bill S. 1619, supra; which was ordered to lie on the table.

SA 720. Mr. ROBERTS (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 721. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 670. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, add the following:

SEC. 16. PROHIBITION ON FOREIGN AID TO COUNTRIES HOLDING MORE THAN $10,000,000,000 IN UNITED STATES DEBT.

(a) PROHIBITION ON FUNDING.—Except as provided in subsection (c), no funds may be appropriated or otherwise made available to provide assistance to the people or government of a country that is listed by the United States Treasury as owning more than $10,000,000,000 in United States debt. This prohibition includes both direct bilateral assistance and assistance provided by the United States Agency for International Development to nongovernmental organizations and multilateral organizations, including the United Nations and affiliated organizations, for programs designed to assist the residents of any country that owns more than $10,000,000,000 in United States debt.

(b) RESCISSION OF FISCAL YEAR 2012 FUNDS.—Any funds appropriated or otherwise made available for fiscal year 2012 for assistance prohibited under subsection (a) and available for obligation as of the date of the enactment of this Act are hereby rescinded.

(c) EXCEPTIONS.—

(1) EXEMPTED ASSISTANCE.—The prohibition under subsection (a) does not apply to—

(A) Foreign Military Financing assistance;

(B) assistance for programs to strengthen the rule of law and good governance; and

(C) assistance for programs to promote religious liberty and freedom.

(2) PRESIDENTIAL WAIVER.—

(A) IN GENERAL.—The President may waive the prohibition on assistance under subsection (a) if the President determines that providing such assistance is necessary to respond to an emergency requirement.

(B) EMERGENCY REQUIREMENT DEFINED.—

(i) DEFINITION.—For purposes of this paragraph, an emergency requirement is—

(I) necessary, essential, or vital (not merely useful or beneficial);

(II) sudden, quickly coming into being, and not building up over time;

(III) an urgent, pressing, and compelling need requiring immediate action;

(IV) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(V) not permanent in nature.

(ii) MEANING OF UNFORESEEN.—For purposes of this subparagraph, an emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(C) CONGRESSIONAL NOTIFICATION.—The President shall notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives not later than 15 days after exercising a waiver under this paragraph.

SA 671. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ASSESSMENTS OF EMPLOYMENT IMPACT.

(a) SHORT TITLE.—This section may be cited as the ''Employment Impact Act of 2011''.

(b) PURPOSE.—The purposes of this section are the following:

(1) To declare that the impact of Federal regulations on jobs and job prospects in the United States is a significant and relevant consideration to all Federal regulatory policy actions and henceforth should be taken into account by Federal regulators when they decide to take actions under their respective statutory authorities.

(2) To express the concern of Congress that Federal regulators consider the cumulative impact of multiple proposed Federal regulations on jobs and jobs prospects in the United States and that the cumulative impact of such regulations should be given all due consideration and weighed in the balance with the other purposes sought to be achieved by such regulatory measures.

(c) DUTY TO ASSESS THE IMPACT OF FEDERAL ACTION ON JOBS AND JOB OPPORTUNITIES.—

(1) IN GENERAL.—The Congress authorizes and directs, to the fullest extent possible, that all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which shall insure the integrated use of the relevant fields of research and learning in planning and decisionmaking which may have an impact on jobs and job opportunities;

(B) identify and develop methods and procedures, in consultation with the Council on Economic Advisors, Office of the President, which will insure that presently unquantified impacts on job and job opportunities may be given appropriate consideration in decisionmaking along with environmental and other considerations; and

(C) include in every recommendation or report on proposals for legislation and other major Federal actions with potentially significant effects on jobs and job opportunities, a jobs impact statement as described in paragraph (2).

(2) JOBS IMPACT STATEMENT.—

(A) CONTENTS.—A jobs impact statement required under paragraph (1) shall include a detailed statement by the responsible official on—

(i) the impact of the proposed action on jobs and job opportunities, including an assessment of the jobs that would be lost, gained, or sent overseas as a result of the proposed action;

(ii) any adverse effect on jobs and job opportunities which could not be avoided should the proposal be implemented;

(iii) alternatives and modifications to the proposed action that could avoid negative impacts on jobs and job opportunities; and

(iv) the relationship between any local short-term impacts on jobs and job opportunities and the maintenance and enhancements of long-term productivity and environmental values.

(B) CONSULTATION WITH RELEVANT FEDERAL AGENCIES.—Prior to preparing a jobs impact statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any jobs or job opportunities impacts involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies that are authorized to develop and enforce policies and programs relevant to jobs and job opportunities, shall be made available to the Council of Economic Advisors and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review process.

(C) CUMULATIVE IMPACT OF PROPOSED ACTIONS.—In determining the impact of a proposed action on jobs and job opportunities, the responsible Federal official shall take into account the cumulative impact on jobs and job opportunities of concurrently pending proposals affecting a particular industry or sector of the economy, and shall not make a finding of no significant impact solely on the basis of examining the impacts of a single proposal in isolation from other pending proposals.

(D) COMBINING ENVIRONMENTAL AND JOB IMPACT STATEMENTS.—A jobs impact statement required under this section may be combined with a detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if both statements are required with respect to the same proposed action.

(d) CONFORMITY OF ADMINISTRATIVE PROCEDURES.—All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this section, and shall propose to the President not later than one year after enactment of this Act, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this section.

(e) NO JUDICIAL REVIEW OF JOBS IMPACT STATEMENTS.—Implementation of this section, including a jobs impact statement prepared in accordance with this section, shall not be subject to judicial review.

SA 672. Mr. BARRASSO (for himself, Mr. MANCHIN, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XX—STANDARDS FOR CEMENT MANUFACTURING

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Cement Sector Regulatory Relief Act of 2011''.

SEC. ___02. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In lieu of the rules specified in subsection (b), and notwithstanding the date by which those rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (referred to in this title as the ''Administrator'') shall—

(1) propose regulations for the Portland cement manufacturing industry and Portland cement plants that are subject to any of the rules specified in subsection (b) that—

(A) establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identify nonhazardous secondary materials that, when used as fuels in combustion units of that industry and those plants, qualify as solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) for purposes of determining the extent to which the combustion units are required to meet the emission standards under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429); and

(2) promulgate final versions of those regulations by not later than—

(A) the date that is 15 months after the date of enactment of this Act; or

(B) such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—

(1) PORTLAND-SPECIFIC RULES.—The final rule entitled ''National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants'' (75 Fed. Reg. 54970 (September 9, 2010)) shall be—

(A) of no force or effect;

(B) treated as though the rule had never taken effect; and

(C) replaced in accordance with subsection (a).

(2) OTHER RULES.—

(A) IN GENERAL.—The final rules described in subparagraph (B), to the extent that those rules apply to the Portland cement manufacturing industry and Portland cement plants, shall be—

(i) of no force or effect;

(ii) treated as though the rules had never taken effect; and

(iii) replaced in accordance with subsection (a).

(B) DESCRIPTION OF RULES.—The final rules described in this subparagraph are—

(i) the final rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (76 Fed. Reg. 15704 (March 21, 2011)); and

(ii) the final rule entitled ''Identification of Non-Hazardous Secondary Materials That Are Solid Waste'' (76 Fed. Reg. 15456 (March 21, 2011)).

SEC. ___03. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section __02(a), the Administrator—

(1) shall establish a date for compliance with standards and requirements under the regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for that compliance, shall take into consideration—

(A) the costs of achieving emission reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time necessary—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Administrator; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section __02(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying—

(1) the definition of the term ''new source'' under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)); or

(2) the definition of the term ''new solid waste incineration unit'' under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this title restricts or otherwise affects paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. ___04. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), in promulgating regulations under section __02(a) addressing the subject matter of the rules specified in section __02(b)(2), the Administrator shall—

(1) adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material to be solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) only if—

(A) the material meets that definition of commercial and industrial waste; or

(B) if the material is a gas, the material meets that definition of contained gaseous material.

SEC. ___05. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating regulations under section __02(a), the Administrator shall ensure, to the maximum extent practicable, that emission standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants covered by regulations applicable to the source category, taking into account—

(1) variability in actual source performance;

(2) source design;

(3) fuels;

(4) inputs;

(5) controls;

(6) ability to measure the pollutant emissions; and

(7) operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated under section __02(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including work practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

SA 673. Ms. MURKOWSKI (for herself and Mr. HELLER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—CRITICAL MINERALS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Critical Minerals Policy Act of 2011''.

SEC. ___02. DEFINITIONS.

In this title:

(1) APPLICABLE COMMITTEES.—The term ''applicable committees'' means—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Natural Resources of the House of Representatives;

(C) the Committee on Energy and Commerce of the House of Representatives; and

(D) the Committee on Science, Space, and Technology of the House of Representatives.

(2) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means a technology related to the production, use, transmission, storage, control, or conservation of energy that—

(A) reduces the need for additional energy supplies by using existing energy supplies with greater efficiency or by transmitting, distributing, storing, or transporting energy with greater effectiveness in or through the infrastructure of the United States;

(B) diversifies the sources of energy supply of the United States to strengthen energy security and to increase supplies with a favorable balance of environmental effects if the entire technology system is considered; or

(C) contributes to a stabilization of atmospheric greenhouse gas concentrations through reduction, avoidance, or sequestration of energy-related greenhouse gas emissions.

(3) CRITICAL MINERAL.—

(A) IN GENERAL.—The term ''critical mineral'' means any mineral designated as a critical mineral pursuant to section __11.

(B) EXCLUSIONS.—The term ''critical mineral'' does not include coal, oil, natural gas, or any other fossil fuels.

(4) CRITICAL MINERAL MANUFACTURING.—The term ''critical mineral manufacturing'' means—

(A) the production, processing, refining, alloying, separation, concentration, magnetic sintering, melting, or beneficiation of critical minerals within the United States;

(B) the fabrication, assembly, or production, within the United States, of clean energy technologies (including technologies related to wind, solar, and geothermal energy, efficient lighting, electrical superconducting materials, permanent magnet motors, batteries, and other energy storage devices), military equipment, and consumer electronics, or components necessary for applications; or

(C) any other value-added, manufacturing-related use of critical minerals undertaken within the United States.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) MILITARY EQUIPMENT.—The term ''military equipment'' means equipment used directly by the armed forces to carry out military operations.

(7) RARE EARTH ELEMENT.—

(A) IN GENERAL.—The term ''rare earth element'' means the chemical elements in the periodic table from lanthanum (atomic number 57) up to and including lutetium (atomic number 71).

(B) INCLUSIONS.—The term ''rare earth element'' includes the similar chemical elements yttrium (atomic number 39) and scandium (atomic number 21).

(8) SECRETARY.—

(A) SUBTITLE A.—In subtitle A, the term ''Secretary'' means the Secretary of the Interior—

(i) acting through the Director of the United States Geological Survey; and

(ii) in consultation with (as appropriate)—

(I) the Secretary of Energy;

(II) the Secretary of Defense;

(III) the Secretary of Commerce;

(IV) the Secretary of State;

(V) the Secretary of Agriculture;

(VI) the United States Trade Representative; and

(VII) the heads of other applicable Federal agencies.

(B) SUBTITLE B.—In subtitle B, the term ''Secretary'' means the Secretary of Energy.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

(10) VALUE-ADDED.—The term ''value-added'' means, with respect to an activity, an activity that changes the form, fit, or function of a product, service, raw material, or physical good such that the resultant market price is greater than the cost of making the changes.

(11) WORKING GROUP.—The term ''Working Group'' means the Critical Minerals Working Group established under section __14(a).

Subtitle A—Designations and Policies

SEC. ___11. DESIGNATIONS.

(a) DRAFT METHODOLOGY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register for public comment a draft methodology for determining which minerals qualify as critical minerals based on an assessment of whether the minerals are—

(1) subject to potential supply restrictions (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, and anti-competitive or protectionist behaviors); and

(2) important in use (including clean energy technology-, defense-, agriculture-, and health care-related applications).

(b) AVAILABILITY OF DATA.—If available data is insufficient to provide a quantitative basis for the methodology developed under this section, qualitative evidence may be used.

(c) FINAL METHODOLOGY.—After reviewing public comments on the draft methodology under subsection (a) and updating that draft methodology as appropriate, the Secretary shall enter into an arrangement with the National Academy of Sciences and the National Academy of Engineering to obtain, not later than 120 days after the date of enactment of this Act—

(1) a review of the methodology; and

(2) recommendations for improving the methodology.

(d) FINAL METHODOLOGY.—After reviewing the recommendations under subsection (c), not later than 150 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a description of the final methodology for determining which minerals qualify as critical minerals.

(e) DESIGNATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of minerals designated as critical, pursuant to the final methodology under subsection (d), for purposes of carrying out this title.

(f) SUBSEQUENT REVIEW.—The methodology and designations developed under subsections (d) and (e) shall be updated at least every 5 years, or in more regular intervals if considered appropriate by the Secretary.

(g) NOTICE.—On finalization of the methodology under subsection (d), the list under subsection (e), or any update to the list under subsection (f), the Secretary shall submit to the applicable committees written notice of the action.

SEC. ___12. POLICY.

(a) POLICY.—It is the policy of the United States to promote an adequate, reliable, domestic, and stable supply of critical minerals, produced in an environmentally responsible manner, in order to strengthen and sustain the economic security, and the manufacturing, industrial, energy, technological, and competitive stature, of the United States.

(b) COORDINATION.—The President, acting through the Executive Office of the President, shall coordinate the actions of Federal agencies under this and other Acts—

(1) to encourage Federal agencies to facilitate the availability, development, and environmentally responsible production of domestic resources to meet national critical minerals needs;

(2) to minimize duplication, needless paperwork, and delays in the administration of applicable laws (including regulations) and the issuance of permits and authorizations necessary to explore for, develop, and produce critical minerals and construct and operate critical mineral manufacturing facilities in an environmentally responsible manner;

(3) to promote the development of economically stable and environmentally responsible domestic critical mineral production and manufacturing;

(4) to establish an analytical and forecasting capability for identifying critical mineral demand, supply, and other market dynamics relevant to policy formulation such that informed actions can be taken to avoid supply shortages, mitigate price volatility, and prepare for demand growth and other market shifts;

(5) to strengthen educational and research capabilities and workforce training;

(6) to bolster international cooperation through technology transfer, information sharing, and other means;

(7) to promote the efficient production, use, and recycling of critical minerals;

(8) to develop alternatives to critical minerals; and

(9) to establish contingencies for the production of, or access to, critical minerals for which viable sources do not exist within the United States.

SEC. ___13. RESOURCE ASSESSMENT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, in consultation with applicable State (including geological surveys), local, academic, industry, and other entities, the Secretary shall complete a comprehensive national assessment of each critical mineral that—

(1) identifies and quantifies known critical mineral resources, using all available public and private information and datasets, including exploration histories;

(2) estimates the cost of production of the critical mineral resources identified and quantified under this section, using all available public and private information and datasets, including exploration histories;

(3) provides a quantitative and qualitative assessment of undiscovered critical mineral resources throughout the United States, including probability estimates of tonnage and grade, using all available public and private information and datasets, including exploration histories;

(4) provides qualitative information on the environmental attributes of the critical mineral resources identified under this section; and

(5) pays particular attention to the identification and quantification of critical mineral resources on Federal land that is open to location and entry for exploration, development, and other uses.

(b) FIELD WORK.—If existing information and datasets prove insufficient to complete the assessment under this section and there is no reasonable opportunity to obtain the information and datasets from nongovernmental entities, the Secretary may carry out field work (including drilling, remote sensing, geophysical surveys, geological mapping, and geochemical sampling and analysis) to supplement existing information and datasets available for determining the existence of critical minerals on—

(1) Federal land that is open to location and entry for exploration, development, and other uses;

(2) Indian tribe land, at the request and with the written permission of the Indian tribe; and

(3) State land, at the request and with the written permission of the Governor of a State.

(c) TECHNICAL ASSISTANCE.—At the request of the Governor of a State or an Indian tribe, the Secretary may provide technical assistance to State governments and Indian tribes conducting critical mineral resource assessments on non-Federal land.

(d) FINANCIAL ASSISTANCE.—The Secretary may make grants to State governments, or Indian tribes and economic development entities of Indian tribes, to cover the costs associated with assessments of critical mineral resources on State or Indian tribe land.

(e) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report describing the results of the assessment conducted under this section.

(f) PRIORITIZATION.—

(1) IN GENERAL.—The Secretary may sequence the completion of resource assessments for each critical mineral such that critical materials considered to be most critical under the methodology established pursuant to section __11 are completed first.

(2) REPORTING.—If the Secretary sequences the completion of resource assessments for each critical material, the Secretary shall submit a report under subsection (e) on an iterative basis over the 4-year period beginning on the date of enactment of this Act.

(g) UPDATES.—The Secretary shall periodically update the assessment conducted under this section based on—

(1) the generation of new information or datasets by the Federal government; or

(2) the receipt of new information or datasets from critical mineral producers, State geological surveys, academic institutions, trade associations, or other entities or individuals.

SEC. ___14. PERMITTING.

(a) CRITICAL MINERALS WORKING GROUP.—

(1) IN GENERAL.—There is established within the Department of the Interior a working group to be known as the ''Critical Minerals Working Group'', which shall report to the President and Congress through the Secretary.

(2) COMPOSITION.—The Working Group shall be composed of the following:

(A) The Secretary of the Interior (or a designee), who shall serve as chair of the Working Group.

(B) A Presidential designee from the Executive Office of the President, who shall serve as vice-chair of the Working Group.

(C) The Secretary of Energy (or a designee).

(D) The Secretary of Agriculture (or a designee).

(E) The Secretary of Defense (or a designee).

(F) The Secretary of Commerce (or a designee).

(G) The Secretary of State (or a designee).
(H) The United States Trade Representative (or a designee).
(I) The Administrator of the Environmental Protection Agency (or a designee).
(J) The Chief of Engineers of the Corps of Engineers (or a designee).
(b) CONSULTATION.—The Working Group shall operate in consultation with private sector, academic, and other applicable stakeholders with experience related to—
(1) critical minerals exploration;
(2) critical minerals permitting;
(3) critical minerals production; and
(4) critical minerals manufacturing.
(c) DUTIES.—The Working Group shall—
(1) facilitate Federal agency efforts to optimize efficiencies associated with the permitting of activities that will increase exploration and development of domestic, critical minerals, while maintaining environmental standards;
(2) facilitate Federal agency review of laws (including regulations) and policies that discourage investment in exploration and development of domestic, critical minerals;
(3) assess whether Federal policies adversely impact the global competitiveness of the domestic, critical minerals exploration and development sector (including taxes, fees, regulatory burdens, and access restrictions);
(4) evaluate the sufficiency of existing mechanisms for the provision of tenure on Federal land and the role of the mechanisms in attracting capital investment for the exploration and development of domestic, critical minerals; and
(5) generate such other information and take such other actions as the Working Group considers appropriate to achieve the policy described in section __12(a).
(d) REPORT.—Not later than 300 days after the date of enactment of this Act, the Working Group shall submit to the applicable committees a report that—
(1) describes the results of actions taken under subsection (c);
(2) evaluates the amount of time typically required (including range derived from minimum and maximum durations, mean, median, variance, and other statistical measures or representations) to complete each step (including those aspects outside the control of the executive branch of the Federal Government, such as judicial review, applicant decisions, or State and local government involvement) associated with the processing of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land, which shall serve as a baseline for the performance metric developed and finalized under subsections (e) and (f), respectively;
(3) identifies measures (including regulatory changes and legislative proposals) that would optimize efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals; and
(4) identifies options (including cost recovery paid by applicants) for ensuring adequate staffing of divisions, field offices, or other entities responsible for the consideration of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land.
(e) DRAFT PERFORMANCE METRIC.—Not later than 330 days after the date of enactment of this Act, and upon completion of the report required under subsection (d), the Working Group shall publish in the Federal Register for public comment a draft description of a performance metric for evaluating the progress made by the executive branch of the Federal Government on matters within the control of that branch towards optimizing efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals (referred to in this section as the ''performance metric'').
(f) FINAL PERFORMANCE METRIC.—Not later than 1 year after the date of enactment of this Act, and after consideration of public comments received pursuant to subsection (e), the Working Group shall publish in the Federal Register a description of the final performance metric.
(g) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, using the performance metric under subsection (f), and annually thereafter, the Working Group shall submit to the applicable committees, as part of the budget request of the Department of the Interior for each fiscal year, each report that—
(1) describes the progress made by the executive branch of the Federal Government on matters within the control of that branch towards optimizing efficiencies, while maintaining environmental standards, associated with the permitting of activities that will increase exploration and development of domestic, critical minerals; and
(2) compares the United States to other countries in terms of permitting efficiency, environmental standards, and other criteria relevant to a globally competitive economic sector.
(h) REPORT OF SMALL BUSINESS ADMINISTRATION.—Not later than 300 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the applicable committees a report that assesses the performance of Federal agencies in—
(1) complying with chapter 6 of title 5, United States Code (commonly known as the ''Regulatory Flexibility Act''), in promulgating regulations applicable to the critical minerals industry; and
(2) performing an analysis of regulations applicable to the critical minerals industry that may be outmoded, inefficient, duplicative, or excessively burdensome.
(i) JUDICIAL REVIEW.—
(1) IN GENERAL.—Nothing in this section affects any judicial review of an agency action under any other provision of law.
(2) CONSTRUCTION.—This section—
(A) is intended to improve the internal management of the Federal Government; and
(B) does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States (including an agency, instrumentality, officer, or employee thereof) or any other person.

SEC. ___15. MANUFACTURING.

(a) AGREEMENT.—At the request of the Governor of a State, the President (or a designee) may enter into a cooperative agreement with the State for the processing of permits for critical mineral manufacturing facilities (including those related to wind, solar, and geothermal energy, efficient lighting, electrical superconducting materials, permanent magnet motors, and batteries and other energy storage devices) under which each party to the agreement identifies steps, including timelines, that the party will take to optimize efficiencies, while maintaining environmental standards, associated with the environmental review and consideration of Federal and State permits for a new critical mineral manufacturing facility.
(b) AUTHORITY UNDER AGREEMENT.—In carrying out this section, the President may—
(1) accept from an applicant a consolidated application for all permits required by the Federal Government, to the extent consistent with other applicable law;
(2) facilitate memoranda of agreement between Federal agencies to coordinate consideration of applications and permits among Federal agencies; and
(3) enter into memoranda of agreement with a State, under which Federal and State review of permit applications will be coordinated and concurrently considered, to the maximum extent practicable.
(c) STATE ASSISTANCE.—The President may provide technical, legal, or other assistance to State governments to facilitate State review of applications to build new critical mineral manufacturing facilities.

SEC. ___16. RECYCLING AND ALTERNATIVES.

