CORNYN), the Senator from Utah (Mr. HATCH), the Senator from Wisconsin (Mr. JOHNSON) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 1082, a bill to amend title 38, United States Code, to provide for the removal or demotion of employees of the Department of Veterans Affairs based on performance or misconduct, and for other purposes.

S. 1170

At the request of Mrs. FEINSTEIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1170, a bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research, and for other purposes.

S. 1466

At the request of Mr. KIRK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1466, a bill to amend title XVIII of the Social Security Act to modify payment under the Medicare program for outpatient department procedures that utilize drugs as supplies, and for other purposes.

S. 1532

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 1532, a bill to ensure timely access to affordable birth control for women.

S. 1584

At the request of Mr. CASSIDY, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1584, a bill to repeal the renewable fuel standard.

S. 1632

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1632, a bill to require a regional strategy to address the threat posed by Boko Haram.

S. 1789

At the request of Mr. RUBIO, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1789, a bill to improve defense cooperation between the United States and the Hashemite Kingdom of Jordan.

S. 1810

At the request of Mr. VITTER, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 1810, a bill to apply the provisions of the Patient Protection and Affordable Care Act to Congressional members and members of the executive branch.

AMENDMENT NO. 2267

At the request of Mr. MANCHIN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of amendment No. 2267 intended to be proposed to H.R. 22, a bill to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of determining the employers to which the employer mandate applies under the Patient Protection and Affordable Care Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. HELLER):

S. 1825. A bill to require the Secretary of Energy to obtain the consent of affected State and local governments before making an expenditure from the Nuclear Waste Fund for a nuclear waste repository; to the Committee on Energy and Natural Resources.

Mr. REID. 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. 1825

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 ''Nuclear Waste Informed Consent Act''.

SEC. 2. DEFINITIONS.

In this Act, the terms ''affected Indian tribe'', ''affected unit of local government'', ''Commission'', ''high-level radioactive waste'', ''repository'', ''spent nuclear fuel'', and ''unit of general local government'' have the meanings given the terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

SEC. 3. CONSENT BASED APPROVAL.

(a) IN GENERAL.—The Secretary may not make an expenditure from the Nuclear Waste Fund for the costs of the activities described in paragraphs (4) and (5) of section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)) unless the Secretary has entered into an agreement to host a repository with—

(1) the Governor of the State in which the repository is proposed to be located;

(2) each affected unit of local government;

(3) any unit of general local government contiguous to the affected unit of local government if spent nuclear fuel or high-level radioactive waste will be transported through that unit of general local government for disposal at the repository; and

(4) each affected Indian tribe.

(b) CONDITIONS ON AGREEMENT.—Any agreement to host a repository under this Act—

(1) shall be in writing and signed by all parties;

(2) shall be binding on the parties; and

(3) shall not be amended or revoked except by mutual agreement of the parties.

By Ms. COLLINS (for herself, Mr. WARNER, Ms. MIKULSKI, Mr. COATS, Ms. AYOTTE, and Mrs. MCCASKILL):

S. 1828. A bill to strengthen the ability of the Secretary of Homeland Security to detect and prevent intrusions against, and to use countermeasures to protect, government agency information systems and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the Federal Information Security Management Act of 2015. I am very pleased that Senator WARNER, Senator MIKULSKI, Senator COATS, Senator AYOTTE, and Senator MCCASKILL are joining me in this bipartisan effort to strengthen cyber security in Federal agencies. I very much appreciate their input into this bill and their support.

The cyber attack that stole sensitive personal data from millions of current, former, and retired Federal employees from the poorly secured databases at the Office of Personnel Management underscores the extraordinary vulnerability of our Federal computer networks, but for the more than 21 million Americans affected and indeed for our country, the threat from this theft continues. Whether it is the risk to the individual of identity theft or the impact on our Nation of the compromise of the identity of those dealing with classified information or the potential for espionage or blackmail, the threat remains extremely serious.

Worst of all, better security of computer networks at OPM might well have prevented this terrible breach. The negligence of OPM officials who ignored repeated warnings over years from the inspector general that its networks were vulnerable is inexcusable. As the FBI Director testified before the Intelligence Committee during an open session earlier this month, this breach is a huge deal and represents a treasure trove of information for potential adversaries.

But this cyber attack also points to a broader problem, and that is the glaring gap in the process for protecting sensitive information in Federal civilian agencies. Thus, we join together today to introduce this bipartisan bill.

Our bill would strengthen the security of the networks of Federal civilian agencies by taking five important steps:

First, our bill would allow the Secretary of Homeland Security to operate intrusion detection and prevention capabilities on all Federal agencies on the dot-gov domain without waiting for a request from every single agency.

Today, if an agency is uncooperative with DHS or simply does not want to make cyber security a priority, there is little that can be done to strengthen that agency's vulnerable network. I have visited the center at DHS that monitors some of the civilian networks. You could see the attempted intrusions in real time. Yet, I was told by some of the officials there that when they call the chief information official of that agency, sometimes the answer is very lackadaisical, almost indifferent. That cannot be allowed to continue.

Second, our bill directs the Secretary of Homeland Security to conduct risk

assessments of any network within the dot-gov domain. This provision would ensure that no Federal agency can be unaware if it is operating an insufficiently secured network and thus jeopardizing sensitive data.

Third, our bill would allow the Secretary of Homeland Security to operate defensive countermeasures on these networks once a cyber threat has been detected. Currently, DHS can deploy technical assistance to agencies to diagnose and mitigate cyber threats only at that agency's discretion, and sometimes there are legal impediments for doing so.

Fourth, our bill would strengthen and streamline the authorities that Congress gave to DHS last year to issue binding operational directives to Federal agencies, especially to respond to substantial cyber security threats or in an emergency where an intrusion is underway.

Finally, while DHS oversees the protection of Federal civilian networks, the Office of Management and Budget has the ultimate responsibility to enforce governmentwide cyber security standards for civilian agencies. Our bill would require OMB to report to Congress annually on the extent to which OMB has exercised its existing authority to enforce governmentwide cyber security standards.

Congress has already given the OMB the authority, for example, to recommend increases or decreases in an agency's funding or to exercise administrative control over information resources if such actions could increase the degree of compliance with cyber security standards. But I regret to say that the evidence that OMB has actually exercised this authority is pretty slim.

The primary problem our bill would solve is that DHS has the mandate to protect the civilian Federal networks, but it has only limited authority to do so. Now, as the Presiding Officer is well aware, this approach stands in stark contrast to how the National Security Agency defends the dot-mil domain.

By the way, our legislation does not affect the dot-mil domain—which covers the Department of Defense and our intelligence agencies—in any way. The Director of the NSA has the responsibility to protect the dot-mil domain, but he also has the authority from the Secretary of Defense to monitor all DOD networks and to deploy countermeasures when necessary. If the Director deems that an agency's network is insecure, he can shut it down. Contrast that to the inspector general at OPM, who last fall issued a report saying that OPM ought to shut down parts of its network because it was so insecure, and nothing happened. OPM didn't take any action and DHS lacked the authority to do so. That stands in sharp contrast to how we protect our defense and intelligence agencies' networks. As a result, our military and intelligence networks are better protected from foreign adversaries than our civilian agencies' networks.

Although the Secretary of Homeland Security is tasked with a similar responsibility to protect Federal civilian networks, he has far less authority to accomplish that task. Yet—think about it—Federal civilian agencies such as OPM, the IRS, the Social Security Administration, Medicare, and the Patent Office are the repositories of vast quantities of sensitive, personal, and economic data belonging to the American people. We have to do a better job of protecting that data as well.

When the Intelligence Committee on which I served asked the current Director of NSA how we might improve the protection of the dot-gov domain, he emphasized the importance of providing the authority commensurate with the responsibility for protecting civilian agency networks.

The Secretary of Homeland Security, Jeh Johnson, similarly said that obtaining clear, congressional authorization for DHS to deploy protective capabilities to secure civilian agencies' networks is one of his priorities.

I heard the same message from his predecessor, Secretary Janet Napolitano, when I was the ranking member of the homeland security committee in 2012.

By the way, that year former Senator Joe Lieberman and I urged our colleagues to pass the Cybersecurity Act of 2012, which we drafted and which included, among other provisions, major reforms to improve the protection of Federal networks. We will never know if the OPM breach that compromised the security clearance background information of more than 21 million people could have been prevented if the Senate had passed our bill at that time. Of course, no bill, no law can protect against every cyber breach, but I believe we would have been far better positioned had we acted then.

What we do know is that once a malware signature is identified, it was DHS's intrusion detection system—known as EINSTEIN—and other DHS-recommended tools that played key roles in identifying the massive compromise of the OPM data. Without these tools, OPM might still be blissfully unaware that it had been subjected to a major hack.

The government's response to the breach demonstrates the urgent need for our legislation. The five agency networks that were monitored by EINSTEIN 3 were protected and capable of blocking the malware the moment the dangerous signatures used in the OPM breach were loaded into their systems. For every other civilian agency, however, that was not the case. DHS had to call the chief information officer responsible for every one of those networks that were not covered yet by the EINSTEIN 3 system. Then the bad indicators had to be passed on to each CIO, and each CIO had to search their agency networks for the harmful malware. Cyber threats move at the speed of light. No organization that takes cyber security seriously would rely upon a game of telephone tag to guard the security of its information.

I also note that at the time the OPM breach actually occurred, the latest version of EINSTEIN had been deployed on less than 25 percent of the dot-gov network. So even if the government had detected the malware immediately, the government's ability to protect all of the networks would have taken that much longer because DHS's best intrusion system was not deployed widely enough. And, inexplicably, to this day, it is still not installed at OPM despite the information it stores as the chief employment office for millions of Federal employees and retirees.

If we fail to give these much needed authorities to DHS, the unacceptable status quo will prevail. Under the status quo, each agency—however competently or incompetently—monitors its own networks and only asks DHS for assistance if it sees fit to do so. Let me describe just how poorly that approach has worked so far.

We know that information security incidents in the Federal Government have increased more than twelvefold—from 5,500 in fiscal year 2006 to more than 67,000 in fiscal year 2014 according to the Government Accountability Office. That undoubtedly understates the real number since these are just the incidents of which we are aware. Nineteen of twenty-four major agencies have declared cyber security as a significant deficiency or material weakness for financial reporting purposes. At the same time, Federal agencies have failed to implement hundreds of recommendations from the GAO and inspectors general that could enhance the security of their networks.

I could go on and on, citing the breach at IRS, at the Postal Service, at FAA, at NOAA, not to mention the OPM breach. It is unacceptable that we are putting important data belonging to the American people as well as our economic edge at risk. We simply have to take action now.

It is incredible that OPM implausibly asserted earlier this month that ''there is no information at this time to suggest any misuse or further dissemination of the information that was stolen from OPM's systems.'' That incredible statement, which implied that the perpetrators of this lengthy and extensive attack have no intention of ever using the stolen data, suggests that OPM still has yet to recognize the gravity of this cyber attack.

