(Mr. UDALL) was added as a cosponsor of S. 1856, a bill to prohibit Federal funding for lawsuits seeking to invalidate specific State laws that support the enforcement of Federal immigration laws.

S. 1662
At the request of Mr. DE MINT, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1856, a bill to prohibit Federal funding for lawsuits seeking to invalidate specific State laws that support the enforcement of Federal immigration laws.

S. 1666
At the request of Mr. LAUTENBERG, the names of the Senator from Maine (Ms. COLLINS) and the Senator from South Dakota (Ms. HAGAN) were added as cosponsors of S. 1856, a bill to prohibit Federal funding for lawsuits seeking to invalidate specific State laws that support the enforcement of Federal immigration laws.

S. 1688
At the request of Mr. COONS, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of S. 1866, a bill to provide incentives for economic growth, and for other purposes.

S. RES. 297
At the request of Mr. MENENDEZ, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 1868, a bill to establish within the Smithsonian Institution the Smithsonian American Latino Museum, and for other purposes.

S. RES. 297
At the request of Mr. MENENDEZ, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Minnesota (Ms. KLOBUCAR) were added as cosponsors of S. Res. 297, a resolution congratulating the Corporation for Supportive Housing on the 20th anniversary of its founding.

S. RES. 301
At the request of Mr. CASEY, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. Res. 301, a resolution urging the people of the United States to observe October 2011 as Italian and Italian-American Heritage Month.

S. RES. 302
At the request of Ms. LANDRIEU, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. Res. 302, a resolution expressing support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging the people of the United States to secure safety, permanency, and well-being for all children.

AMENDMENT NO. 939
At the request of Mr. BARRASSO, the names of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 939 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 973
At the request of Mr. BLUNT, the names of the Senator from North Dakota (Mr. HOEVEN) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 973 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 978
At the request of Mr. BLUNT, the names of the Senator from North Dakota (Mr. HOEVEN) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 976 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 979
At the request of Mr. BLUNT, the names of the Senator from Tennessee (Mr. COBBER) was added as a cosponsor of amendment No. 979 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 980
At the request of Mr. WEBB, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 980 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 989
At the request of Mr. WEBB, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 980 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1009
At the request of Mrs. HAGAN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Pennsylvania (Mr. TOOMEY) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of amendment No. 1009 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE):

S. 1680. A bill repeal the health care law’s job-killing health insurance tax; to the Committee on Finance.

Mr. HATCH. Mr. President, I want to thank my good friend from Wyoming, Senator BARRASSO, for his work on this and other issues related to the President’s health law. He is a leading orthopedist, and I have nothing but respect for him. As a former medical liability defense lawyer defending doctors, nurses, hospitals, and other health care providers, I appreciate good doctors, and this is one good doctor. He and Dr. COBURN are two of the best people I have known and are a credit to their profession.

I thank him for his work on this and other issues related to the President’s health care law. He has been tireless in his careful analysis and fair criticism of the health spending law, and I believe we are in agreement on that bill’s fundamental flaw.

The President and his allies repeatedly promised that the health law would decrease costs. That is not going to happen. The so-called Affordable Care Act is going to, in fact, drive up the cost of coverage.

Among the biggest reasons for this inflationary impact are the taxes that will be imposed on the American people to pay for the lost $2.6 trillion in new spending. At the top of the list of senseless cost-increasing taxes is the law’s tax on health insurance. It is not clear to me how the cost of health insurance will decrease by taxing it.

Many people probably don’t even know this tax exists. Like most of the taxes in ObamaCare, its implementation was conveniently delayed until after the 2012 Presidential election. But this tax is coming. It is going to hurt employers and employees. It is going to go a long way toward creating the conditions for job growth by passing this legislation.

Unemployment in this country remains a full-blown crisis. Millions are out of work, and the 9-percent unemployment rate doesn’t begin to capture the full extent of our jobs deficit. We need policies that will encourage businesses to invest and expand. Yet the health law’s insurance tax does just the opposite. According to a recent analysis, in just the first 10 years, the insurance tax would impose $57 billion in costs on businesses and their employees. Revenue that could be spent on higher wages, new hires, and capital investment—increasing jobs and growing the economy—will instead go to pay this tax. And that is just the start. In the second decade, this tax will cost businesses and their employees $208 billion.
It is important to understand how this insurance tax will work. Starting in 2014, the health insurance companies will have to pay a tax based on their net premiums written in the fully insured market. This is the market where 97 percent of all small businesses—those that lost their orders because their customers’ health care costs are going up will pay for this tax. Those searching for work will feel it too, because money that could go to new wages for new employees will instead go to pay for this tax and increased health care costs for existing employees.

This tax will hit wide swaths of the American economy, with millions of businesses and individuals impacted. A study by the National Federation of Independent Business shows this tax alone will lead to a loss of 125,000 to 249,000 jobs between now and 2021. The legislation we are introducing today will help to reverse this trend. Ultimately, all of Obamacare must be repealed. I am fully committed to uprooting it in its entirety. It undermines our Constitution and it undermines personal liberty. It exacerbates the Nation’s debt crisis by creating and expanding entitlement spending, and it also undermines our economy, destroying existing jobs and preventing the creation of new ones.

The people of Utah and people all over the United States need a jobs agenda. Repeal of the health insurance tax through the FACTS Act and the Premium Protection Act—we are introducing today would do much to address the scourge of unemployment and get our economy moving again.

Mr. President, I yield the floor.

