies under cyber-attack can do little more than batten down the hatches. We need to look for more ways to help American companies better defend themselves.

Our courts provide one option. Creative technical experts and smart lawyers at Microsoft were able to mount a very impressive counterattack against the Waledac botnet by obtaining a Federal court order requiring that VeriSign, the domain name registrar, cut off domains associated with the botnet. This disrupted the botnet's command-and-control function, and it highlights an important possible role for our judicial branch.

Additionally, we need to establish lawful and effective means for industry sectors to band together with one another and engage with each other in

common defense strategies and information sharing where appropriate with the government. There are some early examples, such as the defense industrial base, that merit commendation, which we should encourage. But it is still pretty primitive.

Fourth, we must ensure that the Federal Government has the authorities and capabilities necessary to protect our American critical infrastructure against cyber-attack. If a bank, for instance, runs into a solvency problem, there is an established and widely accepted procedure for Federal intervention to protect the bank depositors, stand the bank back up, get it back on its feet, and move back out again.

There is no similar procedure if that bank or American critical infrastructure, such as an electric utility, is failing due to an ongoing cyber-attack. There needs to be clear, lawful processes for the private sector to request technical assistance and clear authority for the government to act when a cyber-incident raises significant risk to American lives and property.

It gets a little bit more complicated than that because you cannot just call 911, such as when there is a fire, and have the government come and put out the fire when it is a cyber-attack. Cyber-attacks happen literally at the speed of light.

The best defense against cyber-threats, particularly the most dangerous cyber-threats, requires speed-of-light awareness and response. For this reason, it is worth considering whether some defensive capabilities should be prepositioned in order to better protect the Nation's most critical private infrastructure.

During medieval times, critical infrastructure, such as water wells and graineries, were inside the castle walls, protected as a precaution against enemy raiders. Can certain critical private infrastructure networks be protected now within virtual castle walls in secure domains where those prepositioned offenses could be both lawful and effective?

This would, obviously, have to be done in a transparent manner, subject to very strict oversight. But with the risks as grave as they are, this question cannot be overlooked.

Fifth, we need to put more cyber-criminals behind bars. Law enforcement engagement against cyber-crime needs to be considerably enhanced at multiple levels, reporting, resources, prosecution strategies, and priority. A lot more folks need to go to jail.

Finally, we must more clearly define the rules of engagement for covert action by our country against cyber-threats. This is an especially sensitive subject and highly classified. But for here, let me simply say that the intelligence community and the Department of Defense must be in a position to provide the President with as many lawful options as possible to counter cyber-threats, and the executive branch must have the appropriate authorities, policies, and procedures for covert cyber-activities, including how to react in real time when the attack comes at the speed of light. This all, of course, must be subject to very vigilant congressional oversight.

Uniquely in the world and uniquely in our own history, America's economy and government now depend on networked information technologies for Americans to communicate with each other, keep the trains running on time and the planes flying safely, keep our lights on, and power our daily lives.

The expansion of this powerful new technology across our great country also makes us uniquely vulnerable to cyber-threats. We have to do a lot better as a nation on cybersecurity. I believe we can do better. I know we must do better. Frankly, we cannot afford not to do better.

I hope these remarks and the structure they have provided helps provide assistance to my colleagues as we begin debating and resolving these important issues.

I yield the floor. I see my distinguished colleague from Minnesota prepared to speak.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

DISCLOSE ACT

Mr. FRANKEN. Madam President, I rise today to urge my colleagues to allow debate on the DISCLOSE Act, a commonsense measure to fix just some of the problems created by the Citizens United decision.

For a century, Congress has done everything it could to make sure the American public has as much information as possible about the money being spent in our elections. The first Federal campaign finance disclosure law was passed in 1910, which scientists tell us was 100 years ago. It was strengthened in 1925. In the 1970s, it was replaced with an even stronger system as part of the Federal Election Campaign Act. Eight years ago, with McCain-Feingold, it was strengthened yet again. So the Congress has been in the disclosure business for 100 years. And, in fact, at every major step, the Supreme Court has actually affirmed Congress's power to pass these laws.

In 1934, the Court unanimously upheld the disclosure laws that Congress passed a decade earlier. In 1975, they upheld the disclosure provisions of the Federal Election Campaign Act. In 2003, they upheld the disclosure and disclaimer provisions of McCain-Feingold. Just this January in Citizens United—yes, in Citizens United—they voted 8 to 1 to uphold those same disclosure provisions again.

The disclosure provisions of the DISCLOSE Act are well in line with a century's worth of Federal statutes and precedent, at least according to the Burger Court, the Rehnquist Court, the Roberts Court, and the Hughes Court. I bet some of you have not heard of the Hughes Court. That was from 1934. So we can pass this law. We can do it. There should be a will to do it.

Here are some excerpts from a few Members' floor statements from the 107th Congress, the Congress that passed McCain-Feingold:

> Clearly the American public has a right to know who is paying for ads and who is attempting to influence elections. Sunshine is what the political system needs.

Another Member said:

> We can try to regulate ethical behavior by politicians, but the surest way to cleanse the system is to let the Sun shine in.

Here is yet another:

> Disclosure helps everyone equally to know how their money is spent. [. . .] Disclosure is what honesty and fairness in politics is all about. Why would anyone fight against disclosure?

These are actually the statements of friends of mine across the aisle who are still in this body who opposed McCain-Feingold and who opposed it in large part because they said it did not do enough on disclosure. In fact, a lot of them opposed it precisely because it did not do enough to promote disclosure of the independent expenditures of corporations and unions.

As my good friend Senator HATCH said in March of 2001:

> The issue is expenditures, expenditures, expenditures; and [. . .] the real issue, if we really want to do something about campaign finance reform, is disclosure, disclosure, disclosure.

I think he repeated it three times for emphasis.

This is what the minority leader said when he voted against the McCain-Feingold bill, as amended by the House, in March of 2002. This is the minority leader, Senator MCCONNELL from Kentucky:

> Reformers claim this bill will increase disclosure and shine the light on big money and politics. This is, of course, not true. Unions will continue to funnel hundreds of millions of dollars of hard-working union member dues into the political process without ever disclosing one red cent.

The protections my friends were waiting for are in the DISCLOSE Act, and they boil down to this: If someone is spending a lot of money in our elections, American voters will have a right to know whether that person is a corporation, a nonprofit, a union, or a 527.

Before I close, I want to discuss a part of this bill that does not have to do with disclosure, section 102.

Section 102 incorporates critical provisions of a bill I introduced, the American Elections Act. It will make sure that foreign interests—foreign governments, foreign corporations, and individuals—cannot use American subsidiaries that they own or control to influence our elections.

The fact is, after Citizens United, the U.S. subsidiaries of foreign companies will be able to spend as much as they want in our elections, even if they are under foreign control.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. FRANKEN. I ask for another couple minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. Reserving the right to object, I ask that another couple minutes be added to our time. If that is OK with the Senator from Minnesota, I have no objection.

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

Mr. FRANKEN. I thank the Senator from Texas. The fact is, after Citizens United, the U.S. subsidiaries of foreign companies will be able to spend as much as they want in our elections, even if they are under foreign control. President Obama alluded to this in his State of the Union Address, and Justice Stevens said it explicitly in his dissent.

More and more American companies are coming under foreign ownership and control. According to the Congressional Research Service, between 1998 and 2007, there was a 50-percent increase in the number of mergers and acquisitions where a foreign firm acquired a U.S. firm. But our laws are out of date. They do not protect against election spending from those foreign-controlled companies.

There are basically only three restrictions on election spending by foreign companies: One, you cannot be headquartered or incorporated abroad. The subsidiary has to be headquartered here, such as BP America.

You cannot use money you have earned abroad in our elections. You can use money earned here.

You cannot let foreign citizens decide how to spend that money. But the boards of these companies kind of know how, Citgo, say, might want to spend its money. One company that could pass the test and spend unlimited amounts of their money in our elections is Citgo, 100-percent owned by Hugo Chavez and the Venezuela Government. Here is another company that can pass the test: British Petroleum or, rather, its subsidiary, British Petroleum America. This is unacceptable.

The DISCLOSE Act updates our laws and says that if a foreign entity has a controlling stake in a company, as defined by most States' corporate control standards—or if a foreign entity controls the board of directors of a company, that company should not spend one dime in our elections.

Madam President, I thank the Senator from Texas. I yield back my time. I have no time to yield back. I am done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. There is 32 minutes 23 seconds remaining.

DISCLOSE ACT

Mr. CORNYN. Madam President, I am going to talk about the so-called DISCLOSE Act that we will vote on this afternoon at 2:45. Of course, this is a cloture vote which will require 60 votes to proceed to the bill.

At the time the cloture motion was filed, the bill was so new that it was not even available on the Senate's Web site. Unfortunately, this represents a trend where we have seen legislation come to the floor that is so new and unavailable to the American people to read that they are left to wonder what actually is in the bill.

This particular version of the bill was introduced less than a week ago. Sadly, I have concluded that this bill represents another attempt by my colleagues to push through legislation without adequate time for deliberation and review. In this case, it has pretty dramatic and dire consequences.

It will reduce freedom of speech in a way that is inconsistent with the first amendment of the U.S. Constitution, it creates more Federal regulation, and it does not give the American people the opportunity to review the legislation and to weigh in because they cannot understand what are the ramifications. So in the short time we have between now and 2:45, I would like to weigh in a little bit to hopefully inform anyone who is listening what this particular piece of legislation will do.

I fear that what this legislation does, in sum, is to protect incumbents—protect incumbents—which is not the type of legislation that I think most of our constituents would want to see us pass. I believe they would prefer legislation, if any legislation would be necessary, that would not restrict freedom of speech but would encourage freedom of speech and more political participation in our elections and the process. But this bill doesn't do that. This bill protects incumbents by suppressing the speech of some while letting other speakers speak without any limitation whatsoever. In other words, what this bill does is it picks winners and losers in the political speech contest—something the first amendment does not allow us to do.

I would also say that in the rushing to judgment on the part of the proponents of this bill, we are left to speculate as to what impact the Citizens United decision by the U.S. Supreme Court will really have and whether for-profit corporations will actually use this decision to spend money in elections. I happen to believe there is very little chance most corporations' shareholders will allow their money to be spent for the purpose of advertising on issues in upcoming political elections because they are going to either want the money returned in a dividend to the shareholders or they are going to want money invested to create a growing business and to create a better return on their investment. They are not going to want their money used for the purposes for which the proponents of this legislation fear, in my view.

The fact is, this bill will fundamentally remake the rules and regulations governing the exercise of free speech in American elections. We should be extra cautious in legislating in this area for three reasons:

First, regulation of speech always raises significant first amendment considerations. The first amendment is the cornerstone of our democracy. Political speech about candidates for elected office is at the core of the values protected by the first amendment.

Second, regulation of campaign speech often comes with unintended consequences. Back in 2002—I wasn't here at the time—the Bipartisan Campaign Reform Act was passed. It was also known as the BCRA or McCain-Feingold. I believe it was passed with the very best of intentions, but it has not prevented the exponential increase in the amount of money spent in elections in America since that time. In the 2008 election cycle, President Obama and Senator MCCAIN raised and spent nearly twice as much money as President Bush and Senator KERRY did in 2004—almost twice as much in 4 years. In fact, together, the two Presidential candidates in 2008 spent more money for the general election than did all the Presidential candidates between 1976 and 2000 combined. The so-called Bipartisan Campaign Reform Act of 2002 has also led to another unintended consequence: it has led to a proliferation of interest groups using section 527 of the Internal Revenue Code or some other provision of the law to pour massive amounts of money into campaigns with even less transparency than has existed before.

The third reason we should be especially careful when regulating political speech is that Senators have an inherent conflict of interest. Our jobs depend on the rules surrounding campaigns and elections, so there is a natural temptation by the Senate majority to change the rules in a way that helps its own chances of reelection. The question is, Does this bill resist that temptation to rewrite the rules to benefit the majority party, to protect incumbents, or does this bill succumb to that temptation? I submit that this bill succumbs to that temptation in the haste to push through rules that will protect, in the view of the proponents of this legislation, incumbents in the election that will be held almost 100 days from now.

This bill would silence critics of the majority party—it is that simple—and it would protect the closest allies and special interests aligned with the majority party.

This bill treats similarly situated parties differently. That is what I mean by picking winners and losers. It would silence businesses with some foreign shareholders, but it would protect unions with significant foreign membership. It would silence businesses with government contracts, but it would protect unions of government employees and unions that work on those same government contracts. It would silence companies that have received TARP funds but protect the

unions that represent those same companies' employees.

Labor unions aren't the only allies of the majority party to receive special treatment in this bill. The bill protects limited liability partnerships and other business models favored by the legal profession. It creates carve-outs reminiscent of what we saw happen in the health care bill with the ''Louisiana purchase'' and the ''Cornhusker kickback.'' It creates a carve-out for the largest, wealthiest, and most powerful Washington-based special interest groups, such as the National Rifle Association and the American Association of Retired Persons, AARP.

The bill also tends to favor large businesses over small businesses and Washington-based interest groups over grassroots interests. How does this bill do that? Well, simply because it creates such a Byzantine labyrinth of regulations and disclosure requirements that only large organizations with the money to hire the very best lawyers will be able to figure out how they can exercise their first amendment rights. There are enough loopholes that a corporation or a union large and sophisticated enough to set up the right legal structure can continue to speak and spend money to exercise their first amendment rights, but a small business or a grassroots group of citizens is unlikely to have either those sorts of political connections or the money to be able to hire the specialized expertise to allow them to navigate this labyrinth. And if you can't afford to comply with the bill's onerous regulations, then you are not allowed to speak at all.

Why are some of my colleagues supporting the bill? I can think of two reasons:

First, some of my colleagues fear the righteous judgment of the American people in this coming election on November 2. They are trying to change the rules in the middle of the game to suppress the speech of those who might disagree with these incumbent Senators who are standing for reelection so that the American people won't have all sides of the story when they go to vote on November 2. Bradley Smith, a former Chairman of the Federal Election Commission, put it this way. He said the so-called DISCLOSE Act should stand for the ''Democrat Incumbents Seeking to Contain Losses by Outlawing Speech in Elections''—the DISCLOSE Act.

Second, it is clear that some folks in Washington just like suppressing speech they do not agree with. Other attempts have included asking citizens to forward their neighbors' criticisms about the administration to the White House e-mail account—remember when that happened—and sending cease-and-desist letters—this is something the administration did during the health care debate—to companies that criticized their health care bill. And of course there have been well-documented efforts to bring back the so-called Fairness Act, which is anything but.

I don't know, though, whether my colleagues who are pushing this bill are doing so in order to protect their political power or, frankly, in an arrogant display of disdain for the views and opinions of the American people—the kinds of views we have seen displayed at townhall meetings, at tea party rallies, and other spontaneous movements around this country. It is absolutely the fact that the first amendment was written to protect freedom of speech, even the speech we don't like and don't agree with. I believe the first amendment of the U.S. Constitution and freedom of speech have made us stronger and freer and has helped inform policymakers so that we can make better decisions because we have considered all points of view.

But whatever the reason the proponents of this bill have for offering this bill, I would point out—and I don't think it is a coincidence—that the chief House proponent is the current chairman of the Democratic Congressional Campaign Committee and the chief proponent in the Senate is the former chairman of the Democratic Senatorial Campaign Committee. I don't think that is coincidental.

Whatever the reason, I oppose this bill, and I urge my colleagues to oppose this afternoon's cloture motion.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, will you let me know when 9 minutes has expired?

The ACTING PRESIDENT pro tempore. I will.

ENERGY

Mr. ALEXANDER. Madam President, I wish to thank the Senator from Texas for his lucid explanation of this DISCLOSE Act, and I like the name he used for it. As the Republican leader has said, this is a piece of legislation that is primarily about saving the jobs of Democratic Members of Congress. I think the American people would rather we spend our time saving their jobs during a time of 10 percent unemployment.

I would like to talk about that for a minute because one way to save American jobs is to stop sending jobs overseas looking for cheap energy, which is what the Democratic proposals have been about this year.

We hear that maybe this afternoon the majority leader will propose an energy bill. It is being proposed in a way that has become all too familiar here. It is being written in secret, offered at the last minute, and there will be time for little debate. We have 1 or 2 days at most to work on this bill, given the need to consider the President's nomination of Ms. Kagan for the U.S. Supreme Court, and there apparently will be no amendments. So last minute, written in secret, little debate, no amendments, big issue—that sounds a lot like what happened at Christmas with the health care bill. But the question to ask is why have we waited so long on an energy bill?

In defense of the majority leader, he has a lot on his plate, and he has a tough job in trying to figure out what comes first, and it takes a while to get anything done in the Senate. The last time we had a great success with energy bills—2005–2007—they were offered in a bipartisan way. I remember working with Senator Domenici and Senator BINGAMAN on those bills. We did a lot of good and changed the direction of the country on clean energy in 2005 in the Energy bill. But it took a number of weeks on the floor of the Senate to do that, and any serious effort on energy would take that amount of time here as well.

So why have we not had an energy bill? We have had a clear consensus on how to have cheap energy. For years, Republicans have said: Why don't we build 100 new nuclear plants? That is 70 percent of our carbon-free electricity. Why don't we set as a goal electrifying half our cars and trucks? That is the single best way to reduce our use of oil, including oil from foreign countries. Why don't we support doubling energy research and development? That is the best way to get a 500-mile battery for electric cars and reduce the price of solar power by a factor of 4, which is what we need to do in order to be able to put solar on our rooftops and supplement the energy we need. But we haven't had bills like that. There are even 16 Senators—6 Republican, 9 Democrats, 1 independent—who are cosponsors of the Carper-Alexander bill on clean air. We know what to do about sulfur, nitrogen, and mercury, so why don't we do it? We have 16 Senators ready to do it.

Instead, the other side has been focused on two bad ideas—one has been a national energy tax in the middle of a recession, and the second bad idea has been a so-called national renewable electricity standard, which basically boils down a requirement to build 50-story wind turbines to try to produce electricity in this large country. Let me give one fact on that. Denmark has pushed its wind turbines up to 20 percent of its electrical capacity. We often hear on the floor what a great thing Denmark has done. That is about as many windmills as you can have and still have a viable electricity grid. But Denmark hasn't closed a single coal plant. It is still highly dependent on fossil fuels. It has to give away almost half of its wind-generated electricity to Germany and Sweden at bargain prices because it comes at a time it is not needed. And Denmark has some of the most expensive electricity in Europe. Meanwhile, France has gone 80 percent nuclear. Its per capita carbon emissions are 30 percent lower than Denmark, and it has so much cheap electricity that France is making $3 billion a year exporting it to other countries.

So why are we even thinking about passing a law making Tennesseans build 50-story wind turbines on our scenic mountains or buy it from South Dakota, which means running a lot of transmission lines through backyards, when the Tennessee Valley Authority says wind power is available when needed only 12 percent of the time?

So these are the two bad ideas that have had our clean energy consensus stuck on the sidelines for the last year.

There is another idea we should be focusing on, actually it should be our first priority; that is, the oilspill that has caused such destruction in the gulf coast. The bill we understand the majority leader may be bringing out this afternoon—of course, we do not know what is in it; it was written in secret—bringing it out this afternoon, may be the bill that came out of the Environment and Public Works Committee, which would, in effect, end offshore exploration for natural gas and oil.

That sounds pretty good, particularly in light of the fact that it has been 99 days since this terrible oilspill began. But what will happen if we were to, in effect, end offshore exploration of natural gas and oil? It means we would be depending more on oil from overseas. We use 20 million barrels of petroleum product a day. Unless we get busy with electric cars, we are still going to be using 20 million barrels a day.

It will probably mean higher prices, since about one-third of our natural gas and oil that we produce in the United States comes from the Gulf of Mexico. It would mean lost jobs in large amounts. The number of lost jobs is estimated, in a study released by IHS Global Insight on July 22—if we have a de facto end of independent oil production of offshore natural gas and oil in the gulf, the job loss would be 300,000 jobs by 2020; $147 billion in tax revenues over that time.

So, in addition to depending more on foreign oil, higher prices, lost jobs, it means we would depend on leaky tankers to bring that foreign oil—some from countries that do not like us—over to the United States so we could use it. So that is a bad idea as well—not a very good proposal.

There is a better way to approach the problem of dealing with an oilspill that has been offered by Senator MCCONNELL and other Republicans last week. Here is what it would do: Instead of ending offshore exploration for natural gas and oil, which is what unlimited liability requirements, in effect, would do, it would fashion a proposal that is much like the proposal we use for the 104 nuclear powerplants we have operating in this country.

They operate under a law called Price-Anderson. Price-Anderson is an industry-funded insurance program that spreads the liability for any nuclear accident among all the operators of nuclear plants. It is important to note, we have never had to use it. Even though we have not built a nuclear plant in 30 years, there has not been a single death in the United States as a result of a nuclear incident at a commercial nuclear plant or as a result of a nuclear accident on one of our Navy ships, which have been operating with reactors since the 1950s.

But the Republican proposal, instead of saying unlimited liability, which sounds good but has all the problems I just mentioned, would employ a risk-based approach and allow the President to establish liability limits for offshore facilities by taking into account risk-based factors. There could be unlimited liability.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator has 1 minute remaining.

Mr. ALEXANDER. There could be unlimited liability. But the President, in setting those risk-based factors, could take into account that there might be a company with a spotless record operating at drilling 500 feet for oil, but there might be a company with not as good a record operating in 5,000 feet deep water.

In addition, the proposal would allow for collective responsibility. Instead of big oil companies just sitting around watching the one that spills clean up, everybody would have a stake in the game. In addition to that, it would not drive out of business the smaller oil companies and only leave big oil as the only ones that could risk unlimited liability and drill in the gulf, such big national oil companies as the Chinese, Venezuelan, or Saudi Arabians.

So I would recommend to my colleagues that the Republican proposal is where we should begin because a risk-based liability proposal would allow independent explorers for oil and gas to continue to operate, would not drive them out of business.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALEXANDER. I ask unanimous consent for 1 additional minute to finish my remarks.

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

Mr. ALEXANDER. The 1.6 million of us who fly daily would not stop flying after a tragic airplane crash. We would find out what happened and do our best to make it safe. We cannot simply stop drilling after a tragic oilspill unless we want to rely more on foreign oil, run up our prices, turn our oil drilling over to a few big oil companies, and all our oil hauling over to more leaky tankers. I hope that instead of the proposal we have been hearing about, we can focus on the clean energy, low-cost consensus Republicans have advocated, and that the President has proposed as well, electric cars, nuclear power, energy research and development, and clean air.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNS. Mr. President, may I inquire how much time is remaining?

The PRESIDING OFFICER. There is 8½ minutes remaining.

CAP AND TRADE

Mr. JOHANNS. Mr. President, I rise to talk about legislation that I intend to introduce today, both as an amendment to the small business bill and as a stand-alone measure.

With the BP oilspill in the headlines, we are rumored to tackle energy legislation later this week. For months, energy legislation has been held up while the majority attempted to find 60 votes for a very unpopular cap-and-trade aspect to this legislation.

But just last week, Americans sought to hear great news when they saw headlines such as ''The Climate Bill is Dead,'' ''Democrats Call Off Climate Bill Effort.''

You have to imagine that around the country, thousands of Americans and small businesses breathed a sigh of relief that they would not be forced to bear yet another financial burden, a hidden tax increase in these trying times.

But, unfortunately, I believe the sigh of relief was premature and here is why. Some in Washington have been keeping a wish list of policies they want to complete after—and I emphasize after—the November elections. At the very top of that list is the national energy tax called cap and trade. So after the elections this November, the American people could be in for quite a surprise.

After voters have cleared out of the polling places and the yard signs are all taken down, after the voting booths have disappeared from the high school gymnasiums and the church basements, after the American people have exercised their constitutional right and made their claims regarding the future direction of this great Nation, well after all that, be warned because the politicians will return to Washington to advance an agenda that they did not have a chance of advancing at all prior to the election.

During this postelection time, we are likely to see what is called a lameduck session. You see, the newly elected will not be here on the floor after the election in that interim until they are sworn in, nor will they be on the House floor. Yet we may be conducting business with many who are not returning to office and therefore are no longer accountable to their constituents; will not stand for another election.

You see, therein lies the danger, a last gasp by this Congress to push an agenda that was dead on arrival prior to the election. But, I suggest today, do not take my word for this. Simply listen to the most senior members of the party that controls the White House, the House, and the Senate. In an interview on Friday, a senior Democratic Senator openly discussed the plan to have cap and trade in the lameduck session. The headline could not be more clear: ''Democrats May Take Up Broad Climate Legislation After Election.''

Why is that the plan, you might ask? Why could not the Senate advance this

measure in the more than a year since the House barely passed it? Well, I will point back to another surprisingly candid interview. According to one Democratic Senator: ''If it is after the election, it may well be that some members feel free and liberated.'' Let me read that again. ''If it is after the election, it may well be that some members are free and liberated.''

Free and liberated, you ask. Well, the answer is as obvious as it is chilling. The plan to do cap and trade in a lameduck is premised on Senators and House Members being free and liberated from the tethers of the American people. That is extraordinary, and it is deeply troubling. But it gets worse because the plan is not simply to wait until after the election. The plan is to add cap and trade in conference or attach it to some other legislation from the House, even though the Senate will not have considered, debated or approved a cap-and-trade bill. Stunning.

Again, do not take my word for it. You can read it in the various news reports. For example, on June 16, Politico reported that the Senate legislative plan for passing cap and trade is to: ''. . . conference the new Senate (Energy) bill with the already-passed House bill in a lame-duck session after the election, so House Members don't have to take another tough vote ahead of midterms.''

On June 28, Energy and Environment Daily reported that House Democratic leadership: '' . . . acknowledged that lawmakers on the conference committee may wind up merging the House cap-and-trade plan with a Senate bill that does not include it.''

On June 30, the Hill newspaper reported: ''House Energy and Commerce Committee Chairman HENRY WAXMAN (D-Calif.) said he would 'absolutely' seek to keep greenhouse gas limits alive in a House-Senate conference if the Senate approves energy legislation this summer that omits carbon provisions.''

So the not-so-secret plan is not secret at all. In fact, it is very transparent and clear: Pass an energy bill, any energy bill, pass it out of the Senate so it can be conferenced with the House cap-and-trade bill after the election. My legislation directly addresses this plan in a very concise way. It simply says, if the Senate has not previously approved cap-and-trade legislation, and you try to slip it into law during a lameduck session, then a point of order will lie against the legislation. However, if the Senate has already approved a cap-and-trade bill under regular order, then my amendment would not be triggered.

My amendment, therefore, preserves the opportunity for the Senate to debate this critically important issue. It takes the debate out of the shadows and the back rooms and the conferences onto the Senate floor, in full view of the American people, and it permits the American people to see what is in this bill.

It says, if the Senate has not approved cap and trade, do not slip it in an appropriations bill, do not add it to a defense bill, do not sneak it into another stimulus, and do not hide it in the heaven knows what during a conference committee meeting secretly held who knows where.

I urge my colleagues to look ahead down the road a few months. Members will be here. Maybe they will be ''free and liberated'' from the will of the American people as one Democratic colleague describes it. The shenanigans are already being forecast. Let's stop it here. I ask for support on this very important legislation.

If debate is intentionally circumvented, our business owners and all Americans will be impacted and hurt. They deserve to know what the debate is going to be about in cap and trade, and my amendment provides this assurance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

DISCLOSE ACT

Mr. CARDIN. Mr. President, I take this time to urge my colleagues to allow us to proceed to the DISCLOSE Act to deal with campaign finance reform. I thank Senator SCHUMER for his hard work on this issue to bring forward a bill that I hope can enjoy sufficient support so we can continue to advance campaign finance reform. Election campaign finance reform is difficult to pass in this body for many reasons. First, it requires bipartisanship. We know that. We know we need to bring together Democrats and Republicans to say: Our legacy on fair elections is more important than our own individual elections, and we have a responsibility to the American public to deal with a growing problem in American politics; that is, the influence of money, particularly during election time.

That is why we celebrated in 2002 with passage of a bipartisan campaign reform act. Under the leadership of Senator MCCAIN and Senator FEINGOLD, we were able to come together, Democrats and Republicans, and advance campaign finance reform to reduce somewhat the influence of special interest corporate money in our political system and to add further disclosures so the American public could know who is trying to influence their vote. That is what campaign finance reform is about, to limit corporate money and provide greater disclosure. Democrats and Republicans came together in 2002 to get that done. The protection of our fair election process has now met a new opponent. That is the Supreme Court or, more specifically, five Justices on the Supreme Court, the so-called conservative Justices. They legislated from the bench, reversing precedent, and ruled on the side of corporate interests over the concerns of ordinary Americans. These were the so-called Justices many of my colleagues look to for judicial restraint. It is not judicial restraint when they legislate from the bench. It is not judicial restraint when they reverse precedent, when they rule on the side of corporate America over ordinary Americans.

Let me quote from Justice Stevens in his comments as they reflect on the decision the Court made:

> [E]ssentially, five justices were unhappy with the limited nature of the case before us so they changed the case to give themselves an opportunity to change the law. There were principled, narrow paths that a court that was serious about judicial restraint could have taken.

Justice Stevens goes on to warn, the majority ''threatens to undermine the integrity of the elected institutions across the Nation. The path that is taken to reach its outcome will, I fear, do damage to this institution.''

Justice Stevens, in his minority opinion, says:

> At bottom, the Court's opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.

We tried to do something about that in 2002. We passed a law that said corporations cannot directly try to influence elections. Then we set up how they can do so through a transparent way, collectively, through political action committees. But we stopped undisclosed direct corporate influence in American elections. Now the Supreme Court has reversed that bipartisan action. So how should we in Congress respond? What options do we have? We could amend the Constitution, but that is a matter that requires a great deal more deliberation. I am concerned about amending provisions in the Constitution. We need to think long and hard before we act. We could do something many of us have talked about for a long time—provide incentives for public financing of campaigns to try to reduce dramatically the amount of private money in our campaigns. Senator DURBIN has been a leader in this effort. I am proud to be a cosponsor. That is a matter that should be given serious review. But we don't have the opportunity to do that today.

Today we do have an opportunity to act as Senator SCHUMER has brought forward the DISCLOSE Act which we all profess we support—disclosure. All of us have said we should be serious about giving the public an opportunity to know who is trying to influence their vote.

The minority leader in the House of Representatives, JOHN BOEHNER, said:

> I think what we ought to do is we ought to have full disclosure, full disclosure of all money we raise and how it is spent. And I think that sunlight is the best disinfectant.

He was, of course, quoting from Justice Brandeis's famous comments in an opinion when he was a Justice on the Supreme Court, about sunshine being the best disinfectant.

Shortly we will have an opportunity to proceed with the DISCLOSE Act. We will have an opportunity to vote.

I understand some of the concerns of my Republican colleagues. They say: Look, corporations generally side with Republicans. Therefore, if we can get corporations to put more money into the election process, won't that be good for Republicans?

Let me counter that by saying we all benefit. Each Member of this body benefits by reducing the influence outside interests have in the independence we can exercise in the Senate. Look at what is going to happen if we don't change this. Karl Rove has indicated he intends to bring forward $52 million to try to influence the 2010 elections by so-called anonymous donors, without disclosing the source of the funds. We know there is the potential of hundreds of millions of dollars being spent to influence votes without disclosing where that money is coming from, under the banner of Citizens United and corporate contributions. We can do something about that.

Our legacy to protect a free and fair election process from undue influence of corporate special interests is more important than even our own individual elections. We were able to come together in 2002. Let's reconfirm what we did. Let's each do what is right for the integrity of the election process. Let's each do what we said we believe in—full disclosure. We can do that with the motion to proceed.

Voting for cloture on this motion does not preclude a Member from offering an amendment. If there is something in the proposal one doesn't like—all of us would wish to see it stronger, or maybe there are other provisions we wish to take a look at—let's proceed to the debate. Let's not be afraid to have the debate on the floor of the Senate, supposedly the greatest debating institution in the world. Let's not be afraid to have the debate on how we can make elections more responsive to the needs of the people, ordinary citizens, so they have a right to know who is trying to influence their vote. Let's have that debate on the floor of the Senate. We will have a chance to do that in a few hours by voting for cloture on the motion to proceed.

I urge my colleagues, give the American people this debate they so richly deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Could the Chair let us know how much time is left on either side?

The PRESIDING OFFICER. We are no longer under controlled time. There are 10-minute segments for Senators.

The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I come to the floor to speak with regard to election reform, democracy, and unfortunately partisanship, and most importantly, the first amendment.

There is a threat to the Constitution on the floor of the Senate today. It is called the DISCLOSE Act. I urge my colleagues to oppose this bill.

The DISCLOSE Act, an Orwellian oxymoron if there ever was one, contradicts the Supreme Court's January decision in Citizens United. It is essential to put the decision in context and shed sunlight on this dangerous bill.

First, I applaud the Court's ruling. It reaffirms the right to freedom of speech. This is precisely the Court's role in our government system of checks and balances: to rein in Congress when legislation does not square with our founding principles. Let us remember the 10 words in the first amendment that are most relevant for this debate:

> Congress shall make no law . . . abridging the freedom of speech.

However, some of my colleagues across the aisle have mischaracterized the Citizens United decision as undoing 100 years of law and precedent. This is a reference to the Tillman Act of 1907 that prohibits corporations from directly financing political campaigns. This was not affected by the Court's ruling. The Supreme Court did rule, however, against provisions of the so-called Bipartisan Campaign Reform Act of 2002 that barred corporations and unions from running political ads 30 days before a primary and 60 days before a general election. Corporations and unions cannot donate directly to a Federal candidate and, contrary to the claim of DISCLOSE Act supporters, it is already illegal for foreign entities to participate in American elections.

Unfortunately, the sponsors of the DISCLOSE Act have chosen partisan fiction over fact in their effort to override the Court. The DISCLOSE Act is anything but full and fair campaign disclosure. It is politically skewed, motivated by a majority desperate to continue to be a majority.

The DISCLOSE Act is loaded with handouts to the most monied of Washington special interests, including the National Rifle Association and the Sierra Club. They didn't want tape put on their mouths. Others doubtlessly were standing in line saying: Don't muzzle me, you can simply muzzle the other guy behind the tree.

I challenge anyone who comes to the floor to preach the virtues of this bill to explain, with a straight face, the carefully tailored exemptions from disclosure included in title III. Moreover, despite a clever rewording of the House-passed version, the Senate bill retains carve-outs for labor unions by exempting donations under $600 under title II, section 211. This figure is conveniently below the average union dues. So for 600 bucks you have free speech. If it is over $600, you don't.

Supporters of the DISCLOSE Act claim it is necessary to keep a flood of money out of politics, but carve-outs for special interests say otherwise. On June 24, the National Journal's Congress Daily reported that environmental, labor, and other groups—many of which specifically benefit from title II and title III exemptions—announced they would spend $11 million to either reward or admonish Senators in both parties for their positions in regard to climate change legislation.

Another example is the American Federation of State, County, and Municipal Employees. The Hill newspaper reported on June 21 that this union, exempt under the bill, had ponied up $75,000 for ads in Maine to pressure Senators OLYMPIA SNOWE and SUSAN COLLINS to support a taxpayer-funded bailout for unions.

These facts present an inconvenient truth for the sponsors of the DISCLOSE Act. It flies in the face of our democracy for the majority to ration the right of free speech to one set of Americans at the expense of others.

In May, it was reported in the press that sponsors of this bill boasted that its deterrent effect should not be underestimated. Americans do not, and never have found it appropriate for government to shut down any political dissent.

The DISCLOSE Act abandons the longstanding practice of treating corporations and unions equally. But even if title II and title III exemptions were removed, the bill is still unworkable. On May 19, writing in the Wall Street Journal, over half a dozen former FEC Commissioners noted that the FEC has regulations for 33 types of contributions and speech and 71 different types of speakers. The DISCLOSE Act adds to this complexity with another layer of Byzantine requirements that raise serious concerns about whether the law can be enforced consistent with the first amendment. We do not need any more regulations to the first amendment.

If anyone doubts this bill is motivated by politics, they need to look no further than a June 22 letter sent by the bill's Senate sponsor and the Senate majority leader to Members of the House in which they pledge to bring the measure to the floor in advance of the fall elections. Why the rush? In so doing, the majority has again used rule XIV to bypass the Senate Rules Committee—a committee upon which I serve—in order to expedite the DISCLOSE Act's passage.

Unfortunately, it is becoming all too common for the majority to circumvent regular order, stifle the minority, and force unwanted legislation on the people by filling the amendment tree, misusing rule XIV, and ping-ponging legislation between the Houses. I am tired of Ping-Pong. Give me table tennis. Give me a paddle. Give me five serves, and then I will let Senator SCHUMER have five serves, and we can go back and forth as we should in regard to amendments in the Rules Committee, where this debate ought to

be held. Senator CARDIN said: Let us have a debate. I am for that. And let's put it in the Rules Committee, where it should be debated first.

To review, the Citizens United decision does not upend a hundred years of law and precedent. The DISCLOSE Act has intentional loopholes in title II and title III to keep special interest dollars on behalf of the majority flowing, and the rest of the bill is a confusing set of redundant regulations. The bill's sponsors are rushing this legislation to the floor without consideration by the Rules Committee—again, here we go; that is what happened with health care; that is what happened with the Dodd-Frank bill—in order to protect the incumbent majority before the fall elections.

Under the first amendment, the American people have a right to speak out against policies and legislators who kill jobs, curb growth, and expand the government at the expense of the private sector—and now a proposed tax increase. These policies hurt millions and millions of Americans employed in the private sector and millions more looking for work during a recession. They must be protected under the first amendment. The people have a right to be heard.

Mr. President, I yield back.

Mr. SCHUMER. Mr. President, I yield 5 minutes to the senior Senator from the State of Washington, who has been a leading advocate for the voice of average Americans in government.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I come to the floor today to speak in strong support of the DISCLOSE Act, to close the glaring campaign finance loopholes that were opened by the Citizens United ruling.

This Supreme Court ruling was a true step backward for this democracy. It overturned decades of campaign finance law and policy. It allowed corporations and special interest groups to spend unlimited amounts of their money influencing our democracy. And it opens the door wide for foreign corporations to spend their money on elections right here in the United States.

The Citizens United ruling has given special interest groups a megaphone they can use to drown out the voices of average citizens in my home State of Washington and across the country. The DISCLOSE Act we are considering will tear that megaphone away and place it back into the hands of the American people, where it belongs.

This is a very personal issue for me. When I first ran for the Senate back in 1992, I was a long-shot candidate with some ideas and a group of amazing and passionate volunteers by my side. Those volunteers cared deeply about making sure the voices of average Washington State families were represented here in the Senate. They made phone calls. They went door to door. They talked to families across our State who wanted more from their government.

Well, we ended up winning that grassroots campaign because the people's voices were heard loudly and clearly. But to be honest, I do not think it would have been possible if corporations and special interests had been able to drown out their voices with an unlimited barrage of negative ads against candidates who did not support their interests. That is why I so strongly support this DISCLOSE Act. I want to make sure no force is greater in our elections than the power of voters across our cities and towns. And no voice is louder than citizens who care about making their State and country a better place to live. This DISCLOSE Act helps preserve that American value. It shines a bright spotlight on the entire process.

What the DISCLOSE Act will do will make corporate CEOs and special interest leaders take responsibility for their ads. When candidates put campaign commercials up on television—you have seen them—we put our faces on the ad and tell every voter we approve the message. We do not hide what we are doing. But right now, because of this Supreme Court decision, corporations and special interest groups do not have to do that. They can put up deceptive, untruthful ads with no accountability and no ability for people to know who is trying to influence them.

The DISCLOSE Act strengthens overall disclosure requirements for groups that are attempting to sway our elections. Too often, corporations and special interest groups are able to hide behind their spending because of a mask of front organizations because they know voters would be less likely to believe the ads if they knew what the motives of the sponsors were. The DISCLOSE Act ends that. It shines a light on the spending and makes sure voters have the information they need so they know whom they can trust.

This bill also closes a number of other loopholes opened by the Citizens United decision. It bans foreign corporations and special interest groups from spending in U.S. elections. It makes sure corporations are not hiding their election spending from their shareholders. It limits election spending by government contractors to make sure taxpayer funding is never used to influence an election. And it bans coordination between candidates and outside groups on advertising, so corporations and special interest groups can never ''sponsor'' a candidate.

This DISCLOSE Act is a commonsense bill that should not be controversial. Anyone who thinks voters should have a louder voice than special interest groups ought to vote for this bill. Anyone who thinks foreign entities should have no right to influence U.S. elections should support this bill. Anybody who agrees with Justice Brandeis that ''sunlight is the best disinfectant'' ought to support this bill. And anyone who thinks we should not allow corporations such as BP or Goldman Sachs to spend unlimited money influencing our elections ought to support this bill.

Every 2 years, we have elections across this country to fill our federally elected offices. Every 2 years, voters have the opportunity to talk to each other about who they think will represent their communities best. And every 2 years, it is these voices of America's citizens that decide who gets to stand right here representing them in the Congress. That is the basis of our democracy, and it is exactly what this DISCLOSE Act aims to protect. So I am proud to support this bill, and I urge all of our colleagues to move forward on this bill on the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first of all, I wish to thank the Republican leader, Senator MCCONNELL, for his expertise and leadership on this issue. Secondly, as several of my colleagues have pointed out, the DISCLOSE Act is a direct assault on the first amendment right to free speech. Protecting political speech, guaranteed by the Bill of Rights, is one of our most sacred responsibilities.

This is a partisan bill drafted behind closed doors by current and former Democratic campaign committee leaders. It is obviously written to disadvantage Republicans and favor special interests supportive of Democrats. The closed-door process under which the DISCLOSE Act was written contradicts its supporters' professed goal of transparency. It is a partisan rewrite of campaign finance laws without hearings, without testimony, without studies, without a markup—again, written behind closed doors with the help of lobbyists and special interests.

The problems it purports to address are purely hypothetical since there have been no elections since the Citizens United case. I have seen no evidence of any abuse in the current election cycle. This legislation is an attempt to change the rules to protect incumbent candidates from criticism of unpopular decisions and positions. I know none of us like to be criticized, but we must uphold the right of others to criticize us.

Even those of us who opposed the Bipartisan Campaign Reform Act—BCRA but also known by the name McCain-Feingold—recognize that its authors sought to avoid any partisan advantage. The new rules then applied to everyone, and they only applied after the subsequent election. The same cannot be said for the DISCLOSE Act. It is 117 pages in which the bill's authors pick winners and losers, either through outright prohibitions or restrictions that are so complex they achieve the same result. The effort is too political, benefiting traditional Democratic allies,

such as labor unions, while placing burdensome restrictions on for-profit organizations and the associations that represent them.

Let me give you one example regarding the union exemptions. The new law applies to government contractors but not their unions or unions with government contracts or government unions. It is obviously discriminatory. As Leader MCCONNELL has asked, where in the first amendment does it say that only large and entrenched special interests get the ''freedom of speech''?

Here is what the AFL–CIO president, Richard Trumka, said about the bill in April:

> Congressional leaders today took a vitally important first step to begin to address the Supreme Court's recent decision in Citizens United v. Federal Election Commission. The AFL–CIO commends these efforts and supports increasing disclosure and reexamining some current campaign finance rules. . . .It is imperative that legislation counter the excessive and disproportionate influence by business.

Well, they have made sure it does.

Unlike BCRA, the DISCLOSE Act has an effective date of 30 days after enactment. In other words, proponents want people to stop political speech now, before the midterm elections in November.

Hundreds of diverse organizations oppose this bill, from the ACLU to the chamber of commerce. Let me just quote two.

Here is a letter from several hundred of the Nation's leading trade association and business groups:

> By attempting to silence corporations' voice in the political process while enabling unions to retain their enormous influence, Schumer-Van Hollen is a patently unconstitutional threat to the elections process. Schumer-Van Hollen is a direct attack on the rights of the business community and the role our organizations play in the national political dialogue.

And a letter from the National Right to Life organization:

> The overriding purpose is . . . to discourage, as much as possible, disfavored groups, such as the [National Right to Life Committee], from communicating about officeholders. . . .This legislation has been carefully crafted to maximize short-term political benefits for the dominant faction of one political party, while running roughshod over the First Amendment protections for political speech that have been clearly and forcefully articulated by the Supreme Court.

So I hope my colleagues will recognize the damage they are doing to political discourse in violation of the first amendment that is a result of the legislation that has been drafted here for purely political advantage and will oppose the DISCLOSE Act.

Mr. SCHUMER. Mr. President, I yield 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, the Citizens United case has aimed a dagger at the heart of American democracy. So I rise today in support of the DISCLOSE Act, to stop that dagger aimed at our heart.

Our Nation is unique in world history in that it was founded not on nationality or royal bloodlines but on an idea—a simple yet revolutionary idea—that the country's people are in charge. As was so often the case, Abraham Lincoln said it better than anyone—that the United States is a ''government of the people, by the people, for the people.'' What that means is we, the elected officials, work for the people. They elect us. They are in charge. But this idea, this vision, this government by and for the people cannot survive if our elections are not open, fair, and free. The government is not by or for the people if corporations and even foreign corporations and giant government contractors are able to hijack the electoral process to run millions of dollars of attack ads against any candidate or any legislator who dares to put the public interest ahead of a company's interest.

Our Constitution, through the first amendment, puts the highest protection on political speech, recognizing how important it is that citizens be able to debate the merits of candidates and the merits of ideas. But if the essence of the first amendment is that competing voices should be heard in the marketplace of ideas, the Citizens United decision just gave the largest corporations a stadium sound system with which to drown out the voice of American citizens.

Think about the scale of the spending this decision allows. My Senate race was far and away the most expensive election in Oregon history. The two candidates together spent around $20 million. ExxonMobil, a single corporation, made $20 million in profits every 10 hours in 2010, and that was during their worst year in a decade. If you like negative ads, you would love the impact of Citizens United. Imagine what corporations will do to put favorite candidates in office. The sheer volume of money could allow corporations to handpick their candidates, providing unlimited support to their campaigns to take out anyone who would dare to stand up for the public interest.

The DISCLOSE Act will help prevent special interests from drowning out the voice of American citizens. First, this bill will bring transparency to campaigns now that unlimited money is allowed to be spent on negative attack ads. If you are looking to buy a used car and someone tells you the engine looks great, you would want to know if the person saying that is your trusted mechanic or the used car salesman. Who is speaking is critical information in evaluating the message. With that principle in mind, the DISCLOSE Act makes the CEO of a company stand by their words. The CEO will have to say at the end of the ad that he or she approves this message, just as political candidates have to do today. It is common sense. If a company is willing to spend millions working against a candidate, the voters have a right to know about that company's involvement instead of allowing it to hide behind shadowy front groups.

The second problem the DISCLOSE Act takes on is the system of ''pay-to-play'' where companies campaign on behalf of candidates in order to get access to government contracts. This legislation bars that form of corruption. It bars government contractors from running campaign ads and paying for other campaign activities on behalf of a Federal candidate.

Passing the DISCLOSE Act is key to sustaining the healthy democracy that represents the interests of American citizens. A healthy democracy requires transparency, an equal voice for all its citizens, not an amplified voice for those who represent very large corporations.

So I urge all my colleagues to support this legislation. As President Lincoln, a great Republican President, reminds us: The essence of the Nation, the cause that brought a generation of patriots to challenge the greatest military power of the 18th century, the idea that inspired people to leave everything behind to come to our shores is a government of the people, by the people, and for the people.

We are here because we work for the American people. Let's pass the DISCLOSE Act today so our successors can say the same thing tomorrow.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, how much time is available to this side?

The PRESIDING OFFICER. There is 24 minutes 10 seconds available.

Mr. BENNETT. Mr. President, I appreciate the opportunity of addressing this issue and of listening to my colleagues as they talk about it. I haven't heard some of this exorbitant language since I left the campaign trail. I left the campaign trail forcibly but, nonetheless, I have some memory of it, and I realize that in a period of a campaign, people get carried away.

''A dagger at the heart of our democracy'' is a phrase that has been used. ''The destruction of government of the people'' is a phrase that has been used. If I can think of someone who uses this kind of language quite normally in the political discourse, the name of Michael Moore comes to mind. The reason I raise Michael Moore is because we are talking about a movie. That is the source of this entire decision.

There is a group of people who decided they wanted to make a movie that was critical of a candidate for President of the United States. In this case it was former Senator Hillary Clinton. They didn't like her and they wanted to make a movie and they did. In the same vein, Michael Moore, who didn't like George W. Bush, made a movie entitled ''Fahrenheit 9/11.'' Nobody got excited about Michael Moore's movie in terms of violating the Constitution or a dagger at the heart of our democracy or destroying the legacy of Abraham Lincoln because

we knew Michael Moore. We knew the kinds of things Michael Moore was famous for doing, and overstating a position is Michael Moore's stock in trade.

So the folks at Citizens United decided they were going to follow the Michael Moore precedent and make a movie. I haven't seen either movie, so I don't know whether Citizens United's movie about Hillary Clinton went as far over the top as Michael Moore's movie about George W. Bush, and I don't care because Michael Moore, regardless of what distortions may have been in his movie, had every right under the Constitution of the United States to make that movie, to make the political speech, and to do the very best he could to influence the election.

The movie was a financial success, and the movie was a critical success, and the movie did not win the election. The movie did not defeat George W. Bush. The American people had other things to do besides watch Michael Moore's movie. He exercised his first amendment right to freedom of speech. He got the opportunity to say what he wanted to say, he spent a lot of money doing it, and the movie was widely seen. The democracy did not come to an end as a result of the making of the movie. Now we are told that Citizens United made a movie and somehow that is going to have a vastly different effect.

I don't believe Senator Clinton's loss to Barack Obama in the primaries had much to do with the movie that Citizens United made. They spent a lot of money, but I don't think it was an avalanche of spending by a corporation that destroyed American democracy because Hillary Clinton did not win the nomination. I think it had a great deal more to do with Barack Obama's ability to run a decent campaign rather than Hillary Clinton's suffering at the hands of Citizens United making this movie.

Well, because Citizens United was not one individual in the form of Michael Moore, but because it was a group of individuals who got together and took the opportunity to create a corporate form of identity for the making of their movie, that got them in trouble. An individual could do it, but a group of individuals who organized themselves into a corporation couldn't do it. That went to the Supreme Court, and the Supreme Court said yes; they could. I don't find that to be a great destruction of the first amendment. I find that to be the proper statement on the part of the Supreme Court to say: Let's have vigorous political speech in this country, and if a group of people want to do that vigorous speech in the form of a corporation, let them go at it. Let them have at it. The Supreme Court was right, in my opinion.

I hear those people who attack Citizens United say: Yes, the first amendment protects the right of free speech, but it does so for individuals. Corporations are not individuals, neither are unions. Yet the DISCLOSE Act treats unions differently than it treats corporations. The DISCLOSE Act goes after corporations and their right of free speech and does its very best to see to it that the restrictions they put on corporations do not apply to unions.

The DISCLOSE Act listens to the outcry of some corporations such as the National Rifle Association and says: Well, we won't make it apply to you and, thus, demonstrates that it is responding to political pressure from people who say we will punish you at the polls if you take away our right of free speech. So the act is written in such a way that some corporations get treated differently than other corporations. Of course, unions get treated different from all corporations.

Is this the way we want to deal with the first amendment right of free speech where everybody ought to have exactly the same rights? I am told: Oh, no. This bill doesn't prohibit any free speech. All this does is disclose. That is why it is called the DISCLOSE Act. You Republicans are in favor of transparency. You want to disclose things. Why don't you support the DISCLOSE Act?

Well, if it is a bill aimed at disclosure, why does the word ''prohibit'' and the companion word ''prohibition'' appear all through the bill? I have a copy of the bill right here.

On page 4, section 3, listed on page 4, it begins, ''Prohibiting independent expenditures and electioneering communications . . . ''

On page 5, section 3: ''Prohibiting independent expenditures'' and so on.

Section 6: ''Prohibiting independent expenditures . . . ''

Then, on page 6, in section 7: ''In these ways, prohibiting independent expenditures . . . ''

We go to the first title of the bill, and it is titled ''Regulation of Certain Political Spending.'' Section 101: ''Prohibiting independent expenditures and electioneering communications . . . ''

This is not the DISCLOSE Act. This is an act aimed at prohibiting expenditures by certain people and certain groups. Who are they? Well, government contractors. I have been in business. I have solicited government business. If I got the government business, was I told in advance: If you get this business, you are giving up your first amendment rights when it comes to political speech? If you can stay away from contracting with the government, you can hang on to your first amendment rights. But as soon as you become a government contractor your rights are gone.

It prohibits free speech from those who received TARP money. There is an interesting precedent to set. I know some of the folks who received TARP money who didn't want it. They were told in that circumstance: You will accept TARP money. The TARP money, as it was distributed in that program, was forced upon certain corporations. Were they told at the time, or should they be told under the DISCLOSE Act—let's have full disclosure and transparency—when you accept this money, you cannot exercise your freedom of speech rights as a result of accepting this money?