But Congress also has the responsibility to make the job for those securing our Federal civilian networks easier to do in light of the extraordinary

threat that foreign adversaries, international criminal gangs, and other hackers pose to government systems and the privacy and safety of our citizens. This bill is the first of many steps to strengthen our Nation's cyber security, and I urge my colleagues to support this bipartisan measure.

Mr. WARNER. Mr. President, I rise today to speak on the Federal Information Security Management Reform Act, FISMA Reform, of 2015, which I introduced today with Senator COLLINS, Senator MIKULSKI, Senator COATS, Senator AYOTTE, and Senator MCCASKILL. This legislation will give the Department of Homeland Security the power to make sure that civilian government agencies—like OPM—have adequate cyber defenses against these kinds of attacks.

Cyberattacks present one of the most critical national and economic threats that this Nation faces. As the FBI Director recently stated, there are two types of companies in the U.S.—those that have been hacked by China, and those that do not yet know they have been hacked.

Estimates by the Center for Strategic and International Studies indicate that cyberattacks and cybercrime account for between $24 and as much as $120 billion in economic and intellectual property loss per year in the U.S. That is the equivalent of .2 to .8 percent of our GDP. The same CSIS study suggests that $100 billion in losses due to cyberattacks is the equivalent of over half a million lost U.S. jobs.

As we have seen with the OPM cyberattack, more than 22 million Federal employees, retirees and applicants had their personal data stolen, including—most troublingly—information on their security clearance background investigations. The scope of this breach was unprecedented. As the FBI Director told the Intelligence Committee recently, this is a ''huge deal'' and represents a treasure trove of information for potential adversaries.

But this is a serious problem that isn't limited to government, as we have already seen with recent breaches involving Anthem, CareFirst, Target, Neiman Marcus, Home Depot, and banks like J.P. Morgan, just to name a few. Both the private and public sector need to be better prepared for an increasing number of these cyberattacks.

To figure out how to protect consumers' financial data, last year I held the first hearing in Congress into data breaches in the aftermath of the Target breach.

One takeaway was how much more serious private sector and government entities need to be in investing in infrastructure and talent to secure their systems from cyberattack and breach. While there is always a risk of breaches, we can significantly mitigate those risks by increasing our ability to detect and respond to attacks.

I also believe we must get serious about passing cybersecurity legislation. This is also why I supported the Cyber Information Sharing Act (CISA) that passed in the Senate Intelligence Committee 14–1 in March.

A couple years ago, Senators Lieberman and COLLINS had a comprehensive cybersecurity bill which was unable to pass in the Senate. Unfortunately, when the bill did not pass, so did many of the good-government provisions such as strengthening the ability of the government to protect the ''Dot-gov'' infrastructure. While some of the language in the Lieberman-Collins bill regarding the DHS's role in cybersecurity did make it into law in December 2014, these changes did not go far enough.

That is why today I have introduced with Senator COLLINS, Senator MIKULSKI, Senator COATS, Senator AYOTTE and Senator MCCASKILL the Federal Information Security Management Reform Act, FISMRA, of 2015. This legislation would give the DHS strengthened authorities to enforce standards, employ cyber threat detection technology and defensive countermeasures, and to conduct threat and vulnerability analyses across all civilian U.S. Government agencies. Our bill would affect federal agencies only, except defense and intelligence agencies, not the private sector.

The basic problem with protecting U.S. Government information systems is that while DHS has the responsibility to protect the ''Dot-gov'' domain, right now it does not have the ''teeth'' to actually enforce security standards or fix vulnerabilities. It is likely that if the DHS had the additional authorities we are proposing this could have helped to discover the OPM breach sooner. In fact, OPM only discovered the breach after implementing a cybersecurity tool that was recommended by the DHS.

Our bill would give the DHS secretary the authority to direct—not request—that agencies undertake needed corrective actions to protect their cyber and information systems. Now, some government agencies systems may already be pretty good—so the DHS may not need to issue them directives. But I also know that we are not where we want to be.

While the breach at OPM was and continues to be devastating to those federal employees who are affected, we need to remember that cybersecurity is not just an issue at OPM. A recent article in the New York Times quoted the President's cyber advisor, Michael Daniels, as saying ''it's safe to say that federal agencies are not where we want them to be across the board,'' that the bureaucracy needed a ''mind-set shift,'' that would put cybersecurity at the top of their list of priorities, and that ''we clearly need to be moving faster.''

Likewise, a recent audit of the Federal Aviation Administration's network in January cited ''significant security control weaknesses . . . placing the safe and uninterrupted operation of the nation's air traffic control system at increased and unnecessary risk.'' The FAA's former chief information security officer told the press that he had been frustrated by the failure to address obvious security holes in its most important networks.

Similarly, at the Department of Energy's network that contains sensitive information on critical infrastructure and nuclear propulsion, investigators found ''numerous holes,'' according to the New York Times.

At the IRS network, auditors found 69 vulnerabilities.

I believe it is not a matter of if, but of when government systems will again be hit by a major cyberattack. And that is why I believe we cannot wait to give one primary entity the authority—especially when it already has the responsibility—to ensure that all ''Dot-gov'' government agencies meet robust cybersecurity standards, and that they are able to deploy tools and technology across the government to detect and prevent cyberattacks like the ones we saw at OPM. The Department of Homeland Security is such an entity.

I know that some of my colleagues have argued that the NSA is the best in government at countering the cyber threat. I think that the NSA's capabilities are impressive. They do an excellent job protecting our defense and intelligence information systems. However, it would be unfeasible to put the NSA in charge of the United States' civilian cybersecurity.

DHS cyber capabilities have been steadily improving. It is deploying innovative tools like EINSTEIN 3A. It has an extremely capable National Cybersecurity and Communications Integration Center, NCCIC, located in Virginia, that already detects threats and promotes information sharing with industries through the so-called ISACs, Information Sharing and Analysis Centers, that cover a range of industries from Aviation, Defense Industries, the Financial and Banking sectors, Electricity, IT, Communications and others.

As DHS Secretary Jeh Johnson recently stated: ''Legally, each agency and department head has the responsibility for their own system—legally, and I stress that to my colleagues. We have the responsibility for the overall protection of the Federal civilian dotgov world [. . .] [W]here we need help in protecting Federal cybersecurity is legal—making express our legal authority to receive information from other departments and governments. [. . .] [W]e want the express legal authority to make it plain that when we utilize things like EINSTEIN, EINSTEIN 3A, those other agencies are authorized to share information with us, to give us access to our network.''

In short, this bill would allow DHS—which already has the responsibility to protect ''Dot-gov'' networks—the authority and the ability to deploy tools and technology across the government to proactively detect and prevent cyberattacks like the ones we saw at OPM. The alternative is continuing the status quo, where each agency—no matter how poorly—monitors its own networks and only asks for outside assistance when it feels like it. That doesn't work. I urge my colleagues to join us in supporting this bipartisan bill.

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

S. 1838. A bill to amend the Federal Election Campaign Act of 1971 to clarify the treatment of coordinated expenditures as contributions to candidates, and for other purposes; to the Committee on Rules and Administration.

Mr. LEAHY. Mr. President, although we are still a year and a half from the next presidential election, our perpetual campaign cycle already seems to be in full swing. Among the many troubling trends we are seeing is the rise of ''independent'' super PACs that support candidates. These super PACs are supposed to operate completely independent from the candidates' campaigns, but no one believes this to be true. It is the worst kept secret in America.

A July 6, 2015, article in the Washington Post entitled ''It's bold, but legal: How campaigns and their super PAC backers work together'' documents just how easily these super PACs and campaigns coordinate their messages and skirt the rules. As the author notes:

For the first time, nearly every top presidential hopeful has a personalized super PAC that can raise unlimited sums and is run by close associates or former aides. Many also are being boosted by nonprofits, which do not have to disclose their donors.

The boldness of the candidates has elevated the importance of wealthy donors to even greater heights than in the last White House contest, when super PACs and nonprofits reported spending more than $1 billion on federal races. Although they are not supposed to coordinate directly with their independent allies, candidates are finding creative ways to work in concert with them.

Five years ago, in Citizens United v. FEC, five justices on the Supreme Court departed from principles of judicial restraint and decided to overturn an act of Congress under the broadest grounds possible. In so doing, they overruled a century of practice and decades of doctrine. The Court declared that corporations have a First Amendment right to spend endlessly to finance and influence our elections. This precedent then led to another court decision—SpeechNow.org v. FEC—in the D.C. Circuit that resulted in the creation of the super PAC. Super PACs are supposed to be independent expenditure-only committees, and may raise unlimited sums of money from corporations, unions, associations and individuals, then spend unlimited sums to advocate for or against political candidates. But nobody believes that they truly act independently.

That is why I am introducing the Stop Super PAC-Candidate Coordination Act today. This bill would end the sham practice of presidential candidates boldly and shamelessly exploiting our campaign finance laws by coordinating with allegedly independent super PACs.

First, the bill codifies a definition of what constitutes ''coordination'' based on Supreme Court case law to make it more difficult for coordination to occur. Second, it prohibits outside groups from skirting the coordination provisions by stating that they cannot simply create a ''firewall'' and claim that the there is an independent division that is making independent expenditures. Third, it prevents single-candidate super PACs from acting as an arm of the candidates' campaign. It does this by including factors of when a super PAC should be deemed a ''coordinated spender.'' Once the super PAC falls into this category, the super PACs expenditures are then considered to be ''coordinated expenditures'' and the super PAC is subject to Federal contribution limits and prohibitions. Under existing law, coordinated expenditures are defined as also being in-kind contributions and are subject to the PAC contribution limit of $5,000 per year.

The penalty for any person who knowingly violates the coordination provisions of this act is a civil fine that is three times the amount of the coordinated expenditures involved in excess of the applicable contribution limit. The act also imposes joint and several liability on any director, manager, or officer of an outside spending group for any unpaid penalties by the group violating the coordination rules.

Lastly, the bill prohibits candidates and their agents from raising money for super PACs by prohibiting the raising of funds for any super PAC or political committee that is not subject to Federal contribution limits and reporting requirements. This bill would provide real rules and put into place some regulations that would make it more difficult for these super PACs to coordinate with candidates.

The issue of how our politics are paid for is an issue that is important to the American people, and it is also important to Vermonters. We have always remained steadfast in our belief that our democracy should not be for sale, and that the size of your bank account should not determine whether or not the government responds to your views or needs.

This bill I introduce today is an incremental measure that would help eliminate the sham of single-candidate super PACs and provide some real rules to a process in which the American public is becoming more cynical about every day. I hope that my fellow Senators from both sides of the aisle will support this modest measure.