(a) ESTABLISHMENT.—The Secretary of Energy shall conduct a program of research and development to promote the efficient production, use, and recycling of, and alternatives to, critical minerals.
(b) COOPERATION.—In carrying out the program, the Secretary of Energy shall cooperate with appropriate—
(1) Federal agencies and National Laboratories;
(2) critical mineral producers;
(3) critical mineral manufacturers;
(4) trade associations;
(5) academic institutions;
(6) small businesses; and
(7) other relevant entities or individuals.
(c) ACTIVITIES.—Under the program, the Secretary shall carry out activities that include the identification and development of—
(1) advanced critical mineral production or processing technologies that decrease the environmental impact, and costs of production, of such activities;
(2) techniques and practices that minimize or lead to more efficient use of critical minerals;
(3) techniques and practices that facilitate the recycling of critical minerals, including options for improving the rates of collection of post-consumer products containing critical minerals;
(4) commercial markets, advanced storage methods, energy applications, and other beneficial uses of critical minerals processing byproducts; and
(5) alternative minerals, metals, and materials, particularly those available in abundance within the United States and not subject to potential supply restrictions, that lessen the need for critical minerals.
(d) REPORT.—Not later than 2 years after the date of enactment of this Act and every 5 years thereafter, the Secretaries shall submit to the applicable committees a report summarizing the activities, findings, and progress of the program.

SEC. ___17. ANALYSIS AND FORECASTING.

(a) CAPABILITIES.—In order to evaluate existing critical mineral policies and inform future actions that may be taken to avoid supply shortages, mitigate price volatility, and prepare for demand growth and other market shifts, the Secretary, in consultation with academic institutions, the Energy Information Administration, and others in order to maximize the application of existing competencies related to developing and maintaining computer-models and similar analytical tools, shall conduct and publish the results of an annual report that includes—
(1) as part of the annually published Mineral Commodity Summaries from the United States Geological Survey, a comprehensive review of critical mineral production, consumption, and recycling patterns, including—
(A) the quantity of each critical mineral domestically produced during the preceding year;

(B) the quantity of each critical mineral domestically consumed during the preceding year;

(C) market price data for each critical mineral;

(D) an assessment of—

(i) critical mineral requirements to meet the national security, energy, economic, industrial, technological, and other needs of the United States during the preceding year;

(ii) the reliance of the United States on foreign sources to meet those needs during the preceding year; and

(iii) the implications of any supply shortages, restrictions, or disruptions during the preceding year;

(E) the quantity of each critical mineral domestically recycled during the preceding year;

(F) the market penetration during the preceding year of alternatives to each critical mineral;

(G) a discussion of applicable international trends associated with the discovery, production, consumption, use, costs of production, prices, and recycling of each critical mineral as well as the development of alternatives to critical minerals; and

(H) such other data, analyses, and evaluations as the Secretary finds are necessary to achieve the purposes of this section; and

(2) a comprehensive forecast, entitled the ''Annual Critical Minerals Outlook'', of projected critical mineral production, consumption, and recycling patterns, including—

(A) the quantity of each critical mineral projected to be domestically produced over the subsequent 1-year, 5-year, and 10-year periods;

(B) the quantity of each critical mineral projected to be domestically consumed over the subsequent 1-year, 5-year, and 10-year periods;

(C) market price projections for each critical mineral, to the maximum extent practicable and based on the best available information;

(D) an assessment of—

(i) critical mineral requirements to meet projected national security, energy, economic, industrial, technological, and other needs of the United States;

(ii) the projected reliance of the United States on foreign sources to meet those needs; and

(iii) the projected implications of potential supply shortages, restrictions, or disruptions;

(E) the quantity of each critical mineral projected to be domestically recycled over the subsequent 1-year, 5-year, and 10-year periods;

(F) the market penetration of alternatives to each critical mineral projected to take place over the subsequent 1-year, 5-year, and 10-year periods;

(G) a discussion of reasonably foreseeable international trends associated with the discovery, production, consumption, use, costs of production, prices, and recycling of each critical mineral as well as the development of alternatives to critical minerals; and

(H) such other projections relating to each critical mineral as the Secretary determines to be necessary to achieve the purposes of this section.

(b) PROPRIETARY INFORMATION.—In preparing a report described in subsection (a), the Secretary shall ensure that—

(1) no person uses the information and data collected for the report for a purpose other than the development of or reporting of aggregate data in a manner such that the identity of the person who supplied the information is not discernible and is not material to the intended uses of the information;

(2) no person discloses any information or data collected for the report unless the information or data has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information; and

(3) procedures are established to require the withholding of any information or data collected for the report if the Secretary determines that withholding is necessary to protect proprietary information, including any trade secrets or other confidential information.

SEC. ___18. EDUCATION AND WORKFORCE.

(a) WORKFORCE ASSESSMENT.—Not later than 300 days after the date of enactment of this Act, the Secretary of Labor (in consultation with the Secretary of the Interior, the Director of the National Science Foundation, and employers in the critical minerals sector) shall submit to Congress an assessment of the domestic availability of technically trained personnel necessary for critical mineral assessment, production, manufacturing, recycling, analysis, forecasting, education, and research, including an analysis of—

(1) skills that are in the shortest supply as of the date of the assessment;

(2) skills that are projected to be in short supply in the future;

(3) the demographics of the critical minerals industry and how the demographics will evolve under the influence of factors such as an aging workforce;

(4) the effectiveness of training and education programs in addressing skills shortages;

(5) opportunities to hire locally for new and existing critical mineral activities;

(6) the sufficiency of personnel within relevant areas of the Federal Government for achieving the policy described in section __12(a); and

(7) the potential need for new training programs to have a measurable effect on the supply of trained workers in the critical minerals industry.

(b) CURRICULUM STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of Labor shall jointly enter into an arrangement with the National Academy of Sciences and the National Academy of Engineering under which the Academies shall coordinate with the National Science Foundation on conducting a study—

(A) to design an interdisciplinary program on critical minerals that will support the critical mineral supply chain and improve the ability of the United States to increase domestic, critical mineral exploration, development, and manufacturing;

(B) to address undergraduate and graduate education, especially to assist in the development of graduate level programs of research and instruction that lead to advanced degrees with an emphasis on the critical mineral supply chain or other positions that will increase domestic, critical mineral exploration, development, and manufacturing;

(C) to develop guidelines for proposals from institutions of higher education with substantial capabilities in the required disciplines to improve the critical mineral supply chain and advance the capacity of the United States to increase domestic, critical mineral exploration, development, and manufacturing; and

(D) to outline criteria for evaluating performance and recommendations for the amount of funding that will be necessary to establish and carry out the grant program described in subsection (c).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a description of the results of the study required under paragraph (1).

(c) GRANT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary and the National Science Foundation shall jointly conduct a competitive grant program under which institutions of higher education may apply for and receive 4-year grants for—

(A) startup costs for newly designated faculty positions in integrated critical mineral education, research, innovation, training, and workforce development programs consistent with subsection (b);

(B) internships, scholarships, and fellowships for students enrolled in critical mineral programs; and

(C) equipment necessary for integrated critical mineral innovation, training, and workforce development programs.

(2) RENEWAL.—A grant under this subsection shall be renewable for up to 2 additional 3-year terms based on performance criteria outlined under subsection (b)(1)(D).

SEC. ___19. INTERNATIONAL COOPERATION.

(a) ESTABLISHMENT.—The Secretary of State, in coordination with the Secretary, shall carry out a program to promote international cooperation on critical mineral supply chain issues with allies of the United States.

(b) ACTIVITIES.—Under the program, the Secretary may work with allies of the United States—

(1) to increase the global, responsible production of critical minerals, if a determination is made by the Secretary that there is no viable production capacity for the critical minerals within the United States;

(2) to improve the efficiency and environmental performance of extraction techniques;

(3) to increase the recycling of, and deployment of alternatives to, critical minerals;

(4) to assist in the development and transfer of critical mineral extraction, processing, and manufacturing technologies that would have a beneficial impact on world commodity markets and the environment;

(5) to strengthen and maintain intellectual property protections; and

(6) to facilitate the collection of information necessary for analyses and forecasts conducted pursuant to section __17.

Subtitle B—Mineral-specific Actions

SEC. ___21. ADMINISTRATION.

Nothing in this subtitle or an amendment made by this subtitle affects the methodology or designations established under section __11.

SEC. ___22. COBALT.

(a) AUTHORIZATION.—The Secretary shall support research programs that focus on novel uses for cobalt (including energy technologies and super-alloys), including—

(1) use in clean energy technologies (including, for purposes of this section, rechargeable batteries, catalysts, photovoltaic cells, permanent magnets, and fuel cells);

(2) use in alloys with military equipment, civil aviation, and electricity generation applications; and

(3) use as coal-to-gas and coal-to-liquid catalysts.

(b) CATEGORIES.—Research under this section shall be conducted in—

(1) a fundamental category, including laboratory and literature research; and

(2) an applied category, including plant and field research.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report describing—

(1) the research programs carried out under this section;

(2) the findings of the programs; and

(3) future research efforts planned.

SEC. ___23. LEAD.

(a) IN GENERAL.—The Secretary shall support research programs that focus on advanced lead manufacturing processes, including programs that—

(1) contribute to the establishment of a secure, domestic supply of lead;

(2) produce technologies that represent an environmental improvement compared to conventional production processes; or

(3) produce technologies that attain a higher efficiency level compared to conventional production processes.

(b) COORDINATION.—In carrying out the programs under subsection (a), the Secretary shall coordinate with other entities to promote the development of environmentally responsible lead manufacturing, including—

(1) other Federal agencies;

(2) States with affected interests;

(3) manufacturers;

(4) clean energy technology manufacturers, including producers of batteries and other energy storage technologies; and

(5) any others considered appropriate by the Secretary.

SEC. ___24. LITHIUM.

Subtitle E of title VI of the Energy Independence and Security Act of 2007 (42 U.S.C. 17241 et seq.) is amended by adding at the end the following:

''SEC. 657. GRANTS FOR LITHIUM PRODUCTION RESEARCH AND DEVELOPMENT.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a private partnership or other entity that is—

''(A) organized in accordance with Federal law; and

''(B) engaged in lithium production for use in advanced battery technologies;

''(2) a public entity, such as a State, tribal, or local governmental entity; or

''(3) a consortium of entities described in paragraphs (1) and (2).

''(b) GRANTS.—The Secretary shall provide grants to eligible entities for research, development, demonstration, and commercial application of domestic industrial processes that are designed to enhance domestic lithium production for use in advanced battery technologies, as determined by the Secretary.

''(c) USE.—An eligible entity shall use a grant provided under this section to develop or enhance—

''(1) domestic industrial processes that increase lithium production, processing, or recycling for use in advanced lithium batteries; or

''(2) industrial processes associated with new formulations of lithium feedstock for use in advanced lithium batteries.''.

SEC. ___25. THORIUM.

(a) STUDY.—The Secretary, in consultation with the Nuclear Regulatory Commission, shall conduct a study on the technical, economic, and policy issues (including nonproliferation) associated with establishing a licensing pathway for the complete thorium nuclear fuel cycle (including mining, milling, processing, fabrication, reactors, disposal, and decommissioning) that—

(1) identifies the gaps in the technical knowledge that could lead to a licensing pathway; and

(2) considers technologies and applications for any thorium byproducts of critical mineral production or processing.

(b) COOPERATION.—In conducting the study under subsection (a), the Secretary shall cooperate with appropriate—

(1) trade associations;

(2) equipment manufacturers;

(3) National Laboratories;

(4) institutions of higher education; and

(5) other applicable entities.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the applicable committees a report summarizing the findings of the study.

SEC. ___26. UPDATED RESOURCE INFORMATION.

(a) RESOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall complete an update of existing resource information for phosphate and rare earth elements.

(b) CONSULTATION.—In updating resource information under this section, the Secretary of the Interior shall consult with—

(1) the heads of appropriate State geological surveys;

(2) mineral producers;

(3) mineral processors;

(4) trade associations;

(5) academic institutions; and

(6) such other entities or individuals as the Secretary of the Interior considers appropriate.

(c) LIMITATION.—

(1) IN GENERAL.—Resource information updates carried out pursuant to this section shall be limited to collection of existing information.

(2) ADMINISTRATION.—If any mineral covered by this section is designated as a critical mineral under section __11, this section shall not apply.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the applicable committees written notification certifying that the resource information for phosphate and rare earth elements is up-to-date.

Subtitle C—Miscellaneous

SEC. ___31. OFFSETS.

(a) IN GENERAL.—The following Acts are repealed:

(1) The National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 et seq.), other than subsections (e) and (f) of section 5 of that Act (30 U.S.C. 1604).

(2) The National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.).

(b) CONFORMING AMENDMENT.—Section 3(d) of the National Superconductivity and Competitiveness Act of 1988 (15 U.S.C. 5202(d)) is amended in the first sentence by striking '', with the assistance of the National Critical Materials Council as specified in the National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.),''.

SEC. ___32. ADMINISTRATION.

Nothing in this title or an amendment made by this title modifies any requirement or authority provided by the matter under the heading ''GEOLOGICAL SURVEY'' of the first section of the Act of March 3, 1879 (43 U.S.C. 31(a)).

SEC. ___33. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title and the amendments made by this title $53,250,000, of which—

(1) $500,000 may be used to carry out section __11, to remain available until expended;

(2) $20,000,000 may be used to carry out section __13, to remain available until expended;

(3) $2,000,000 may be used to carry out section __14, to remain available until expended;

(4) $1,000,000 for each of fiscal years 2012 through 2016 may be used to carry out section __16 and the amendment made by that section, to remain available until expended;

(5)(A) $1,500,000 for each of fiscal years 2012 and 2013 may be used to carry out section __17, to remain available until expended; and

(B) $750,000 for each of fiscal years 2014 through 2016 may be used to carry out section __17;

(6) $1,000,000 for each of fiscal years 2012 through 2016 may be used to carry out section __18, to remain available until expended;

(7) $500,000 for each of fiscal years 2012 through 2016 may be used to carry out section __19, to remain available until expended;

(8) $1,000,000 for each of fiscal years 2012 through 2014 may be used to carry out sections __22, __23, __24, and __25 and the amendments made by those sections; and

(9) $1,000,000 may be used to carry out section __26, to remain available until expended.

SA 674. Mr. HELLER (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE __—NO BUDGET, NO PAY ACT

SEC. 01. SHORT TITLE.

This title may be cited as the ''No Budget, No Pay Act''.

SEC. 02. DEFINITION.

In this title, the term ''Member of Congress''—

(1) has the meaning given under section 2106 of title 5, United States Code; and

(2) does not include the Vice President.

SEC. 03. TIMELY APPROVAL OF CONCURRENT RESOLUTION ON THE BUDGET.

If both Houses of Congress have not approved a concurrent resolution on the budget as described under section 301 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 632) for a fiscal year before October 1 of that fiscal year, the pay of each Member of Congress may not be paid for each day following that October 1 until the date on which both Houses of Congress approve a concurrent resolution on the budget for that fiscal year.

SEC. 04. NO PAY WITHOUT CONCURRENT RESOLUTION ON THE BUDGET.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds may be appropriated or otherwise be made available from the United States Treasury for the pay of any Member of Congress during any period determined by the Chairperson of the Committee on the Budget of the Senate or the Chairperson of the Committee on the Budget of the House of Representatives under section 05.

(b) NO RETROACTIVE PAY.—A Member of Congress may not receive pay for any period determined by the Chairperson of the Committee on the Budget of the Senate or the Chairperson of the Committee on the Budget of the House of Representatives under section 05, at any time after the end of that period.

SEC. 05. DETERMINATIONS.

(a) SENATE.—

(1) REQUEST FOR CERTIFICATIONS.—On October 1 of each year, the Secretary of the Senate shall submit a request to the Chairperson of the Committee on the Budget of the Senate for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairperson of the Committee on the Budget of the Senate shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section 04 and whether Senators may not be paid under that section; and

(B) determine the period of days following each October 1 that Senators may not be paid under section 04; and

(C) provide timely certification of the determinations under subparagraphs (A) and

(B) upon the request of the Secretary of the Senate.

(b) HOUSE OF REPRESENTATIVES.—

(1) REQUEST FOR CERTIFICATIONS.—On October 1 of each year, the Chief Administrative Officer of the House of Representatives shall submit a request to the Chairperson of the Committee on the Budget of the House of Representatives for certification of determinations made under paragraph (2) (A) and (B).

(2) DETERMINATIONS.—The Chairperson of the Committee on the Budget of the House of Representatives shall—

(A) on October 1 of each year, make a determination of whether Congress is in compliance with section 04 and whether Senators may not be paid under that section; and

(B) determine the period of days following each October 1 that Senators may not be paid under section 04; and

(C) provide timely certification of the determinations under subparagraph (A) and (B) upon the request of the Chief Administrative Officer of the House of Representatives.

SEC. 06. EFFECTIVE DATE.

This title shall take effect on February 1, 2013.

SA 675. Mr. MENENDEZ (for himself and Mr. CARDIN) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—MISCELLANEOUS

SEC. __01. RENEWAL OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

(a) EXTENSIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking everything after ''suitable for use in men's and boys' shirts'' in the article description column and by striking the date in the effective date column and inserting ''12/31/2013'':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).

(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''amounts determined by the Secretary'' and all that follows through ''5208.59.80'' and inserting ''amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208''; and

(B) in paragraph (2), by striking ''October 1, 2008'' and inserting ''December 31, 2013'';

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''beginning in fiscal year 2007'' and inserting ''for fiscal year 2011 and each fiscal year thereafter'';

(B) by striking ''grown in the United States'' each place it appears; and

(C) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''that produce ring spun cotton yarns in the United States'' after ''of pima cotton'';

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''imported cotton fabric''; and

(4) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1)—

(i) by striking ''grown in the United States'' and inserting ''during the year in which the affidavit is filed and''; and

(ii) by inserting ''in the United States'' after ''cotton yarns''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

SEC. __02. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended—

(1) in subparagraph (A), by striking ''subject to the limitation in subparagraph (B)'' and inserting ''subject to subparagraphs (B) and (C)''; and

(2) by adding at the end the following new subparagraph:

''(C) ALTERNATIVE FUNDING SOURCE.—Subparagraph (A) shall be applied and administered by substituting 'chapter 62' for 'chapter 51' for any period of time with respect to which the Secretary notifies Congress that amounts determined by the Secretary to be equivalent to amounts received in the general fund of the Treasury of the United States that are attributable to the duty received on articles classified under chapter 51 of the Harmonized Tariff Schedule of the United States are not sufficient to make payments under paragraph (3) or grants under paragraph (6).''.

(b) FULL RESTORATION OF PAYMENT LEVELS IN CALENDAR YEARS 2010 AND 2011.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 51 or chapter 62 of the Harmonized Tariff Schedule of the United States (as determined under section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600)), subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar years 2010 and 2011, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar years 2010 and 2011; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar years 2010 and 2011, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar years 2010 and 2011.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—Title IV of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking ''Bureau of Customs and Border Protection'' each place it appears and inserting ''U.S. Customs and Border Protection''.

(e) DISCRETIONARY AUTHORITY.—

(1) IN GENERAL.—Section 4002(c)(3) of Public Law 108–429 is amended by inserting ''(or to protect domestic manufacturing employment, and at the sole discretion of the U.S. Customs and Border Protection, no later than April 15)'' after ''March 1 of the year of the payment''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective for payment year 2011 and thereafter.

SA 676. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for

identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE __—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. __02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.

SEC. __03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) the increasing dependence of the United States on foreign creditors has the potential to make the United States vulnerable to undue influence by certain foreign creditors in national security and economic policymaking;

(3) the People's Republic of China is the largest foreign creditor of the United States, in terms of its overall holdings of debt instruments of the United States;

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People's Republic of China;

(5) through the People's Republic of China's large holdings of debt instruments of the United States, China has become a super creditor of the United States;

(6) under certain circumstances, the holdings of the People's Republic of China could give China a tool with which China can try to manipulate the domestic and foreign policymaking of the United States, including the United States relationship with Taiwan;

(7) under certain circumstances, if the People's Republic of China were to be displeased with a given United States policy or action, China could attempt to destabilize the United States economy by rapidly divesting large portions of China's holdings of debt instruments of the United States; and

(8) the People's Republic of China's expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. __04. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) QUARTERLY REPORT.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 7 months preceding the date of the report.

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors, broken out by the creditors' country of domicile and by public, quasi-public, and private creditors.

(4) For each foreign country listed in paragraph (2)—

(A) an analysis of the country's purpose in holding debt instruments of the United States and long-term intentions with regard to such debt instruments;

(B) an analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by each country's holdings of debt instruments of the United States; and

(C) a specific determination of whether the level of risk identified under subparagraph (B) is acceptable or unacceptable.

(c) PUBLIC AVAILABILITY.—The President shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on the Internet in a conspicuous manner and location.

SEC. __05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

(3) If the determination under paragraph (2) is that the levels of risk are unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section _____04(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce the risk level to an acceptable and sustainable level, in a manner that results in a reduction in Federal spending;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

SA 677. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SALE OF F–16 AIRCRAFT TO TAIWAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense, in its 2011 report to Congress on ''Military and Security Developments Involving the People's Republic of China,'' found that ''China continued modernizing its military in 2010, with a focus on Taiwan contingencies, even as cross-Strait relations improved. The PLA seeks the capability to deter Taiwan independence and influence Taiwan to settle the dispute on Beijing's terms. In pursuit of this objective, Beijing is developing capabilities intended to deter, delay, or deny possible U.S. support for the island in the event of conflict. The balance of cross-Strait military forces and capabilities continues to shift in the mainland's favor.'' In this report, the Department of Defense also concludes that, over the next decade, China's air force will remain primarily focused on ''building the capabilities required to pose a credible military threat to Taiwan and U.S. forces in East Asia, deter Taiwan independence, or influence Taiwan to settle the dispute on Beijing's terms''.

(2) The Defense Intelligence Agency (DIA) conducted a preliminary assessment of the status and capabilities of Taiwan's air force in an unclassified report, dated January 21, 2010. The DIA found that, ''[a]lthough Taiwan has nearly 400 combat aircraft in service, far fewer of these are operationally capable.'' The report concluded, ''Many of Taiwan's fighter aircraft are close to or beyond service life, and many require extensive maintenance support. The retirement of Mirage and F–5 aircraft will reduce the total size of the Taiwan Air Force.''

(3) Since 2006, authorities from Taiwan have made repeated requests to purchase 66 F–16C/D multirole fighter aircraft from the United States, in an effort to modernize the air force of Taiwan and maintain its self-defense capability.

(4) According to a report by the Perryman Group, a private economic research and analysis firm, the requested sale of F–16C/Ds to Taiwan ''would generate some $8,700,000,000 in output (gross product) and more than 87,664 person-years of employment in the US,'' including 23,407 direct jobs, while ''economic benefits would likely be realized in 44 states and the District of Columbia''.

(5) The sale of F–16C/Ds to Taiwan would both sustain existing high-skilled jobs in key United States manufacturing sectors and create new ones.