General Motors received TARP money, so General Motors says you cannot run an ad expressing your opinion on any matter of public affairs; however, the United Auto Workers can. The United Auto Workers received the benefit of TARP money. The United Auto Workers received stock in General Motors. They are the shareholders of General Motors, to a large extent.

So do we say, well, under the DISCLOSE Act the unions can express their first amendment rights all they want, but General Motors, as a corporation, cannot, even though the TARP money was what allowed the union members to keep their jobs.

It has been pointed out here that the groups opposed to this are wide and diverse—from the Sierra Club to the ACLU. I turn to the letter the ACLU wrote with respect to this, and they are not dealing with hyperbole. They are dealing with experience in reality. Let me go to the first key issue the ACLU talks about and give an example from real life. They say:

> The DISCLOSE Act fails to preserve the anonymity of small donors, thereby especially chilling the expression rights of those who support controversial causes.

Then the first sentence in that section of their letter says:

> By compelling politically active organizations to disclose the names of donors giving as little as $600, S. 3628 both violates individual privacy and chills free speech on important issues.

I take my colleagues back to one of the most controversial issues we have seen in this country for a long time, which was proposition 8 in California in the last election.

I am acquainted with an individual who made a contribution in favor of those who were trying to support proposition 8. That is all she did. She wrote out a check. Someone came to her and said: We are in favor of the proposition and we are trying to raise some money; will you help us?

She wrote out a check of less than $1,000 and went about her business. Her business was a restaurant in Hollywood—a restaurant that was routinely and significantly supported by people in the entertainment industry—actors, directors, and others connected with making movies. When the contribution list for propositions was made public, and it became known that this woman had made a contribution in favor of proposition 8, patronage at her restaurant dropped off more than half. People opposed to proposition 8 started using hate speech toward this woman: You are a bigot, and we cannot patronize your restaurant.

She had no idea that when she wrote that check in support of those who wanted a position that she agreed with—to put it on the ballot to be voted on by Californians—and it was by

a majority of Californians who supported it—when she took the majority position of the voters in her State, she had no idea she was going to see her business ravaged by those discovering her name on that list who would go after her.

They have a right not to eat at her restaurant, I understand that. But this is a real-life example of what can happen to people in controversial situations and the ACLU is appropriately concerned about.

The DISCLOSE Act, in the name of transparency, would expose small donors to that kind of retaliation. However, if you belong to a union, and you pay union dues, and the union dues are spent to produce a movie, something along the lines of what Michael Moore did with ''Fahrenheit 9/11,'' no one will ever know your union dues were spent for that purpose, because unions are treated differently than corporations.

This is a bad bill. It hasn't been through the committee. I am the ranking member of the Rules Committee to which the bill normally would be referred. The majority leader, exercising his authority, saw to it that the bill didn't get referred to committee. There have been no hearings. There is no opportunity for anybody to come forward and say this will be a problem. We haven't heard from the ACLU and a witness that we could question. We only got a letter, because they were shut out from any hearings.

For those who are offended by my reference to the ACLU and would prefer the National Right to Life Organization, well, we have their letter, too, but we didn't have an opportunity to hear any of their witnesses or the legal authorities who believe that the Supreme Court ruled correctly, who might have come before the committee and given us the benefit of their analysis; we haven't had a chance to hear from them either.

The bill has been drafted and redrafted a number of times behind closed doors, but we only see the final draft when it gets here on the floor, with no hearings, no background, no opportunity to question, comment, amend, or improve. I am in favor of transparency as much as the next Senator. I am in favor of free speech as much as anyone. I have stood on this floor and quoted James Madison with respect to free speech on a number of issues and have been dismissed on the grounds that, well, anybody can quote James Madison. I believe in the tenth Federalist, where Madison made it very clear that the right of factions to express themselves freely and openly, even when they clash bitterly, is a very fundamental right in the Constitution itself. ''Factions,'' as they used the word in Madison's day, referred to political parties. I think the term ''factions'' also refers to those whom we speak of as special interest groups today. James Madison made it very clear that if we attempt to stifle the ability of a faction to express itself, we strike at the core of liberty itself. I hope that people don't interpret that as over-the-top language, as I have heard some other things that I have interpreted as over-the-top language. I sincerely believe that and I strongly support it.

The DISCLOSE Act would not pass the test of truth in advertising. The title does not disclose what it does here. It is filled with prohibitions and violations of the first amendment, and it is filled with special favors for certain groups and attacks on others. For that reason, I will oppose cloture and, if cloture is invoked, I will oppose the bill.

Mr. SCHUMER. Mr. President, I yield 5 minutes to the Senator from New Jersey, who has been an outstanding leader on this issue.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I have listened to my colleagues in this debate, and I am reminded of a great Republican, President Reagan, who said, ''There they go again.'' I always find it incredibly interesting when some of my most conservative colleagues quote the ACLU. Then I know something is amiss. Let me ask, what is the vote that is going to take place? It is simply to allow us to go forward and have a debate, offer amendments, and ultimately vote on the bill. That is what this bill is all about. So those who say they are for transparency won't even let a process move forward that is transparent, so we can debate and so that the American people can decide do we want corporations—including foreign corporations—to have access to who is elected in America, in this body and in the Congress, and ultimately making decisions that affect their lives every day?

That is what this vote is all about. You can paint it any way you want, but that is what this vote is about. I am amazed they cannot even say yes to proceeding to a debate and a vote on the merits of the bill itself.

We all know that the Roberts Supreme Court and its activist conservative majority overruled, wrongly in my view, restrictions on spending by corporations and unions. My colleagues on the other side are well aware that, as a result of a perceived loophole in current law, foreign corporations—those from other countries—would now be allowed to fund American election campaigns, to pick their candidates who would reflect their interests if elected or defeat candidates who would not reflect their interests—all without any meaningful mechanism or disclosure. Amazing. It is absurd. Nothing could be more ill advised or misguided. But here we are, once again, unable to even proceed to consider a bill that would remedy that situation. Once again, my Republican friends are standing in the way of proceeding to a bill, standing in the way of what I consider to be good governance, all in the name of those in their party who hold to some misguided attempt to twist first amendment rights to suit an ideologically based argument that somehow a requirement to disclose contributions would violate the first amendment. You still can spend the money; nobody is going to stop you from spending the money. But you have to disclose who is behind that contribution. I don't think transparency is something that violates the first amendment. It is the right of the American people to receive the information required by these proposed disclosure laws.

Then they twist it even further, virtually saying that all money anywhere—even foreign money—is somehow free speech in American elections. I think the American people want to be the ones in control of who they elect to Congress to decide the issues of the day in their lives, not somebody who is backed by some foreign corporation. Imagine if BP could say: I don't like Senator MENENDEZ lifting that liability cap; I don't want to be liable for more than $75 million, even though I have created billions of dollars in costs, so let me fund candidates who agree that Senator MENENDEZ's legislation to lift the liability caps on limited liability should be the ones to get elected, because they are going to take care of what? BP, which is a foreign corporation.

Imagine if the insurance industry said: We don't even have to put our face on that announcement, that advertisement. Let's go fund those candidates who will allow us, the insurance industry, to continue to deny people who have a preexisting condition in this country the opportunity to get health insurance—where a child at birth has a defect and cannot get health insurance, or a father who had a heart attack on the job cannot get health insurance. Let's fund those candidates who will ensure that we as an industry don't have to insure those individuals.

Imagine those companies on Wall Street which don't like the new law that we just passed and want to see it rolled back so they can continue to have the excesses that almost brought this Nation to economic collapse. They could say: Let's fund those candidates who will allow us to have not a free market but a free-for-all market. That is what this law is all about. That is what this vote is all about. I believe the people of New Jersey, which I represent, and people elsewhere, want disclosure.

Finally, disclosure takes place by knowing who is giving this money.

The bottom line is I want Americans to decide American elections. I don't want some foreign company funding candidates who ultimately enhance their views. I don't want big business deciding elections on the basis of their corporate interests versus the interests of the people. That is what this bill is all about. I can't understand the fear my colleagues on the other side of the

aisle have of simply letting us go to a full debate and an up-or-down vote.

Look, if this law is poorly drafted and the majority of the Senate votes against it, so be it. But not even to allow us to go to that debate, to stop foreign corporations and foreign influence in our elections, to allow the BPs of the world to influence the way in which we have the gulf cleanup, or to allow the insurance industry to deny people based on preexisting conditions, or allow Wall Street to run wild—on and on—that is fundamentally wrong. That is what this debate is about, and that is what the vote will be all about.

I yield back the remainder of my time.

Mr. SCHUMER. Mr. President, I yield 7 minutes to the Senator from Rhode Island, Senator REED, who is speaking as in morning business. Senator FRANKEN spoke on the bill during morning business, and Senator REED was kind enough to give him time.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, last Friday, this Chamber played host to heroes: seven wounded warriors from the 82nd Airborne Division, who are currently recuperating at Walter Reed Army Hospital. They came down for a tour of the Capitol, and for moments here on the floor of the Senate, in which they were able to see their government in action.

More important, we were able to thank them for their extraordinary service and sacrifice to the Nation. I am particularly proud because they are soldiers from my division—the 82nd Airborne Division.

We had among our guests SGT Steven Dandoy, who was wounded last month in a mortar attack in Afghanistan, of the third battalion 321st Field Artillery, whose hometown is Milwaukee, WI; SGT Allen Thomas, who is from Adelphi, MD, and serves with the 2–508 Parachute Infantry Regiment, who was wounded in Afghanistan this past March during an attack from a suicide bomber, and he was joined by his fiancee, Donna; SPC Antonio Brown, from Florence, SC.

We were honored to have SPC Antonio Brown from Florence, SC. He was wounded in Iraq in 2007 when a 50-caliber round detonated in his hand. He was serving with the 2nd Battalion of the 325th Parachute Infantry Regiment.

SPC John Doherty of Jerome, ID, was wounded when a 50-caliber round detonated in his hand in April while he was serving with the 2nd Battalion of the 508th Parachute Infantry Regiment. Amazingly, he recently passed his flight physical with the goal of qualifying as an Army helicopter pilot despite his wound.

SPC Jeffrey McKnight of the 1st Battalion of the 508th Parachute Infantry Regiment and hailing from Littleton, CO, was also our guest. He was wounded last month during a vehicle rollover in Afghanistan.

SPC William Ross also serves with the 2nd Battalion of the 508th Parachute Infantry Regiment. He was our guest also. Specialist Ross hails from Knoxville, TN. He is recovering from a gunshot wound he received during a dismounted patrol in March. He was joined by his fiancee Tiffany.

SPC Nicholas Stone of the 2nd Battalion of the 508th Parachute Infantry Regiment was also our guest. He hails from Buffalo, NY. He is recovering from wounds suffered in an IED attack on a dismounted patrol in May. He was joined by his wife Kristen.

Let me also say it is appropriate to recognize the families of these wounded warriors because they, too, serve. They, too, sacrifice. In fact, during the long hours of rehabilitation and therapy at Walter Reed, they are at the bedside literally of their wounded soldiers. I thank them.

I also thank SFC Albert Comfort and SSG Rodolfo Nunez from the 82nd Airborne Division. They are the Division Liaisons for the wounded warriors at Walter Reed Army Medical Center.

These young men left the comfort and safety of their homes all across this country to serve this Nation. Their service, their sacrifice sustains us. They are the fabric of our defense. They are those young men and women who serve in great danger but with unfailing fidelity to the Army and to the Nation. Because of them, we are able to oppose those who seek us harm.

We can never repay them enough. We can never thank them enough. But last Friday we had seven of these wounded warriors down just to say: Thank you, well done, and to give them a chance to look at the Senate and see the history that was made by their predecessors, and which they are sustaining and will make in the future.

It was a special moment for me because these soldiers come from the 82nd Airborne Division. One of the great privileges of my life—in fact, I believe this is one of the greatest privileges an American can have—was leading American soldiers in the 82nd Airborne Division as the company commander of Bravo Company, 2nd Battalion of the 504th Parachute Infantry Regiment. I learned a lot about service, sacrifice, and the contribution of Americans from across this globe, as well as the great potential of Americans, not only to defend our Nation but to do great things, furthering the goals and ideals of this country.

I conclude by saying to these young soldiers: Thank you very much for your service. Good luck. Godspeed.

I yield back the remainder of my time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Rhode Island. He looks out, as our only West Point graduate in the Senate, for all our troops throughout the Nation. We salute him for it. I was proud he mentioned a brave trooper from Buffalo, NY.

Mr. President, may I inquire how much time is left on our side and how much time on the other side?

The PRESIDING OFFICER. There is 4 minute 45 seconds remaining on the side of the Senator from New York. On the Republican side, there is 6 minutes 52 seconds remaining.

Mr. SCHUMER. I wish to reserve 5 minutes for Senator BROWN, who wishes to speak. I believe he is on his way. I ask unanimous consent that the last 5 minutes be reserved for Senator BROWN, and I will speak on the remaining time—I know it is the other side's time—until one of them appears.

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

Mr. SCHUMER. Mr. President, we heard a lot from the other side. I will be speaking in conclusion on this bill, along with Senator REID, after the lunch break. We have never heard such falsities. The other side, first, talks about free speech and talks about how corporations have the right to free speech. The Constitution now guarantees that after Citizens United—and our bill does not get in the way of free speech. It simply requires disclosure, which the Court said was important.

Second, they are talking about how it treats unions and corporations differently. The bottom line is, the unions are opposed to this bill and to simply say that a $600 limit favors unions, no, we are just favoring big, huge givers who give tens of thousands, hundreds of thousands of dollars over small, little givers. If there is a union person who gives $10,000, they will be under this law. If there is a corporate person who gives $500, they will not be. It is a misnomer.

I see my friend and colleague from Illinois has arrived. Since I will be speaking after the lunch, and I am just waiting for Senator BROWN to arrive, I yield the remaining time, other than the 5 minutes for Senator BROWN, to my friend and colleague from Illinois, Senator DURBIN.

The PRESIDING OFFICER. Without objection, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from New York for his leadership on this legislation. We are here because the Supreme Court, across the street, decided, in a case called Citizens United, to change the way we campaign for office in America. They want to change it and say corporations and special interest groups can spend unlimited amounts of money on political campaigns.

Most of the people I talk with in Illinois and across the country think they have enough political advertising when it comes to campaigns. Hold on tight because, for example, the U.S. Chamber Commerce announced they may spend as much as $75 million in this election cycle on more television advertising to promote candidates who agree with their positions on issues. That is about a five or six times increase in the amount of money they will spend.

What it does, of course, is crowd out those of modest means. Any mere mortals left on this political scene who have to rely either on their own limited savings or raising money from others are going to find themselves overwhelmed and inundated by this Supreme Court decision. But it is a Supreme Court decision. Senator SCHUMER and the Rules Committee, on which I serve, sat down and said that at least if we are going to do this, let's have disclosure about the sources of these ads by special interest groups. Let's find out who is paying for the ads. Let's make them stand and say: This is my ad; I paid for it, rather than sneak around with names that mean little to nothing and inundate the airwaves so voters are confused and overwhelmed and not sure from where the ads are coming.

The act is called the DISCLOSE Act because that is what it is all about. Sadly, it appears there is going to be a straight party vote, perhaps with a few exceptions, on this DISCLOSE Act.

It is hard to understand how the Republicans can take this position. Let me read a quote. ''What we ought to have is disclosure,'' this Senator said. ''I think groups should have the right to run those ads, but they ought to be disclosed and they ought to be accurate.'' Who said that? The Senator from Kentucky, the minority leader, the Republican leader in the context of McCain-Feingold during the debate on campaign finance reform.

The Senator from Kentucky is not the only Senator who seems to support the concept of disclosure. The Senator from Alabama, Mr. SESSIONS, the ranking member of the Judiciary Committee, said earlier this year:

> I don't like it when a large source of money is out there funding ads and is unaccountable. To the extent we can, I tend to favor disclosure.

Pretty clear, isn't it? That looked like the Republican position until the Supreme Court decision. Why would they be against disclosure? They are betting that most of these ads are going to be on behalf of their candidates and against Democrats. That is what it comes down to.

I happen to think disclosure is right whether it is a union or corporation. I think voters ought to know from where this information is coming. I can talk to you about why I think this is important as a voter, as a Senator, as a taxpayer. But what it boils down to is if we are going to have a system electing people to this Chamber who are accountable to the people they represent and not to special interest groups, the voters have to understand where candidates are coming from.

If my opponent—or even if I decide to be heavily supported by special interest groups—decides to put money in the race, I think the voters of Illinois are entitled to know that. They should take that into consideration when they decide how they are going to vote come the next election. That is only fair.

I support Senator SCHUMER's effort on the DISCLOSE Act. It is a move in the right direction. I hope after we enact this legislation, we will consider something else. I have a bill for the public funding of campaigns. Wouldn't it be great if we got out of the business of raising money to create trust funds for television stations across America, if instead we basically had a publicly funded campaign? That would be in the best interests of democracy and the best interest of giving the voters the information they need but not overwhelmed by special interests.

The Senator from Texas, the chairman of the Senate Republicans' campaign committee, seems to agree with Senator SESSIONS. He said earlier this year:

> I think the system needs more transparency, so people can more easily reach their own conclusions.

Amen.

The DISCLOSE Act would bring greater transparency to the source of campaign ads flooding the airwaves before an election, so that voters can make good decisions for themselves as to whether the ads are truthful or not.

As a voter, I want to know who has paid for a political ad, and I don't want foreign companies trying to buy our elections.

As a taxpayer, I don't want big companies with more than $10 million dollars in Federal contracts to be able to buy ads so they can curry favor with legislators who they hope could help them receive even larger contracts.

As a shareholder of a company, I want to know what political activities the management of the company is spending my company's money on.

The DISCLOSE Act would help with all of these goals.

The bill would make CEOs and other leaders take responsibility for their ads; require companies and groups to disclose to the FEC within 24 hours of conducting any campaign-related activity or transferring money to other campaign groups; prevent foreign countries from contributing to the outcome of our elections; mandate that corporations, unions, and other groups disclose their campaign activities to shareholders and members in their annual and periodic reports; bar large government contractors from receiving taxpayer funds and then using that money to run campaign ads; restrict companies from ''sponsoring'' a candidate.

This is all commonsense stuff.

Let me be clear: I think we should go much further to change the way we finance campaigns in this country.

I believe very strongly in the Fair Elections Now Act, which would allow viable candidates who qualify for the fair elections program to raise a maximum of $100 from any donor. These candidates would receive matching funds and grants in order to compete with high roller candidates.

That would change the system fundamentally, and put average citizens back in control of their elections and their country.

But in the wake of the Citizens United decision, which would allow companies to spend freely and directly on political campaigns, the least we should do is to pass this commonsense transparency bill.

Is it asking too much to require a group or company to briefly mention that they are behind an ad, so that the American people know who is paying for what? I don't think it is. And once upon a time, many Republicans did not think so either.

I will close with one more quote from my friend from Kentucky, the minority leader, from an interview years ago on ''Meet the Press'':

> Republicans are in favor of disclosure.

You can't state a position much more clearly than that. Are they still? Or were Senate Republicans for campaign finance disclosure before they were against it?

We will find out soon enough.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank my colleague from Illinois for his, once again, elegant words and yield to my friend from Ohio who has been a great voice in this body for the average family, the working family. I yield the remaining time we have left this morning on our side to Senator BROWN.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I thank the senior Senator from New York. How much time remains?

The PRESIDING OFFICER. There is 4 minutes 32 seconds remaining.

Mr. BROWN of Ohio. Mr. President, yesterday, in the Rose Garden, President Obama made clear the choice Members of this body face as they vote on the DISCLOSE Act. It is a choice between granting special interests unfettered and secret influence over their elections and the choice of ensuring basic protections to voices of everyday Americans.

Again, these will be ads run by interest groups that do not identify themselves—unfettered, secret, unlimited in the amount of money they can spend to elect their friends to Congress.

We know what happened in 2009 when corporations spent over $3 billion lobbying Congress to influence their agenda. We know with the Wall Street bill and the health care bill, more than $1 million a day was spent to weaken those laws. We know what ultimately happens, what happens when this kind of special interest influence descends on this body. First of all, the money they spend in elections to elect their friends and allies—BP, the drug companies, the insurance industries, the big companies that outsource jobs from the United States to China—we know what happens when they spend money to elect their friends, and we know what happens when they lobby in the Halls of Congress.

We saw examples of that particularly during the Bush years. I was in the

House of Representatives in those days, as was the Presiding Officer representing a district in New Mexico. We saw in those days the drug companies writing the Medicare legislation. The legislation was a bailout for the drug and insurance companies in the name of Medicare privatization. We saw it on trade issues. We saw the big companies that outsource jobs write trade agreements, such as NAFTA and CAFTA. On health care issues, we saw the big insurance companies writing legislation, assisting President Bush in getting his pro-insurance company legislation through. We know on the energy legislation, something the Presiding Officer worked to try to fix—unfortunately, we were all unsuccessful in the Bush years—with regard to writing energy legislation, we saw the oil companies do that.

If we do not fix this, if we do not pass the Schumer bill, we are going to see a further betrayal of the middle class, further betrayal of democratic ideals—democratic with a small ''d.'' We no longer can brook in this institution, giving the drug companies the authority to write Medicare legislation, the insurance companies the ability to write health care legislation, the big companies that outsource the ability to write trade legislation, the oil industry to write energy legislation. It has happened over and over again. We should have learned this lesson this decade.

My colleagues on the other side of the aisle are very comfortable with helping their benefactors, with helping the oil industry, the drug companies, the insurance companies, and those big companies that move overseas and outsource our jobs. That is why the DISCLOSE Act is very important. Whether you are a Republican or a Democrat, you do not want to see our democratic system become the puppet of corporate America or any other special interest. You do not want to give corporations the ability to drown out the voices of the people—their customers, workers, and, frankly, their shareholders.

The least we can do is empower citizens with information to evaluate the motives behind corporate and special interest spending. I do not want to see these huge dollars spent in these races, to be sure. But at a minimum, we have to make sure the public knows who is spending it, who the executives are who will benefit from these huge expenditures from the drug and insurance companies, from the oil industry, and those big companies that outsource.

It is a pretty clear choice. A vote for the DISCLOSE Act, a vote for cloture is a vote for the public interest. A vote against cloture, a vote against the DISCLOSE Act is getting right in line with giving those special interests—Wall Street, the drug companies, the insurance companies, the big companies that outsource jobs, the oil industry—what they want.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. I thank my colleague once again for his outstanding pointed words—right on the money—and we will hear the end of this debate after we close.

INDEPENDENT LIVING CENTERS TECHNICAL ADJUSTMENT ACT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the HELP Committee be discharged of H.R. 5610, the Independent Living Centers Technical Adjustment Act, and that the Senate then proceed to its consideration.

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

The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 5610) to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. Mr. President, Senator HARKIN has a technical amendment, and I ask that the amendment be considered agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4518) was agreed to, as follows:

(Purpose: To extend a date)

In section 2(a)(2)(A), strike ''July 30'' and insert ''August 5''.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5610), as amended, was read the third time and passed.

ORDER OF PROCEDURE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the cloture vote scheduled to occur at 2:45 p.m. today be delayed to occur at 3 p.m., with the time division as previously ordered and under the same conditions and limitations.

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

RECESS

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

Thereupon, at 12:31 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DISCLOSE ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the time until 3 p.m. will be equally divided and controlled between the two leaders or their designees, with the majority leader controlling the final 15 minutes prior to a vote on the motion to invoke cloture on the motion to proceed to S. 3628.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I am going to proceed on my leader time.

The PRESIDING OFFICER. The Senator can proceed.

Mr. MCCONNELL. Mr. President, 8 years ago, Congress passed and the President signed a bill known as the Bipartisan Campaign Reform Act or BCRA. This bill was the culmination of a long and protracted battle in which I played a major part, as many of my friends on both sides of the aisle will recall. It garnered bipartisan support and bipartisan opposition. Many hearings were held, studies were conducted, and a lengthy record on both sides of the issue was developed.

I strongly opposed that bill. But I commend its authors for one thing: In drafting and passing BCRA, they made every effort to ensure that everybody had to play by the same rules—rules, moreover, that would not take effect in the middle of an election year. They wanted to make sure there was no appearance of giving one party a partisan advantage, and in that they succeeded.

Fast forward to today. Late last week, Democratic leaders decided to take us off of the small business bill to move to the DISCLOSE Act, a bill that is the mirror opposite of BCRA in the partisan way it was drafted and in the partisan way it is being pushed ahead of an election.

Let's be perfectly clear here. This bill is not what its supporters say it is. It is not an effort to promote transparency. It is not a response to the Supreme Court's ruling in Citizens United which has now been the law of the land for 7 months and which, contrary to the breathless warnings of some, has not caused the world to stop turning on its axis.

This bill is a partisan effort, pure and simple, drafted behind closed doors by current and former Democratic campaign committee leaders, and it is aimed at one thing and one thing only. This bill is about protecting incumbent Democrats from criticism ahead of this November's election—a transparent attempt to rig the fall election.

The supporters of this bill say it is about transparency. To that, I say it is transparent all right. It is a transparent effort, as I said, to rig the fall elections. They are so intent on their goal that they are willing to launch an all-out assault on the first amendment in order to get there. Democrats achieved something truly remarkable in drafting this bill. They united the ACLU and the Chamber of Commerce—quite an accomplishment—both, of course, in opposition. Why would they oppose it? Because it is as obvious to these groups as it is to me that the DISCLOSE Act is a clear violation of the right to free speech—a clear violation.

As usual with Democrats in this Congress, the process has not been any better than the substance. Over in the House, the Democratic campaign committee chairman sprung a rewrite of substantial portions that Republicans and even Democrats had not seen shortly before this bill was voted on. Not to be outdone, Democrats here in the Senate introduced a version last week that had been substantially rewritten since it was first introduced in April. In other words, the original Senate version was replaced under a veil of secrecy late last week, and that is the one the Democrats wish for us to proceed to today. A massive rewrite of the laws that govern elections, and Democrats want to give 6 days between introduction and a vote; a massive rewrite of the Nation's campaign finance laws without hearings, without testimony, without studies, and without a markup; another bill produced without a single hearing and placed directly on the calendar to bypass even the Rules Committee, which is supposed to have jurisdiction over this issue; a bill written behind closed doors with the help of lobbyists and special interests—all of this, all of this in the name of transparency. Forget the DISCLOSE Act. What we need is a ''Transparency in Legislating about Elections Act.''

This approach to this bill could not be more different than BCRA. However much I disagreed with that bill, it treated all groups, corporations, unions, parties, and individuals the same. From the ban on party non-Federal dollars to advertisement limitations within proximity of an election, BCRA's restrictions and prohibitions were applied evenly. The DISCLOSE Act is the opposite: 117 pages of stealth negotiations in which Democrats pick winners and losers, either through outright prohibitions or restrictions so complex that they end up achieving the same result.

The unions do not need a carve-out because they got exemptions. The new law applies to government contractors but not to their unions or unions with government contracts. Let me run that by you again. The unions do not need a carve-out because they got exemptions. The new law applies to government contractors, but not their unions or unions with government contracts. It does not apply to government unions. It applies to domestic subsidiaries but not to their unions or international unions. Through threshold and transfer exemptions, unions are the ultimate victors under this bill. I would note that numerous attempts were made to provide parity in the House Administration Committee markup. All were defeated on a partisan basis with no credible explanation. It is hard not to laugh in discussing this monstrosity we will be voting on shortly. And this is what they are calling transparency?

In their efforts to pass this partisan bill ahead of the election, Democrats have been forced to do the same kind of horse trading we saw in the health care debate. Some of the deals they struck were aimed at attracting special interest support, while others were aimed at quelling special interest opposition. In the end, they came up with a bizarre carve-out construct that grants first amendment freedoms to the chosen ones, and the results are not any prettier than the health care bill.

Follow this logic: The exemption applies to 501(c)(4)s, with 500,000 members in all 50 States plus Puerto Rico and the District of Columbia, in existence for 10 years, who receive less than 15 percent of their money from corporations or labor unions. In case you do not know who this provision is aimed at, it is a carve-out for the NRA, as well as the AARP and the Humane Society, among unknown others who may be in this category, but not to groups such as AIPAC or groups formed to advocate for victims of the oilspill or Hurricane Katrina.

So if you have 400,000 members, sit down and shut up. If you were founded in 2002, nice try, sit down. If you do not have the ability to recruit members in every State, zip it, shut your mouth. These are the contortions—the contortions—the authors of this bill had to go through to get it this far.

Worse still, the DISCLOSE Act mandates that its provisions shall take effect without—again, it is hard to go through this bill without breaking into unrestrained laughter—it mandates that its provisions shall take effect without regard to whether the Federal Election Commission has promulgated regulations to carry out such amendments. This, of course, will have the practical effect of paralyzing those who want to participate in the political process. If they do not know what the rules are, they will take themselves out of the game, which is clearly what the authors of this bill had in mind.

So let me ask a question. All of these new reporting obligations, filing requirements, certification mandates, and transfer burdens are to occur but how? How? Are there magic forms out there we do not know about? Do folks write e-mails to the FEC, the FCC, or the SEC? Maybe we bring back telegrams or use a Harry Potter owl or the Pony Express. Under threat of criminal sanctions, this provision is a clear message from the Justice Department to anyone covered by the new restrictions in this bill: Go ahead and speak. Make my day.

Lastly, recognizing the important constitutional questions at issue with BCRA—and everybody on both sides of that debate knew there were important constitutional questions involved—an expedited judicial review provision was included in that bill and subsequently used. But not so in this one. In order to make sure this bill is not held up by something as inconvenient—as inconvenient—as a challenge on first amendment grounds, its authors have made sure no court action interferes with their new restrictions this election cycle, and maybe even the next one as well. They add multiple layers of review, no provision addressing an appeal to the Supreme Court whatsoever, no time limits for filing, and no congressional direction to the courts to expedite. Again, the goal of the proponents of this speech rights reduction act is abundantly clear: Slow the process and secure new rules that help incumbent Democrats for the upcoming elections and for the foreseeable future.

The one goal here is to get people who would criticize them to stop talking about what Democrats have been doing here in Washington over the last year and a half, a need to shut those people up, a need to shut them up real fast here before the upcoming election.

The authors of the bill labored behind closed doors to decide who would retain the right to speak—in direct defiance of what the Supreme Court made clear this past January, when Justice Kennedy, writing for the majority, said:

> [W]e find no basis—
>
> ''no basis''—
>
> for the proposition that, in the context of political speech, the government may impose restrictions on certain disfavored speakers.

What could be more clear? ''[W]e find no basis for the proposition that, in the context of political speech, the government may impose restrictions on certain disfavored speakers.''

Not exactly an ambiguous holding. But that is, of course, precisely—precisely—what the DISCLOSE Act does. It imposes restrictions on speech. And I would note the one category of speakers upon whom the so-called reformers have bestowed the greatest speech rights in this bill are, of course, the corporations that own media outlets. So a company that owns a TV network, a newspaper, or a blog can say what they want, when they want, as often as they want.

BCRA was debated over the course of many years. Its authors also recognized the importance of not changing the rules on the eve of an election, which is why the legislation went into effect the day after the 2002 midterm elections. The DISCLOSE Act is the opposite. Seeking to achieve exactly what BCRA avoided, this legislation has an effective date of 30 days after enactment. If it were not already obvious that this bill is a totally partisan

exercise, the effective date should be proof positive.

And those, Mr. President, are the facts.

I must admit it has been a few years since I was in law school. So after I learned about all these special deals, I went back to the first amendment to look for an asterisk or something indicating that only large, entrenched, and wealthy special interests get the ''freedom of speech.'' I went and looked at the first amendment again to look for an asterisk or something indicating that only large, entrenched, and wealthy special interests get the ''freedom of speech.''

I could not find it. So I pulled out this Analysis and Interpretation of the Constitution, thinking maybe it could be found there. I looked and looked, again, to no avail. Then it occurred to me, perhaps on that winter day in 1791, when the first amendment became effective, these rights were meant to apply to everyone—everyone. Perhaps it is true the first amendment was adopted to protect the people from the Congress, to protect them from laws such as this one, to protect them from a government that picks winners and losers, to protect them from an overreaching government that is supposed to derive its powers from the consent of the governed.

This DISCLOSE Act is not about reform. It is nothing more than Democrats sitting behind closed doors with special interest lobbyists choosing which favored groups they want to speak in the 2010 elections, all in an attempt to protect themselves from criticism of their government takeovers, record deficits, and massive unpaid-for expansions of the Federal Government into the lives of the American people. In other words, this is a bill to shield themselves from average Americans exercising their first amendment rights of freedom of speech.

Americans want us to focus on jobs, but by taking us off the small business bill and moving to this one, Democrats are proving the jobs they care about the most are their own. By moving off of the small business bill and moving on to this one, our Democratic friends are letting us know the jobs they care about the most are their own. Think about it. Here we are in the middle of the worst recession in memory, and Democratic leaders decided to pull us off a bill that is meant to create jobs in an effort to pass this election-year ploy to hold on to their own jobs. What could be more cynical than that? A ''yes'' vote on this bill will send a clear message to the American people that their jobs aren't as important as the jobs of embattled Democratic politicians.

In closing, let me just note that hundreds of ideologically diverse organizations oppose this bill and have provided us with valuable information on its various absurdities. But I think the ultimate test of this bill's legitimacy is pretty simple. If the Founding Fathers were here, they would remind us. They would hold up the Constitution and remind us of the oath we took to support and defend it.

As Members cast this vote today, they will come to the well and look at the desk to see what the well description says—the sheet of paper that sums up what this vote is about. On the Democratic side, I am sure it will include words such as ''transparency'' and ''disclosure'' and talk about the threats to democracy if the bill isn't passed. On our side, it will be simpler. The copy of the Constitution will serve as our well description, and, more importantly, it will remind us of why we are all here. We are here to protect the Constitution, not our own hides.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, the majority has 15 minutes, and I yield to Senator SCHUMER whatever time he may use. I would also alert Members that the vote may be more than 15 minutes from now because I may have to use some of my leader time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the leader for yielding.

First, all votes cast in this body are important, but it is rare that a single vote can so unmistakably reveal whose side you are on. Make no mistake about it, with today's vote, we are picking sides, and no amount of words, no amount of sophistry in terms of explanations of calling black white and white black can change that around.

At a time when the public's fears about influence of special interests are already high, this decision by the Court stacks the deck even more against the average American. And my good friend from Kentucky is defending the average American? The average American who sets up a 501(c)(4) and spends tens of millions of dollars to get his views made known or the average American who puts out 3,400 ads, without his or her name on them, to vilify a candidate for reasons unstated? That is not the average American. We know that. It is very clear who is defending the average American: those of us who support the DISCLOSE Act.

My friend from Kentucky is worried about transparency in this body all of a sudden but doesn't speak for a bill that brings transparency to our politics. No one can argue that this bill brings less transparency. No one can argue that.

We know what is going on here. There are visions—visions in people's heads of Karl Rove spending $50 million, funded by people we don't know, to attack candidates for reasons we are not sure of, and never putting their name to it.

If you believe in transparency, you believe in the DISCLOSE Act. If you believe in transparency, you believe that someone who has the ability through their wealth, whether they be a corporation or an individual or a candidate, should put their name on the ad they are putting forward over and over and over again. Transparency? This bill stands for transparency.

I would challenge any of my Republican colleagues to come forward with a bill that pierces through the veil of secrecy the Supreme Court decision allows. As for that great Constitution which we revere, eight of the nine Justices said disclosure was certainly constitutional, and they even went out of their way to say it is the right thing to do. We know why the other side doesn't want to do it. They are talking about Democrats not wanting to be attacked. No one wants to be attacked. All we are saying is, if you are going to attack us, put your name on the ad. And the other side is resisting that. We know why. Because with some of the ads that are run—by everybody—if you don't have to put your name on them, there is less of a reason to stick to the truth and stick to the facts. That is why for years we have put this burden on ourselves. We said that we as candidates have to stand by our ad. Why shouldn't big corporations have to stand by their ad? I would like anyone on the other side to answer that question.

This is all about secrecy, not free speech. No one is saying they can't run ads. The Constitution now allows it, even out of corporate treasuries, but the Constitution allows and smiles upon greater free speech disclosure.

So you can talk all about the process: ''I was surprised we are going off the jobs bill.'' For how many months and weeks and hours through procedural delays has the other side kept us from going to various jobs bills? All of a sudden, when it comes time to lift the veil of secrecy on these ads, all of a sudden they say: Let's get back to a jobs bill. Oh, no. This fight will continue.

I spoke to some of my colleagues on the other side of the aisle. They were very sincere. Many of them, a good number, said to me: We should have disclosure, but the pressure is too great because this act would undo much of the electoral advantage that Citizens United—just due to the way our politics works now—would bring to the other side of the aisle. One of them said to me: It is skins and shirts. No one can deviate from the party line. So the opposition to this act is defending the Constitution when the Constitution upholds and supports disclosure; is defending the average guy when the average guy or gal has no opportunity to run these ads; is defending fairness and equality when it is only a limited, privileged few who will have the ability to put these ads on over and over and over again. That is not playing straight and not playing fair with the American people.

We have made this bill a fair bill that treats all sides equally. Some say: Well, there is a $600 limitation. Of course, but that has nothing to do with unions or corporations. If you spend

$600 or less—we have always said low amounts of money don't have to be disclosed. If you spend $600,000, it should have to be disclosed, whether you are a corporation or a union, either way. Oh, no.

My colleagues, this is a sad day for our democracy. Not only does the Supreme Court give those special interests a huge advantage, but this body says they should do it all in secret without any disclosure. That transcends this election, transcends Democrat or Republican. It eats at the very fabric of our democracy. It makes our people feel powerless and angry, and the greatness of that Constitution and the greatness of the American people is eroded by decisions like that of the Supreme Court and the decision, unfortunately, we will make today in not letting the DISCLOSE Act come to the floor for debate.

Mr. MCCAIN. Mr. President, I will oppose cloture on the motion to proceed to S. 3628, the DISCLOSE Act. My reasons for opposing this motion are very simple—this is clearly a partisan attempt by the majority to gain an advantage in the upcoming election. There was no hearing held in the Rules Committee on this bill and no Republican members were given the opportunity to consider the bill and offer amendments in a committee markup.

Additionally, this bill is stuffed with onerous new government regulations and is loaded with loopholes and carveouts for special interests. The authors of this bill insist that it is fair and is not designed to benefit one party over the other. That is simply not the case. One example of this is the ban on campaign-related activities by Federal Government contractors. If this legislation were enacted—tens of thousands of American businesses—large and small would be prohibited from engaging in campaigns while labor unions—which receive Federal grants and routinely negotiate collective bargaining agreements with the Federal Government—would be free to operate as they see fit. It is a simple matter of fairness, and this bill as drafted is patently unfair.

As my colleagues know, I have been involved in the issue of campaign finance reform for most of my career, and I am fully supportive of measures which call for full and complete disclosure of all spending in Federal campaigns.

When my colleague from Wisconsin, Senator FEINGOLD, and I set out to eliminate the corrupting influence of soft money and to reform how our campaigns are paid for—we vowed to be truly bipartisan and to do nothing which would give one party a political advantage over the other. As my colleague from Arizona noted earlier—the new rules created under our legislation applied equally to everyone, and they only applied after the subsequent election. That is not the case with this piece of legislation. The provisions of this bill would become effective 30 days after being signed by the President. This bill is clearly designed to silence American businesses while allowing labor unions to speak and spend freely in the elections this November.

I encourage my colleagues to oppose cloture on the motion to proceed to this bill, and I urge my friends in the majority to go back to the drawing board and bring back a bill that is truly fair, truly bipartisan, and requires true full disclosure.

Mr. FEINGOLD. Mr. President, I strongly support the DISCLOSE Act and I believe the Senate should be allowed to consider it. I am pleased to see this bill get such strong support from my colleagues on the Democratic side, and I urge my Republican colleagues to think long and hard before blocking it even from coming to the floor. I have a long history of bipartisan work on campaign finance issues. I am not interested in campaign finance legislation that has a partisan effect. This bill is fair and evenhanded. It deserves the support of Senators from both parties.

As the name suggests, the central goal of this bill is disclosure. It aims to make sure that when faced with a barrage of election-related advertising funded by corporations, which the Supreme Court's decision in the Citizens United case has made possible, the American people have the information they need to understand who is really behind those ads. That information is essential to being able to thoughtfully exercise the most important right in a democracy—the right to vote.

It is no secret that Senator SCHUMER and I, and all of the original cosponsors of the bill, were deeply disappointed by the Citizens United decision. We don't agree with the Court's theory that the first amendment rights of corporations, which can't vote or hold elected office, are equivalent to those of citizens. And we believe that the decision will harm our democracy. I, for one, very much hope that the Supreme Court will one day realize the mistake it made and overturn it.

But the Supreme Court made the decision and we in the Senate, along with the country, have to live with it. The intent of the DISCLOSE Act is not to try to overturn that decision or challenge it. It is to address the consequences of the decision within the confines of the Court's holdings. Congress has a responsibility to survey the wreckage left or threatened by the Supreme Court's ruling and do whatever it can constitutionally to repair that damage or try to prevent it.

In Citizens United, the Court ruled that corporations could not constitutionally be prohibited from engaging in campaign related speech. But, with only one dissenting Justice, the Court also specifically upheld applying disclosure requirements to corporations. The Court stated:

> [P]rompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are ''in the pocket'' of so-called moneyed interests.

The Court also explained that disclosure is very much consistent with free speech:

> The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

The Court also made clear that corporate advertisers can be required to include disclaimers to identify themselves in their ads. It specifically reaffirmed the part of the McConnell v. FEC decision that held that such requirements are constitutional.

The DISCLOSE Act simply builds on disclosure and disclaimer requirements that are already in the law and that the Court has said do not violate the first amendment. For years, opponents of campaign finance reform have argued that all that is needed is disclosure. Well, in a very short time we will find out whether they were serious, because that is what this bill is all about.

If the Senate is allowed to proceed to the bill, there will be time to discuss its provisions in more detail, but let me comment on one provision that has caused controversy, which was added in the House—the exception for large, longstanding groups, including the National Rifle Association.

I am not a fan of exceptions to legislation of this kind. I would prefer a bill, like the one we introduced, that does not contain this exception. But the fact is that the kinds of groups that are covered by the exception are not the kinds of groups that this bill is mostly aimed at. Knowing the identity of individual large donors to the NRA when it runs its ads is not providing much useful information to the public. Everyone knows who the NRA is and what it stands for. You may like or dislike this group's message, but you don't need to know who its donors are to evaluate that message.

The same cannot be said about new organizations that are forming as we speak to collect corporate donations and run attack ads against candidates. One example is a new group called American Crossroads. It has apparently pledged to raise $50 million to run ads in the upcoming election. Can any of my colleagues tell me what this group is and what it stands for? Don't the American people have a right to know that, and wouldn't the identity of the funders provide useful information about the group's agenda and what it hopes to accomplish by pumping so much money into elections? Even Citizens United, the group that brought the case that has led us to this point, is not known to most people. Why shouldn't the American people know who has bankrolled that group, if it's

going to run ads and try to convince people to vote a certain way?

Disclosure is the way we make this crucial information available to the public. But if a group is around for 10 years, has members in all 50 States, and receives only a small portion of its budget from corporations or unions, there is less reason for the kind of detailed information that the DISCLOSE Act requires. So while I would prefer that this exception wasn't in the bill, I understand why the House felt it was necessary, and I don't think it undermines the bill's purpose or makes it fundamentally unfair.

Most of the complaints about the DISCLOSE Act are coming from interests that want to take advantage of one part of the Citizens United decision—the part that allows corporate spending on elections for the first time in over 100 years—and at the same time pretend that the other part of the decision—the part upholding disclosure requirements—doesn't exist. But the law doesn't work that way. As the old saying goes, ''you can't have your cake and eat it too.''

Once again, I very much appreciate the leadership of the Senator from New York and look forward to working with him and all my colleagues to pass this bill. I urge my colleagues to vote for cloture on the motion to proceed.

Mr. LEVIN. Mr. President, I will support the motion to proceed to debate on the DISCLOSE Act because I strongly believe that the voice of the people needs to be restored in our elections.

In January of this year, in a 5–4 decision, the Supreme Court reversed longstanding precedent when it held government restrictions on corporate independent expenditures in elections to be unconstitutional in violation of the first amendment. This decision ignored precedent in order to reject laws that have limited the role of corporate money in Federal elections for decades. I believe this decision could severely damage public confidence in our campaign finance system.

For years I have worked to maintain the integrity of our elections. I was a cosponsor of the Bipartisan Campaign Reform Act, BCRA, which was a major step toward taking the unseemly race for big bucks out of the campaign system and preserving the American public's right to truth in advertising. However, the decision in Citizens United took us backwards. Before Citizens United, the Federal Election Campaign Act—FECA—generally prohibited corporations and unions from using their treasury funds to influence federal elections—including political advertising known as express advocacy, which explicitly calls for election or defeat of Federal candidates. To be clear: Corporations were still able to engage in political activities through political action committees, or PACS. This process ensured that shareholders were part of the process. After Citizens United, however, corporations can use unlimited amounts of money from their general treasuries for this purpose.

That is why I am an original cosponsor of the Democracy is Strengthened by Casting Light on Spending in Elections, or the DISCLOSE Act. The DISCLOSE Act requires corporations, unions, or advocacy organizations to stand by their advertisements and inform their members about their election-related spending. It imposes transparency requirements, requires spending amounts to be posted online, and prevents government contractors, corporations controlled by foreigners, and corporate beneficiaries of TARP funds from spending money on elections.

Since the Supreme Court decision in Citizens United, our elections are vulnerable to the influence of corporate power, which threatens to drown out the voices of individual Americans. The DISCLOSE Act will restore the public trust in both the election process and government itself. In our Federal elections, all voices must be heard, not just those with the deepest pockets. The DISCLOSE Act will help restore the people's voice, and I urge my colleagues to support the motion to proceed.

Mr. LEAHY. Mr. President, today, the Senate is attempting to fix an important problem created earlier this year by the Supreme Court's decision in Citizens United v. Federal Election Commission. In that case, five Supreme Court Justices cast aside a century of law and opened the floodgates for corporations to drown out individual voices in our elections. The broad scope of the Citizens United decision was unnecessary and improper. At the expense of hardworking Americans, the Supreme Court ruled that corporations could become the predominant influence in our elections for years to come.

Citizens United is the latest example in which a thin majority of the Supreme Court placed its own preferences over the will of hard working Americans. The landmark McCain-Feingold Act's campaign finance reforms were the product of lengthy debate in Congress as to the proper role of corporate money in the electoral process. Those laws strengthened the rights of individual voters, while carefully preserving the integrity of the political process. However, with one stroke of the pen, five Justices cast aside those years of deliberation, and substituted their own preferences over the will of Congress and the American people.

The American people have expressed their concerns over this decision, and recognize that without congressional action, Citizens United threatens to impact the outcome of our elections. As representatives, we must fulfill our constitutional duty, and work to restore a meaningful role for all Americans in the political process. A vote to filibuster the motion to proceed to this legislation is a vote to ignore the real world impact this decision will have on our democratic process.

The Democracy Is Strengthened by Casting Light On Spending in Elections—DISCLOSE—Act, is a measure I support to moderate the impact of the Citizens United decision. The DISCLOSE Act will add transparency to the campaign finance laws to help ensure that corporations cannot abuse their newfound constitutional rights. This legislation will preserve the voices of hardworking Americans in the political process by limiting the ability of foreign corporations to influence American elections, prohibiting corporations receiving taxpayer money from contributing to elections, and increasing disclosure requirements on corporate contributors, among other things.

It is difficult to overstate the potential for harm embodied in the Citizens United decision. The DISCLOSE Act is necessary to prevent corruption in our political system, and to protect the credibility of our elections, which is necessary to maintain the trust of the American people. While some on the other side of the aisle have praised the Citizens United decision as a victory for the first amendment, what they fail to recognize is that these new rights for corporations come at the expense of the free speech rights of hardworking Americans. There is no doubt that the ability of wealthy corporations to dominate all mediums of advertising risks drowning out the voices of individuals.

The American people expect that there will be bipartisan support for any legislation that would prevent corporations from drowning out their own voices in our elections. In that vein, I hope that the DISCLOSE Act will receive an up-or-down vote in the Senate, and not be the subject of filibusters that have become all too common in this political climate.

Vermont is a State with a rich tradition of involvement in the democratic process. However, it is a small State, and it would not take much for a few corporations to outspend all of our local candidates combined. It is easy to imagine corporate interests flooding the airwaves with election ads and transforming the nature of Vermont campaigning. This is simply not what Vermonters expect of their politics. The DISCLOSE Act is a first step towards ensuring that Vermonters, and all Americans, can remain confident that they will retain a voice in the political process.

The Citizens United decision grants corporations the same constitutional free speech rights as individual Americans. This is not what the Framers intended in drafting the opening words ''We the People of the United States.'' In designing the Constitution, the Founders spoke of and guaranteed fundamental rights to the American people—not to corporations, which are mentioned nowhere in the Constitution. The time is now to ensure that our campaign finance laws reflect this important distinction.

The American people want their voices heard in the upcoming election. I urge Senators on both sides of the aisle to allow us to debate and address this important issue. I look forward to working with all Senators to pass this important legislation, and to ensure that the DISCLOSE Act is enacted into law.

Mr. KERRY. Mr. President, this vote is a true test of political character because it goes to the very heart of American democracy. It will determine who will choose our Nation's leaders—faceless corporations or we the people.

The Supreme Court decision in the Citizens United v. Federal Election Commission case earlier this year dealt a crushing blow to fairness in our Federal elections. This decision is why we are here today, taking a closer look at the hard realities of how the political system works here in the United States.

For far too long, our Federal election system has been broken and the remedies ignored. In 1997, I wrote the Clean Money, Clean Elections Act to help tackle some of our most important campaign finance problems. That bill sought to limit the power of special interests in elections by offering incentives for ''clean candidates'' who swore off private campaign contributions and ran using only a clean money fund. Unfortunately, during the 13 years since that bill's introduction, we have seen an increase in the influence of special interests and now corporations on our Federal elections.

Make no mistake about it—the ruling by the Supreme Court has only exacerbated the problems of the system. And that makes it all the more important that we no longer keep our heads buried in the sand.

I have always believed that the single biggest flaw in our Federal election system is the disproportionate power and influence of money that drowns out the voice of average Americans. I am concerned that the Supreme Court's ruling in Citizens United will produce an even bigger tidal wave of special interest advertising funded by large faceless corporations, drowning out the views and opinions of our citizens.

The Supreme Court has opened the flood gates for an unlimited amount of unchecked political spending by corporations—including the dangerous new precedent for unimpeded funding by subsidiaries of foreign corporations. Yes, for the first time in our history Federal elections in this country can be actively influenced according to the desires of foreign interests.

These are dangerous developments that require immediate attention. But the ultimate solution must be equal in scope to the magnitude of the problem we face. We must undertake some remedial actions now, but there is only so much we can do legislatively.

In my view, the case of Citizens United requires nothing short of a constitutional amendment that makes it crystal clear—that corporations do not have the same free speech rights as individuals. It is time that average Americans regain their voice in choosing who will represent them in our Nation's Capital.

Mr. BAUCUS. Mr. President, President Franklin Delano Roosevelt once said:

> The liberty of a democracy is not safe if the people tolerate growth of private power to a point where it becomes stronger than their democratic state itself.

This statement is all too true, as we are faced with the Supreme Court's disappointing decision in Citizens United v. Federal Elections Commission earlier this year. In a 5-to-4 ruling, the Supreme Court overturned years of congressional work to limit corporate spending and corruption in the political arena. As a result, corporations and labor unions are now free to spend unlimited dollars from their general funds to make independent expenditures at any time during an election cycle, including directly calling for the election or defeat of a candidate.

This ruling will have far-reaching implications for the electoral system on a Federal, State, and local level. In his well-reasoned dissent, Justice Stevens noted:

> Lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races.

Over the years, Congress and State legislatures have done just that. In 2002, Congress found that without regulation, corporations spend money on political elections in extremely large amounts. Spending at those levels created a corrupting influence on legislative actions.

In response to what Justice Stevens called a ''virtual mountain of research'' on the potential for corruption within the election process, Congress passed the Bipartisan Campaign Reform Act, commonly known as McCain-Feingold. With an eye on prior Supreme Court rulings, Congress shaped McCain-Feingold to properly address concerns over evidence of corruption in the electoral system.

The Supreme Court's ruling in Citizens United is bad for my State of Montana, it is bad for America. Montana history shows that corporations are eager to influence elections. As Montana attorney general Steve Bullock previously testified, during the turn of the century, wealthy copper kings of Montana's mining industry leveraged their corporate power to effectively buy elections.

In 1912, Montana voters spoke out, passing some of the strongest laws in the Nation prohibiting corporations from acting to influence Montana elections. The law has withstood the test of 98 years without failing. Yet, because of Citizens United, Montana's strong campaign finance laws are now also in jeopardy. In Montana, the ruling is likely to have a significant impact on State and local elections. The use of corporate money will drown out the voices of individual Montanans. The cost of advertising in Montana is very low. This, however, will make it easy for large out-of-State corporations to dominate Montana markets in an effort to sway Montana races.