I understand why Vermonters are outraged by the devastating effects of Citizens United and its progeny. In recent years I have held several hearings to highlight the damage that Citizens United has done to our political process. Last summer, I led the charge in the Senate Judiciary Committee to consider a constitutional amendment to restore the ability of lawmakers at both the Federal and State levels to rein in the influence that billionaires and corporations now have on our elections. The amendment would also have made clear that corporations are not people. Although Senate Democrats were able to vote the constitutional amendment out of the Judiciary Committee, Senate Republicans filibustered the amendment on the floor and refused to allow it an up-or-down vote. I will continue to do all I can to reverse the devastating effects of Citizens United and its subsequent decisions. This bill is one step towards addressing one of the problems that has resulted from those decisions.

Mr. President, I ask unanimous consent that the Washington Post article referenced above be printed in the RECORD.

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

[From the Washington Post, July 6, 2015]

IT'S BOLD, BUT LEGAL: HOW CAMPAIGNS AND THEIR SUPER PAC BACKERS WORK TOGETHER

(By Matea Gold)

The 2016 presidential contenders are stretching the latitude they have to work with their independent allies more than candidates in recent elections ever dared, taking advantage of a narrowly drawn rule that separates campaigns from outside groups.

For the first time, nearly every top presidential hopeful has a personalized super PAC that can raise unlimited sums and is run by close associates or former aides. Many also are being boosted by non-profits, which do not have to disclose their donors.

The boldness of the candidates has elevated the importance of wealthy donors to even greater heights than in the last White House contest, when super PACs and nonprofits reported spending more than $1 billion on federal races. Although they are not supposed to coordinate directly with their independent allies, candidates are finding creative ways to work in concert with them.

Before former Florida governor Jeb Bush (R) announced his bid in mid-June, the Right to Rise super PAC filmed footage of him that the group plans to use in ads. Hillary Rodham Clinton's campaign is collaborating directly with Correct the Record, a super PAC providing the Democratic hopeful's team with opposition research.

Top advisers to Wisconsin Gov. Scott Walker (R) have been positioned at two big-money groups as they await his presidential announcement next week. GOP candidate

Carly Fiorina has gone even further, outsourcing core functions such as rapid response and event preparation to her allied super PAC, the aptly named—CARLY for America.

The 2016 contenders and their big-money backers VIEW GRAPHIC. The widespread cooperation—which many campaign finance-experts say stretches the legal boundaries—indicates that candidates and their advisers have little fear that they will face serious scrutiny from law enforcement, despite the Justice Department's successful prosecution this year of a Virginia campaign operative for illegal coordination.

One main reason: Under Federal Election Commission rules, there is no wall dividing candidates and independent groups. In practice, it's more like a one-way mirror—with a telephone on each side for occasional calls.

''The rules of affiliation are just about as porous as they can be, and it amounts to a joke that there's no coordination between these individual super PACs and the candidates,'' said Rep. David E. Price (D–N.C.), who has sponsored legislation that would put stricter limits in place.

A close reading of FEC regulations reveals that campaigns can do more than just publicly signal their needs to independent groups, a practice that flourished in the 2014 midterms.

Operatives on both sides can talk to one another directly, as long as they do not discuss candidate strategy. According to an FEC rule, an independent group also can confer with a campaign until this fall about ''issue ads'' featuring a candidate. Some election-law lawyers think that a super PAC could share its entire paid media plan, as long as the candidate's team does not respond.

But those who defend the current system say that broader rules could infringe on rights to free speech.

Right to Rise, a super PAC run by Mike Murphy, filmed footage with then-undeclared candidate Jeb Bush to be used in later commercials. (NBCU Photo Bank via Getty Images) ''Every discussion you have cannot trigger illegal coordination,'' said Lee E. Goodman, a Republican appointee to the FEC.

''I understand some people look at relationships between candidates and independent spenders and sense that those relationships are too cozy,'' he added. ''Yet the courts have said that you cannot prohibit friendships and knowledge of each other.''

But many experts say that the limited-coordination rules are emblematic of an outdated, incoherent and often contradictory campaign finance framework.

''We're at this transitional point where the way money is raised and spent and the costs of campaigns have changed so dramatically,'' said Bob Bauer, a prominent campaign finance lawyer who served as White House counsel for President Obama. ''The problem isn't that the law isn't being enforced—the problem is that we need to rethink the whole thing from the ground up.''

Political strategists on both sides of the aisle agree, saying that navigating the complex legal thickets is increasingly difficult.

''If you talk to three lawyers, you are likely to get three different answers,'' said Phil Cox, executive director of America Leads, a super PAC supporting Chris Christie, the Republican governor of New Jersey. ''The system makes no sense. It's crying out for reform. We need to put the power back in the hands of the candidates and their campaigns, not the outside groups.''

At the moment, though, an overhaul of campaign finance has little bipartisan support in Congress. And members of the long-polarized FEC appear more divided than ever. A discussion at a recent public meeting about stricter regulations devolved into hostile barbs.

The public is left with the sense that no one is following the rules, said Ellen L. Weintraub, one of the Democrats on the FEC.

''There is this basic notion that super PACs are supposed to be separate from the candidates,'' she said. ''They look at what's going on, and they say: 'This doesn't look separate. Where are the lines?' ''

A sweeping boundary was drawn by the Supreme Court in its seminal 1976 Buckley v. Valeo decision, which said that political activity by outside groups must be done ''totally independently'' of candidates and parties. A similar standard was set in the 2002—McCain-Feingold Act, which said that independent expenditures cannot be made ''in cooperation, consultation, or concert'' with a candidate.

But in practice, defining coordination has not been easy. The FEC wrestled mightily with where to draw the lines, issuing regulations that were challenged repeatedly in the courts.

A set of FEC rules approved in 2010 prohibits a campaign from coordinating with an independent group on a paid communication. The agency laid out specific tests to determine whether a campaign has illegally shared internal strategy used to guide an independent group's advertising.

But the rules do not ban coordination in general—much less conversations between each side.

Bobby Burchfield, a Republican campaign finance lawyer, said that the clarity of current regulation helps avoid the kind of intrusive investigations into groups, such as the Christian Coalition, that the FEC once pursued. ''That had the effect of suppressing and chilling political activity,'' he said.

Now, there's plenty of room to maneuver. Although a campaign cannot share private strategy with a super PAC, it can give a campaign information about its plans, as long the group is not sharing something of value that could be considered a contribution.

The FEC also has given candidates its blessing to appear at super PAC fundraisers, as long as they do not solicit more than $5,000—a decision that came in response to a query from two Democratic super PACs in 2011.

Taken together, critics say, the narrow rules offer far too many opportunities for candidates and their well-funded outside allies to work in agreement.

The FEC ''couldn't imagine how bold people would be,'' said Larry Noble, senior counsel at the Campaign Legal Center, which supports tougher restrictions.

Right to Rise, the super PAC run by longtime Bush adviser Mike Murphy, is set to serve as a massive external ad operation bolstering the former governor's campaign. Murphy told donors in a recent conference call that before Bush announced his candidacy, the super PAC filmed footage of him that the group plans to use in digital and TV spots, according to an account in BuzzFeed.

''One of the new ideas that, you know, the governor had—he's such an innovator—is we're going to be the first super PAC to really be able to do just positive advertising,'' Murphy said.

Paul Lindsay, a spokesman for Right to Rise, said that Murphy was referring to ''Governor Bush's historical preference for positive advertising, which was consistent in his previous elections and is no secret.''

Clinton's campaign is working closely with Correct the Record, a liberal rapid-response group that refashioned itself as a super PAC this year. The group says it can coordinate directly with the campaign under a 2006 FEC rule that made content posted free online off-limits to regulation.

Correct the Record has more than 20 staffers and plans to disseminate much of its research on its Web site and through social media.

Any nonpublic information of value that it shares with the Clinton staff will be purchased, according to a campaign official.

Already, partisan critics have pounced, filing complaints with the FEC alleging that the pro-Bush and pro-Clinton super PACs are engaged in illegal coordination.

But if the agency launches an investigation, it would be a first. Since 2010, the FEC has yet to open an investigation into alleged illegal super PAC coordination, closing 29 such complaints. In 28 of those cases, the agency's general counsel did not recommend pursuing the matters, according to Goodman of the FEC.

''We could capture all of this stuff if we had real rules,'' said Fred Wertheimer, a longtime advocate of reducing the influence of big money on politics. ''For all practical purposes, there are no prohibitions against coordination.''

By Mr. CORNYN (for himself, Mr. TOOMEY, Mr. CRAPO, and Mr. LEE):

S. 1840. A bill to amend title 11, United States Code, to provide for the liquidation, reorganization, or recapitalization of a covered financial corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORNYN. 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. 1840

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 ''Taxpayer Protection and Responsible Resolution Act''.

SEC. 2. GENERAL PROVISIONS RELATING TO COVERED FINANCIAL CORPORATIONS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting the following after paragraph (9):

''(9A) The term 'covered financial corporation' means any corporation incorporated or organized under any Federal or State law, other than a stockbroker, a commodity broker, or an entity of the kind specified in paragraph (2) or (3) of section 109(b), that is—

''(A) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)); or

''(B) a corporation that exists for the primary purpose of owning, controlling, and financing subsidiaries that are predominantly engaged in activities that the Board of Governors of the Federal Reserve System has determined are financial in nature or incidental to such financial activity for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).''.

(b) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''section 1161'' and inserting ''sections 1161 and 1401''; and

(B) by striking ''or 13'' and inserting ''13, or 14'';

(2) in subsection (g), by inserting ''subsection (m) and'' before ''section''; and

(3) by adding at the end the following:

''(l) Chapter 14 of this title applies only in a case under such chapter.

''(m) Except as otherwise provided in chapter 14 of this title, chapter 11 of this title applies in a case under chapter 14 of this title.''.

(c) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''and'';

(B) by striking ''or a'' and inserting ''or''; and

(C) by inserting '', or a covered financial corporation'' after ''Federal Deposit Insurance Corporation Improvement Act of 1991''; and

(2) by adding at the end the following:

''(i) Only a covered financial corporation may be a debtor in a case under chapter 14.''.

(d) DISTRIBUTION OF PROPERTY OF THE ESTATE.—Section 726(a)(1) of title 11, United States Code, is amended by inserting ''in payment of any unpaid fees, costs, and expenses of a special trustee appointed under section 1406, and then'' after ''first,''.

(e) CONFIRMATION OF PLAN.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(17) In a case under chapter 14, all payable fees, costs, and expenses of the special trustee have been paid or the plan provides for the payment of all such fees, costs, and expenses, as of the effective date of the plan.

''(18) In a case under chapter 14, confirmation of the plan is not likely to cause serious adverse effects on financial stability in the United States.''.

(f) QUALIFICATION OF TRUSTEE.—Section 322(b)(2) of title 11, United States Code, is amended by striking ''The'' and inserting ''In cases under chapter 14, the United States trustee shall recommend to the court, and in all other cases, the''.

SEC. 3. LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF A COVERED FINANCIAL CORPORATION.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting before chapter 15 the following:

''CHAPTER 14—LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF A COVERED FINANCIAL CORPORATION

''§ 1401. Inapplicability of other sections

''Sections 303 and 321(c) do not apply in a case under this chapter.