(6) On August 1, 2011, a bipartisan group of 181 members of the House of Representatives sent a letter to the President, expressing support for the sale of F–16C/Ds to Taiwan. On May 26, 2011, a bipartisan group of 45 members of the Senate sent a similar letter to the President, expressing support for the sale. Two other members of the Senate wrote separately to the President or the Secretary of State in 2011 and expressed support for this sale.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical element to maintaining peace and stability in Asia in the face of China's two-decade-long program of military modernization and expansion of military capabilities is ensuring a militarily strong and confident Taiwan;

(2) a Taiwan that is confident in its ability to deter Chinese aggression will increase its ability to proceed in developing peaceful relations with China in areas of mutual interest;

(3) the cross-Strait military balance between China and our longstanding strategic partner, Taiwan, has clearly shifted in China's favor;

(4) China's military expansion poses a clear and present danger to Taiwan, and this threat has very serious implications for the ability of the United States to fulfill its security obligations to allies in the region and protect our vital United States national interests in East Asia;

(5) Taiwan's air force continues to deteriorate, and it needs additional advanced multirole fighter aircraft in order to modernize its fleet and maintain a sufficient self-defense capability;

(6) the United States has a statutory obligation under the Taiwan Relations Act (22 U.S.C. 3301 et seq.) to provide Taiwan the defense articles necessary to enable Taiwan to maintain sufficient self-defense capabilities, in furtherance of maintaining peace and stability in the western Pacific region;

(7) in order to comply with the Taiwan Relations Act, the United States must provide Taiwan with additional advanced multirole fighter aircraft, as well as significant upgrades to Taiwan's existing fleet of multirole fighter aircraft; and

(8) the proposed sale of F–16C/D multirole fighter aircraft to Taiwan would have significant economic benefits to the United States economy.

(c) SALE OF AIRCRAFT.—The President shall carry out the sale of no fewer than 66 F–16C/D multirole fighter aircraft to Taiwan.

SA 678. Mr. PAUL (for himself, Mr. VITTER, Mr. DEMINT, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Notwithstanding section 714 of title 31, United States Code, or any other provision of law, an audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) of such section 714 shall be completed before the end of 2012.

(b) REPORT.—

(1) IN GENERAL.—A report on the audit required under subsection (a) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to the Speaker of the House of Representatives, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the chairman and ranking member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests it.

(2) CONTENTS.—The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(c) REPEAL OF CERTAIN LIMITATIONS.—Subsection (b) of section 714 of title 31, United States Code, is amended by striking all after ''in writing.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 714 of title 31, United States Code, is amended by striking subsection (f).

SA 679. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. ANNUAL REPORT ON TRADE ENFORCEMENT ACTIVITIES OF THE UNITED STATES TRADE REPRESENTATIVE.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) describing the trade enforcement activities carried out by the Office of the United States Trade Representative during the year preceding the submission of the report, including any consultations initiated by the United States Trade Representative to resolve disputes under existing trade agreements;

(2) assessing the economic impact of each such activity, including the impact on bilateral trade and on employment in the United States; and

(3) assessing the cost of, and resources dedicated to, each such activity.

SA 680. Mr. MENENDEZ (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Currency Misalignment Mitigation and Reform Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTRY.—The term ''country'' means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(2) FUNDAMENTAL MISALIGNMENT.—The term ''fundamental misalignment'' means a significant and sustained undervaluation of the prevailing real effective exchange rate, adjusted for cyclical and transitory factors, from its medium-term equilibrium level.

(3) FUNDAMENTALLY MISALIGNED CURRENCY.—The term ''fundamentally misaligned currency'' means a foreign currency that is in fundamental misalignment.

(4) REAL EFFECTIVE EXCHANGE RATE.—The term ''real effective exchange rate'' means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) STERILIZATION.—The term ''sterilization'' means domestic monetary operations taken to neutralize the monetary impact of increases in reserves associated with intervention in the currency exchange market.

SEC. 3. REPORT ON INTERNATIONAL MONETARY POLICY AND CURRENCY EXCHANGE RATES.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than March 15 and September 15 of each calendar year, the Secretary, after consulting with the Chairman of the Board of Governors of the Federal Reserve System and the Advisory Committee on International Exchange Rate Policy, shall submit to Congress and make public, a written report on international monetary policy and currency exchange rates.

(2) CONSULTATIONS.—On or before March 30 and September 30 of each calendar year, the Secretary shall appear, if requested, before the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives to provide testimony on the reports submitted pursuant to paragraph (1).

(b) CONTENT OF REPORTS.—Each report submitted under subsection (a) shall contain the following:

(1) An analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies and trading partners of the United States.

(2) A review of the economic and monetary policies of major economies and trading partners of the United States, and an evaluation of how such policies impact currency exchange rates.

(3) A description of any currency intervention by the United States or other major economies or trading partners of the United States, or other actions undertaken to adjust the actual exchange rate relative to the United States dollar.

(4) An evaluation of the domestic and global factors that underlie the conditions in the currency markets, including—

(A) monetary and financial conditions;

(B) accumulation of foreign assets;

(C) macroeconomic trends;

(D) trends in current and financial account balances;

(E) the size, composition, and growth of international capital flows;

(F) the impact of the external sector on economic growth;

(G) the size and growth of external indebtedness;

(H) trends in the net level of international investment; and

(I) capital controls, trade, and exchange restrictions.

(5) A list of currencies designated as fundamentally misaligned currencies pursuant to section 4(a)(2), and a description of any economic models or methodologies used to establish the list.

(6) A list of currencies designated for priority action pursuant to section 4(a)(3).

(7) An identification of the nominal value associated with the medium-term equilibrium exchange rate, relative to the United States dollar, for each currency listed under paragraph (6).

(8) A description of any consultations conducted or other steps taken pursuant to section 5, including any actions taken to eliminate the fundamental misalignment.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Board of Governors of the Federal Reserve System

and the Advisory Committee on International Exchange Rate Policy with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board of Governors of the Federal Reserve System or the Advisory Committee on International Exchange Rate Policy shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report to Congress after taking into account all comments received from the Chairman and the Advisory Committee.

SEC. 4. IDENTIFICATION OF FUNDAMENTALLY MISALIGNED CURRENCIES.

(a) IDENTIFICATION.—

(1) IN GENERAL.—The Secretary shall analyze on a semiannual basis the prevailing real effective exchange rates of foreign currencies.

(2) DESIGNATION OF FUNDAMENTALLY MISALIGNED CURRENCIES.—With respect to the currencies of countries that have significant bilateral trade flows with the United States, and currencies that are otherwise significant to the operation, stability, or orderly development of regional or global capital markets, the Secretary shall determine whether any such currency is in fundamental misalignment and shall designate such currency as a fundamentally misaligned currency.

(3) DESIGNATION OF CURRENCIES FOR PRIORITY ACTION.—The Secretary shall designate a currency identified under paragraph (2) for priority action if the country that issues such currency is—

(A) engaging in protracted large-scale intervention in the currency exchange market, particularly if accompanied by partial or full sterilization;

(B) engaging in excessive and prolonged official or quasi-official accumulation of foreign exchange reserves and other foreign assets, for balance of payments purposes;

(C) introducing or substantially modifying for balance of payments purposes a restriction on, or incentive for, the inflow or outflow of capital, that is inconsistent with the goal of achieving full currency convertibility; or

(D) pursuing any other policy or action that, in the view of the Secretary, warrants designation for priority action.

(b) REPORTS.—The Secretary shall include a list of any foreign currency designated under paragraph (2) or (3) of subsection (a) and the data and reasoning underlying such designations in each report required by section 3.

SEC. 5. NEGOTIATIONS AND CONSULTATIONS.

(a) IN GENERAL.—Upon designation of a currency pursuant to section 4(a)(2), the Secretary shall seek to consult bilaterally with the country that issues such currency in order to facilitate the adoption of appropriate policies to address the fundamental misalignment.

(b) CONSULTATIONS INVOLVING CURRENCIES DESIGNATED FOR PRIORITY ACTION.—With respect to each currency designated for priority action pursuant to section 4(a)(3), the Secretary shall, in addition to seeking to consult with a country pursuant to subsection (a), seek the advice of the International Monetary Fund with respect to the Secretary's findings in the report submitted to Congress pursuant to section 3(a).

(c) PLURILATERAL NEGOTIATIONS RELATING TO FUNDAMENTALLY MISALIGNED CURRENCIES.—

(1) NEGOTIATIONS THROUGH WORLD TRADE ORGANIZATION AND INTERNATIONAL MONETARY FUND.—The Secretary and the United States Trade Representative shall enter into plurilateral or multilateral negotiations through the World Trade Organization and the International Monetary Fund to develop effective remedial rules and actions—

(A) to mitigate the adverse trade and economic effects of fundamentally misaligned currencies designated for priority action pursuant to section 4(a)(3); and

(B) to encourage countries that issue such currencies to adopt appropriate policies to eliminate the fundamental misalignment of their currencies.

(2) ADDITIONAL PLURILATERAL NEGOTIATIONS.—If the negotiations required by paragraph (1) do not result in agreement on the development of effective remedial rules and actions described in that paragraph within 90 days, the Secretary and the United States Trade Representative shall enter into plurilateral negotiations outside the World Trade Organization and the International Monetary Fund to develop agreements with countries the currencies of which have not been designated for priority action pursuant to section 4(a)(3), consistent with international obligations—

(A) to mitigate the adverse trade and economic effects of fundamentally misaligned currencies designated for such priority action;

(B) to encourage countries that issue such currencies to adopt appropriate policies to eliminate the fundamental misalignment of their currencies; and

(C) to implement, if necessary, coordinated actions with respect to countries that issue such currencies to prevent or address currency exchange actions taken by those countries that are inconsistent with the obligations of those countries as members of the World Trade Organization and the International Monetary Fund.

(3) REPORTS.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until the date on which all countries that issue currencies designated for priority action pursuant to section 4(a)(3) have eliminated the fundamental misalignment of their currencies, the Secretary and the United States Trade Representative shall submit to Congress a report on the results of the negotiations described in paragraphs (1) and (2).

(B) CONTENTS.—The report required by subparagraph (A) shall identify—

(i) the countries with which the United States is conducting negotiations under paragraphs (1) and (2) and the international fora in which those negotiations are taking place;

(ii) the remedial rules and actions under discussion in those negotiations;

(iii) any remedial rules that have been adopted and any remedial actions that have been taken pursuant to those negotiations; and

(iv) what, if any, additional authority the Secretary and the United States Trade Representative need from Congress to conduct negotiations under this subsection—

(I) to effectively mitigate the adverse trade and economic effects of fundamentally misaligned currencies; or

(II) to implement coordinated actions with countries the currencies of which have not been designated for priority action pursuant to section 4(a)(3) to prevent or address exchange rate actions—

(aa) taken by countries that issue currencies that have been designated for such priority action; and

(bb) that are inconsistent with the obligations of those countries as members of the World Trade Organization and the International Monetary Fund.

(C) CONSULTATIONS.—On or before the date that is 15 days after the date on which each report is required to be submitted under subparagraph (A), the Secretary shall appear, if requested, before the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives to provide testimony on the report submitted pursuant to subparagraph (A).

(4) NEGOTIATING OBJECTIVE FOR ONGOING AND FUTURE NEGOTIATIONS.—

(A) IN GENERAL.—For any negotiation with respect to an agreement relating to trade or international monetary policy, it shall be a priority negotiating objective of the United States to negotiate with each party to the agreement a commitment—

(i) to prohibit fundamental misalignment of the currency issued by the party that would result in the designation of the currency for priority action pursuant to section 4(a)(3); and

(ii) to cooperate with the other parties to the agreement to mitigate adverse trade and economic effects of the fundamental misalignment of currencies designated for such priority action.

(B) APPLICABILITY.—Subparagraph (A) shall apply with respect to an agreement described in that subparagraph that—

(i) is commenced on or after the date of the enactment of this Act; or

(ii) was commenced before such date of enactment and is ongoing on such date of enactment.

SEC. 6. ADVISORY COMMITTEE ON INTERNATIONAL EXCHANGE RATE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Advisory Committee on International Exchange Rate Policy (in this section referred to as the ''Committee''). The Committee shall be responsible for—

(A) advising the Secretary in the preparation of each report to Congress on international monetary policy and currency exchange rates, provided for in section 3; and

(B) advising Congress and the President with respect to—

(i) international exchange rates and financial policies; and

(ii) the impact of such policies on the economy of the United States.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall be composed of 9 members as follows, none of whom shall be employees of the Federal Government:

(i) CONGRESSIONAL APPOINTEES.—

(I) SENATE APPOINTEES.—Four persons shall be appointed by the President pro tempore of the Senate, upon the recommendation of the chairmen and ranking members of the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

(II) HOUSE APPOINTEES.—Four persons shall be appointed by the Speaker of the House of Representatives upon the recommendation of the chairmen and ranking members of the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(ii) PRESIDENTIAL APPOINTEE.—One person shall be appointed by the President.

(B) QUALIFICATIONS.—Persons shall be selected under subparagraph (A) on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

(3) TERMS.—Members shall be appointed for a term of 4 years or until the Committee terminates. An individual may be reappointed to the Committee for additional terms.

(4) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(b) DURATION OF COMMITTEE.—Notwithstanding section 14(c) of the Federal Advisory Committee Act (5 U.S.C. App.), the Committee shall terminate on the date that is 4 years after the date of the enactment of this Act unless renewed by the President pursuant to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) for a subsequent 4-year period. The President may continue to renew the Committee for successive 4-year periods by taking appropriate action prior to the date on which the Committee would otherwise terminate.

(c) PUBLIC MEETINGS.—The Committee shall hold at least 2 public meetings each year for the purpose of accepting public comments, including comments from small business owners. The Committee shall also meet as needed at the call of the Secretary or at the call of two-thirds of the members of the Committee.

(d) CHAIRPERSON.—The Committee shall elect from among its members a chairperson for a term of 4 years or until the Committee terminates. A chairperson of the Committee may be reelected chairperson but is ineligible to serve consecutive terms as chairperson.

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out its activities.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) EXCEPTION.—Except for the 2 annual public meetings required under subsection (c), meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the Secretary that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of monetary and financial policy.

SEC. 7. REPEAL OF THE EXCHANGE RATES AND ECONOMIC POLICY COORDINATION ACT OF 1988.

The Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5301 et seq.) is repealed.

SA 681. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. SENSE OF CONGRESS ON ACCESSION OF THE RUSSIAN FEDERATION TO THE WORLD TRADE ORGANIZATION.

It is the sense of Congress that, before the United States can support the accession of the Russian Federation to the World Trade Organization, the Government of the Russian Federation needs to make considerable and demonstrative progress toward complying with the major obligations of members of the World Trade Organization, including—

(1) strengthening protection of intellectual property rights, including significantly increasing enforcement efforts with respect to Internet piracy;

(2) curtailing the use of unjustified sanitary restrictions to limit exports of agricultural products from the United States to the Russian Federation;

(3) eliminating technical barriers to trade that affect the information technology industry; and

(4) generally strengthening respect for the rule of law.

SA 682. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. SENSE OF CONGRESS ON BRAZIL AND THE INFORMATION TECHNOLOGY AGREEMENT OF THE WORLD TRADE ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) Under the Ministerial Declaration on Trade in Information Technology Products of the World Trade Organization, agreed to at Singapore December 13, 1996 (in this section referred to as the ''Information Technology Agreement''), 70 countries have eliminated their tariffs on information technology products. Those countries represent about 97 percent of the global trade of information technology products.

(2) The United States is a signatory to the Information Technology Agreement, as are other developed countries as well as developing countries.

(3) By liberalizing the trade of information technology products, the Information Technology Agreement improves global interconnectedness and promotes economic development in signatory countries, including developing countries.

(4) The list of signatories to the Information Technology Agreement does not include Brazil, a major trading partner of the United States.

(5) Brazil is one of the 10 largest economies in the world, is the fifth largest consumer market for information technology products in the world, and is the largest consumer market for such products in Latin America. Brazil ranks seventh in the world in the use of the Internet.

(6) Brazil is a major market for information technology products and it imposes tariffs on information technology products imported from the United States, but the United States imposes no tariffs on such products imported from Brazil.

(7) Morever, because the United States designates Brazil as a beneficiary developing country under the Generalized System of Preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), over $2,000,000,000 in imports from Brazil entered the United States duty-free under the Generalized System of Preferences in 2010.

(8) It is reasonable for the United States to expect Brazil to provide tariff reciprocity and, at a minimum, to become a signatory to the Information Technology Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should make it a priority to urge Brazil to become a signatory to the Information Technology Agreement.

(c) REPORT.—Not later than the date that is 180 days after the date of the enactment of this Act and not later than the date that is 1 year after such date of enactment, the United States Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the progress made in efforts to urge Brazil to become a signatory to the Information Technology Agreement.

SA 683. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. REPORT ON TRADE AGENCY REORGANIZATION PROPOSAL.

Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) on the analysis undertaken by the Office of Management and Budget of the President's proposal to reorganize the Federal agencies with responsibilities relating to international trade, as provided for in the memorandum of the President for the heads of executive departments and agencies relating to government reform for competitiveness and innovation, dated March 11, 2011; and

(2) that includes—

(A) the proposed options for reorganization of those agencies considered by the Office of Management and Budget during its review of those agencies;

(B) conclusions derived from that review; and

(C) recommendations for reorganizing those agencies.

SA 684. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROMOTION OF JOB CREATION.

(a) FINDINGS.—Congress makes the following findings:

(1) In terms of bilateral surveillance, Article IV of the International Monetary Fund (referred to in this section as the ''IMF'') Articles of Agreement lays out a code of conduct for countries' exchange rate and domestic policies. Within this setting, Article IV consultations use exchange rate assessments to monitor countries competitiveness and vulnerabilities to balance of payments crises.

(2) The IMF uses three complementary measures to perform exchange rate assessments and to help determine exchange rate misalignments, a ''macroeconomic balance'' approach, an ''equilibrium real exchange rate'' approach, and an ''external sustainability'' approach.

(3) Exchange rate assessments are based on the notion of equilibrium, which the IMF has identified as ''consistency with external and internal balance over the medium to long run''.

(4) The ''medium term,'' according to IMF definitions relevant to exchange rate assessments, is a horizon over which domestic and partner-country output gaps are closed and the lagged effects of past exchange rate changes are fully realized.

(5) An output gap is measured by the difference between actual output in an economy and potential output.

(6) Potential output is the level of output in an economy that would be realized if labor, capital, and other resources were at high levels of utilization.

(7) Negative output gaps mean that actual output in an economy is below potential output.

(8) This Act seeks to help close a negative output gap in the United States by promoting the elimination of global imbalances and currency misalignments, and relies partly on IMF determinations of exchange rate misalignments which, in turn, rely on the concept of the output gap.

(9) Negative output gaps are typically consistent with unemployed labor resources. The more negative the gap, the larger tends to be the unemployment rate and the greater the need for job creation.

(10) Negative output gaps for the United States mean the difference between the actual gross domestic product and ''potential gross domestic product''.

(b) DEFINITIONS.—In this section:

(1) OUTPUT GAP COMPUTED BY THE CBO.—The term ''output gap computed by the Congressional Budget Office'' means the difference, computed by the Congressional Budget Office, between actual gross domestic product and the Congressional Budget Office's measure of potential gross domestic product.

(2) POTENTIAL GROSS DOMESTIC PRODUCT.—The term ''potential gross domestic product'' means the Congressional Budget Office's estimate of ''full-employment'' gross domestic product, according to the Congressional Budget Office's definition of full-employment as taken from statistical procedures grounded in economic theory.

(3) UNEMPLOYMENT RATE.—The term ''unemployment rate'' means the U-3 measure as computed by the Bureau of Labor Statistics, which is the total number of unemployed as a percentage of the civilian labor force as reported in the Bureau of Labor Statistic's Current Population Survey (commonly known as the ''Household Survey'').

(c) DAVIS-BACON AND MCNAMARA-O'HARA NOT APPLICABLE.—

(1) IN GENERAL.—No Federal funds shall be used to administer or enforce the wage-rate requirements of subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the ''Davis-Bacon Act''), or of the Service Contract Act of 1965 (Public Law 89-286; commonly referred to as the ''McNamara-O'Hara Service Contract Act''), with respect to any project or program funded by the United States, during any calendar quarter following a calendar quarter for which the output gap computed by the Congressional Budget Office is negative or the unemployment rate as computed by the Bureau of Labor Statistics averages five percent or more, until such time as the Congressional Budget Office makes the determinations under paragraph (2).

(2) FUTURE APPLICATION.—The limitation provided for in paragraph (1) shall cease to apply and the wage-rate requirements described in paragraph (1) shall apply beginning in the first calendar quarter that follows four or more consecutive calendar quarters of non-negative output gaps as computed by the Congressional Budget Office and four or more consecutive quarters of average unemployment rates that are below the level of the unemployment rate deemed consistent with the Congressional Budget Office's estimate of full employment.

SA 685. Mr. CRAPO (for himself, Mr. JOHANNS, Mr. SHELBY, Mr. VITTER, Mr. TOOMEY, Mr. MORAN, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. DODD-FRANK IMPROVEMENTS REGARDING REGULATION OF DERIVATIVES.

(a) ESTABLISHMENT.—Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(j) OFFICE OF DERIVATIVES.—

''(1) OFFICE ESTABLISHED.—There is established within the Commission the Office of Derivatives (referred to in this subsection as the 'Office')—

''(A) to administer the rules of the Commission with respect to security-based swaps and, as necessary, to make recommendations to the Commission for new rules or changes to existing rules with respect to security-based swaps;

''(B) to coordinate oversight of the market for swaps and security-based swaps, participants in that market, and infrastructure providers for that market with other relevant domestic and international regulators; and

''(C) to monitor developments in the market for swaps and security-based swaps.

''(2) DIRECTOR OF THE OFFICE.—The head of the Office shall be the Director, who shall report to the Director of the Division of Trading and Markets and the Director of Risk, Strategy, and Financial Innovation.

''(3) STAFFING.—

''(A) IN GENERAL.—The Office shall be staffed by persons transferred in accordance with subparagraph (B), including persons having knowledge of and expertise in the uses for, trading in, execution of, and clearing of swaps and security-based swaps.

''(B) TRANSFERS.—The Director of the Office of Derivatives, the Director of the Division of Trading and Markets, the Director of Risk, Strategy, and Financial Innovation, and the Director of the Office of Compliance, Inspections, and Examinations shall jointly identify employees to be transferred from the Division of Trading and Markets, the Division of Risk, Strategy, and Financial Innovation, and the Office of Compliance, Inspections, and Examinations, respectively, to the Office of Derivatives, in numbers sufficient to carry out fully the requirements of this subsection.

''(4) ENFORCEMENT.—The Division of Enforcement shall consult with the Office before presenting a recommendation with respect to security-based swaps to the Commission.

''(5) INSPECTIONS AND EXAMINATIONS.—A representative of the Office shall be afforded the opportunity to participate in any inspection or examination of a security-based swap dealer, major security-based swap participant, security-based swap data repository, or clearing agency that clears security-based swaps.

''(6) ANNUAL REPORT.—On or before the date that is one year after the Office is established and annually thereafter, the Director shall submit to the Chairman and publish on the public website of the Commission a report that describes the activities of the Office during the preceding year, and the developments in the swaps and security-based swaps market.''

(b) ORDERLY IMPLEMENTATION OF DERIVATIVES PROVISIONS.—

(1) REVIEW OF REGULATORY AUTHORITY.—Section 712 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8302) is amended—

(A) in each of subsections (a)(3) and (e), by striking ''360'' each place that term appears and inserting ''720''; and

(B) by adding at the end the following:

''(g) ORDERLY IMPLEMENTATION SCHEDULE.—

''(1) IN GENERAL.—Not later than December 31, 2011, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the prudential regulators shall jointly, pursuant to the notice and comment requirements contained in title 5, United States Code, adopt an implementation schedule for this title.