When it comes to corporate spending, we are talking about a significant amount of money. Let's look at what corporate America is spending on political advertising. In 2008, the automotive industry spent over $30 billion in advertising. Just in the first quarter of this year, Wall Street firms spent $2 billion. The tobacco industry averages $12 billion in advertising nationwide each year. That is political advertising. When you start adding up these numbers, you start to get a sense of the magnitude of the impact Citizens United can have on our electoral process. Corporations will now have free rein to spend this kind of money to now call for the election or opposition of specific candidates, Federal, State, or local.

The impact of Citizens United goes well beyond merely changing campaign finance law. This decision will impact the ability of Congress, as well as State and local legislatures, to pass laws designed to protect its constituents—individual Americans—when such legislation comes under fierce objection by large corporations. Corporations are now free to spend millions targeting individual lawmakers. Lawmakers' ability to pass laws such as consumer safety or investor protection now faces even greater challenges when such laws merely threaten the corporate bottom line.

Congress and the American people must respond swiftly and firmly. The Supreme Court's ruling in Citizens United has severely altered Congress's ability to limit corporate spending in our electoral process.

I support legislative efforts such as those to enhance disclosure and increase shareholder say on corporate campaign spending, and I commend my friend from New York, Senator SCHUMER, for his efforts on this front. However, it is clear that the surest way to address the Supreme Court's disappointing decisions is a constitutional amendment that will clarify Congress's authority to regulate corporate political spending.

The resolution I am introducing today proposes a constitutional amendment that will restore Congress's authority to regulate political expenditures by corporations and labor organizations in support or in opposition to Federal candidates. It also preserves Congress's ability to regulate political contributions to these candidates.

Similarly, this amendment provides States with the authority to regulate political contributions and expenditures in a way that works best for each State. This amendment does not modify the first amendment at all, and the language specifies that this does not affect freedom of the press in any way.

The Framers provided a series of steps required to amend the Constitution, and this process should not be taken lightly. This resolution requires the support of a two-thirds majority of the Senate and the House and subsequent ratification by three-quarters of the States. I recognize the challenges of that process, but I believe this is a discussion and debate that Congress and the American people should have.

We must act. We must act now to restore Americans' faith in our political electoral process. I urge my colleagues to support this amendment.

The PRESIDING OFFICER (Mr. GOODWIN). The majority leader is recognized.

Mr. REID. Mr. President, if the time is limited to 15 minutes, I will use leader time to complete my statement.

Mr. President, my friend the Republican leader talked about a number of things in his presentation, all the time making remarks such as ''reading the bill caused unrestrained laughter.'' Well, 85 percent of the American people support this legislation.

Supreme Court Justice Louis Brandeis offered disclosure and transparency as the antidote to swollen corporate influence. Sunlight, he said, is ''the best of disinfectants.'' The man who would replace him on the Supreme Court shed light on the importance of the individual's vote, the voice that anchors our democracy. William O. Douglas, who served on the bench longer than any other Justice, said that the right to vote means more than simply the right to pull a lever on election day. He said it also means ''the right to have the vote counted at full value, without dilution or discount.'' Both Brandeis and Douglas were right. These two Justices' observations should guide us as we correct an error made by today's Supreme Court—the Roberts Court—when it wrongly ruled in January that corporations, special interests, and foreign governments can flood America's political system with contributions in unlimited amounts and in secrecy. That decision was wrong.

The campaign advertisements at issue in the case, Citizens United v. Federal Election Commission, and in the bill before us, the DISCLOSE Act, are presumably about giving the electorate the information it needs to make an informed choice. But that information must also include its source because an open political process demands the disclosure of who is paying the bills. We are all agreed that voters can believe, criticize, or support any ad they wish, but a citizen cannot responsibly do any of that if he doesn't know how the ad found its way into his living room.

Our votes are the most precious part of our democracy. If someone is going to such great lengths to convince us how to use it, should we not at least know their names? Put differently, why would we let those who go to such great lengths to conceal their names—and those who try to protect them by blocking this bill—dilute or manipulate our voices?

The principle behind the bill is a simple belief that neither the American voter at home nor the democratic process at large benefits from campaigns funded by secret sponsors who are hidden from public view. Quite the opposite, in fact; such secrecy is harmful because it deliberately keeps from voters the identity of those trying to influence their choices and sway our elections.

This is also about trust and confidence in our democracy. Whenever the voice of the corporation is the loudest, the voice of the citizen is harder to hear. If citizens don't have reason to trust the electoral process, voters have little reason to trust the outcome of the election, and constituents ultimately have no reason to trust their elected government.

This Supreme Court case and this piece of legislation are not only about campaign checks; it is also about checks and balances. The Senate is not reversing or circumventing the Court's ruling; we are only bringing back transparency, accountability, and fairness to the system so it can work best for the people it serves. We are doing that in three ways.

First, this bill says that if you are a foreign corporation or a foreign Government, you can't spend money in American elections.

Second, it says if you are a company that benefited from TARP—the emergency program that kept our largest institutions and our economy afloat—you can't turn around and give those taxpayer dollars to a political candidate.

Third, to prevent both the possibility and the perception of a pay-to-play scheme, it says that if you are a government contractor, you cannot contribute to campaigns either.

These three elements are written primarily to protect voters, but voters are not the only ones who will benefit. If you are a shareholder of a company rich enough to put a campaign ad on television, wouldn't you want to know how it is using your investment and spending your money? Of course.

CEOs and special interests can run all the ads they want today, and after the DISCLOSE Act is law they will still be able to do that. That is their right. The difference is that our bill says you just can't pay for an ad; they have to stand by that ad also. This new law will not stifle anybody's speech or their ability to advertise; it merely requires them to do so in the open.

What could be more patriotic and less partisan than protecting a person's vote and all the information that goes into that decision?

The desire for greater real-time disclosure of election spending was not long ago a bipartisan concept. It is incredible that we now have to struggle to find a supermajority—60 Senators—even just to debate a bill the principles of which both parties once supported and that 9 in 10 Americans want us to pass.

What else is new?

When we fought to protect every American's right to afford good health, the other side jumped to the defense of corporate America and the special interests in the insurance racket.

When we fought to protect Americans from the unchecked greed in the financial industry—recklessness—that cost 8 million Americans jobs and nearly collapsed our economy, the other side jumped to the defense of corporate America and special interests—this time, those on Wall Street.

When we fought to hold BP accountable for its negligence, the other side jumped to the defense of the corporation responsible for the greatest man-made environmental disaster in history, going so far as to apologize to its now-ousted CEO.

When we ran to the side of millions who lost their jobs in the recession and exhausted their unemployment insurance, while they searched for hard-to-find jobs, the other side argued that what our economy needed was more tax breaks for multimillionaires.

On the stimulus bill, 93 percent of the Republicans voted against it in the Senate. On the unemployment insurance extension, 88 percent of the Republicans voted against that. On Americans' jobs and closing tax loopholes, 86 percent of the Republicans voted against that. On the health care bill, 100 percent of the Republicans voted against it. On the HIRE Act, 68 percent of Republicans voted against. Even on cash for clunkers—which was, by all estimates, a great success—82 percent of the Republicans voted against it.

This issue is no different than those I went through. The bill asks us to put the people before the special interests. It asks us to ensure that an individual's vote speaks louder than the deep pockets of the powerful.

It asks us this so the next time a health insurance company or a big Wall Street bank or a major oil company or any other special interest puts a campaign ad on the air, everyone will know who did it. It will make sure viewers can consider the source as they consider their vote.

Americans have fought so hard and at so great a price to ensure the voting rights of every individual. We have removed obstacles between people and the ballot box, removed corruption from the campaign process, and gone to great lengths to encourage everyone to participate on election day.

Why would we diminish a right that was so hard won? Why would we go backward?

This new law will return our popular elections to the people by limiting anyone's ability to dilute a citizen's power and by letting in the sunlight that disinfects our democracy.

Who could oppose that? The only ones fearful of transparency are those with something to hide. That is what this legislation is all about.

It is my understanding we are ready for a vote.

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant editor of the Daily Digest read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 476, S. 3628, the DISCLOSE Act.

Harry Reid, Charles E. Schumer, Sherrod Brown, Claire McCaskill, Patrick J. Leahy, John F. Kerry, Byron L. Dorgan, Patty Murray, Barbara Boxer, Roland W. Burris, Robert Menendez, Jack Reed, Joseph I. Lieberman, Tom Udall, Kent Conrad, Mark Begich, Robert P. Casey, Jr.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3628, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—57

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Goodwin	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (CO)
Dodd	Levin	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NAYS—41

Alexander	Brownback	Cochran
Barrasso	Bunning	Collins
Bennett	Burr	Corker
Bond	Chambliss	Cornyn
Brown (MA)	Coburn	Crapo
DeMint	Johanns	Roberts
Enzi	Kyl	Sessions
Graham	LeMieux	Shelby
Grassley	Lugar	Snowe
Gregg	McCain	Thune
Hatch	McConnell	Vitter
Hutchison	Murkowski	Voinovich
Inhofe	Reid	Wicker
Isakson	Risch	

NOT VOTING—2

Ensign	Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Mr. President, for the information of the Members of the Senate, we are going to move to the small business jobs bill. I have spoken with the Republican leader, and staff is aware, that we are going to have the same vote we had on Thursday night—that will be the amendment—with the exception that we are going to place in that bill the agricultural disaster relief that has been around for a long time. That will be added to this small jobs bill.

I have spoken with Senator LANDRIEU, and she has indicated to me that she has had conversations with Members of the minority, and they would like an amendment or two or three. I think that will be about the limit that we should do. We will be happy to have side-by-sides or have something that would give us the opportunity to see what those amendments are going to be.

So in short, we are going to work and start legislating as early as we can in the morning. I don't think we will be able to do much tonight. We will consider that. But everyone should be ready tomorrow. We are going to do our utmost to finish this bill tomorrow.

Everyone should understand that we are going to do our best to get out of here a week from Friday, but we will need the cooperation of Senators on a number of things. We have a fairly long list of things we need to do before we leave.

There will be no further rollcall votes today. The tree we talked about we have to tear down, but it is my understanding that we shouldn't have a problem doing that.

Mr. MCCONNELL. Mr. President, I would say to my friend, the majority leader, he knows because I believe he has some of our amendments, what we would like to offer, and I think this is a conversation we can have off the floor until we can figure out a way to move forward.

Mr. REID. My only purpose here is that we can go through the program of tearing the tree down, but those votes are somewhat inconsequential. I don't think we need to do that this afternoon. It is my understanding, after having spoken to Senator MCCONNELL, that everyone knows what the amendment is going to be. I have agreed there can be amendments offered by the Republicans, and it is only a question of what they are going to be.

Mr. MCCONNELL. I think that is a correct understanding.

Mr. REID. So I have designated MARY LANDRIEU.

The amendment is just as I have outlined, and we should have it in 5 minutes.

Mr. President, what is the pending business?

SMALL BUSINESS LENDING FUND ACT OF 2010

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus) amendment No. 4499, in the nature of a substitute.

Reid (for LeMieux) amendment No. 4500 (to amendment No. 4499), to establish the Small Business Lending Fund Program.

Reid amendment No. 4501 (to amendment No. 4500), to change the enactment date.

Reid amendment No. 4502 (to the language proposed to be stricken by amendment No. 4499), to change the enactment date.

Reid amendment No. 4503 (to amendment No. 4502), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this afternoon, the Senate returns once again to the small business jobs bill. This bill would help steer our economy toward recovery. It would create jobs. It would do so by fostering creativity and ambition of the American entrepreneur.

Some of America's greatest firms were born in the midst of an economic crisis. In 1976, the U.S. economy was reeling from recession. America's unemployment hovered around 8 percent. That year, two guys named Steve started selling computer kits out of a garage in Palo Alto, CA. They founded a small business. An angel investor helped them with $250,000 in seed money. Today, we know that business as Apple. Last month, Apple became the largest technology company in the world.

It is not an unusual story. It is a story told again and again in America. Of the 30 companies that make up the Dow Jones Industrial Average, 16 were started during a recession or depression. Procter & Gamble, Disney, McDonald's, Microsoft, General Electric, Johnson & Johnson, and Costco all first opened their doors during economic downturns.

To foster entrepreneurship and create this recession's success stories we need to create the right conditions. This small business jobs bill will help do just that. American entrepreneurs of all kinds are a key driver of job creation.

Take, for example, Tiffany Lach. Eighteen months ago, Tiffany opened Sola Cafe in downtown Bozeman, MT, with the help of a Small Business Administration loan. When she opened her doors, she had 19 employees. Today she has 42 employees and loads of loyal customers. We need to support entrepreneurs so that small businesses, such as Tiffany's, can continue to grow and create more jobs.

According to a recent report, nearly all net job creation in America from 1980 to 2005 occurred in firms fewer than 5 years old. In fact, without startups, net job creation would have been negative almost every year for the past three decades. In 2007, more than two-thirds of the jobs created were firms between 1 and 5 years old.

As our economy emerges from the great recession, we need to ensure that American entrepreneurs have the resources, the financing, and the opportunities they need to create jobs and realize their dreams. This small business jobs bill will help American entrepreneurs gain access to the capital they need, especially by increasing the incentives for investors to purchase and hold equity in startups.

Under this bill, for the rest of 2010, any investor who invested in a small business and held that investment for at least 5 years would pay no income tax on the gains from the sale of that small business stock. The bill would also reward entrepreneurship by doubling the amount of startup expenses that an entrepreneur could immediately deduct this year. The bill would increase the amount from $5,000 to $10,000. This would free up capital that could be used to invest in other aspects of the business.

This bill will devote more than $5 million to the U.S. Trade Representative to expand opportunities for U.S. small businesses in foreign markets. This would help American goods and services to reach new customers around the world. This would create jobs right here in America. This would help the USTR to enforce our trade agreements to ensure that American startups can compete on a level playing field.

So I urge my colleagues to support this bill. Let's work hard to work out agreements so we can take it up and pass it. Let's do so to help America's entrepreneurs. Let's pass this bill to encourage the development of new American small businesses. Let's pass this bill to create jobs right here in America.

The PRESIDING OFFICER (Mr. KAUFMAN.) The Senator from Wyoming.

Mr. BARRASSO. I ask unanimous consent to speak as in morning business.

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

GULF OILSPILL

Mr. BARRASSO. Mr. President, I rise today to talk about the oilspill in the Gulf of Mexico and energy legislation that may be on the floor this week.

For more than 3 months, the American people have watched our Nation's greatest environmental disaster unfold. This tragic accident has cost lives. It still threatens jobs and communities throughout the region. The shrimpers, fishermen, small business owners, restaurant and hotel workers, rig workers—everyone has been impacted.

In the last couple of weeks, we have gotten some rare good news. First, the new containment cap has temporarily plugged the hole. Second, the new cap survived the recent storm in the gulf. Hopefully, next week BP will finish drilling two relief wells and permanently plug the leak.

From this disaster we have learned that our country and the Federal Government were not prepared to deal with an emergency of this magnitude. Now we have an opportunity to fix the system. We need to implement reforms that prevent these accidents in the future and improve the ability to respond.

A tragedy of this magnitude merits a serious, bipartisan response from this body and from this country. The Congress has two options: No. 1 is to fix the problem; the second is to score political victories that don't help the gulf. My friends on the other side of the aisle appear committed to using this crisis to try to score political points.

The majority leader announced that he plans to unveil his energy legislation later today. It reportedly will contain oilspill provisions as well as broader energy legislation. The bill is being written behind closed doors—not in a committee, not in front of the American people, not on C–SPAN, but behind closed doors—and it will likely come directly to the floor later this week without ever going to a Senate committee. I think a fair question to ask right now is, What is going to be in the bill? Why can't we address the oilspill in an open way, in a transparent way? Are Senators going to be allowed to offer amendments, amendments that would improve the bill and increase bipartisan support?

Republicans have introduced an oilspill alternative. The Republican bill includes several important provisions:

First, the Republican bill reforms the system for managing offshore oil and gas exploration. It enhances safety requirements, and it improves spill response capacity. The Republican bill requires that our national oilspill contingency plan include a clear, accountable chain of command. That way, the American people know who is in charge and who is making decisions on the ground and on the water.

Next, the Republican bill reforms oilspill liability. The bill increases liability limits based on risk factors such as water depth and a company's previous history. It also sets up a system where claims beyond the liability cap are paid for by all of the companies drilling offshore. This liability system ensures those impacted are compensated. Unlike some other proposals out there, this proposal does not unfairly discriminate against small and medium-sized companies that are exploring for energy in the gulf.

The Republican bill also lifts the overly broad drilling moratorium that has been imposed by the Obama administration. Rather than imposing a blanket moratorium that threatens thousands of jobs in the gulf, the Republican bill would lift the moratorium for companies that have complied with the new safety and inspection requirements. This provision stops the administration from compounding the economic damage that is currently occurring in the gulf.

Importantly, the Republican bill also establishes a truly unbiased, bipartisan oilspill commission to investigate the spill. The oilspill commission that was appointed by the President is stacked—stacked with people who philosophically oppose offshore exploration.

Ideology aside, the members of the President's oilspill commission lack the essential technical expertise on offshore drilling. There is no expert on petroleum engineering on his commission. There is no expert on rig safety on the President's commission. Having this sort of expertise will help the fact-finding mission. It will also strengthen—it will strengthen the quality of the commission's recommendations. It is imperative that the oilspill commission has credibility.

The Republican bill helps those in the gulf. It will save much needed jobs, and it will improve our ability to explore for offshore oil and gas well into the future.

It is unfortunate that the majority is only spending a few days on the situation in the gulf. The text of the bill that this body is supposed to be debating later this week, that the American people should have an ability to see and to comment on, is not yet publicly available. How can this body, how can the American people have a serious debate on a bill in less than a week, especially if no one yet knows what happens to be in the bill? This is a crisis that has lasted for almost 100 days, the greatest environmental disaster in the history of our country. Yet the Senate is rushing to complete a bill that no one has seen, that continues to be written behind closed doors, and expects to complete it by the end of the week.

Sadly, the majority lacks transparency, and this lack of transparency by the majority follows months of poor response efforts by BP and by this administration. The companies involved in the spill played the blame game. While oil executives pointed fingers at one another, the administration struggled to get a handle on the situation.

The response was delayed, and the response was disorganized. The response lacked direction, and the response lacked decisiveness. There was no clear chain of command. State and local officials have repeatedly expressed frustration with the cleanup effort. And it is not just a lack of resources; in some cases, Federal approval stands in the way of local cleanup efforts.

Newsweek magazine had a recent article entitled ''The Mire Next Time.'' It says:

BP and federal officials have conjured parts of their oil spill response plan from scratch and changed them by the day, often failing to act with the speed and decisiveness an emergency demands.

Over the weekend, Politico reported that ''the White House dispatched political and communications aides to the Gulf Coast states.''

Let me repeat that. Over the weekend, Politico reported that ''the White House dispatched political and communications aides to the Gulf Coast states.''

According to Politico:

The effort came about after the White House grew concerned over political damage—

Not environmental damage—

from not having a permanent presence in the Gulf Coast states.

Campaign staffers might help the White House contain its political disaster, but they are not going to solve the actual environmental and economic disaster.

Instead of worrying about political problems, the White House should be encouraging the Senate to work in a bipartisan way on legislation that will help prevent future accidents and to improve our Federal response capacity. Our top priority should be stopping the leak and containing the spill.

We must also make sure those impacted are compensated, and the claims process must be fair and fast. The majority should devote more than a few days to fixing the problems in the Gulf of Mexico. I urge colleagues on the other side of the aisle to work with us. Let us come together to pass bipartisan oilspill legislation. That is what the American people want. That is what the American people deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

CHILDHOOD HUNGER

Mrs. LINCOLN. Mr. President, I come to the floor today with a very simple request. I come to ask for my colleagues' attention and perhaps 8 hours of their time, 8 hours that will change the face of childhood hunger and obesity and put us on a path to significantly improving the health of the next generation of Americans, 8 hours that will make a historic investment in our most precious gift and the future of this country, and that is, of course, our children, 8 hours for this body to pass the bipartisan Healthy, Hunger-Free Kids Act that will reauthorize our Federal child nutrition programs and address two of the greatest threats to the health and security of America's children—hunger and obesity.

Earlier this year, working closely with the ranking member of the Ag Committee, Senator CHAMBLISS, other members of the committee as well as the administration, the Committee on Agriculture, which I chair, unanimously approved a bill that makes a historic investment in hunger relief and for the first time mandates that meals provided to our children in schools are healthy. We have since been patiently waiting for this critical legislation to see the light of day on the Senate floor.

The days of patiently waiting are coming to an end, as the September 30 deadline to reauthorize these programs rapidly approaches. That is why I stand here today asking this body, asking my colleagues to spend a few moments of time to make an investment in our children and dedicate perhaps at the most 8 hours of floor time to take up and pass this legislation.

I don't have to look any farther than my home State of Arkansas to see the hunger and obesity crisis at its worst. A recent report by Feeding America found that Arkansas has the highest rate of childhood hunger in the country at 24.4 percent. That is nearly one out of every four Arkansas children who is unsure when or if their next meal will come. Will it even materialize?

Obesity too is extremely high among Arkansas children. Roughly one out of five children in Arkansas is considered obese. Research shows that obesity significantly increases the risk of chronic disease such as hypertension, heart disease, type 2 diabetes, and even some forms of cancer. We also know obesity comes at a tremendous cost to our health care system, roughly $147 billion each year. These statistics are simply unacceptable. There are real children behind these numbers, real children in real families, many of them working American families, real children who can forever be put on a path toward longer, healthier, more productive lives, if we simply dedicate 8 hours to passing this bill.

As a mother of twin boys who are teenagers now, having watched them grow up and feeling enormously blessed that through that time I have had the opportunity and the blessing of being able to feed them nutritious food and ensure they are growing up healthy, do any of my colleagues think that any mother out there is any different than I am, who wants to see that same blessing in their own home and with their own children?

The Healthy, Hunger-Free Kids Act takes tremendous steps toward addressing the obesity crisis which is necessary if we truly want to improve the health of this next generation of Americans. This legislation increases the reimbursement rate for school meals for the first time since 1973. Can colleagues think of what it would mean for us to be required to purchase items under today's costs with 1973 purchasing power? It would be impossible for us to feed our families or to take care of them, to assist our seniors and aging parents. Here we are asking our schools to try not only to feed the children but to feed them a healthy meal with 1973 dollars. If we want to promote our children's health, we have to feed them healthier meals. That takes an investment such as the one we have made in this bill.

This bill also for the first time establishes national school nutrition standards to ensure our children have healthier options available throughout the entire schoolday. Too often we hear from parents their frustrations about how the healthy habits they are trying to teach their children at home are constantly being undermined by the widespread availability of unhealthy options in school. For the first time this bill changes that. Parents can take comfort knowing that foods and snacks available at school through vending machines and school stores and a la carte lunch lines will have to meet new healthier standards based on guidelines for healthy diets established by USDA in consultation with HHS and the Institute of Medicine. This provision complements the commonsense steps we have already taken in my home State to improve the health of our school environments and, in doing so, brings some Arkansas wisdom to the rest of the country.

We have seen the horrors in Arkansas, and we want to do something about it. As a nation, we too must see the challenges we face in feeding the children healthy and nutritious meals, and we must seize this opportunity to do something about it.

This bill also makes a significant investment in the fight against childhood hunger. In 1999, I worked hard in the Senate to start the Senate Hunger Caucus, to try to bring my colleagues' attention to the issue of food insecurity and hunger that existed not only on a global sense but also in our own backyards and in our own country. Mr. President, 500,000 Arkansans live in food insecurity right now. We have much to do. It is hard to understand, when we have a disease such as hunger and we know what the cure is, why don't we cure it? It is so simple.

This bill streamlines and takes out duplicative steps in the paperwork process to ensure that hundreds of thousands of children across the country who are eligible for national school lunch and breakfast programs actually are able to participate. I am one of the few Senators with schoolage children. I know what comes home in those backpacks at the first of the year. It is a mountain of paperwork that gets crumpled down in the bottom of the backpack. I pull it out. Fortunately for me, I don't have to fill out that paperwork. But there are many families who do in order to ensure their child is eligible for a free or reduced lunch or a breakfast program. They have to fill

out multiple pages of documentation to be eligible. Yet we know they already meet the criteria because they filled out that same or similar paperwork for the WIC program or SNAP or the low-income housing program, so many other places where they have continually documented the need for help they have in creating a wholesome family.

This bill also recognizes that hunger doesn't stop when the school bell rings. It improves afterschool and summer feeding programs, ensuring that children in afterschool programs are receiving full nutritious meals instead of the current snack they receive now.

This bill is about improving the lives of the next generation—and we have a short period to do so—whether it is in education or nutrition. I know for myself, my boys turn 14 this year. It is hard for me to believe they have grown so quickly. Yet if we think about it, we have a snapshot of time to affect the lives of these children. So if we don't do it this year, if we don't do it next year or the year after that, that child who was in kindergarten is now in third grade. They may have incorporated bad eating habits already or they haven't had nutritious food or they haven't received the basic skills they need in terms of reading and other things. That time in the life of a child is so important. We look at ourselves and the time it takes us to pass legislation. We have an enormous opportunity to affect a generation of Americans and make their lives better. This bill means we will ensure they are healthier.

It also means not saddling them with a financial burden they cannot afford. That is why I am very proud to say this bill is completely paid for and will not add one cent to the national debt that will be shouldered by the children. As we work to get this bill signed into law, I will make certain it is paid for, not only because it is the right thing to do for the country, it is the right thing to do for the children.

Unfortunately, there is a very real risk we will fail to seize this historic opportunity. As of today, we have a maximum of 23 legislative days remaining before the current child nutrition program expires on September 30. What many colleagues may fail to understand is that a simple extension of these programs will not be enough. Oftentimes we don't get our work done, and we simply say: Well, we will extend the current law until we can get it done. I pose to my colleagues: We have a good bill. We have an opportunity, a historic opportunity to make a difference. If we don't seize the opportunity, we will have to extend the current legislation. If we simply choose to extend the current program, we are locking in the status quo. We are locking in the rate we pay our school districts for school lunches and meal programs at 1973 levels.

What is more, each State will lose critical dollars they would have otherwise received from this bill. Who will pay the price? Our children will pay the price for our inability to get this done, for our inaction and our unwillingness to take a simple few hours and get something done. Yet knowing what we stand to lose, I can't seem to convince enough folks around here how critically important it is for us to pass this bill. Again, all I am asking for is several hours, 8 hours, perhaps, at the most. I will continue to ask. I will continue to come down to the floor of the Senate until we make this investment in our children.

We have an opportunity to pass something real, something historic, something that is meaningful, that we have taken the regular order and gone through the committee process, that we have done what people want us to do. We have been transparent with our actions. We have paid for this legislation. We have done it in a bipartisan way. We have come up with something that is good and real for the children. We simply need to dedicate the time, the time out of our schedule to get this bill done.

I will relentlessly be pursuing my colleagues. I know they get tired of me, and I know I have become a pest. But when the day is done and we have finished our work, it is worthwhile to have been a pest for something that is such a great treasure to the Nation as our children. We can accomplish this goal on behalf of the children, if we set our minds to it.

This is a bill of which each and every Member can be proud. It is bipartisan, completely paid for and, much more, it provides commonsense solutions to addressing childhood hunger and obesity. In unanimously passing this bill, the Ag Committee made a commitment to the children. Now I ask this body to help us fulfill this commitment by dedicating only 8 hours to passing this historic legislation.

Is that too much to ask? Can we not dedicate those few hours to an effort that will change a generation for the better? I know hard-working parents in Arkansas and all across this great Nation do not think it is too much. There are other parents of school-aged children, like me, some of them who do not have the blessings or the means that I have to be able to care for my children or provide a healthy afterschool snack or to be able to make sure dinner is there for them in the evenings. Those parents love their children as much as I love mine, and they want to see us as a nation recognizing the value of their children to the future of this country.

So I will continue to be a pest. I will continue to badger my colleagues. I will continue to fight to see that this body does right by our kids and passes this legislation and improves the health of the next generation of great Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

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

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

(The remarks of Mr. THUNE pertaining to the introduction of S. 3652 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

DISCLOSE ACT

Mr. SANDERS. Mr. President, even before the Supreme Court issued its disastrous opinion in Citizens United, the influence of large corporations and other powerful special interests in our electoral process was overwhelming. There is a reason why the middle class is disappearing and why poverty is increasing while the people on top are making out like bandits. One of the reasons is the enormous influence big money interests have over the political process and the way they are able to use that influence through campaign contributions and through lobbying efforts. They are all over the place. Whether it is Wall Street, the oil companies, the coal companies, the insurance companies, the drug companies, the military industrial complex, all these very powerful and wealthy special interests contribute huge amounts of money into the political process, making it harder and harder for the significant needs of working families to be heard outside the din and the power of big money.

So, in other words, before this Supreme Court decision on Citizens United, we already had a very bad situation. It was a situation in which it required enormous sums of money on the part of a candidate to run for office, a situation in which it became increasingly common for millionaires and billionaires to be the only candidates able to finance a Federal campaign without heavy reliance on contributions from corporate interests. It is no secret both political parties look very favorably on so-called self-funded candidates. They don't have to raise any money for those candidates because they are multimillionaires and they are billionaires; they can write their own checks—checks which are often very large—in order to run for the House of Representatives or especially the Senate.

So what we had before Citizens United, that disastrous Supreme Court decision, was already a very bad situation. But that decision made a horrendous situation even worse.

The Supreme Court decided, at the beginning of this year, that it was acceptable and legal for the largest corporations in our country to spend unlimited resources supporting candidates who represent their interests, elevating corporations to the status of flesh-and-blood persons for constitutional purposes. So let me make a very bold and radical statement right now. I know many corporations. I know who they are. Let me tell my colleagues: A corporation is not a person. A corporation is not a person. It is totally absurd to suggest that a corporation should have the first amendment rights of individual Americans.

What the Supreme Court decision has done is to turn our media during campaigns into even more of a circus and undermines State election laws across the country that provide some small buffer between wealth and power. They have unleashed the vast coffers of corporate America by allowing them to spend whatever they want—unlimited sums of money—from their general bank accounts, not just their PACs and not just on sham issue ads but on telling people outright which candidate to vote for, something this country has not seen since 1947.

Big money corporate interests from Wall Street to oil giants, from drug companies to the military industrial complex, already dominate the political process in Washington. It is inconceivable to me that not one Republican—not one Republican today—voted to minimize the horrendous Supreme Court decision which will allow corporations to put unlimited funds into campaign advertising with no disclosure whatsoever—no disclosure whatsoever.

I think the American people must be wondering this afternoon what, to our Republican friends, could be wrong with some simple checks on campaign spending such as the following: requiring the CEO of a corporation that spends on campaign-related activity to stand by the ad they have produced and say that he or she ''approves this message.'' If the Presiding Officer was running for office or I am running for office and we put an ad on television, that is what we have to say. I think it is a good idea. If you put something ugly on television, you say: I approved this message. If you put something dishonest on the air, people have a right to know that you are the person responsible for that ad. If you have to be responsible for that ad, if I have to be responsible for that ad, if every other candidate for the Senate has to be responsible for that ad, why should not the CEO of a large corporation that is paying for that ad also have to say that he or she approves this message?

It is no great secret that a lot of money from abroad is being invested in American corporations. In a situation where a company which has a lot of foreign money in it, why should we allow that company to get actively involved in American politics? What the legislation that we voted on today does, which I think makes a lot of sense, is it prohibits a corporation that is under the direction or control of a foreign entity from spending money on our elections. I don't think that is an unreasonable provision. I don't think we want our political process to be dominated by people who may not have the best interests of the people of the United States of America at heart.

Another provision requires disclosure of political spending by corporations and other entities to their shareholders and members and requires these groups to make their political spending public on their Web sites within 24 hours after filing with the FEC. Why should the people who actually own the stock in those companies not be able to know in a timely manner what the CEOs of these corporations are doing so they can say: Excuse me, you can't do that with my money. I don't like that. I think what you are doing is wrong.

Another provision in this legislation would ban coordination between a candidate and outside groups on ads that reference a candidate from the time period beginning 90 days before a primary and running through the general election.

Another provision would avoid the appearance of corruption and possible misuse of taxpayer funds by banning government contractors with a contract worth more than $10 million from spending money on elections.

I think these are simple, straightforward provisions. I think they are right. I have a very hard time understanding how we could not get one Republican vote in support of these provisions.

My hope is that the Democratic leadership will not give up on this issue. I think the American people, before Citizens United, were frustrated and disgusted with the role big money plays in the political process, disgusted with the power big money interests have on influencing legislation, and I think they are now even more disgusted as a result of the Citizens United decision. We have brought forth legislation which I think is straightforward, I think it is sensible, I think it needs to be passed, and I hope we will continue that effort to get it passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

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

IN PRAISE OF ALISON MCNALLY

Mr. KAUFMAN. Madam President, I rise today to recognize another of America's great Federal employees. This will be Federal employee No. 89.

In 1829, a British scientist who had never set foot in our country bequeathed to the American people his estate in order to create ''an establishment for the increase and diffusion of knowledge.'' That he did so is a reminder of what this young country represented to those around the world who yearned for liberty and an approach to government based on wisdom and science.

James Smithson's gift continues to enrich Americans' lives to this day in the form of the Smithsonian Institution. The millions of Americans who have visited the 19 Smithsonian museums, the National Zoo, and the over 150 affiliated institutions can attest to the value of the Smithsonian. Since its founding by Congress 163 years ago next month, the Smithsonian Institution has helped expose the American people to the arts and sciences.

Some of its museums have been traditional stops for families to bring their children when visiting Washington, such as the Air and Space Museum, the National Museum of American History, and the National Portrait Gallery. Many of us here can recall exploring them in our youth.

I can remember when I lived in Washington for 2 years after the Second World War. We didn't visit anything, and then, in the last 2 weeks, my mother took me and my sisters and we went on a tour of all the different museums in town. It was fantastic, and it is even much better today.

Other Smithsonian museums have joined them in recent years or are under construction today. The National Museum of the American Indian—a beautiful new building with wonderful, educational exhibits—is celebrating its 5-year anniversary.

The successful operation of this network of museums and galleries and the preservation of its treasures relies on the more than 4,000 dedicated Federal employees on its staff. There are dedicated, smart, hard-working employees on the Smithsonian staff.

Alison McNally is one of them—and a great one at that. As the Smithsonian's Under Secretary for Finance and Administration, Alison supervises a number of departments, including: the Office of Facilities Engineering and Operations, the Office of the Chief Financial Officer, the Smithsonian Archives, the Office of Human Resources, and the Office of the Chief Information Officer.

In this capacity, she plays an important role in the day-to-day operations of the Smithsonian, helping to ensure that it continues to provide the services Americans and foreign visitors have long enjoyed. Earlier, Alison served as the Smithsonian's senior executive officer in the office of the Under Secretary for Science. In that position, she directly oversaw a number of scientific research support programs.

Alison has been with the Smithsonian Institution since 2005 and previously spent twenty-four years working at NASA. There, she served as Deputy Associate Administrator for the Management of the Science Mission Directorate. From 2002–2004, Alison was the Associate Director of NASA's Goddard Space Flight Center.

Throughout her career in public service, Alison has consistently demonstrated a keenness for public administration and successful management.

She holds an undergraduate degree in Human Development from the University of Connecticut and a master's of social work from Columbia University. She has pursued additional study as well at the Simmons College Graduate School of Management and Harvard's Kennedy School of Government.

Madam President, I hope my colleagues will join me in thanking Alison McNally and all those who work at the Smithsonian Institution for their service to our Nation.

They are all truly great Federal employees.

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.

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

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

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

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

REGULATORY CAPTURE

Mr. KAUFMAN. Madam President, the story of regulatory failure surrounding the Deepwater Horizon oil-spill by now is all too well known. The Minerals Management Service, called MMS, the now defunct agency that had been charged with assuring that drilling off America's coast was safe, environmentally responsible, and a reliable revenue source for the taxpayers, became the single most recognizable example of regulatory capture in U.S. history.

Regulatory capture is when a regulatory agency permits its judgments to be clouded by the narrow economic interests of the industry it is supposed to be regulating. It is the absolute opposite of how regulators should work, which is to safeguard the greater and broader interests of public health, safety, and prosperity against often complex, powerful, and narrowly minded industries.

Regulatory capture can happen for a number of reasons. First, regulatory capture can happen where the revolving door constantly shuttles individuals from the private sector to the regulator and vice versa. Regulators may be compromised by the implicit promise of lucrative employment should they only look out for the industry during their watch. It is this indicator of regulatory capture at MMS that the Washington Post described in such shocking detail in last week's front-page story.

Seventy-five percent of oil lobbyists formerly held jobs in the Federal Government. Randall Luthi, who directed the MMS from 2007 to 2009, is now president of the National Ocean Industries Association, the trade association for producers, contractors, engineers, and supply companies that explore and drill for oil and natural gas in offshore waters.

According to the Department of Interior inspector general's report, one examiner conducted safety checks at four rigs owned by one company, while at the same time negotiating for a job for himself with the very same company.

It also works in both directions. According to an MMS district manager, almost all MMS inspectors had previously worked for oil companies on the same platforms they were inspecting.

As Ken Salazar testified last week before the House, he is aware of the problems caused by the revolving door and is taking steps to address it. And I know he will. Michael Bromwich, who directs the Bureau of Ocean Energy Management—the successor to the MMS—has also pledged to beef up cooling-off periods which restrict the ability of former oil regulators to seamlessly flow directly from government into a high-paying industry job.

Poor funding, morale, or training for regulators can also play a role in regulatory capture. This, too, may have played a part in the ineffectiveness of MMS. During the prior administration, the workforce at MMS shrank by approximately 8 percent, even as offshore minerals exploration leases and acres leased increased by 10 percent over the same period. Leases go up by 10 percent, employees go down by 8 percent. That does not seem to make sense, but it fits into the idea of regulatory capture.

A third factor that may lead to regulatory capture is if a regulator is responsible for just one industry, such as MMS was responsible for only regulating the exploration activities of oil companies. Industry groups with a laser-like focus can lobby single-industry regulators, whereas the public's interest is likely to be much more diffuse. In addition, the revolving door may be amplified for a single-industry regulator because the regulators have relatively few options for seeking private sector employment after they leave the single-industry regulator.

Mr. Bromwich has also been quick to recognize the problems caused by having such a small and captive pool of inspectors. As he works to make the job of oil rig inspector more attractive, Congress should support these efforts as an effective way to counter regulatory capture.

Vague statutory lines drawn by Congress, as well as loose oversight, are a fourth contributor to regulator capture because they give captive regulators plenty of room to stretch and contort the law without necessarily breaking the law or even having to explain their actions.

Finally, complex industries, large masses of proprietary data are also able to control the flow of information to the regulators—information that will form the basis of regulation and enforcement, thereby precluding effective regulation.

We have a business that is very complex. There is a lot of information flowing. It is more and more difficult for the regulator to keep track of the information they need to do their regulation and enforcement.

While I have heard colleagues and commentators argue that Secretary Salazar did not do enough fast enough to reverse the problem of regulatory capture in time to avert the BP disaster, these myopic criticisms ignore the deep and lasting damage that Secretary Salazar found when he arrived done by many of our regulators in the previous administration.

During the last administration, a deregulatory mindset captured our regulatory agencies. They became enamored of the view that self-regulation was adequate—that was throughout the government—that rational self-interest would motivate counterparties to undertake stronger and better forms of due diligence than any regulator could perform, and that market fundamentalism would lead to the best outcomes for the most people.

When the regulators themselves feel the best regulation is no regulation at all, when a laissez faire mindset causes the regulators to be deeply distressful of curbs on any industry practice, then regulatory capture is all but ensured. During these 8 years, Congress's failure to conduct vigorous oversight was particularly damaging as well.

What we had was a situation where we basically pulled the referees off the field and did not even watch what was going on and what happened.

This deregulatory mindset, more than any other factor, explains why we have suffered so many examples of failed regulation in recent years, especially in our financial sector and oil and mineral industries.

It is interesting that I hear colleagues on the other side of the aisle say: The government didn't do this right; the government didn't do right in the oil thing. How could they when the last administration took us completely out of the oil regulation business? How did everything happen on these sites without an inspector there to check that the batteries were working, to see that inspections were carried out.

The Federal Government was denuded of any ability to do anything once the spill developed, once the leak started because we believed the reports that were put out by the companies. No one looked at them and said: Don't

worry, this will never happen. And if it does, we have a plan. Remember, that was the plan that was talking about how we were going to have to look out for the walruses. Remember?

I do not understand how one can be critical of Secretary Salazar when we saw that he came into an office where there was no regulation and where the regulators were totally, completely captured by the business. As we learned over the last 2 years, when regulators fail, it is the American people who pays the price.

When President Obama was inaugurated, therefore, he inherited executive agencies that had been weakened by 8 years of atrophy and neglect.

Another example is the Office of Thrift Supervision. It is a wonderful example of how regulatory neglect in the financial sector led us to an economic and financial crisis.

Listen to this. During the Bush administration, over 20 percent of the full-time equivalent positions at OTS were eliminated. Why did we need OTS inspectors if we did not believe we needed regulation?

This decrease in funding for OTS personnel, while striking, is not the heart of it. It does not reveal the scope of the rot in the agency. For that, one needs to examine how those regulators acted. And I suggest to everyone Senator LEVIN's Permanent Subcommittee on Investigations hearings that he chaired that went into detail what actually happened to the Office of Thrift Supervision.

As established in those hearings, Washington Mutual, better known as WaMu, comprised as much as 25 percent of the assets under OTS regulation. Moreover, WaMu contributed between 12 percent and 15 percent of OTS's operating revenue through the fees it paid.

Think about this. The largest institution you are regulating covers over 25 percent. Even though WaMu was the most significant and largest institution under its regulation, regulators allowed shoddy and even fraudulent lending to occur under their noses without taking remedial, corrective action or any significant enforcement measures.

Listen to this. The Office of Thrift Supervision sat by as up to 90 percent of the home equity loans underwritten by Washington Mutual were comprised of stated income or so-called liar loans. A stated income or liar loan is where I come in for a loan, the loan officer says to me: Senator KAUFMAN, what do you make every year? And I say: $1.6 million. They write it down. Nobody asks for a W–2 form. Nobody asks for any further information on it. They just take my word for it.

Can you believe that an institution could make liar loans that were 90 percent of their home equity loans? Ninety percent of the loans they took, when people came in and said what their income was, they never asked for a W–2 form. They never asked for any further information.

Still worse, if that is hard to believe, OTS was captured to such a great degree that it lobbied other regulators to weaken nontraditional mortgage regulations. Not only were they not looking at their businesses, the largest thrift institutions, they were trying to stop other regulators from doing it.

As if to give further evidence of its capture, OTS even went so far as to thwart an investigation into WaMu by the Federal Deposit Insurance Corporation, a secondary regulator, that could have put a stop to some of WaMu's unsustainable business practices before they did so much damage.

OTS and WaMu are just the beginning of the story, however. The problem of capture spread beyond the thrifts to those responsible for regulating Wall Street, where many of the top cops during this time were either former industry insiders or committed to deregulation and self-regulation.

As MIT economist Simon Johnson has termed it, a ''financial oligarchy'' has arisen that moved seamlessly between the private and public sectors leaving an indelible mark on the financial industry landscape in a way that tends to enrich those very oligarch and their friends.

The negotiation of the 2004 Basel II Capital Accord was emblematic of this cozy relationship. As part of these discussions, the Fed was a principal architect of a regulatory framework that would allow banks to determine capital requirements based on the judgment of the ratings agencies and their own internal models.

By outsourcing their regulatory responsibilities to the banks that they were supposed to regulate, the Fed and other bank supervisors made an implicit admission that the size and complexity of megabanks had exceeded their comprehension.

Although the Basel II Accord was not fully implemented, it effectively was applied to large investment banks. While the SEC normally regulated these firms, the Commission had no track record to speak of with respect to ensuring the safety and soundness of financial institutions. The Securities and Exchange Commission allowed these investment banks to leverage a small base of capital over 40 times into asset holdings that in some cases exceeded $1 trillion.

The head of Bear Stearns said his biggest problem was that he was allowed to expand his capital base.

When the bottom fell out of the market, the funding engine powering the investment bank business model seized up. Lehman Brothers and Bear Stearns were forced into bankruptcy and the other major investment banks faced an existential crisis.

Lehman Brothers was forced into bankruptcy and Bear Stearns was taken over by JPMorgan Chase. At the end of the day, as we all know, the American taxpayer was left holding the bill for the cost to stabilize the financial system.

Basel II's treatment of capital adequacy standards is just one telling example of regulatory capture. Federal regulators also failed to strengthen consumer protection regulations in the lead-up to the crisis, despite the explosion of the subprime market and warnings from many quarters on the frequent incidence of predatory lending practices.

Hence, just like leverage ratios, regulators allowed underwriting standards to erode precipitously without strengthening mortgage origination regulations.

Wall Street regulation is compromised by another problem—the utter dependence of regulators on the regulated for information. This closed loop depends on the unrealistic assumption—listen to this—that industry will provide regulators with an accurate data stream, even when it is the direct detriment. Too often, however, industry comes up short, and without access to meaningful data, objective analyses cannot be developed by academics, consumer advocates or the media.

A good example of this is high-frequency trading, which has grown rapidly over the past few years free from regulatory structure. Basically, it has gone from 40 percent to 70 percent of all trades that are now done by high-frequency trading. Pending finalization of the April 14 large trader rule, the SEC hasn't been collecting meaningful data about high-frequency trading—listen to this—including information on the identities of individual traders.

Even when implemented, the data will remain between the SEC, the trading firm, and the firm's broker-dealer, thereby eliminating the ability of any objective party to check the Commission's work to make sure it is doing its job of ensuring market credibility.

The recent SEC roundtable discussion on market structure issues is a perfect case in point of regulatory capture. Roundtables are designed to publicly air a diversity of views pertaining to potential regulations. These roundtables are supposed to be where a bunch of people get together with different views that represent all the views and talk about potential regulation. However, the panel that was set up on high-frequency trading, as I said in a speech on May 27, promised to be so completely one-sided and ''in favor of the entrenched money that has caused the very problems we seek to address that the panel itself stands as symbolic failure of the regulators and the regulatory system.'' Look at that panel. See who was on it, and you could see regulatory capture right before your eyes. Thankfully, the SEC agreed to make some modifications to the panel but concerns still remained.

At the opening of the panel, SEC Commissioner Luis Aguilar noted in his opening statement:

> I am disappointed that our Roundtable is not constituted to showcase the full breadth of relevant voices. And I am concerned that

as a result, today's discussion will not bring to light how conflicts of interest, and particular business models, may influence the various views we'll hear today.

Commissioner Aguilar, I couldn't agree with you more. To rely on those who have benefited from the status quo to point out the very regulatory imperfections that allowed them to prosper is to doom the regulatory process from its inception.

As we emerge from this period of regulatory abdication and begin to rediscover the vital role regulation must play in ensuring fair competition and a level playing field, it will take strong leadership and determination in the face of constant industry resistance to retake the initiative in our regulatory agencies for the good of the American public.

Some commentators have looked at the record of regulatory failure and have argued that all regulation is inherently prey to capture. Regulatory capture is a fact of life, they say, and we should therefore endeavor to have as little regulation as possible. Think about that now. Regulatory capture is a fact of life, and they say we should therefore endeavor to have as little regulation as possible. Let's let the industries run it all is essentially what they are saying.

This position ignores the commonsense solutions to regulatory capture, however. Open publication of regulatory data, for example, could allow academic scrutiny and mitigate the problem of the closed loop. Strict ethics rules could mandate cooling-off periods so regulators do not take proprietary information to their new employees. It seems like common sense, right?

Congress can draw clear lines that empower regulators to act for the public interest and minimize vague mandates that can be exploited by shrewd companies. Vigorous congressional oversight can hold regulators accountable before their agencies are too far gone to the problem of capture. Agency employees should be paid fairly and treated with respect so they are not tempted to compromise their judgment in hopes of earning a lucrative industry job.

This country has a long and proud history of successful Federal regulation—a long and proud history of successful Federal regulation. In large part, the safety of our food, our roads, airspace, workplaces, and so many other things is due to successful Federal regulation. Our continued prosperity depends on continuing to have good, positive, well-done regulation, strongly and intelligently done, for the good of the public.

The final Wall Street reform bill is a case in point. It invests enormous responsibilities and discretion into the hands of the regulators. Its ultimate success or failure will depend on the actions and follow-through of these regulators in the years to come.

Congress has a vital role in overseeing the enormous regulatory process that will now take place. I have talked about this before. Congress's role in this is key. We are talking about a lot of regulations down the road. It is up to Congress to do its oversight responsibility. This will include ensuring that the regulators have adequate resources and staff, that the regulations reflect wide and objective input, and that the failed experiments of deregulation and self-regulation are put to an end.

Industry and big business have already begun their counterattack. Already they have begun their counterattack. Daily, we hear that the economic recovery is being slowed by uncertainty about Federal regulations. This argument, which went on for a number of years, might have been plausible a few years ago. I might have stopped to listen to it. But after the massive financial failures and oilspills, it rings empty to me.

I am certainly not a fan of overregulation. I think one of the problems of not having regulation is that when we do regulate, we overregulate. We do not need overregulation. But the complaint that we are starting down the path of overregulation is plainly overstated, to say the least—especially after industry malfeasance and regulatory complicity cost so many Americans their jobs, their homes, and their way of life.

How can we look at what has happened out there now; how can we look at the people unemployed and the people who have lost their homes and say we should go back to the way things were and continue with no regulation and have another incredible meltdown? Unfortunately, some in big business will always complain about having to follow the rules. But without effective rules and rules that are effectively enforced, we are all certain to bear, once again, the cost inflicted upon us by the next industry-caused disaster.

Never again can we allow our environment and our economy to be entrusted to agencies that serve no purpose other than to provide a false sense of security. Lip service, we have found, does not work. Our leadership, the Congress and our regulatory agencies, must walk the walk of enforcement while keeping regulatory capture to a minimum. Our government exists to do no less, and the American people deserve no less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Ms. CANTWELL. Madam President, I wish to thank my colleague, the Senator from Delaware, for his remarks on important banking issues and for his diligence in trying to continue to focus on the need for financial regulation.

I agree there were definitely winners and losers in the process in 2008. That probably shouldn't have been done that way. So I thank him for his comments on that, and, yes, Congress needs to play a larger oversight role.

One thing we need to do now is to make sure we are moving forward on the small business package that is in front of us. We had an important vote last week to make sure we are increasing access to capital for small businesses by helping them recapitalize. I am already receiving calls from small businesses and organizations in my State. One I received is from the central part of our State from a lender who said:

> We would absolutely use the funds for small business lending. Our bank has a backlog of $50 million to $70 million in loan requests which is counter to statements of soft loan demand. We have reduced our lend to preserve capital as expected by the regulators. This legislation would give us the capital to significantly increase lending.

So that is what we are hearing from financial institutions; that this is a critical piece of legislation to move small business lending.

Another component of the bill is a provision to enhance the loan guarantee program—the 7(a) and the 504 lending program, the Recovery Act, and subsequent extensions providing funding authority to reduce loan fees from borrowers and to increase the 7(a) guarantees.

Just this morning, a constituent of mine called saying he had made some hires in January and was trying to continue to grow his business but wasn't able to get access to capital. So he certainly wants to see this program and its enhancements.

These enhancements to the SBA programs expired at the end of May. So this is so timely that we move ahead. In June, approved loans from the SBA fell two-thirds, from $1.9 billion down to just $647 million. So that is a drop of $1.2 billion in loans to small businesses. It was the worst month for SBA lending in a number of years.

So that is where we are. We have banks calling in saying they need access to capital, we have a program that can help, and we have an SBA program that has fallen off and needs to be implemented. So we need to pass this small business legislation. The longer we delay, the longer constituents all across the country and small businesses will be starved for the capital they need to grow jobs.

I wish to give an example because in my State we have over 140,000 small businesses that have employees; that is, in addition to the owners. Since this recession began in 2008, our State has lost over 142,000 jobs. So if each of those small businesses just hired one more employee, it would more than wipe out the jobs lost in the State. So this kind of job growth—one employee per small business—would be a huge economic boost to our economy.

I hope my colleagues will want to move forward on this legislation as soon as possible. There are 27,000 small

businesses in America, and small businesses were the hardest hit by the recession. Two-thirds of the job losses we saw came from small businesses. Seventy-five percent of new job creation comes from those small businesses.

This bill, besides the SBA program and the Small Business Access to Capital Program, addresses the depreciation rate for capital, another thing that many people say will help investment in small business equipment and manufacturing and help us restore jobs.

We know what our opportunities are. We can move ahead on this legislation, with this bill that includes these small business tax cuts and access to capital and expansion of this critical small business program or we can continue to stymie what creates the real economic job growth of our economy—small business.