''§ 1402. Definitions for this chapter

''In this chapter, the following definitions shall apply:

''(1) The term 'Board' means the Board of Governors of the Federal Reserve System.

''(2) The term 'bridge company' means a newly formed corporation to which property of the estate may be transferred under section 1405(a) and the equity securities of which may be transferred to a special trustee under section 1406(a).

''(3) The term 'capital structure debt' means all unsecured debt of the debtor for borrowed money for which the debtor is the primary obligor, other than a qualified financial contract and other than debt secured by a lien on property of the estate that is to be transferred to a bridge company pursuant to an order of the court under section 1405(a).

''(4) The term 'contractual right' means a contractual right of a kind described in section 555, 556, 559, 560, or 561.

''(5) The term 'qualified financial contract' means any contract of a kind defined in paragraph (25), (38A), (47), or (53B) of section 101, section 741(7), or paragraph (4), (5), (11), or (13) of section 761.

''(6) The term 'special trustee' means a trustee appointed under section 1406(a)(2)(A).

''(7) The term 'trustee' means a person who is—

''(A) appointed or elected under section 1104; and

''(B) qualified under section 322 to serve as trustee in the case or, in the absence of such person, the debtor in possession.

''§ 1403. Commencement of a case concerning a covered financial corporation

''(a) IN GENERAL.—A case under this chapter may be commenced by the filing of a petition with the court by an entity that may be a debtor under section 301 if the entity states to the best of its knowledge, under penalty of perjury, in the petition that the entity is a covered financial corporation.

''(b) ORDER FOR RELIEF.—The commencement of a case under subsection (a) constitutes an order for relief under this chapter.

''(c) LIABILITY.—The members of the board of directors (or body performing similar functions) of a covered financial corporation shall not be liable to shareholders, creditors or other parties in interest for—

''(1) a good faith filing of a case under this chapter; or

''(2) for any reasonable action taken, before or after the date on which a case is commenced under this chapter, in good faith in contemplation of or in connection with such a filing or a transfer under section 1405 or section 1406.

''(d) NOTICE TO COURT.—Counsel to the entity that may be a debtor shall provide, to the greatest extent practicable, sufficient confidential notice to the Director of the Administrative Office of the United States Courts and the chief judge of the court of appeals embracing the district in which the case is pending regarding the potential commencement of a case under this chapter without disclosing the identity of the potential debtor to allow the Director and chief judge to designate and ensure the ready availability of 1 of the bankruptcy judges designated under section 298(b)(1) of title 28 to be available to preside over the case.

''§ 1404. Regulators

''The Board, the Securities Exchange Commission, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation may raise and may appear and be heard on any issue in any case or proceeding under this chapter.

''§ 1405. Special transfer of property of the estate

''(a) IN GENERAL.—

''(1) TRANSFER.—On request of the trustee, and after notice and hearing not less than 24 hours after the order for relief, the court may order a transfer under this section of property of the estate, and the assignment of debt, executory contracts, unexpired leases, qualified financial contracts, and agreements of the debtor, to a bridge company. Except as provided under this section, the provisions of sections 363 and 365 shall apply to a transfer and assignment under this section.

''(2) PROPERTY OF ESTATE.—Upon the entry of an order approving a transfer under this section, any property transferred, and any debt, executory contract, unexpired leases, qualified financial contract, or agreement assigned under such order shall no longer be property of the estate.

''(b) NOTICE.—Unless the court orders otherwise, notice of a request for an order under subsection (a) shall consist of electronic or telephonic notice of not less than 24 hours to—

''(1) the holders of the 20 largest secured claims against the debtor;

''(2) the holders of the 20 largest unsecured claims against the debtor;

''(3) counterparties to any debt, executory contract, unexpired lease, qualified financial contract, or agreement requested to be transferred under this section;

''(4) the Board;

''(5) the Federal Deposit Insurance Corporation;

''(6) the Secretary of the Treasury;

''(7) the Comptroller of the Currency;

''(8) the Securities and Exchange Commission;

''(9) the United States trustee or bankruptcy administrator; and

''(10) each primary financial regulatory agency (as defined in section 2(12) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301(12))) with respect to any affiliate the equity securities of which are proposed to be transferred under this section.

''(c) DETERMINATION.—The court may not order a transfer under this section unless the court determines, based upon a preponderance of the evidence, that—

''(1) the transfer under this section is necessary to prevent serious adverse effects on financial stability in the United States;

''(2) the transfer does not provide for the assumption of any capital structure debt by the bridge company;

''(3) the transfer does not provide for the transfer to the bridge company of any property of the estate that is subject to a lien securing a debt, executory contract, unexpired lease, or agreement of the debtor unless—

''(A)(i) the bridge company assumes such debt, executory contract, unexpired lease, or agreement, including any claims arising in respect thereof that would not be allowed secured claims under section 506(a)(1), and after giving effect to such transfer, such property remains subject to the lien securing such debt, executory contract, unexpired lease, or agreement; and

''(ii) the court has determined that assumption of such debt, executory contract, unexpired lease, or agreement by the bridge company is in the best interest of the estate; or

''(B) such property is being transferred to the bridge company in accordance with the provisions of section 363;

''(4) the transfer does not provide for the assumption by the bridge company of any

debt, executory contract, unexpired lease, or agreement of the debtor secured by a lien on property in which the estate has an interest unless the transfer provides for such property to be transferred to the bridge company in accordance with paragraph (3)(A) of this subsection;

''(5) the transfer does not provide for the transfer of the equity of the debtor;

''(6) the debtor has demonstrated that the bridge company is not likely to fail to meet the obligations of any debt, executory contract, qualified financial contract, unexpired lease, or other agreement assumed and assigned to the bridge company;

''(7) the transfer provides for the transfer to a special trustee all of the equity securities in the bridge company and appointment of a special trustee in accordance with section 1406;

''(8) after giving effect to the transfer, adequate provision has been made for the payment of the fees, costs, and expenses of the estate and special trustee; and

''(9) the bridge company will have governing documents, and initial directors and senior officers, that are in the best interest of creditors and the estate.

''(d) REQUIREMENTS BEFORE TRANSFER.—Immediately before a transfer under this section, the bridge company that is the recipient of the transfer shall—

''(1) not have any property, debts, executory contracts, unexpired leases, qualified financial contracts, or agreements, other than any property acquired or debts, executory contracts, unexpired leases, qualified financial contracts, or agreements assumed when acting as a transferee of a transfer under this section; and

''(2) have equity securities that are property of the estate, which may be sold or distributed in accordance with this title.

''§ 1406. Special trustee

''(a) IN GENERAL.—

''(1) TRANSFER TO SPECIAL TRUSTEE.—An order approving a transfer under section 1405 shall require the trustee to transfer to a special trustee all of the equity securities in the bridge company that is the recipient of a transfer under section 1405 to hold in trust for the sole benefit of the estate subject to satisfaction of the special trustee's fees, costs, and expenses. The trust of which the special trustee is the trustee shall be a newly formed trust governed by a trust agreement approved by the court as in the best interests of the estate, and shall exist for the sole purpose of holding and administering, and shall be permitted to dispose of, the equity securities of the bridge company in accordance with the trust agreement.

''(2) APPOINTMENT OF SPECIAL TRUSTEE.—

''(A) IN GENERAL.—A special trustee shall be qualified and independent and shall be appointed by the court.

''(B) PROPOSAL BY TRUSTEE.—In connection with the hearing to approve a transfer under section 1405, the trustee may propose to the court a person to serve as special trustee, if the trustee confirms to the court that the Board has been consulted regarding the identity of the proposed special trustee and advises the court of the results of such consultation.

''(b) TRUST AGREEMENT.—The trust agreement governing a trust formed under subsection (a)(1) shall provide—

''(1) for the payment of the fees, costs, expenses, and indemnities of the special trustee from the assets of the debtor's estate;

''(2) that the special trustee provide—

''(A) quarterly reporting to the estate, which shall be filed with the court; and

''(B) information about the bridge company reasonably requested by a party in interest to prepare a disclosure statement for a plan providing for distribution of any securities of the bridge company if such information is necessary to prepare such disclosure statement;

''(3) that for as long as the equity securities of the bridge company are held by the trust, the special trustee shall file a notice with the court in connection with—

''(A) any change in a director or senior officer of the bridge company;

''(B) any modification to the governing documents of the bridge company; or

''(C) any material corporate action of the bridge company, including—

''(i) recapitalization;

''(ii) a material borrowing;

''(iii) termination of an intercompany debt or guarantee;

''(iv) a transfer of a substantial portion of the assets of the bridge company; or

''(v) the issuance or sale of any securities of the bridge company;

''(4) that any sale of any equity securities of the bridge company shall not be consummated until the special trustee consults with the Federal Deposit Insurance Corporation and the Board regarding such sale and discloses the results of such consultation with the court;

''(5) that, subject to reserves for payments permitted under paragraph (1) provided for in the trust agreement, the proceeds of the sale of any equity securities of the bridge company by the special trustee be held in trust for the benefit of or transferred to the estate;

''(6) the process and guidelines for the replacement of the special trustee; and

''(7) that the property held in trust by the special trustee is subject to distribution in accordance with subsection (c).

''(c) DISTRIBUTION OF ASSETS HELD IN TRUST.—

''(1) IN GENERAL.—The special trustee shall distribute the assets held in trust—

''(A) if the court confirms a plan in the case, in accordance with the plan on the effective date of the plan; or

''(B) if the case is converted to a case under chapter 7 under section 1410.

''(2) TERMINATION.—As soon as practicable after a final distribution under paragraph (1), the office of the special trustee shall terminate, except as may be necessary to wind up and conclude the business and financial affairs of the trust.

''(d) APPLICABILITY.—After a transfer to the special trustee under this section, the special trustee shall be subject only to applicable nonbankruptcy law, and the actions and conduct of the special trustee shall no longer be subject to approval by the court in the case under this chapter.

''§ 1407. Automatic stay; assumption

''(a) AUTOMATIC STAY.—

''(1) IN GENERAL.—A petition filed under section 1403 operates as a stay, applicable to all entities, of the acceleration, termination, or modification of any debt, contract, lease, or agreement of the kind described in paragraph (2), or of any right or obligation under any such debt, contract, lease, or agreement, solely because of—

''(A) a default by the debtor under any such debt, contract, lease, or agreement; or

''(B) a provision in such debt, contract, lease, or agreement, or in applicable nonbankruptcy law, that is conditioned on—

''(i) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(ii) the commencement of a case under this title concerning the debtor;

''(iii) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

''(iv) a credit rating agency rating, or absence or withdrawal of a credit rating agency rating of—

''(I) the debtor at any time after the commencement of the case;

''(II) an affiliate during the 48 hours after the commencement of the case;

''(III) the bridge company while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

''(aa) the bridge company; or

''(bb) an affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1406; or

''(IV) an affiliate while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

''(aa) the bridge company; or

''(bb) the affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1405.