''(2) SCHEDULE CONTENT.—Such implementation schedule shall—

''(A) set forth a schedule for the publication of final rules required by this title, except that, unless otherwise specifically provided by a provision of this title, the rules required by subsection (d)(1) shall be adopted before any other required rules;

''(B) set forth a schedule for the effective dates for provisions of this title, including provisions that require a rulemaking and provisions that do not require a rulemaking;

''(C) take into consideration—

''(i) a quantitative analysis of the effects of this title on United States economic growth and job creation;

''(ii) the implications of this title for cross-border activity by, and international competitiveness of, United States financial institutions, companies, and investors;

''(iii) whether and how the definitional, clearing, trading, reporting, recordkeeping, real-time reporting, registration, capital, margin, business conduct, position limits and other requirements of this title work together, and how they affect market depth and liquidity; and

''(iv) the implications of any lack of harmonization by the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators with respect to the timing and the substance of their rules.

''(h) ORDERLY IMPLEMENTATION AUTHORITY.—Notwithstanding any other provision of law, the Commodity Futures Trading Commission, the Securities and Exchange Commission and the prudential regulators, by rule, regulation, or order, may conditionally or unconditionally exempt any person, swap, security-based swap, activity, or transaction, or any class or classes of persons, swaps, security-based swaps, activities, or transactions, from any provision or provisions of this title administered thereby, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and is in furtherance of the objectives of this title, such as the orderly implementation and international harmonization of the timing and substance of derivatives regulatory reform.''.

(2) EFFECTIVE DATES.—Title VII of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203, 124 Stat. 1641) is amended—

(A) in section 754 (7 U.S.C. 7a note), by striking ''the later of'' and all that follows through the period and inserting ''the dates specified in the implementation schedule adopted pursuant to section 712(g).''; and

(B) in section 774 (15 U.S.C. 77b note), by striking ''the later of'' and all that follows through the period and inserting ''the dates specified in the implementation schedule adopted pursuant to section 712(g).''.

(c) CLARIFICATION OF END USER STATUS.—

(1) END USERS OF SWAPS.—

(A) MARGIN REQUIREMENTS.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)), as added by section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The margin requirements of this subsection shall not apply to a swap in which 1 of the counterparties is not—

''(A) a swap dealer or major swap participant;

''(B) an investment fund that—

''(i) has issued securities (other than debt securities) to more than 5 unaffiliated persons;

''(ii) would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) but for paragraph (1) or (7) of subsection (c) of that section; and

''(iii) is not primarily invested in physical assets (including commercial real estate) directly or through an interest in an affiliate that owns the physical assets;

''(C) a regulated entity, as defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502); or

''(D) a commodity pool that is predominantly invested in any combination of commodities, commodity swaps, commodity options, or commodity futures.

''(5) MARGIN TRANSITION RULES.—Swaps entered into before the date on which final rules under section 712(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8302(e)) become effective shall be exempt from the margin requirements under this subsection.''.

(B) MAJOR SWAP PARTICIPANT.—Section 1a(33)(A) of the Commodity Exchange Act (7 U.S.C. 1a(33)(A)) is amended by striking clause (ii) and inserting the following:

''(ii) whose outstanding swaps create substantial net uncollateralized counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or''.

(C) EFFECTIVE DATE.—The amendments made by subsection (a) shall have the same effective date as provided in section 754 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, as amended by section 1(b) of this Act.

(2) END USERS OF SECURITY-BASED SWAPS.—

(A) MARGIN REQUIREMENTS.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 780–10(e)), as added by section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The margin requirements of this subsection shall not apply to a security-based swap in which 1 of the counterparties is not—

''(A) a security-based swap dealer or major security-based swap participant;

''(B) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)), but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a–3(c)), that is not primarily invested in physical assets (including commercial real estate) directly or through interest in its affiliates that own such assets;

''(C) a regulated entity, as defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502); or

''(D) a commodity pool that is predominantly invested in any combination of commodities, commodity swaps, commodity options or commodity futures.

''(5) MARGIN TRANSITION RULES.—Security-based swaps entered into before the date on which final rules under section 712(e) of the Dodd–Frank Wall Street Reform and Consumer Protection Act become effective are exempt from the margin requirements of this subsection.''.

(B) MAJOR SECURITY-BASED SWAP PARTICIPANT.—Section 3(a)(67)(A)(ii)(II) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(67)(A)(ii)(II)), is amended to read as follows:

''(II) whose outstanding security-based swaps create substantial net uncollateralized counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets;''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall have the same effective date as provided in section 774 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, as amended by this Act.

(d) TREATMENT OF AFFILIATE TRANSACTIONS.—Title VII of the Dodd–Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) is amended by inserting after section 713 (15 U.S.C. the following new section:

''SEC. 713A. TREATMENT OF AFFILIATE TRANSACTIONS.

''(a) IN GENERAL.—An agreement, contract, or transaction that would otherwise be a swap or security-based swap, and that is entered into by a party that is controlling, controlled by, or under common control with its counterparty shall not be deemed to be a 'swap' or 'security-based swap' for purposes of this Act.

''(b) REPORTING.—All agreements, contracts, or transactions described in subsection (a) shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such transaction reports, to the Commission pursuant to sections 729 and 766. within such time period as the Commission may prescribe by rule or regulation.''.

(e) INTERNATIONAL COMPETITIVENESS AND HARMONIZATION.—

(1) STUDY ON INTERNATIONAL SWAP REGULATION.—Section 719(c)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8307(c)(2)) is amended—

(A) by striking ''18'' and inserting ''30'';

(B) in subparagraph (C), by striking ''and'' at the end;

(C) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(E) an analysis of the progress of members of the Group of 20 and other countries toward implementing derivatives regulatory reform, including material differences in the schedule for implementation (as well as material differences in definitions, clearing, trading, reporting, registration, capital, margin, business conduct, and position limits) and their possible and likely effects on United States competitiveness, market liquidity, and financial stability.''.

(2) APPLICABILITY.—The Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after section 719 the following new section:

''SEC. 719A. APPLICABILITY.

''(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of this title, no activities conducted outside of the United States between counterparties established under the laws of any jurisdiction outside of the United States (including a non-United States branch of a United States entity licensed and recognized under local law outside of the United States) shall be considered—

''(1) to have a direct and significant connection with activities in, or effect on, commerce of the United States;

''(2) to constitute a business within the jurisdiction of the United States; or

''(3) to constitute evasion of any provision of this title, unless those activities contravene such rules as may be adopted by the Commodity Futures Trading Commission and the Securities and Exchange Commission pursuant to subsection (b).

''(b) RULEMAKING.—After completing the report required by section 719(c)(2), the Commodity Futures Trading Commission and the Securities and Exchange Commission may jointly issue such rules as are necessary to prohibit transactions or activities, or classes of transactions or activities conducted outside of the United States that the agencies find—

''(1) have no valid business purpose;

''(2) are structured with the sole purpose of evading the requirements of this title; and

''(3) might reasonably be expected to have a serious adverse effect on the stability of the United States financial system.

''(c) EXCEPTION.—Subsection (a) shall not apply to any provision of this title prohibiting fraud or manipulation or any rule or regulation thereunder.''.

SA 686. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GOLD AND SILVER COINS THAT ARE LEGAL TENDER NOT SUBJECT TO TAXATION.

(a) IN GENERAL.—Gold and silver coins declared legal tender by the Federal Government or any State government shall not be subject to taxation.

(b) CONFORMING AMENDMENT.—Section 1(h)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''(as defined in section 408(m) without regard to paragraph (3) thereof)'' in subparagraph (A), and

(2) by adding at the end the following new subparagraph:

''(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' has the meaning given such term by section 408(m), determined without regard to subparagraphs (A)(iii), (A)(iv), and (B).''.

(c) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall take effect on the date of the enactment of this Act.

SA 687. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is repealed, and the provisions of law amended by such Act are revived or restored as if such Act had not been enacted.

SA 688. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NULLIFICATION OF FINAL RULE.

As of the date of enactment of this Act, the final rule entitled ''Use of Ozone-Depleting

Substances; Removal of Essential-Use Designation (Epinephrine)'' (73 Fed. Reg. 69532 (November 19, 2008)) shall have no force or effect.

SA 689. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYEE FREE CHOICE.

(a) AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.—

(1) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking ''except to'' and all that follows through ''authorized in section 8(a)(3)''.

(2) UNFAIR LABOR PRACTICES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended—

(A) in subsection (a)(3), by striking '': *Provided*, That'' and all that follows through ''retaining membership'';

(B) in subsection (b)—

(i) in paragraph (2), by striking ''or to discriminate'' and all that follows through ''retaining membership''; and

(ii) in paragraph (5), by striking ''covered by an agreement authorized under subsection (a)(3) of this section''; and

(C) in subsection (f), by striking clause (2) and redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) AMENDMENT TO THE RAILWAY LABOR ACT.—Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by striking paragraph Eleven.

SA 690. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, between lines 9 and 10, insert the following:

(4) A description of currency intervention by the United States that includes an assessment, based on factors that include economic growth, job creation, inflation, and commodities prices, of the effects in the United States and internationally of actions taken by the Board of Governors of the Federal Reserve System and the Federal Open Market Committee, including—

(A) significantly increasing in the size of the Federal Reserve's balance sheet;

(B) conducting multiple rounds of quantitative easing; and

(C) maintaining exceptionally low interest rates for an extended period of time.

SA 691. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. MODIFICATION AND PERMANENT EXTENSION OF THE INCENTIVES TO REINVEST FOREIGN EARNINGS IN THE UNITED STATES.

(a) REPATRIATION SUBJECT TO 5 PERCENT TAX RATE.—Subsection (a)(1) of section 965 of the Internal Revenue Code of 1986 is amended by striking ''85 percent'' and inserting ''85.7 percent''.

(b) PERMANENT EXTENSION TO ELECT REPATRIATION.—Subsection (f) of section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) ELECTION.—The taxpayer may elect to apply this section to any taxable year only if made on or before the due date (including extensions) for filing the return of tax for such taxable year.''.

(c) REPATRIATION INCLUDES CURRENT AND ACCUMULATED FOREIGN EARNINGS.—

(1) IN GENERAL.—Paragraph (1) of section 965(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) shall not exceed the sum of the current and accumulated earnings and profits described in section 959(c)(3) for the year a deduction is claimed under subsection (a), without diminution by reason of any distributions made during the election year, for all controlled foreign corporations of the United States shareholder.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 965(b) of such Code is amended by striking paragraphs (2) and (4) and by redesignating paragraph (3) as paragraph (2).

(B) Section 965(c) of such Code is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(C) Paragraph (3) of section 965(c) of such Code, as redesignated by subparagraph (B), is amended to read as follows:

''(3) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.''.

(d) CLERICAL AMENDMENTS.—

(1) The heading for section 965 of the Internal Revenue Code of 1986 is amended by striking ''**TEMPORARY**''.

(2) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking ''Temporary dividends'' and inserting ''Dividends''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 692. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FARM DUST REGULATION PREVENTION

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Farm Dust Regulation Prevention Act of 2011''.

SEC. ___02. NUISANCE DUST.

Part A of title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY STATE, TRIBAL, AND LOCAL GOVERNMENTS.

''(a) DEFINITION OF NUISANCE DUST.—In this section, the term 'nuisance dust' means particulate matter—

''(1) generated from natural sources, unpaved roads, agricultural activities, earth moving, or other activities typically conducted in rural areas; or

''(2) consisting primarily of soil, windblown dust, or other natural or biological materials, or some combination of those materials.

''(b) APPLICABILITY.—Except as provided in subsection (c), this Act does not apply to, and references in this Act to particulate matter are deemed to exclude, nuisance dust.

''(c) EXCEPTION.—Subsection (b) does not apply with respect to any geographical area in which nuisance dust is not regulated under State, tribal, or local law to the extent that the Administrator finds that—

''(1) nuisance dust (or any subcategory of nuisance dust) causes substantial adverse public health and welfare effects at ambient concentrations; and

''(2) the benefits of applying standards and other requirements of this Act to nuisance dust (or such a subcategory of nuisance dust) outweigh the costs (including local and regional economic and employment impacts) of applying those standards and other requirements to nuisance dust (or such a subcategory).''.

SEC. ___03. TEMPORARY PROHIBITION AGAINST REVISING ANY NATIONAL AMBIENT AIR QUALITY STANDARD APPLICABLE TO COARSE PARTICULATE MATTER.

Before the date that is 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency may not propose, finalize, implement, or enforce any regulation revising the national primary ambient air quality standard or the national secondary ambient air quality standard applicable to particulate matter with an aerodynamic diameter greater than 2.5 micrometers under section 109 of the Clean Air Act (42 U.S.C. 7409).

SA 693. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. PROHIBITION ON TRANSFER OF PROPRIETARY TECHNOLOGY AND INTELLECTUAL PROPERTY DEVELOPED WITH FUNDING PROVIDED BY THE UNITED STATES GOVERNMENT TO ENTITIES OF CERTAIN COUNTRIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, a United States commercial entity may not transfer to any entity described in subsection (b) any proprietary technology or intellectual property that was researched, developed, or commercialized using a contract, grant, loan, loan guarantee, or other financial assistance provided or awarded by the United States Government.

(b) ENTITIES DESCRIBED.—

(1) IN GENERAL.—An entity described in this subsection is an entity—

(A) owned or controlled by the government of a country described in paragraph (2); or

(B) in which citizens of such a country hold interests representing at least 5 percent of the capital structure of the entity.

(2) COUNTRIES DESCRIBED.—A country described in this paragraph is a country in which, by law, practice, or policy, any United States entity is required to transfer proprietary technology or intellectual property as a condition of doing business in that country.

(c) WAIVER.—The Secretary of Commerce may waive the prohibition in subsection (a) with respect to a transfer of proprietary technology or intellectual property if the Secretary determines that the transfer would not compromise the economic interests or competitiveness of the United States.

(d) APPLICABILITY.—This section applies with respect to the transfer on or after the date of the enactment of this Act of any proprietary technology or intellectual property developed before, on, or after such date of enactment.

(e) REGULATIONS.—The Secretary of Commerce, in consultation with other relevant Federal agencies, shall prescribe such regulations as may be necessary to carry out this section.

(f) UNITED STATES COMMERCIAL ENTITY DEFINED.—In this section, the term ''United States commercial entity'' means a commercial entity organized under the laws of the United States or any jurisdiction within the United States.

SA 694. Mr. REID proposed an amendment to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

At the end, add the following new section:

SECTION ___. EFFECTIVE DATE.

The provisions of this Act shall become effective 3 days after enactment.

SA 695. Mr. REID proposed an amendment to amendment SA 694 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''3 days'', insert ''2 days''.

SA 696. Mr. REID proposed an amendment to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

At the end, add the following new section:

SECTION ___. EFFECTIVE DATE.

The provisions of this Act shall become effective 6 days after enactment.

SA 697. Mr. REID proposed an amendment to amendment SA 696 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''6 days'' and insert ''5 days''.

SA 698. Mr. REID proposed an amendment to amendment SA 697 proposed by Mr. REID to the amendment SA 696 proposed by Mr. REID to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

SA 699. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) MAINTENANCE OF LONG RUN GROWTH; PRICE STABILITY AND LOW INFLATION.—Section 2A of the Federal Reserve Act (12 U.S.C. 225a) is amended—

(1) by striking ''maximum employment, stable prices,'' and inserting ''long-term price stability, a low rate of inflation,''; and

(2) by at the end the following: ''The Board shall establish an explicit numerical definition of the term 'long-term price stability' and shall maintain monetary policy that effectively promotes such long-term price stability.''.

(b) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed as a limitation on the authority or responsibility of the Board of Governors of the Federal Reserve System—

(1) to provide liquidity to markets in the event of a disruption that threatens the smooth functioning and stability of the financial sector; or

(2) to serve as a lender of last resort under the Federal Reserve Act when the Board determines such action is necessary.

(c) CONGRESSIONAL OVERSIGHT.—The Board of Governors of the Federal Reserve System shall, concurrent with each semiannual hearing to Congress, submit a written report to the Congress containing—

(1) numerical measures to help Congress assess the extent to which the Board and the Federal Open Market Committee are achieving and maintaining a legitimate definition of the term long-term price stability, as such term is defined or modified pursuant to the second sentence of section 2A of the Federal Reserve Act (as added by this Act);

(2) a description of the intermediate variables used by the Board to gauge the prospects for achieving the objective of long-term price stability; and

(3) the definition, or any modifications thereto, of the term long-term price stability, as such term is defined or modified pursuant to the second sentence of section 2A of the Federal Reserve Act (as added by this section).

SA 700. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011''.

SEC. ___2. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

SEC. ___3. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) the economic effects on small entities directly regulated by the rule; and

''(B) the reasonably foreseeable economic effects of the rule on small entities that—

''(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

''(ii) are directly regulated by other governmental entities as a result of the rule; or

''(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.''.

SEC. ___4. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is

in compliance with the requirements of section 603 or 605.''.

SEC. _____5. PERIODIC REVIEW.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b) Each plan established under subsection (a) shall provide for—

''(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011—

''(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

''(B) every 9 years thereafter; and

''(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011—

''(A) not later than 9 years after the publication of the final rule in the Federal Register; and

''(B) every 9 years thereafter.

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the economic impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

''(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

''(B) notify the head of the agency of—

''(i) the results of the determination under subparagraph (A); and

''(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

''(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

''(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

''(i) determine whether the agency has addressed the issues identified in the notice; and

''(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

''(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

''(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).''.

SEC. _____6. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''a covered agency'' the first place it appears and inserting ''an agency designated under subsection (d)''; and

(B) by striking ''a covered agency'' each place it appears and inserting ''the agency'';

(2) by striking subsection (d), as amended by section 1100G(a) of Public Law 111–203 (124 Stat. 2112), and inserting the following:

''(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the Bureau of Consumer Financial Protection shall be—

''(A) agencies designated under this subsection; and

''(B) subject to the requirements of subsection (b).

''(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

''(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011;

''(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011; and

''(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011.

''(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.''; and

(3) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, as added by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

SEC. _____7. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. _____8. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 3 of this title, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. _____9. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking ''Each agency'' and inserting the following:

''(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency''; and

(B) by adding at the end the following:

''(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.''; and

(2) in subsection (c)—

(A) by striking ''Agencies shall report'' and all that follows through ''the scope'' and inserting ''Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2011, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope''; and

(B) by striking ''and the total amount of penalty reductions and waivers'' and inserting ''the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)''.

SEC. _____10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(1) by striking subsection (b) and inserting the following:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. _____11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. _____12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. _____13. FUNDING AND OFFSETS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Small Business Administration, for any costs of carrying out this title and the amendments made by this title (including the costs of hiring additional employees)—

(1) $1,000,000 for fiscal year 2012;

(2) $2,000,000 for fiscal year 2013; and

(3) $3,000,000 for fiscal year 2014.

(b) REPEALS.—In order to offset the costs of carrying out this title and the amendments made by this title and to reduce the Federal deficit, the following provisions of law are repealed, effective on the date of enactment of this Act:

(1) Section 21(n) of the Small Business Act (15 U.S.C. 648).

(2) Section 27 of the Small Business Act (15 U.S.C. 654).

(3) Section 1203(c) of the Energy Security and Efficiency Act of 2007 (15 U.S.C. 657h(c)).

SEC. _____14. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended in the section heading by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.'';

and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

SA 701. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, insert the following:

SEC. 16. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION TAX.

Subsection (a) of section 1402 of the Health Care and Education Reconciliation Act of 2010, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsection and amendments had never been enacted.

SA 702. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF AMERICAN JOBS.

Notwithstanding any other provision of law, no Federal funds shall be used by the Centers for Medicare & Medicaid Services to implement or enforce any regulation promulgated pursuant to the Patient Protection and Affordable Care Act until such time as the Office of the Actuary of such Centers—

(1) publishes an analysis of the impact that such regulation would have on health care premiums in the individual and group markets; and

(2) estimates, based on the analysis published under paragraph (1), that the implementation of such regulation will not result in an increase in individual or group market premiums in excess of 5 percent.

SA 703. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

(b) RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds, $30,000,000,000 in appropriated discretionary funds are hereby permanently rescinded.

(2) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under paragraph (1) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under the preceding sentence.

(3) EXCEPTION.—This subsection shall not apply to the unobligated funds of the Department of Defense or the Department of Veterans Affairs.

SA 704. Ms. STABENOW (for herself and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CHIEF TRADE ENFORCEMENT OFFICER.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Chief Trade Enforcement Officer who shall all be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Chief Trade Enforcement Officer submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Chief Trade Enforcement Officer shall hold office at the pleasure of the President and shall have the rank of Ambassador.''.

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6) The principal function of the Chief Trade Enforcement Officer shall be to ensure that United States trading partners comply with trade agreements to which the United States is a party. The Chief Trade Enforcement Officer shall assist the United States Trade Representative in investigating and prosecuting disputes pursuant to trade agreements to which the United States is a party, including before the World Trade Organization, and shall assist the United States Trade Representative in carrying out the Trade Representative's functions under subsection (d). The Chief Trade Enforcement Officer shall make recommendations with respect to the administration of United States trade laws relating to foreign government barriers to United States goods, services, investment, and intellectual property, and with respect to government procurement and other trade matters. The Chief Trade Enforcement Officer shall perform such other functions as the United States Trade Representative may direct.''.

(c) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by inserting after ''Chief Agricultural Negotiator.'' the following:

''Chief Trade Enforcement Officer.''.

(d) TECHNICAL AMENDMENTS.—Section 141(e) of the Trade Act of 1974 (19 U.S.C. 2171(e)) is amended—

(1) in paragraph (1), by striking ''5314'' and inserting ''5315''; and

(2) in paragraph (2), by striking ''the maximum rate of pay for grade GS–18 as provided in section 5332'' and inserting ''the maximum rate of pay for level IV of the Executive Schedule in section 5315''.

SA 705. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ___—CRITICAL MINERALS AND MATERIALS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Critical Minerals and Materials Promotion Act of 2011''.

SEC. ___02. DEFINITION OF CRITICAL MINERALS AND MATERIALS.

In this title:

(1) IN GENERAL.—The term ''critical minerals and materials'' means naturally occurring, nonliving, nonfuel substances with a definite chemical composition—

(A) that perform an essential function for which no satisfactory substitutes exist; and

(B) the supply of which has a high probability of becoming restricted, leading to physical unavailability or excessive costs for the applicable minerals and materials in key applications.

(2) EXCLUSIONS.—The term ''critical minerals and materials'' does not include ice, water, or snow.

SEC. ___03. PROGRAM TO DETERMINE PRESENCE OF AND FUTURE NEEDS FOR CRITICAL MINERALS AND MATERIALS.

(a) IN GENERAL.—The Secretary of the Interior, acting through the United States Geological Survey, shall establish a research and development program—

(1) to provide data and scientific analyses for research on, and assessments of the potential for, undiscovered and discovered resources of critical minerals and materials in the United States and other countries; and

(2) to analyze and assess current and future critical minerals and materials supply chains—

(A) with advice from the Energy Information Administration on future energy technology market penetration; and

(B) using the Mineral Commodity Summaries produced by the United States Geological Survey.

(b) GLOBAL SUPPLY CHAIN.—The Secretary shall, if appropriate, cooperate with international partners to ensure that the program established under subsection (a) provides analyses of the global supply chain of critical minerals and materials.

SEC. ___04. PROGRAM TO STRENGTHEN THE DOMESTIC CRITICAL MINERALS AND MATERIALS SUPPLY CHAIN FOR CLEAN ENERGY TECHNOLOGIES.