I urge my colleagues to support moving ahead on this legislation. Let's not delay another day. Wall Street certainly got its due. It certainly got help and support from many in the previous administration. Let's make sure that small business and Main Street get the support they deserve to move ahead.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, I ask unanimous consent that all pending amendments be withdrawn on the bill that is now before the Senate.

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

Mr. REID. I ask unanimous consent the cloture motions be withdrawn.

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

AMENDMENT NO. 4519

Mr. REID. Madam President, Senators BAUCUS and LANDRIEU have a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. BAUCUS, and Ms. LANDRIEU, proposes an amendment numbered 4519.

Mr. REID. I ask further reading of the amendment be dispensed with.

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

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

Mr. REID. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4520 TO AMENDMENT NO. 4519

Mr. REID. Madam President, I have a first-degree perfecting amendment that is now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. REID) proposes an amendment numbered 4520 to amendment No. 4519.

Mr. REID. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 10 days after enactment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4521 TO AMENDMENT NO. 4520

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4521 to amendment No. 4520.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

In the amendment, strike ''10'' and insert ''5''.

AMENDMENT NO. 4522 TO AMENDMENT NO. 4519

Mr. REID. I have an amendment at the desk to the language proposed to be stricken. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4522 to the language proposed to be stricken by amendment No. 4519.

Mr. REID. I ask unanimous consent reading of the amendment be waived.

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

The amendment is as follows:

At the end of the language proposed to be stricken, insert the following:

This section shall become effective 6 days after enactment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4523 TO AMENDMENT NO. 4522

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4523 to amendment No. 4522.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

In the amendment, strike ''6'' and insert ''4''.

CLOTURE MOTIONS

Mr. REID. I have two cloture motions at the desk to the substitute and the bill, and I ask they be stated.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid-Baucus substitute amendment No. 4519 to H.R. 5297, the Small Business Lending Fund Act of 2010.

Harry Reid, Max Baucus, Edward E. Kaufman, Amy Klobuchar, Mark R. Warner, Jeff Merkley, Jack Reed, Jon Tester, John D. Rockefeller, IV, Dianne Feinstein, Daniel K. Akaka, Sherrod Brown, Barbara A. Mikulski, Patty Murray, Jeff Bingaman, Debbie Stabenow, Bill Nelson, Carl Levin.

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Mr. REID. I ask unanimous consent the mandatory quorums required under the rule be waived.

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

MOTION TO COMMIT WITH AMENDMENT NO. 4524

Mr. REID. I have a motion now at the desk to commit with instructions. I ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill to the Finance Committee with instructions to report back forthwith, with an amendment numbered 4524.

The amendment is as follows:

At the end, insert the following:

The Finance Committee is requested to study the impact of changes to the system whereby small business entities are provided with all opportunities for access to capital.

Mr REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4525

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment (No. 4525) to the instructions of the motion to commit.

The amendment is as follows:

At the end insert the following:

''and the economic impact on local communities served by small businesses.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4526 TO AMENDMENT NO. 4525

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4526 to amendment No. 4525.

The amendment is as follows:

At the end, insert the following:

''and its impact on state and local governments.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I appreciate the opportunity to speak with my colleagues on the floor about jobs, job creation, opportunities that are there that are here now, and things we need to do.

I report to my colleagues the report came out yesterday from the Brookings Institute, citing exports and export opportunities that we have. They were pointing out that the President rightfully, in the State of the Union Message, called for a doubling of exports by the United States in the next 5 years. They were looking around, studying where is this possible for it to be able to happen. What are the possible communities to see this happen?

The Brookings Institute came out with a report yesterday that it released, and cited four metropolitan areas that doubled the real value of their exports between 2003 and 2008. One of them is Wichita, KS, and the aviation cluster—doubling its exports based primarily on aviation and the aviation industry. I congratulate Wichita and my State for what it has done to expand exports in essentially—a good portion of this being essentially a home-grown industry, general aviation. These are smaller aircraft, business aircraft, that travel to many of the airports throughout this country, and now airports throughout the world, that are not served by commercial aviation. Of the 5,000 airports nationwide, only 500 are served by common carriers that would be going out from different cities across their countries and our country. But that is only 10 percent of the airports that are connected that way. The rest have to be connected by business aviation, by products made in Wichita.

We make both large aircraft and small general aviation products—both of those—but particularly many of the general aviation products are made in my State, and this is an industry that is a home-grown one that we can grow and we can build exports on. Brookings cited to it yesterday. They pointed out that 40 percent now of the U.S. production of general aviation aircraft is going overseas.

Madam President, $150 billion of the U.S. economy is based on general aviation, the smaller business aircraft employing 1.2 million people in the United States.

The problem with this is that earlier this year the administration had attacked a lot of business aircraft and business aviation, saying this is not useful, squandering resources, when in fact it makes efficient use of resources and it is a home-grown business that is now exporting 40 percent of its product and is one of the leading clusters in the country to push exports which we need to have a lot more of, and export-related jobs.

I ask the administration and I personally invite the President to come to Wichita, KS, to see the business aviation, to see the general aviation business for himself, to see the fine products produced by Bombardier Learjet, Cessna, Hawker Beechcraft Corporation—those companies that are producing these excellent aircraft, and to help this business grow.

I also point out to my colleagues and to the administration that this is an industry that has been targeted by other countries for takeover. This is the same sort of thing that is starting to happen on general aviation that happened on the large-scale airliners when Airbus was built by government money in Europe to take on and build large airliners and take that business away from Boeing, McDonald-Douglass, Lockheed Corporation. Airbus succeeded in knocking two of those entrants out of the field, where they do not make large aircraft any longer and only Boeing is left and we recently won a large trade case against the European Union and Airbus for its heavy subsidization that it has had by the European Union to get to that marketplace and to steal market share from U.S. production. That is what has taken place in the large-scale aircraft business.

What is now setting up is many countries around the world are looking at getting into smaller aircraft, and mid-size aircraft, I believe, subsidizing their way into this marketplace to take those jobs and those opportunities to other countries around the world.

Embraer Air in Brazil is one that has had a fast expansion taking place in the small- and mid-size aircraft market, defying the market logic at the present time, that it has been a difficult marketplace. They have expanded the number of aircraft and they have expanded the number of different types of aircraft that they produce, all in a marketplace that has been under a great deal of difficulty in the last several years. I call on the administration to, No. 1, be supportive of this industry—I invite the President to come to Wichita—and, No. 2, to start looking at what other countries are doing to bid into this marketplace and to take these jobs from the United States by subsidizing these jobs with their foreign treasuries. That is illegal under the World Trade Organization. We need to be aggressive in our country in protecting this key export industry that is being targeted for attack by other countries around the world.

We will be putting forward more information on this as this develops further. I am going to be contacting the U.S. Trade Representative's office about looking into these practices of other countries. I meet regularly with people who lead various companies in the business aircraft marketplace and they are talking constantly about China looking at this, Brazil going into this market space—other countries lining up with different products to go after this home-grown, successful, now export-oriented business in the United States that connects the other 4,500 airports that do not have commercial service.

This is a big issue. I congratulate Wichita for its growth in exports, being one of the leading cities in the world—certainly in our country and in the world—in exports. I ask the administration to support this home-grown industry. I ask my colleagues to look at this as well.

I further point out when we look at military aircraft, certainly the big tanker contract that has been such a controversy around here, that we do not give those jobs to overseas companies such as Airbus that is bidding on the tanker contract but, rather, that those jobs be done here and not subsidized and bought by other countries around the world. Let's not let it happen in the large-scale commercial market. Let's not let it happen in the tanker business. Let's not let it happen in general aviation. These are high-wage, high-skill manufacturing jobs that we need in the United States, that we have in the United States, and we should not let them be stolen by practices overseas that are not legal under the World Trade Organization.

I yield the floor.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent to speak as in morning business.

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

NATIONAL RENEWABLE ELECTRICITY STANDARD

Mr. UDALL of Colorado. Madam President, I rise today to urge us here in the Senate to seize an opportunity that is critically important to our Nation's economic recovery and our long-term energy future by establishing a National Renewable Electricity Standard which is known in the industry as

an RES. We will without a doubt spur a new clean energy economy.

Many of my colleagues here in the Senate agree with me. My colleague from Kansas has been a leader on the need for a renewable electricity standard, and this week he has made a call to all of us to join him in promoting one.

Let me also specifically thank Senator DORGAN from North Dakota and Senator TOM UDALL from New Mexico for joining me to urge adoption of the strong Federal RES. Establishing energy security, perhaps above any other issue, will assure our Nation's future success. Quite simply, a 21st century clean energy policy is essential to our Nation's economic growth, it is essential to creating jobs now and into the future, and it is clearly the linchpin for our national security. The philosopher Santayana famously wrote, ''Those who cannot remember the past are condemned to repeat it.''

If I can turn that saying on its head a little bit, I wish to review what happened in Colorado in the hopes that we can repeat it across our great country. Back in 2004, Colorado took a big step forward and embraced the emerging clean energy economy.

In that year, I led a bipartisan ballot issue with Republican former Speaker of the Colorado House Lola Spradley in a campaign to convince the voters of Colorado to approve a State-based RES that would harness renewable resources such as the Sun, the wind, the heat that comes out of the Earth called geothermal.

We barnstormed the State over and over again, the two of us, a Republican and a Democrat. We spoke to anybody who would listen to us. There was a lot of industry opposition to an RES, and there were dire predictions that it would cost consumers money and it would damage Colorado's economy. They were familiar arguments. I had heard them before, and I had witnessed defeat on this issue before. The Colorado legislature had voted against an RES four different times, including my bill back in 1997, to establish an RES when I was a member of the Colorado house.

We could not convince elected officials to vote for an RES at the State house, and in our State senate. But Colorado voters understood the value and the promise of renewable energy. In the end, in that campaign in 2004, they approved what we called Amendment 347, and it established a target that 10 percent of Colorado's electricity would come from renewable energy resources by 2015.

In so doing, we became the first State to create an RES by a voter-passed initiative. This clearly defined goal, this clean energy goal, inspired us Coloradans to rise to the challenge. In 3 years, we had given ourselves over 10 years to meet this challenge. We were on pace to meet that 10-percent RES goal. We were well ahead of schedule. Our legislatures saw this rapid success, and they decided to take the bull by the horns. They approved an increase to 20 percent by 2020, which was another aggressive but a reachable goal. By that time, Xcel Energy—I know the Presiding Officer and I talked earlier today about utilities and the important role they play in our States—Xcel Energy, which is a major Colorado utility that opposed the RES in 2004, fully supported this increase to 20 percent by 2020, because they saw that renewable energy sources can provide clean, cost-effective energy to their customers.

By the way, it turned out it was good for business. Xcel is now the Nation's No. 1 provider of wind energy, and a leading proponent of a strong RES. But we were not done. Earlier this year the Colorado legislature approved and our Governor Bill Ritter signed a bill to increase the RES even further, 30 percent by 2020.

That makes our standard, our RES, the second most aggressive one in the Nation, just behind California. I put up a chart here to show the viewers how many States have renewable electricity standards. I see the Presiding Officer's home State right there, down in the lower left corner. Over two-thirds of the States have an RES or renewable energy goal.

I know if we here in Congress can act and start by thinking boldly and then act, and learn from the success of our State and all of the other States on this map, our Nation can position itself to take the lead in the new global clean energy economy.

I know some still want to look backward instead of forward and continue to offer dire predictions that an RES would cost consumers, be too expensive, or kill jobs. But I have to tell you, in Colorado those predictions turned out simply to be false. In fact, the opposite was proven true. With an RES in place, our economy, our clean energy economy, sparked to life. We have had clean energy companies sprouting up all across our State, creating sustainable American jobs, jobs that cannot be outsourced.

I want to share a couple of the examples with the Senate. SMA Solar, which is one of the world's lead producers of solar inverters, established manufacturing facilities in Colorado. Abound Solar, which is a successful thin-film solar company, spun out of Colorado State University, our land grant university, opened a manufacturing facility in Longmont, CO, creating hundreds of jobs in that community. This month, they announced they are going to expand their facility.

Vestas, the world's largest manufacturer of wind turbines, has also taken root in our great State and has created over 1,000 highly skilled manufacturing jobs at its three Colorado factories since 2007. They recently announced a major hiring initiative to employ hundreds of additional workers at their three Colorado factories in the next 12 to 18 months.

The good news as well is that the presence of a company such as Vestas, which is manufacturing, is that you then attract supply chain businesses. An example of such a business is Hexcel Corporation. They have established a manufacturing facility in Windsor, a nice Colorado town up in the northeastern part of our State. They produce carbon fiber and other components for Vestas right in our back yard.

So as you can tell, these are clear examples of how an RES can create jobs and growth in our economy. In fact, if you look at the numbers in Colorado, we have created nearly 20,000 new jobs in my State since 2004 tied to this RES.

Estimates about the solar energy requirement—that is a subset of amendment 37—have brought in nearly 1,500 jobs. So we are aggressively installing solar panels and producing electricity on the roofs of peoples' homes and businesses. These stories abound all over Colorado.

In my mind, the question then becomes—it is an obvious one—how can we replicate the success that Colorado has had on our national level? It obviously helps to be blessed with the natural resources that we have in our State. All of our States are created differently with different resources.

I know this particularly lands in front of my colleagues. My colleagues from the South are tracking this issue very closely for that reason. They have concerns that their States do not have enough renewable energy resources to meet a national RES without electricity prices increasing.

I wanted to share with my colleagues a report released this week by the Nicholas Institute at Duke University, which found that the South has more renewable resources than expected, and could reasonably receive 15 percent of its electricity from wind, biomass, and solar energy by 2020, and without an increase in electricity costs.

I know this is one study. But as we have seen in Colorado, renewable resources are only one part of the equation. Once there is a market in place, and our utilities become familiar with renewable energy, meeting an RES becomes increasingly achievable. In fact, recent analysis indicates that wind, geothermal, and biomass are already cost competitive with traditional electricity production.

The result, in many situations, is the costs across the country then are leveled. It affects each and every one of our utilities and therefore consumer rates. We can change how we generate and approach energy use to take full advantage of renewable energy resources in each of our States, and then we create new markets and business opportunities out of this clean energy focus, and that truly is a clean energy future.

This is an enormous economic opportunity for us in the 21st century. The global demand for clean energy is growing by $1 trillion. That is almost a number I cannot get in my head, $1 trillion every year. The lesson to be

learned from Colorado is that an effective RES, a real RES, can unleash the American entrepreneurial spirit.

I believe it is our job in the Senate to pursue these sorts of forward-looking policies that will help America seize and lead this growing market. Again, I want to urge my colleagues to support the strongest possible RES in any energy legislation that is brought to the floor this year.

I have alluded to the hesitation that some of my colleagues have felt about a robust RES. I saw that in Colorado firsthand for many years. It is tempting to dip your toe in the water when it comes to renewable energy. But make no mistake, we are in a race against foreign competitors, and we are being left behind. The Presiding Officer and I recently returned from China where we discussed clean energy issues with American businesses located there. And China, we found out, will soon be the owners of the largest wind and solar-powered facilities. They are pursuing renewable energy and clean energy technology so ambitiously, not because they necessarily want to save the planet, but because it makes good business and economic sense.

This week, we heard that China's energy use has surpassed ours for the very first time. But I have to tell you, in my opinion from what I read and hear, they are taking more bold action to address their growing demand than we are. Then they also announced last week that they are considering plans to invest $738 billion over the next 10 years in clean energy development. That is nearly the entire size of our Recovery Act that we put in place last year in the United States. Just imagine, their economy is using a comparable amount of energy, but they take clean energy so seriously that they plan to invest a stimulus-size amount of money solely in renewables. I saw it firsthand. And to use a well-worn term, they are about ready to eat our lunch when it comes to clean energy.

I do not want to miss this historic opportunity to implement a strong RES, so let me take a few more minutes to explain what standard I believe we must meet. I want to put a chart up here to show what different levels of percentages would mean for job creation. When you set a standard, you want to set it at a level you can be proud of and one that would spur innovation and the creativity to achieve it.

Senator TOM UDALL and I filed a bill last year in the Senate which had previously passed in the House, where we served, mandating an RES of 25 percent of renewable electricity by 2025. That is this side of the chart here. Senator DORGAN has recommended a similarly aggressive standard.

Why is it important to aim for these ambitious levels? Well, looking again at the chart, if we were to invest wisely in a robust RES, a recent Navigant report estimates that the U.S. economy could add nearly 275,000 jobs. These are excellent paying jobs. They cannot be outsourced, and they support this concept of energy independence.

I cannot think of a better deal than this for Americans. Make no mistake about it, our country must have an all-of-the-above energy policy. Conservation and energy efficiency efforts are the quickest way to reduce energy demand today. Nuclear energy and natural gas can and should fill a larger share of our energy portfolio as they both are cleaner fuels.

In addition, we all know that America is going to be dependent on fossil fuels for years to come, so all of those have to be in our energy mix. We have to acknowledge those facts in order to embrace 21st century solutions. But when you look at the future demands for clean energy and economic opportunities ahead of us, renewable energy holds the greatest promise.

The more homegrown renewable energy we can produce, the less money we need to spend buying oil from foreign nations that wish to do us harm or do not agree with our principles or values. I do not think anyone—I hope—I do think not anyone in this Chamber can argue with the proposition that we should be moving aggressively toward energy independence.

As I begin to close, it is time we make a concerted national effort to reclaim our position at the front of the pack. Many of the technologies that the Chinese are utilizing, the Europeans are utilizing, and other nations around the world, we developed in the 1970s and 1980s. But we have got to get back to the front of the parade, where we harness the wind and the Sun and other renewable resources here in America and we put Americans to work developing, building, and leading the clean energy revolution.

I urge and ask my colleagues to work with Senator DORGAN, Senator UDALL of New Mexico, and me and the many others who have joined us in this effort to have a strong renewable electricity standard. With all humility, let's follow Colorado's successful example, and let's adopt a clean energy policy that drives innovation, inspires entrepreneurs, and delivers commonsense American solutions to meet our 21st century energy challenges.

I want to close on a final note. I wanted to acknowledge that a wonderful young man, my energy fellow, Kelly Knutsen, who is in the Chamber right now, is leaving my office to join the office of Senator REED of Rhode Island as a legislative assistant. I wish to thank him for his work in my office, especially for his help on several bills I introduced this year, including my SUN Act and my E-Know bill. Although we will miss him, I know Kelly will be a very strong asset for Senator REED and Senator REED's focus on energy policy as well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

MORNING BUSINESS

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

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

REMEMBERING CLARENCE WOLF GUTS

Mr. JOHNSON. Mr. President, today i pay tribute to Clarence Wolf Guts who passed away on June 16, 2010, at the South Dakota State Veterans Home at the age of 86. Clarence was the last surviving Lakota Code Talker. Code talkers played a crucial role in World War II in communicating positions and messages that the enemies could not decipher. Their contributions to the war effort are immeasurable. Clarence enlisted in the Army at age 18 and was the personal code talker for MG Paul Mueller, commander of the U.S. Army's 81st Infantry. He traveled with General Mueller and the 81st as the division moved from island to island during the fight against the Japanese during World War II.

Clarence did not seek the limelight; he simply served his Nation honorably. In later years, Clarence became a spokesman among tribal elders and traditional leaders about the importance of keeping Native languages alive for future generations. He was very proud to be a veteran, a full-blooded Lakota, and a Lakota speaker.

I had the pleasure of meeting Clarence at a ceremony honoring him in 2006 on Capitol Hill. Clarence is one of many South Dakotans who make us proud with their service to our Nation. Our nation owes him a debt of gratitude, and the best way to honor his life is to emulate his commitment to our country. Mr. President, I join with all South Dakotans in expressing my deepest sympathy to the family of Clarence Wolf Guts. He will be missed, but his service to our Nation will never be forgotten.

ADDITIONAL STATEMENTS

TRIBUTE TO ROSE (PENNY) PENN ROSS

• Mr. BOND. Mr. President, today I wish to thank Rose Penn Ross for her dedicated service to our Nation during World War II. Mrs. Ross, or Penny as she is called, is a retired school teacher who selflessly answered the patriotic

call to duty when she enlisted in the Women Airforce Service Pilots—WASP—organization during World War II.

Like many of her counterparts in the ''Greatest Generation,'' Penny wanted to help the war effort. As a licensed pilot, Penny wanted to serve by flying planes, and joined 25,000 women in applying for the WASP program. After completing exactly the same rigorous military flight training as her male counterparts, Penny became one of only 1,100 women to receive her Silver Wings.

While the WASP organization was not recognized as part of the military until 1977, Penny and the other women serving in WASP played a critical role in the war effort. Within the United States, Penny brought planes from factories to bases, flew experimental aircraft, and towed targets for the gunnery school vital tasks that also freed up male pilots for combat service and duties.

Prior to the war, Penny graduated from the University of Wisconsin with a bachelor's degree in business and earned her master's in education from the University of Missouri. She married her beloved Vernon M. Ross and settled in Missouri. Vernon and Penny started a family, which grew to include four children: Robert, Barbara, David, and Richard; eight grandchildren; and five great-grandchildren. After WASP was disbanded in 1944, Penny began her teaching career. She taught secondary school for 30 years in Harrisburg, Glasgow, and Moberly, molding young minds in the subjects of business, math, and French.

In addition to her legacy of family and her love of learning, Penny has created a legacy of service to our Nation.

Penny, her fellow female pilots, and the countless other men and women who served their nation during World War II made possible the conquering of some of freedom's worst foes of the 20th century: Hitler, Mussolini, and Hirohito. Thanks to the struggles and sacrifices of all of our troops from here at home, to Normandy, Tunisia, Midway, and Guadalcanal, those of us in subsequent generations have lived in relative peace and prosperity.

It is only fitting that earlier this year Americans like Penny were recognized for their contributions to the freedom we enjoy today. On March 10, 2010, Mrs. Ross attended the WASP Congressional Gold Medal Ceremony in the U.S. Capitol. With her family by her side, she was presented with a bronze medal replica of the Gold Medal. Today, Penny resides in the Veterans Home-Mexico, MO.

Penny, we are grateful for your service to your family, your community, and your country. Your story is an inspiration to people in all generations today who want to make a difference.●

FRESNO CITY COLLEGE'S 100TH ANNIVERSARY

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in celebrating the 100th anniversary of Fresno City College, California's first community college and the second oldest in the Nation.

Fresno City College was the brainchild of Charles L. McLane, the superintendent of Fresno Schools in the early 1900s. Mr. McLane was concerned that many students from the San Joaquin Valley could not afford to attend the nearest universities located outside the San Joaquin Valley. He envisioned a junior college in Fresno that would allow young students to receive an affordable and quality education through their first 2 years of college while still being able to reside at home.

Mr. McLane worked diligently to recruit instructors and design the curriculum. He secured commitments from the University of California and Stanford University that students who completed their coursework in Fresno would be accepted to those schools to further their education.

In September 1910, Fresno Junior College officially opened with 20 students and 3 full-time faculty members. Students studied mathematics, English, Latin, history, and economics. In addition, the new campus provided vocational training in areas such as agriculture, commerce and the industries that many 4-year universities did not offer.

In 1958, Fresno Junior College adopted its current name, Fresno City College. A year later, it permanently moved to its home for over the past 51 years on 1101 E. University Avenue in central Fresno.

Today, Fresno City College has grown from a small campus of 20 students and 3 faculty members to a dynamic community college whose average enrollment is approximately 25,000 students. It is a highly regarded community college that features award-winning programs in several disciplines, including nursing and vocational training.

For the past century, Fresno City College has been a dependable and accessible institute of higher learning that has empowered generations of San Joaquin Valley residents, many of whom overcame challenging backgrounds, to realize their full potential in many different aspects of life.

It is my pleasure to congratulate the administration, students, faculty, staff and proud alumni of Fresno City College on 100 years of educational leadership and excellence in the San Joaquin Valley. I send my best wishes for many more years of continued success.●

TRIBUTE TO LEWIS MONROE HUDDLESTON

● Mr. CRAPO. Mr. President, today I honor Lewis Monroe Huddleston on the upcoming occasion of his 80th birthday. Mr. Huddleston has spent his life committed in service to his country, his church and, foremost, his family.

Lewis was born September 14, 1930, although this apparently has long been a source of discussion in his family. His actual date of birth may be September 13. His mother always swore he was born on September 13, and that all the legal documents, which list his birthday at September 14, were wrong. As one should, I think I will side with Lew's mother on this one and would like to share with you some of the commendable actions of Lew's life.

He honorably served our country in the military, entering the U.S. Navy in 1950. He was assigned to the USS *Henry W. Tucker* as a boatman's mate. His military service took him on reconnaissance missions both in Korea and Red China. He received four medals: Good Conduct Medal, National Defense Service Medal, Korean Service Medal—2–Star—and United Nations Service Medal. Lew was honorably released in 1954, and then headed to the Midwest.

He found work in the oil fields there, and one of his jobs took him to Sidney, NE, where he fell head over heels for a lovely young lady, Joyce Sewell. They were married on December 20, 1955, and have built a happy life together in Sidney where they raised three children, Lewis, Jr., Cindy and Shawn, who have given them three wonderful grandchildren.

Lew and Joyce built a life committed to family, service to God and service to the community. Throughout his life, Lew has given of himself—first in military service, then to his church and his community. Always involved, he could be heard cheering for his kids at their sporting events or found heading up a DeMolay or Jobs Daughter fundraiser. Not ever characterized as shy, Lew walks into a room of strangers and leave that room as everyone's best friend. Those friends, spread across the country, know that if called upon for help and he will always answer.

Even as he approaches his 80th birthday, Lew remains very much involved with his community. Although his children are grown with families of their own, Lew continues to volunteer in the local schools and wherever he is needed.

I am honored to number his son Lewis, Jr., and his wife Leslie among my friends. Through them, I have come to know Lew Huddleston as a true patriot, who exemplified that label not only by his military service, but the continued gift he gives every day to family, community and country. Lew, it is individuals like you who are America's true heroes and give the United States its strength. We can never fully repay your contribution. Thank you for your service to our country, and happy birthday.●

TRIBUTE TO WILLIE JEFFRIES

• Mr. GRAHAM. Mr. President, today I ask the Senate to join me in recognizing Coach Willie Jeffries on the occasion of his induction into the College Football Hall of Fame on Saturday, July 17, 2010. Willie Jeffries is a legend in the State of South Carolina. As the first African-American head coach of a NCAA Division I–A football program, he was a giant in the football world, and proved to be an incredible leader both on and off the field.

Coach Jeffries was born in Union, SC, on January 4, 1937. He graduated from South Carolina State University, SCSU, where he would later return as the head football coach. If there was ever a ''glass is half full'' guy, it was Willie Jeffries. Coach Jeffries was defined by his optimistic outlook on life and the world around him.

Willie Jeffries began his career at South Carolina State University where he served as coach from 1973–1978. From there, he went on to become head coach at Wichita State University in 1979. With his hiring, Coach Jeffries became the first African-American head coach of a NCAA Division I–A program. After winning only one game his first season, he held the post for five seasons and led his team to an 8–2 record his third year. During his tenure at Wichita State University, Coach Jeffries became the only man to coach against legendary coaches Eddie Robinson of Grambling and Paul ''Bear'' Bryant of the Alabama. He left Wichita State University with a record of 21–32–2, ranking him third in university history for total wins.

From 1984–1988 Coach Jeffries took over the program at Howard University, leading them to the first of his seven Mid-Eastern Athletic Conference—MEAC—Championships. In 1989 he returned to his alma matter to take his position as head coach for the South Carolina State University Bulldogs. Coach Jeffries finished out his career as the head coach of South Carolina State.

During his time in coaching, he led his teams to numerous post-season appearances, six Mid-Eastern Athletic Conference—MEAC—titles, and two Black college national championships. Coach Jeffries won almost 60 percent of the games he coached, and when he retired in 2001 he did so as the winningest coach in MEAC history with a 179–132–6 career record. In 2010, South Carolina State University further honored him by naming him Head Football Coach Emeritus by the University Board of Trustees.

Throughout his career, Coach Jeffries was named coach of the year on eight different occasions. In 2002 he was awarded the lifetime achievement award by the Black Coaches Association. In addition to being an inductee of both the MEAC Hall of Fame and SCSU Athletic Hall of Fame, Jeffries was awarded the Order of the Silver Crescent in 2001. This is South Carolina's highest honor for Outstanding Community Service.

Coach Jeffries success on the field is not only matched but exceeded by his actions off the field. He possesses a great spirit of optimism, humor, intellect, and decency that has made him a role model for all the young men he has coached and those of us who call him a friend.

I ask that the U.S. Senate join me in honoring him for his impressive coaching career and newest honor as an inductee into the College Football Hall of Fame.•

2010 ALTUS GRAPE FESTIVAL

• Mrs. LINCOLN. Mr. President, today I join residents of Altus and all Arkansans to commemorate the 2010 Altus Grape Festival.

For 27 years, the Altus Grape Festival has celebrated area grape growers and recognized the heritage of the grape in Altus. The festival is sponsored each year by the area's local wineries—Post Familie, Mount Bethel, Wiederkehr, and Chateau Aux Arc—and by area grape growers, businesses, civic organizations and residents.

Known as the ''Arkansas Wine Capital,'' Altus welcomes visitors from across the State, Nation, and world to celebrate the area's rich heritage during the festival. The 2-day event features a variety of activities, including a Friday night street dance and fireworks display, live music, grape-related games for children and adults, a grape stomp competition, quality juried arts and crafts, and wine and juice tasting by all local wineries. Amateur winemakers are also invited to bring the best of their homemade wine to the Amateur Winemaking Competition.

I commend the residents of the Altus area for their commitment to the history and heritage of Arkansas. I wish them all the best as they celebrate during this year's Grape Festival.•

ARKANSAS'S DELEGATES TO BOYS NATION AND GIRLS NATION

• Mrs. LINCOLN. Mr. President, today I recognize four young Arkansans who have represented our State during Boys Nation and Girls Nation events in Washington, DC. These students represent the best of our State, and I was proud to visit with them during their trip to our Nation's Capitol.

Arkansas's Boys Nation delegates for 2010 are Alex Geiger from North Little Rock and Joseph Kieklak from Fayetteville. Arkansas's Girls Nation delegates for 2010 are Brittany Webb of Jonesboro and Devika Menta of Conway. These students were also a part of Boys State and Girls State, held earlier this summer in Arkansas.

I commend our Boys and Girls State delegates for their dedication and commitment to learning about our Nation's legislative process on the local, State, and Federal levels. The knowledge they gain will benefit them for the rest of their lives.

As a former delegate, I can say that attending Girls State was one of several experiences that heightened my passion for public service. It was a huge part of my overall process of growing up and learning to respect our country, government, and fellow man.

Sponsored by the American Legion and the American Legion Auxiliary, Boys and Girls Nation brings together high school students from across the country to learn about government and citizenship.

I also comment the American Legion and the American Legion Auxiliary, of which I am a member, for their efforts to educate and inform our Nation's youth.•

2010 ARKANSAS COMMUNITY SERVICE AWARD RECIPIENTS

• Mrs. LINCOLN. Mr. President, today I congratulate recipients of the 2010 Arkansas Community Service Awards. I am proud of their dedication to helping fellow Arkansans, and I commend their spirit of volunteerism, community involvement, and service. These men and women represent the best of Arkansas, and I congratulate them on this prestigious recognition.

This year's winners are:

INDIVIDUAL

Neta Stamps of Berryville
James Brown of Norphlet
Lorrie Lindeman of Heber Springs
Raul Blasini of Pochontas
Theodoshia Cooper of Little Rock
Stella Lowe of Little Rock

YOUTH HUMANITARIAN

Matt Eckess of Maumelle

SMALL CORPORATE HUMANITARIAN

Reynolds Forestry Consulting and Real Estate of Magnolia

LARGE CORPORATE

CenterPoint Entergy

For 32 years the Arkansas Community Service Awards have recognized individuals and businesses for their dedication and commitment to supporting volunteerism throughout Arkansas. The awards are sponsored by the Department of Human Services-Division of Volunteerism, DOV, KARK Channel 4, the Governor's Office, and Duncan Law Firm.

We all know the challenges that face our State and Nation. Community service is a critical component of tackling these challenges and making us stronger. I encourage all Arkansans to embrace the spirit of volunteerism and community service on display by this year's Community Service Award winners. Working together, we can make a difference in our local communities and across our great State.•

ARKANSAS HISTORIC SITES

• Mrs. LINCOLN. Mr. President, today I recognize two Arkansas historic sites that have been added to the National Register of Historic Places. These Arkansas landmarks help define our State's history and heritage, and I am

proud to see them included on the National Register.

The newly listed properties are:

WEST MEMPHIS CITY HALL

West Memphis City Hall at 100 Court Street in West Memphis in Crittenden County was constructed in 1938 through the Public Works Administration program and opened July 18, 1939.

ANTIOCH MISSIONARY BAPTIST CHURCH CEMETERY IN SHERRILL

Antioch Missionary Baptist Church Cemetery in Sherrill in Jefferson County, a Black cemetery behind the church, predates the existing church and is the oldest structure onsite. The earliest documented burial in the cemetery, the grave of the Rev. Louis Mazique, was in 1885.

Along with all Arkansans, I congratulate these communities for receiving this national recognition. I also salute the local officials and residents of our State for their efforts to maintain the beauty and history of their communities.●

OPEN ARMS SHELTER

● Mrs. LINCOLN. Mr. President, today I recognize the staff, board members, and volunteers of Open Arms Shelter in Lonoke County for their steadfast efforts to provide a home for abused or neglected children.

Over 25 years, more than 2,100 children have found a temporary home at Open Arms until they are able to be placed in a relative's home, a foster home, or a long-term facility.

Under the leadership of executive director Susan Bransford, the shelter served 177 children in 2009 and expects to serve at least that many this year.

Open Arms provides children with the resources and care they need to be successful in school and life. The children attend school in Lonoke and have access to afterschool tutors if needed. Open Arms provides food, clothing, medical care and housing, while also offering recreational and educational outings and lessons, all within a structured, disciplined environment.

The shelter employs 11 staff members, 2 of whom live at the shelter, along with 2 part-time cooks, a case coordinator, a part-time bookkeeper and 2 relief workers.

The Open Arms board of directors includes individuals from throughout Lonoke County. They are: Shelby Hillman, Kathy Millard and David Woods of Carlisle; Peggy Anderson, Merritt Holman, Kaye Anderson and Betty Wilson of Lonoke; Leann Hanshaw, Rhonda Harps, Rhonda House and Patrick J. Hagge of Cabot; Pam Foster, Gary Canada and Sherry Sandage of England; and LuAnn Ashley of Little Rock, member at large.

I commend the entire Open Arms community for their dedication to helping children in need with compassion and a loving heart.●

TRIBUTE TO DEVON ALEXANDER

● Mrs. MCCASKILL. Mr. President, I ask the Senate to join me in recognizing Devon Alexander ''The Great'' of Saint Louis, MO. It is an honor to celebrate and pay tribute to Devon's undefeated boxing career and commitment to giving back to his community.

Devon was born on February 10, 1987, in North Saint Louis. Seven years later, he began his boxing career after discovering a gym run by St. Louis police officer Kevin Cunningham. The gym was housed in the basement of a former St. Louis City Police Station in the neighborhood of Hyde Park, which had one of the highest crime rates in the city of St. Louis at the time.

Devon continued to improve in the sport of boxing, eventually joining the ranks of the most recognized amateur boxers in the United States. His long list of accomplishments stands as a testament to his love of the sport and personal dedication to success.

As an amateur, Devon participated in almost 300 fights and won every title possible in St. Louis and many at the national level. The titles included four-time Silver Gloves national champion from age 10 to 14; three-time Police Athletic League national champion; 2001 Junior Golden Gloves national champion and Junior Olympic national champion before moving on to win the World Junior Olympics, where he was also named Best Boxer; 2003 U.S. National Champion for those 19 and under; the U.S. National Championship in 2004 in the 141-pound junior welterweight division; and was invited to join the U.S. National Team.

On May 20, 2004, at the age of 17, Devon made the decision to become a professional boxer. He continued to win and amassed a professional record that stands at 20 wins and zero losses. As a professional boxer, Devon faced and received praise from some of boxing's most recognized names.

On August 7, 2010, Devon Alexander ''The Great'' marks his return to St. Louis to defend his undefeated title. He is a strong example of what hard work and perseverance can accomplish. Devon's journey from adversity to success is an inspiration to countless others and it is truly commendable.

Devon will use all proceeds from the ''Devon Alexander Hometown Hero Celebration'' that will be held on August 1, 2010, at St. Louis City Hall, to benefit nonprofit boxing organizations in the St. Louis amateur boxing community.

Devon Alexander ''The Great'' has made the city of St. Louis and the State of Missouri proud.

I ask that the Senate join me in honoring Devon Alexander ''The Great'' for his personal success and service to the Saint Louis community and to our country. I am proud to recognize this extraordinary Missourian and wish him many more healthy, happy, and successful years to come.●

REMEMBERING PAULINE MARTENS

● Ms. MURKOWSKI. Mr. President, today I honor the life and contributions of Pauline Ruth Martens, who recently passed away at the age of 87. Born in Maine and raised near Boston, Pauline came to Alaska soon after World War II with her husband Arnold. Her relationship with the Frontier State began, much as it did with her beloved Arnold, with love at first sight.

In many ways, Pauline's life was about taking the next step while never leaving those who were most important behind. The period after WWII was an exciting time in Alaska, and Pauline was an active participant in the development of Anchorage, the Great Land's largest city. While raising their family, Pauline and Arnold worked together to develop both business and residential properties, including the Palm Motel and the Forest Park South subdivision. To Pauline, however, it was her relationships with family and friends—her role in guiding her children and grandchildren and helping her friends and community—that mattered most.

In addition to the love she gave to her family, Pauline brought her ideals, her zest for life, and her strong character to bear on helping those in the community around her. Beginning as a Girl Scout troop leader during her daughter's Scouting years, to becoming a board member and chairman of the Susitna Council of the Alaska Girl Scouts, Pauline's contributions to the development of Alaska's young women were significant and positive. As her own children grew, Pauline took on the role of helping other children take positive steps forward as a member of the board of Junior Achievement and Hope Cottages, which serves developmentally disabled children and their families.

In whatever endeavor Pauline Martens took on, she was never just a name on a roster. She believed that any undertaking deserved her full participation. So it was no surprise that her commitment to the Republican Party led to her service in roles both ordinary and distinguished. Whether as the ''bouncer'' at the Annual International Food Festival, poll watcher, FREE member promoting the opening of ANWR, State chairman of the Alaska Republican Party, or president of the Alaska Federation of Republican Women, Pauline worked hard for those who shared her beliefs and ideals. Her enthusiasm, hard work, and commitment earned her the title of Woman of the Year in three separate decades from the Anchorage Republican Women's Club, and the Lifetime Achievement Award from the Republican Party of Alaska.

Pauline was a mentor to many young Republican women—including me. She gave encouragement, good counsel, and always a warm smile. I recall many Republican State conventions working side by side with Pauline while she directed so much of the political operations with a graciousness that was appreciated by all.

Still, it was Pauline's love for her family and the beauty of Alaska's

mountains and lakes that many will remember most. I know that she will continue to guide and inspire her children, grandchildren, and the many Alaskans who loved her. I am certain that each time we glimpse Alaska's majestic mountains, lakes, and rivers we will remember Pauline with a smile.●

TRIBUTE TO MRS. MARY WADE

● Mr. NELSON of Nebraska. Mr. President, today I bid farewell to a great Nebraskan. Mrs. Mary Wade, affectionately known as ''Mother Wade.'' She has selflessly served thousands of members of the Salem Baptist Church in Omaha for more than 65 years.

At the age of 92, Mrs. Wade is now moving away from Nebraska where she has lived since moving to my home State in 1944. She will be living with her adult children in Los Angeles, CA.

Mrs. Wade is known far and wide for her service to not only Salem Baptist Church but to the entire Omaha community. She worked hand in hand with her late husband, Dr. J.C. Wade, Sr., who was the pastor at Salem Baptist for many years before his retirement in 1988.

After Dr. Wade's death in 1999, Mrs. Wade continued to serve the people of Omaha and to provide counsel to members of Salem Baptist Church, whose membership, under the leadership of the Wades, grew from 250 to more than 2000.

Thanks to her wise counsel, direction, and leadership, Omaha is a better place because of Mother Mary Frazier Wade.

I join all Nebraskans in bidding Mrs. Wade a fond farewell and thanking her for her service. We will miss her, and we wish her well.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

MESSAGES FROM THE HOUSE

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

H. Con. Res. 226. Concurrent resolution supporting the observance of ''Spirit of '45 Day''.

H. Con. Res. 275. Concurrent resolution expressing support for designation of the week beginning on the second Sunday of September as Arts in Education Week.

H. Con. Res. 304. Concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of H.R. 725.

At 11:37 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1320. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes.

H.R. 3101. An act to ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

At 2:17 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5849. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

ENROLLED BILLS SIGNED

At 3:30 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 725. An act to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.

H.R. 4684. An act to require the Secretary of the Treasury to strike medals in commemoration of the 10th anniversary of the September 11, 2001, terrorist attacks on the United States and the establishment of the National September 11 Memorial & Museum at the World Trade Center.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES REFERRED

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

H.R. 1320. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 226. Concurrent resolution supporting the observance of ''Spirit of '45 Day''; to the Committee on Foreign Relations.

H. Con. Res. 275. Concurrent resolution expressing support for designation of the week beginning on the second Sunday of September as Arts in Education Week; to the Committee on Health, Education, Labor, and Pensions.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3657. A bill to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 27, 2010, she had presented to the President of the United States the following enrolled bill:

S. 1053. An act to amend the National Law Enforcement Museum Act to extend the termination date.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6811. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyraclostrobin; Pesticide Tolerances'' (FRL No. 8834–8) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6812. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Poly(oxy-1,2-ethanediyl), a-isotridecyl-w-methoxy; Exemption from the Requirement of a Tolerance'' (FRL No. 8830–6) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6813. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Trichoderma Hamatum Isolate 382; Exemption from the Requirement of a Tolerance'' (FRL No. 8835–6) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6814. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''2-Propanol, 1,1',1''-nitrilotris-; Exemption from the Requirement of a Tolerance'' (FRL No. 8825–6) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6815. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred on August 25, 2004 in one of the Agency's two-year appropriation accounts titled ''Science and Technology''; to the Committee on Appropriations.

EC–6816. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Reporting of Commercially Available Off-the-Shelf Items that Contain Specialty Metals-Deletion of Obsolete Clause'' (DFARS Case 2009–D024) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Armed Services.

EC–6817. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Excessive Pass-Through Charges'' (DFARS Case 2006-D057) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Armed Services.

EC–6818. A communication from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting, pursuant to law, a quarterly report entitled, ''Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account''; to the Committee on Armed Services.

EC–6819. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2010'' (RIN0648–AY04) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6820. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 1 for the South Atlantic Region; Correction'' (RIN0648–AY32) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6821. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Catcher Vessels in the Gulf of Alaska'' (RIN0648–XX32) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6822. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XX53) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6823. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Adjustment to the Loligo Trimester 2 and 3 Quota'' (RIN0648–XW95) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6824. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XX39) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6825. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XX19) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6826. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XX17) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6827. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2010 Harvest Specifications for Yelloweye Rockfish and In-Season Adjustments to Fishery Management Measures'' (RIN0648–BA00) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6828. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Catcher/Processors in the Gulf of Alaska'' (RIN0648–XX31) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6829. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Catcher/Processor Rockfish Cooperatives in the Gulf of Alaska'' (RIN0648–XX33) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6830. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Amboy, California)'' (MB Docket No. 10–63) received in the Office of the President of the Senate on July 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6831. A communication from the Policy Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of Personal Radio Services Rules'' (FCC 10–106) received in the Office of the President of the Senate on July 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6832. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XX34) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6833. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Elemental Mercury Used in Flow Meters, Natural Gas Manometers, and Pyrometers; Significant New Use Rule'' (FRL No. 8832–2) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6834. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Prepared Feeds Manufacturing'' (FRL No. 9176–7) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6835. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Emissions Inventory Reporting Requirements and Conformity of General Federal Actions, Including Revisions Allowing Electronic Reporting Consistent with the Cross Media Electronic Reporting Rule'' (FRL No. 9177–4) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6836. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rhode Island: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL No. 9179–5) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6837. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of One-Year Extension for Attaining the 1997 8-Hour Ozone Standard in the Baltimore Moderate Nonattainment Area'' (FRL No. 9179–1) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6838. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York Reasonably Available Control Technology and Reasonably Available Control Measures'' (FRL No. 9178–5) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Environment and Public Works.

EC–6839. A communication from the Program Manager, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes Under the Patient Protection

and Affordable Care Act'' (RIN0991–AB70) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Finance.

EC–6840. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Hospice Wage Index for Fiscal Year 2011'' (RIN0938–AP84) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Finance.

EC–6841. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for Fiscal Year 2011'' (RIN0938–AP87) received in the Office of the President of the Senate on July 22, 2010; to the Committee on Finance.

EC–6842. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services to the United Arab Emirates to Support the sale of F–16 Block 60 Fighter Aircraft in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–6843. A communication from the Director of Human Resources, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the category rating system; to the Committee on Health, Education, Labor, and Pensions.

EC–6844. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Sufficiency Certification for the Washington Convention and Sports Authority's Projected Revenues and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2011''; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1132, a bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes (Rept. No. 111—233).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 1454. A bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp (Rept. No. 111—234).

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 Ms. KLOBUCHAR:

S. 3651. A bill to amend title 18, United States Code, with respect to the offense of stalking; to the Committee on the Judiciary.

By Mr. THUNE:

S. 3652. A bill to provide for comprehensive budget reform in order to increase transparency and reduce the deficit.

By Mr. CORNYN (for himself, Mr. HATCH, Mr. ROBERTS, Mr. COBURN, Mr. KYL, and Mr. MCCAIN):

S. 3653. A bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. WEBB):

S. 3654. A bill to amend title 11 of the United States Code to include firearms in the types of property allowable under the alternative provision for exempting property from the estate; to the Committee on the Judiciary.

By Mr. JOHANNS:

S. 3655. A bill to establish a point of order against certain climate change legislation; to the Committee on Rules and Administration.

By Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANNS, Mr. BAUCUS, Mr. BENNET, Mr. HARKIN, and Mr. ROBERTS):

S. 3656. A bill to amend the Agricultural Marketing Act of 1946 to improve the reporting on sales of livestock and dairy products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN (for himself, Mr. GRASSLEY, and Mrs. MCCASKILL):

S. 3657. A bill to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter; read the first time.

By Mr. UDALL of Colorado (for himself, Mr. BENNET, Mr. BEGICH, Mrs. SHAHEEN, and Mr. CASEY):

S. 3658. A bill to provide professional development for elementary school principals in early childhood education and development; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mrs. MURRAY):

S. 3659. A bill to reauthorize certain port security programs, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS:

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States relative to authorizing regulation of contributions to candidates for State public office and Federal office by corporations and labor organizations, and expenditures by corporate entities and labor organizations in support of, or opposition to such candidates; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BOND, Mrs. BOXER, Mr. BROWN of Ohio, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. CORKER, Mr. CORNYN, Mr. DEMINT, Mr. DURBIN, Mrs. HAGAN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. KAUFMAN, Ms. LANDRIEU, Mr. LEMIEUX, Mr. LEVIN, Mrs. LINCOLN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. SESSIONS, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, and Mr. WICKER):

S. Res. 595. A resolution designating the week beginning September 12 , 2010, as ''National Historically Black Colleges and Universities Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 538

At the request of Mrs. LINCOLN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 538, a bill to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies.

S. 653

At the request of Mr. CARDIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 654

At the request of Mr. BUNNING, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 654, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1295

At the request of Mrs. SHAHEEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1295, a bill to amend title XVIII of the Social Security Act to cover transitional care services to improve the quality and cost effectiveness of care under the Medicare program.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1633

At the request of Ms. CANTWELL, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1633, a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific

Economic Cooperation Business Travel Cards, and for other purposes.

S. 2902

At the request of Ms. COLLINS, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 2902, a bill to improve the Federal Acquisition Institute.

S. 2942

At the request of Mr. PRYOR, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2942, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish a nanotechnology program.

S. 3078

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3078, a bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

S. 3260

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3260, a bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3466

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 3466, a bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

S. 3621

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3621, a bill to amend the Internal Revenue Code of 1986 to provide for an exclusion for assistance provided to participants in certain veterinary student loan repayment or forgiveness programs.

S. 3622

At the request of Mr. JOHANNS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3622, a bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention, control, and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes.

S. 3628

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3628, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3640

At the request of Mr. UDALL of Colorado, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3640, a bill to amend the Internal Revenue Code of 1986 to increase the limitations on the amount excluded from the gross estate with respect to land subject to a qualified conservation easement.

S. 3642

At the request of Mrs. BOXER, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3642, a bill to ensure that the underwriting standards of Fannie Mae and Freddie Mac facilitate the use of property assessed clean energy programs to finance the installation of renewable energy and energy efficiency improvements.

S. 3643

At the request of Mr. MCCONNELL, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3643, a bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

S. RES. 555

At the request of Ms. STABENOW, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 555, a resolution supporting the goals and ideals of National Ovarian Cancer Awareness Month.

AMENDMENT NO. 4471

At the request of Mr. CORNYN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of amendment No. 4471 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THUNE:

S. 3652. A bill to provide for comprehensive budget reform in order to increase transparency and reduce the deficit.

Mr. THUNE. Mr. President, we have been bombarded with some pretty big numbers lately. Our total national debt recently topped $13 trillion. In 5 years, it is expected to pass $20 trillion. This fiscal year alone, the Federal Government plans to run a deficit of $1.4 trillion. In other words, we are borrowing 41 cents out of every $1 we spend.

The numbers are mind blowing. We cannot even wrap our heads around the immensity of these numbers that run into the trillions. But they should be a very big red flag indicating that something—something—has gone very wrong here in Washington.

The American people are struggling with high unemployment and a difficult economy, trying to make ends meet. The American Government—their government—ought to be doing what it can to balance its own budget, not spending like drunken sailors in a way that will put the future of many American families at risk.

I hear it in my State. I know most of my colleagues do. I hear it as I drive around the country. There is a palpable fear that this enormous burden of debt is going to crush us.

The Federal budget for 2010 is already 24 percent higher than it was in 2008. How many families are able to increase their spending by 24 percent over a 2-year period? Congress has to realize what the American people already know: Our current rate of spending is unsustainable. There is an old saying that if the only tool you have is a hammer, you tend to see everything as a nail. Well, this administration and the Democratic leadership of Congress seem to think the only tool they have is a checkbook and every problem can be solved with more money.

But all of this reckless spending is not solving the problems it was meant to solve. If you recall, the trillion dollar stimulus was supposed to create jobs and get the economy growing again. Unfortunately, it has not worked that way.

Look at the latest jobs report for last month. We actually lost 125,000 total jobs across the country. Where I come from, that is known as heading in the wrong direction. Look as the massive health care law passed earlier this year. When the other side was jamming this bill through the Senate, they said, even though it would cost $2.5 trillion, it would actually bring down—down—our spending on health care and lower the deficit over time.

In the past few weeks, however, we have gotten new estimates that the law will cost billions more than was thought a few months ago. On top of that, health care spending is expected to rise even faster as a result of the law than if we had done nothing at all.

Time after time after time that is what we have seen: more spending, more debt, and a bill we will hand to

our children—all because we cannot live within our means and we refuse to make the tough choices we were elected to make.

The irresponsible spending and borrowing that is making our mountain of debt bigger every day has to stop. Today, I am introducing a bill entitled the Deficit Reduction and Budget Reform Act that will take the first steps toward reining in our spending. It is high time we show the American taxpayers we are responsible stewards not just of their tax dollars but of the future of this country.

The goal here is to reform the budget process and to reduce our structural deficits so we will live within our means. My proposal is a three-legged stool that aims to support our country and economy while reducing the burden our rapidly expanding government places on American families and businesses.

The first proposal is to create a new standing joint committee of Congress for budget deficit reduction. The committee would be required to put forward a plan to cut the deficit by 10 percent every budget cycle, and to do it without raising taxes. This would be Members of Congress—both parties—taking responsibility and not punting the job to outsiders.

This bill would then receive expedited consideration in both Chambers of Congress. We have 26 committees and subcommittees in Congress that are dedicated to spending tax dollars. We should have at least one dedicated to saving tax dollars.

Second, to make sure those changes have a better chance of success in practice, I am proposing additional reforms to the budget process. Crucially, we would reform pay-go rules to prevent the double counting of new revenues or reduced spending in trust funds for the purpose of offsetting other expenditures.

When pay-go rules were set up earlier this year, they allowed for these kinds of gimmicks that have been used over and over to subvert the budget responsibility the rules were meant to impose.

More than $600 billion in trust fund offsets was used to pass the health care reform bill, and an attempt was made to increase the per-barrel tax for the Oil Spill Liability Trust Fund to offset other unrelated measures. By preventing these changes from being used as an offset under pay-go rules, this provision would end the practice of double counting these spending reductions and revenue increases.