''(2) DEBT, CONTRACT, LEASE, OR AGREEMENT.—A debt, contract, lease, or agreement described in this paragraph—

''(A) is—

''(i) any debt, executory contract, or unexpired lease of the debtor;

''(ii) any agreement under which the debtor issued or is obligated for debt;

''(iii) any debt, executory contract, or unexpired lease of an affiliate; and

''(iv) any agreement under which an affiliate issued or is obligated for debt; and

''(B) does not include capital structure debt or qualified financial contracts.

''(3) TERMINATION OF STAY.—A stay under this subsection terminates—

''(A) as to the debtor, upon the earliest of—

''(i) 48 hours after the commencement of the case;

''(ii) assumption of the debt, contract, lease, or agreement by the bridge company under an order authorizing a transfer under section 1405;

''(iii) a final order of the court denying the request for a transfer of the debt, contract, lease, or agreement under section 1405; or

''(iv) the time the case is dismissed; and

''(B) as to an affiliate, upon the earliest of—

''(i) 48 hours after the commencement of the case, if the court has not ordered a transfer under section 1405;

''(ii) the entry of an order authorizing a transfer under section 1405 in which the direct or indirect interests in the affiliate that are property of the estate are not transferred under section 1405;

''(iii) a final order of the court denying the request for a transfer under section 1405; or

''(iv) the time the case is dismissed.

''(4) APPLICABILITY.—Sections (d), (e), (f), and (g) of section 362 apply to a stay under this subsection.

''(b) ASSUMPTION BY BRIDGE COMPANY.—A debt, executory contract, unexpired lease of the debtor, or any other agreement described in subsection (a)(2), may be assumed by a bridge company in a transfer under section 1405 notwithstanding any provision in an agreement or in applicable nonbankruptcy law that—

''(1) prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or

''(2) accelerates, terminates, or modifies, or permits a party other than the debtor to accelerate, terminate, or modify, the debt, contract, lease, or agreement on account of—

''(A) the assignment of the debt, contract, lease, or agreement; or

''(B) a change in control of any party to the debt, contract, lease, or agreement.

''(c) NO ACCELERATION, TERMINATION, OR MODIFICATION OF AGREEMENTS OF DEBTOR.—

''(1) IN GENERAL.—A debt, contract, lease, or agreement of the kind described in subsection (a)(2) may not be accelerated, terminated, or modified, and any right or obligation under such debt, contract, lease, or agreement may not be accelerated, terminated, or modified, as to the bridge company solely because of a provision in the debt, contract, lease, or agreement or in applicable nonbankruptcy law—

''(A) of the kind described in subsection (a)(1)(B) as applied to the debtor;

''(B) that prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or

''(C) that accelerates, terminates, or modifies, or permits a party other than the debtor to accelerate, terminate, or modify, the debt, contract, lease or agreement, on account of—

''(i) the assignment of the debt, contract, lease, or agreement; or

''(ii) a change in control of any party to the debt, contract, lease, or agreement.

''(2) DEFAULT.—If there has been a default by the debtor under a provision other than the kind described in paragraph (1) in a debt, contract, lease, or agreement of the kind described in subsection (a)(2), the bridge company may assume such debt, contract, lease, or agreement only if the bridge company—

''(A) cures, or provides adequate assurance in connection with a transfer under section 1405 that the bridge company will promptly cure, the default;

''(B) compensates, or provides adequate assurance in connection with a transfer under section 1405 that the bridge company will promptly compensate, a party other than the debtor to the debt, contract, lease, or agreement, for any actual pecuniary loss to the party resulting from the default; and

''(C) provides adequate assurance in connection with a transfer under section 1405 of future performance under the debt, contract, lease, or agreement, as determined by the court under section 1405(c)(4).

''§ 1408. Treatment of qualified financial contracts and affiliate contracts

''(a) IN GENERAL.—Notwithstanding sections 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and 561, a petition filed under section 1403 operates as a stay, during the period specified in section 1407(a)(3)(A), applicable to all entities, of the exercise of a contractual right—

''(1) to cause the acceleration, termination, modification, or liquidation of a qualified financial contract of the debtor or an affiliate;

''(2) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a qualified financial contract of the debtor or an affiliate; or

''(3) under any security agreement or arrangement or other credit enhancement forming a part of or related to a qualified financial contract of the debtor or an affiliate.

''(b) PAYMENT AND DELIVERY OBLIGATIONS.—

''(1) IN GENERAL.—During the period specified in section 1407(a)(3)(A), the trustee or the affiliate shall perform all payment and delivery obligations under a qualified financial contract of the debtor or the affiliate, as the case may be, that become due after the commencement of the case. The stay provided under subsection (a) terminates as to a qualified financial contract of the debtor or an affiliate immediately upon the failure of the trustee or the affiliate, as the case may be, to perform any such obligation during such period.

''(2) FAILURE TO PERFORM.—Any failure by a counterparty to any qualified financial contract of the debtor or any affiliate to perform any payment or delivery obligation under such qualified financial contract, including during the pendency of the stay provided under subsection (a), shall constitute a breach of such qualified financial contract by the counterparty.

''(c) ASSIGNMENT OR ASSUMPTION.—Notwithstanding any provision of subsection 1407(b) or applicable nonbankruptcy law, subject to the court's approval, a qualified financial contract between an entity and the debtor may be assigned to or assumed by the bridge company in a transfer under section 1405 only if—

''(1) all qualified financial contracts between the entity and the debtor are assigned to and assumed by the bridge company in the transfer under section 1405;

''(2) all claims of the entity against the debtor under any qualified financial contract between the entity and the debtor (other than any claim that, under the terms of the qualified financial contract, is subordinated to the claims of general unsecured creditors) are assigned to and assumed by the bridge company;

''(3) all claims of the debtor against the entity under any qualified financial contract between the entity and the debtor are assigned to and assumed by the bridge company; and

''(4) all property securing or any other credit enhancement furnished by the debtor for any qualified financial contract described in paragraph (1) or any claim described in paragraph (2) or (3) under any qualified financial contract between the entity and the debtor is assigned to and assumed by the bridge company.

''(d) NO ACCELERATION, TERMINATION, OR MODIFICATION OF QUALIFIED FINANCIAL CONTRACTS.—Notwithstanding any provision of a qualified financial contract or of applicable nonbankruptcy law, a qualified financial contract of the debtor that is assumed by or assigned to the bridge company in a transfer under section 1405 may not be accelerated, terminated, modified, or liquidated after the entry of the order approving a transfer under section 1405, and any right or obligation under the qualified financial contract may not be accelerated, terminated, or modified, after the entry of the order approving a transfer under section 1405 solely because of a provision of the kind described in section 1407(c)(1), other than a provision of the kind described in section 1407(b) that occurs after property of the estate no longer includes a direct beneficial interest or an indirect beneficial interest through the special trustee, in more than 50 percent of the equity securities of the bridge company.

''(e) NO ACCELERATION, TERMINATION, MODIFICATION, OR LIQUIDATION OF AGREEMENTS OF AFFILIATES.—Notwithstanding any provision in any agreement or in applicable nonbankruptcy law, an agreement (including an executory contract, unexpired lease, qualified financial contract, or an agreement under which the affiliate issued or is obligated for debt) of an affiliate that is assumed by or assigned to the bridge company in a transfer under section 1405, and any right or obligation under such agreement, may not be accelerated, terminated, modified, or liquidated after the entry of the order approving a transfer under section 1405 solely because of a provision of the kind described in section 1407(c)(1), other than a provision of the kind described in section 1407(b) that occurs after the bridge company is no longer a direct or indirect beneficial holder of more than 50 percent of the equity securities of the affiliate at any time after the commencement of the case if—

''(1) all direct or indirect interests in the affiliate that are property of the estate are transferred under section 1405 to the bridge company within the period specified in subsection (a);

''(2) the bridge company assumes—

''(A) any guarantee or other credit enhancement issued by the debtor relating to the agreement of the affiliate; and

''(B) any right of setoff, netting arrangement, or debt of the debtor that directly arises out of or directly relates to the guarantee or credit enhancement; and

''(3) any property of the estate that directly serves as collateral for the guarantee or credit enhancement is transferred to the bridge company.

''§ 1409. Licenses, permits, and registrations

''(a) IN GENERAL.—Notwithstanding any otherwise applicable nonbankruptcy law, if a request is made under section 1405 for a transfer of property of the estate, any Federal, State, or local license, permit, or registration that the debtor or an affiliate had immediately before the commencement of the case and that is proposed to be transferred under section 1405 may not be accelerated, terminated, or modified at any time after the request solely on account of—

''(1) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(2) the commencement of a case under this title concerning the debtor;

''(3) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

''(4) a transfer under section 1405.

''(b) VALIDITY OF CERTAIN LICENSES, PERMITS, AND REGISTRATIONS.—Notwithstanding any otherwise applicable nonbankruptcy law, any Federal, State, or local license, permit, or registration that the debtor had immediately before the commencement of the case that is included in a transfer under section 1405 shall be valid and all rights and obligations thereunder shall vest in the bridge company.

''§ 1410. Conversion to chapter 7

''Notwithstanding section 109(b), a court may convert a case under this chapter to a case under chapter 7 if—

''(1) a transfer described in section 1405 has taken place;

''(2) the court has ordered the appointment of a special trustee under section 1406; and

''(3) the court finds, after providing notice and conducting a hearing, that the conversion of the case is in the best interests of the creditors and the estate.

''§ 1411. Exemption from securities laws

''For purposes of section 1145, a security of the bridge company shall be deemed to be a security of a successor to the debtor under a plan if the court approves the disclosure statement for the plan as providing adequate information (as defined in section 1125(a)) about the bridge company and the security.

''§ 1412. Inapplicability of certain avoiding powers

''A transfer made or an obligation incurred by the debtor to an affiliate prior to or after the commencement of the case, including any obligation released by the debtor or the estate to or for the benefit of an affiliate, in contemplation of or in connection with a transfer under section 1405, is not avoidable under section 544, 547, 548(a)(1)(B), or 549, or under any similar nonbankruptcy law.

''§ 1413. Consideration of financial stability

''The court may consider the effect that any decision in connection with this chapter may have on financial stability in the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''14. Liquidation, reorganization, or recapitalization of a covered financial corporation ..... 1401.''.

SEC. 4. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) AMENDMENT TO CHAPTER 13.—Chapter 13 of title 28, United States Code, is amended by adding at the end the following:

''§ 298. Judge for a case under chapter 14 of title 11

''(a) Notwithstanding section 295, the Chief Justice of the United States shall designate not fewer than 10 bankruptcy judges to be available to hear a case under chapter 14 of title 11. Bankruptcy judges may request to be considered by the Chief Justice of the United States for such designation.

''(b)(1) Notwithstanding section 155, a case under chapter 14 of title 11 shall be heard under section 157 by a bankruptcy judge designated under subsection (a), who shall be assigned to hear such case by the chief judge of the court of appeals for the circuit embracing the district in which the case is pending.