The Secretary of Energy shall conduct a program of research, development, and demonstration to strengthen the domestic critical minerals and materials supply chain for clean energy technologies and to ensure the long-term, secure, and sustainable supply of critical minerals and materials sufficient to strengthen the national security of the United States and meet the clean energy production needs of the United States, including—

(1) critical minerals and materials production, processing, and refining;

(2) minimization of critical minerals and materials in energy technologies;

(3) recycling of critical minerals and materials; and

(4) substitutes for critical minerals and materials in energy technologies.

SEC. ___05. STRENGTHENING EDUCATION AND TRAINING IN MINERAL AND MATERIAL SCIENCE AND ENGINEERING FOR CRITICAL MINERALS AND MATERIALS PRODUCTION.

(a) IN GENERAL.—The Secretary of Energy shall promote the development of the critical minerals and materials industry workforce in the United States.

(b) SUPPORT.—In carrying out subsection (a), the Secretary shall support—

(1) critical minerals and materials education by providing undergraduate and graduate scholarships and fellowships at institutions of higher education, including technical and community colleges;

(2) partnerships between industry and institutions of higher education, including technical and community colleges, to provide onsite job training; and

(3) development of courses and curricula on critical minerals and materials.

SEC. ___06. SUPPLY OF CRITICAL MINERALS AND MATERIALS.

(a) POLICY.—It is the policy of the United States to promote an adequate and stable supply of critical minerals and materials necessary to maintain national security, economic well-being, and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation, and social needs.

(b) IMPLEMENTATION.—To implement the policy described in subsection (a), the President, acting through the Executive Office of the President, shall—

(1) coordinate the actions of applicable Federal agencies;

(2) identify critical minerals and materials needs and establish early warning systems for critical minerals and materials supply problems;

(3) establish a mechanism for the coordination and evaluation of Federal critical minerals and materials programs, including programs involving research and development, in a manner that complements related efforts carried out by the private sector and other domestic and international agencies and organizations;

(4) promote and encourage private enterprise in the development of economically sound and stable domestic critical minerals and materials supply chains;

(5) promote and encourage the recycling of critical minerals and materials, taking into account the logistics, economic viability, environmental sustainability, and research and development needs for completing the recycling process;

(6) assess the need for and make recommendations concerning the availability and adequacy of the supply of technically trained personnel necessary for critical minerals and materials research, development, extraction, and industrial practice, with a particular focus on the problem of attracting and maintaining high-quality professionals for maintaining an adequate supply of critical minerals and materials; and

(7) report to Congress on activities and findings under this subsection.

SA 706. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON THE TRANSFER TO ENTITIES IN THE PEOPLE'S REPUBLIC OF CHINA OF TECHNOLOGY DEVELOPED USING FUNDS PROVIDED BY THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—Not later than March 30, 2012, the Comptroller General of the United States shall submit to Congress a report on the transfer by United States persons of technology developed using grants, loans, or other financial assistance provided by the United States Government to entities in the People's Republic of China or entities owned or controlled by the Government of China that includes an assessment of the following:

(1) The degree to which the United States Government has expressly or tacitly acquiesced to the transfer of such technology to such entities.

(2) The strategic benefit to the Government of China and to industries in China of obtaining such technology.

(3) The extent to which there is a concerted effort by the Government of China to obtain certain types of technology from United States persons.

(4) Any instances of the transfer of technology to entities in China or entities owned or controlled by the Government of China that are of national security concern to the United States Government.

(5) The degree to which the transfer of technology to such an entity by a United States person has caused other United States persons to need to compete against other such entities.

(6) Any instances of the transfer of technology that have enabled such entities to advance beyond the technological capabilities of industries in the United States or to make significant gains in technological development relative to the technological capabilities of such industries.

(7) The cost to United States taxpayers of research that—

(A) has been carried out using grants, loans, or other financial assistance provided by the United States Government; and

(B) has resulted in technology that has been transferred to an entity in China or an entity owned or controlled by the Government of China.

(8) Any other notable instances of transfer of technology to such entities that are a cause for concern for the United States Government or the global technological leadership of the United States.

(b) UNITED STATES PERSON DEFINED.—In this section, the term ''United States person'' means—

(1) an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence to the United States; or

(2) an entity organized under the laws of the United States or of any jurisdiction within the United States.

SA 707. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON THE TRANSFER TO ENTITIES IN THE PEOPLE'S REPUBLIC OF CHINA OF TECHNOLOGY DEVELOPED USING FUNDS PROVIDED BY THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—Not later than March 30, 2012, the Comptroller General of the United States shall submit to Congress a report on the transfer by United States persons of technology developed using grants, loans, or other financial assistance provided by the United States Government to entities in the People's Republic of China or entities owned or controlled by the Government of China that includes an assessment of the following:

(1) The degree to which the United States Government has expressly or tacitly acquiesced to the transfer of such technology to such entities.

(2) The strategic benefit to the Government of China and to industries in China of obtaining such technology.

(3) The extent to which there is a concerted effort by the Government of China to obtain certain types of technology from United States persons.

(4) Any instances of the transfer of technology to entities in China or entities owned or controlled by the Government of China that are of national security concern to the United States Government.

(5) The degree to which the transfer of technology to such an entity by a United States person has caused other United States persons to need to compete against other such entities.

(6) Any instances of the transfer of technology that have enabled such entities to advance beyond the technological capabilities of industries in the United States or to make significant gains in technological development relative to the technological capabilities of such industries.

(7) The cost to United States taxpayers of research that—

(A) has been carried out using grants, loans, or other financial assistance provided by the United States Government; and

(B) has resulted in technology that has been transferred to an entity in China or an entity owned or controlled by the Government of China.

(8) Any other notable instances of transfer of technology to such entities that are a cause for concern for the United States Government or the global technological leadership of the United States.

(b) UNITED STATES PERSON DEFINED.—In this section, the term ''United States person'' means—

(1) an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence to the United States; or

(2) an entity organized under the laws of the United States or of any jurisdiction within the United States.

SA 708. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. IMPROVING ACCESS TO INTERNATIONAL MARKETS.

There are authorized to be appropriated to the United States Trade Representative $2,000,000 for each of the fiscal years 2012 through 2014 to initiate any proceeding to resolve a dispute relating to a barrier to market access with a country—

(1) that is a WTO member (as that term is defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))); or

(2) with which the United States has a free trade agreement in effect.

SA 709. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. IMPROVING ACCESS TO INTERNATIONAL MARKETS.

There are authorized to be appropriated to the United States Trade Representative $2,000,000 for each of the fiscal years 2012 through 2014 to initiate any proceeding to resolve a dispute relating to a barrier to market access with a country—

(1) that is a WTO member (as that term is defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))); or

(2) with which the United States has a free trade agreement in effect.

SA 710. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. INCLUSION OF EXPEDITED DISPUTE SETTLEMENT PROCESS WITH RESPECT TO NONTARIFF BARRIERS IN THE TRANS-PACIFIC PARTNERSHIP AGREEMENT.

(a) IN GENERAL.—In negotiations with respect to the Trans-Pacific Partnership Agreement, it shall be a negotiating objective of the United States to include in the Agreement a process for settling disputes with respect to nontariff barriers on an expedited basis.

(b) CONSULTATIONS.—The United States Trade Representative shall consult with small- and medium-sized businesses in the United States and other interested parties in determining how to make the expedited dispute settlement process described in subsection (a) most effective.

SA 711. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. INCLUSION OF EXPEDITED DISPUTE SETTLEMENT PROCESS WITH RESPECT TO NONTARIFF BARRIERS IN THE TRANS-PACIFIC PARTNERSHIP AGREEMENT.

(a) IN GENERAL.—In negotiations with respect to the Trans-Pacific Partnership Agreement, it shall be a negotiating objective of the United States to include in the Agreement a process for settling disputes with respect to nontariff barriers on an expedited basis.

(b) CONSULTATIONS.—The United States Trade Representative shall consult with small- and medium-sized businesses in the United States and other interested parties in determining how to make the expedited dispute settlement process described in subsection (a) most effective.

SA 712. Mr. SHELBY (for himself, Mr. CRAPO, Mr. CORKER, Mr. DEMINT, Mr. VITTER, Mr. JOHANNS, Mr. TOOMEY, Mr. KIRK, Mr. MORAN, and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—FINANCIAL REGULATORY RESPONSIBILITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Financial Regulatory Responsibility Act of 2011''.

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term ''agency'' means the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Financial Stability Oversight Council, the Office of the Comptroller of the Currency, the Office of Financial Research, the National Credit Union Administration, and the Securities and Exchange Commission;

(2) the term ''chief economist'' means—

(A) with respect to the Board of Governors of the Federal Reserve System, the Director of the Division of Research and Statistics, or an employee of the agency with comparable authority;

(B) with respect to the Bureau of Consumer Financial Protection, the Assistant Director for Research, or an employee of the agency with comparable authority;

(C) with respect to the Commodity Futures Trading Commission, the Chief Economist, or an employee of the agency with comparable authority;

(D) with respect to the Federal Deposit Insurance Corporation, the Director of the Division of Insurance and Research, or an employee of the agency with comparable authority;

(E) with respect to the Federal Housing Finance Agency, the Chief Economist, or an employee of the agency with comparable authority;

(F) with respect to the Financial Stability Oversight Council, the Chief Economist, or an employee of the agency with comparable authority;

(G) with respect to the Office of the Comptroller of the Currency, the Director for Policy Analysis, or an employee of the agency with comparable authority;

(H) with respect to the Office of Financial Research, the Director, or an employee of the agency with comparable authority;

(I) with respect to the National Credit Union Administration, the Chief Economist, or an employee of the agency with comparable authority; and

(J) with respect to the Securities and Exchange Commission, the Director of the Division of Risk, Strategy, and Financial Innovation, or an employee of the agency with comparable authority;

(3) the term ''Council'' means the Chief Economists Council established under section 209; and

(4) the term ''regulation''—

(A) means an agency statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the agency intends to have the force and effect of law;

(B) does not include—

(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

(ii) a regulation that is limited to agency organization, management, or personnel matters;

(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision;

(iv) a regulation that is certified by the agency to be an emergency action, if such certification is published in the Federal Register; or

(v) a regulation that is promulgated by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee under section 10A, 10B, 13, 13A, or 19 of the Federal Reserve Act, or any of subsections (a) through (f) of section 14 of that Act.

SEC. 203. REQUIRED REGULATORY ANALYSIS.

(a) REQUIREMENTS FOR NOTICES OF PROPOSED RULEMAKING.—An agency may not issue a notice of proposed rulemaking unless the agency includes in the notice of proposed rulemaking an analysis that contains, at a minimum, with respect to each regulation that is being proposed—

(1) an identification of the need for the regulation and the regulatory objective, including identification of the nature and significance of the market failure, regulatory failure, or other problem that necessitates the regulation;

(2) an explanation of why the private market or State, local, or tribal authorities cannot adequately address the identified market failure or other problem;

(3) an analysis of the adverse impacts to regulated entities, other market participants, economic activity, or agency effectiveness that are engendered by the regulation and the magnitude of such adverse impacts;

(4) a quantitative and qualitative assessment of all anticipated direct and indirect costs and benefits of the regulation (as compared to a benchmark that assumes the absence of the regulation), including—

(A) compliance costs;

(B) effects on economic activity, net job creation (excluding jobs related to ensuring compliance with the regulation), efficiency, competition, and capital formation;

(C) regulatory administrative costs; and

(D) costs imposed by the regulation on State, local, or tribal governments or other regulatory authorities;

(5) if quantified benefits do not outweigh quantitative costs, a justification for the regulation;

(6) identification and assessment of all available alternatives to the regulation, including modification of an existing regulation or statute, together with—

(A) an explanation of why the regulation meets the objectives of the regulation more effectively than the alternatives, and if the agency is proposing multiple alternatives, an explanation of why a notice of proposed rulemaking, rather than an advanced notice of proposed rulemaking, is appropriate; and

(B) if the regulation is not a pilot program, an explanation of why a pilot program is not appropriate;

(7) if the regulation specifies the behavior or manner of compliance, an explanation of why the agency did not instead specify performance objectives;

(8) an assessment of how the burden imposed by the regulation will be distributed among market participants, including whether consumers, investors, or small businesses will be disproportionately burdened;

(9) an assessment of the extent to which the regulation is inconsistent, incompatible, or duplicative with the existing regulations of the agency or those of other domestic and international regulatory authorities with overlapping jurisdiction;

(10) a description of any studies, surveys, or other data relied upon in preparing the analysis;

(11) an assessment of the degree to which the key assumptions underlying the analysis are subject to uncertainty; and

(12) an explanation of predicted changes in market structure and infrastructure and in behavior by market participants, including consumers and investors, assuming that they will pursue their economic interests.

(b) REQUIREMENTS FOR NOTICES OF FINAL RULEMAKING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an agency may not issue a notice of final rulemaking with respect to a regulation unless the agency—

(A) has issued a notice of proposed rulemaking for the relevant regulation;

(B) has conducted and includes in the notice of final rulemaking an analysis that contains, at a minimum, the elements required under subsection (a); and

(C) includes in the notice of final rulemaking regulatory impact metrics selected by the chief economist to be used in preparing the report required pursuant to section 206.

(2) CONSIDERATION OF COMMENTS.—The agency shall incorporate in the elements described in paragraph (1)(B) the data and analyses provided to the agency by commenters during the comment period, or explain why the data or analyses are not being incorporated.

(3) COMMENT PERIOD.—An agency shall not publish a notice of final rulemaking with respect to a regulation, unless the agency—

(A) has allowed at least 90 days from the date of publication in the Federal Register of the notice of proposed rulemaking for the submission of public comments; or

(B) includes in the notice of final rulemaking an explanation of why the agency was not able to provide a 90-day comment period.

(4) PROHIBITED RULES.—

(A) IN GENERAL.—An agency may not publish a notice of final rulemaking if the agency, in its analysis under paragraph (1)(B), determines that the quantified costs are greater than the quantified benefits under subsection (a)(5).

(B) PUBLICATION OF ANALYSIS.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, the agency shall publish in the Federal Register and on the public website of the agency its analysis under paragraph (1)(B), and provide the analysis to each House of Congress.

(C) CONGRESSIONAL WAIVER.—If the agency is precluded by subparagraph (A) from publishing a notice of final rulemaking, Congress, by joint resolution pursuant to the procedures set forth for joint resolutions in section 802 of title 5, United States Code, may direct the agency to publish a notice of final rulemaking notwithstanding the prohibition contained in subparagraph (A). In applying section 802 of title 5, United States Code, for purposes of this paragraph, section 802(e)(2) shall not apply and the term—

(i) ''joint resolution'' or ''joint resolution described in subsection (a)'' means only a joint resolution introduced during the period beginning on the submission or publication date and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ''That Congress directs, notwithstanding the prohibition contained in (3)(b)(4)(A) of the Financial Regulatory Responsibility Act of 2011, the ____ to publish the notice of final rulemaking for the regulation or regulations that were the subject of the analysis submitted by the ____ to Congress on ____.'' (The blank spaces being appropriately filled in.); and

(ii) ''submission or publication date'' means—

(I) the date on which the analysis under paragraph (1)(B) is submitted to Congress under paragraph (4)(B); or

(II) if the analysis is submitted to Congress less than 60 session days or 60 legislative days before the date on which the Congress adjourns a session of Congress, the date on which the same or succeeding Congress first convenes its next session.

SEC. 204. RULE OF CONSTRUCTION.

For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), obtaining, causing to be obtained, or soliciting information for purposes of complying with section 203 with respect to a proposed rulemaking shall not be construed to be a collection of information, provided that the agency has first issued an advanced notice of proposed rulemaking in connection with the regulation, identifies that advanced notice of proposed rulemaking in its solicitation of information, and informs the person from whom the information is obtained or solicited that the provision of information is voluntary.

SEC. 205. PUBLIC AVAILABILITY OF DATA AND REGULATORY ANALYSIS.

(a) IN GENERAL.—At or before the commencement of the public comment period with respect to a regulation, the agency shall make available on its public website sufficient information about the data, methodologies, and assumptions underlying the analyses performed pursuant to section 203 so that the analytical results of the agency are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(b) CONFIDENTIALITY.—The agency shall comply with subsection (a) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

SEC. 206. FIVE-YEAR REGULATORY IMPACT ANALYSIS.

(a) IN GENERAL.—Not later than 5 years after the date of publication in the Federal Register of a notice of final rulemaking, the chief economist of the agency shall issue a report that examines the economic impact of the subject regulation, including the direct and indirect costs and benefits of the regulation.

(b) REGULATORY IMPACT METRICS.—In preparing the report required by subsection (a), the chief economist shall employ the regulatory impact metrics included in the notice of final rulemaking pursuant to section 203(b)(1)(C).

(c) REPRODUCIBILITY.—The report shall include the data, methodologies, and assumptions underlying the evaluation so that the agency's analytical results are capable of being substantially reproduced, subject to an acceptable degree of imprecision or error.

(d) CONFIDENTIALITY.—The agency shall comply with subsection (c) in a manner that preserves the confidentiality of nonpublic information, including confidential trade secrets, confidential commercial or financial information, and confidential information about positions, transactions, or business practices.

(e) REPORT.—The agency shall submit the report required by subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and post it on the public website of the agency. The Commodity Futures Trading Commission shall also submit its report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 207. RETROSPECTIVE REVIEW OF EXISTING RULES.

(a) REGULATORY IMPROVEMENT PLAN.—Not later than 1 year after the date of enactment of this Act and every 5 years thereafter, each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a plan, consistent with law and its resources and regulatory priorities, under which the agency will modify, streamline, expand, or repeal existing regulations so as to make the regulatory program of the agency more effective or less burdensome in achieving the regulatory objectives. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

(b) IMPLEMENTATION PROGRESS REPORT.—Two years after the date of submission of each plan required under subsection (a), each agency shall develop, submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and post on the public website of the agency a report of the steps that it has taken to implement the plan, steps that remain to be taken to implement the plan, and, if any parts of the plan will not be implemented, reasons for not implementing those parts of the plan. The Commodity Futures Trading Commission shall also submit its plan to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 208. JUDICIAL REVIEW.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning on the date on which a notice of

final rulemaking for a regulation is published in the Federal Register and ending 1 year later, a person that is adversely affected or aggrieved by the regulation is entitled to bring an action in the United States Court of Appeals for the District of Columbia Circuit for judicial review of agency compliance with the requirements of section 203.

(b) STAY.—The court may stay the effective date of the regulation or any provision thereof.

(c) RELIEF.—If the court finds that an agency has not complied with the requirements of section 203, the court shall vacate the subject regulation, unless the agency shows by clear and convincing evidence that vacating the regulation would result in irreparable harm. Nothing in this section affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground.

SEC. 209. CHIEF ECONOMISTS COUNCIL.

(a) ESTABLISHMENT.—There is established the Chief Economists Council.

(b) MEMBERSHIP.—The Council shall consist of the chief economist of each agency. The members of the Council shall select the first chairperson of the Council. Thereafter the position of Chairperson shall rotate annually among the members of the Council.

(c) MEETINGS.—The Council shall meet at the call of the Chairperson, but not less frequently than quarterly.

(d) REPORT.—One year after the effective date of this Act and annually thereafter, the Council shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Financial Services and the Committee on Agriculture of the House of Representatives a report on—

(1) the benefits and costs of regulations adopted by the agencies during the past 12 months;

(2) the regulatory actions planned by the agencies for the upcoming 12 months;

(3) the cumulative effect of the existing regulations of the agencies on economic activity, innovation, international competitiveness of entities regulated by the agencies, and net job creation (excluding jobs related to ensuring compliance with the regulation);

(4) the training and qualifications of the persons who prepared the cost-benefit analyses of each agency during the past 12 months;

(5) the sufficiency of the resources available to the chief economists during the past 12 months for the conduct of the activities required by this Act; and

(6) recommendations for legislative or regulatory action to enhance the efficiency and effectiveness of financial regulation in the United States.

SEC. 210. CONFORMING AMENDMENTS.

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking (2) and all that follows through ''light of—'' and inserting the following:

''(1) CONSIDERATIONS.—Before promulgating a regulation under this chapter or issuing an order (except as provided in paragraph (2)), the Commission shall take into consideration—'';

(3) in paragraph (1), as so redesignated—

(A) in subparagraph (B), by striking ''futures'' and inserting ''the relevant'';

(B) in subparagraph (C), by adding ''and'' at the end;

(C) in subparagraph (D), by striking ''and'' at the end; and

(D) by striking subparagraph (E); and

(4) by redesignating paragraph (3) as paragraph (2).

SEC. 211. OTHER REGULATORY ENTITIES.

(a) SECURITIES AND EXCHANGE COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report setting forth a plan for subjecting the Public Company Accounting Oversight Board, the Municipal Securities Rulemaking Board, and any national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(a)) to the requirements of this Act, other than direct representation on the Council.

(b) COMMODITY FUTURES TRADING COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report setting forth a plan for subjecting any futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) to the requirements of this Act, other than direct representation on the Council.

SEC. 212. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

An agency may perform the analyses required by this Act in conjunction with, or as a part of, any other agenda or analysis required by any other provision of law, if such other analysis satisfies the provisions this Act.

SEC. 213. SEVERABILITY.

If any provision of this Act or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SA 713. Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and

(L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) of such Code is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) of such Code is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) of such Code is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SA 714. Mr. WYDEN (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—DUTY-FREE TREATMENT OF CERTAIN RECREATIONAL PERFORMANCE OUTERWEAR

SEC. _01. SHORT TITLE.

This title may be cited as the ''United States Optimal Use of Trade to Develop Outerwear and Outdoor Recreation Act'' or the ''U.S. OUTDOOR Act''.

SEC. _02. FINDINGS.

Congress finds the following:

(1) The outdoor industry contributes $730,000,000,000 to the United States economy annually.

(2) Outdoor activities are vitally important to the health and well-being of the people of the United States.

(3) Duty rates on recreational performance apparel are among the highest duty rates imposed by the United States Government, with duties on some recreational performance apparel as high as 28.2 percent.

(4) The duties currently imposed by the United States on recreational performance apparel were set in an era during which high rates of duty were intended to protect the production of other apparel in the United States, and before the technologies and innovations that create today's recreational performance apparel industry were developed.

(5) In July 2007, the United States International Trade Commission confirmed in USITC Publication 3937 that recreational performance apparel produced in the United States makes up less than 1 percent of the total recreational performance apparel market and therefore concluded that there is no commercially viable production of recreational performance apparel in the United States.

(6) On November 1, 2005, the Committee for the Implementation of Textile Agreements confirmed in the Federal Register that imports of certain recreational performance apparel do not contribute to domestic market disruption or adversely affect United States textile and apparel producers (70 Fed. Reg. 65889).

(7) The elimination of duties on the importation of certain recreational performance apparel would provide an economic benefit to United States consumers of outdoor products and would promote increased participation in healthy and active lifestyles.

SEC. _03. KNIT APPAREL AND ACCESSORIES.