Then we would add teeth to the budget by making it a binding joint resolution signed into law by the President. This would force the administration and Congress to work more closely together, and Congress would have less flexibility to violate the nonbinding resolutions we currently use.

My legislation would also establish a biennial budget timeline to give Congress more time for oversight and to determine whether our spending is doing what it is supposed to do.

I will simply point out that it seems to me the way we do the budget process currently is broken. In the last 34 years, I think there have been 4 times when all of the appropriations bills have been passed by the Congress on time, according to schedule. If you look at the number of budgets that have been passed here in the past few years, there have been a lot of years when we have not passed budgets at all.

It seems to me it would make sense—in an even-numbered year, when there is an election going to be held—that we ought to do oversight, that we ought to be looking at ways to save taxpayer money rather than spend taxpayer money. Then we could do the budget in the odd-numbered years, after an election, so we have an opportunity to do the appropriations bills and go through the budget process in the odd-numbered year, so when the even-numbered year comes around again we are not consumed with trying to spend money to attract some constituency to vote for us in an election year, but, rather, we are focused on oversight and on ways we could actually save the taxpayers money as opposed to spending it.

So a biennial budget process, budget timeline, is something this bill would also do. When Congress inevitably resorts to pork-barrel politics that inflates our budgets, we need a legislative line-item veto to allow the President to cut them out and to send a more responsible budget back to Congress for an up-or-down vote. Governors of most States, including my State of South Dakota, have some kind of a line-item veto. The President ought to have that power as well.

Third, on top of these vital systemic changes, we need to take control of the government's outrageous spending. My bill would impose a 10-year spending freeze to cap the Federal Government's discretionary spending at the level it was in fiscal year 2008, adjusted for inflation. I said earlier that between 2008 and 2010, Federal spending had increased 24 percent, at a time when inflation in this country was about 3.5 percent. If we take that baseline back to that 2008 level and index it for inflation every year for the next 10 years, we can save the taxpayers literally hundreds of billions of dollars.

Beyond that freeze, we should end the failed stimulus program and reclaim any money remaining unspent and unobligated and apply it to the Federal debt.

Those are not the only possible answers, and many are not new. Many of these are ideas my Republican colleagues and I have proposed and that we fought for in the past. We will keep fighting for them because they are the kinds of things we need to do to break the back of this budget problem we are fighting.

The government's current level of borrowing, this out-of-control spending, and this amount of taxation are too much for our economy and our taxpayers to bear. What may be even more troubling is the point that was made by the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen. He said the biggest threat to our national security is our debt, not al-Qaida, not Iran's nuclear program, not Russian spies, but the debt Congress itself has created.

It does not have to be this way. My plan is a responsible approach that takes prudent but manageable steps to get our spending under control and to start to draw down our debt. It provides concrete savings of nearly a trillion dollars, and it puts in place a framework to help us save trillions more over time.

It is easy to say: I will be responsible tomorrow, but first I want to spend a little more today. Well, there will always be something that seems important to spend tax dollars on, and if we keep taking that same old approach that the other side has been pushing since they took control of Congress in 2007, we will be waiting for fiscal responsibility forever.

Tackling our outrageous national debt is not a priority we should put off until the long term, after the debt has gone up even higher and higher and higher than it is today. It needs to be a priority now.

I will also note that we cannot afford the old trick where the President calls for spending cuts in theory but then happily signs congressional spending bills that do not save a dime. We have to move beyond the same old political games and the same old phony rhetoric. We need real commitment to making a real difference.

There is another old saying that the definition of insanity is doing the same thing over and over and expecting different results. The President and the Democratic leadership of Congress want to keep doing the same thing over and over: borrowing money, spending too much, and then borrowing even more.

But thinking that somehow with all that borrowing and spending we will buy our way out of the hole we are in, that is insanity. In reality, all we are doing is digging ourselves deeper and deeper into debt.

I am going to conclude by urging my colleagues to take up this legislation I am introducing and to take that first crucial step to fiscal responsibility. The American people expect us to take our debt seriously, and it is high time we lived up to that expectation.

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. WEBB):

S. 3654. A bill to amend title 11 of the United States Code to include firearms in the type of property allowable under the alternative provision for exempting property from the estate; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I introduce legislation to create an express exemption in the Federal Bankruptcy Code for personal firearms.

Given the place that firearms occupy in our culture for law-abiding Americans, I believe it makes sense for the Federal Bankruptcy Code to reflect these values. The Supreme Court has confirmed that the Second Amendment protects a fundamental right. I agree that the right protected by the Second Amendment is ''deeply rooted in this Nation's history and tradition.'' One needs to look no further than the woods of Vermont in the autumn to know this is true. Amending the Code to expressly include this exemption will not only allow more Americans to participate in these traditions, but will further the exercise of the Second Amendment right itself.

Under the Bankruptcy Code, debtors are permitted to exempt from the bankruptcy estate a wide variety of household goods and other personal effects. For example, a debtor using the Federal bankruptcy exemptions may exempt furniture, musical instruments, jewelry, and other household goods. The code defines ''household goods'' to include items such as linens, china, and a television or other entertainment equipment. All of this is subject to limitations on monetary value, which is important to ensure that the exemptions are not abused to the detriment of creditors. The code's list of exemptions is designed to permit a debtor to obtain a fresh start in such a way that he or she has the continued use of personal items that are both utilitarian and that add to the enjoyment of day to day life. I believe many Americans would place personal firearms squarely within both of these categories.

Several States have enacted specific bankruptcy exemptions for firearms in their State laws. The Federal exemption I propose would leave all of these state exemptions untouched and would only apply if a debtor affirmatively chose, where permitted, to use the Federal exemptions. The exemption is modeled on the work these states have done and takes a modest approach that will nonetheless be meaningful for someone using the Federal exemptions. This legislation would permit a debtor using the Federal exemptions to at least exempt one rifle, shotgun, or pistol, separately or in combination, with an aggregate value of $3,000.

For many Americans, a personal firearm—whether a hunting rifle, a family heirloom, or a firearm for self-protection—is an important possession. It is one that in many cases may have little significant monetary value to creditors. People own firearms for many lawful reasons. In many parts of the United States, hunting is an essential part of life. In others, people feel strongly about the need to own a firearm to help keep themselves and their families safe. For still others, firearms have deep historical or sentimental value. The Bankruptcy Code should reflect these values.

Our bankruptcy policy is intended to help those in severe financial difficulty regain financial health and repay what they owe to their creditors to the extent possible. And in encouraging and helping those in bankruptcy to make a new start we are right to do so in a way that allows room for the things that give our lives enjoyment and meaning. If the amendment made by this legislation makes it possible for a parent and child to continue a family hunting tradition or a person to retain a piece of family history passed down through generations to them, those are good things.

I hope all Senators will join me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Gun Owners in Bankruptcy Act of 2010''.

SEC. 2. EXEMPTIONS.

Section 522 of title 11, the United States Code, is amended—

(1) in subsection (d) by adding at the end the following:

''(13) The debtor's aggregate interest, not to exceed $3,000 in value, in a single rifle, shotgun, or pistol, or any combination thereof.''; and

(2) in subsection (f)(4)(A)—

(A) in clause (xiv), by striking ''and'' at the end;

(B) in clause (xv), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(xvi) the debtor's aggregate interest, not to exceed $3,000 in value, in a single rifle, shotgun, or pistol, or any combination thereof.''.

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

By Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANNS, Mr. BAUCUS, Mr. BENNET, Mr. HARKIN, and Mr. ROBERTS):

S. 3656. A bill to amend the Agricultural Marketing Act of 1946 to improve the reporting on sales of livestock and dairy products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. LINCOLN. Mr. President, I am pleased to be joined by my colleagues, Senators CHAMBLISS and GRASSLEY, to introduce legislation that would reauthorize mandatory price reporting for another 5 years. This bill will guarantee transparency of the livestock marketing sector and help improve producers' timely access to market prices so that they can make the best decision on when to sell the livestock they have worked hard to bring to market.

To address producers' concerns regarding low livestock prices, industry concentration, and the unavailability of accurate market information, Congress passed the Livestock Mandatory Reporting Act in 1999 to help improve market transparency.

Producers tell me that Mandatory Price Reporting yields valuable information, helps to keep the markets honest, and helps take the guess work out of business decisions for producers and packers.

This legislation, which is supported by producers and packers alike, will extend for an additional 5 years the reporting requirements of livestock daily markets. This bill makes two important changes from existing law.

First, as specified in the 2008 Farm Bill, this bill will require Mandatory Reporting of Wholesale Pork, MRWP, cuts. A study on MRWP, required by the 2008 Farm Bill and published earlier this year, will help guide the new regulations. This legislation also included negotiated rule making that requires the Secretary of Agriculture to bring stakeholders, as well as representatives from industry and the Department of Agriculture together to design the regulations for reporting MRWP cuts. The bill requires that a final rule be completed no later than 18 months after it is signed by the President. This important addition, once completed, would simply expand transparency to the pork industry that was not previously required and further protect producers.

Second, the bill instructs the Secretary of Agriculture to establish within 1 year an electronic price reporting system for dairy products. Published reports will be required on a weekly and monthly basis. This is a first critical step in continuing to assist our producers as they make decisions that impact their businesses. Furthermore, on a weekly basis, the Secretary of Agriculture must publish a report disclosing milk prices from the previous week. This too was included in the Farm Bill, and I am hopeful it will be another tool for dairy farmers across the country.

This bill represents several months of negotiations by all interested stakeholders who worked hard to find compromise on these critical issues. I want to thank everyone involved in this process for working together to reach consensus. Those groups supporting the reauthorization bill include:

American Farm Bureau Federation, American Meat Institute, American Sheep Industry Association, National Cattlemen's Beef Association, National Farmers Union, National Pork Producers Council, National Meat Association, and the United States Cattleman's Association.

I look forward to moving this critical reauthorization through Congress so we do not disrupt the critical reporting

on livestock markets and so that family farmers and ranchers in Arkansas can have confidence that they are receiving fair market value.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

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

JULY 9, 2010.

Hon. BLANCHE LINCOLN,
Chairman, Committee on Agriculture, U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. SAXBY CHAMBLISS,
Ranking Minority Member, Committee on Agriculture, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LINCOLN AND RANKING MEMBER CHAMBLISS: We, the undersigned organizations, are writing to request that the Senate Agriculture Committee work with relevant stakeholders in the livestock industry to reauthorize for a period of five (5) years the Livestock Mandatory Price Reporting provisions contained in the 2006 Livestock Mandatory Reauthorization Act (P.L. 109–296).

The original 1999 Livestock Mandatory Price Reporting Act was a culmination of many hours of negotiations among industry participants and required packers to report, among other things, livestock purchase prices to the USDA's Agricultural Marketing Service. Livestock producers and processors continue to need a transparent, accurate and timely market price reporting system to make informed business decisions. Mandatory price reporting makes markets more transparent and offers new market information with regard to pricing, contracting for purchase and supply and demand conditions for cattle, hogs and sheep. During the 109th Congress, the Mandatory Price Reporting provisions were reauthorized until September 30, 2010.

The U.S. pork industry supports the inclusion in this reauthorization of two new pork industry-specific provisions. We believe these consensus recommendations will increase and improve the transparency of the Livestock Mandatory Price Reporting system. We recommend that the following consensus provisions be included:

1. Reporting of wholesale pork cuts. Require USDA to enter a negotiated rulemaking process to develop this system.

2. Reporting on a weekly basis of pork exports. These exports should be added to the list of commodities that are required to be reported to the Secretary of Agriculture. Information reported should include any contract for export sales entered into during the reporting period.

These proposed provisions are part of a carefully balanced consensus legislative package reached by interested stakeholders over a long period of negotiation and discussion representing all segments of the industry. We support the consensus legislative package, including the new pork reporting provisions, with the collective goal that mandatory price reporting will be enacted before September 30, 2010.

We recognize that the Committee has a full slate of legislative business ahead, and we urge expeditious action to reauthorize the Act for a period of five years with these industry consensus recommendations. We look forward to working with the Senate Agriculture Committee on this important issue to America's livestock industry.

Sincerely,

AMERICAN FARM BUREAU FEDERATION,
AMERICAN MEAT INSTITUTE,
AMERICAN SHEEP INDUSTRY ASSOCIATION,
NATIONAL CATTLEMEN'S BEEF ASSOCIATION,
NATIONAL FARMERS UNION,
NATIONAL PORK PRODUCERS COUNCIL,
NATIONAL MEAT ASSOCIATION,
UNITED STATES CATTLEMAN'S ASSOCIATION.

By Mr. UDALL of Colorado (for himself, Mr. BENNET, Mr. BEGICH, Mrs. SHAHEEN, and Mr. CASEY):

S. 3658. A bill to provide professional development for elementary school principals in early childhood education and development; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, today I am introducing, along with Senators MICHAEL BENNET, MARK BEGICH, BOB CASEY, and JEANNE SHAHEEN, legislation to support elementary school principals and help prepare America's children for a successful education. Our bill would provide grant funds to train elementary school principals on how best to bridge the gap between early childhood development programs and elementary school learning.

Oftentimes for elementary school principals, the competing demands of running a school, without the proper training or experience, can crowd out successful partnerships with early childhood learning programs. This can lead to an assortment of educational approaches and, on a practical level, disjointed efforts to ensure students receive a continuum of learning.

The aim of my bill is to provide elementary school principals with the ability to take research-based, early childhood development practices and incorporate those skills into their schools in order to better prepare our Nation's youth for success. As part of this effort, our House colleagues, Congressmen ALTMIRE and HIMES, will be introducing a companion version to this legislation in their chamber.

As we all know, a child's education does not begin on that first day of kindergarten; rather, it begins much earlier in life as an infant's brain develops and cognitive skills are acquired through daily interaction with parents, grandparents, siblings, and other caregivers. As a parent, I remember firsthand the interactions I had with my two children during their infant years. When the time came, my wife and I knew that our children were prepared for pre-school, where they would acquire additional skills to further prepare them for their K–3 years. We wanted them to be ready to learn on day one.

My story is similar to the stories of millions of American parents who do what they can to ensure their children are fully prepared for that first day of kindergarten. While there are many different early learning settings, whether through the Head Start or other programs, we can all agree that ensuring our children are school-ready is an admirable goal.

As the research suggests, children who participate in early learning programs often perform better upon entering elementary school than their peers who do not. In order to build on that success and do right by our children by giving them the best chance to succeed when they begin kindergarten, our bill will help train principals on how to establish relationships with early childhood learning providers and collaborate to ensure they are on the same page when it comes to a child's development.

Building this pathway and ensuring a close connection between these two critical educational settings, especially for principals early in their careers, is a common-sense way to build better learning environments for our children. Our legislation has the support of the National Association of Elementary School Principals and a host of early learning advocacy organizations. I urge my colleagues to support this important effort.

By Ms. COLLINS (for herself and Mrs. MURRAY):

S. 3659. A bill to reauthorize certain port security programs, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise to introduce the SAFE Port Reauthorization Act of 2010. This bill extends important programs that protect our nation's critical shipping lanes and seaports from attack and sabotage.

The SAFE Port Reauthorization Act of 2010 is co-sponsored by my colleague, Senator MURRAY. Senator MURRAY and I drafted the original SAFE Port Act in 2005, leading to its enactment in 2006. I am pleased that she has again joined me to extend and strengthen this important law. Several stakeholders have expressed their support for our efforts, including the American Association of Port Authorities, the National Retail Federation, and the National Association of State Boating Law Administrators.

The scope of what we need to protect is broad. America has 361 seaports—each vital links in our Nation's transportation network. Our seaports move more than 95 percent of overseas trade. In 2009, U.S. ports logged 68,000 ports-of-call by foreign-flagged vessels, bringing 9.8 million shipping containers to our shores.

The largest 21 ports handle 98 percent of the shipping container traffic. Indeed, nearly 60 percent of all containership calls are made in just three States—California, New York, and Georgia—but this container traffic arrives at many points across the United States, from Maine to Hawaii.

Coming from a State with three international cargo ports—including

Portland, the largest port by tonnage in New England—I am keenly aware of the importance of seaports to our national economy and to the communities in which they are located.

Because seaports are flourishing, our harbors operate as vital centers of economic activity; they also represent vulnerable targets. Shipping containers are a special source of concern.

A single obscure container, hidden among a ship's cargo of several hundred containers, could be used to hide a squad of terrorists or a dirty bomb. In other words, a container could be turned into a 21st-Century Trojan horse.

The shipping container's security vulnerabilities are so well known that it has also been called ''the poor man's missile,'' because for only a few thousand dollars, a terrorist could ship one across the Atlantic or the Pacific to a U.S. port.

The contents of such a container don't have to be something as complex as a nuclear or biological weapon. As former Customs and Border Protection Commissioner Robert Bonner told The New York Times, a single container packed with readily available ammonium sulfate fertilizer and a detonation system could produce ten times the blast that destroyed the Murrah Federal Building in Oklahoma City.

Whatever the type of weapon, an attack on one or more U.S. ports could cause great loss of life and large numbers of injuries; it could damage our energy supplies and infrastructure; it could cripple retailers and manufacturers dependent on incoming inventory; and it could hamper our ability to move and supply American military forces fighting against the forces of terrorism.

I have had the opportunity to visit seaports across the country and, as one looks at some of the nation's busiest harbors, one sees what a terrorist might call ''high-value targets.'' Ferries move thousands of people daily. Large and sprawling urban populations are situated around the ports. At some locations, there are large sports stadiums nearby as well.

Add up those factors and one realizes immediately the death and destruction that a ship carrying a container hiding a weapon of mass destruction could inflict at a single port.

Of course, a port can be a conduit for an attack as well as a target. A container with dangerous cargo could be loaded on a truck or rail car, or have its contents unpacked at the port and distributed to support attacks elsewhere. In 2008, we saw that the port in Mumbai, India, offered the means for a gang of terrorists to launch an attack on a section of the city's downtown. That attack killed more than 170 people and wounded hundreds more.

To address these security threats, our bill would reauthorize the SAFE Port Act cargo security programs that have proven to be successful: the Automated Targeting System that identifies high-risk cargo; the Container Security Initiative that ensures high-risk cargo containers are inspected at ports overseas before they travel to the United States; and the Customs–Trade Partnership Against Terrorism, or C–TPAT, that provides incentives to importers to enhance the security of their cargo from point of origin to destination.

The bill would also strengthen the C–TPAT program by providing new benefits, including voluntary security training to industry participants and providing participants an information sharing mechanism on maritime and port security threats, and by authorizing Customs and Border Protection to conduct unannounced inspections to ensure that security practices are robust. The cooperation of private industry is vital to protecting supply chains, and C–TPAT is a necessary tool for securing their active cooperation in supply chain security efforts.

The bill also would extend the competitive, risk-based, port security grants that have provided $1.5 billion to improve the security of our ports. An authorization for the next 5 years at $400 million per year is a continued major commitment of resources, but it is fully proportional to what is at stake, and a priority that we cannot ignore.

In addition to continuing and strengthening critical programs, the bill also would expand the America's Waterway Watch Program to promote voluntary reporting of suspected terrorist activity or suspicious behavior against a vessel, facility, port, or waterway. While the program has proven valuable in ports throughout the country, the legislation would broaden its scope and increase public awareness through boating education and industry stakeholder meetings coordinated by the Coast Guard and its Reserve and Auxiliary components. The America's Waterway Watch Program has received strong endorsements from numerous professional boating associations for the enhanced situational awareness it will bring to our nation's ports and waterways.

Our bill would protect citizens from frivolous lawsuits when they report, in good faith, suspicious behavior that may indicate terrorist activity against the United States. It builds on a provision from the 2007 homeland security law that encourages people to report potential terrorist threats directed against transportation systems by protecting people from those who would misuse our legal system in an attempt to chill the willingness of citizens to come forward and report possible dangers.

In addition, this legislation enhances the research and development efforts to improve maritime cargo security. The demonstration project authorized by this law would study the feasibility of using composite materials in cargo containers to improve container integrity and deploy next generation sensors.

This legislation also addresses the difficulties in administering the mandate of x-raying and scanning for radiation all cargo containers overseas that are destined for the United States by July 2012. Until x-ray scanning technology is proven effective at detecting radiological material and not disruptive of trade, requiring the x-raying of all U.S. bound cargo, regardless of its risk, at every foreign port, is misguided and provides a false sense of security. It would also impose onerous restrictions on the flow of commerce, costing billions with little additional security benefit.

Under the original provisions of the SAFE Port Act, all cargo designated as high-risk at foreign ports is already scanned for radiation and x-rayed. In addition, cargo entering the U.S. at all major seaports is scanned for radiation. These security measures currently in place are part of a layered, risk-based method to ensure cargo entering the U.S. is safe.

This legislation would eliminate the deadline for 100 percent x-raying of containers if the Secretary of Homeland Security certifies the effectiveness of individual security measures of that layered security approach. This is a more reasonable method to secure our cargo until a new method of x-raying containers is proven effective.

The SAFE Port Reauthorization Act of 2010 will help us to continue an effective, layered, coordinated security system that extends from point of origin to point of destination, and that covers the people, the vessels, the cargo, and the facilities involved in our maritime commerce. It will continue to address a major vulnerability in our homeland security critical infrastructure while preserving the flow of goods on which our economy depends.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 595—DESIGNATING THE WEEK BEGINNING SEPTEMBER 12, 2010, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BOND, Mrs. BOXER, Mr. BROWN of Ohio, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. CORKER, Mr. CORNYN, Mr. DEMINT, Mr. DURBIN, Mrs. HAGAN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. KAUFMAN, Ms. LANDRIEU, Mr. LEMIEUX, Mr. LEVIN, Mrs. LINCOLN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. SESSIONS, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, and Mr. WICKER) submitted the following resolution; which was considered and agreed to:

S. RES. 595

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities allow talented and diverse students, many of whom represent underserved populations, to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 12, 2010, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4518. Mr. SCHUMER (for Mr. HARKIN) proposed an amendment to the bill H.R. 5610, to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers.

SA 4519. Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

SA 4520. Mr. REID proposed an amendment to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra.

SA 4521. Mr. REID proposed an amendment to amendment SA 4520 proposed by Mr. REID to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra.

SA 4522. Mr. REID proposed an amendment to the bill H.R. 5297, supra.

SA 4523. Mr. REID proposed an amendment to amendment SA 4522 proposed by Mr. REID to the bill H.R. 5297, supra.

SA 4524. Mr. REID proposed an amendment to the bill H.R. 5297, supra.

SA 4525. Mr. REID proposed an amendment to amendment SA 4524 proposed by Mr. REID to the bill H.R. 5297, supra.

SA 4526. Mr. REID proposed an amendment to amendment SA 4525 proposed by Mr. REID to the amendment SA 4524 proposed by Mr. REID to the bill H.R. 5297, supra.

SA 4527. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4529. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4530. Mr. KERRY (for himself, Mr. WHITEHOUSE, Mr. WYDEN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4531. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4518. Mr. SCHUMER (for Mr. HARKIN) proposed an amendment to the bill H.R. 5610, to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers; as follows:

In section 2(a)(2)(A), strike ''July 30'' and insert ''August 5''.

SA 4519. Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Jobs Act of 2010''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SMALL BUSINESSES

Sec. 1001. Definitions.

Subtitle A—Small Business Access to Credit

Sec. 1101. Short title.

PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

Sec. 1111. Section 7(a) business loans.
Sec. 1112. Maximum loan amounts under 504 program.
Sec. 1113. Maximum loan limits under microloan program.
Sec. 1114. Loan guarantee enhancement extensions.
Sec. 1115. New Markets Venture Capital company investment limitations.
Sec. 1116. Alternative size standards.
Sec. 1117. Sale of 7(a) loans in secondary market.
Sec. 1118. Online lending platform.
Sec. 1119. SBA Secondary Market Guarantee Authority.

PART II—SMALL BUSINESS ACCESS TO CAPITAL

Sec. 1122. Low-interest refinancing under the local development business loan program.

PART III—OTHER MATTERS

Sec. 1131. Small business intermediary lending pilot program.
Sec. 1132. Public policy goals.
Sec. 1133. Floor plan pilot program extension.
Sec. 1134. Guarantees for bonds and notes issued for community or economic development purposes.
Sec. 1135. Temporary express loan enhancement.
Sec. 1136. Prohibition on using TARP funds or tax increases.

Subtitle B—Small Business Trade and Exporting

Sec. 1201. Short title.
Sec. 1202. Definitions.
Sec. 1203. Office of International Trade.
Sec. 1204. Duties of the Office of International Trade.
Sec. 1205. Export assistance centers.
Sec. 1206. International trade finance programs.
Sec. 1207. State Trade and Export Promotion Grant Program.
Sec. 1208. Rural export promotion.
Sec. 1209. International trade cooperation by small business development centers.

Subtitle C—Small Business Contracting

PART I—CONTRACT BUNDLING

Sec. 1311. Small Business Act.
Sec. 1312. Leadership and oversight.
Sec. 1313. Consolidation of contract requirements.
Sec. 1314. Small business teams pilot program.

PART II—SUBCONTRACTING INTEGRITY

Sec. 1321. Subcontracting misrepresentations.
Sec. 1322. Small business subcontracting improvements.

PART III—ACQUISITION PROCESS

Sec. 1331. Reservation of prime contract awards for small businesses.
Sec. 1332. Micro-purchase guidelines.
Sec. 1333. Agency accountability.
Sec. 1334. Payment of subcontractors.
Sec. 1335. Repeal of Small Business Competitiveness Demonstration Program.

PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 1341. Policy and presumptions.
Sec. 1342. Annual certification.
Sec. 1343. Training for contracting and enforcement personnel.
Sec. 1344. Updated size standards.
Sec. 1345. Study and report on the mentor-protege program.
Sec. 1346. Contracting goals reports.
Sec. 1347. Small business contracting parity.

Subtitle D—Small Business Management and Counseling Assistance

Sec. 1401. Matching requirements under small business programs.
Sec. 1402. Grants for SBDCs.

Subtitle E—Disaster Loan Improvement

Sec. 1501. Aquaculture business disaster assistance.

Subtitle F—Small Business Regulatory Relief

Sec. 1601. Requirements providing for more detailed analyses.
Sec. 1602. Office of advocacy.

Subtitle G—Appropriations Provisions

Sec. 1701. Salaries and expenses.
Sec. 1702. Business loans program account.
Sec. 1703. Community Development Financial Institutions Fund program account.
Sec. 1704. Small business loan guarantee enhancement extensions.

TITLE II—TAX PROVISIONS

Sec. 2001. Short title.

Subtitle A—Small Business Relief

PART I—PROVIDING ACCESS TO CAPITAL

Sec. 2011. Temporary exclusion of 100 percent of gain on certain small business stock.
Sec. 2012. General business credits of eligible small businesses for 2010 carried back 5 years.

Sec. 2013. General business credits of eligible small businesses in 2010 not subject to alternative minimum tax.
Sec. 2014. Temporary reduction in recognition period for built-in gains tax.
PART II—ENCOURAGING INVESTMENT
Sec. 2021. Increased expensing limitations for 2010 and 2011; certain real property treated as section 179 property.
Sec. 2022. Additional first-year depreciation for 50 percent of the basis of certain qualified property.
Sec. 2023. Special rule for long-term contract accounting.
PART III—PROMOTING ENTREPRENEURSHIP
Sec. 2031. Increase in amount allowed as deduction for start-up expenditures in 2010.
Sec. 2032. Authorization of appropriations for the United States Trade Representative to develop market access opportunities for United States small- and medium-sized businesses and to enforce trade agreements.
PART IV—PROMOTING SMALL BUSINESS FAIRNESS
Sec. 2041. Limitation on penalty for failure to disclose reportable transactions based on resulting tax benefits.
Sec. 2042. Deduction for health insurance costs in computing self-employment taxes in 2010.
Sec. 2043. Removal of cellular telephones and similar telecommunications equipment from listed property.
Subtitle B—Revenue Provisions
PART I—REDUCING THE TAX GAP
Sec. 2101. Information reporting for rental property expense payments.
Sec. 2102. Increase in information return penalties.
Sec. 2103. Report on tax shelter penalties and certain other enforcement actions.
Sec. 2104. Application of continuous levy to tax liabilities of certain Federal contractors.
PART II—PROMOTING RETIREMENT PREPARATION
Sec. 2111. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.
Sec. 2112. Rollovers from elective deferral plans to designated Roth accounts.
Sec. 2113. Special rules for annuities received from only a portion of a contract.
PART III—CLOSING UNINTENDED LOOPHOLES
Sec. 2121. Crude tall oil ineligible for cellulosic biofuel producer credit.
Sec. 2122. Source rules for income on guarantees.
Sec. 2123. Elimination of advance refundability of earned income credit.
PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES
Sec. 2131. Time for payment of corporate estimated taxes.
TITLE III—STATE SMALL BUSINESS CREDIT INITIATIVE
Sec. 3001. Short title.
Sec. 3002. Definitions.
Sec. 3003. Federal funds allocated to States.
Sec. 3004. Approving States for participation.
Sec. 3005. Approving State capital access programs.
Sec. 3006. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
Sec. 3007. Reports.
Sec. 3008. Remedies for State program termination or failures.
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TITLE IV—ADDITIONAL SMALL BUSINESS PROVISIONS
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Sec. 4101. Purpose.
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Sec. 4103. Small business lending fund.
Sec. 4104. Additional authorities of the Secretary.
Sec. 4105. Considerations.
Sec. 4106. Reports.
Sec. 4107. Oversight and audits.
Sec. 4108. Credit reform; funding.
Sec. 4109. Termination and continuation of authorities.
Sec. 4110. Preservation of authority.
Sec. 4111. Assurances.
Sec. 4112. Study and report with respect to women-owned, veteran-owned, and minority-owned businesses.
Sec. 4113. Sense of Congress.
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PART I—SMALL BUSINESS EXPORT PROMOTION INITIATIVES
Sec. 4221. Short title.
Sec. 4222. Global business development and promotion activities of the Department of Commerce.
Sec. 4223. Additional funding to improve access to global markets for rural businesses.
Sec. 4224. Additional funding for the ExporTech program.
Sec. 4225. Additional funding for the market development cooperator program of the department of commerce.
Sec. 4226. Hollings Manufacturing Partnership Program; Technology Innovation Program.
Sec. 4227. Sense of the Senate concerning Federal collaboration with States on export promotion issues.
Sec. 4228. Report on tariff and nontariff barriers.
PART II—MEDICARE FRAUD
Sec. 4241. Use of predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program.
PART III—AGRICULTURAL DISASTERS
Sec. 4261. Emergency agricultural disaster assistance.
Sec. 4262. Use of unspent future funds from the American Recovery and Reinvestment Act.
TITLE V—BUDGETARY PROVISIONS
Sec. 5001. Determination of budgetary effects.

TITLE I—SMALL BUSINESSES

SEC. 1001. DEFINITIONS.

In this title—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

Subtitle A—Small Business Access to Credit

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the ''Small Business Job Creation and Access to Capital Act of 2010''.

PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

SEC. 1111. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''75 percent'' and inserting ''90 percent''; and

(B) in clause (ii), by striking ''85 percent'' and inserting ''90 percent''; and

(2) in paragraph (3)(A), by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000'' and inserting ''$4,500,000 (or if the gross loan amount would exceed $5,000,000''.

(b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''90 percent'' and inserting ''75 percent''; and

(B) in clause (ii), by striking ''90 percent'' and inserting ''85 percent''; and

(2) in paragraph (3)(A), by striking ''$4,500,000'' and inserting ''$3,750,000''.

SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$5,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$5,000,000'';

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000'';

(4) in clause (iv), by striking ''$4,000,000'' and inserting ''$5,500,000''; and

(5) in clause (v), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking ''$35,000'' and inserting ''$50,000'';

(2) in paragraph (3)—

(A) in subparagraph (C), by striking ''$3,500,000'' and inserting ''$5,000,000''; and

(B) in subparagraph (E), by striking ''$35,000'' each place that term appears and inserting ''$50,000''; and

(3) in paragraph (11)(B), by striking ''$35,000'' and inserting ''$50,000''.

SEC. 1114. LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) FEES.—Section 501 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking ''September 30, 2010'' each place that term appears and inserting ''December 31, 2010''.

(b) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''May 31, 2010'' and inserting ''December 31, 2010''.

SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

''(e) INVESTMENT LIMITATIONS.—

''(1) DEFINITION.—In this subsection, the term 'covered New Markets Venture Capital company' means a New Markets Venture Capital company—

''(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

''(B) that has obtained a financing from the Administrator.

''(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

''(A) the regulatory capital of the covered New Markets Venture Capital company; and

''(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.''.

SEC. 1116. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

''(5) ALTERNATIVE SIZE STANDARD.—

''(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

''(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

''(i) the maximum tangible net worth of the applicant is not more than $15,000,000; and

''(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than $5,000,000.''.

SEC. 1117. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

''(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than $500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of $500,000 and 1 increment of any remaining amount less than $500,000, in order to permit the maximum amount of any loan in a pool to be not more than $500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.''.

SEC. 1118. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHORITY.

Section 503(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 155) is amended by striking ''on the date 2 years after the date of enactment of this section'' and inserting ''2 years after the date of the first sale of a pool of first lien position 504 loans guaranteed under this section to a third-party investor''.

PART II—SMALL BUSINESS ACCESS TO CAPITAL

SEC. 1122. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

''(C) REFINANCING NOT INVOLVING EXPANSIONS.—

''(i) DEFINITIONS.—In this subparagraph—

''(I) the term 'borrower' means a small business concern that submits an application to a development company for financing under this subparagraph;

''(II) the term 'eligible fixed asset' means tangible property relating to which the Administrator may provide financing under this section; and

''(III) the term 'qualified debt' means indebtedness—

''(aa) that—

''(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

''(BB) is a commercial loan;

''(CC) is not subject to a guarantee by a Federal agency;

''(DD) the proceeds of which were used to acquire an eligible fixed asset;

''(EE) was incurred for the benefit of the small business concern; and

''(FF) is collateralized by eligible fixed assets; and

''(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

''(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

''(I) the amount of the financing is not more than 90 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

''(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

''(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

''(iii) FINANCING FOR BUSINESS EXPENSES.—

''(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

''(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

''(aa) a specific description of the expenses for which the additional financing is requested; and

''(bb) an itemization of the amount of each expense.

''(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

''(iv) LOANS BASED ON JOBS.—

''(I) JOB CREATION AND RETENTION GOALS.—

''(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

''(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by $65,000.

''(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

''(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

''(bb) the product obtained by multiplying—

''(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

''(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

''(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

''(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of $7,500,000,000 of financing under this subparagraph for each fiscal year.''.

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking ''subparagraph (B) or (C)'' and inserting ''clause (ii), (iii), (iv), or (v)''.

PART III—OTHER MATTERS

SEC. 1131. SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking subsection (l) and inserting the following:

''(l) SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'eligible intermediary'—

''(i) means a private, nonprofit entity that—

''(I) seeks or has been awarded a loan from the Administrator to make loans to small business concerns under this subsection; and

''(II) has not less than 1 year of experience making loans to startup, newly established, or growing small business concerns; and

''(ii) includes—

''(I) a private, nonprofit community development corporation;

''(II) a consortium of private, nonprofit organizations or nonprofit community development corporations; and

''(III) an agency of or nonprofit entity established by a Native American Tribal Government; and

''(B) the term 'Program' means the small business intermediary lending pilot program established under paragraph (2).

''(2) ESTABLISHMENT.—There is established a 3-year small business intermediary lending pilot program, under which the Administrator may make direct loans to eligible intermediaries, for the purpose of making loans to startup, newly established, and growing small business concerns.

''(3) PURPOSES.—The purposes of the Program are—

''(A) to assist small business concerns in areas suffering from a lack of credit due to poor economic conditions or changes in the financial market; and

''(B) to establish a loan program under which the Administrator may provide loans to eligible intermediaries to enable the eligible intermediaries to provide loans to start-up, newly established, and growing small business concerns for working capital, real estate, or the acquisition of materials, supplies, or equipment.

''(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

''(A) APPLICATION.—Each eligible intermediary desiring a loan under this subsection shall submit an application to the Administrator that describes—

''(i) the type of small business concerns to be assisted;

''(ii) the size and range of loans to be made;

''(iii) the interest rate and terms of loans to be made;

''(iv) the geographic area to be served and the economic, poverty, and unemployment characteristics of the area;

''(v) the status of small business concerns in the area to be served and an analysis of the availability of credit; and

''(vi) the qualifications of the applicant to carry out this subsection.

''(B) LOAN LIMITS.—No loan may be made to an eligible intermediary under this subsection if the total amount outstanding and committed to the eligible intermediary by the Administrator would, as a result of such loan, exceed $1,000,000 during the participation of the eligible intermediary in the Program.

''(C) LOAN DURATION.—Loans made by the Administrator under this subsection shall be for a term of 20 years.

''(D) APPLICABLE INTEREST RATES.—Loans made by the Administrator to an eligible intermediary under the Program shall bear an annual interest rate equal to 1.00 percent.

''(E) FEES; COLLATERAL.—The Administrator may not charge any fees or require collateral with respect to any loan made to an eligible intermediary under this subsection.

''(F) DELAYED PAYMENTS.—The Administrator shall not require the repayment of principal or interest on a loan made to an eligible intermediary under the Program during the 2-year period beginning on the date of the initial disbursement of funds under that loan.

''(G) MAXIMUM PARTICIPANTS AND AMOUNTS.—During each of fiscal years 2011, 2012, and 2013, the Administrator may make loans under the Program—

''(i) to not more than 20 eligible intermediaries; and

''(ii) in a total amount of not more than $20,000,000.

''(5) LOANS TO SMALL BUSINESS CONCERNS.—

''(A) IN GENERAL.—The Administrator, through an eligible intermediary, shall make loans to startup, newly established, and growing small business concerns for working capital, real estate, and the acquisition of materials, supplies, furniture, fixtures, and equipment.

''(B) MAXIMUM LOAN.—An eligible intermediary may not make a loan under this subsection of more than $200,000 to any 1 small business concern.

''(C) APPLICABLE INTEREST RATES.—A loan made by an eligible intermediary to a small business concern under this subsection, may have a fixed or a variable interest rate, and shall bear an interest rate specified by the eligible intermediary in the application of the eligible intermediary for a loan under this subsection.

''(D) REVIEW RESTRICTIONS.—The Administrator may not review individual loans made by an eligible intermediary to a small business concern before approval of the loan by the eligible intermediary.

''(6) TERMINATION.—The authority of the Administrator to make loans under the Program shall terminate 3 years after the date of enactment of the Small Business Job Creation and Access to Capital Act of 2010.''.

(b) RULEMAKING AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out section 7(l) of the Small Business Act, as amended by subsection (a).

(c) AVAILABILITY OF FUNDS.—Any amounts provided to the Administrator for the purposes of carrying out section 7(l) of the Small Business Act, as amended by subsection (a), shall remain available until expended.

SEC. 1132. PUBLIC POLICY GOALS.

Section 501(d)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

(1) in subparagraph (J), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(L) reduction of rates of unemployment in labor surplus areas, as such areas are determined by the Secretary of Labor.''.

SEC. 1133. FLOOR PLAN PILOT PROGRAM EXTENSION.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by redesignating paragraph (32), relating to increased veteran participation, as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110–186; 122 Stat. 631), as paragraph (33); and

(2) by adding at the end the following:

''(34) FLOOR PLAN FINANCING PROGRAM.—

''(A) DEFINITION.—In this paragraph, the term 'eligible retail good'—

''(i) means a good for which a title may be obtained under State law; and

''(ii) includes an automobile, recreational vehicle, boat, and manufactured home.

''(B) PROGRAM.—The Administrator may guarantee the timely payment of an open-end extension of credit to a small business concern, the proceeds of which may be used for the purchase of eligible retail goods for resale.

''(C) AMOUNT.—An open-end extension of credit guaranteed under this paragraph shall be in an amount not less than $500,000 and not more than $5,000,000.

''(D) TERM.—An open-end extension of credit guaranteed under this paragraph shall have a term of not more than 5 years.

''(E) GUARANTEE PERCENTAGE.—The Administrator may guarantee—

''(i) not less than 60 percent of an open-end extension of credit under this paragraph; and

''(ii) not more than 75 percent of an open-end extension of credit under this paragraph.

''(F) ADVANCE RATE.—The lender for an open-end extension of credit guaranteed under this paragraph may allow the borrower to draw funds on the line of credit in an amount equal to not more than 100 percent of the value of the eligible retail goods to be purchased.''.

(b) SUNSET.—Effective September 30, 2013, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking paragraph (34); and

(2) by redesignating paragraph (35), as added by section 1206 of this Act, as paragraph (34).

SEC. 1134. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

''SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'eligible community development financial institution' means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

''(2) ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.—The term 'eligible community or economic development purpose'—

''(A) means any purpose described in section 108(b); and

''(B) includes the provision of community or economic development in low-income or underserved rural areas.

''(3) GUARANTEE.—The term 'guarantee' means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

''(4) LOAN.—The term 'loan' means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

''(5) MASTER SERVICER.—

''(A) IN GENERAL.—The term 'master servicer' means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

''(B) APPROVAL CRITERIA FOR MASTER SERVICERS.—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

''(i) loan administration, servicing, and loan monitoring;

''(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

''(iii) managing regional or national originator communication systems and infrastructure;

''(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

''(v) compliance monitoring, investor relations, and reporting.

''(6) PROGRAM.—The term 'Program' means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

''(7) PROGRAM ADMINISTRATOR.—The term 'Program administrator' means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

''(8) QUALIFIED ISSUER.—

''(A) IN GENERAL.—The term 'qualified issuer' means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

''(B) APPROVAL CRITERIA FOR QUALIFIED ISSUERS.—

''(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the

requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

''(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

''(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

''(II) provide to the Secretary—

''(aa) an acceptable statement of the proposed sources and uses of the funds; and

''(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

''(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

''(C) DEPARTMENT OPINION; TIMING.—

''(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the Secretary shall provide an opinion regarding compliance by the issuer with the requirements of the Program under this section.

''(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 90 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(10) SERVICER.—The term 'servicer' means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

''(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer, if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

''(1) for eligible community or economic development purposes; or

''(2) to refinance loans or notes issued for such purposes.

''(c) GENERAL PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

''(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

''(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

''(A) community or economic development loans;

''(B) a relending account, to the extent authorized under paragraph (2); or

''(C) a risk-share pool established under subsection (d).

''(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

''(5) PROHIBITED USES.—The Secretary shall, by regulation—

''(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

''(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

''(i) the qualified issuer; or

''(ii) any recipient of amounts from the guarantee of a bond or note.

''(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

''(e) GUARANTEES.—

''(1) IN GENERAL.—A guarantee issued under the Program shall—

''(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

''(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

''(C) represent the full faith and credit of the United States; and

''(D) not exceed 30 years.

''(2) LIMITATIONS.—

''(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

''(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than $100,000,000, but the total of all such guarantees in any fiscal year may not exceed $1,000,000,000.

''(f) SERVICING OF TRANSACTIONS.—

''(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

''(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

''(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

''(B) compliance monitoring;

''(C) bond packaging in connection with the Program; and

''(D) all other duties and related services that are customarily expected of a Program administrator.

''(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

''(A) billing and collecting loan payments;

''(B) initiating collection activities on past-due loans;

''(C) transferring loan payments to the master servicing accounts;

''(D) loan administration and servicing;

''(E) systematic and timely reporting of loan performance through remittance and servicing reports;

''(F) proper measurement of annual outstanding loan requirements; and

''(G) all other duties and related services that are customarily expected of servicers.

''(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

''(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

''(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

''(C) monitoring the collection comments and foreclosure actions;

''(D) aggregating the reporting and distribution of funds to trustees and investors;

''(E) removing and replacing a servicer, as necessary;

''(F) loan administration and servicing;

''(G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;

''(H) proper distribution of funds to investors; and

''(I) all other duties and related services that are customarily expected of a master servicer.

''(g) FEES.—

''(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

''(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

''(3) USE OF FEES.—Fees collected by the Secretary under this subsection shall be used to reimburse the Department of the Treasury for any administrative costs incurred by the Department in implementing the Program established under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

''(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

''(i) INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

''(j) ADMINISTRATION.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

''(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall implement this section.

''(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.''.

SEC. 1135. TEMPORARY EXPRESS LOAN ENHANCEMENT.

(a) IN GENERAL.—Section 7(a)(31)(D) of the Small Business Act (15 U.S.C. 636(a)(31)(D)) is amended by striking ''$350,000'' and inserting ''$1,000,000''.

(b) PROSPECTIVE REPEAL.—Effective 1 year after the date of enactment of this Act, section 7(a)(31)(D) of the Small Business Act (15 U.S.C. 636(a)(31)(D)) is amended by striking ''$1,000,000'' and inserting ''$350,000''.

SEC. 1136. PROHIBITION ON USING TARP FUNDS OR TAX INCREASES.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in section 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or an amendment made by such sections, shall

be construed to limit the ability of Congress to appropriate funds.

(b) TARP FUNDS AND TAX INCREASES.—

(1) IN GENERAL.—Any covered amounts may not be used to carry out section 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or an amendment made by such sections.

(2) DEFINITION.—In this subsection, the term ''covered amounts'' means—

(A) the amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008 S.C. 5201 et seq.) to purchase (under section 101) or guarantee (under section 102) assets under that Act; and

(B) any revenue increase attributable to any amendment to the Internal Revenue Code of 1986 made during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Subtitle B—Small Business Trade and Exporting

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the ''Small Business Export Enhancement and International Trade Act of 2010''.

SEC. 1202. DEFINITIONS.

(a) DEFINITIONS.—In this subtitle—

(1) the term ''Associate Administrator'' means the Associate Administrator for International Trade appointed under section 22(a)(2) of the Small Business Act, as amended by this subtitle;

(2) the term ''Export Assistance Center'' means a one-stop shop referred to in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8)); and

(3) the term ''rural small business concern'' means a small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(t) SMALL BUSINESS DEVELOPMENT CENTER.—In this Act, the term 'small business development center' means a small business development center described in section 21.

''(u) REGION OF THE ADMINISTRATION.—In this Act, the term 'region of the Administration' means the geographic area served by a regional office of the Administration established under section 4(a).''.

(2) CONFORMING AMENDMENT.—Section 4(b)(3)(B)(x) of the Small Business Act (15 U.S.C. 633(b)(3)(B)(x)) is amended by striking ''Administration district and region'' and inserting ''district and region of the Administration''.

SEC. 1203. OFFICE OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking ''SEC. 22. (a) There'' and inserting the following:

''SEC. 22. OFFICE OF INTERNATIONAL TRADE.

''(a) ESTABLISHMENT.—

''(1) OFFICE.—There''; and

(2) in subsection (a)—

(A) in paragraph (1), as so designated, by striking the period and inserting ''for the primary purposes of increasing—

''(A) the number of small business concerns that export; and

''(B) the volume of exports by small business concerns.''; and

(B) by adding at the end the following:

''(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.''.

(b) AUTHORITY FOR ADDITIONAL ASSOCIATE ADMINISTRATOR.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) in the fifth sentence, by striking ''five Associate Administrators'' and inserting ''Associate Administrators''; and

(2) by adding at the end the following: ''One such Associate Administrator shall be the Associate Administrator for International Trade, who shall be the head of the Office of International Trade established under section 22.''.

(c) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following:

''(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

''(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

''(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

''(3) the Associate Administrator has direct supervision and control over—

''(A) the staff of the Office; and

''(B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.''.

(d) ROLE OF ASSOCIATE ADMINISTRATOR IN CARRYING OUT INTERNATIONAL TRADE POLICY.—Section 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1)) is amended in the matter preceding subparagraph (A)—

(1) by inserting ''the Administrator of'' before ''the Small Business Administration''; and

(2) by inserting ''through the Associate Administrator for International Trade, and'' before ''in cooperation with''.

(e) IMPLEMENTATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall appoint an Associate Administrator for International Trade under section 22(a) of the Small Business Act (15 U.S.C. 649(a)), as added by this section.

SEC. 1204. DUTIES OF THE OFFICE OF INTERNATIONAL TRADE.

(a) AMENDMENTS TO SECTION 22.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

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

''(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator, working in close cooperation with the Secretary of Commerce, the United States Trade Representative, the Secretary of Agriculture, the Secretary of State, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, Director of the United States Trade and Development Agency, and other relevant Federal agencies, small business development centers engaged in export promotion efforts, Export Assistance Centers, regional and district offices of the Administration, the small business community, and relevant State and local export promotion programs, shall—

''(1) maintain a distribution network, using regional and district offices of the Administration, the small business development center network, networks of women's business centers, the Service Corps of Retired Executives authorized by section 8(b)(1), and Export Assistance Centers, for programs relating to—

''(A) trade promotion;

''(B) trade finance;

''(C) trade adjustment assistance;

''(D) trade remedy assistance; and

''(E) trade data collection;

''(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to small business concerns on exporting trends, market-specific growth, industry trends, and international prospects for exports;

''(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partners in the private sector; and

''(4) give preference in hiring or approving the transfer of any employee into the Office or to a position described in subsection (c)(9) to otherwise qualified applicants who are fluent in a language in addition to English, to—

''(A) accompany small business concerns on foreign trade missions; and

''(B) translate documents, interpret conversations, and facilitate multilingual transactions, including by providing referral lists for translation services, if required.'';

(2) in subsection (c)—

(A) by striking ''(c) The Office'' and inserting the following:

''(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator'';

(B) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(C) by inserting before paragraph (2), as so redesignated, the following:

''(1) establish annual goals for the Office relating to—

''(A) enhancing the exporting capability of small business concerns and small manufacturers;

''(B) facilitating technology transfers;

''(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently in foreign markets;

''(D) increasing the ability of small business concerns to access capital; and

''(E) disseminating information concerning Federal, State, and private programs and initiatives;'';

(D) in paragraph (2), as so redesignated, by striking ''mechanism for'' and all that follows through ''(D) assisting'' and inserting the following: ''mechanism for—

''(A) identifying subsectors of the small business community with strong export potential;

''(B) identifying areas of demand in foreign markets;

''(C) prescreening foreign buyers for commercial and credit purposes; and

''(D) assisting'';

(E) in paragraph (3), as so redesignated, by striking ''assist small businesses in the formation and utilization of'' and inserting ''assist small business concerns in forming and using'';

(F) in paragraph (4), as so redesignated—

(i) by striking ''local'' and inserting ''district'';

(ii) by striking ''existing'';

(iii) by striking ''Small Business Development Center network'' and inserting ''small business development center network''; and

(iv) by striking ''Small Business Development Center Program'' and inserting ''small business development center program'';

(G) in paragraph (5), as so redesignated—

(i) in subparagraph (A), by striking ''Gross State Produce'' and inserting ''Gross State Product'';

(ii) in subparagraph (B), by striking ''SIC'' each place it appears and inserting ''North American Industry Classification System''; and

(iii) in subparagraph (C), by striking ''small businesses'' and inserting ''small business concerns'';

(H) in paragraph (6), as so redesignated, by striking the period at the end and inserting a semicolon;

(I) in paragraph (7), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by inserting ''concerns'' after ''small business''; and

(II) by striking ''current'' and inserting ''up to date'';

(ii) in subparagraph (A), by striking ''Administration's regional offices'' and inserting ''regional and district offices of the Administration'';

(iii) in subparagraph (B) by striking ''current'';

(iv) in subparagraph (C), by striking ''current''; and

(v) by striking ''small businesses'' each place that term appears and inserting ''small business concerns'';

(J) in paragraph (8), as so redesignated, by striking and at the end;

(K) in paragraph (9), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''full-time export development specialists to each Administration regional office and assigning''; and

(II) by striking ''person in each district office. Such specialists'' and inserting ''individual in each district office and providing each Administration regional office with a full-time export development specialist, who'';

(ii) in subparagraph (B)—

(I) by striking ''current''; and

(II) by striking ''with'' and inserting ''in'';

(iii) in subparagraph (D)—

(I) by striking ''Administration personnel involved in granting'' and inserting ''personnel of the Administration involved in making''; and

(II) by striking ''and'' at the end;

(iv) in subparagraph (E)—

(I) by striking ''small businesses' needs'' and inserting ''the needs of small business concerns''; and

(II) by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following:

''(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

''(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, the Department of Agriculture, small business development centers, women's business centers, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, and other relevant Federal agencies;''; and

(vi) by striking ''small businesses'' each place that term appears and inserting ''small business concerns''; and

(L) by adding at the end the following:

''(10) make available on the website of the Administration the name and contact information of each individual described in paragraph (9);

''(11) carry out a nationwide marketing effort using technology, online resources, training, and other strategies to promote exporting as a business development opportunity for small business concerns;

''(12) disseminate information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives authorized by section 8(b)(1), State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting; and

''(13) establish and carry out training programs for the staff of the regional and district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.'';

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (5) as clauses (i) through (v), respectively, and adjusting the margins accordingly;

(B) by striking ''(d) The Office'' and inserting the following:

''(d) EXPORT FINANCING PROGRAMS.—

''(1) IN GENERAL.—The Associate Administrator''; and

(C) by striking ''To accomplish this goal, the Office shall work'' and inserting the following:

''(2) TRADE FINANCE SPECIALIST.—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

''(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

''(B) work'';

(4) in subsection (e), by striking ''(e) The Office'' and inserting the following:

''(e) TRADE REMEDIES.—The Associate Administrator'';

(5) by amending subsection (f) to read as follows:

''(f) REPORTING REQUIREMENT.—The Associate 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) a description of the progress of the Office in implementing the requirements of this section;

''(2) a detailed account of the results of export growth activities of the Administration, including the activities of each district and regional office of the Administration, based on the performance measures described in subsection (i);

''(3) an estimate of the total number of jobs created or retained as a result of export assistance provided by the Administration and resource partners of the Administration;

''(4) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

''(5) a description of the participation by the Office in trade negotiations.'';

(6) in subsection (g), by striking ''(g) The Office'' and inserting the following:

''(g) STUDIES.—The Associate Administrator''; and

(7) by adding after subsection (h), as added by section 1203 of this subtitle, the following:

''(i) EXPORT AND TRADE COUNSELING.—

''(1) DEFINITION.—In this subsection—

''(A) the term 'lead small business development center' means a small business development center that has received a grant from the Administration; and

''(B) the term 'lead women's business center' means a women's business center that has received a grant from the Administration.