''(2) If the bankruptcy judge assigned to hear a case under paragraph (1) is not assigned to the district in which the case is pending, the bankruptcy judge shall be temporarily assigned to the district. To the greatest extent practicable, the approvals required under section 155(a) shall be obtained.

''(c) A case under chapter 14 of title 11, and all proceedings in the case, shall take place in the district in which the case is pending.''.

(b) AMENDMENT TO SECTION 1334.—Section 1334 of title 28, United States Code, is amended by adding at the end the following:

''(f) This section does not grant jurisdiction to the district court after a transfer pursuant to an order under section 1405 of title 11 of any proceeding related to a special trustee appointed, or to a bridge company formed to accomplish a transfer, under section 1405 of title 11.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 28, United States Code, is amended by adding at the end the following:

''298. Judge for a case under chapter 14 of title 11.''.

SEC. 5. REPEAL OF TITLE II OF DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.

(a) IN GENERAL.—Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is repealed and any Federal law amended by such title shall, on and after the date of enactment of this Act, be effective as if title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act had not been enacted.

(b) CONFORMING AMENDMENTS.—

(1) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.—The Dodd-Frank Wall Street Reform and Consumer Protection Act is amended—

(A) in the table of contents, by striking all items relating to title II;

(B) in section 165(d)(6), by striking '', a receiver appointed under title II,'';

(C) in section 716(g), by striking ''or a covered financial company under title II'';

(D) in section 1105(e)(5), by striking ''amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(5)(E)'' and inserting ''issuances of such securities under that chapter 31 for such purpose shall by treated as public debt transactions of the United States, and the proceeds from the sale of any obligations acquired by the Secretary under this paragraph shall be deposited into the Treasury of the United States as miscellaneous receipts''; and

(E) in section 1106(c)(2)(A)—

(i) in clause (i), by inserting '', other than a covered financial corporation (as defined in section 101(9A) of title 11, United States Code),'' after ''company''; and

(ii) in clause (ii), by inserting '', other than a covered financial corporation (as defined in section 101(9A) of title 11, United States Code),'' after ''company''.

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 10(b)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)(A)) is amended by striking '', or of such nonbank financial company supervised by the Board of Governors or bank holding company described in section 165(a) of the Financial Stability Act of 2010, for the purpose of implementing its authority to provide for orderly liquidation of any such company under title II of that Act''.

(3) FEDERAL RESERVE ACT.—Section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)) is amended—

(A) in subparagraph (B)—

(i) in clause (ii), by striking '', resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or'' and inserting ''or is subject to resolution under''; and

(ii) in clause (iii), by striking '', resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or'' and inserting ''or resolution under''; and

(B) by striking subparagraph (E).

SEC. 6. LIMITATION ON ADVANCES FROM A FEDERAL RESERVE BANK.

Section 10B(b) of the Federal Reserve Act (12 U.S.C. 347b(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6);

(2) by inserting after paragraph (4) the following:

''(5) LIMITATION ON ADVANCES TO COVERED FINANCIAL CORPORATIONS AND BRIDGE COMPANIES.—Notwithstanding paragraph (2), a Federal Reserve bank may not make advances to any covered financial corporation that is a debtor in a pending case under chapter 14 of title 11, United States Code, or to a bridge company, for the purpose of providing debtor-in-possession financing pursuant to section 364 of such title.''; and

(3) in paragraph (6), as redesignated—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively; and

(B) by inserting after subparagraph (A) the following:

''(B) BRIDGE COMPANY.—The term 'bridge company' has the same meaning as in section 1402(2) of title 11, United States Code.

''(C) COVERED FINANCIAL CORPORATION.—The term 'covered financial corporation' has the same meaning as in section 101(9A) of title 11, United States Code.''.

SEC. 7. LIMITATION ON USE OF FEDERAL FUNDS.

Notwithstanding any other provision of law, no funds appropriated to the Federal Government may be paid to a covered financial corporation (as defined in section 101(9A) of title 11, United States Code, as amended by section 2(a) of this Act), or to a creditor of any covered financial corporation, to satisfy a claim in a case under chapter 14 of title 11, United States Code.

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

S. 1841. A bill to amend title 11, United States Code, to provide for the liquidation, reorganization, or recapitalization of a covered financial corporation, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. 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. 1841

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 ''Taxpayer Protection and Responsible Resolution Act''.

SEC. 2. GENERAL PROVISIONS RELATING TO COVERED FINANCIAL CORPORATIONS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting the following after paragraph (9):

''(9A) The term 'covered financial corporation' means any corporation incorporated or organized under any Federal or State law, other than a stockbroker, a commodity broker, or an entity of the kind specified in paragraph (2) or (3) of section 109(b), that is—

''(A) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)); or

''(B) a corporation that exists for the primary purpose of owning, controlling, and financing subsidiaries that are predominantly engaged in activities that the Board of Governors of the Federal Reserve System has determined are financial in nature or incidental to such financial activity for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).''.

(b) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''section 1161'' and inserting ''sections 1161 and 1401''; and

(B) by striking ''or 13'' and inserting ''13, or 14'';

(2) in subsection (g), by inserting ''subsection (m) and'' before ''section''; and

(3) by adding at the end the following:

''(l) Chapter 14 of this title applies only in a case under such chapter.

''(m) Except as otherwise provided in chapter 14 of this title, chapter 11 of this title applies in a case under chapter 14 of this title.''.

(c) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''and'';

(B) by striking ''or a'' and inserting ''or''; and

(C) by inserting '', or a covered financial corporation'' after ''Federal Deposit Insurance Corporation Improvement Act of 1991''; and

(2) by adding at the end the following:

''(i) Only a covered financial corporation may be a debtor in a case under chapter 14.''.

(d) DISTRIBUTION OF PROPERTY OF THE ESTATE.—Section 726(a)(1) of title 11, United States Code, is amended by inserting ''in payment of any unpaid fees, costs, and expenses of a special trustee appointed under section 1406, and then'' after ''first,''.

(e) CONFIRMATION OF PLAN.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(17) In a case under chapter 14, all payable fees, costs, and expenses of the special trustee have been paid or the plan provides for the payment of all such fees, costs, and expenses, as of the effective date of the plan.

''(18) In a case under chapter 14, confirmation of the plan is not likely to cause serious adverse effects on financial stability in the United States.''.

(f) QUALIFICATION OF TRUSTEE.—Section 322(b)(2) of title 11, United States Code, is amended by striking ''The'' and inserting ''In cases under chapter 14, the United States trustee shall recommend to the court, and in all other cases, the''.

SEC. 3. LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF A COVERED FINANCIAL CORPORATION.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting before chapter 15 the following:

''CHAPTER 14—LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF A COVERED FINANCIAL CORPORATION

''§ 1401. Inapplicability of other sections

''Sections 303 and 321(c) do not apply in a case under this chapter.

''§ 1402. Definitions for this chapter

''In this chapter, the following definitions shall apply:

''(1) The term 'Board' means the Board of Governors of the Federal Reserve System.

''(2) The term 'bridge company' means a newly formed corporation to which property of the estate may be transferred under section 1405(a) and the equity securities of which may be transferred to a special trustee under section 1406(a).

''(3) The term 'capital structure debt' means all unsecured debt of the debtor for borrowed money for which the debtor is the primary obligor, other than a qualified financial contract and other than debt secured by a lien on property of the estate that is to be transferred to a bridge company pursuant to an order of the court under section 1405(a).

''(4) The term 'contractual right' means a contractual right of a kind described in section 555, 556, 559, 560, or 561.

''(5) The term 'qualified financial contract' means any contract of a kind defined in paragraph (25), (38A), (47), or (53B) of section 101, section 741(7), or paragraph (4), (5), (11), or (13) of section 761.

''(6) The term 'special trustee' means a trustee appointed under section 1406(a)(2)(A).

''(7) The term 'trustee' means a person who is—

''(A) appointed or elected under section 1104; and

''(B) qualified under section 322 to serve as trustee in the case or, in the absence of such person, the debtor in possession.

''§ 1403. Commencement of a case concerning a covered financial corporation

''(a) IN GENERAL.—A case under this chapter may be commenced by the filing of a petition with the court by an entity that may be a debtor under section 301 if the entity states to the best of its knowledge, under penalty of perjury, in the petition that the entity is a covered financial corporation.

''(b) ORDER FOR RELIEF.—The commencement of a case under subsection (a) constitutes an order for relief under this chapter.

''(c) LIABILITY.—The members of the board of directors (or body performing similar functions) of a covered financial corporation shall not be liable to shareholders, creditors or other parties in interest for—

''(1) a good faith filing of a case under this chapter; or

''(2) for any reasonable action taken, before or after the date on which a case is commenced under this chapter, in good faith in contemplation of or in connection with such a filing or a transfer under section 1405 or section 1406.

''(d) NOTICE TO COURT.—Counsel to the entity that may be a debtor shall provide, to the greatest extent practicable, sufficient confidential notice to the Director of the Administrative Office of the United States Courts and the chief judge of the court of appeals embracing the district in which the case is pending regarding the potential commencement of a case under this chapter without disclosing the identity of the potential debtor to allow the Director and chief judge to designate and ensure the ready availability of 1 of the bankruptcy judges designated under section 298(b)(1) of title 28 to be available to preside over the case.

''§ 1404. Regulators

''The Board, the Securities Exchange Commission, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation may raise and may appear and be heard on any issue in any case or proceeding under this chapter.

''§ 1405. Special transfer of property of the estate

''(a) IN GENERAL.—

''(1) TRANSFER.—On request of the trustee, and after notice and hearing not less than 24 hours after the order for relief, the court may order a transfer under this section of property of the estate, and the assignment of debt, executory contracts, unexpired leases, qualified financial contracts, and agreements of the debtor, to a bridge company. Except as provided under this section, the provisions of sections 363 and 365 shall apply to a transfer and assignment under this section.

''(2) PROPERTY OF ESTATE.—Upon the entry of an order approving a transfer under this section, any property transferred, and any debt, executory contract, unexpired leases, qualified financial contract, or agreement assigned under such order shall no longer be property of the estate.

''(b) NOTICE.—Unless the court orders otherwise, notice of a request for an order under subsection (a) shall consist of electronic or telephonic notice of not less than 24 hours to—

''(1) the holders of the 20 largest secured claims against the debtor;

''(2) the holders of the 20 largest unsecured claims against the debtor;

''(3) counterparties to any debt, executory contract, unexpired lease, qualified financial contract, or agreement requested to be transferred under this section;

''(4) the Board;

''(5) the Federal Deposit Insurance Corporation;

''(6) the Secretary of the Treasury;

''(7) the Comptroller of the Currency;

''(8) the Securities and Exchange Commission;

''(9) the United States trustee or bankruptcy administrator; and

''(10) each primary financial regulatory agency (as defined in section 2(12) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301(12))) with respect to any affiliate the equity securities of which are proposed to be transferred under this section.