(a) DEFINITIONS.—The Additional U.S. Note to Chapter 61 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the heading, by striking ''Additional U.S. Note'' and inserting ''Additional U.S. Notes''; and

(2) by adding at the end the following new notes:

''2.(a) For purposes of this chapter, the term 'recreational performance outerwear' means trousers (including, but not limited to, paddling pants, ski or snowboard pants, and ski or snowboard pants intended for sale as parts of ski-suits), coveralls and bib overalls, and jackets (including, but not limited to, full zip jackets, paddling jackets, ski jackets, and ski jackets intended for sale as parts of ski-suits), windbreakers, and similar articles (including padded, sleeveless jackets) composed of knit fabrics of cotton, wool, hemp, bamboo, silk, or manmade fiber, or a combination of such fibers, that are either water-resistant or visibly coated, or both, with critically sealed seams, and with 5 or more of the following features:

''(i) Insulation for cold weather protection.

''(ii) Pockets, at least one of which has a zippered, hook and loop, or other type of closure.

''(iii) Elastic, drawcord, or other means of tightening around the waist or leg hems, including hidden leg sleeves with a means of tightening at the ankle for trousers and tightening around the waist or bottom hem for jackets.

''(iv) Venting, not including grommet(s).

''(v) Articulated elbows or knees.

''(vi) Reinforcement in one of the following areas: the elbows, shoulders, seat, knees, ankles, or cuffs.

''(vii) Weatherproof closure at the waist or front.

''(viii) Multi-adjustable hood or adjustable collar.

''(ix) Adjustable powder skirt, inner protective skirt, or adjustable inner protective cuff at sleeve hem.

''(x) Construction at the arm gusset that utilizes fabric, design, or patterning to allow radial arm movement.

''(xi) Odor control technology.

The term 'recreational performance outerwear' does not include occupational outerwear or garments with an outer surface of looped pile.

''(b) For purposes of this Note, the following terms have the following meanings:

''(i) The term 'water-resistant' means that a garment must have a water resistance (see ASTM designations D 3779–81 and D 7017) such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with the current version of AATCC Test Method 35. The water resistance of the garment is the result of a rubber or plastics application to the outer shell, lining, or inner lining.

''(ii) The term 'visibly coated' refers to fabric that is impregnated, coated, covered, or laminated with plastics, such as fabrics described in Note 2 to chapter 59.

''(iii) The term 'sealed seams' means seams that have been covered by means of taping, gluing, bonding, cementing, fusing, welding, or a similar process so that water cannot pass through the seams when tested in accordance with the current version of AATCC Test Method 35.

''(iv) The term 'critically sealed seams' means—

''(A) for jackets, sealed seams that are sealed at the front and back yokes, or at the shoulders, arm holes, or both, where applicable; and

''(B) for trousers, sealed seams that are sealed at the front (up to the zipper or other means of closure) and back rise.

''(v) The term 'insulation for cold weather protection' means insulation with either synthetic fill, down, a laminated thermal backing, or other lining for thermal protection from cold weather.

''(vi) The term 'venting' refers to closeable or permanent constructed openings in a garment (excluding front, primary zipper closures and grommet(s)) to allow increased expulsion of built-up heat during outdoor activities. In a jacket, such openings are often positioned on the underarm seam of a garment but may also be placed along other seams in the front or back of a garment. In trousers, such openings are often positioned on the inner or outer leg seams of a garment but may also be placed along other seams in the front or back of a garment.

''(vii) The term 'articulated elbows or knees' refers to the construction of a sleeve (or pant leg) to allow improved mobility at the elbow (or knee) through the use of extra seams, darts, gussets, or other means.

''(viii) The term 'reinforcement' refers to the use of a double layer of fabric or section(s) of fabric that is abrasion-resistant or otherwise more durable than the face fabric of the garment.

''(ix) The term 'weatherproof closure' means a closure (including, but not limited to, laminated or coated zippers, storm flaps, or other weatherproof construction) that has been reinforced or engineered in a manner to reduce the penetration or absorption of moisture or air through an opening in the garment.

''(x) The term 'multi-adjustable hood or adjustable collar' means a draw cord, adjustment tab, or elastic incorporated into the hood or collar construction to allow volume adjustments around a helmet, the crown of the head, neck, or face.

''(xi) The terms 'adjustable powder skirt' and 'inner protective skirt' refer to a partial lower inner lining with means of tightening around the waist for additional protection from the elements.

''(xii) The term 'arm gusset' means construction at the arm of a gusset that utilizes an extra fabric piece in the under arm usually diamond- or triangular-shaped, design, or pattern to allow radial arm movement.

''(xiii) The term 'radial arm movement' refers to unrestricted, 180-degree range of motion for the arm while wearing performance outerwear.

''(xiv) The term 'odor control technology' means an additive in a fabric or garment capable of adsorbing, absorbing, or reacting with human odors, or effective in reducing odor-causing bacteria, including but not limited to activated carbon, silver, copper, or any combination thereof.

''(xv) The term 'occupational outerwear' means outerwear garments, including uniforms, designed or marketed for use in the workplace or at a worksite to provide durable protection from cold or inclement weather and/or workplace hazards, such as fire,

electrical, abrasion, or chemical hazards, or impacts, cuts, punctures, or similar hazards.

''3. For purposes of this chapter, the importer of record shall specify upon entry whether garments claimed as recreational performance outerwear have an outer surface that is water-resistant, visibly coated, or a combination thereof, and shall further enumerate the specific features that make the garments eligible to be classified as recreational performance outerwear.''.

(b) TARIFF CLASSIFICATIONS.—Chapter 61 of the Harmonized Tariff Schedule of the United States is amended as follows:

(1) By striking subheading 6101.20.00 and inserting the following, with the article description for subheading 6101.20 having the same degree of indentation as the article description for subheading 6101.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6101.20	Of cotton:				
	6101.20.05	Recreational performance outerwear	Free		50%	
	6101.20.10	Other	15.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	50%	''.

(2) By striking subheadings 6101.30.10 through 6101.30.20 and inserting the following, with the article description for subheading 6101.30.05 having the same degree of indentation as the article description for subheading 6101.30.10 (as in effect on the day before the date of the enactment of this Act):

''	6101.30.05	Recreational performance outerwear	Free		35%	
		Other:				
	6101.30.10	Containing 25 percent or more by weight of leather	5.6%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				5% (AU)	35%	
	6101.30.15	Containing 23 percent or more by weight of wool or fine animal hair	38.6¢/kg + 10%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	77.2¢/kg + 54.5%	
	6101.30.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	''.

(3) By striking subheadings 6101.90.05 through 6101.90.90 and inserting the following, with the article description for subheading 6101.90.01 having the same degree of indentation as the article description for subheading 6101.90.05 (as in effect on the day before the date of the enactment of this Act):

''	6101.90.01	Recreational performance outerwear	Free		45%	
		Other:				
	6101.90.05	Of wool or fine animal hair	61.7¢/kg + 16%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)		
				43.1¢/kg + 11.2% (OM)	77.2¢/kg + 54.5%	
	6101.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	45%	
	6101.90.90	Other	5.7%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)		
				5.1% (AU)	45%	''.

(4) By striking subheading 6102.10.00 and inserting the following, with the article description for subheading 6102.10 having the same degree of indentation as the article description for subheading 6102.10.00 (as in effect on the day before the date of the enactment of this Act):

''	6102.10	Of wool or fine animal hair:				

6102.10.05	Recreational performance outerwear	Free		68.3¢/kg + 54.5%	
6102.10.10	Other	55.9¢/kg + 16.4%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 39.1¢/kg + 11.4% (OM)	68.3¢/kg + 54.5%	''.

(5) By striking subheading 6102.20.00 and inserting the following, with the article description for subheading 6102.20 having the same degree of indentation as the article description for subheading 6102.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6102.20	Of cotton:			
	6102.20.05	Recreational performance outerwear	Free	50%	
	6102.20.10	Other	15.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	50% ''.

(6) By striking subheadings 6102.30.05 through 6102.30.20 and inserting the following, with the article description for subheading 6102.30.01 having the same degree of indentation as the article description for subheading 6102.30.05 (as in effect on the day before the date of the enactment of this Act):

''	6102.30.01	Recreational performance outerwear	Free		35%
		Other:			
	6102.30.05	Containing 25 percent or more by weight of leather	5.3%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 4.7% (AU)	35%
	6102.30.10	Containing 23 percent or more by weight of wool or fine animal hair	64.4¢/kg + 18.8%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	68.3¢/kg + 54.5%
	6102.30.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72% ''.

(7) By striking subheadings 6102.90.10 and 6102.90.90 and inserting the following, with the article description for subheading 6102.90.05 having the same degree of indentation as the article description for subheading 6102.90.10 (as in effect on the day before the date of the enactment of this Act):

''	6102.90.05	Recreational performance outerwear	Free		45%
		Other:			
	6102.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	45%
	6102.90.90	Other	5.7%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 5.1% (AU)	45% ''.

(8) By striking subheadings 6103.41.10 and 6103.41.20 and inserting the following, with the article description for subheading 6103.41.05 having the same degree of indentation as the article description for subheading 6103.41.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.41.05	Recreational performance outerwear	Free		77.2¢/kg + 54.5%
		Other:			

	6103.41.10	Trousers, breeches and shorts	61.1¢/kg + 15.8%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				42.7¢/kg + 11% (OM)	77.2¢/kg + 54.5%	
	6103.41.20	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				9.5% (OM)	54.5%	''.

(9) By striking subheadings 6103.42.10 and 6103.42.20 and inserting the following, with the article description for subheading 6103.42.05 having the same degree of indentation as the article description for subheading 6103.42.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.42.05	Recreational performance outerwear	Free		45%	
		Other:				
	6103.42.10	Trousers, breeches and shorts	16.1%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	45%	
	6103.42.20	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	''.

(10) By striking subheadings 6103.43.10 through 6103.43.20 and inserting the following, with the article description for subheading 6103.43.05 having the same degree of indentation as the article description for subheading 6103.43.10 (as in effect on the day before the date of the enactment of this Act):

''	6103.43.05	Recreational performance outerwear	Free		77.2¢/kg + 54.5%	
		Other:				
		Trousers, breeches and shorts:				
	6103.43.10	Containing 23 percent or more by weight of wool or fine animal hair	58.5¢/kg + 15.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	77.2¢/kg + 54.5%	
	6103.43.15	Other	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	
	6103.43.20	Bib and brace overalls	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	72%	''.

(11) By striking subheadings 6103.49 through 6103.49.80 and inserting the following, with the article description for subheading 6103.49 having the same degree of indentation as the article description for subheading 6103.49 (as in effect on the day before the date of the enactment of this Act):

''	6103.49	Of other textile materials:				
		Of artificial fibers:				
	6103.49.05	Recreational performance outerwear	Free		72%	
		Other:				

6103.49.10	Trousers, breeches and shorts	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%		
6103.49.20	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%		
6103.49.40	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	35%		
6103.49.80	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 5% (AU)	35%		''.

(12) By striking subheading 6104.61.00 and inserting the following, with the article description for subheading 6104.61 having the same degree of indentation as the article description for subheading 6104.61.00 (as in effect on the day before the date of the enactment of this Act):

''	6104.61	Of wool and fine animal hair:				
	6104.61.05	Recreational performance outerwear	Free		54.5%	
	6104.61.10	Other	14.9%	Free (BH, CA, CL, IL, JO,MA, MX, P, PE, SG) 8% (AU) 10.4% (OM)	54.5%	''.

(13) By striking subheadings 6104.62.10 and 6104.62.20 and inserting the following, with the article description for subheading 6104.62.05 having the same degree of indentation as the article description for subheading 6104.62.10 (as in effect on the day before the date of the enactment of this Act):

''	6104.62.05	Recreational performance outerwear	Free		90%	
		Other:				
	6104.62.10	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.01–9912.61.02 (MA)	90%	
	6104.62.20	Other	14.9%	Free (BH, CA, CL, JO, IL, MX, OM, P, PE, SG) 8% (AU) See 9912.61.01, 9912.61.03 (MA)	90%	''.

(14) By striking subheadings 6104.63.10 through 6104.63.20 and inserting the following, with the article description for subheading 6104.63.05 having the same degree of indentation as the article description for subheading 6104.63.10 (as in effect on the day before the date of the enactment of this Act):

''	6104.63.05	Recreational performance outerwear	Free		72%	
		Other:				

6104.63.10	Bib and brace overalls	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05–9912.61.06 (MA)	72%	
	Other:				
6104.63.15	Containing 23 percent or more by weight of wool or fine animal hair	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05–9912.61.06 (MA)	54.5%	
6104.63.20	Other	28.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.61.05, 9912.61.07 (MA)	72%	''.

(15) By striking subheadings 6104.69 through 6104.69.80 and inserting the following, with the article description for subheading 6104.69 having the same degree of indentation as the article description for subheading 6104.69 (as in effect on the day before the date of the enactment of this Act):

''	6104.69	Of other textile materials:				
		Of artificial fibers:				
	6104.69.05	Recreational performance outerwear	Free		72%	
		Other:				
	6104.69.10	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG) 8% (AU)	72%	
	6104.69.20	Trousers, breeches and shorts	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%	
	6104.69.40	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	60%	
	6104.69.80	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P,PE, SG) 5% (AU)	60%	''.

(16) By striking subheadings 6112.20.10 and 6112.20.20 and inserting the following, with the article description for subheading 6112.20.05 having the same degree of indentation as the article description for subheading 6112.20.10 (as in effect on the day before the date of the enactment of this Act):

''	6112.20.05	Recreational performance outerwear	Free		72%
		Other:			
	6112.20.10	Of man-made fibers	28.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	72%

	6112.20.20	Other	8.3%	Free (BH, CA, CL, E*, IL, JO, MA, MX,OM, P, PE, SG)		
				7.4% (AU)	90%	''.

(17) By striking subheadings 6113.00.10 and 6113.00.90 and inserting the following, with the article description for subheading 6113.00.05 having the same degree of indentation as the article description for subheading 6113.00.10 (as in effect on the day before the date of the enactment of this Act):

''	6113.00.05	Recreational performance outerwear	Free		65%	
		Other:				
	6113.00.10	Having an outer surface impregnated, coated, covered, or laminated with rubber or plastics material which completely obscures the underlying fabric	3.8%	Free (AU, BH, CA, CL, E,IL, JO, MA, MX, OM, P, PE, SG)	65%	
	6113.00.90	Other	7.1%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	65%	''.

(18) By striking subheading 6114.20.00 and inserting the following, with the article description for subheading 6114.20 having the same degree of indentation as the article description for subheading 6114.20.00 (as in effect on the day before the date of the enactment of this Act):

''	6114.20	Of cotton:				
	6114.20.05	Recreational performance outerwear	Free		90%	
	6114.20.10	Other	10.8%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				4.3% (OM)	90%	''.

(19) By striking subheadings 6114.30.10 through 6114.30.30 and inserting the following, with the article description for subheading 6114.30.05 having the same degree of indentation as the article description for subheading 6114.30.10 (as in effect on the day before the date of the enactment of this Act):

''	6114.30.05	Recreational performance outerwear	Free		90%	
		Other:				
	6114.30.10	Tops	28.2%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG)		
				8% (AU)	90%	
	6114.30.20	Bodysuits and bodyshirts	32%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	
	6114.30.30	Other	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG)		
				8% (AU)	90%	''.

(20) By striking subheadings 6114.90.05 through 6114.90.90 and inserting the following, with the article description for subheading 6114.90.01 having the same degree of indentation as the article description for subheading 6114.90.05 (as in effect on the day before the date of the enactment of this Act):

''	6114.90.01	Recreational performance outerwear	Free		90%	
		Other:				
	6114.90.05	Of wool or fine animal hair	12%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG)		
				8% (AU)		
				8.4% (OM)	90%	

6114.90.10	Containing 70 percent or more by weight of silk or silk waste	0.9%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	60%	
6114.90.90	Other	5.6%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	60%	
			5% (AU)		''.

SEC. 4. APPAREL ARTICLES AND ACCESSORIES OF OTHER MATERIALS, NOT KNITTED OR CROCHETED.

(a) NOTES.—The Additional U.S. Notes to chapter 62 of the Harmonized Tariff Schedule of the United States are amended—

(1) in Additional U.S. Note 2, by striking ''For purposes of subheadings'' and all that follows through ''6211.20.15'' and inserting ''For purposes of this chapter''; and

(2) by adding at the end the following new notes:

''3.(a) For purposes of this chapter, the term 'recreational performance outerwear' means trousers (including, but not limited to, paddling pants, ski or snowboard pants, and ski or snowboard pants intended for sale as parts of ski-suits), coveralls and bib overalls, and jackets (including, but not limited to, full zip jackets, paddling jackets, ski jackets, and ski jackets intended for sale as parts of ski-suits), windbreakers, and similar articles (including padded, sleeveless jackets), the outer surface of which is composed of non-knit, non-crocheted fabrics of cotton, wool, hemp, bamboo, silk, or manmade fiber, or a combination of such fibers, that are water-resistant, visibly coated, or both, with critically sealed seams, and with 5 or more of the following options:

''(i) Insulation for cold weather protection.

''(ii) Pockets, at least one of which has a zippered, hook and loop, or other type of closure.

''(iii) Elastic, drawcord, or other means of tightening around the waist or leg hems, including hidden leg sleeves with a means of tightening at the ankle for trousers and tightening around the waist or bottom hem for jackets.

''(iv) Venting, not including grommet(s).

''(v) Articulated elbows or knees.

''(vi) Reinforcement in one of the following areas: the elbows, shoulders, seat, knees, ankles, or cuffs.

''(vii) Weatherproof closure at the waist or front.

''(viii) Multi-adjustable hood or adjustable collar.

''(ix) Adjustable powder skirt, inner protective skirt, or adjustable inner protective cuff at sleeve hem.

''(x) Construction at the arm gusset that utilizes fabric, design, or patterning to allow radial arm movement.

''(xi) Odor control technology.

The term 'recreational performance outerwear' does not include occupational outerwear.

''(b) For purposes of this Note, the following terms have the following meanings:

''(i) The term 'water-resistant' means that a garment must have a water resistance (see ASTM designations D 3779–81 and D 7017) such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with the current version of AATCC Test Method 35. The water resistance of the garment is the result of a rubber or plastics application to the outer shell, lining, or inner lining.

''(ii) The term 'visibly coated' refers to fabric that is impregnated, coated, covered, or laminated with plastics, such as fabrics described in Note 2 to chapter 59.

''(iii) The term 'sealed seams' means seams that have been covered by means of taping, gluing, bonding, cementing, fusing, welding, or a similar process so that water cannot pass through the seams when tested in accordance with the current version of AATCC Test Method 35.

''(iv) The term 'critically sealed seams' means seams' that are sealed—

''(A) for jackets, at the front and back yokes, or at the shoulders, arm holes, or both, where applicable; and

''(B) for trousers, at the front (up to the zipper or other means of closure) and back rise.

''(v) The term 'insulation for cold weather protection' means insulation with either synthetic fill, down, a laminated thermal backing, or other lining for thermal protection from cold weather.

''(vi) The term 'venting' refers to closeable or permanent constructed openings in a garment (excluding front, primary zipper closures and grommet(s)) to allow increased expulsion of built-up heat during outdoor activities. In a jacket, such openings are often positioned on the underarm seam of a garment but may also be placed along other seams in the front or back of a garment. In trousers, such openings are often positioned on the inner or outer leg seams of a garment but may also be placed along other seams in the front or back of a garment.

''(vii) The term 'articulated elbows or knees' refers to the construction of a sleeve (or pant leg) to allow improved mobility at the elbow (or knee) through the use of extra seams, darts, gussets, or other means.

''(viii) The term 'reinforcement' refers to the use of a double layer of fabric or section(s) of fabric that is abrasion-resistant or otherwise more durable than the face fabric of the garment.

''(ix) The term 'weatherproof closure' means a closure (including, but not limited to, laminated or coated zippers, storm flaps, or other weatherproof construction) that has been reinforced or engineered in a manner to reduce the penetration or absorption of moisture or air through an opening in the garment.

''(x) The term 'multi-adjustable hood or adjustable collar' means a draw cord, adjustment tab, or elastic incorporated into the hood or collar construction to allow volume adjustments around a helmet, the crown of the head, neck, or face.

''(xi) The terms 'adjustable powder skirt' and 'inner protective skirt' refer to a partial lower inner lining with means of tightening around the waist for additional protection from the elements.

''(xii) The term 'arm gusset' means construction at the arm of a gusset that utilizes an extra fabric piece in the under arm usually diamond- or triangular-shaped, design, or pattern to allow radial arm movement.

''(xiii) The term 'radial arm movement' refers to unrestricted, 180-degree range of motion for the arm while wearing performance outerwear.

''(xiv) The term 'odor control technology' means an additive in a fabric or garment capable of adsorbing, absorbing, or reacting with human odors, or effective in reducing odor-causing bacteria, including but not limited to activated carbon, silver, copper, or any combination thereof.

''(xv) The term 'occupational outerwear' means outerwear garments, including uniforms, designed or marketed for use in the workplace or at a worksite to provide durable protection from cold or inclement weather and/or workplace hazards, such as fire, electrical, abrasion, or chemical hazards, or impacts, cuts, punctures, or similar hazards.

''4. For purposes of this chapter, the importer of record shall specify upon entry whether garments claimed as 'recreational performance outerwear' have an outer surface that is water-resistant, visibly coated, or a combination thereof, and shall further enumerate the specific features that make the garments eligible to be classified as recreational performance outerwear.''.

(b) TARIFF CLASSIFICATIONS.—Chapter 62 of the Harmonized Tariff Schedule of the United States is amended as follows:

(1) By striking subheading 6201.11.00 and inserting the following, with the article description for subheading 6201.11 having the same degree of indentation as the article description for subheading 6201.11.00 (as in effect on the day before the date of the enactment of this Act):

''	6201.11	Of wool or fine animal hair:				
	6201.11.05	Recreational performance outerwear	Free		52.9¢/kg + 58.5%	
	6201.11.10	Other	41¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 28.7¢/kg + 11.4% (OM)	52.9¢/kg + 58.5%	''.

(2) By striking subheadings 6201.12.10 and 6201.12.20 and inserting the following, with the article description for subheading 6201.12.05 having the same degree of indentation as the article description for subheading 6201.12.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.12.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.12.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
	6201.12.20	Other	9.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(3) By striking subheadings 6201.13.10 through 6201.13.40 and inserting the following, with the article description for subheading 6201.13.05 having the same degree of indentation as the article description for subheading 6201.13.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.13.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.13.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 0.4% (MA) 3.9% (AU)	60%	
		Other:				
	6201.13.30	Containing 36 percent or more by weight of wool or fine animal hair	49.7¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	52.9¢/kg + 58.5%	
	6201.13.40	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(4) By striking subheadings 6201.19.10 and 6201.19.90 and inserting the following, with the article description for subheading 6201.19.05 having the same degree of indentation as the article description for subheading 6201.19.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.19.05	Recreational performance outerwear	Free		35%	
		Other:				
	6201.19.10	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6201.19.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(5) By striking subheadings 6201.91.10 and 6201.91.20 and inserting the following, with the article description for subheading 6201.91.05 having the same degree of indentation as the article description for subheading 6201.91.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.91.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6201.91.10	Padded, sleeveless jackets	8.5%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 7.6% (AU) 5.9% (OM)	58.5%	

6201.91.20	Other	49.7¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 34.7¢/kg + 13.7% (OM)	52.9¢/kg + 58.5%	''.

(6) By striking subheadings 6201.92.10 through 6201.92.20 and inserting the following, with the article description for subheading 6201.92.05 having the same degree of indentation as the article description for subheading 6201.92.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.92.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.92.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.00–9912.62.01 (MA)	60%	
		Other:				
	6201.92.15	Water resistant	6.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 5.5% (AU) See 9912.62.00, 9912.62.02 (MA)	37.5%	
	6201.92.20	Other	9.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.00, 9912.62.03 (MA)	90%	''.