''(2) CERTIFICATION PROGRAM.—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women's business centers in providing export assistance to small business concerns.

''(3) NUMBER OF CERTIFIED EMPLOYEES.—The Administrator shall ensure that the number of employees of each lead small business development center who are certified in providing export assistance is not less than the lesser of—

''(A) 5; or

''(B) 10 percent of the total number of employees of the lead small business development center.

''(4) REIMBURSEMENT FOR CERTIFICATION.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall reimburse a lead small business development center or a lead women's business center for costs relating to the certification of an employee of the lead small business center or lead women's business center in providing export assistance under the program established under paragraph (2).

''(B) LIMITATION.—The total amount reimbursed by the Administrator under subparagraph (A) may not exceed $350,000 in any fiscal year.

''(j) PERFORMANCE MEASURES.—

''(1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—

''(A) the number of small business concerns that—

''(i) receive assistance from the Administration;

''(ii) had not exported goods or services before receiving the assistance described in clause (i); and

''(iii) export goods or services;

''(B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;

''(C) export revenues by small business concerns assisted by programs of the Administration;

''(D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office;

''(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center; and

''(F) the number of small business concerns referred to the Department of Commerce, the Department of Agriculture, the Department of State, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the United States Trade and Development Agency by the staff of the Office, an Export Assistance Center, or a small business development center.

''(2) JOINT PERFORMANCE MEASURES.—The Associate Administrator shall develop joint performance measures for the district offices of the Administration and the Export Assistance Centers that include the number of export loans made under—

''(A) section 7(a)(16);

''(B) the Export Working Capital Program established under section 7(a)(14);

''(C) the Preferred Lenders Program, as defined in section 7(a)(2)(C)(ii); and

''(D) the export express program established under section 7(a)(34).

''(3) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the

performance measures developed under paragraph (1), that is consistent with systems used by the departments and agencies and the network.''.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on any travel by the staff of the Office of International Trade of the Administration, during the period beginning on October 1, 2004, and ending on the date of enactment of the Act, including the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel.

SEC. 1205. EXPORT ASSISTANCE CENTERS.

(a) EXPORT ASSISTANCE CENTERS.—Section 22 of the Small Business Act (15 U.S.C. 649), as amended by this subtitle, is amended by adding at the end the following:

''(k) EXPORT ASSISTANCE CENTERS.—

''(1) EXPORT FINANCE SPECIALISTS.—

''(A) MINIMUM NUMBER OF EXPORT FINANCE SPECIALISTS.—On and after the date that is 90 days after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that the number of export finance specialists is not less than the number of such employees so assigned on January 1, 2003.

''(B) EXPORT FINANCE SPECIALISTS ASSIGNED TO EACH REGION OF THE ADMINISTRATION.—On and after the date that is 2 years after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that there are not fewer than 3 export finance specialists in each region of the Administration.

''(2) PLACEMENT OF EXPORT FINANCE SPECIALISTS.—

''(A) PRIORITY.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

''(i) had an Administration employee assigned to the Export Assistance Center before January 2003; and

''(ii) has not had an Administration employee assigned to the Export Assistance Center during the period beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

''(B) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to reassign or remove an export finance specialist who is assigned to an Export Assistance Center on the date of enactment of this subsection.

''(3) GOALS.—The Associate Administrator shall work with the Department of Commerce, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation to establish shared annual goals for the Export Assistance Centers.

''(4) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

''(l) DEFINITIONS.—In this section—

''(1) the term 'Associate Administrator' means the Associate Administrator for International Trade described in subsection (a)(2);

''(2) the term 'Export Assistance Center' means a one-stop shop for United States exporters established by the United States and Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

''(3) the term 'export finance specialist' means a full-time equivalent employee of the Office assigned to an Export Assistance Center to carry out the duties described in subsection (e); and

''(4) the term 'Office' means the Office of International Trade established under subsection (a)(1).''.

(b) STUDY AND REPORT ON FILLING GAPS IN HIGH-AND-LOW-EXPORT VOLUME AREAS.—

(1) STUDY AND REPORT.—Not later than 6 months after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall—

(A) conduct a study of—

(i) the volume of exports for each State;

(ii) the availability of export finance specialists in each State;

(iii) the number of exporters in each State that are small business concerns;

(iv) the percentage of exporters in each State that are small business concerns;

(v) the change, if any, in the number of exporters that are small business concerns in each State—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced;

(vi) the total value of the exports in each State by small business concerns;

(vii) the percentage of the total volume of exports in each State that is attributable to small business concerns; and

(viii) the change, if any, in the percentage of the total volume of exports in each State that is attributable to small business concerns—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced; 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 containing—

(i) the results of the study under subparagraph (A);

(ii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the greatest volume of exports, based upon the most recent data available from the Department of Commerce;

(iii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the lowest volume of exports, based upon the most recent data available from the Department of Commerce; and

(iv) such additional information as the Administrator determines is appropriate.

(2) DEFINITION.—In this subsection, the term ''export finance specialist'' has the meaning given that term in section 22(l) of the Small Business Act, as added by this title.

SEC. 1206. INTERNATIONAL TRADE FINANCE PROGRAMS.

(a) LOAN LIMITS.—

(1) TOTAL AMOUNT OUTSTANDING.—Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended by striking ''$1,750,000, of which not more than $1,250,000'' and inserting ''$4,500,000 (or if the gross loan amount would exceed $5,000,000), of which not more than $4,000,000''.

(2) PARTICIPATION.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B), (D), and (E)'';

(B) in subparagraph (D), by striking ''Notwithstanding subparagraph (A), in'' and inserting ''In''; and

(C) by adding at the end the following:

''(E) PARTICIPATION IN INTERNATIONAL TRADE LOAN.—In an agreement to participate in a loan on a deferred basis under paragraph (16), the participation by the Administration may not exceed 90 percent.''.

(b) WORKING CAPITAL.—Section 7(a)(16)(A) of the Small Business Act (15 U.S.C. 636(a)(16)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''in—'' and inserting ''—'';

(2) in clause (i)—

(A) by inserting ''in'' after ''(i)''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''in'' after ''(ii)''; and

(B) by striking the period at the end and inserting '', including any debt that qualifies for refinancing under any other provision of this subsection; or''; and

(4) by adding at the end the following:

''(iii) by providing working capital.''.

(c) COLLATERAL.—Section 7(a)(16)(B) of the Small Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

(1) by striking ''Each loan'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), each loan''; and

(2) by adding at the end the following:

''(ii) EXCEPTION.—A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.''.

(d) EXPORT WORKING CAPITAL PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(D), by striking ''not exceed'' and inserting ''be''; and

(2) in paragraph (14)—

(A) by striking ''(A) The Administration'' and inserting the following: ''EXPORT WORKING CAPITAL PROGRAM.—

''(A) IN GENERAL.—The Administrator'';

(B) by striking ''(B) When considering'' and inserting the following:

''(C) CONSIDERATIONS.—When considering'';

(C) by striking ''(C) The Administration'' and inserting the following:

''(D) MARKETING.—The Administrator''; and

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

''(B) TERMS.—

''(i) LOAN AMOUNT.—The Administrator may not guarantee a loan under this paragraph of more than $5,000,000.

''(ii) FEES.—

''(I) IN GENERAL.—For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

''(II) UNTAPPED CREDIT.—The Administrator may not assess a fee on capital that is not accessed by the small business concern.''.

(e) PARTICIPATION IN PREFERRED LENDERS PROGRAM.—Section 7(a)(2)(C) of the Small Business Act (15 U.S.C. 636(a)(2)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

''(ii) EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.''.

(f) EXPORT EXPRESS PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(35) EXPORT EXPRESS PROGRAM.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'export development activity' includes—

''(I) obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

''(II) participation in a trade show that takes place outside the United States;

''(III) translation of product brochures or catalogues for use in markets outside the United States;

''(IV) obtaining a general line of credit for export purposes;

''(V) performing a service contract from buyers located outside the United States;

''(VI) obtaining transaction-specific financing associated with completing export orders;

''(VII) purchasing real estate or equipment to be used in the production of goods or services for export;

''(VIII) providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

''(IX) acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

''(ii) the term 'express loan' means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

''(B) AUTHORITY.—The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

''(C) LEVEL OF PARTICIPATION.—

''(i) MAXIMUM AMOUNT.—The maximum amount of an express loan guaranteed under this paragraph shall be $500,000.

''(ii) PERCENTAGE.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

''(I) 90 percent of a loan that is not more than $350,000; and

''(II) 75 percent of a loan that is more than $350,000 and not more than $500,000.''.

(g) ANNUAL LISTING OF EXPORT FINANCE LENDERS.—Section 7(a)(16) of the Small Business Act (15 U.S.C. 636(a)(16)) is amended by adding at the end the following:

''(F) LIST OF EXPORT FINANCE LENDERS.—

''(i) PUBLICATION OF LIST REQUIRED.—The Administrator shall publish an annual list of the banks and participating lending institutions that, during the 1-year period ending on the date of publication of the list, have made loans guaranteed by the Administration under—

''(I) this paragraph;

''(II) paragraph (14); or

''(III) paragraph (34).

''(ii) AVAILABILITY OF LIST.—The Administrator shall—

''(I) post the list published under clause (i) on the website of the Administration; and

''(II) make the list published under clause (i) available, upon request, at each district office of the Administration.''.

(h) APPLICABILITY.—The amendments made by subsections (a) through (f) shall apply with respect to any loan made after the date of enactment of this Act.

SEC. 1207. STATE TRADE AND EXPORT PROMOTION GRANT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''eligible small business concern'' means a small business concern that—

(A) has been in business for not less than the 1-year period ending on the date on which assistance is provided using a grant under this section;

(B) is operating profitably, based on operations in the United States;

(C) has demonstrated understanding of the costs associated with exporting and doing business with foreign purchasers, including the costs of freight forwarding, customs brokers, packing and shipping, as determined by the Associate Administrator; and

(D) has in effect a strategic plan for exporting;

(2) the term ''program'' means the State Trade and Export Promotion Grant Program established under subsection (b);

(3) the term ''small business concern owned and controlled by women'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(4) the term ''socially and economically disadvantaged small business concern'' has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 6537(a)(4)(A)); and

(5) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(b) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a 3-year trade and export promotion pilot program to be known as the State Trade and Export Promotion Grant Program, to make grants to States to carry out export programs that assist eligible small business concerns in—

(1) participation in a foreign trade mission;

(2) a foreign market sales trip;

(3) a subscription to services provided by the Department of Commerce;

(4) the payment of website translation fees;

(5) the design of international marketing media;

(6) a trade show exhibition;

(7) participation in training workshops; or

(8) any other export initiative determined appropriate by the Associate Administrator.

(c) GRANTS.—

(1) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State that export or to increase the value of the exports by eligible small business concerns in the State.

(2) CONSIDERATIONS.—In making grants under this section, the Associate Administrator may give priority to an application by a State that proposes a program that—

(A) focuses on eligible small business concerns as part of an export promotion program;

(B) demonstrates success in promoting exports by—

(i) socially and economically disadvantaged small business concerns;

(ii) small business concerns owned or controlled by women; and

(iii) rural small business concerns;

(C) promotes exports from a State that is not 1 of the 10 States with the highest percentage of exporters that are small business concerns, based upon the latest data available from the Department of Commerce; and

(D) promotes new-to-market export opportunities to the People's Republic of China for eligible small business concerns in the United States.

(3) LIMITATIONS.—

(A) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

(B) PROPORTION OF AMOUNTS.—The total value of grants under the program made during a fiscal year to the 10 States with the highest number of exporters that are small business concerns, based upon the latest data available from the Department of Commerce, shall be not more than 40 percent of the amounts appropriated for the program for that fiscal year.

(4) APPLICATION.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

(d) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

(e) FEDERAL SHARE.—The Federal share of the cost of an export program carried out using a grant under the program shall be—

(1) for a State that has a high export volume, as determined by the Associate Administrator, not more than 65 percent; and

(2) for a State that does not have a high export volume, as determined by the Associate Administrator, not more than 75 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of the cost of an export program carried using a grant under the program shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

(g) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of enactment of this Act, the Associate 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, which shall include—

(A) a description of the structure of and procedures for the program;

(B) a management plan for the program; and

(C) a description of the merit-based review process to be used in the program.

(2) ANNUAL REPORTS.—The Associate 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 regarding the program, which shall include—

(A) the number and amount of grants made under the program during the preceding year;

(B) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with grant; and

(C) the effect of each grant on exports by eligible small business concerns in the State receiving the grant.

(h) REVIEWS BY INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

(A) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

(B) the overall management and effectiveness of the program.

(2) REPORT.—Not later than September 30, 2012, the Inspector General of the Administration 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 regarding the review conducted under paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $30,000,000 for each of fiscal years 2011, 2012, and 2013.

(j) TERMINATION.—The authority to carry out the program shall terminate 3 years after the date on which the Associate Administrator establishes the program.

SEC. 1208. RURAL EXPORT PROMOTION.

Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Commerce, 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 that contains—

(1) a description of each program of the Administration that promotes exports by rural small business concerns, including—

(A) the number of rural small business concerns served by the program;

(B) the change, if any, in the number of rural small business concerns as a result of participation in the program during the 10-year period ending on the date of enactment of this Act;

(C) the volume of exports by rural small business concerns that participate in the program; and

(D) the change, if any, in the volume of exports by rural small businesses that participate in the program during the 10-year period ending on the date of enactment of this Act;

(2) a description of the coordination between programs of the Administration and other Federal programs that promote exports by rural small business concerns;

(3) recommendations, if any, for improving the coordination described in paragraph (2);

(4) a description of any plan by the Administration to market the international trade financing programs of the Administration through lenders that—

(A) serve rural small business concerns; and

(B) are associated with financing programs of the Department of Agriculture;

(5) recommendations, if any, for improving coordination between the counseling programs and export financing programs of the Administration, in order to increase the volume of exports by rural small business concerns; and

(6) any additional information the Administrator determines is necessary.

SEC. 1209. INTERNATIONAL TRADE COOPERATION BY SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) by striking ''(2) The Small Business Development Centers'' and inserting the following:

''(2) COOPERATION TO PROVIDE INTERNATIONAL TRADE SERVICES.—

''(A) INFORMATION AND SERVICES.—The small business development centers''; and

(2) in paragraph (2)—

(A) in subparagraph (A), as so designated, by inserting ''(including State trade agencies),'' after ''local agencies''; and

(B) by adding at the end the following:

''(B) COOPERATION WITH STATE TRADE AGENCIES AND EXPORT ASSISTANCE CENTERS.—A small business development center that counsels a small business concern on issues relating to international trade shall—

''(i) consult with State trade agencies and Export Assistance Centers to provide appropriate services to the small business concern; and

''(ii) as necessary, refer the small business concern to a State trade agency or an Export Assistance Center for further counseling or assistance.

''(C) DEFINITION.—In this paragraph, the term 'Export Assistance Center' has the same meaning as in section 22.''.

Subtitle C—Small Business Contracting

PART I—CONTRACT BUNDLING

SEC. 1311. SMALL BUSINESS ACT.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1202, is amended by adding at the end the following:

''(v) MULTIPLE AWARD CONTRACT.—In this Act, the term 'multiple award contract' means—

''(1) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

''(2) any other indefinite delivery, indefinite quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation.''.

SEC. 1312. LEADERSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(q) BUNDLING ACCOUNTABILITY MEASURES.—

''(1) TEAMING REQUIREMENTS.—Each Federal agency shall include in each solicitation for any multiple award contract above the substantial bundling threshold of the Federal agency a provision soliciting bids from any responsible source, including responsible small business concerns and teams or joint ventures of small business concerns.

''(2) POLICIES ON REDUCTION OF CONTRACT BUNDLING.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 4219(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to—

''(i) establish a Government-wide policy regarding contract bundling, including regarding the solicitation of teaming and joint ventures under paragraph (1); and

''(ii) require that the policy established under clause (i) be published on the website of each Federal agency.

''(B) RATIONALE FOR CONTRACT BUNDLING.—Not later than 30 days after the date on which the head of a Federal agency submits data certifications to the Administrator for Federal Procurement Policy, the head of the Federal agency shall publish on the website of the Federal agency a list and rationale for any bundled contract for which the Federal agency solicited bids or that was awarded by the Federal agency.

''(3) REPORTING.—Not later than 90 days after the date of enactment of this subsection, and every 3 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 regarding procurement center representatives and commercial market representatives, which shall—

''(A) identify each area for which the Administration has assigned a procurement center representative or a commercial market representative;

''(B) explain why the Administration selected the areas identified under subparagraph (A); and

''(C) describe the activities performed by procurement center representatives and commercial market representatives.''.

(b) TECHNICAL CORRECTION.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by striking ''Administrator of the Office of Federal Procurement Policy'' each place it appears and inserting ''Administrator for Federal Procurement Policy''.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report regarding the procurement center representative program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) address ways to improve the effectiveness of the procurement center representative program in helping small business concerns obtain Federal contracts;

(B) evaluate the effectiveness of procurement center representatives and commercial marketing representatives; and

(C) include recommendations, if any, on how to improve the procurement center representative program.

(d) ELECTRONIC PROCUREMENT CENTER REPRESENTATIVE.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall implement a 3-year pilot electronic procurement center representative program.

(2) REPORT.—Not later than 30 days after the pilot program under paragraph (1) ends, the Comptroller General of the United States 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 regarding the pilot program.

SEC. 1313. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

"SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Chief Acquisition Officer' means the employee of a Federal agency designated as the Chief Acquisition Officer for the Federal agency under section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a));

''(2) the term 'consolidation of contract requirements', with respect to contract requirements of a Federal agency, means a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; and

''(3) the term 'senior procurement executive' means an official designated under section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) as the senior procurement executive for a Federal agency.

''(b) POLICY.—The head of each Federal agency shall ensure that the decisions made by the Federal agency regarding consolidation of contract requirements of the Federal agency are made with a view to providing small business concerns with appropriate opportunities to participate as prime contractors and subcontractors in the procurements of the Federal agency.

''(c) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—

''(1) IN GENERAL.—Subject to paragraph (4), the head of a Federal agency may not carry out an acquisition strategy that includes a consolidation of contract requirements of the Federal agency with a total value of

more than $2,000,000, unless the senior procurement executive or Chief Acquisition Officer for the Federal agency, before carrying out the acquisition strategy—

''(A) conducts market research;

''(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements;

''(C) makes a written determination that the consolidation of contract requirements is necessary and justified;

''(D) identifies any negative impact by the acquisition strategy on contracting with small business concerns; and

''(E) certifies to the head of the Federal agency that steps will be taken to include small business concerns in the acquisition strategy.

''(2) DETERMINATION THAT CONSOLIDATION IS NECESSARY AND JUSTIFIED.—

''(A) IN GENERAL.—A senior procurement executive or Chief Acquisition Officer may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1)(C) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under paragraph (1)(B).

''(B) SAVINGS IN ADMINISTRATIVE OR PERSONNEL COSTS.—For purposes of subparagraph (A), savings in administrative or personnel costs alone do not constitute a sufficient justification for a consolidation of contract requirements in a procurement unless the expected total amount of the cost savings, as determined by the senior procurement executive or Chief Acquisition Officer, is expected to be substantial in relation to the total cost of the procurement.

''(3) BENEFITS TO BE CONSIDERED.—The benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

''(A) quality;

''(B) acquisition cycle;

''(C) terms and conditions; and

''(D) any other benefit.

''(4) DEPARTMENT OF DEFENSE.—

''(A) IN GENERAL.—The Department of Defense and each military department shall comply with this section until after the date described in subparagraph (C).

''(B) RULE.—After the date described in subparagraph (C), contracting by the Department of Defense or a military department shall be conducted in accordance with section 2382 of title 10, United States Code.

''(C) DATE.—The date described in this subparagraph is the date on which the Administrator determines the Department of Defense or a military department is in compliance with the Government-wide contracting goals under section 15.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 2382(b)(1) of title 10, United States Code, is amended by striking ''An official'' and inserting ''Subject to section 44(c)(4), an official''.

SEC. 1314. SMALL BUSINESS TEAMS PILOT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''Pilot Program'' means the Small Business Teaming Pilot Program established under subsection (b); and

(2) the term ''eligible organization'' means a well-established national organization for small business concerns with the capacity to provide assistance to small business concerns (which may be provided with the assistance of the Administrator) relating to—

(A) customer relations and outreach;

(B) team relations and outreach; and

(C) performance measurement and quality assurance.

(b) ESTABLISHMENT.—The Administrator shall establish a Small Business Teaming Pilot Program for teaming and joint ventures involving small business concerns.

(c) GRANTS.—Under the Pilot Program, the Administrator may make grants to eligible organizations to provide assistance and guidance to teams of small business concerns seeking to compete for larger procurement contracts.

(d) CONTRACTING OPPORTUNITIES.—The Administrator shall work with eligible organizations receiving a grant under the Pilot Program to recommend appropriate contracting opportunities for teams or joint ventures of small business concerns.

(e) REPORT.—Not later than 1 year before the date on which the authority to carry out the Pilot Program terminates under subsection (f), 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 effectiveness of the Pilot Program.

(f) TERMINATION.—The authority to carry out the Pilot Program shall terminate 5 years after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (c) $5,000,000 for each of fiscal years 2010 through 2015.

PART II—SUBCONTRACTING INTEGRITY

SEC. 1321. SUBCONTRACTING MISREPRESENTATIONS.

Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Administrator for Federal Procurement Policy, shall promulgate regulations relating to, and the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to establish a policy on, subcontracting compliance relating to small business concerns, including assignment of compliance responsibilities between contracting offices, small business offices, and program offices and periodic oversight and review activities.

SEC. 1322. SMALL BUSINESS SUBCONTRACTING IMPROVEMENTS.

Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

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

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

(3) by adding at the end, the following:

''(G) a representation that the offeror or bidder will—

''(i) make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns used in preparing and submitting to the contracting agency the bid or proposal, in the same amount and quality used in preparing and submitting the bid or proposal; and

''(ii) provide to the contracting officer a written explanation if the offeror or bidder fails to acquire articles, equipment, supplies, services, or materials or obtain the performance of construction work as described in clause (i).''.

PART III—ACQUISITION PROCESS

SEC. 1331. RESERVATION OF PRIME CONTRACT AWARDS FOR SMALL BUSINESSES.

Section 15 of the Small Business Act (15 U.S.C. 644), as amended by this Act, is amended by adding at the end the following:

''(r) MULTIPLE AWARD CONTRACTS.—Not later than 1 year after the date of enactment of this subsection, the Administrator for Federal Procurement Policy and the Administrator, in consultation with the Administrator of General Services, shall, by regulation, establish guidance under which Federal agencies may, at their discretion—

''(1) set aside part or parts of a multiple award contract for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2);

''(2) notwithstanding the fair opportunity requirements under section 2304c(b) of title 10, United States Code, and section 303J(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(b)), set aside orders placed against multiple award contracts for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2); and

''(3) reserve 1 or more contract awards for small business concerns under full and open multiple award procurements, including the subcategories of small business concerns identified in subsection (g)(2).''.

SEC. 1332. MICRO-PURCHASE GUIDELINES.

Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget, in coordination with the Administrator of General Services, shall issue guidelines regarding the analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in purchases in an amount not in excess of the micro-purchase threshold, as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) (in this section referred to as ''micro-purchases''), consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.

SEC. 1333. AGENCY ACCOUNTABILITY.

Section 15(g)(2) of the Small Business Act (15 U.S.C. 644(g)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''Goals established'' and inserting the following:

''(B) Goals established'';

(3) by striking ''Whenever'' and inserting the following:

''(C) Whenever'';

(4) by striking ''For the purpose of'' and inserting the following:

''(D) For the purpose of'';

(5) by striking ''The head of each Federal agency, in attempting to attain such participation'' and inserting the following:

''(E) The head of each Federal agency, in attempting to attain the participation described in subparagraph (D)''.

(6) in subparagraph (E), as so designated—

(A) by striking ''(A) contracts'' and inserting ''(i) contracts''; and

(B) by striking ''(B) contracts'' and inserting ''(ii) contracts''; and

(7) by adding at the end the following:

''(F)(i) Each procurement employee or program manager described in clause (ii) shall communicate to the subordinates of the procurement employee or program manager the importance of achieving small business goals.

''(ii) A procurement employee or program manager described in this clause is a senior procurement executive, senior program manager, or Director of Small and Disadvantaged Business Utilization of a Federal agency having contracting authority.''.

SEC. 1334. PAYMENT OF SUBCONTRACTORS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(12) PAYMENT OF SUBCONTRACTORS.—

''(A) DEFINITION.—In this paragraph, the term 'covered contract' means a contract relating to which a prime contractor is required to develop a subcontracting plan under paragraph (4) or (5).

''(B) NOTICE.—

''(i) IN GENERAL.—A prime contractor for a covered contract shall notify in writing the contracting officer for the covered contract if the prime contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than 90 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor.

''(ii) CONTENTS.—A prime contractor shall include the reason for the reduction in a payment to or failure to pay a subcontractor in any notice made under clause (i).

''(C) PERFORMANCE.—A contracting officer for a covered contract shall consider the unjustified failure by a prime contractor to make a full or timely payment to a subcontractor in evaluating the performance of the prime contractor.

''(D) CONTROL OF FUNDS.—If the contracting officer for a covered contract determines that a prime contractor has a history of unjustified, untimely payments to contractors, the contracting officer shall record the identity of the contractor in accordance with the regulations promulgated under subparagraph (E).

''(E) REGULATIONS.—Not later than 1 year after the date of enactment of this paragraph, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to—

''(i) describe the circumstances under which a contractor may be determined to have a history of unjustified, untimely payments to subcontractors;

''(ii) establish a process for contracting officers to record the identity of a contractor described in clause (i); and

''(iii) require the identity of a contractor described in clause (i) to be incorporated in, and made publicly available through, the Federal Awardee Performance and Integrity Information System, or any successor thereto.''.

SEC. 1335. REPEAL OF SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Business Opportunity Development Reform Act of 1988 (Public Law 100–656) is amended by striking title VII (15 U.S.C. 644 note).

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) apply to the first full fiscal year after the date of enactment of this Act.

PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

SEC. 1341. POLICY AND PRESUMPTIONS.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1311, is amended by adding at the end the following:

''(w) PRESUMPTION.—

''(1) IN GENERAL.—In every contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant which is set aside, reserved, or otherwise classified as intended for award to small business concerns, there shall be a presumption of loss to the United States based on the total amount expended on the contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant whenever it is established that a business concern other than a small business concern willfully sought and received the award by misrepresentation.

''(2) DEEMED CERTIFICATIONS.—The following actions shall be deemed affirmative, willful, and intentional certifications of small business size and status:

''(A) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement reserved, set aside, or otherwise classified as intended for award to small business concerns.

''(B) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement which in any way encourages a Federal agency to classify the bid or proposal, if awarded, as an award to a small business concern.

''(C) Registration on any Federal electronic database for the purpose of being considered for award of a Federal grant, contract, subcontract, cooperative agreement, or cooperative research agreement, as a small business concern.

''(3) CERTIFICATION BY SIGNATURE OF RESPONSIBLE OFFICIAL.—

''(A) IN GENERAL.—Each solicitation, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the small business size and status of a business concern seeking the Federal contract, subcontract, or grant.

''(B) CONTENT OF CERTIFICATIONS.—A certification that a business concern qualifies as a small business concern of the exact size and status claimed by the business concern for purposes of bidding on a Federal contract or subcontract, or applying for a Federal grant, shall contain the signature of an authorized official on the same page on which the certification is contained.

''(4) REGULATIONS.—The Administrator shall promulgate regulations to provide adequate protections to individuals and business concerns from liability under this subsection in cases of unintentional errors, technical malfunctions, and other similar situations.''.

SEC. 1342. ANNUAL CERTIFICATION.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1341, is amended by adding at the end the following:

''(x) ANNUAL CERTIFICATION.—

''(1) IN GENERAL.—Each business certified as a small business concern under this Act shall annually certify its small business size and, if appropriate, its small business status, by means of a confirming entry on the Online Representations and Certifications Application database of the Administration, or any successor thereto.

''(2) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Inspector General and the Chief Counsel for Advocacy of the Administration, shall promulgate regulations to ensure that—

''(A) no business concern continues to be certified as a small business concern on the Online Representations and Certifications Application database of the Administration, or any successor thereto, without fulfilling the requirements for annual certification under this subsection; and

''(B) the requirements of this subsection are implemented in a manner presenting the least possible regulatory burden on small business concerns.''.

SEC. 1343. TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Acquisition Institute, in consultation with the Administrator for Federal Procurement Policy, the Defense Acquisition University, and the Administrator, shall develop courses for acquisition personnel concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.

(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1342, is amended by adding at the end the following:

''(y) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Attorney General, shall issue a Government-wide policy on prosecution of small business size and status fraud, which shall direct Federal agencies to appropriately publicize the policy.''.

SEC. 1344. UPDATED SIZE STANDARDS.

(a) ROLLING REVIEW.—

(1) IN GENERAL.—The Administrator shall—

(A) during the 18-month period beginning on the date of enactment of this Act, and during every 18-month period thereafter, conduct a detailed review of not less than ⅓ of the size standards for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)), which shall include holding not less than 2 public forums located in different geographic regions of the United States;

(B) after completing each review under subparagraph (A) make appropriate adjustments to the size standards established under section 3(a)(2) of the Small Business Act to reflect market conditions;

(C) make publicly available—

(i) information regarding the factors evaluated as part of each review conducted under subparagraph (A); and

(ii) information regarding the criteria used for any revised size standards promulgated under subparagraph (B); and

(D) not later than 30 days after the date on which the Administrator completes each review under subparagraph (A), submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives and make publicly available a report regarding the review, including why the Administrator—

(i) used the factors and criteria described in subparagraph (C); and

(ii) adjusted or did not adjust each size standard that was reviewed under the review.

(2) COMPLETE REVIEW OF SIZE STANDARDS.—The Administrator shall ensure that each size standard for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is reviewed under paragraph (1) not less frequently than once every 5 years.

(b) RULES.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate rules for conducting the reviews required under subsection (a).

SEC. 1345. STUDY AND REPORT ON THE MENTOR-PROTEGE PROGRAM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the mentor-protege program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), and other relationships and strategic alliances pairing a larger business and a small business concern partner to gain access to Federal Government contracts, to determine whether the programs and relationships are effectively supporting the goal of increasing the participation of small business concerns in Government contracting.

(b) MATTERS TO BE STUDIED.—The study conducted under this section shall include—

(1) a review of a broad cross-section of industries; and

(2) an evaluation of—

(A) how each Federal agency carrying out a program described in subsection (a) administers and monitors the program;

(B) whether there are systems in place to ensure that the mentor-protege relationship, or similar affiliation, promotes real gain to the protege, and is not just a mechanism to enable participants that would not otherwise qualify under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) to receive contracts under that section; and

(C) the degree to which protege businesses become able to compete for Federal contracts without the assistance of a mentor.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General 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 the study conducted under this section.

SEC. 1346. CONTRACTING GOALS REPORTS.

Section 15(h)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended by striking ''submit them'' and all that follows through ''the following:'' and inserting ''submit to the President and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the compilation and analysis, which shall include the following:''.

SEC. 1347. SMALL BUSINESS CONTRACTING PARITY.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the terms ''HUBZone small business concern'', ''small business concern'', ''small business concern owned and controlled by service-disabled veterans'', and ''small business concern owned and controlled by women'' have the same meanings as in section 3 of the Small Business Act (15 U.S.C. 632).

(b) CONTRACTING IMPROVEMENTS.—

(1) CONTRACTING OPPORTUNITIES.—Section 31(b)(2)(B) of the Small Business Act (15 U.S.C. 657a(b)(2)(B)) is amended by striking ''shall'' and inserting ''may''.

(2) CONTRACTING GOALS.—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the fourth sentence by inserting ''and subcontract'' after ''not less than 3 percent of the total value of all prime contract''.

(3) MENTOR-PROTEGE PROGRAMS.—The Administrator may establish mentor-protege programs for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, and HUBZone small business concerns modeled on the mentor-protege program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(c) SMALL BUSINESS CONTRACTING PROGRAMS PARITY.—Section 31(b)(2) of the Small Business Act (15 U.S.C. 657a(b)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''Notwithstanding any other provision of law—'';

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''a contracting'' and inserting ''SOLE SOURCE CONTRACTS.—A contracting''; and

(B) in clause (iii), by striking the semicolon at the end and inserting a period;

(3) in subparagraph (B)—

(A) by striking ''a contract opportunity shall'' and inserting ''RESTRICTED COMPETITION.—A contract opportunity may''; and

(B) by striking ''; and'' and inserting a period; and

(4) in subparagraph (C), by striking ''not later'' and inserting ''APPEALS.—Not later''.

Subtitle D—Small Business Management and Counseling Assistance

SEC. 1401. MATCHING REQUIREMENTS UNDER SMALL BUSINESS PROGRAMS.

(a) MICROLOAN PROGRAM.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (3)(B)—

(A) by striking ''As a condition'' and inserting the following:

''(i) IN GENERAL.—Subject to clause (ii), as a condition'';

(B) by striking ''the Administration'' and inserting ''the Administrator''; and

(C) by adding at the end the following:

''(ii) WAIVER OF NON-FEDERAL SHARE.—

''(I) IN GENERAL.—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i) for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this clause for successive fiscal years.

''(II) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

''(aa) the economic conditions affecting the intermediary;

''(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

''(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

''(dd) the performance of the intermediary.

''(III) LIMITATIONS.—

''(aa) IN GENERAL.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver would undermine the credibility of the microloan program under this subsection.

''(bb) SUNSET.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause for fiscal year 2013 or any fiscal year thereafter.''; and

(2) in paragraph (4)(B)—

(A) by striking ''As a condition'' and all that follows through ''the Administration shall require'' and inserting the following:

''(i) IN GENERAL.—Subject to clause (ii), as a condition of a grant made under subparagraph (A), the Administrator shall require''; and

(B) by adding at the end the following:

''(ii) WAIVER OF NON-FEDERAL SHARE.—

''(I) IN GENERAL.—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i) for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this clause for successive fiscal years.

''(II) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

''(aa) the economic conditions affecting the intermediary;

''(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

''(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

''(dd) the performance of the intermediary.

''(III) LIMITATIONS.—

''(aa) IN GENERAL.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver would undermine the credibility of the microloan program under this subsection.

''(bb) SUNSET.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause for fiscal year 2013 or any fiscal year thereafter.''.

(b) WOMEN'S BUSINESS CENTER PROGRAM.—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)) is amended—

(1) in paragraph (1), by striking ''As a condition'' and inserting ''Subject to paragraph (5), as a condition''; and

(2) by adding at the end the following:

''(5) WAIVER OF NON-FEDERAL SHARE RELATING TO TECHNICAL ASSISTANCE AND COUNSELING.—

''(A) IN GENERAL.—Upon request by a recipient organization, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for the technical assistance and counseling activities of the recipient organization carried out using financial assistance under this section for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this paragraph for successive fiscal years.

''(B) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

''(i) the economic conditions affecting the recipient organization;

''(ii) the impact a waiver under this clause would have on the credibility of the women's business center program under this section;

''(iii) the demonstrated ability of the recipient organization to raise non-Federal funds; and

''(iv) the performance of the recipient organization.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the women's business center program under this section.

''(ii) SUNSET.—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph for fiscal year 2013 or any fiscal year thereafter.''.

(c) PROSPECTIVE REPEALS.—Effective October 1, 2012, the Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 7(m) (15 U.S.C. 636(m))—

(A) in paragraph (3)(B)—

(i) by striking ''INTERMEDIARY CONTRIBUTION.—'' and all that follows through ''Subject to clause (ii), as'' and inserting ''INTERMEDIARY CONTRIBUTION.—As''; and

(ii) by striking clause (ii); and

(B) in paragraph (4)(B)—

(i) by striking ''CONTRIBUTION.—'' and all that follows through ''Subject to clause (ii), as'' and inserting ''CONTRIBUTION.—As''; and

(ii) by striking clause (ii); and

(2) in section 29(c) (15 U.S.C. 656(c))—

(A) in paragraph (1), by striking ''Subject to paragraph (5), as'' and inserting ''As''; and

(B) by striking paragraph (5).

SEC. 1402. GRANTS FOR SBDCS.

(a) IN GENERAL.—The Administrator may make grants to small business development centers under section 21 of the Small Business Act (15 U.S.C. 648) to provide targeted technical assistance to small business concerns seeking access to capital or credit, Federal procurement opportunities, energy efficiency audits to reduce energy bills, opportunities to export products or provide

services to foreign customers, adopting, making innovations in, and using broadband technologies, or other assistance.

(b) ALLOCATION.—

(1) IN GENERAL.—Subject to paragraph (2), and notwithstanding the requirements of section 21(a)(4)(C)(iii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(iii)), the amount appropriated to carry out this section shall be allocated under the formula under section 21(a)(4)(C)(i) of that Act.

(2) MINIMUM FUNDING.—The amount made available under this section to each State shall be not less than $325,000.

(3) TYPES OF USES.—Of the total amount of the grants awarded by the Administrator under this section—

(A) not less than 80 percent shall be used for counseling of small business concerns; and

(B) not more than 20 percent may be used for classes or seminars.

(c) NO NON-FEDERAL SHARE REQUIRED.—Notwithstanding section 21(a)(4)(A) of the Small Business Act (15 U.S.C. 648(a)(4)(A)), the recipient of a grant made under this section shall not be required to provide non-Federal matching funds.

(d) DISTRIBUTION.—Not later than 30 days after the date on which amounts are appropriated to carry out this section, the Administrator shall disburse the total amount appropriated.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $50,000,000 to carry out this section.

Subtitle E—Disaster Loan Improvement

SEC. 1501. AQUACULTURE BUSINESS DISASTER ASSISTANCE.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1343, is amended by adding at the end the following:

''(z) AQUACULTURE BUSINESS DISASTER ASSISTANCE.—Subject to section 18(a) and notwithstanding section 18(b)(1), the Administrator may provide disaster assistance under section 7(b)(2) to aquaculture enterprises that are small businesses.''.

Subtitle F—Small Business Regulatory Relief

SEC. 1601. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''succinct'';

(2) in paragraph (2), by striking ''summary'' each place it appears and inserting ''statement'';

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

''(3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;''.

SEC. 1602. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(6) carry out the responsibilities of the Office of Advocacy under chapter 6 of title 5, United States Code.''.

(b) BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

''SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.

''(a) APPROPRIATION REQUESTS.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office of Advocacy of the Small Business Administration, which shall be designated in a separate account in the General Fund of the Treasury.

''(b) ADMINISTRATIVE OPERATIONS.—The Administrator of the Small Business Administration shall provide the Office of Advocacy with appropriate and adequate office space at central and field office locations, together with such equipment, operating budget, and communications facilities and services as may be necessary, and shall provide necessary maintenance services for such offices and the equipment and facilities located in such offices.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this title. Any amount appropriated under this subsection shall remain available, without fiscal year limitation, until expended.''.

Subtitle G—Appropriations Provisions

SEC. 1701. SALARIES AND EXPENSES.

(a) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, $150,000,000, to remain available until September 30, 2012, for an additional amount for the appropriations account appropriated under the heading ''SALARIES AND EXPENSES'' under the heading ''SMALL BUSINESS ADMINISTRATION'', of which—

(1) $50,000,000 is for grants to small business development centers authorized under section 1402;

(2) $1,000,000 is for the costs of administering grants authorized under section 1402;

(3) $30,000,000 is for grants to States for fiscal year 2011 to carry out export programs that assist small business concerns authorized under section 1207;

(4) $30,000,000 is for grants to States for fiscal year 2012 to carry out export programs that assist small business concerns authorized under section 1207;

(5) $2,500,000 is for the costs of administering grants authorized under section 1207;

(6) $5,000,000 is for grants for fiscal year 2011 under the Small Business Teaming Pilot Program under section 1314; and

(7) $5,000,000 is for grants for fiscal year 2012 under the Small Business Teaming Pilot Program under section 1314.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a detailed expenditure plan for using the funds provided under subsection (a).

SEC. 1702. BUSINESS LOANS PROGRAM ACCOUNT.

(a) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for an additional amount for the appropriations account appropriated under the heading ''BUSINESS LOANS PROGRAM ACCOUNT'' under the heading ''SMALL BUSINESS ADMINISTRATION''—

(1) $8,000,000, to remain available until September 30, 2012, for fiscal year 2011 for the cost of direct loans authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, including the cost of modifying the loans;

(2) $8,000,000, to remain available until September 30, 2012, for fiscal year 2012 for the cost of direct loans authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, including the cost of modifying the loans;

(3) $6,500,000, to remain available until September 30, 2012, for administrative expenses to carry out the direct loan program authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, which may be transferred to and merged with the appropriations account appropriated under the heading ''SALARIES AND EXPENSES'' under the heading ''SMALL BUSINESS ADMINISTRATION''; and

(4) $15,000,000, to remain available until September 30, 2011, for the cost of guaranteed loans as authorized under section 7(a) of the Small Business Act, including the cost of modifying the loans.

(b) DEFINITION.—In this section, the term ''cost'' has the meaning given that term in section 502 of the Congressional Budget Act of 1974.

SEC. 1703. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for an additional amount for the appropriations account appropriated under the heading ''COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT'' under the heading ''DEPARTMENT OF THE TREASURY'', $13,500,000, to remain available until September 30, 2012, for the costs of administering guarantees for bonds and notes as authorized under section 114A of the Riegle Community Development and Regulatory Improvement Act of 1994, as added by section 1134 of this Act.

SEC. 1704. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) EXTENSION OF PROGRAMS.—

(1) IN GENERAL.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration—Business Loans Program Account'', $505,000,000, to remain available through December 31, 2010, for the cost of—

(A) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this Act; and

(B) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this Act.

(2) COST.—For purposes of this subsection, the term ''cost'' has the same meaning as in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

(b) ADMINISTRATIVE EXPENSES.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $5,000,000, to remain available until expended, which may be transferred and merged with the appropriation for ''Small Business Administration—Salaries and Expenses''.

TITLE II—TAX PROVISIONS

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Creating Small Business Jobs Act of 2010''.

Subtitle A—Small Business Relief

PART I—PROVIDING ACCESS TO CAPITAL

SEC. 2011. TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) 100 PERCENT EXCLUSION FOR STOCK ACQUIRED DURING CERTAIN PERIODS IN 2010.—In the case of qualified small business stock acquired after the date of the enactment of the Creating Small Business Jobs Act of 2010 and before January 1, 2011—

''(A) paragraph (1) shall be applied by substituting '100 percent' for '50 percent',

''(B) paragraph (2) shall not apply, and

''(C) paragraph (7) of section 57(a) shall not apply.''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1202(a) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''CERTAIN PERIODS IN'' before ''2010'' in the heading, and

(2) by striking ''before January 1, 2011'' and inserting ''on or before the date of the enactment of the Creating Small Business Jobs Act of 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

SEC. 2012. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES FOR 2010 CARRIED BACK 5 YEARS.

(a) IN GENERAL.—Section 39(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) 5-YEAR CARRYBACK FOR ELIGIBLE SMALL BUSINESS CREDITS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), in the case of eligible small business credits determined in the first taxable year of the taxpayer beginning in 2010—

''(i) paragraph (1) shall be applied by substituting 'each of the 5 taxable years' for 'the taxable year' in subparagraph (A) thereof, and

''(ii) paragraph (2) shall be applied—

''(I) by substituting '25 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(II) by substituting '24 taxable years' for '20 taxable years' in subparagraph (B) thereof.

''(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' has the meaning given such term by section 38(c)(5)(B).''.

(b) CONFORMING AMENDMENT.—Section 39(a)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting ''or the eligible small business credits'' after ''credit)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2009.

SEC. 2013. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES IN 2010 NOT SUBJECT TO ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ELIGIBLE SMALL BUSINESS CREDITS IN 2010.—

''(A) IN GENERAL.—In the case of eligible small business credits determined in taxable years beginning in 2010—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the eligible small business credits).

''(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' means the sum of the credits listed in subsection (b) which are determined for the taxable year with respect to an eligible small business. Such credits shall not be taken into account under paragraph (2), (3), or (4).

''(C) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection, the term 'eligible small business' means, with respect to any taxable year—

''(i) a corporation the stock of which is not publicly traded,

''(ii) a partnership, or

''(iii) a sole proprietorship,

if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed $50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(D) TREATMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—Credits determined with respect to a partnership or S corporation shall not be treated as eligible small business credits by any partner or shareholder unless such partner or shareholder meets the gross receipts test under subparagraph (C) for the taxable year in which such credits are treated as current year business credits.''.

(b) TECHNICAL AMENDMENT.—Section 55(e)(5) of the Internal Revenue Code of 1986 is amended by striking ''38(c)(3)(B)'' and inserting ''38(c)(6)(B)''.

(c) CONFORMING AMENDMENTS.—

(1) Subclause (II) of section 38(c)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended by inserting ''the eligible small business credits,'' after ''the New York Liberty Zone business employee credit,''.

(2) Subclause (II) of section 38(c)(3)(A)(ii) of such Code is amended by inserting '', the eligible small business credits,'' after ''the New York Liberty Zone business employee credit''.

(3) Subclause (II) of section 38(c)(4)(A)(ii) of such Code is amended by inserting ''the eligible small business credits and'' before ''the specified credits''.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to credits determined in taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 2014. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Subparagraph (B) of section 1374(d)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) SPECIAL RULES FOR 2009, 2010, AND 2011.—No tax shall be imposed on the net recognized built-in gain of an S corporation—

''(i) in the case of any taxable year beginning in 2009 or 2010, if the 7th taxable year in the recognition period preceded such taxable year, or

''(ii) in the case of any taxable year beginning in 2011, if the 5th year in the recognition period preceded such taxable year.

The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

PART II—ENCOURAGING INVESTMENT

SEC. 2021. INCREASED EXPENSING LIMITATIONS FOR 2010 AND 2011; CERTAIN REAL PROPERTY TREATED AS SECTION 179 PROPERTY.

(a) INCREASED LIMITATIONS.—Subsection (b) of section 179 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''shall not exceed'' and all that follows in paragraph (1) and inserting ''shall not exceed—

''(A) $250,000 in the case of taxable years beginning after 2007 and before 2010,

''(B) $500,000 in the case of taxable years beginning in 2010 or 2011, and

''(C) $25,000 in the case of taxable years beginning after 2011.'', and

(2) by striking ''exceeds'' and all that follows in paragraph (2) and inserting ''exceeds—

''(A) $800,000 in the case of taxable years beginning after 2007 and before 2010,

''(B) $2,000,000 in the case of taxable years beginning in 2010 or 2011, and

''(C) $200,000 in the case of taxable years beginning after 2011.''.

(b) INCLUSION OF CERTAIN REAL PROPERTY.—Section 179 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) SPECIAL RULES FOR QUALIFIED REAL PROPERTY.—

''(1) IN GENERAL.—If a taxpayer elects the application of this subsection for any taxable year beginning in 2010 or 2011, the term 'section 179 property' shall include any qualified real property which is—

''(A) of a character subject to an allowance for depreciation,

''(B) acquired by purchase for use in the active conduct of a trade or business, and

''(C) not described in the last sentence of subsection (d)(1).

''(2) QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means—

''(A) qualified leasehold improvement property described in section 168(e)(6),

''(B) qualified restaurant property described in section 168(e)(7) (without regard to the dates specified in subparagraph (A)(i) thereof), and

''(C) qualified retail improvement property described in section 168(e)(8) (without regard to subparagraph (E) thereof).

''(3) LIMITATION.—For purposes of applying the limitation under subsection (b)(1)(B), not more than $250,000 of the aggregate cost which is taken into account under subsection (a) for any taxable year may be attributable to qualified real property.

''(4) CARRYOVER LIMITATION.—

''(A) IN GENERAL.—Notwithstanding subsection (b)(3)(B), no amount attributable to qualified real property may be carried over to a taxable year beginning after 2011.

''(B) TREATMENT OF DISALLOWED AMOUNTS.—Except as provided in subparagraph (C), to the extent that any amount is not allowed to be carried over to a taxable year beginning after 2011 by reason of subparagraph (A), this title shall be applied as if no election under this section had been made with respect to such amount.

''(C) AMOUNTS CARRIED OVER FROM 2010.—If subparagraph (B) applies to any amount (or portion of an amount) which is carried over from a taxable year other than the taxpayer's last taxable year beginning in 2011, such amount (or portion of an amount) shall be treated for purposes of this title as attributable to property placed in service on the first day of the taxpayer's last taxable year beginning in 2011.

''(D) ALLOCATION OF AMOUNTS.—For purposes of applying this paragraph and subsection (b)(3)(B) to any taxable year, the amount which is disallowed under subsection (b)(3)(A) for such taxable year which is attributed to qualified real property shall be the amount which bears the same ratio to the total amount so disallowed as—

''(i) the aggregate amount attributable to qualified real property placed in service during such taxable year, increased by the portion of any amount carried over to such taxable year from a prior taxable year which is attributable to such property, bears to

''(ii) the total amount of section 179 property placed in service during such taxable year, increased by the aggregate amount carried over to such taxable year from any prior taxable year.

For purposes of the preceding sentence, only section 179 property with respect to which an election was made under subsection (c)(1) (determined without regard to subparagraph (B) of this paragraph) shall be taken into account.''.

(c) REVOCABILITY OF ELECTION.—Paragraph (2) of section 179(c) of the Internal Revenue Code of 1986 is amended by striking ''2011'' and inserting ''2012''.

(d) COMPUTER SOFTWARE TREATED AS 179 PROPERTY.—Clause (ii) of section 179(d)(1)(A) is amended by striking ''2011'' and inserting ''2012''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

(2) EXTENSIONS.—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after December 31, 2010.

SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''January 1, 2011'' in subparagraph (A)(iv) and inserting ''January 1, 2012'', and

(2) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 of the Internal Revenue Code of 1986 is amended by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''.

(2) The heading for clause (ii) of section 168(k)(2)(B) of such Code is amended by striking ''PRE-JANUARY 1, 2010'' and inserting ''PRE-JANUARY 1, 2011''.

(3) Subparagraph (D) of section 168(k)(4) of such Code is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

''(iv) 'January 1, 2011' shall be substituted for 'January 1, 2012' in subparagraph (A)(iv) thereof, and

''(v) 'January 1, 2010' shall be substituted for 'January 1, 2011' each place it appears in subparagraph (A) thereof.''.

(4) Subparagraph (B) of section 168(l)(5) of such Code is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(5) Subparagraph (C) of section 168(n)(2) of such Code is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(6) Subparagraph (D) of section 1400L(b)(2) of such Code is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(7) Subparagraph (B) of section 1400N(d)(3) of such Code is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years ending after such date.

SEC. 2023. SPECIAL RULE FOR LONG-TERM CONTRACT ACCOUNTING.

(a) IN GENERAL.—Section 460(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR ALLOCATION OF BONUS DEPRECIATION WITH RESPECT TO CERTAIN PROPERTY.—

''(A) IN GENERAL.—Solely for purposes of determining the percentage of completion under subsection (b)(1)(A), the cost of qualified property shall be taken into account as a cost allocated to the contract as if subsection (k) of section 168 had not been enacted.

''(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' means property described in section 168(k)(2) which—

''(i) has a recovery period of 7 years or less, and

''(ii) is placed in service after December 31, 2009, and before January 1, 2011 (January 1, 2012, in the case of property described in section 168(k)(2)(B)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

PART III—PROMOTING ENTREPRENEURSHIP

SEC. 2031. INCREASE IN AMOUNT ALLOWED AS DEDUCTION FOR START-UP EXPENDITURES IN 2010.

(a) START-UP EXPENDITURES.—Subsection (b) of section 195 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR TAXABLE YEARS BEGINNING IN 2010.—In the case of a taxable year beginning in 2010, paragraph (1)(A)(ii) shall be applied—

''(A) by substituting '$10,000' for '$5,000', and

''(B) by substituting '$60,000' for '$50,000'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2009.

SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES TRADE REPRESENTATIVE TO DEVELOP MARKET ACCESS OPPORTUNITIES FOR UNITED STATES SMALL- AND MEDIUM-SIZED BUSINESSES AND TO ENFORCE TRADE AGREEMENTS.

(a) IN GENERAL.—There are authorized to be appropriated to the Office of the United States Trade Representative $5,230,000, to remain available until expended, for—

(1) analyzing and developing opportunities for businesses in the United States to access the markets of foreign countries; and

(2) enforcing trade agreements to which the United States is a party.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated under subsection (a), the United States Trade Representative shall—

(1) give preference to those initiatives that the United States Trade Representative determines will create or sustain the greatest number of jobs in the United States or result in the greatest benefit to the economy of the United States; and

(2) consider the needs of small- and medium-sized businesses in the United States with respect to—

(A) accessing the markets of foreign countries; and

(B) the enforcement of trade agreements to which the United States is a party.

PART IV—PROMOTING SMALL BUSINESS FAIRNESS

SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

''(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

''(A) in the case of a listed transaction, $200,000 ($100,000 in the case of a natural person), or

''(B) in the case of any other reportable transaction, $50,000 ($10,000 in the case of a natural person).

''(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than $10,000 ($5,000 in the case of a natural person).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES IN 2010.

(a) IN GENERAL.—Paragraph (4) of section 162(l) of the Internal Revenue Code of 1986 is amended by inserting ''for taxable years beginning before January 1, 2010, or after December 31, 2010'' before the period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 2043. REMOVAL OF CELLULAR TELEPHONES AND SIMILAR TELECOMMUNICATIONS EQUIPMENT FROM LISTED PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 280F(d)(4) of the Internal Revenue Code of 1986 (defining listed property) is amended by adding '' 'and' '' at the end of clause (iv), by striking clause (v), and by redesignating clause (vi) as clause (v).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Revenue Provisions

PART I—REDUCING THE TAX GAP

SEC. 2101. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986, as amended by section 9006 of the Patient Protection and Affordable Care Act, is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any individual, including any individual who is an active member of the uniformed services or an employee of the intelligence community (as defined in section 121(d)(9)(C)(iv)), if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

''(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

''(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 2010.

SEC. 2102. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 of the Internal Revenue Code of 1986 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 of such Code are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 of such Code are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 of such Code are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

(1) IN GENERAL.—Paragraph (1) of section 6721(d) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(B) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(C) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 6721(d) of such Code is amended by striking ''such taxable year'' and inserting ''such calendar year''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) of the Internal Revenue Code of 1986 is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.—Section 6722 of the Internal Revenue Code of 1986 is amended to read as follows:

''SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

''(a) IMPOSITION OF PENALTY.—

''(1) GENERAL RULE.—In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of $100 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $1,500,000.

''(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

''(A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

''(B) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

''(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

''(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

''(A) the penalty imposed by subsection (a) shall be $30 in lieu of $100, and

''(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $250,000.

''(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

''(A) the penalty imposed by subsection (a) shall be $60 in lieu of $100, and

''(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $500,000.

''(c) EXCEPTION FOR DE MINIMIS FAILURES.—

''(1) IN GENERAL.—If—

''(A) a payee statement is furnished to the person to whom such statement is required to be furnished,

''(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such statement, and

''(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

''(2) LIMITATION.—The number of payee statements to which paragraph (1) applies for any calendar year shall not exceed the greater of—

''(A) 10, or

''(B) one-half of 1 percent of the total number of payee statements required to be filed by the person during the calendar year.

''(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

''(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

''(A) subsection (a)(1) shall be applied by substituting '$500,000' for '$1,500,000',

''(B) subsection (b)(1)(B) shall be applied by substituting '$75,000' for '$250,000', and

''(C) subsection (b)(2)(B) shall be applied by substituting '$200,000' for '$500,000'.

''(2) GROSS RECEIPTS TEST.—A person meets the gross receipts test of this paragraph if such person meets the gross receipts test of section 6721(d)(2).

''(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each such failure—

''(1) subsections (b), (c), and (d) shall not apply,

''(2) the penalty imposed under subsection (a)(1) shall be $250, or, if greater—

''(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

''(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

''(3) in the case of any penalty determined under paragraph (2)—

''(A) the $1,500,000 limitation under subsection (a) shall not apply, and

''(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (2).

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d)(1), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 2103. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.

SEC. 2104. APPLICATION OF CONTINUOUS LEVY TO TAX LIABILITIES OF CERTAIN FEDERAL CONTRACTORS.

(a) IN GENERAL.—Subsection (f) of section 6330 of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) the Secretary has served a Federal contractor levy,''.

(b) FEDERAL CONTRACTOR LEVY.—Subsection (h) of section 6330 of the Internal Revenue Code of 1986 is amended—

(1) by striking all that precedes ''any levy in connection with the collection'' and inserting the following:

''(h) DEFINITIONS RELATED TO EXCEPTIONS.—For purposes of subsection (f)—

''(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—A disqualified employment tax levy is''; and

(2) by adding at the end the following new paragraph:

''(2) FEDERAL CONTRACTOR LEVY.—A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor.''.

(c) CONFORMING AMENDMENT.—The heading of subsection (f) of section 6330 of the Internal Revenue Code of 1986 is amended by striking ''JEOPARDY AND STATE REFUND COLLECTION'' and inserting ''EXCEPTIONS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

PART II—PROMOTING RETIREMENT PREPARATION

SEC. 2111. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 2112. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO DESIGNATED ROTH ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution (within the meaning of section 408A(e)) to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) COORDINATION WITH LIMIT.—Any distribution to which this paragraph applies shall not be taken into account for purposes of paragraph (1).

''(D) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 2113. SPECIAL RULES FOR ANNUITIES RECEIVED FROM ONLY A PORTION OF A CONTRACT.

(a) IN GENERAL.—Subsection (a) of section 72 of the Internal Revenue Code of 1986 is amended to read as follows:

''(a) GENERAL RULES FOR ANNUITIES.—

''(1) INCOME INCLUSION.—Except as otherwise provided in this chapter, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life insurance contract.

''(2) PARTIAL ANNUITIZATION.—If any amount is received as an annuity for a period of 10 years or more or during one or more lives under any portion of an annuity, endowment, or life insurance contract—

''(A) such portion shall be treated as a separate contract for purposes of this section,

''(B) for purposes of applying subsections (b), (c), and (e), the investment in the contract shall be allocated pro rata between each portion of the contract from which amounts are received as an annuity and the portion of the contract from which amounts are not received as an annuity, and

''(C) a separate annuity starting date under subsection (c)(4) shall be determined with respect to each portion of the contract from which amounts are received as an annuity.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2010.

PART III—CLOSING UNINTENDED LOOPHOLES

SEC. 2121. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E) of the Internal Revenue Code of 1986, as added by the Health Care and Education Reconciliation Act of 2010, is amended—

(1) by striking ''or'' at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting '', or'',

(3) by adding at the end the following new subclause:

''(III) such fuel has an acid number greater than 25.'', and

(4) by striking ''UNPROCESSED'' in the heading and inserting ''CERTAIN''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels sold or used on or after January 1, 2010.

SEC. 2122. SOURCE RULES FOR INCOME ON GUARANTEES.

(a) AMOUNTS SOURCED WITHIN THE UNITED STATES.—Subsection (a) of section 861 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) GUARANTEES.—Amounts received, directly or indirectly, from—

''(A) a noncorporate resident or domestic corporation for the provision of a guarantee of any indebtedness of such resident or corporation, or

''(B) any foreign person for the provision of a guarantee of any indebtedness of such person, if such amount is connected with income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(b) AMOUNTS SOURCED WITHOUT THE UNITED STATES.—Subsection (a) of section 862 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding at the end the following new paragraph:

''(9) amounts received, directly or indirectly, from a foreign person for the provision of a guarantee of indebtedness of such person other than amounts which are derived from sources within the United States as provided in section 861(a)(9).''.

(c) CONFORMING AMENDMENT.—Clause (ii) of section 864(c)(4)(B) of the Internal Revenue Code of 1986 is amended by striking ''dividends or interest'' and inserting ''dividends, interest, or amounts received for the provision of guarantees of indebtedness''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued after the date of the enactment of this Act.

SEC. 2123. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are repealed:

(1) Section 3507.

(2) Subsection (g) of section 32.

(3) Paragraph (7) of section 6051(a).

(b) CONFORMING AMENDMENTS.—

(1) Section 6012(a) of the Internal Revenue Code of 1986 is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 of such Code is amended by striking subsection (i).

(3) The table of sections for chapter 25 of such Code is amended by striking the item relating to section 3507.

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall apply to taxable years beginning after December 31, 2010.

PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

SEC. 2131. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

TITLE III—STATE SMALL BUSINESS CREDIT INITIATIVE

SEC. 3001. SHORT TITLE.

This title may be cited as the ''State Small Business Credit Initiative Act of 2010''.

SEC. 3002. DEFINITIONS.

In this title, the following definitions shall apply:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Agriculture, the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency''—

(A) has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act.

(3) ENROLLED LOAN.—The term ''enrolled loan'' means a loan made by a financial institution lender that is enrolled by a participating State in an approved State capital access program in accordance with this title.

(4) FEDERAL CONTRIBUTION.—The term ''Federal contribution'' means the portion of the contribution made by a participating State to, or for the account of, an approved State program that is made with Federal funds allocated to the State by the Secretary under section 3003.

(5) FINANCIAL INSTITUTION.—The term ''financial institution'' means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702)

(6) PARTICIPATING STATE.—The term ''participating State'' means any State that has been approved for participation in the Program under section 3004.

(7) PROGRAM.—The term ''Program'' means the State Small Business Credit Initiative established under this title.

(8) QUALIFYING LOAN OR SWAP FUNDING FACILITY.—The term ''qualifying loan or swap funding facility'' means a contractual arrangement between a participating State and a private financial entity under which—

(A) the participating State delivers funds to the entity as collateral;

(B) the entity provides funding from the arrangement back to the participating State; and

(C) the full amount of resulting funding from the arrangement, less any fees and other costs of the arrangement, is contributed to, or for the account of, an approved State program.

(9) RESERVE FUND.—The term ''reserve fund'' means a fund, established by a participating State, dedicated to a particular financial institution lender, for the purposes of—

(A) depositing all required premium charges paid by the financial institution lender and by each borrower receiving a loan under an approved State program from that financial institution lender;

(B) depositing contributions made by the participating State, including State contributions made with Federal contributions; and

(C) covering losses on enrolled loans by disbursing accumulated funds.

(10) STATE.—The term ''State'' means—

(A) a State of the United States;

(B) the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands;

(C) when designated by a State of the United States, a political subdivision of that State that the Secretary determines has the capacity to participate in the Program; and

(D) under the circumstances described in section 3004(d), a municipality of a State of the United States to which the Secretary has given a special permission under section 3004(d).

(11) STATE CAPITAL ACCESS PROGRAM.—The term ''State capital access program'' means a program of a State that—

(A) uses public resources to promote private access to credit; and

(B) meets the eligibility criteria in section 3005(c).

(12) STATE OTHER CREDIT SUPPORT PROGRAM.—The term ''State other credit support program''—

(A) means a program of a State that—

(i) uses public resources to promote private access to credit;

(ii) is not a State capital access program; and

(iii) meets the eligibility criteria in section 3006(c); and

(B) includes, collateral support programs, loan participation programs, State-run venture capital fund programs, and credit guarantee programs.

(13) STATE PROGRAM.—The term ''State program'' means a State capital access program or a State other credit support program.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

SEC. 3003. FEDERAL FUNDS ALLOCATED TO STATES.

(a) PROGRAM ESTABLISHED; PURPOSE.—There is established the State Small Business Credit Initiative, to be administered by the Secretary. Under the Program, the Secretary shall allocate Federal funds to participating States and make the allocated funds available to the participating States as provided in this section for the uses described in this section.

(b) ALLOCATION FORMULA.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to the average of the respective amounts that the State—

(A) would receive under the 2009 allocation, as determined under paragraph (2); and

(B) would receive under the 2010 allocation, as determined under paragraph (3).

(2) 2009 ALLOCATION FORMULA.—

(A) IN GENERAL.—The Secretary shall determine the 2009 allocation by allocating Federal funds among the States in the proportion that each such State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all States.

(B) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2008 STATE EMPLOYMENT DECLINE DEFINED.—In this paragraph and with respect to a State, the term ''2008 State employment decline'' means the excess (if any) of—

(i) the number of individuals employed in such State determined for December 2007; over

(ii) the number of individuals employed in such State determined for December 2008.

(3) 2010 ALLOCATION FORMULA.—

(A) IN GENERAL.—The Secretary shall determine the 2010 allocation by allocating Federal funds among the States in the proportion that each such State's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

(B) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2009 UNEMPLOYMENT NUMBER DEFINED.—In this paragraph and with respect to a State, the term ''2009 unemployment number'' means the number of individuals within such State who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

(c) AVAILABILITY OF ALLOCATED AMOUNT.—The amount allocated by the Secretary to each participating State under subsection (b) shall be made available to the State as follows:

(1) ALLOCATED AMOUNT GENERALLY TO BE AVAILABLE TO STATE IN ONE-THIRDS.—

(A) IN GENERAL.—The Secretary shall—

(i) apportion the participating State's allocated amount into thirds;

(ii) transfer to the participating State the first ⅓ when the Secretary approves the State for participation under section 3004; and

(iii) transfer to the participating State each successive ⅓ when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred ⅓ for Federal contributions to, or for the account of, State programs.

(B) AUTHORITY TO WITHHOLD PENDING AUDIT.—The Secretary may withhold the transfer of any successive ⅓ pending results of a financial audit.

(C) INSPECTOR GENERAL AUDITS.—

(i) IN GENERAL.—The Inspector General of the Department of the Treasury shall carry out an audit of the participating State's use of allocated Federal funds transferred to the State.

(ii) RECOUPMENT OF MISUSED TRANSFERRED FUNDS REQUIRED.—The allocation agreement between the Secretary and the participating State shall provide that the Secretary shall recoup any allocated Federal funds transferred to the participating State if the results of the an audit include a finding that there was an intentional or reckless misuse of transferred funds by the State.

(iii) PENALTY FOR MISSTATEMENT.—Any participating State that is found to have intentionally misstated any report issued to the Secretary under the Program shall be ineligible to receive any additional funds under the Program. Funds that had been allocated or that would otherwise have been allocated to such participating State shall be paid into the general fund of the Treasury for reduction of the public debt.

(iv) MUNICIPALITIES.—In this subparagraph, the term ''participating State'' shall include a municipality given special permission to participate in the Program, under section 3004(d).

(D) EXCEPTION.—The Secretary may, in the Secretary's discretion, transfer the full amount of the participating State's allocated amount to the State in a single transfer if the participating State applies to the Secretary for approval to use the full amount of the allocation as collateral for a qualifying loan or swap funding facility.

(2) TRANSFERRED AMOUNTS.—Each amount transferred to a participating State under this section shall remain available to the State until used by the State as permitted under paragraph (3).

(3) USE OF TRANSFERRED FUNDS.—Each participating State may use funds transferred to it under this section only—

(A) for making Federal contributions to, or for the account of, an approved State program;

(B) as collateral for a qualifying loan or swap funding facility;

(C) in the case of the first ⅓ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 5 percent of that first ⅓; or

(D) in the case of each successive ⅓ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 3 percent of that successive ⅓.

(4) TERMINATION OF AVAILABILITY OF AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF PARTICIPATION.—Any portion of a participating State's allocated amount that has not been transferred to the State under this section by the end of the 2-year period beginning on the date that the Secretary approves the State for participation may be deemed by the Secretary to be no longer allocated to the State and no longer available to the State and shall be returned to the General Fund of the Treasury.

(5) TRANSFERRED AMOUNTS NOT ASSISTANCE.—The amounts transferred to a participating State under this section shall not be considered assistance for purposes of subtitle V of title 31, United States Code.

(6) DEFINITIONS.—In this section—

(A) the term ''allocated amount'' means the total amount of Federal funds allocated by the Secretary under subsection (b) to the participating State; and

(B) the term ''⅓'' means—

(i) in the case of the first ⅓ and second ⅓, an amount equal to 33 percent of a participating State's allocated amount; and

(ii) in the case of the last ⅓, an amount equal to 34 percent of a participating State's allocated amount.

SEC. 3004. APPROVING STATES FOR PARTICIPATION.

(a) APPLICATION.—Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for an allocation of Federal funds under the Program.

(b) GENERAL APPROVAL CRITERIA.—The Secretary shall approve a State to be a participating State, if—

(1) a specific department, agency, or political subdivision of the State has been designated to implement a State program and participate in the Program;

(2) all legal actions necessary to enable such designated department, agency, or political subdivision to implement a State program and participate in the Program have been accomplished;

(3) the State has filed an application with the Secretary for approval of a State capital access program under section 3005 or approval as a State other credit support program under section 3006, in each case within the time period provided in the respective section; and

(4) the State and the Secretary have executed an allocation agreement that—

(A) conforms to the requirements of this title;

(B) ensures that the State program complies with such national standards as are established by the Secretary under section 3009(a)(2);

(C) sets forth internal control, compliance, and reporting requirements as established by the Secretary, and such other terms and conditions necessary to carry out the purposes of this title, including an agreement by the State to allow the Secretary to audit State programs;

(D) requires that the State program be fully positioned, within 90 days of the State's execution of the allocation agreement with the Secretary, to act on providing the kind of credit support that the State program was established to provide; and

(E) includes an agreement by the State to deliver to the Secretary, and update annually, a schedule describing how the State intends to apportion among its State programs the Federal funds allocated to the State.

(c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMENTATION OF STATE PROGRAMS.—A State may be approved to be a participating State, and be eligible for an allocation of Federal funds under the Program, if the State has contractual arrangements for the implementation and administration of its State program with—

(1) an existing, approved State program administered by another State; or

(2) an authorized agent of, or entity supervised by, the State, including for-profit and not-for-profit entities.

(d) SPECIAL PERMISSION.—

(1) CIRCUMSTANCES WHEN A MUNICIPALITY MAY APPLY DIRECTLY.—If a State does not, within 60 days after the date of enactment of this Act, file with the Secretary a notice of its intent to apply for approval by the Secretary of a State program or within 9 months after the date of enactment of this Act, file with the Secretary a complete application for approval of a State program, the Secretary may grant to municipalities of that State a special permission that will allow them to apply directly to the Secretary without the State for approval to be participating municipalities.

(2) TIMING REQUIREMENTS APPLICABLE TO MUNICIPALITIES APPLYING DIRECTLY.—To qualify for the special permission, a municipality of a State shall be required, within 12 months after the date of enactment of this Act, to file with the Secretary a complete application for approval by the Secretary of a State program.

(3) NOTICES OF INTENT AND APPLICATIONS FROM MORE THAN 1 MUNICIPALITY.—A municipality of a State may combine with 1 or more other municipalities of that State to file a joint notice of intent to file and a joint application.

(4) APPROVAL CRITERIA.—The general approval criteria in paragraphs (2) and (4) shall apply.

(5) ALLOCATION TO MUNICIPALITIES.—

(A) IF MORE THAN 3.—If more than 3 municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to the 3 municipalities with the largest populations.

(B) IF 3 OR FEWER.—If 3 or fewer municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to each applicant municipality or combination of municipalities.

(6) APPORTIONMENT OF ALLOCATED AMOUNT AMONG PARTICIPATING MUNICIPALITIES.—If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall apportion the full amount of the Federal funds that are allocated to that State to municipalities that are approved under this subsection in amounts proportionate to the population of those municipalities, based on the most recent available decennial census.

(7) APPROVING STATE PROGRAMS FOR MUNICIPALITIES.—If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall take into account the additional considerations in section 3006(d) in making the determination under section 3005 or 3006 that the State program or programs to be implemented by the participating municipalities, including a State capital access program, is eligible for Federal contributions to, or for the account of, the State program.

SEC. 3005. APPROVING STATE CAPITAL ACCESS PROGRAMS.

(a) APPLICATION.—A participating State that establishes a new, or has an existing, State capital access program that meets the eligibility criteria in subsection (c) may apply to Secretary to have the State capital access program approved as eligible for Federal contributions to the reserve fund.

(b) APPROVAL.—The Secretary shall approve such State capital access program as eligible for Federal contributions to the reserve fund if—

(1) within 60 days after the date of enactment of this Act, the State has filed with the Secretary a notice of intent to apply for approval by the Secretary of a State capital access program;

(2) within 9 months after the date of enactment of this Act, the State has filed with the Secretary a complete application for approval by the Secretary of a capital access program;

(3) the State satisfies the requirements of subsections (a) and (b) of section 3004; and

(4) the State capital access program meets the eligibility criteria in subsection (c).

(c) ELIGIBILITY CRITERIA FOR STATE CAPITAL ACCESS PROGRAMS.—For a State capital access program to be approved under this section, that program shall be required to be a program of the State that—

(1) provides portfolio insurance for business loans based on a separate loan-loss reserve fund for each financial institution;

(2) requires insurance premiums to be paid by the financial institution lenders and by the business borrowers to the reserve fund to have their loans enrolled in the reserve fund;

(3) provides for contributions to be made by the State to the reserve fund in amounts at least equal to the sum of the amount of the insurance premium charges paid by the borrower and the financial institution to the reserve fund for any newly enrolled loan; and

(4) provides its portfolio insurance solely for loans that meet both the following requirements:

(A) The borrower has 500 employees or less at the time that the loan is enrolled in the Program.

(B) The loan amount does not exceed $5,000,000.

(d) FEDERAL CONTRIBUTIONS TO APPROVED STATE CAPITAL ACCESS PROGRAMS.—A State capital access program approved under this section will be eligible for receiving Federal contributions to the reserve fund in an amount equal to the sum of the amount of the insurance premium charges paid by the borrowers and by the financial institution to the reserve fund for loans that meet the requirements in subsection (c)(4). A participating State may use the Federal contribution to make its contribution to the reserve fund of an approved State capital access program.

(e) MINIMUM PROGRAM REQUIREMENTS FOR STATE CAPITAL ACCESS PROGRAMS.—The Secretary shall, by regulation or other guidance, prescribe Program requirements that meet the following minimum requirements:

(1) EXPERIENCE AND CAPACITY.—The participating State shall determine for each financial institution that participates in the State capital access program, after consultation with the appropriate Federal banking agency or, in the case of a financial institution that is a nondepository community development financial institution, the Community Development Financial Institution Fund, that the financial institution has sufficient commercial lending experience and financial and managerial capacity to participate in the approved State capital access

program. The determination by the State shall not be reviewable by the Secretary.

(2) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the financial institution lender in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(3) LOAN TERMS AND CONDITIONS TO BE DETERMINED BY AGREEMENT.—A loan to be filed for enrollment in an approved State capital access program may be made with such interest rate, fees, and other terms and conditions, and the loan may be enrolled in the approved State capital access program and claims may be filed and paid, as agreed upon by the financial institution lender and the borrower, consistent with applicable law.

(4) LENDER CAPITAL AT-RISK.—A loan to be filed for enrollment in the State capital access program shall require the financial institution lender to have a meaningful amount of its own capital resources at risk in the loan.

(5) PREMIUM CHARGES MINIMUM AND MAXIMUM AMOUNTS.—The insurance premium charges payable to the reserve fund by the borrower and the financial institution lender shall be prescribed by the financial institution lender, within minimum and maximum limits that require that the sum of the insurance premium charges paid in connection with a loan by the borrower and the financial institution lender may not be less than 2 percent nor more than 7 percent of the amount of the loan enrolled in the approved State capital access program.

(6) STATE CONTRIBUTIONS.—In enrolling a loan in an approved State capital access program, the participating State may make a contribution to the reserve fund to supplement Federal contributions made under this Program.

(7) LOAN PURPOSE.—

(A) PARTICULAR LOAN PURPOSE REQUIREMENTS AND PROHIBITIONS.—In connection with the filing of a loan for enrollment in an approved State capital access program, the financial institution lender—

(i) shall obtain an assurance from each borrower that—

(I) the proceeds of the loan will be used for a business purpose;

(II) the loan will not be used to finance such business activities as the Secretary, by regulation, may proscribe as prohibited loan purposes for enrollment in an approved State capital access program; and

(III) the borrower is not—

(aa) an executive officer, director, or principal shareholder of the financial institution lender;

(bb) a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lender; or

(cc) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(ii) shall provide assurances to the participating State that the loan has not been made in order to place under the protection of the approved State capital access program prior debt that is not covered under the approved State capital access program and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender;

(iii) shall not allow the enrollment of a loan to a borrower that is a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender; and

(iv) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this title, including compliance with all applicable Federal and State laws, regulations, ordinances, and Executive orders.

(B) DEFINITIONS.—In this paragraph, the terms ''executive officer'', ''director'', ''principal shareholder'', ''immediate family'', and ''related interest'' refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(8) CAPITAL ACCESS FOR SMALL BUSINESSES IN UNDERSERVED COMMUNITIES.—At the time that a State applies to the Secretary to have the State capital access program approved as eligible for Federal contributions, the State shall deliver to the Secretary a report stating how the State plans to use the Federal contributions to the reserve fund to provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses.

SEC. 3006. APPROVING COLLATERAL SUPPORT AND OTHER INNOVATIVE CREDIT ACCESS AND GUARANTEE INITIATIVES FOR SMALL BUSINESSES AND MANUFACTURERS.

(a) APPLICATION.—A participating State that establishes a new, or has an existing, credit support program that meets the eligibility criteria in subsection (c) may apply to the Secretary to have the State other credit support program approved as eligible for Federal contributions to, or for the account of, the State program.

(b) APPROVAL.—The Secretary shall approve such State other credit support program as eligible for Federal contributions to, or for the account of, the program if—

(1) the Secretary determines that the State satisfies the requirements of paragraphs (1) through (3) of section 3005(b);

(2) the Secretary determines that the State other credit support program meets the eligibility criteria in subsection (c);

(3) the Secretary determines the State other credit support program to be eligible based on the additional considerations in subsection (d); and

(4) within 9 months after the date of enactment of this Act, the State has filed with Treasury a complete application for Treasury approval.

(c) ELIGIBILITY CRITERIA FOR STATE OTHER CREDIT SUPPORT PROGRAMS.—For a State other credit support program to be approved under this section, that program shall be required to be a program of the State that—

(1) can demonstrate that, at a minimum, $1 of public investment by the State program will cause and result in $1 of new private credit;

(2) can demonstrate a reasonable expectation that, when considered with all other State programs of the State, such State programs together have the ability to use amounts of new Federal contributions to, or for the account of, all such programs in the State to cause and result in amounts of new small business lending at least 10 times the new Federal contribution amount;

(3) for those State other credit support programs that provide their credit support through 1 or more financial institution lenders, requires the financial institution lenders to have a meaningful amount of their own capital resources at risk in their small business lending; and

(4) uses Federal funds allocated under this title to extend credit support that—

(A) targets an average borrower size of 500 employees or less;

(B) does not extend credit support to borrowers that have more than 750 employees;

(C) targets support towards loans with an average principal amount of $5,000,000 or less; and

(D) does not extend credit support to loans that exceed a principal amount of $20,000,000.

(d) ADDITIONAL CONSIDERATIONS.—In making a determination that a State other credit support program is eligible for Federal contributions to, or for the account of, the State program, the Secretary shall take into account the following additional considerations:

(1) The anticipated benefits to the State, its businesses, and its residents to be derived from the Federal contributions to, or for the account of, the approved State other credit support program, including the extent to which resulting small business lending will expand economic opportunities.

(2) The operational capacity, skills, and experience of the management team of the State other credit support program.

(3) The capacity of the State other credit support program to manage increases in the volume of its small business lending.

(4) The internal accounting and administrative controls systems of the State other credit support program, and the extent to which they can provide reasonable assurance that funds of the State program are safeguarded against waste, loss, unauthorized use, or misappropriation.

(5) The soundness of the program design and implementation plan of the State other credit support program.

(e) FEDERAL CONTRIBUTIONS TO APPROVED STATE OTHER CREDIT SUPPORT PROGRAMS.—A State other credit support program approved under this section will be eligible for receiving Federal contributions to, or for the account of, the State program in an amount consistent with the schedule describing the apportionment of allocated Federal funds among State programs delivered by the State to the Secretary under the allocation agreement.

(f) MINIMUM PROGRAM REQUIREMENTS FOR STATE OTHER CREDIT SUPPORT PROGRAMS.—

(1) FUND TO PRESCRIBE.—The Secretary shall, by regulation or other guidance, prescribe Program requirements for approved State other credit support programs.

(2) CONSIDERATIONS FOR FUND.—In prescribing minimum Program requirements for approved State other credit support programs, the Secretary shall take into consideration, to the extent the Secretary determines applicable and appropriate, the minimum Program requirements for approved State capital access programs in section 3005(e).

SEC. 3007. REPORTS.

(a) QUARTERLY USE-OF-FUNDS REPORT.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each calendar quarter, beginning after the first full calendar quarter to occur after the date the Secretary approves a State for participation, the participating State shall submit to the Secretary a report on the use of Federal funding by the participating State during the previous calendar quarter.

(2) REPORT CONTENTS.—Each report under this subsection shall—

(A) indicate the total amount of Federal funding used by the participating State; and

(B) include a certification by the participating State that—

(i) the information provided in accordance with subparagraph (A) is accurate;

(ii) funds continue to be available and legally committed to contributions by the State to, or for the account of, approved State programs, less any amount that has been contributed by the State to, or for the account of, approved State programs subsequent to the State being approved for participation in the Program; and

(iii) the participating State is implementing its approved State program or programs in accordance with this title and regulations issued under section 3010.

(b) ANNUAL REPORT.—Not later than March 31 of each year, beginning March 31, 2011, each participating State shall submit to the Secretary an annual report that shall include the following information:

(1) The number of borrowers that received new loans originated under the approved State program or programs after the State program was approved as eligible for Federal contributions.

(2) The total amount of such new loans.

(3) Breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers that received such new loans.

(4) The zip code of each borrower that received such a new loan.

(5) Such other data as the Secretary, in the Secretary's sole discretion, may require to carry out the purposes of the Program.

(c) FORM.—The reports and data filed under subsections (a) and (b) shall be in such form as the Secretary, in the Secretary's sole discretion, may require.

(d) TERMINATION OF REPORTING REQUIREMENTS.—The requirement to submit reports under subsections (a) and (b) shall terminate for a participating State with the submission of the completed reports due on the first March 31 to occur after 5 complete 12-month periods after the State is approved by the Secretary to be a participating State.

SEC. 3008. REMEDIES FOR STATE PROGRAM TERMINATION OR FAILURES.

(a) REMEDIES.—

(1) IN GENERAL.—If any of the events listed in paragraph (2) occur, the Secretary, in the Secretary's discretion, may—

(A) reduce the amount of Federal funds allocated to the State under the Program; or

(B) terminate any further transfers of allocated amounts that have not yet been transferred to the State.

(2) CAUSAL EVENTS.—The events referred to in paragraph (1) are—

(A) termination by a participating State of its participation in the Program;

(B) failure on the part of a participating State to submit complete reports under section 3007 on a timely basis; or

(C) noncompliance by the State with the terms of the allocation agreement between the Secretary and the State.

(b) DEALLOCATED AMOUNTS TO BE REALLOCATED.—If, after 13 months, any portion of the amount of Federal funds allocated to a participating State is deemed by the Secretary to be no longer allocated to the State after actions taken by the Secretary under subsection (a)(1), the Secretary shall reallocate that portion among the participating States, excluding the State whose allocated funds were deemed to be no longer allocated, as provided in section 3003(b).

SEC. 3009. IMPLEMENTATION AND ADMINISTRATION.

(a) GENERAL AUTHORITIES AND DUTIES.—The Secretary shall—

(1) consult with the Administrator of the Small Business Administration and the appropriate Federal banking agencies on the administration of the Program;

(2) establish minimum national standards for approved State programs;

(3) provide technical assistance to States for starting State programs and generally disseminate best practices;

(4) manage, administer, and perform necessary program integrity functions for the Program; and

(5) ensure adequate oversight of the approved State programs, including oversight of the cash flows, performance, and compliance of each approved State program.

(b) APPROPRIATIONS.—There is hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, $1,500,000,000 to carry out the Program, including to pay reasonable costs of administering the Program.

(c) TERMINATION OF SECRETARY'S PROGRAM ADMINISTRATION FUNCTIONS.—The authorities and duties of the Secretary to implement and administer the Program shall terminate at the end of the 7-year period beginning on the date of enactment of this Act.

(d) EXPEDITED CONTRACTING.—During the 1-year period beginning on the date of enactment of this Act, the Secretary may enter into contracts without regard to any other provision of law regarding public contracts, for purposes of carrying out this title.

SEC. 3010. REGULATIONS.

The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue such regulations and other guidance as the Secretary determines necessary or appropriate to implement this title including to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this title.

SEC. 3011. OVERSIGHT AND AUDITS.

(a) INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the use of funds made available under the Program.

(b) GAO AUDIT.—The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress containing the results of such audit.

(c) REQUIRED CERTIFICATION.—

(1) FINANCIAL INSTITUTIONS CERTIFICATION.—With respect to funds received by a participating State under the Program, any financial institution that receives a loan, a loan guarantee, or other financial assistance using such funds after the date of the enactment of this Act shall certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions, as that term is defined in section 5312 (a)(2) and (c)(1)(A) of title 31, United States Code, to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) SEX OFFENSE CERTIFICATION.—With respect to funds received by a participating State under the Program, any private entity that receives a loan, a loan guarantee, or other financial assistance using such funds after the date of the enactment of this Act shall certify to the participating State that the principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

(d) PROHIBITION ON PORNOGRAPHY.—None of the funds made available under this title may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

TITLE IV—ADDITIONAL SMALL BUSINESS PROVISIONS

Subtitle A—Small Business Lending Fund

SEC. 4101. PURPOSE.

The purpose of this subtitle is to address the ongoing effects of the financial crisis on small businesses by providing temporary authority to the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses.

SEC. 4102. DEFINITIONS.

For purposes of this subtitle:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Agriculture, the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency'' has the meaning given such term under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(3) BANK HOLDING COMPANY.—The term ''bank holding company'' has the meaning given such term under section 2(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(1)).

(4) CALL REPORT.—The term ''call report'' means—

(A) reports of Condition and Income submitted to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

(B) the Office of Thrift Supervision Thrift Financial Report;

(C) any report that is designated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision, as applicable, as a successor to any report referred to in subparagraph (A) or (B);

(D) reports of Condition and Income as designated through guidance developed by the Secretary, in consultation with the Director of the Community Development Financial Institutions Fund; and

(E) with respect to an eligible institution for which no report exists that is described under subparagraph (A), (B), (C), or (D), such other report or set of information as the Secretary, in consultation with the Administrator of the Small Business Administration, may prescribe.

(5) CDCI.—The term ''CDCI'' means the Community Development Capital Initiative created by the Secretary under the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008.

(6) CDCI INVESTMENT.—The term ''CDCI investment'' means, with respect to any eligible institution, the principal amount of any investment made by the Secretary in such eligible institution under the CDCI that has not been repaid.

(7) CDFI; COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The terms ''CDFI'' and ''community development financial institution'' have the meaning given the term ''community development financial institution'' under the Riegle Community Development and Regulatory Improvement Act of 1994.

(8) CDLF; COMMUNITY DEVELOPMENT LOAN FUND.—The terms ''CDLF'' and ''community development loan fund'' mean any entity that—

(A) is certified by the Department of the Treasury as a community development financial institution loan fund;

(B) is exempt from taxation under the Internal Revenue Code of 1986; and

(C) had assets less than or equal to $10,000,000,000 as of the end of the fourth quarter of calendar year 2009.

(9) CPP.—The term ''CPP'' means the Capital Purchase Program created by the Secretary under the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008.

(10) CPP INVESTMENT.—The term ''CPP investment'' means, with respect to any eligible institution, the principal amount of any investment made by the Secretary in such eligible institution under the CPP that has not been repaid.

(11) ELIGIBLE INSTITUTION.—The term ''eligible institution'' means—

(A) any insured depository institution, which—

(i) is not controlled by a bank holding company or savings and loan holding company that is also an eligible institution;

(ii) has total assets of equal to or less than $10,000,000,000, as reported in the call report of the insured depository institution as of the end of the fourth quarter of calendar year 2009; and

(iii) is not directly or indirectly controlled by any company or other entity that has total consolidated assets of more than $10,000,000,000, as so reported;

(B) any bank holding company which has total consolidated assets of equal to or less than $10,000,000,000, as reported in the call report of the bank holding company as of the end of the fourth quarter of calendar year 2009;

(C) any savings and loan holding company which has total consolidated assets of equal to or less than $10,000,000,000, as reported in the call report of the savings and loan holding company as of the end of the fourth quarter of calendar year 2009; and

(D) any community development financial institution loan fund which has total assets of equal to or less than $10,000,000,000, as reported in audited financial statements for the fiscal year of the community development financial institution loan fund that ends in calendar year 2009.

(12) FUND.—The term ''Fund'' means the Small Business Lending Fund established under section 4103(a)(1).

(13) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the meaning given such term under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

(14) MINORITY-OWNED AND WOMEN-OWNED BUSINESS.—The terms ''minority-owned business'' and ''women-owned business'' shall have the meaning given the terms ''minority-owned business'' and ''women's business'', respectively, under section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441A(r)(4)).

(15) PROGRAM.—The term ''Program'' means the Small Business Lending Fund Program authorized under section 4103(a)(2).

(16) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the meaning given such term under section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)).

(17) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(18) SMALL BUSINESS LENDING.—

(A) IN GENERAL.—The term ''small business lending'' means lending, as defined by and reported in an eligible institutions' quarterly call report, where each loan comprising such lending is one of the following types:

(i) Commercial and industrial loans.

(ii) Owner-occupied nonfarm, nonresidential real estate loans.

(iii) Loans to finance agricultural production and other loans to farmers.

(iv) Loans secured by farmland.

(B) EXCLUSION.—No loan that has an original amount greater than $10,000,000 or that goes to a business with more than $50,000,000 in revenues shall be included in the measure.

(C) TREATMENT OF HOLDING COMPANIES.—In the case of eligible institutions that are bank holding companies or savings and loan holding companies having one or more insured depository institution subsidiaries, small business lending shall be measured based on the combined small business lending reported in the call report of the insured depository institution subsidiaries.

(19) VETERAN-OWNED BUSINESS.—

(A) The term ''veteran-owned business'' means a business—

(i) more than 50 percent of the ownership or control of which is held by 1 or more veterans;

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more veterans; and

(iii) a significant percentage of senior management positions of which are held by veterans.

(B) For purposes of this paragraph, the term ''veteran'' has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 4103. SMALL BUSINESS LENDING FUND.

(a) FUND AND PROGRAM.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the ''Small Business Lending Fund'', which shall be administered by the Secretary.

(2) PROGRAMS AUTHORIZED.—The Secretary is authorized to establish the Small Business Lending Fund Program for using the Fund consistent with this subtitle.

(b) USE OF FUND.—

(1) IN GENERAL.—Subject to paragraph (2), the Fund shall be available to the Secretary, without further appropriation or fiscal year limitation, for the costs of purchases (including commitments to purchase), and modifications of such purchases, of preferred stock and other financial instruments from eligible institutions on such terms and conditions as are determined by the Secretary in accordance with this subtitle. For purposes of this paragraph and with respect to an eligible institution, the term ''other financial instruments'' shall include only debt instruments for which such eligible institution is fully liable or equity equivalent capital of the eligible institution. Such debt instruments may be subordinated to the claims of other creditors of the eligible institution.

(2) MAXIMUM PURCHASE LIMIT.—The aggregate amount of purchases (and commitments to purchase) made pursuant to paragraph (1) may not exceed $30,000,000,000.

(3) PROCEEDS USED TO PAY DOWN PUBLIC DEBT.—All funds received by the Secretary in connection with purchases made pursuant to paragraph (1), including interest payments, dividend payments, and proceeds from the sale of any financial instrument, shall be paid into the general fund of the Treasury for reduction of the public debt.

(4) LIMITATION ON PURCHASES FROM CDLFS.—

(A) IN GENERAL.—Not more than 1 percent of the maximum purchase limit of the Program, pursuant to paragraph (2), may be used to make purchases from community development loan funds.

(B) ELIGIBILITY STANDARDS.—The Secretary, in consultation with the Community Development Financial Institutions Fund, shall develop eligibility criteria to determine the financial ability of a CDLF to participate in the Program and repay the investment. Such criteria shall include the following:

(i) Ratio of net assets to total assets is at least 20 percent.

(ii) Ratio of loan loss reserves to loans and leases 90 days or more delinquent (including loans sold with full recourse) is at least 30 percent.

(iii) Positive net income measured on a 3-year rolling average.

(iv) Operating liquidity ratio of at least 1.0 for the 4 most recent quarters and for one or both of the two preceding years.

(v) Ratio of loans and leases 90 days or more delinquent (including loans sold with full recourse) to total equity plus loan loss reserves is less than 40 percent.

(C) REQUIREMENT TO SUBMIT AUDITED FINANCIAL STATEMENTS.—CDLFs participating in the Program shall submit audited financial statements to the Secretary, have a clean audit opinion, and have at least 3 years of operating experience.

(c) CREDITS TO THE FUND.—There shall be credited to the Fund amounts made available pursuant to section 4108, to the extent provided by appropriations Acts.

(d) TERMS.—

(1) APPLICATION.—

(A) INSTITUTIONS WITH ASSETS OF $1,000,000,000 OR LESS.—Eligible institutions having total assets equal to or less than $1,000,000,000, as reported in a call report as of the end of the fourth quarter of calendar year 2009, may apply to receive a capital investment from the Fund in an amount not exceeding 5 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.

(B) INSTITUTIONS WITH ASSETS OF MORE THAN $1,000,000,000 AND LESS THAN OR EQUAL TO $10,000,000,000.—Eligible institutions having total assets of more than $1,000,000,000 but less than $10,000,000,000, as of the end of the fourth quarter of calendar year 2009, may apply to receive a capital investment from the Fund in an amount not exceeding 3 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.

(C) TREATMENT OF HOLDING COMPANIES.—In the case of an eligible institution that is a bank holding company or a savings and loan holding company having one or more insured depository institution subsidiaries, total assets shall be measured based on the combined total assets reported in the call report of the insured depository institution subsidiaries as of the end of the fourth quarter of calendar year 2009 and risk-weighted assets shall be measured based on the combined risk-weighted assets of the insured depository institution subsidiaries as reported in the call report immediately preceding the date of application.

(D) TREATMENT OF APPLICANTS THAT ARE INSTITUTIONS CONTROLLED BY HOLDING COMPANIES.—If an eligible institution that applies to receive a capital investment under the Program is under the control of a bank holding company or a savings and loan holding company, then the Secretary may use the Fund to purchase preferred stock or other financial instruments from the top-tier bank holding company or savings and loan holding company of such eligible institution, as applicable. For purposes of this subparagraph, the term ''control'' with respect to a bank holding company shall have the same meaning as in section 2(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(2)). For purposes of this subparagraph, the term

''control'' with respect to a savings and loan holding company shall have the same meaning as in 10(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(2)).

(E) REQUIREMENT TO PROVIDE A SMALL BUSINESS LENDING PLAN.—At the time that an applicant submits an application to the Secretary for a capital investment under the Program, the applicant shall deliver to the appropriate Federal banking agency, and, for applicants that are State-chartered banks, to the appropriate State banking regulator, a small business lending plan describing how the applicant's business strategy and operating goals will allow it to address the needs of small businesses in the areas it serves, as well as a plan to provide linguistically and culturally appropriate outreach, where appropriate. In the case of eligible institutions that are community development loan funds, this plan shall be submitted to the Secretary. This plan shall be confidential supervisory information.

(F) TREATMENT OF APPLICANTS THAT ARE COMMUNITY DEVELOPMENT LOAN FUNDS.—Eligible institutions that are community development loan funds may apply to receive a capital investment from the Fund in an amount not exceeding 5 percent of total assets, as reported in the audited financial statements for the fiscal year of the eligible institution that ends in calendar year 2009.

(2) CONSULTATION WITH REGULATORS.—For each eligible institution that applies to receive a capital investment under the Program, the Secretary shall—

(A) consult with the appropriate Federal banking agency or, in the case of an eligible institution that is a nondepository community development financial institution, the Community Development Financial Institution Fund, for the eligible institution, to determine whether the eligible institution may receive such capital investment;

(B) in the case of an eligible institution that is a State-chartered bank, consider any views received from the State banking regulator of the State of the eligible institution regarding the financial condition of the eligible institution; and

(C) in the case of a community development financial institution loan fund, consult with the Community Development Financial Institution Fund.

(3) CONSIDERATION OF MATCHED PRIVATE INVESTMENTS.—

(A) IN GENERAL.—For an eligible institution that applies to receive a capital investment under the Program, if the entity to be consulted under paragraph (2) would not otherwise recommend the eligible institution to receive the capital investment, the Secretary, in consultation with the entity to be so consulted, may consider whether the entity to be consulted would recommend the eligible institution to receive a capital investment based on the financial condition of the institution if the conditions in subparagraph (B) are satisfied.

(B) CONDITIONS.—The conditions referred to in subparagraph (A) are as follows:

(i) CAPITAL SOURCES.—The eligible institution shall receive capital both under the Program and from private, nongovernment investors.

(ii) AMOUNT OF CAPITAL.—The amount of capital to be received under the Program shall not exceed 3 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.

(iii) TERMS.—The amount of capital to be received from private, nongovernment investors shall be—

(I) equal to or greater than 100 percent of the capital to be received under the Program; and

(II) subordinate to the capital investment made by the Secretary under the Program.

(4) INELIGIBILITY OF INSTITUTIONS ON FDIC PROBLEM BANK LIST.—

(A) IN GENERAL.—An eligible institution may not receive any capital investment under the Program, if—

(i) such institution is on the FDIC problem bank list; or

(ii) such institution has been removed from the FDIC problem bank list for less than 90 days.

(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as limiting the discretion of the Secretary to deny the application of an eligible institution that is not on the FDIC problem bank list.

(C) FDIC PROBLEM BANK LIST DEFINED.—For purposes of this paragraph, the term ''FDIC problem bank list'' means the list of depository institutions having a current rating of 4 or 5 under the Uniform Financial Institutions Rating System, or such other list designated by the Federal Deposit Insurance Corporation.

(5) INCENTIVES TO LEND.—

(A) REQUIREMENTS ON PREFERRED STOCK AND OTHER FINANCIAL INSTRUMENTS.—Any preferred stock or other financial instrument issued to Treasury by an eligible institution receiving a capital investment under the Program shall provide that—

(i) the rate at which dividends or interest are payable shall be 5 percent per annum initially;

(ii) within the first 2 years after the date of the capital investment under the Program, the rate may be adjusted based on the amount of an eligible institution's small business lending. Changes in the amount of small business lending shall be measured against the average amount of small business lending reported by the eligible institution in its call reports for the 4 full quarters immediately preceding the date of enactment of this Act, minus adjustments from each quarterly balance in respect of—

(I) net loan charge offs with respect to small business lending; and

(II) gains realized by the eligible institution resulting from mergers, acquisitions or purchases of loans after origination and syndication; which adjustments shall be determined in accordance with guidance promulgated by the Secretary; and

(iii) during any calendar quarter during the initial 2-year period referred to in clause (ii), an institution's rate shall be adjusted to reflect the following schedule, based on that institution's change in the amount of small business lending relative to the baseline—

(I) if the amount of small business lending has increased by less than 2.5 percent, the dividend or interest rate shall be 5 percent;

(II) if the amount of small business lending has increased by 2.5 percent or greater, but by less than 5.0 percent, the dividend or interest rate shall be 4 percent;

(III) if the amount of small business lending has increased by 5.0 percent or greater, but by less than 7.5 percent, the dividend or interest rate shall be 3 percent;

(IV) if the amount of small business lending has increased by 7.5 percent or greater, and but by less than 10.0 percent, the dividend or interest rate shall be 2 percent; or

(V) if the amount of small business lending has increased by 10 percent or greater, the dividend or interest rate shall be 1 percent.

(B) BASIS OF INITIAL RATE.—The initial dividend or interest rate shall be based on call report data published in the quarter immediately preceding the date of the capital investment under the Program.

(C) TIMING OF RATE ADJUSTMENTS.—Any rate adjustment shall occur in the calendar quarter following the publication of call report data, such that the rate based on call report data from any one calendar quarter, which is published in the first following calendar quarter, shall be adjusted in that first following calendar quarter and payable in the second following quarter.

(D) RATE FOLLOWING INITIAL 2-YEAR PERIOD.—Generally, the rate based on call report data from the eighth calendar quarter after the date of the capital investment under the Program shall be payable until the expiration of the 4½-year period that begins on the date of the investment. In the case where the amount of small business lending has remained the same or decreased relative to the institution's baseline in the eighth quarter after the date of the capital investment under the Program, the rate shall be 7 percent until the expiration of the 4½-year period that begins on the date of the investment.

(E) RATE FOLLOWING INITIAL 4½-YEAR PERIOD.—The dividend or interest rate paid on any preferred stock or other financial instrument issued by an eligible institution that receives a capital investment under the Program shall increase to 9 percent at the end of the 4½-year period that begins on the date of the capital investment under the Program.

(F) LIMITATION ON RATE REDUCTIONS WITH RESPECT TO CERTAIN AMOUNT.—The reduction in the dividend or interest rate payable to Treasury by any eligible institution shall be limited such that the rate reduction shall not apply to a dollar amount of the investment made by Treasury that is greater than the dollar amount increase in the amount of small business lending realized under this program. The Secretary may issue guidelines that will apply to new capital investments limiting the amount of capital available to eligible institutions consistent with this limitation.

(G) RATE ADJUSTMENTS FOR S CORPORATION.—Before making a capital investment in an eligible institution that is an S corporation or a corporation organized on a mutual basis, the Secretary may adjust the dividend or interest rate on the financial instrument to be issued to the Secretary, from the dividend or interest rate that would apply under subparagraphs (A) through (F), to take into account any differential tax treatment of securities issued by such eligible institution. For purpose of this subparagraph, the term ''S corporation'' has the same meaning as in section 1361(a) of the Internal Revenue Code of 1986.

(H) REPAYMENT DEADLINE.—The capital investment received by an eligible institution under the Program shall be evidenced by preferred stock or other financial instrument that—

(i) includes, as a term and condition, that the capital investment will—

(I) be repaid not later than the end of the 10-year period beginning on the date of the capital investment under the Program; or

(II) at the end of such 10-year period, be subject to such additional terms as the Secretary shall prescribe, which shall include a requirement that the stock or instrument shall carry the highest dividend or interest rate payable; and

(ii) provides that the term and condition described under clause (i) shall not apply if the application of that term and condition would adversely affect the capital treatment of the stock or financial instrument under current or successor applicable capital provisions compared to a capital instrument with identical terms other than the term and condition described under clause (i).

(I) REQUIREMENTS ON FINANCIAL INSTRUMENTS ISSUED BY A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION LOAN FUND.—Any equity equivalent capital issued to the Treasury by a community development loan fund receiving a capital investment under the

Program shall provide that the rate at which interest is payable shall be 2 percent per annum for 8 years. After 8 years, the rate at which interest is payable shall be 9 percent.

(6) ADDITIONAL INCENTIVES TO REPAY.—The Secretary may, by regulation or guidance issued under section 4104(9), establish repayment incentives in addition to the incentive in paragraph (5)(E) that will apply to new capital investments in a manner that the Secretary determines to be consistent with the purposes of this subtitle.

(7) CAPITAL PURCHASE PROGRAM REFINANCE.—

(A) IN GENERAL.—The Secretary shall, in a manner that the Secretary determines to be consistent with the purposes of this subtitle, issue regulations and other guidance to permit eligible institutions to refinance securities issued to Treasury under the CDCI and the CPP for securities to be issued under the Program.

(B) PROHIBITION ON PARTICIPATION BY NONPAYING CPP PARTICIPANTS.—Subparagraph (A) shall not apply to any eligible institution that has missed more than one dividend payment due under the CPP. For purposes of this subparagraph, a CPP dividend payment that is submitted within 60 days of the due date of such payment shall not be considered a missed dividend payment.

(8) OUTREACH TO MINORITIES, WOMEN, AND VETERANS.—The Secretary shall require eligible institutions receiving capital investments under the Program to provide linguistically and culturally appropriate outreach and advertising in the applicant pool describing the availability and application process of receiving loans from the eligible institution that are made possible by the Program through the use of print, radio, television or electronic media outlets which target organizations, trade associations, and individuals that—

(A) represent or work within or are members of minority communities;

(B) represent or work with or are women; and

(C) represent or work with or are veterans.

(9) ADDITIONAL TERMS.—The Secretary may, by regulation or guidance issued under section 4104(9), make modifications that will apply to new capital investments in order to manage risks associated with the administration of the Fund in a manner consistent with the purposes of this subtitle.