Mr. BARRASSO. Mr. President, first, I wish to congratulate and thank my colleague, the senior Senator from Utah, Mr. HATCH, for his continued leadership on the issue of health care. As the ranking member of the Finance Committee, he has been a stalwart and strong supporter in efforts to get for the American people the health care they need, from the doctor they want, at a price they can afford, and amazing in his fight against what this body, what the House of Representatives, and what the President have forced onto people all across this country, which, unfortunately, has been bad for patients, bad for the providers of those patients—the nurses and doctors who take care of them—and terrible for taxpayers.

That is why week after week I come to the floor to give a doctor’s second opinion about the health care law, and why I am so pleased to be here with my colleague today to join in the introduction of this piece of legislation. As people all around the country know—those who listened to the many speeches on the debate on health care—the President and Democrats in Washington promised the American people this trillion dollar health care spending law would lower health insurance premiums. That is not happening. What is happening is that health insurance premium costs would go down. Well, the American people have now had 19 months to review what is in the health care law, and they are finding that the President and the Washington Democrats sold them a bill of goods.

On September 27 of this year, the Kaiser Family Foundation issued its annual survey of employer-sponsored health insurance premiums. The report showed that employer-provided health insurance premiums rose—went up, not down—$1,303 for an average family last year alone. Remember—and we do—that the President repeatedly promised his health care law would reduce the employer-provided premium by $2,500. Yet the exact opposite of what the President promised has occurred. The Kaiser Family Foundation report shows significant premium increases, not savings as the President promised. Not only are premiums continuing to climb, but the President and Washington Democrats paid for their health care spending law by imposing billions of dollars in new taxes on American business and American consumers. In 2014, the nation's fully insured market is already $8 billion over the President's new tax. The Nation's unemployment rate stands at 9 percent. There are 14 million Americans, people across our country, unemployed and looking for work. Struggling American families cannot bear the burden of President’s Obama's new tax.

A recent study by the National Federation of Independent Business found this health insurance tax will force the
private sector to shed somewhere between 125,000 and 249,000 jobs between now and 2021. More than half of those losses will fall on the backs of small businesses.

Two million small businesses across this country cannot afford President Obama’s new tax. Twenty-six million workers, who get their insurance through their employer, cannot afford President Obama’s new tax. And the 12 million people who buy health insurance plans on their own in the individual market cannot afford President Obama’s new tax. That is why today we introduce legislation called the Jobs and Premium Protection Act.

I introduced this bill along with my friend, the ranking member of the Senate Finance Committee, Senator HATCH. Our legislation is simple and straightforward. It eliminates the health care law’s punitive tax on every individual, family, and small business that chooses to do the right thing and buy health insurance. Unbelievably, the health care law punishes individuals and punishes small businesses, the very two groups who find buying health insurance at an affordable price extremely challenging. Why would the Federal Government implement policies that make it harder by imposing a tax on the products these individuals buy?

Some must believe that insurers will simply be able to absorb the tax. Well, experts tell us that assumption is false. Simply be able to absorb the tax. Why would the individual market cannot afford President Obama’s new tax. Two million small businesses across this country cannot afford President Obama’s new tax. Twenty-six million workers, who get their insurance through their employer, cannot afford President Obama’s new tax. And the 12 million people who buy health insurance plans on their own in the individual market cannot afford President Obama’s new tax. That is why today we introduce legislation called the Jobs and Premium Protection Act.

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(ii)(aa) for the drug that is not described in subclause (I) and that, with respect to the applicant and drug, each requirement described in clause (vi) is satisfied; and

(ii) [omitted due to duplicative nature and implications of (ii) in context].

(vi) REQUIREMENTS.—The requirements described in this subsection are the following:

(I) The applicant described in clause (v)(II) submitted and lawfully maintains a certification described in paragraph (2)(A)(v)(IV) for a statement described in paragraph (2)(A)(v)(IV) for each unexpired patent for which a first applicant described in clause (v)(I) had submitted a certification described in paragraph (2)(A)(v)(IV) for the first day on which a substantially complete application containing such a certification was submitted.

(II) With regard to each such unexpired patent for which the applicant described in clause (v)(II) submitted a certification described in paragraph (2)(A)(v)(IV), no action for patent infringement was brought against such applicant within the 45-day period specified in paragraph (5)(B)(III); or if an action was brought within such time period, such an action was withdrawn or dismissed by a court (including a district court) without a decision that the patent was valid and infringed, or if an action was brought within such time period and was not withdrawn or so dismissed, such applicant has obtained the decision of a court (including a district court) that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity, and including any order or consent decree signed and entered by the court stating that the patent is invalid or not infringed).

(III) If an applicant described in clause (v)(II) does not begin commercial marketing of such drug until the date that is 30 days after the date on which the applicant described in clause (v)(I) began such commercial marketing.

(2) CONFORMING AMENDMENT.—Section 505(j)(5)(D)(iv) of such Act (21 U.S.C. 355(j)(5)(D)(iv)) is amended by striking “The first applicant, as defined in subparagraph (B)” and inserting “The first applicant, as defined in subparagraph (B) or (C)”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) to which the amendments made by section 1126(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) apply.

SEC. 3. 180-DAY EXCLUSIVITY PERIOD AMENDMENTS REGARDING AGREEMENTS TO DEFER COMMERCIAL MARKETING.

(a) AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) LIMITATIONS ON AGREEMENTS TO DEFER COMMERCIAL MARKETING DATE.—Section 505(j)(5)(B)(v)(I) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(v)(I)), as amended by section 2, is further amended by adding at the end the following:

(II) if such an agreement has not been reduced to text, a written detailed description of such agreement that is sufficient to disclose all the terms and conditions of the agreement; and

(III) the text, or a written detailed description in the event of an agreement that has not been reduced to text, of any other agreement entered into by such holder described under paragraph (5)(B)(v)(I) or (II).