(7) By striking subheadings 6201.93.10 through 6201.93.35 and inserting the following, with the article description for subheading 6201.93.05 having the same degree of indentation as the article description for subheading 6201.93.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.93.05	Recreational performance outerwear	Free		60%	
		Other:				
	6201.93.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL,IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.04–9912.62.05 (MA)	60%	
		Other:				
	6201.93.20	Padded, sleveless jackets	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.06 (MA)	76%	
		Other:				

6201.93.25	Containing 36 percent or more by weght of wool or fine animal hair	49.5¢/kg + 19.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.07 (MA)	52.9¢/kg + 58.5%	
	Other:				
6201.93.30	Water resistant	7.1%	Free (BH,CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.04, 9912.62.08 (MA)	65%	
6201.93.35	Other	27.7%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.04, 9912.62.09 (MA)	90%	''.

(8) By striking subheadings 6201.99.10 and 6201.99.90 and inserting the following, with the article description for subheading 6201.99.05 having the same degree of indentation as the article description for subheading 6201.99.10 (as in effect on the day before the date of the enactment of this Act):

''	6201.99.05	Recreational performance outerwear	Free		35%	
		Other:				
	6201.99.10	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6201.99.90	Other	4.2%	Free (BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG) 3.7% (AU)	35%	''.

(9) By striking subheading 6202.11.00 and inserting the following, with the article description for subheading 6202.11 having the same degree of indentation as the article description for subheading 6202.11.00 (as in effect on the day before the date of the enactment of this Act):

''	6202.11	Of wool or fine animal hair:				
	6202.11.05	Recreational performance outerwear	Free		46.3¢/kg + 58.5%	
	6202.11.10	Other	41¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 28.7¢/kg + 11.4% (OM)	46.3¢/kg + 58.5%	''.

(10) By striking subheadings 6202.12.10 and 6202.12.20 and inserting the following, with the article description for subheading 6202.12.05 having the same degree of indentation as the article description for subheading 6202.12.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.12.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.12.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	

	6202.12.20	Other	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 1.8% (MA) 8% (AU)	90%	''.

(11) By striking subheadings 6202.13.10 through 6202.13.40 and inserting the following, with the article description for subheading 6202.13.05 having the same degree of indentation as the article description for subheading 6202.13.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.13.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.13.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
		Other:				
	6202.13.30	Containing 36 percent or more by weight of wool or fine animal hair	43.5¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	46.3¢/kg + 58.5%	
	6202.13.40	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX,OM, P, PE, SG) 8% (AU)	90%	''.

(12) By striking subheadings 6202.19.10 and 6202.19.90 and inserting the following, with the article description for subheading 6202.19.05 having the same degree of indentation as the article description for subheading 6202.19.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.19.05	Recreational performance outerwear	Free		35%	
		Other:				
	6202.19.10	Containing 70 percent or more by weight or silk or silk waste	Free		35%	
	6202.19.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(13) By striking subheadings 6202.91.10 and 6202.91.20 and inserting the following, with the article description for subheading 6202.91.05 having the same degree of indentation as the article description for subheading 6202.91.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.91.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6202.91.10	Padded, sleeveless jackets	14%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 9.8% (OM)	58.5%	
	6202.91.20	Other	36¢/kg + 16.3%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 25.2¢/kg + 11.4% (OM)	46.3¢/kg + 58.5%	''.

(14) By striking subheadings 6202.92.10 through 6202.92.20 and inserting the following, with the article description for subheading 6202.92.05 having the same degree of indentation as the article description for subheading 6202.92.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.92.05	Recreational performance outerwear	Free		60%	
		Other:				

6202.92.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 3.9% (AU) See 9912.62.10–9912.62.11 (MA)	60%	
	Other:				
6202.92.15	Water resistant	6.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 5.5% (AU) See 9912.62.10, 9912.62.12 (MA)	37.5%	
6202.92.20	Other	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.10, 9912.62.13 (MA)	90%	''.

(15) By striking subheadings 6202.93.10 through 6202.93.50 and inserting the following, with the article description for subheading 6202.93.05 having the same degree of indentation as the article description for subheading 6202.93.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.93.05	Recreational performance outerwear	Free		60%	
		Other:				
	6202.93.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	4.4%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 3.9% (AU)	60%	
		Other:				
	6202.93.20	Padded, sleveless jackets	14.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	76%	
		Other:				
	6202.93.40	Containing 36 percent or more by weight of wool or fine animal hair	43.4¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	46.3¢/kg + 58.5%	
		Other:				
	6202.93.45	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 6.3% (AU)	65%	
	6202.93.50	Other	27.7%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	''.

(16) By striking subheadings 6202.99.10 and 6202.99.90 and inserting the following, with the article description for subheading 6202.99.05 having the same degree of indentation as the article description for subheading 6202.99.10 (as in effect on the day before the date of the enactment of this Act):

''	6202.99.05	Recreational performance outerwear	Free		35%	
		Other:				
	6202.99.10	Containing 70 percent or more by weight or silk or silk waste	Free		35%	
	6202.99.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(17) By striking subheadings 6203.41 and 6203.41.05 and inserting the following, with the article description for subheadings 6203.41 having the same degree of indentation as the article description for subheading 6203.41 (as in effect on the day before the date of the enactment of this Act):

''	6203.41	Of wool or fine animal hair:				
	6203.41.05	Recreational performance outerwear	Free		52.9¢/kg + 58.5%	
		Trousers, breeches, and shorts:				
	6203.41.10	Trousers, breeches, or shorts containing elastomeric fiber, water resistant, without beltloops, weighing more than 9 kg per dozen	7.6%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 6.8% (AU) 5.3% (OM)	52.9¢/kg + 58.5%	''.

(18) By striking subheadings 6203.42.10 through 6203.42.40 and inserting the following, with the article description for subheading 6203.42.05 having the same degree of indentation as the article description for subheading 6203.42.10 (as in effect on the day before the date of the enactment of this Act):

''	6203.42.05	Recreational performance outerwear	Free		60%	
		Other:				
	6203.42.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
	6203.42.20	Bib and brace overalls	10.3%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.22–9912.62.23 (MA)	90%	
	6203.42.40	Other	16.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.22, 9912.62.24 (MA)	90%	''.

(19) By striking subheadings 6203.43.10 through 6203.43.40 and inserting the following, with the article description for subheading 6203.43.05 having the same degree of indentation as the article description for subheading 6203.43.10 (as in effect on the day before the date of the enactment of this Act):

''	6203.43.05	Recreational performance outerwear	Free		60%	
		Other:				
	6203.43.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
		Bib and brace overalls:				
	6203.43.15	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.25–9912.62.26 (MA)	65%	

6203.43.20	Other	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.27 (MA)	76%	
	Other:				
6203.43.25	Certified hand-loomed and folklore products	12.2%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.28 (MA)	76%	
	Other:				
6203.43.30	Containing 36 percent or more by weight of wool or fine animal hair	49.6¢/kg + 19.7%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.29 (MA)	52.9¢/kg + 58.5%	
	Other:				
6203.43.35	Water resistant trousers or breeches	7.1%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 6.3% (AU) See 9912.62.25–9912.62.26 (MA)	65%	
6203.43.40	Other	27.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.25, 9912.62.30 (MA)	90%	''.

(20) By striking subheadings 6203.49 through 6203.49.80 and inserting the following, with the article description for subheading 6203.49 having the same degree of indentation as the article description for subheading 6203.49 (as in effect on the day before the date of the enactment of this Act):

''	6203.49	Of other textile materials:			
	6203.49.05	Recreational performance outerwear	Free		76%
		Other:			
		Of artificial fibers:			
	6203.49.10	Bib and brace overalls	8.5%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 7.6% (AU)	76%
		Trousers, breeches and shorts:			
	6203.49.15	Certified hand-loomed and folklore products	12.2%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	76%

	6203.49.20	Other	27.9%	Free (BH, CA, CL, IL, JO, MA, MX, OM, P, PE, SG) 8% (AU)	90%	
	6203.49.40	Containing 70 percent or more by weight of silk or silk waste	Free		35%	
	6203.49.80	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MA, MX, OM, P, PE, SG)	35%	''.

(21) By striking subheadings 6204.61.10 and 6204.61.90 and inserting the following, with the article description for subheading 6204.61.05 having the same degree of indentation as the article description for subheading 6204.61.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.61.05	Recreational performance outerwear	Free		58.5%	
		Other:				
	6204.61.10	Trousers and breeches, containing elastomeric fiber, water resistant, without belt loops, weighing more than 6 kg per dozen	7.6%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 5.3% (OM) 6.8% (AU) See 9912.62.57–9912.62.58 (MA)	58.5%	
	6204.61.90	Other	13.6%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 9.5% (OM) 8% (AU) See 9912.62.57, 9912.62.59 (MA)	58.5%	''.

(22) By striking subheadings 6204.62.10 through 6204.62.40 and inserting the following, with the article description for subheading 6204.62.05 having the same degree of indentation as the article description for subheading 6204.62.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.62.05	Recreational performance outerwear	Free		60%	
		Other:				
	6204.62.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%	
		Other:				
	6204.62.20	Bib and brace overalls	8.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.60–9912.62.61 (MA)	90%	
		Other:				
	6204.62.30	Certified hand-loomed and folklore products	7.1%	Free (BH, CA, CL, E, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.60, 9912.62.62 (MA)	37.5%	

6204.62.40	Other	16.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.60, 9912.62.63 (MA)	90%	''.

(23) By striking subheadings 6204.63.10 through 6204.63.35 and inserting the following, with the article description for subheading 6204.63.05 having the same degree of indentation as the article description for subheading 6204.63.10 (as in effect on the day before the date of the enactment of this Act):

''	6204.63.05	Recreational performance outerwear	Free		60%
		Other:			
	6204.63.10	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 35 percent or more by weight; containing 10 percent or more by weight of down	Free		60%
		Other:			
		Bib and brace overalls:			
	6204.63.12	Water resistant	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.64–9912.62.65 (MA)	65%
	6204.63.15	Other	14.9%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.66 (MA)	76%
		Other:			
	6204.63.20	Certified hand-loomed and folklore products	11.3%	Free (BH, CA, CL, E, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.67 (MA)	76%
		Other:			
	6204.63.25	Containing 36 percent or more by weight of wool or fine animal hair	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.68 (MA)	58.5%
		Other:			
	6204.63.30	Water resistant trousers or breeches	7.1%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.64–9912.62.65 (MA)	65%

	6204.63.35	Other	28.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.64, 9912.62.69 (MA)	90%	''.

(24) By striking subheadings 6204.69 through 6204.69.90 and inserting the following, with the article description for subheading 6204.69 having the same degree of indentation as the article description for subheading 6204.69 (as in effect on the day before the date of the enactment of this Act):

''	6204.69	Of other textile materials:				
	6204.69.05	Recreational performance outerwear	Free		76%	
		Other:				
		Of artificial fibers:				
	6204.69.10	Bib and brace overalls	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70–9912.62.71 (MA)	76%	
		Trousers, breeches and shorts:				
	6204.69.20	Containing 36 percent or more by weight of wool or fine animal hair	13.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70–9912.62.71 (MA)	58.5%	
	6204.69.25	Other	28.6%	Free (BH, CA, CL, IL, JO, MX, OM, P, PE, SG) 8% (AU) See 9912.62.70, 9912.62.72 (MA)	90%	
		Of silk or silk waste:				
	6204.69.40	Containing 70 percent or more by weight of silk waste	1.1%	Free (AU, BH, CA, CL, E, IL, J, JO, MX, OM, P, PE, SG) See 9912.62.70, 9912.62.73 (MA)	65%	
	6204.69.60	Other	7.1%	Free (BH, CA, CL, E*, IL, JO, MX, OM, P, PE, SG) 6.3% (AU) See 9912.62.70, 9912.62.74 (MA)	65%	

6204.69.90	Other	2.8%	Free (AU, BH, CA, CL, E*, IL, JO, MX, OM, P, PE, SG) See 9912.62.70, 9912.62.75 (MA)	35%	''.

(25) By striking subheading 6211.32.00 and inserting the following, with the article description for subheading 6211.32 having the same degree of indentation as the article description for subheading 6211.32.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.32	Of cotton:			
	6211.32.05	Recreational performance outerwear	Free		90%
	6211.32.10	Other	8.1%	Free (AU, BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 3.2% (OM)	90% ''.

(26) By striking subheading 6211.33.00 and inserting the following, with the article description for subheading 6211.33 having the same degree of indentation as the article description for subheading 6211.33.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.33	Of man-made fibers:			
	6211.33.05	Recreational performance outerwear	Free		76%
	6211.33.10	Other	16%	Free (AU, BH, CA, CL, IL, JO, MX, P, PE, SG) 11.2% (OM) See 9912.62.99–9912.63.00 (MA)	76% ''.

(27) By striking subheadings 6211.39 and 6211.39.05 and inserting the following, with the article description for subheading 6211.39 having the same degree of indentation as the article description for subheading 6211.39 (as in effect on the day before the date of the enactment of this Act):

''	6211.39	Of other textile materials:			
	6211.39.04	Recreational performance outerwear	Free		58.5%
	6211.39.08	Of wool or fine animal hair	12%	Free (AU, BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8.4% (OM)	58.5% ''.

(28) By striking subheading 6211.41.00 and inserting the following, with the article description for subheading 6211.41 having the same degree of indentation as the article description for subheading 6211.41.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.41	Of wool or fine animal hair:			
	6211.41.05	Recreational performance outerwear	Free		58.5%
	6211.41.10	Other	12%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU) 8.4% (OM)	58.5% ''.

(29) By striking subheading 6211.42.00 and inserting the following, with the article description for subheading 6211.42 having the same degree of indentation as the article description for subheading 6211.42.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.42	Of cotton:			
	6211.42.05	Recreational performance outerwear	Free		90%
	6211.42.10	Other	8.1%	Free (BH, CA, CL, IL, JO, MX, P, PE, SG) 3.2% (OM) 7.2% (AU) See 9912.63.01–9912.63.02 (MA)	90% ''.

(30) By striking subheading 6211.43.00 and inserting the following, with the article description for subheading 6211.43 having the same degree of indentation as the article description for subheading 6211.43.00 (as in effect on the day before the date of the enactment of this Act):

''	6211.43	Of man-made fibers:				
	6211.43.05	Recreational performance outerwear	Free		90%	
	6211.43.10	Other	16%	Free (BH, CA, CL, IL, JO, MA, MX, P, PE, SG) 8% (AU)		
				11.2% (OM)	90%	''.

(31) By striking subheadings 6211.49.10 and 6211.49.90 and inserting the following, with the article description for subheading 6211.49.05 having the same degree of indentation as the article description for subheading 6211.49.10 (as in effect on the day before the date of the enactment of this Act):

''	6211.49.05	Recreational performance outerwear	Free		35%	
		Other:				
	6211.49.10	Containing 70 percent or more by weight or silk or silk waste	1.2%	Free (AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	35%	
	6211.49.90	Other	7.3%	Free (BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)		
				6.5% (AU)	35%	''.

SEC. _05. SUSTAINABLE TEXTILE AND APPAREL RESEARCH FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Sustainable Textile and Apparel Research Fund (in this section referred to as the ''STAR Fund'').

(b) DEPOSITS.—There shall be deposited into the STAR Fund amounts equal to the fees collected on recreational performance outerwear under subsection (d).

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The STAR Fund shall be administered by a board of directors (in this section referred to as the ''Board'') composed of 5 individuals familiar with the recreational performance outerwear textile and apparel industry, including the production of raw materials and the finished products thereof, who shall be appointed by the President.

(2) MEMBERS.—Not fewer than 2 of the individuals appointed to the Board under paragraph (1) shall be representatives of entities involved in the production of fabrics or raw materials for use in recreational performance outerwear in the United States, and not fewer than 2 of such individuals shall be representatives of entities involved in the production of recreational performance outerwear that pay the fees imposed on the importation of such outerwear under subsection (d).

(3) INELIGIBLE INDIVIDUALS.—The President may not appoint individuals to the Board under paragraph (1) who are representatives of entities not involved in the production of recreational performance outerwear, such as customs brokers, converters, forwarders, or shippers.

(d) FUNDING.—

(1) FEE.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect upon entry, or withdrawal from warehouse for consumption, a fee of 1.5 percent of the appraised value of imported garments (as determined under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a)) that are classifiable under the Harmonized Tariff Schedule of the United States as recreational performance outerwear (as defined in Additional U.S. Note 2 to chapter 61 and Additional U.S. Note 3 to chapter 62 of the Harmonized Tariff Schedule of the United States).

(2) EXCLUSIONS.—The assessment of fees under paragraph (1) shall not apply to imports of recreational performance outerwear from the following:

(A) Any country that is party to a free trade agreement with the United States that—

(i) is in effect on the day before the date of the enactment of this Act; or

(ii) enters into force under the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.), or similar subsequent authority.

(B) Any country designated as a CBTPA beneficiary country under section 213(b)(5)(B) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)(B)).

(C) Any country designated as a beneficiary sub-Saharan African country under section 506A(a)(1) of the Trade Act of 1974 (19 U.S.C. 2466a(a)(1)), if the President has determined that the country has satisfied the requirements of section 113(a) of the African Growth and Opportunity Act (19 U.S.C. 3722(a)), and has published that determination in the Federal Register.

(D) Any country that was designated as an ATPDEA beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)) on February 12, 2011.

(3) TERMINATION.—The fee under paragraph (1) shall apply only to entries, or withdrawals from warehouse for consumption, that are made during the 10-year period beginning on the date of the enactment of this Act.

(e) DISTRIBUTION.—

(1) QUARTERLY DISTRIBUTIONS.—The Secretary of Commerce, upon a majority vote of the Board, taken annually, shall, not later than 60 days after the end of each calendar quarter, distribute amounts in the STAR Fund to one or more entities that the Board considers appropriate to use the funds in accordance with subsection (f).

(2) ELIGIBILITY REQUIREMENTS.—An entity may receive funds under paragraph (1) only if the entity—

(A) is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from tax under section 501(a) of such Code;

(B) is an organization having at least 10 years of experience providing applied research, technology development, and education to all parts of the textile and apparel supply chain, with a research capability demonstrated through past research programs involving supply chain management, product development, fit specifications, operations management, lean manufacturing, or digital supply chain technologies on behalf of the textile and sewn products industries in the United States; and

(C) is comprised of members representing the following segments of the supply chain:

(i) One or more of the following types of producers: fiber, yarn, or fabric producers in the United States.

(ii) Apparel producers in the United States.

(iii) Retail companies in the United States.

(f) USE OF FUNDS.—Funds distributed under subsection (e) may be used only to conduct applied research, development, and education activities to enhance the competitiveness of businesses in the United States in clean, eco-friendly apparel, other textile and apparel articles, and sewn-product design and manufacturing.

(g) REQUIREMENTS.—The Secretary of Commerce may impose such requirements on the use of funds distributed under subsection (e) as the Secretary considers necessary to ensure compliance with subsection (f), including requiring reporting and assurances by the entities using the funds.

(h) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress a report, not later than April 1 of each year, explaining in detail how amounts in the STAR Fund were distributed under subsection (e) and used under subsection (f) during the preceding calendar year.

SEC. _06. EFFECTIVE DATE.

This title and the amendments made by this title shall—

(1) take effect on the 15th day after the date of the enactment of this Act; and

(2) apply to articles entered, or withdrawn from warehouse for consumption, on or after such day.

SA 715. Mr. WYDEN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. PORTMAN, Mr. BLUNT, and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned

currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—PREVENTION OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

SECTION __01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Enforcing Orders and Reducing Customs Evasion Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Procedures

SEC. __11. PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 516A (19 U.S.C. 1516a) the following:

''SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' has the meaning given that term in section 771(1).

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Finance and the Committee on Appropriations of the Senate; and

''(B) the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives.

''(3) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for U.S. Customs and Border Protection.

''(4) COVERED MERCHANDISE.—The term 'covered merchandise' means merchandise that is subject to—

''(A) an antidumping duty order issued under section 736;

''(B) a finding issued under the Antidumping Act, 1921; or

''(C) a countervailing duty order issued under section 706.

''(5) ENTER; ENTRY.—The terms 'enter' and 'entry' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

''(6) EVADE; EVASION.—The terms 'evade' and 'evasion' refer to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

''(7) INTERESTED PARTY.—The term 'interested party' has the meaning given that term in section 771(9).

''(b) PROCEDURES FOR INVESTIGATING ALLEGATIONS OF EVASION.—

''(1) INITIATION BY PETITION OR REFERRAL.—

''(A) IN GENERAL.—Not later than 10 days after the date on which the Commissioner receives a petition described in subparagraph (B) or a referral described in subparagraph (C), the Commissioner shall initiate an investigation pursuant to this paragraph if the Commissioner determines that the information provided in the petition or the referral, as the case may be, is accurate and reasonably suggests that covered merchandise has been entered into the customs territory of the United States through evasion.

''(B) PETITION DESCRIBED.—A petition described in this subparagraph is a petition that—

''(i) is filed with the Commissioner by any party who is an interested party with respect to covered merchandise;

''(ii) alleges that a person has entered covered merchandise into the customs territory of the United States through evasion; and

''(iii) is accompanied by information reasonably available to the petitioner supporting the allegation.

''(C) REFERRAL DESCRIBED.—A referral described in this subparagraph is information submitted to the Commissioner by any other Federal agency, including the Department of Commerce or the United States International Trade Commission, indicating that a person has entered covered merchandise into the customs territory of the United States through evasion.

''(2) DETERMINATIONS.—

''(A) PRELIMINARY DETERMINATION.—

''(i) IN GENERAL.—Not later than 90 days after the date on which the Commissioner initiates an investigation under paragraph (1), the Commissioner shall issue a preliminary determination, based on information available to the Commissioner at the time of the determination, with respect to whether there is a reasonable basis to believe or suspect that the covered merchandise was entered into the customs territory of the United States through evasion.

''(ii) EXTENSION.—The Commissioner may extend by not more than 45 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a preliminary determination under that clause is not available within that time period or the inquiry is unusually complex.

''(B) FINAL DETERMINATION.—

''(i) IN GENERAL.—Not later than 120 days after making a preliminary determination under subparagraph (A), the Commissioner shall make a final determination, based on substantial evidence, with respect to whether covered merchandise was entered into the customs territory of the United States through evasion.

''(ii) EXTENSION.—The Commissioner may extend by not more than 60 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a final determination under that clause is not available within that time period or the inquiry is unusually complex.

''(C) OPPORTUNITY FOR COMMENT; HEARING.—Before issuing a preliminary determination under subparagraph (A) or a final determination under subparagraph (B) with respect to whether covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(i) provide any person alleged to have entered the merchandise into the customs territory of the United States through evasion, and any person that is an interested party with respect to the merchandise, with an opportunity to be heard;

''(ii) upon request, hold a hearing with respect to whether the covered merchandise was entered into the customs territory of the United States through evasion; and

''(iii) provide an opportunity for public comment.