(10) MINIMUM UNDERWRITING STANDARDS.—The appropriate Federal banking agency for an eligible institution that receives funds under the Program shall within 60 days issue guidance regarding prudent underwriting standards that must be used for loans made by the eligible institution using such funds.

SEC. 4104. ADDITIONAL AUTHORITIES OF THE SECRETARY.

The Secretary may take such actions as the Secretary deems necessary to carry out the authorities in this subtitle, including, without limitation, the following:

(1) The Secretary may use the services of any agency or instrumentality of the United States or component thereof on a reimbursable basis, and any such agency or instrumentality or component thereof is authorized to provide services as requested by the Secretary using all authorities vested in or delegated to that agency, instrumentality, or component.

(2) The Secretary may enter into contracts, including contracts for services authorized by section 3109 of title 5, United States Code.

(3) The Secretary may designate any bank, savings association, trust company, security broker or dealer, asset manager, or investment adviser as a financial agent of the Federal Government and such institution shall perform all such reasonable duties related to this subtitle as financial agent of the Federal Government as may be required. The Secretary shall have authority to amend existing agreements with financial agents, entered into during the 2-year period before the date of enactment of this Act, to perform reasonable duties related to this subtitle.

(4) The Secretary may exercise any rights received in connection with any preferred stock or other financial instruments or assets purchased or acquired pursuant to the authorities granted under this subtitle.

(5) Subject to section 4103(b)(3), the Secretary may manage any assets purchased under this subtitle, including revenues and portfolio risks therefrom.

(6) The Secretary may sell, dispose of, transfer, exchange or enter into securities loans, repurchase transactions, or other financial transactions in regard to, any preferred stock or other financial instrument or asset purchased or acquired under this subtitle, upon terms and conditions and at a price determined by the Secretary.

(7) The Secretary may manage or prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this subtitle.

(8) The Secretary may establish and use vehicles, subject to supervision by the Secretary, to purchase, hold, and sell preferred stock or other financial instruments and issue obligations.

(9) The Secretary may, in consultation with the Administrator of the Small Business Administration, issue such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this subtitle.

SEC. 4105. CONSIDERATIONS.

In exercising the authorities granted in this subtitle, the Secretary shall take into consideration—

(1) increasing the availability of credit for small businesses;

(2) providing funding to minority-owned eligible institutions and other eligible institutions that serve small businesses that are minority-, veteran-, and women-owned and that also serve low- and moderate-income, minority, and other underserved or rural communities;

(3) protecting and increasing American jobs;

(4) increasing the opportunity for small business development in areas with high unemployment rates that exceed the national average;

(5) ensuring that all eligible institutions may apply to participate in the program established under this subtitle, without discrimination based on geography;

(6) providing transparency with respect to use of funds provided under this subtitle;

(7) minimizing the cost to taxpayers of exercising the authorities;

(8) promoting and engaging in financial education to would-be borrowers; and

(9) providing funding to eligible institutions that serve small businesses directly affected by the discharge of oil arising from the explosion on and sinking of the mobile offshore drilling unit Deepwater Horizon and small businesses in communities that have suffered negative economic effects as a result of that discharge with particular consideration to States along the coast of the Gulf of Mexico.

SEC. 4106. REPORTS.

The Secretary shall provide to the appropriate committees of Congress—

(1) within 7 days of the end of each month commencing with the first month in which transactions are made under the Program, a written report describing all of the transactions made during the reporting period pursuant to the authorities granted under this subtitle;

(2) after the end of March and the end of September, commencing September 30, 2010, a written report on all projected costs and liabilities, all operating expenses, including compensation for financial agents, and all transactions made by the Fund, which shall include participating institutions and amounts each institution has received under the Program; and

(3) within 7 days of the end of each calendar quarter commencing with the first calendar quarter in which transactions are made under the Program, a written report detailing how eligible institutions participating in the Program have used the funds such institutions received under the Program.

SEC. 4107. OVERSIGHT AND AUDITS.

(a) INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the Program through the Office of Small Business Lending Fund Program Oversight established under subsection (b).

(b) OFFICE OF SMALL BUSINESS LENDING FUND PROGRAM OVERSIGHT.—

(1) ESTABLISHMENT.—There is hereby established within the Office of the Inspector General of the Department of the Treasury a new office to be named the ''Office of Small Business Lending Fund Program Oversight'' to provide oversight of the Program.

(2) LEADERSHIP.—The Inspector General shall appoint a Special Deputy Inspector General for SBLF Program Oversight to lead the Office, with commensurate staff, who shall report directly to the Inspector General and who shall be responsible for the performance of all auditing and investigative activities relating to the Program.

(3) REPORTING.—

(A) IN GENERAL.—The Inspector General shall issue a report no less than two times a year to the Congress and the Secretary devoted to the oversight provided by the Office, including any recommendations for improvements to the Program.

(B) RECOMMENDATIONS.—With respect to any deficiencies identified in a report under subparagraph (A), the Secretary shall either—

(i) take actions to address such deficiencies; or

(ii) certify to the appropriate committees of Congress that no action is necessary or appropriate.

(4) COORDINATION.—The Inspector General, in maximizing the effectiveness of the Office, shall work with other Offices of Inspector General, as appropriate, to minimize duplication of effort and ensure comprehensive oversight of the Program.

(5) TERMINATION.—The Office shall terminate at the end of the 6-month period beginning on the date on which all capital investments are repaid under the Program or the date on which the Secretary determines that any remaining capital investments will not be repaid.

(6) DEFINITIONS.—For purposes of this subsection:

(A) OFFICE.—The term ''Office'' means the Office of Small Business Lending Fund Program Oversight established under paragraph (1).

(B) INSPECTOR GENERAL.—The term ''Inspector General'' means the Inspector General of the Department of the Treasury.

(c) GAO AUDIT.—The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress containing the results of such audit.

(d) REQUIRED CERTIFICATIONS.—

(1) ELIGIBLE INSTITUTION CERTIFICATION.—Each eligible institution that participates in the Program must certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions, as that term is defined in 31 U.S.C. 5312(a)(2) and (c)(1)(A), to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) LOAN RECIPIENTS.—With respect to funds received by an eligible institution under the Program, any business receiving a loan from the eligible institution using such funds after the date of the enactment of this Act shall certify to such eligible institution that the principals of such business have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

(e) PROHIBITION ON PORNOGRAPHY.—None of the funds made available under this subtitle may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

SEC. 4108. CREDIT REFORM; FUNDING.

(a) CREDIT REFORM.—The cost of purchases of preferred stock and other financial instruments made as capital investments under this subtitle shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(b) FUNDS MADE AVAILABLE.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay the costs of $30,000,000,000 of capital investments in eligible institutions, including the costs of modifying such investments, and reasonable costs of administering the program of making, holding, managing, and selling the capital investments.

SEC. 4109. TERMINATION AND CONTINUATION OF AUTHORITIES.

(a) TERMINATION OF INVESTMENT AUTHORITY.—The authority to make capital investments in eligible institutions, including commitments to purchase preferred stock or other instruments, provided under this subtitle shall terminate 1 year after the date of enactment of this Act.

(b) CONTINUATION OF OTHER AUTHORITIES.—The authorities of the Secretary under section 4104 shall not be limited by the termination date in subsection (a).

SEC. 4110. PRESERVATION OF AUTHORITY.

Nothing in this subtitle may be construed to limit the authority of the Secretary under any other provision of law.

SEC. 4111. ASSURANCES.

(a) SMALL BUSINESS LENDING FUND SEPARATE FROM TARP.—The Small Business Lending Fund Program is established as separate and distinct from the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008. An institution shall not, by virtue of a capital investment under the Small Business Lending Fund Program, be considered a recipient of the Troubled Asset Relief Program.

(b) CHANGE IN LAW.—If, after a capital investment has been made in an eligible institution under the Program, there is a change in law that modifies the terms of the investment or program in a materially adverse respect for the eligible institution, the eligible institution may, after consultation with the appropriate Federal banking agency for the eligible institution, repay the investment without impediment.

SEC. 4112. STUDY AND REPORT WITH RESPECT TO WOMEN-OWNED, VETERAN-OWNED, AND MINORITY-OWNED BUSINESSES.

(a) STUDY.—The Secretary shall conduct a study of the impact of the Program on women-owned businesses, veteran-owned businesses, and minority-owned businesses.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted pursuant to subsection (a). To the extent possible, the Secretary shall disaggregate the results of such study by ethnic group and gender.

(c) INFORMATION PROVIDED TO THE SECRETARY.—Eligible institutions that participate in the Program shall provide the Secretary with such information as the Secretary may require to carry out the study required by this section.

SEC. 4113. SENSE OF CONGRESS.

It is the sense of Congress that the Federal Deposit Insurance Corporation and other bank regulators are sending mixed messages to banks regarding regulatory capital requirements and lending standards, which is a contributing cause of decreased small business lending and increased regulatory uncertainty at community banks.

Subtitle B—Other Provisions

PART I—SMALL BUSINESS EXPORT PROMOTION INITIATIVES

SEC. 4221. SHORT TITLE.

This part may be cited as the ''Export Promotion Act of 2010''.

SEC. 4222. GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES OF THE DEPARTMENT OF COMMERCE.

(a) INCREASE IN EMPLOYEES WITH RESPONSIBILITY FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES.—

(1) IN GENERAL.—During the 24-month period beginning on the date of the enactment of this Act, the Secretary of Commerce shall increase the number of full-time departmental employees whose primary responsibilities involve promoting or facilitating participation by United States businesses in the global marketplace and facilitating the entry into, or expansion of, such participation by United States businesses. In carrying out this subsection, the Secretary shall ensure that—

(A) the cohort of such employees is increased by not less than 80 persons; and

(B) a substantial portion of the increased cohort is stationed outside the United States.

(2) ENHANCED FOCUS ON UNITED STATES SMALL- AND MEDIUM-SIZED BUSINESSES.—In carrying out this subsection, the Secretary shall take such action as may be necessary to ensure that the activities of the Department of Commerce relating to promoting and facilitating participation by United States businesses in the global marketplace include promoting and facilitating such participation by small and medium-sized businesses in the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2011 and 2012 such sums as may be necessary to carry out this section.

(b) ADDITIONAL FUNDING FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES OF THE DEPARTMENT OF COMMERCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, $30,000,000 to promote or facilitate participation by United States businesses in the global marketplace and facilitating the entry into, or expansion of, such participation by United States businesses.

(2) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by paragraph (1), the Secretary of Commerce shall give preference to activities that—

(A) assist small- and medium-sized businesses in the United States; and

(B) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4223. ADDITIONAL FUNDING TO IMPROVE ACCESS TO GLOBAL MARKETS FOR RURAL BUSINESSES.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $5,000,000 for each of the fiscal years 2011 and 2012 for improving access to the global marketplace for goods and services provided by rural businesses in the United States.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4224. ADDITIONAL FUNDING FOR THE EXPORTECH PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $11,000,000 for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, to expand ExporTech, a joint program of the Hollings Manufacturing Partnership Program and the Export Assistance Centers of the Department of Commerce.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4225. ADDITIONAL FUNDING FOR THE MARKET DEVELOPMENT COOPERATOR PROGRAM OF THE DEPARTMENT OF COMMERCE.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, $15,000,000 for the Manufacturing and Services unit of the International Trade Administration—

(1) to establish public-private partnerships under the Market Development Cooperator Program of the International Trade Administration; and

(2) to underwrite a portion of the start-up costs for new projects carried out under that Program to strengthen the competitiveness and market share of United States industry, not to exceed, for each such project, the lesser of—

(A) ⅓ of the total start-up costs for the project; or

(B) $500,000.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of

Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4226. HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM; TECHNOLOGY INNOVATION PROGRAM.

(a) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended by adding at the end the following:

''(7) GLOBAL MARKETPLACE PROJECTS.—In making awards under this subsection, the Director, in consultation with the Manufacturing Extension Partnership Advisory Board and the Secretary of Commerce, may—

''(A) take into consideration whether an application has significant potential for enhancing the competitiveness of small- and medium-sized United States manufacturers in the global marketplace; and

''(B) give a preference to applications for such projects to the extent the Director deems appropriate, taking into account the broader purposes of this subsection.''.

(b) TECHNOLOGY INNOVATION PROGRAM.—In awarding grants, cooperative agreements, or contracts under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), in addition to the award criteria set forth in subsection (c) of that section, the Director of the National Institute of Standards and Technology may take into consideration whether an application has significant potential for enhancing the competitiveness of small- and medium-sized businesses in the United States in the global marketplace. The Director shall consult with the Technology Innovation Program Advisory Board and the Secretary of Commerce in implementing this subsection.

SEC. 4227. SENSE OF THE SENATE CONCERNING FEDERAL COLLABORATION WITH STATES ON EXPORT PROMOTION ISSUES.

It is the sense of the Senate that the Secretary of Commerce should enhance Federal collaboration with the States on export promotion issues by—

(1) providing the necessary training to the staff at State international trade agencies to enable them to assist the United States and Foreign Commercial Service (established by section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721)) in providing counseling and other export services to businesses in their communities; and

(2) entering into agreements with State international trade agencies for those agencies to deliver export promotion services in their local communities in order to extend the outreach of United States and Foreign Commercial Service programs.

SEC. 4228. REPORT ON TARIFF AND NONTARIFF BARRIERS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the United States Trade Representative and other appropriate entities, shall report to Congress on the tariff and nontariff barriers imposed by Colombia, the Republic of Korea, and Panama with respect to exports of articles from the United States, including articles exported or produced by small- and medium-sized businesses in the United States.

PART II—MEDICARE FRAUD

SEC. 4241. USE OF PREDICTIVE MODELING AND OTHER ANALYTICS TECHNOLOGIES TO IDENTIFY AND PREVENT WASTE, FRAUD, AND ABUSE IN THE MEDICARE FEE-FOR-SERVICE PROGRAM.

(a) USE IN THE MEDICARE FEE-FOR-SERVICE PROGRAM.—The Secretary shall use predictive modeling and other analytics technologies (in this section referred to as ''predictive analytics technologies'') to identify improper claims for reimbursement and to prevent the payment of such claims under the Medicare fee-for-service program.

(b) PREDICTIVE ANALYTICS TECHNOLOGIES REQUIREMENTS.—The predictive analytics technologies used by the Secretary shall—

(1) capture Medicare provider and Medicare beneficiary activities across the Medicare fee-for-service program to provide a comprehensive view across all providers, beneficiaries, and geographies within such program in order to—

(A) identify and analyze Medicare provider networks, provider billing patterns, and beneficiary utilization patterns; and

(B) identify and detect any such patterns and networks that represent a high risk of fraudulent activity;

(2) be integrated into the existing Medicare fee-for-service program claims flow with minimal effort and maximum efficiency;

(3) be able to—

(A) analyze large data sets for unusual or suspicious patterns or anomalies or contain other factors that are linked to the occurrence of waste, fraud, or abuse;

(B) undertake such analysis before payment is made; and

(C) prioritize such identified transactions for additional review before payment is made in terms of the likelihood of potential waste, fraud, and abuse to more efficiently utilize investigative resources;

(4) capture outcome information on adjudicated claims for reimbursement to allow for refinement and enhancement of the predictive analytics technologies on the basis of such outcome information, including post-payment information about the eventual status of a claim; and

(5) prevent the payment of claims for reimbursement that have been identified as potentially wasteful, fraudulent, or abusive until such time as the claims have been verified as valid.

(c) IMPLEMENTATION REQUIREMENTS.—

(1) REQUEST FOR PROPOSALS.—Not later than January 1, 2011, the Secretary shall issue a request for proposals to carry out this section during the first year of implementation. To the extent the Secretary determines appropriate—

(A) the initial request for proposals may include subsequent implementation years; and

(B) the Secretary may issue additional requests for proposals with respect to subsequent implementation years.

(2) FIRST IMPLEMENTATION YEAR.—The initial request for proposals issued under paragraph (1) shall require the contractors selected to commence using predictive analytics technologies on July 1, 2011, in the 10 States identified by the Secretary as having the highest risk of waste, fraud, or abuse in the Medicare fee-for-service program.

(3) SECOND IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(1)(B), the Secretary shall expand the use of predictive analytics technologies on October 1, 2012, to apply to an additional 10 States identified by the Secretary as having the highest risk of waste, fraud, or abuse in the Medicare fee-for-service program, after the States identified under paragraph (2).

(4) THIRD IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(2), the Secretary shall expand the use of predictive analytics technologies on January 1, 2014, to apply to the Medicare fee-for-service program in any State not identified under paragraph (2) or (3) and the commonwealths and territories.

(5) FOURTH IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(3), the Secretary shall expand the use of predictive analytics technologies, beginning April 1, 2015, to apply to Medicaid and CHIP. To the extent the Secretary determines appropriate, such expansion may be made on a phased-in basis.

(6) OPTION FOR REFINEMENT AND EVALUATION.—If, with respect to the first, second, or third implementation year, the Inspector General of the Department of Health and Human Services certifies as part of the report required under subsection (e) for that year no or only nominal actual savings to the Medicare fee-for-service program, the Secretary may impose a moratorium, not to exceed 12 months, on the expansion of the use of predictive analytics technologies under this section for the succeeding year in order to refine the use of predictive analytics technologies to achieve more than nominal savings before further expansion. If a moratorium is imposed in accordance with this paragraph, the implementation dates applicable for the succeeding year or years shall be adjusted to reflect the length of the moratorium period.

(d) CONTRACTOR SELECTION, QUALIFICATIONS, AND DATA ACCESS REQUIREMENTS.—

(1) SELECTION.—

(A) IN GENERAL.—The Secretary shall select contractors to carry out this section using competitive procedures as provided for in the Federal Acquisition Regulation.

(B) NUMBER OF CONTRACTORS.—The Secretary shall select at least 2 contractors to carry out this section with respect to any year.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—The Secretary shall enter into a contract under this section with an entity only if the entity—

(i) has leadership and staff who—

(I) have the appropriate clinical knowledge of, and experience with, the payment rules and regulations under the Medicare fee-for-service program; and

(II) have direct management experience and proficiency utilizing predictive analytics technologies necessary to carry out the requirements under subsection (b); or

(ii) has a contract, or will enter into a contract, with another entity that has leadership and staff meeting the criteria described in clause (i).

(B) CONFLICT OF INTEREST.—The Secretary may only enter into a contract under this section with an entity to the extent that the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

(3) DATA ACCESS.—The Secretary shall provide entities with a contract under this section with appropriate access to data necessary for the entity to use predictive analytics technologies in accordance with the contract.

(e) REPORTING REQUIREMENTS.—

(1) FIRST IMPLEMENTATION YEAR REPORT.—Not later than 3 months after the completion of the first implementation year under this section, the Secretary shall submit to the appropriate committees of Congress and make available to the public a report that includes the following:

(A) A description of the implementation of the use of predictive analytics technologies during the year.

(B) A certification of the Inspector General of the Department of Health and Human Services that—

(i) specifies the actual and projected savings to the Medicare fee-for-service program as a result of the use of predictive analytics technologies, including estimates of the amounts of such savings with respect to both improper payments recovered and improper payments avoided;

(ii) the actual and projected savings to the Medicare fee-for-service program as a result of such use of predictive analytics technologies relative to the return on investment for the use of such technologies and in comparison to other strategies or technologies used to prevent and detect fraud, waste, and abuse in the Medicare fee-for-service program; and

(iii) includes recommendations regarding—

(I) whether the Secretary should continue to use predictive analytics technologies;

(II) whether the use of such technologies should be expanded in accordance with the requirements of subsection (c); and

(III) any modifications or refinements that should be made to increase the amount of actual or projected savings or mitigate any adverse impact on Medicare beneficiaries or providers.

(C) An analysis of the extent to which the use of predictive analytics technologies successfully prevented and detected waste, fraud, or abuse in the Medicare fee-for-service program.

(D) A review of whether the predictive analytics technologies affected access to, or the quality of, items and services furnished to Medicare beneficiaries.

(E) A review of what effect, if any, the use of predictive analytics technologies had on Medicare providers.

(F) Any other items determined appropriate by the Secretary.

(2) SECOND YEAR IMPLEMENTATION REPORT.—Not later than 3 months after the completion of the second implementation year under this section, the Secretary shall submit to the appropriate committees of Congress and make available to the public a report that includes, with respect to such year, the items required under paragraph (1) as well as any other additional items determined appropriate by the Secretary with respect to the report for such year.

(3) THIRD YEAR IMPLEMENTATION REPORT.—Not later than 3 months after the completion of the third implementation year under this section, the Secretary shall submit to the appropriate committees of Congress, and make available to the public, a report that includes with respect to such year, the items required under paragraph (1), as well as any other additional items determined appropriate by the Secretary with respect to the report for such year, and the following:

(A) An analysis of the cost-effectiveness and feasibility of expanding the use of predictive analytics technologies to Medicaid and CHIP.

(B) An analysis of the effect, if any, the application of predictive analytics technologies to claims under Medicaid and CHIP would have on States and the commonwealths and territories.

(C) Recommendations regarding the extent to which technical assistance may be necessary to expand the application of predictive analytics technologies to claims under Medicaid and CHIP, and the type of any such assistance.

(f) INDEPENDENT EVALUATION AND REPORT.—

(1) EVALUATION.—Upon completion of the first year in which predictive analytics technologies are used with respect to claims under Medicaid and CHIP, the Secretary shall, by grant, contract, or interagency agreement, conduct an independent evaluation of the use of predictive analytics technologies under the Medicare fee-for-service program and Medicaid and CHIP. The evaluation shall include an analysis with respect to each such program of the items required for the third year implementation report under subsection (e)(3).

(2) REPORT.—Not later than 18 months after the evaluation required under paragraph (1) is initiated, the Secretary shall submit a report to Congress on the evaluation that shall include the results of the evaluation, the Secretary's response to such results and, to the extent the Secretary determines appropriate, recommendations for legislation or administrative actions.

(g) WAIVER AUTHORITY.—The Secretary may waive such provisions of titles XI, XVIII, XIX, and XXI of the Social Security Act, including applicable prompt payment requirements under titles XVIII and XIX of such Act, as the Secretary determines to be appropriate to carry out this section.

(h) FUNDING.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out this section, $100,000,000 for the period beginning January 1, 2011, to remain available until expended.

(2) RESERVATIONS.—

(A) INDEPENDENT EVALUATION.—The Secretary shall reserve not more than 5 percent of the funds appropriated under paragraph (1) for purposes of conducting the independent evaluation required under subsection (f).

(B) APPLICATION TO MEDICAID AND CHIP.—The Secretary shall reserve such portion of the funds appropriated under paragraph (1) as the Secretary determines appropriate for purposes of providing assistance to States for administrative expenses in the event of the expansion of predictive analytics technologies to claims under Medicaid and CHIP.

(i) DEFINITIONS.—In this section:

(1) COMMONWEALTHS AND TERRITORIES.—The term ''commonwealth and territories'' includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States in which the Medicare fee-for-service program, Medicaid, or CHIP operates.

(2) CHIP.—The term ''CHIP'' means the Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(3) MEDICAID.—The term ''Medicaid'' means the program to provide grants to States for medical assistance programs established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) MEDICARE BENEFICIARY.—The term ''Medicare beneficiary'' means an individual enrolled in the Medicare fee-for-service program.

(5) MEDICARE FEE-FOR-SERVICE PROGRAM.—The term ''Medicare fee-for-service program'' means the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) MEDICARE PROVIDER.—The term ''Medicare provider'' means a provider of services (as defined in subsection (u) of section 1861 of the Social Security Act (42 U.S.C. 1395x)) and a supplier (as defined in subsection (d) of such section).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

(8) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

PART III—AGRICULTURAL DISASTERS

SEC. 4261. EMERGENCY AGRICULTURAL DISASTER ASSISTANCE.

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced specialty crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than specialty crops or crops intended for grazing) suffer at least a 5-percent crop loss on a farm due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received direct payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section

531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

(B) ADMINISTRATIVE COSTS.—State Secretary of Agriculture may not use more than five percent of the funds provided for costs associated with the administration of the grants provided in paragraph (1).

(C) ADMINISTRATION OF GRANTS.—State Secretary of Agriculture may enter into a contract with the Department of Agriculture to administer the grants provided in paragraph (1).

(D) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(E) MAXIMUM GRANT.—The maximum amount of a grant made to a State for counties described in paragraph (1)(B) may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to issue payments to eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(D) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109–234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) PAYMENT RATE.—The payment rate shall be equal to the quotient obtained by dividing—

(A) the total funds made available to carry out this subsection; by

(B) the sum of the county-eligible production, as determined under paragraph (5).

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first handlers;

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2009 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible aquaculture producers;

(B) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided per species of aquaculture; and

(iii) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(5) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

(6) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (4)(C).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

(2) PAYMENTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) DROUGHT INTENSITY.—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection shall be in an amount equal to 1 monthly payment using the monthly payment rate under section 531(d)(3)(B) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) LOANS.—

(A) IN GENERAL.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender for the purchase, improvement, or operation of the poultry farm.

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(i) STATE AND LOCAL GOVERNMENTS.—Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting ''(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)'' before the period at the end.

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section and the amendment made by this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section and the amendment made by this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 4262. USE OF UNSPENT FUTURE FUNDS FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT.

Section 101(a) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 120) is amended—

(1) in paragraph (1), by inserting before the period at the end '', if the value of the benefits and block grants would be greater under that calculation than in the absence of this subsection''; and

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

''(2) TERMINATION.—The authority provided by this subsection shall terminate after August 31, 2017.''.

TITLE V—BUDGETARY PROVISIONS

SEC. 5001. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the CONGRESSIONAL RECORD by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4520. Mr. REID proposed an amendment to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 10 days after enactment.

SA 4521. Mr. REID proposed an amendment to amendment SA 4520 proposed by Mr. REID to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital invedstments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

In the amendment, strike ''10'' and insert ''5''.

SA 4522. Mr. REID proposed an amendment to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

At the end of the language proposed to be stricken, insert the following:

This section shall become efective 6 days after enactment.

SA 4523. Mr. REID proposed an amendment to amendment SA 4522 proposed by Mr. REID to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

In the amendment, strike ''6'' and insert ''4''.

SA 4524. Mr. REID proposed an amendment to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

At the end, insert the following:

The Finance Committee is requested to study the impact of changes to the system whereby small business entities are provided with all opportunities for access to capital.

SA 4525. Mr. REID proposed an amendment to amendment SA 4524 proposed by Mr. REID to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

At the end insert the following:

''and the economic impact on local communities served by small businesses.

SA 4526. Mr. REID proposed an amendment to amendment SA 4525 proposed by Mr. REID to the amendment SA 4524 proposed by Mr. REID to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct

the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; as follows:

At the end, insert the following:

''and its impact on state and local governments

SA 4527. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. POINT OF ORDER AGAINST CLIMATE CHANGE LEGISLATION.

(a) POINT OF ORDER.—Subject to subsection (b), it shall not be in order in the Senate to consider any conference report or other legislation that originates in the House of Representatives as a message, bill, amendment, or motion, or any Senate bill or related conference report to which the House of Representatives added a provision, that addresses climate change through the inclusion of a cap-and-trade program if the Senate has not considered and approved a bill addressing climate change that included such a cap-and-trade program.

(b) WAIVER AND APPEAL.—

(1) WAIVER.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of ⅔ of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅔ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

SA 4528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle ____—Child Care Lending Pilot

SEC. ___01. DEFINITIONS.

In this subtitle—

(1) the term ''program'' means the loan program under section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this subtitle;

(2) the term ''small business concern'' has the meaning given the term ''small-business concern'' in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); and

(3) the term ''State'' has the meaning given that term in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662).

SEC. ___02. CHILD CARE LENDING PILOT PROGRAM.

(a) IN GENERAL.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''The Administration may, in addition to its'' and inserting the following:

''(a) AUTHORIZATION.—The Administration may, in addition to the'';

(B) by striking ''and such loans'' and inserting ''. Such loans''; and

(C) by striking '': *Provided, however*, That the foregoing powers shall be subject to the following restrictions and limitations:'' and inserting a period;

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

''(b) RESTRICTIONS AND LIMITATIONS.—The authority under subsection (a) shall be subject to the following restrictions and limitations:''; and

(3) in subsection (b)(1), as so designated—

(A) by striking ''The proceeds'' and inserting the following:

''(A) IN GENERAL.—The proceeds'';

(B) by striking ''such loan'' and inserting ''loan described in subsection (a)''; and

(C) by adding at the end the following:

''(B) LOANS TO SMALL, NONPROFIT CHILD CARE BUSINESSES.—

''(i) IN GENERAL.—Notwithstanding paragraph (1), the proceeds of any loan described in subsection (a) may be used by a development company to assist a small, nonprofit child care business, if—

''(I) the loan is used for a sound business purpose that has been approved by the Administrator;

''(II) the small, nonprofit child care business meets all of the eligibility requirements applicable to for-profit businesses under this title, except for status as a for-profit business;

''(III) 1 or more individuals has personally guaranteed the loan;

''(IV) the small, nonprofit child care business has clear and singular title to the collateral for the loan; and

''(V) the small, nonprofit child care business has sufficient cash flow from the operations of the business to meet the obligations on the loan and the normal and reasonable operating expenses of the business.

''(ii) LIMITATION ON VOLUME.—Not more than 7 percent of the total number of loans guaranteed in any fiscal year under this title may be used for purposes described in this subparagraph.

''(iii) DEFINITION.—In this subparagraph, the term 'small, nonprofit child care business' means an establishment that—

''(I) is organized in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

''(II) is primarily engaged in providing child care for infants, toddlers, pre-school, or pre-kindergarten children (or any combination thereof), and may provide care for older children when the children are not in school and offer pre-kindergarten educational programs;

''(III) including its affiliates, has—

''(aa) a tangible net worth of not more than $7,000,000; and

''(bb) an average net income (excluding any carryover losses) for the 2 completed fiscal years before the date of the application of not more than $2,500,000; and

''(IV) is licensed as a child care provider by the State in which the establishment is located.''.

(b) SUNSET.—

(1) IN GENERAL.—Effective October 1, 2013, section 502(b)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 696(b)(1)) is amended—

(A) by striking subparagraph (B); and

(B) by striking ''USE OF PROCEEDS.—'' and all that follows through ''The proceeds'' and inserting ''USE OF PROCEEDS.—The proceeds''.

(2) APPLICABILITY.—Notwithstanding paragraph (1), section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this subtitle, shall apply to any loan authorized under that subparagraph that is applied for, approved, or disbursed during the period beginning on the date of enactment of this Act and ending on September 30, 2013.

SEC. ___03. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until March 31, 2014, the Administrator shall submit a report on the implementation of the program to—

(A) the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—Each report under paragraph (1) shall contain—

(A) the date on which the program is implemented;

(B) the date on which the rules are issued under section ___04; and

(C) the number and dollar amount of loans under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) applied for, approved, and disbursed during the 6-month period before the date of the report—

(i) to assist nonprofit child care businesses under the program; and

(ii) to assist for-profit child care businesses.

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—Not later than March 31, 2013, the Comptroller General of the United States shall submit a report on the program to—

(A) the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall contain information gathered during the first 2 years of the program, including—

(A) an evaluation of the timeliness of the implementation of the program;

(B) a description of the effectiveness and ease with which development companies, lenders, and small business concerns have participated in the program;

(C) a description and assessment of how the program was marketed;

(D) the number of small child care businesses in each State and in the United States, categorized by status as a for-profit or nonprofit business, that—

(i) applied for a loan under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) (and, for each such business, whether the business was a new or expanding small child care business;

(ii) were approved for a loan under section 502 of that Act; and

(iii) received a loan disbursement under section 502 of that Act (and, for each such business, whether the business was a new or expanding small child care business); and

(E) categorized by status as a for-profit or nonprofit business—

(i) with respect to small child care businesses described under subparagraph (D)(iii), the number of such businesses in each State, as of the year of enactment of this Act;

(ii) the total amount loaned to small child care businesses under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

(iii) the total number of loans to small child care businesses under section 502 of that Act;

(iv) the average amount and term of loans to small child care businesses under section 502 of that Act;

(v) the currency rate, delinquencies, defaults, and losses of loans to small child care businesses under section 502 of that Act;

(vi) the number and percent of children who receive subsidized assistance that are served using a loan to a small child care business under section 502 of that Act; and

(vii) the number and percent of children who are low income that are served using a loan to a small child care business under section 502 of that Act.

(3) ACCESS TO INFORMATION.—

(A) IN GENERAL.—The Administrator shall collect and maintain such information as may be necessary to carry out this subsection from development companies and small child care businesses, and such companies and businesses shall comply with a request for information from the Administration for that purpose.

(B) PROVISION OF INFORMATION TO GOVERNMENT ACCOUNTABILITY OFFICE.—The Administration shall provide information collected under this paragraph to the Comptroller General of the United States for purposes of the report required under this subsection.

SEC. ___04. RULEMAKING AUTHORITY.

Not later than 120 days after the date of enactment of this Act, the Administrator shall issue final rules to carry out the loan program authorized under section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this subtitle.

SA 4529. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BUSINESSLINC GRANTS AND COOPERATIVE AGREEMENTS.

(a) DEFINITIONS.—In this section—

(1) the term ''large business'' means a business that is not a small business concern; and

(2) the term ''Secretary'' means the Secretary of the Treasury.

(b) AUTHORIZATION.—In accordance with this section, the Secretary may make grants to, and enter into cooperative agreements with, any coalition of private entities, public entities, or any combination of private and public entities to—

(1) expand business-to-business relationships between large businesses and small business concerns;

(2) develop innovative local and regional programs to expand access to capital for small business concerns;

(3) provide businesses, directly or indirectly, with online information and a database of public sector programs or private companies that are interested in mentor-protégé programs, supplier diversity programs, or State-wide, local, or community-based business development programs;

(4) collect, analyze, and publish data that tracks the impact of the programs of the coalition on revenue and employment at participating businesses, including disadvantaged business enterprises;

(5) foster communication and collaboration within and among the coalitions; and

(6) support efforts to enhance the long-term financial stability of employees, the economic viability of a community, and local or regional business diversification.

(c) MATCHING REQUIREMENT.—The Federal share of the cost of an activity carried out using a grant made or under a cooperative agreement entered under subsection (b) shall be not more than 50 percent.

(d) FUNDING.—There is authorized to be appropriated to the Secretary to carry out the program under this section $15,000,000 for each of fiscal years 2010 through 2015.

SA 4530. Mr. KERRY (for himself, Mr. WHITEHOUSE, Mr. WYDEN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SMALL BUSINESS HEALTH INFORMATION TECHNOLOGY FINANCING PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 45 as section 46; and

(2) by inserting after section 44 the following:

''SEC. 45. LOAN GUARANTEES FOR HEALTH INFORMATION TECHNOLOGY.

''(a) DEFINITIONS.—In this section—

''(1) the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

''(2) the term 'eligible professional' means—

''(A) a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)));

''(B) a practitioner described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C));

''(C) a physical or occupational therapist;

''(D) a qualified speech-language pathologist (as defined in section 1861(ll)(4)(A) of the Social Security Act (42 U.S.C. 1395x(ll)(4)(A));

''(E) a qualified audiologist (as defined in section 1861(ll)(4)(B) of the Social Security Act (42 U.S.C. 1395x(ll)(4)(B));

''(F) a qualified medical transcriptionist;

''(G) a State-licensed pharmacist;

''(H) a State-licensed supplier of durable medical equipment, prosthetics, orthotics, or supplies; and

''(I) a State-licensed, a State-certified, or a nationally accredited home health care provider;

''(3) the term 'health information technology'—

''(A) means computer hardware, software, and related technology that—

''(i) supports the requirements for being treated as a meaningful EHR user (as described in section 1848(o)(2)(A) of the Social Security Act (42 U.S.C. 1395w–4(o)(2)(A))) and is purchased by an eligible professional to aid in the provision of health care in a health care setting, including electronic medical records; and

''(ii) provides for—

''(I) enhancement of continuity of care for patients through electronic storage, transmission, and exchange of relevant personal health data and information, such as ensuring that this information is accessible at the times and places where clinical decisions will be or are likely to be made;

''(II) enhancement of communication between patients and health care providers;

''(III) improvement of quality measurement by eligible professionals enabling the eligible professionals to collect, store, measure, and report on the processes and outcomes of individual and population performance and quality of care;

''(IV) improvement of evidence-based decision support; or

''(V) enhancement of consumer and patient empowerment; and

''(B) does not include information technology the sole use of which is financial management, maintenance of inventory of basic supplies, or appointment scheduling;

''(4) the term 'qualified eligible professional' means an eligible professional whose office is a small business concern; and

''(5) the term 'qualified medical transcriptionist' means a specialist in medical language and the healthcare documentation process who—

''(A) interprets and transcribes dictation by physicians and other healthcare professionals to ensure accurate, complete, and consistent documentation of healthcare encounters; and

''(B) is certified by or registered with the Association for Healthcare Documentation Integrity, or a successor association thereto.

''(b) LOAN GUARANTEES FOR QUALIFIED ELIGIBLE PROFESSIONALS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Administrator may guarantee not more than 90 percent of a loan made to a qualified eligible professional for the acquisition of health information technology for use in the medical practice of the qualified eligible professional and for the costs associated with the installation of the health information technology. Except as otherwise provided in this section, a loan guaranteed under this section shall be made on the same terms and conditions as a loan made under section 7(a).

''(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not be more than—

''(A) $350,000 with respect to any 1 qualified eligible professional; and

''(B) $2,000,000 with respect to 1 group of affiliated qualified eligible professionals.

''(c) FEES.—

''(1) IN GENERAL.—The Administrator may—

''(A) impose a guarantee fee on a qualified eligible professional for the purpose of reducing the cost of the guarantee to zero in an amount not to exceed 2 percent of the total guaranteed portion of any loan guaranteed under this section; and

''(B) impose an annual servicing fee on a lender making a loan guaranteed under this section of not more 0.5 percent of the outstanding balance of the guaranteed portion of loans by the lender guaranteed under this section.

''(2) NO FEES BY LENDERS.—No service fees, processing fees, origination fees, application fees, points, brokerage fees, bonus points, or other fees may be charged to a loan applicant or recipient by a lender relating to a loan guaranteed under this section.

''(d) DEFERRAL PERIOD.—A loan guaranteed under this section shall carry a deferral period of not less than 1 year and not more than 3 years. The Administrator may subsidize interest during the period for which a loan guaranteed under this section is deferred.

''(e) EFFECTIVE DATE.—The Administrator may not guarantee a loan under this section until the meaningful EHR use requirements have been determined by the Secretary of Health and Human Services.

''(f) SUNSET.—The Administrator may not guarantee a loan under this section after the date that is 7 years after meaningful EHR

use requirements have been determined by the Secretary of Health and Human Services.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the cost of guaranteeing $10,000,000,000 in loans under this section. The Administrator shall determine the cost of guaranteeing loans under this section separately and distinctly from other programs operated by the Administrator.''.

SA 4531. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

PART IV—ADDITIONAL PROVISIONS

SEC. 4271. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SEC. 4272. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''8 percent'' and inserting ''5 percent''.

SEC. 4273. USE OF PREVENTION AND PUBLIC HEALTH FUND.

(a) USE OF FUNDS AS OFFSET THROUGH FISCAL YEAR 2017.—Section 4002(b) of the Patient Protection and Affordable Care Act is amended by striking ''appropriated—'' and all that follows and inserting ''appropriated, for fiscal year 2018, and each fiscal year thereafter, $2,000,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 4002 of the Patient Protection and Affordable Care Act.

SEC. 4274. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.25 percentage points.

NOTICES OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII for the purpose of proposing and considering the following Motion to Commit (with instructions) to H.R. 5297:

Mr. DEMINT moves to commit H.R. 5297 to the Committee on Finance with instructions to report the same back to the Senate with changes to include a permanent extension of the 2010 individual income tax rates, and to include provisions which decrease spending as appropriate to offset such a permanent extension.

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII for the purpose of proposing and considering the following Motion to Commit (with instructions) to H.R. 5297:

Mr. DEMINT moves to commit H.R. 5297 to the Committee on Finance with instructions to report the same back to the Senate with changes to extend all current individual income tax rates on small businesses and to include provisions which decrease spending as appropriate to offset such a permanent extension.

Mr. JOHANNS. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment to H.R. 5297.

At the appropriate place, insert the following:

SEC. _____. POINT OF ORDER AGAINST CLIMATE CHANGE LEGISLATION.

(a) POINT OF ORDER.—Subject to subsection (b), it shall not be in order in the Senate to consider any conference report or other legislation that originates in the House of Representatives as a message, bill, amendment, or motion, or any Senate bill or related conference report to which the House of Representatives added a provision, that addresses climate change through the inclusion of a cap-and-trade program if the Senate has not considered and approved a bill addressing climate change that included such a cap-and-trade program.

(b) WAIVER AND APPEAL.—

(1) WAIVER.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of ⅔ of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅔ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Subcommittee on Energy. The hearing will be held on Tuesday, August 3, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine the role of strategic minerals in clean energy technologies and other applications as well as legislation to address the issue, including S. 3521 the ''Rare Earths Supply Technology and Resources Transformation Act of 2010''.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Rosemarie_Calabro @energy.senate.gov.

For further information, please contact Allyson Anderson or Rosemarie Calabro.

IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE G. THOMAS PORTEOUS, JR.

Mrs. MCCASKILL. Mr. President, I wish to announce that the Impeachment Trial Committee on the Articles Against Judge G. Thomas Porteous, Jr., will meet on Wednesday, August 4, 2010, at 9 a.m., to conduct a hearing.

For further information regarding this meeting, please contact Erin Johnson at 202–228–4133.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 27, 2010, at 9:30 a.m.

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

COMMITTEE ON ARMED SERVICES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 27, 2010, at 3 p.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 27, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 27, 2010, at 9:30 a.m., to hold a hearing entitled ''Perspectives on Reconciliation Options in Afghanistan.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 27, 2010, at 2:15 p.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 27, 2010, at 3 p.m.

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

COMMITTEE ON THE JUDICIARY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 27, 2010, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building to conduct a hearing entitled ''Exxon Valdez to Deepwater Horizon: Protecting Victims of Major Oil Spills.''

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on July 27, 2010, at 10 a.m. to conduct a hearing entitled ''Deepwater Drilling Moratorium: A Second Economic Disaster for Small Business?''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 27, 2010, at 2:30 p.m.

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

SUBCOMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Government Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on July 27, 2010, at 2:30 p.m. to conduct a hearing entitled, ''High-Risk Logistics Planning: Progress on Improving Department of Defense Supply Chain Management.''

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Commitee on Environment and Public Works be authorized to meet during the session of the Senate on July 27, 2010, at 2:30 p.m. in room 406 of the Dirksen Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. CARDIN. Mr. President, I ask unanimous consent that Robert Maes, Cory Mack, and Elizabeth Schwab of the office of Senator BINGAMAN be granted the privileges of the floor for today.

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

Mr. REED. Mr. President, I ask unanimous consent that Michael Starz, a fellow in my office, be granted the privilege of the floor for the remainder of the 111th Congress.

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

UNITED STATES MANUFACTURING ENHANCEMENT ACT OF 2010

Mrs. HAGAN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4380, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4380) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. HAGAN. I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 4380) was ordered to be read a third time, was read the third time, and passed.

TEMPORARY EXTENSION OF SMALL BUSINESS PROGRAMS

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5849, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5849) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. HAGAN. I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 5849) was ordered to be read a third time, was read the third time, and passed.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 595.

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

The legislative clerk read as follows:

A resolution (S. Res. 595) designating the week beginning September 12, 2010, as ''National Historically Black Colleges and Universities Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. HAGAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 595) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 595

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities allow talented and diverse students, many of whom represent underserved populations, to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 12, 2010, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

MEASURE READ THE FIRST TIME—S. 3657

Mrs. HAGAN. Mr. President, I understand that S. 3657, introduced earlier today by Senator WYDEN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (S. 3657) to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

Mrs. HAGAN. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time during the next legislative day.

ORDERS FOR WEDNESDAY, JULY 28, 2010

Mrs. HAGAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, July 28; that following the prayer and pledge, the Journal of proceedings be

approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of H.R. 5297, the small business jobs bill.

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

PROGRAM

Mrs. HAGAN. Mr. President, tonight cloture was filed on the small business jobs bill. As a result, the filing deadline for first-degree amendments is 1 p.m. tomorrow. Senators should expect rollcall votes to occur throughout the day in relation to amendments to the bill, if an agreement can be reached to consider amendments.

ORDER FOR ADJOURNMENT

Mrs. HAGAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of Senator SPECTER.

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

Mrs. HAGAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

SEPARATION OF POWERS

Mr. SPECTER. Mr. President, I have sought recognition to continue the discussion of the erosion of the very important principle of separation of powers.

Our Constitution was devised with three branches: article I, the Congress; article II, the Executive, the President; article III, the judiciary. A very important concept in the operation of our constitutional government has been the separation of powers to provide checks and balances.

During the course of the past two decades, we have seen a substantial erosion of the power of Congress. Congress's authority has been taken away in significant measure by the Supreme Court of the United States, which has, in effect, entered into the legislative process by disregarding the finding of fact that the Congress has undertaken and changed the standard for determining constitutionality of legislation.

There had been in effect the rational basis test which had been in existence for decades. But then in 1995, in a case captioned ''United States v. Lopez,'' involving the bringing of guns onto school property, the Supreme Court overturned 60 years of precedent.

In the case of United States v. Morrison, when the Congress had legislated to protect women against violence, the Supreme Court of the United States, in a 5-to-4 decision—as was the Lopez case, 5 to 4—decided that because of the ''method of reasoning'' of the Congress, the act was unconstitutional, notwithstanding a mountain of evidence, as noted by Justice Souter in his dissent.

Then in a third case, Kimel v. Florida Board of Regents, an age discrimination case, the Court again undertook to declare an act of Congress unconstitutional on a new standard, and the standard is ''proportionate and congruent,'' which is really a virtual impossibility to understand.

This evening, I propose to discuss two other cases: the case of Alabama v. Garrett, which interpreted the legislation to protect Americans with disabilities, and the case of Lane v. Tennessee, also to protect people with disabilities.

In the case of Alabama v. Garrett, the Court, in a 5-to-4 decision, decided that the legislation was unconstitutional because it did not fit this illusive congruent and proportionality test. That was an employment discrimination case.

In the case of Lane v. Tennessee, it involved a paraplegic who could not gain access to a courtroom. There was no elevator in the courtroom, and he could not walk up the steps. There, the same statute, the Americans with Disabilities Act—a voluminous record, hearings held all over the United States—by a 5-to-4 decision, the Supreme Court of the United States decided that application of the Americans with Disabilities Act was constitutional. The shifting vote was the vote of Justice Sandra Day O'Connor. But the standard which was applied was this test of congruence and proportionality. Justice Scalia, in his dissenting opinion in that case, said the test was a flabby test which, in effect, enabled the court to engage in legislation. This subject of the standard to be applied was a significant concern in the recently concluded hearings for Solicitor General Elena Kagan for the Supreme Court of the United States. We are faced in these confirmation hearings, regrettably, with the fact that we can't get answers on judicial philosophy or judicial ideology.

I am not talking about how the case is going to be decided; that is a matter for the Court and, as a matter of judicial independence, that is for the Court to decide. The questions directed to nominees—directed to Ms. Kagan and directed to others—have not been about how they would decide a specific case. But in the confirmation hearing with Ms. Kagan, if we really couldn't get answers from her, it is hard to see any nominee from whom we could get answers in light of the fact that she had written extensively on the nomination procedure in a now famous University of Chicago Law Review where she criticized specifically Justice Ginsburg and Justice Breyer for stonewalling the Senate and criticized the Senate for not doing its job in getting information. But her confirmation proceeding was, in effect, a repeat performance. So we are really searching for ways to make a determination as to ideology to have some accountability for what the Justices are doing.

In a later floor statement, I will address the separate issue as to what, if anything, is possible when the nominees do a 180-degree U-turn, as Chief Justice Roberts and Justice Alito did when they decided the case of Citizens United, upsetting 100 years of precedent and a 100,000-page record in allowing corporations to engage in political advertising.

One of the suggestions which has been made following the proceedings for confirmation of Justice Scalia in 1986 where he would answer virtually nothing, Senator DeConcini and I considered a resolution to establish Senate standards. Then, in the next year, Judge Bork answered a great many questions as he, in fact, had to because he had such an extensive paper trail and had such an unusual interpretation of the Constitution on original intent. So after the Bork hearings, Senator DeConcini and I decided we didn't need to proceed. Perhaps we were too precipitous because the following nominations since Judge Bork in 1986 produced the same result: failure to really answer questions.

Another possibility was suggested by later Justice Louis Brandeis in a famous article he wrote in 1913 talking about sunlight being the best disinfectant and that publicity was the way to deal with society's ills. That raises the possibility of finding accountability through informing the public as to what is going on. The Supreme Court flies under the radar. It is pretty hard to get an understanding as to what is going on.

A noted commentator on the Supreme Court, Stuart Taylor, has made a comment that the way to get accountability is to infuriate the public. That was his standard. He said until the public is infuriated, the Supreme Court will be able to continue to take power from the other branches of government and, most importantly, from my point of view, institutionally from the Senate of the United States and from the House of Representatives, in some cases where they leave the Executive with extensive authority. By refusing to decide a case, as they refused to decide the conflict between the Foreign Intelligence Surveillance Act, which is the congressional determination that the only way to get a warrantless wiretap is through a court order showing the probable cause and the President's assertion of article II power as Commander in Chief or the court's refusal to take up the issue of the Foreign Sovereign Immunities Act

when lawsuits were brought by survivors of 9/11. Those are subjects I will discuss at a later time. The hour grows late this evening.

But these are issues which we have to grapple with because the doctrine of separation of powers is so important and, institutionally, the Congress ought to be assertive of our authority, when the authority is taken to the Court, which, in effect, is legislation illustrated by the two cases, the Garrett case and the Lane case, which I have discussed—same standard, congruency and proportionality—we can't get an answer from Ms. Kagan as to what standard she would apply, whether it would be the rational basis test which had been in effect until the Boerne case in 1997; not asking her how she would decide a case but what standard she would apply.

So these are issues I think that have to be very carefully considered by the Congress.

I have been speaking on the issue of televising the Court for a couple of decades now, and I tend to continue to acquaint the public as best we can through C–SPAN, through this medium. But if the public knew what was happening, I think we might meet the standard of Stuart Taylor on an infuriated public. I think it will take public concern to provide some accountability to restore the important balance on separation of powers.

I thank the Chair, I thank the staff for staying extra, and I yield the floor. I believe that is the curtain for the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 6:37 p.m., adjourned until Wednesday, July 28, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL BOARD FOR EDUCATION SCIENCES

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015. (REAPPOINTMENT)

LEGAL SERVICES CORPORATION

JULIE A. REISKIN, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2013. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL FRANK E. BATTS
BRIGADIER GENERAL MELVIN L. BURCH
BRIGADIER GENERAL JOHN E. DAVOREN
BRIGADIER GENERAL LESTER D. EISNER
BRIGADIER GENERAL ALLEN M. HARRELL
BRIGADIER GENERAL ROBERT A. HARRIS
BRIGADIER GENERAL ALBERTO J. JIMENEZ
BRIGADIER GENERAL THOMAS H. KATKUS
BRIGADIER GENERAL JAMES D. TYRE

To be brigadier general

COLONEL STEVEN W. ALTMAN
COLONEL DAVID B. ANDERSON
COLONEL DAVID N. AYCOCK
COLONEL DAVID S. BALDWIN
COLONEL JONATHAN T. BALL
COLONEL CRAIG E. BENNETT
COLONEL JULIE A. BENTZ
COLONEL VICTORIA A. BETTERTON
COLONEL VICTOR J. BRADEN
COLONEL DAVID R. BROWN
COLONEL FELIX T. CASTAGNOLA
COLONEL PETER L. COREY
COLONEL DONALD S. COTNEY
COLONEL STEPHANIE E. DAWSON
COLONEL CAROL A. EGGERT
COLONEL ALFRED C. FABER
COLONEL WILLIAM A. HALL
COLONEL RICHARD J. HAYES
COLONEL TIMOTHY E. HILL
COLONEL TIMOTHY J. HILTY
COLONEL JEFFREY H. HOLMES
COLONEL JANICE G. IGOU
COLONEL JAMES C. LETTKO
COLONEL TOM C. LOOMIS
COLONEL WESLEY L. MCCLELLAN
COLONEL JOHN K. MCGREW
COLONEL JOHNNY R. MILLER
COLONEL STEVEN R. MOUNT
COLONEL ERIC C. PECK
COLONEL CHARLES E. PETRARCA
COLONEL ANDREW P. SCHAFER
COLONEL RAYMOND F. SHIELDS
COLONEL LESTER SIMPSON
COLONEL PHILIP A. STEMPLE
COLONEL RANDY H. WARM
COLONEL CHARLES W. WHITTINGTON

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DANIEL P. HOLLOWAY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WALTER M. SKINNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. SAMUEL J. LOCKLEAR III