''(c) DETERMINATION.—The court may not order a transfer under this section unless the court determines, based upon a preponderance of the evidence, that—

''(1) the transfer under this section is necessary to prevent serious adverse effects on financial stability in the United States;

''(2) the transfer does not provide for the assumption of any capital structure debt by the bridge company;

''(3) the transfer does not provide for the transfer to the bridge company of any property of the estate that is subject to a lien securing a debt, executory contract, unexpired lease, or agreement of the debtor unless—

''(A)(i) the bridge company assumes such debt, executory contract, unexpired lease, or agreement, including any claims arising in respect thereof that would not be allowed secured claims under section 506(a)(1), and after giving effect to such transfer, such property remains subject to the lien securing such debt, executory contract, unexpired lease, or agreement; and

''(ii) the court has determined that assumption of such debt, executory contract, unexpired lease, or agreement by the bridge company is in the best interest of the estate; or

''(B) such property is being transferred to the bridge company in accordance with the provisions of section 363;

''(4) the transfer does not provide for the assumption by the bridge company of any debt, executory contract, unexpired lease, or agreement of the debtor secured by a lien on property in which the estate has an interest unless the transfer provides for such property to be transferred to the bridge company in accordance with paragraph (3)(A) of this subsection;

''(5) the transfer does not provide for the transfer of the equity of the debtor;

''(6) the debtor has demonstrated that the bridge company is not likely to fail to meet the obligations of any debt, executory contract, qualified financial contract, unexpired lease, or other agreement assumed and assigned to the bridge company;

''(7) the transfer provides for the transfer to a special trustee all of the equity securities in the bridge company and appointment of a special trustee in accordance with section 1406;

''(8) after giving effect to the transfer, adequate provision has been made for the payment of the fees, costs, and expenses of the estate and special trustee; and

''(9) the bridge company will have governing documents, and initial directors and senior officers, that are in the best interest of creditors and the estate.

''(d) REQUIREMENTS BEFORE TRANSFER.—Immediately before a transfer under this section, the bridge company that is the recipient of the transfer shall—

''(1) not have any property, debts, executory contracts, unexpired leases, qualified financial contracts, or agreements, other than any property acquired or debts, executory contracts, unexpired leases, qualified financial contracts, or agreements assumed when acting as a transferee of a transfer under this section; and

''(2) have equity securities that are property of the estate, which may be sold or distributed in accordance with this title.

''§ 1406. Special trustee

''(a) IN GENERAL.—

''(1) TRANSFER TO SPECIAL TRUSTEE.—An order approving a transfer under section 1405 shall require the trustee to transfer to a special trustee all of the equity securities in the bridge company that is the recipient of a transfer under section 1405 to hold in trust for the sole benefit of the estate subject to satisfaction of the special trustee's fees, costs, and expenses. The trust of which the special trustee is the trustee shall be a newly formed trust governed by a trust agreement approved by the court as in the best interests of the estate, and shall exist for the sole purpose of holding and administering, and shall be permitted to dispose of, the equity securities of the bridge company in accordance with the trust agreement.

''(2) APPOINTMENT OF SPECIAL TRUSTEE.—

''(A) IN GENERAL.—A special trustee shall be qualified and independent and shall be appointed by the court.

''(B) PROPOSAL BY TRUSTEE.—In connection with the hearing to approve a transfer under section 1405, the trustee may propose to the court a person to serve as special trustee, if the trustee confirms to the court that the Board has been consulted regarding the identity of the proposed special trustee and advises the court of the results of such consultation.

''(b) TRUST AGREEMENT.—The trust agreement governing a trust formed under subsection (a)(1) shall provide—

''(1) for the payment of the fees, costs, expenses, and indemnities of the special trustee from the assets of the debtor's estate;

''(2) that the special trustee provide—

''(A) quarterly reporting to the estate, which shall be filed with the court; and

''(B) information about the bridge company reasonably requested by a party in interest to prepare a disclosure statement for a plan providing for distribution of any securities of the bridge company if such information is necessary to prepare such disclosure statement;

''(3) that for as long as the equity securities of the bridge company are held by the trust, the special trustee shall file a notice with the court in connection with—

''(A) any change in a director or senior officer of the bridge company;

''(B) any modification to the governing documents of the bridge company; or

''(C) any material corporate action of the bridge company, including—

''(i) recapitalization;

''(ii) a material borrowing;

''(iii) termination of an intercompany debt or guarantee;

''(iv) a transfer of a substantial portion of the assets of the bridge company; or

''(v) the issuance or sale of any securities of the bridge company;

''(4) that any sale of any equity securities of the bridge company shall not be consummated until the special trustee consults with the Federal Deposit Insurance Corporation and the Board regarding such sale and discloses the results of such consultation with the court;

''(5) that, subject to reserves for payments permitted under paragraph (1) provided for in the trust agreement, the proceeds of the sale of any equity securities of the bridge company by the special trustee be held in trust for the benefit of or transferred to the estate;

''(6) the process and guidelines for the replacement of the special trustee; and

''(7) that the property held in trust by the special trustee is subject to distribution in accordance with subsection (c).

''(c) DISTRIBUTION OF ASSETS HELD IN TRUST.—

''(1) IN GENERAL.—The special trustee shall distribute the assets held in trust—

''(A) if the court confirms a plan in the case, in accordance with the plan on the effective date of the plan; or

''(B) if the case is converted to a case under chapter 7 under section 1410.

''(2) TERMINATION.—As soon as practicable after a final distribution under paragraph (1), the office of the special trustee shall terminate, except as may be necessary to wind up and conclude the business and financial affairs of the trust.

''(d) APPLICABILITY.—After a transfer to the special trustee under this section, the special trustee shall be subject only to applicable nonbankruptcy law, and the actions and conduct of the special trustee shall no longer be subject to approval by the court in the case under this chapter.

''§ 1407. Automatic stay; assumption

''(a) AUTOMATIC STAY.—

''(1) IN GENERAL.—A petition filed under section 1403 operates as a stay, applicable to all entities, of the acceleration, termination, or modification of any debt, contract, lease, or agreement of the kind described in paragraph (2), or of any right or obligation under any such debt, contract, lease, or agreement, solely because of—

''(A) a default by the debtor under any such debt, contract, lease, or agreement; or

''(B) a provision in such debt, contract, lease, or agreement, or in applicable nonbankruptcy law, that is conditioned on—

''(i) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(ii) the commencement of a case under this title concerning the debtor;

''(iii) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

''(iv) a credit rating agency rating, or absence or withdrawal of a credit rating agency rating of—

''(I) the debtor at any time after the commencement of the case;

''(II) an affiliate during the 48 hours after the commencement of the case;

''(III) the bridge company while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

''(aa) the bridge company; or

''(bb) an affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1406; or

''(IV) an affiliate while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

''(aa) the bridge company; or

''(bb) the affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1405.

''(2) DEBT, CONTRACT, LEASE, OR AGREEMENT.—A debt, contract, lease, or agreement described in this paragraph—

''(A) is—

''(i) any debt, executory contract, or unexpired lease of the debtor;

''(ii) any agreement under which the debtor issued or is obligated for debt;

''(iii) any debt, executory contract, or unexpired lease of an affiliate; and

''(iv) any agreement under which an affiliate issued or is obligated for debt; and

''(B) does not include capital structure debt or qualified financial contracts.

''(3) TERMINATION OF STAY.—A stay under this subsection terminates—

''(A) as to the debtor, upon the earliest of—

''(i) 48 hours after the commencement of the case;

''(ii) assumption of the debt, contract, lease, or agreement by the bridge company under an order authorizing a transfer under section 1405;

''(iii) a final order of the court denying the request for a transfer of the debt, contract, lease, or agreement under section 1405; or

''(iv) the time the case is dismissed; and

''(B) as to an affiliate, upon the earliest of—

''(i) 48 hours after the commencement of the case, if the court has not ordered a transfer under section 1405;

''(ii) the entry of an order authorizing a transfer under section 1405 in which the direct or indirect interests in the affiliate that are property of the estate are not transferred under section 1405;

''(iii) a final order of the court denying the request for a transfer under section 1405; or

''(iv) the time the case is dismissed.

''(4) APPLICABILITY.—Sections (d), (e), (f), and (g) of section 362 apply to a stay under this subsection.

''(b) ASSUMPTION BY BRIDGE COMPANY.—A debt, executory contract, unexpired lease of the debtor, or any other agreement described in subsection (a)(2), may be assumed by a bridge company in a transfer under section 1405 notwithstanding any provision in an agreement or in applicable nonbankruptcy law that—

''(1) prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or

''(2) accelerates, terminates, or modifies, or permits a party other than the debtor to accelerate, terminate, or modify, the debt, contract, lease, or agreement on account of—

''(A) the assignment of the debt, contract, lease, or agreement; or

''(B) a change in control of any party to the debt, contract, lease, or agreement.

''(c) NO ACCELERATION, TERMINATION, OR MODIFICATION OF AGREEMENTS OF DEBTOR.—

''(1) IN GENERAL.—A debt, contract, lease, or agreement of the kind described in subsection (a)(2) may not be accelerated, terminated, or modified, and any right or obligation under such debt, contract, lease, or agreement may not be accelerated, terminated, or modified, as to the bridge company

solely because of a provision in the debt, contract, lease, or agreement or in applicable nonbankruptcy law—

''(A) of the kind described in subsection (a)(1)(B) as applied to the debtor;

''(B) that prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or

''(C) that accelerates, terminates, or modifies, or permits a party other than the debtor to accelerate, terminate, or modify, the debt, contract, lease or agreement, on account of—

''(i) the assignment of the debt, contract, lease, or agreement; or

''(ii) a change in control of any party to the debt, contract, lease, or agreement.

''(2) DEFAULT.—If there has been a default by the debtor under a provision other than the kind described in paragraph (1) in a debt, contract, lease, or agreement of the kind described in subsection (a)(2), the bridge company may assume such debt, contract, lease, or agreement only if the bridge company—

''(A) cures, or provides adequate assurance in connection with a transfer under section 1405 that the bridge company will promptly cure, the default;

''(B) compensates, or provides adequate assurance in connection with a transfer under section 1405 that the bridge company will promptly compensate, a party other than the debtor to the debt, contract, lease, or agreement, for any actual pecuniary loss to the party resulting from the default; and

''(C) provides adequate assurance in connection with a transfer under section 1405 of future performance under the debt, contract, lease, or agreement, as determined by the court under section 1405(c)(4).

''§ 1408. Treatment of qualified financial contracts and affiliate contracts

''(a) IN GENERAL.—Notwithstanding sections 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and 561, a petition filed under section 1403 operates as a stay, during the period specified in section 1407(a)(3)(A), applicable to all entities, of the exercise of a contractual right—

''(1) to cause the acceleration, termination, modification, or liquidation of a qualified financial contract of the debtor or an affiliate;

''(2) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a qualified financial contract of the debtor or an affiliate; or

''(3) under any security agreement or arrangement or other credit enhancement forming a part of or related to a qualified financial contract of the debtor or an affiliate.