''(D) AUTHORITY TO COLLECT AND VERIFY ADDITIONAL INFORMATION.—In making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), the Commissioner—

''(i) shall exercise all existing authorities to collect information needed to make the determination; and

''(ii) may collect such additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by—

''(I) issuing a questionnaire with respect to covered merchandise to—

''(aa) a person that filed a petition under paragraph (1)(B);

''(bb) a person alleged to have entered covered merchandise into the customs territory of the United States through evasion; or

''(cc) any other person that is an interested party with respect to the covered merchandise; or

''(II) conducting verifications, including on-site verifications, of any relevant information.

''(E) ADVERSE INFERENCE.—

''(i) IN GENERAL.—If the Commissioner finds that a person that filed a petition under paragraph (1)(B), a person alleged to have entered covered merchandise into the customs territory of the United States through evasion, or a foreign producer or exporter, has failed to cooperate by not acting to the best of the person's ability to comply with a request for information, the Commissioner may, in making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), use an inference that is adverse to the interests of that person in selecting from among the facts otherwise available to determine whether evasion has occurred.

''(ii) ADVERSE INFERENCE DESCRIBED.—An adverse inference used under clause (i) may include reliance on information derived from—

''(I) the petition, if any, submitted under paragraph (1)(B) with respect to the covered merchandise;

''(II) a determination by the Commissioner in another investigation under this section;

''(III) an investigation or review by the administering authority under title VII; or

''(IV) any other information placed on the record.

''(F) NOTIFICATION AND PUBLICATION.—Not later than 7 days after making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), the Commissioner shall—

''(i) provide notification of the determination to—

''(I) the administering authority; and

''(II) the person that submitted the petition under paragraph (1)(B) or the Federal agency that submitted the referral under paragraph (1)(C); and

''(ii) provide the determination for publication in the Federal Register.

''(3) BUSINESS PROPRIETARY INFORMATION.—

''(A) ESTABLISHMENT OF PROCEDURES.—For each investigation initiated under paragraph (1), the Commissioner shall establish procedures for the submission of business proprietary information under an administrative protective order that—

''(i) protects against public disclosure of such information; and

''(ii) for purposes of submitting comments to the Commissioner, provides limited access to such information for—

''(I) the person that submitted the petition under paragraph (1)(B) or the Federal agency that submitted the referral under paragraph (1)(C); and

''(II) the person alleged to have entered covered merchandise into the customs territory of the United States through evasion.

''(B) ADMINISTRATION IN ACCORDANCE WITH OTHER PROCEDURES.—The procedures established under subparagraph (A) shall be administered—

''(i) to the maximum extent practicable, in a manner similar to the manner in which the administering authority administers the administrative protective order procedures under section 777;

''(ii) in accordance with section 1905 of title 18, United States Code; and

''(iii) in a manner that is consistent with the obligations of the United States under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)) (relating to customs valuation).

''(C) DISCLOSURE OF BUSINESS PROPRIETARY INFORMATION.—The Commissioner shall, in accordance with the procedures established under subparagraph (A) and consistent with subparagraph (B), make all business proprietary information presented to, or obtained by, the Commissioner during an investigation available to the persons specified in subparagraph (A)(ii) under an administrative protective order, regardless of when such information is submitted during an investigation.

''(4) REFERRALS TO OTHER FEDERAL AGENCIES.—

''(A) AFTER PRELIMINARY DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative preliminary determination under paragraph (2)(A), the Commissioner shall, at the request of the head of another Federal agency, transmit the administrative record to the head of that agency.

''(B) AFTER FINAL DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative final determination under paragraph (2)(B), the Commissioner shall, at the request of the head of another Federal agency, transmit the complete administrative record to the head of that agency.

''(C) PROTECTIVE ORDERS.—Before transmitting an administrative record to the head of another Federal agency under subparagraph (A) or (B), the Commissioner shall verify that the other agency has in effect with respect to the administrative record a protective order that provides the same or a similar level of protection for the information in the administrative record as the protective order in effect with respect to such information under this subsection.

''(c) EFFECT OF DETERMINATIONS.—

''(1) EFFECT OF AFFIRMATIVE PRELIMINARY DETERMINATION.—If the Commissioner makes a preliminary determination in accordance with subsection (b)(2)(A) that there is a reasonable basis to believe or suspect that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(A) suspend the liquidation of each unliquidated entry of the covered merchandise that is subject to the preliminary determination and that entered on or after the date of the initiation of the investigation under paragraph (1);

''(B) pursuant to the Commissioner's authority under section 504(b), extend the period in which to liquidate each unliquidated entry of the covered merchandise that is subject to the preliminary determination and that entered before the date of the initiation of the investigation under paragraph (1);

''(C) review and reassess the amount of bond or other security the importer is required to post for each entry of merchandise described in subparagraph (A) or (B);

''(D) require the posting of a cash deposit with respect to each entry of merchandise described in subparagraph (A) or (B); and

''(E) take such other measures as the Commissioner determines appropriate to ensure the collection of any duties that may be owed with respect to merchandise described in subparagraph (A) or (B) as a result of a final determination under subsection (b)(2)(B).

''(2) EFFECT OF NEGATIVE PRELIMINARY DETERMINATION.—If the Commissioner makes a preliminary determination in accordance with subsection (b)(2)(A) that there is not a reasonable basis to believe or suspect that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall continue the investigation and notify the administering authority pending a final determination under subsection (b)(2)(B).

''(3) EFFECT OF AFFIRMATIVE FINAL DETERMINATION.—If the Commissioner makes a final determination in accordance with subsection (b)(2)(B) that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

''(A) suspend or continue to suspend, as the case may be, the liquidation of each entry of the covered merchandise that is subject to the determination and that enters on or after the date of the determination;

''(B) pursuant to the Commissioner's authority under section 504(b), extend or continue to extend, as the case may be, the period in which to liquidate each entry of the covered merchandise that is subject to the determination and that entered before the date of the determination;

''(C) notify the administering authority of the determination and request that the administering authority—

''(i) identify the applicable antidumping or countervailing duty assessment rate for the entries for which liquidation is suspended or extended under subparagraph (A) or (B) of paragraph (1) or subparagraph (A) or (B) of this paragraph; or

''(ii) if no such assessment rates are available at the time, identify the applicable cash deposit rate to be applied to the entries described in subparagraph (A) or (B), with the applicable antidumping or countervailing duty assessment rates to be provided as soon as such rates become available;

''(D) require the posting of cash deposits and assess duties on each entry of merchandise described in subparagraph (A) or (B) in accordance with the instructions received from the administering authority under paragraph (5);

''(E) review and reassess the amount of bond or other security the importer is required to post for merchandise described in subparagraph (A) or (B) to ensure the protection of revenue and compliance with the law; and

''(F) take such additional enforcement measures as the Commissioner determines appropriate, such as—

''(i) initiating proceedings under section 592 or 596;

''(ii) implementing, in consultation with the relevant Federal agencies, rule sets or modifications to rules sets for identifying, particularly through the Automated Targeting System and the Automated Commercial Environment, importers, other parties, and merchandise that may be associated with evasion;

''(iii) requiring, with respect to merchandise for which the importer has repeatedly provided incomplete or erroneous entry summary information in connection with determinations of evasion, the importer to submit entry summary documentation and to deposit estimated duties at the time of entry;

''(iv) referring the record in whole or in part to U.S. Immigration and Customs Enforcement for civil or criminal investigation; and

''(v) transmitting the administrative record to the administering authority for further appropriate proceedings.

''(4) EFFECT OF NEGATIVE FINAL DETERMINATION.—If the Commissioner makes a final determination in accordance with subsection (b)(2)(B) that covered merchandise was not entered into the customs territory of the United States through evasion, the Commissioner shall terminate the suspension or extension of liquidation pursuant to subparagraph (A) or (B) of paragraph (1) and refund any cash deposits collected pursuant to paragraph (1)(D) that are in excess of the cash deposit rate that would otherwise have been applicable the merchandise.

''(5) COOPERATION OF ADMINISTERING AUTHORITY.—

''(A) IN GENERAL.—Upon receiving a notification from the Commissioner under paragraph (3)(C), the administering authority shall promptly provide to the Commissioner the applicable cash deposit rates and antidumping or countervailing duty assessment rates and any necessary liquidation instructions.

''(B) SPECIAL RULE FOR CASES IN WHICH THE PRODUCER OR EXPORTER IS UNKNOWN.—If the Commissioner and administering authority are unable to determine the producer or exporter of the merchandise with respect to which a notification is made under paragraph (3)(C), the administering authority shall identify, as the applicable cash deposit rate or antidumping or countervailing duty assessment rate, the cash deposit or duty (as the case may be) in the highest amount applicable to any producer or exporter, including the 'all-others' rate of the merchandise subject to an antidumping order or countervailing duty order under section 736 or 706, respectively, or a finding issued under the Antidumping Act, 1921, or any administrative review conducted under section 751.

''(d) SPECIAL RULES.—

''(1) EFFECT ON OTHER AUTHORITIES.—Neither the initiation of an investigation under subsection (b)(1) nor a preliminary determination or a final determination under subsection (b)(2) shall affect the authority of the Commissioner—

''(A) to pursue such other enforcement measures with respect to the evasion of antidumping or countervailing duties as the Commissioner determines necessary, including enforcement measures described in clauses (i) through (iv) of subsection (c)(3)(F); or

''(B) to assess any penalties or collect any applicable duties, taxes, and fees, including pursuant to section 592.

''(2) EFFECT OF DETERMINATIONS ON FRAUD ACTIONS.—Neither a preliminary determination nor a final determination under subsection (b)(2) shall be determinative in a proceeding under section 592.

''(3) NEGLIGENCE OR INTENT.—The Commissioner shall investigate and make a preliminary determination or a final determination under this section with respect to whether a person has entered covered merchandise into the customs territory of the United States through evasion without regard to whether the person—

''(A) intended to violate an antidumping duty order or countervailing duty order under section 736 or 706, respectively, or a finding issued under the Antidumping Act, 1921; or

''(B) exercised reasonable care with respect to avoiding a violation of such an order or finding.''.

(b) TECHNICAL AMENDMENT.—Clause (ii) of section 777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)(1)(A)) is amended to read as follows:

''(ii) to an officer or employee of U.S. Customs and Border Protection who is directly involved in conducting an investigation regarding fraud under this title or claims of evasion under section 516B.''.

(c) JUDICIAL REVIEW.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)(III), by striking ''or'' at the end;

(B) in clause (ii), by adding ''or'' at the end; and

(C) by inserting after clause (ii) the following:

''(iii) the date of publication in the Federal Register of a determination described in clause (ix) of subparagraph (B),''; and

(2) in subparagraph (B), by adding at the end the following new clause:

''(ix) A determination by the Commissioner responsible for U.S. Customs and Border Protection under section 516B that merchandise has been entered into the customs territory of the United States through evasion.''.

(d) FINALITY OF DETERMINATIONS.—Section 514(b) of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by striking ''section 303'' and all that follows through ''which are reviewable'' and inserting ''section 516B or title VII that are reviewable''.

SEC. __12. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Subtitle B—Other Matters

SEC. __21. DEFINITIONS.

In this subtitle, the terms ''appropriate congressional committees'', ''Commissioner'', ''covered merchandise'', ''enter'' and ''entry'', and ''evade'' and ''evasion'' have the meanings given those terms in section 516B(a) of the Tariff Act of 1930 (as added by section __11 of this title).

SEC. __22. ALLOCATION OF U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

(a) REASSIGNMENT AND ALLOCATION.—The Commissioner shall, to the maximum extent possible, ensure that U.S. Customs and Border Protection—

(1) employs sufficient personnel who have expertise in, and responsibility for, preventing the entry of covered merchandise into the customs territory of the United States through evasion; and

(2) on the basis of risk assessment metrics, assigns sufficient personnel with primary responsibility for preventing the entry of covered merchandise into the customs territory of the United States through evasion to the ports of entry in the United States at which the Commissioner determines potential evasion presents the most substantial threats to the revenue of the United States.

(b) COMMERCIAL ENFORCEMENT OFFICERS.—Not later than September 30, 2011, the Secretary of Homeland Security, the Commissioner, and the Assistant Secretary for U.S. Immigration and Customs Enforcement shall assess and properly allocate the resources of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement—

(1) to effectively implement the provisions of, and amendments made by, this Act; and

(2) to improve efforts to investigate and combat evasion.

SEC. __23. REGULATIONS.

(a) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Commissioner shall issue regulations to carry out this title and the amendments made by title I.

(b) COOPERATION BETWEEN U.S. CUSTOMS AND BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, AND DEPARTMENT OF COMMERCE.—Not later than 240 days after the date of the enactment of this Act, the Commissioner, the Assistant Secretary for U.S. Immigration and Customs Enforcement, and the Secretary of Commerce shall establish procedures to ensure maximum cooperation and communication between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Department of Commerce in order to quickly, efficiently, and accurately investigate allegations of evasion under section 516B of the Tariff Act of 1930 (as added by section __11 of this Act).

SEC. __24. ANNUAL REPORT ON PREVENTION OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Not later than February 28 of each year, beginning in 2012, the Commissioner, in consultation with the Secretary of Commerce, shall submit to the appropriate congressional committees a report on the efforts being taken pursuant to section 516B of the Tariff Act of 1930 (as added by section __11 of this title) to prevent the entry of covered merchandise into the customs territory of the United States through evasion.

(b) CONTENTS.—Each report required under subsection (a) shall include—

(1) for the fiscal year preceding the submission of the report—

(A) the number and a brief description of petitions and referrals received pursuant to section 516B(b)(1) of the Tariff Act of 1930 (as added by section __11 of this title);

(B) the results of the investigations initiated under such section, including any related enforcement actions, and the amount of antidumping and countervailing duties collected as a result of those investigations; and

(C) to the extent appropriate, a summary of the efforts of U.S. Customs and Border Protection, other than efforts initiated pursuant section 516B of the Tariff Act of 1930 (as added by section __11 of this title), to prevent the entry of covered merchandise into the customs territory of the United States through evasion; and

(2) for the 3 fiscal years preceding the submission of the report, an estimate of—

(A) the amount of covered merchandise that entered the customs territory of the United States through evasion; and

(B) the amount of duties that could not be collected on such merchandise because the Commissioner did not have the authority to reliquidate the entries of such merchandise.

SEC. __25. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON RELIQUIDATION AUTHORITY.

Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees, and make available to the public, a report estimating the amount of duties that could not be collected on covered merchandise that entered the customs territory of the United States through evasion during fiscal years 2009 and 2010 because the Commissioner did not have the authority to reliquidate the entries of such merchandise.

SA 716. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 5, insert the following:

SEC. 16. REPEAL OF MEDICAL DEVICE EXCISE TAX.

Subsections (a), (b), and (c) of section 1405 of the Health Care and Education Reconciliation Act of 2010, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section and amendments had never been enacted.

SA 717. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REGULATORY TIME-OUT.

(a) SHORT TITLE.—This section may be cited as the ''Regulatory Time-Out Act of 2011''.

(b) DEFINITIONS.—In this section—

(1) the term ''agency'' has the meaning given that term under section 3502(1) of title 44, United States Code; and

(2) the term ''covered regulation'' means a final regulation that—

(A) directly or indirectly increases costs on businesses in a manner which will have an adverse effect on job creation, job retention, productivity, competitiveness, or the efficient functioning of the economy;

(B) is likely to—

(i) have an annual effect on the economy of $100,000,000 or more;

(ii) adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(iii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(iv) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(v) raise novel legal or policy issues; and

(C) did not take effect before September 1, 2011.

(c) TIME-OUT PERIOD FOR REGULATIONS.—

(1) PRIOR REGULATIONS.—A covered regulation that took effect before the date of enactment of this Act shall be treated as though that regulation never took effect for the 1-year period beginning on the date of enactment of this Act.

(2) PROSPECTIVE REGULATIONS.—A covered regulation that has not taken effect before the date of enactment of this Act, may not take effect during the 1-year period beginning on the date of enactment of this Act.

(d) EXEMPTIONS.—

(1) IN GENERAL.—The head of an agency may exempt a covered regulation prescribed by that agency from the application of subsection (c), if the head of the agency—

(A) makes a specific finding that the covered regulation—

(i) is necessary due to an imminent threat to human health or safety, or any other emergency;

(ii) is necessary for the enforcement of a criminal law;

(iii) has as its principal effect—

(I) fostering private sector job creation and the enhancement of the competitiveness of workers in the United States;

(II) encouraging economic growth; or

(III) repealing, narrowing, or streamlining a rule, regulation, or administrative process, or otherwise reducing regulatory burdens;

(iv) pertains to a military or foreign affairs function of the United States; or

(v) is limited to interpreting, implementing, or administering the Internal Revenue Code of 1986; and

(B) submits the finding to Congress and publishes the finding in the Federal Register.

(2) REVIEW.—Not later than 10 days after the date of enactment of this Act each agency shall submit any covered regulation that the head of the agency determines is exempt under this section to the Office of Management and Budget and Congress.

(3) NONDELEGABLE AUTHORITY.—The head of an agency may not delegate the authority provided under this subsection to exempt the application of any provision of this section.

SA 718. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—REGULATORY RELIEF

SEC. ___01. SHORT TITLE.

This title may be cited as the ''EPA Regulatory Relief Act of 2011''.

SEC. ___02. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this title referred to as the ''Administrator'') shall—

(1) propose regulations for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units, subject to any of the rules specified in subsection (b)—

(A) establishing maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act'') for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act.

(b) STAY OF EARLIER RULES.—The following rules are of no force or effect, shall be treated as though such rules had never taken effect, and shall be replaced as described in subsection (a):

(1) ''National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters'', published at 76 Fed. Reg. 15608 (March 21, 2011).

(2) ''National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers'', published at 76 Fed. Reg. 15554 (March 21, 2011).

(3) ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 76 Fed. Reg. 15704 (March 21, 2011).

(4) ''Identification of Non-Hazardous Secondary Materials That Are Solid Waste'', published at 76 Fed. Reg. 15456 (March 21, 2011).

(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—With respect to any standard required by subsection (a) to be promulgated in regulations under section 112 of the Clean Air Act (42 U.S.C. 7412), the provisions of subsections (g)(2) and (j) of such section 112 shall not apply prior to the effective date of the standard specified in such regulations.

SEC. ___03. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section ___02, the Administrator—

(1) shall establish a date for compliance with standards and requirements under such regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for such compliance, shall take into consideration—

(A) the costs of achieving emissions reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time needed to—

(i) obtain necessary permit approvals; and

(ii) procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section ___02(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of such Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid waste incineration unit under section 129(g)(2) of such Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or otherwise affect the provisions of paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. ___04. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act''), in promulgating rules under section __02(a) addressing the subject matter of the rules specified in paragraphs (3) and (4) of section ___02(b), the Administrator—

(1) shall adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 65 Fed. Reg. 75338 (December 1, 2000); and

(2) shall identify non-hazardous secondary material to be solid waste only if—

(A) the material meets such definition of commercial and industrial waste; or

(B) if the material is a gas, it meets such definition of contained gaseous material.

SEC. ___05. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section ___02(a), the Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section ___02(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).

SA 719. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. REPEAL OF CLASS PROGRAM.

(a) REPEAL.—Title XXXII of the Public Health Service Act (42 U.S.C. 300ll et seq.; relating to the CLASS program) is repealed.

(b) CONFORMING CHANGES.—

(1) Title VIII of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 119, 846–847) is repealed.

(2) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking paragraphs (81) and (82);

(B) in paragraph (80), by inserting ''and'' at the end; and

(C) by redesignating paragraph (83) as paragraph (81).

(3) Paragraphs (2) and (3) of section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) are amended to read as such paragraphs were in effect on the day before the date of the enactment of section 8002(d) of the Patient Protection and Affordable Care Act (Public Law 111–148). Of the funds appropriated by paragraph (3) of such section 6021(d), as amended by the Patient Protection and Affordable Care Act, the unobligated balance is rescinded.

(c) RESCISSION OF UNOBLIGATED DISCRETIONARY APPROPRIATIONS.—

(1) IN GENERAL.—Of the unobligated balances of discretionary appropriations on the date of enactment of this Act, $86,000,000,000 is rescinded.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—The Director of the Office of Management and Budget shall determine

which appropriation accounts the rescission under paragraph (1) shall apply to and the amount that each such account shall be reduced by pursuant to such rescission.

(B) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress listing the accounts reduced by the rescission in paragraph (1) and the amounts rescinded from each such account.

(3) EXCEPTIONS.—The rescission under paragraph (1) shall not apply to the Department of Defense, the Department of Veterans Affairs, or the Social Security Administration.

SA 720. Mr. ROBERTS (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. USE OF PESTICIDES IN OR NEAR NAVIGABLE WATERS.

(a) USE OF AUTHORIZED PESTICIDES.—Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF AUTHORIZED PESTICIDES.—Except as provided in section 402(s) of the Federal Water Pollution Control Act, the Administrator or a State may not require a permit under that Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of such a pesticide, resulting from the application of the pesticide.''.

(b) DISCHARGES OF PESTICIDES.—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(s) DISCHARGES OF PESTICIDES.—

''(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), or the residue of such a pesticide, resulting from the application of the pesticide.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

''(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

''(i) the discharge would not have occurred but for the violation; or

''(ii) the quantity of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

''(B) Stormwater discharges subject to regulation under subsection (p).

''(C) The following discharges subject to regulation under this section:

''(i) Manufacturing or industrial effluent.

''(ii) Treatment works effluent.

''(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.''.

SA 721. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. PROHIBITION ON TREASURY REGULATIONS WITH RESPECT TO INFORMATION REPORTING ON CERTAIN INTEREST PAID TO NONRESIDENT ALIENS.

Except to the extent provided in Treasury Regulations as in effect on February 21, 2011, the Secretary of the Treasury shall not require (by regulation or otherwise) that an information return be made by a payor of interest in the case of interest—

(1) which is described in section 871(i)(2)(A) of the Internal Revenue Code of 1986, and

(2) which is paid—

(A) to a nonresident alien, and

(B) on a deposit maintained at an office within the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on October 4, 2011, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 4, 2011, at 3 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 4, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVENMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on October 4, 2011, at 10:30 a.m. to conduct a hearing entitled, ''Costs of Prescription Drug Abuse in the Medicare Part D Program.''

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER PROTECTION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Financial Institutions and Consumer Protection be authorized to meet during the session of the Senate on October 4, 2011 at 3 p.m. to conduct a hearing entitled ''Consumer Protection and Middle Class Wealth Building in an Age of Growing Household Debt.''

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

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Immigration, Refugees, and Border Security, be authorized to meet during the session of the Senate, on October 4, 2011, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''America's Agricultural Labor Crisis: Enacting a Practical Solution.''

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Water and wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate, on October 4, 2011, at 2:30 p.m. in Dirksen 406 to conduct a hearing entitled ''Nutrient Pollution: an Overview of Nutrient Reduction Approaches.''

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 361; that the Senate proceed to vote without intervening action or debate the motion to reconsider be considered made and laid on the table with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, the clerk will report the nomination.

The legislative clerk read the nomination of Francis Joseph Ricciardone, Jr., of Massachusetts, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

The PRESIDING OFFICER. Is there further debate on the nomination?

If not, the question is on confirmation of the nomination.

The nomination was confirmed.