''(b) PAYMENT AND DELIVERY OBLIGATIONS.—

''(1) IN GENERAL.—During the period specified in section 1407(a)(3)(A), the trustee or the affiliate shall perform all payment and delivery obligations under a qualified financial contract of the debtor or the affiliate, as the case may be, that become due after the commencement of the case. The stay provided under subsection (a) terminates as to a qualified financial contract of the debtor or an affiliate immediately upon the failure of the trustee or the affiliate, as the case may be, to perform any such obligation during such period.

''(2) FAILURE TO PERFORM.—Any failure by a counterparty to any qualified financial contract of the debtor or any affiliate to perform any payment or delivery obligation under such qualified financial contract, including during the pendency of the stay provided under subsection (a), shall constitute a breach of such qualified financial contract by the counterparty.

''(c) ASSIGNMENT OR ASSUMPTION.—Notwithstanding any provision of subsection 1407(b) or applicable nonbankruptcy law, subject to the court's approval, a qualified financial contract between an entity and the debtor may be assigned to or assumed by the bridge company in a transfer under section 1405 only if—

''(1) all qualified financial contracts between the entity and the debtor are assigned to and assumed by the bridge company in the transfer under section 1405;

''(2) all claims of the entity against the debtor under any qualified financial contract between the entity and the debtor (other than any claim that, under the terms of the qualified financial contract, is subordinated to the claims of general unsecured creditors) are assigned to and assumed by the bridge company;

''(3) all claims of the debtor against the entity under any qualified financial contract between the entity and the debtor are assigned to and assumed by the bridge company; and

''(4) all property securing or any other credit enhancement furnished by the debtor for any qualified financial contract described in paragraph (1) or any claim described in paragraph (2) or (3) under any qualified financial contract between the entity and the debtor is assigned to and assumed by the bridge company.

''(d) NO ACCELERATION, TERMINATION, OR MODIFICATION OF QUALIFIED FINANCIAL CONTRACTS.—Notwithstanding any provision of a qualified financial contract or of applicable nonbankruptcy law, a qualified financial contract of the debtor that is assumed by or assigned to the bridge company in a transfer under section 1405 may not be accelerated, terminated, modified, or liquidated after the entry of the order approving a transfer under section 1405, and any right or obligation under the qualified financial contract may not be accelerated, terminated, or modified, after the entry of the order approving a transfer under section 1405 solely because of a provision of the kind described in section 1407(c)(1), other than a provision of the kind described in section 1407(b) that occurs after property of the estate no longer includes a direct beneficial interest or an indirect beneficial interest through the special trustee, in more than 50 percent of the equity securities of the bridge company.

''(e) NO ACCELERATION, TERMINATION, MODIFICATION, OR LIQUIDATION OF AGREEMENTS OF AFFILIATES.—Notwithstanding any provision in any agreement or in applicable nonbankruptcy law, an agreement (including an executory contract, unexpired lease, qualified financial contract, or an agreement under which the affiliate issued or is obligated for debt) of an affiliate that is assumed by or assigned to the bridge company in a transfer under section 1405, and any right or obligation under such agreement, may not be accelerated, terminated, modified, or liquidated after the entry of the order approving a transfer under section 1405 solely because of a provision of the kind described in section 1407(c)(1), other than a provision of the kind described in section 1407(b) that occurs after the bridge company is no longer a direct or indirect beneficial holder of more than 50 percent of the equity securities of the affiliate at any time after the commencement of the case if—

''(1) all direct or indirect interests in the affiliate that are property of the estate are transferred under section 1405 to the bridge company within the period specified in subsection (a);

''(2) the bridge company assumes—

''(A) any guarantee or other credit enhancement issued by the debtor relating to the agreement of the affiliate; and

''(B) any right of setoff, netting arrangement, or debt of the debtor that directly arises out of or directly relates to the guarantee or credit enhancement; and

''(3) any property of the estate that directly serves as collateral for the guarantee or credit enhancement is transferred to the bridge company.

''§ 1409. Licenses, permits, and registrations

''(a) IN GENERAL.—Notwithstanding any otherwise applicable nonbankruptcy law, if a request is made under section 1405 for a transfer of property of the estate, any Federal, State, or local license, permit, or registration that the debtor or an affiliate had immediately before the commencement of the case and that is proposed to be transferred under section 1405 may not be accelerated, terminated, or modified at any time after the request solely on account of—

''(1) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(2) the commencement of a case under this title concerning the debtor;

''(3) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

''(4) a transfer under section 1405.

''(b) VALIDITY OF CERTAIN LICENSES, PERMITS, AND REGISTRATIONS.—Notwithstanding any otherwise applicable nonbankruptcy law, any Federal, State, or local license, permit, or registration that the debtor had immediately before the commencement of the case that is included in a transfer under section 1405 shall be valid and all rights and obligations thereunder shall vest in the bridge company.

''§ 1410. Conversion to chapter 7

''Notwithstanding section 109(b), a court may convert a case under this chapter to a case under chapter 7 if—

''(1) a transfer described in section 1405 has taken place;

''(2) the court has ordered the appointment of a special trustee under section 1406; and

''(3) the court finds, after providing notice and conducting a hearing, that the conversion of the case is in the best interests of the creditors and the estate.

''§ 1411. Exemption from securities laws

''For purposes of section 1145, a security of the bridge company shall be deemed to be a security of a successor to the debtor under a plan if the court approves the disclosure statement for the plan as providing adequate information (as defined in section 1125(a)) about the bridge company and the security.

''§ 1412. Inapplicability of certain avoiding powers

''A transfer made or an obligation incurred by the debtor to an affiliate prior to or after the commencement of the case, including any obligation released by the debtor or the estate to or for the benefit of an affiliate, in contemplation of or in connection with a transfer under section 1405, is not avoidable under section 544, 547, 548(a)(1)(B), or 549, or under any similar nonbankruptcy law.

''§ 1413. Consideration of financial stability

''The court may consider the effect that any decision in connection with this chapter may have on financial stability in the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''14. Liquidation, reorganization, or recapitalization of a covered financial corporation ..... 1401.''.

SEC. 4. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) AMENDMENT TO CHAPTER 13.—Chapter 13 of title 28, United States Code, is amended by adding at the end the following:

''§ 298. Judge for a case under chapter 14 of title 11

''(a) Notwithstanding section 295, the Chief Justice of the United States shall designate not fewer than 10 bankruptcy judges to be available to hear a case under chapter 14 of title 11. Bankruptcy judges may request to be considered by the Chief Justice of the United States for such designation.

''(b)(1) Notwithstanding section 155, a case under chapter 14 of title 11 shall be heard under section 157 by a bankruptcy judge designated under subsection (a), who shall be assigned to hear such case by the chief judge of the court of appeals for the circuit embracing the district in which the case is pending.

''(2) If the bankruptcy judge assigned to hear a case under paragraph (1) is not assigned to the district in which the case is pending, the bankruptcy judge shall be temporarily assigned to the district. To the greatest extent practicable, the approvals required under section 155(a) shall be obtained.

''(c) A case under chapter 14 of title 11, and all proceedings in the case, shall take place in the district in which the case is pending.''.

(b) AMENDMENT TO SECTION 1334.—Section 1334 of title 28, United States Code, is amended by adding at the end the following:

''(f) This section does not grant jurisdiction to the district court after a transfer pursuant to an order under section 1405 of title 11 of any proceeding related to a special trustee appointed, or to a bridge company formed to accomplish a transfer, under section 1405 of title 11.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 28, United States Code, is amended by adding at the end the following:

''298. Judge for a case under chapter 14 of title 11.''.

SEC. 5. LIMITATION ON USE OF FEDERAL FUNDS.

Notwithstanding any other provision of law, no funds appropriated to the Federal Government may be paid to a covered financial corporation (as defined in section 101(9A) of title 11, United States Code, as amended by section 2(a) of this Act), or to a creditor of any covered financial corporation, to satisfy a claim in a case under chapter 14 of title 11, United States Code.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2268. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 22, to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of determining the employers to which the employer mandate applies under the Patient Protection and Affordable Care Act; which was ordered to lie on the table.

SA 2269. Mr. CRUZ submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2270. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2271. Mr. MORAN (for himself, Mr. DONNELLY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2272. Mr. TESTER submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2273. Mrs. FISCHER (for herself and Mr. BLUNT) submitted an amendment intended to be proposed by her to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2274. Mr. BLUNT (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2275. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2276. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2277. Mr. MORAN (for himself, Mr. DONNELLY, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2278. Mr. COTTON submitted an amendment intended to be proposed to amendment SA 2266 submitted by Mr. MCCONNELL and intended to be proposed to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2279. Mrs. FEINSTEIN (for herself and Mr. WICKER) submitted an amendment intended to be proposed by her to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2280. Mr. LEE submitted an amendment intended to be proposed to amendment SA 2266 submitted by Mr. MCCONNELL and intended to be proposed to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2281. Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2282. Mr. LEE submitted an amendment intended to be proposed to amendment SA 2266 submitted by Mr. MCCONNELL and intended to be proposed to the bill H.R. 22, supra; which was ordered to lie on the table.

SA 2283. Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 22, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2268. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 22, to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of determining the employers to which the employer mandate applies under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION.

Notwithstanding any other provision of law, no Federal funds may be made available to Planned Parenthood Federation of America, or to any of its affiliates.

SA 2269. Mr. CRUZ submitted an amendment intended to be proposed by him to the bill H.R. 22, to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of determining the employers to which the employer mandate applies under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON FEDERAL FUNDING OF CERTAIN ENTITIES.

Notwithstanding any other provision of law, no Federal funds shall be made available to any entity that—

(1) is the target of an investigation by an agency of the Federal government; and

(2) performs, or provides any funds to any other entity that performs, an abortion unless in the reasonable medical judgment of the physician involved, the abortion is necessary to save the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering condition caused by or arising from the pregnancy itself, but not including psychological or emotional conditions.

SA 2270. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 22, to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of determining the employers to which the employer mandate applies under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end of division F, add the following:

TITLE LXII—ADDITIONAL PROVISIONS

SEC. 62001. REPEAL OF DUPLICATIVE INSPECTION AND GRADING PROGRAM.

(a) FOOD, CONSERVATION, AND ENERGY ACT OF 2008.—Effective June 18, 2008, section 11016 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2130) is repealed.

(b) AGRICULTURAL ACT OF 2014.—Effective February 7, 2014, section 12106 of the Agricultural Act of 2014 (Public Law 113–79; 128 Stat. 981) is repealed.

(c) APPLICATION.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) shall be applied and administered as if the provisions of law repealed by this section had not been enacted.

SA 2271. Mr. MORAN (for himself, Mr. DONNELLY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill H.R. 22, to amend the Internal Revenue Code of 1986 to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken