STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself and Mr. PAUL):

S. 2169. A bill to require the Director of the Bureau of Prisons to be appointed by and with the advice and consent of the Senate; to the Committee on the Judiciary.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Prisons Accountability Act of 2012''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Director of the Bureau of Prisons leads a law enforcement component of the Department of Justice with a budget that exceeds $6,500,000,000 for fiscal year 2012.

(2) With the exception of the Federal Bureau of Investigation, the Bureau of Prisons has the largest operating budget of any unit within the Department of Justice.

(3) The Director of the Bureau of Prisons oversees and is responsible for the welfare of more than 216,000 Federal inmates in 117 facilities.

(4) The Director of the Bureau of Prisons supervises more than 37,000 employees, many of whom operate in hazardous environments that involve regular interaction with violent offenders.

(5) The Director of the Bureau of Prisons also serves as the chief operating officer for Federal Prisons Industries, a wholly owned government enterprise of 98 prison factories that directly competes against the private sector, including small businesses, for Government contracts.

(6) Within the Department of Justice, in addition to those officials who oversee litigating components, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, the Director of the Community Relations Service, the Director of the Federal Bureau of Investigation, the Director of the National Institute of Justice, the Director of the Office for Victims of Crime, the Director of the Office on Violence Against Women, the Administrator of the Drug Enforcement Administration, the Deputy Administrator of the Drug Enforcement Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the United States Marshals Service, 94 United States Marshals, the Inspector General of the Department of Justice, and the Special Counsel for Immigration Related Unfair Employment Practices, are all appointed by the President by and with the advice and consent of the Senate.

(7) Despite the significant budget of the Bureau of Prisons and the vast number of people under the responsibility of the Director of the Bureau of Prisons, the Director is not appointed by and with the advice and consent of the Senate.

SEC. 3. DIRECTOR OF THE BUREAU OF PRISONS.

(a) IN GENERAL.—Section 4041 of title 18, United States Code, is amended by striking ''appointed by and serving directly under the Attorney General.'' and inserting the following: ''who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall serve directly under the Attorney General.''.

(b) INCUMBENT.—Notwithstanding the amendment made by subsection (a), the individual serving as the Director of the Bureau of Prisons on the date of enactment of this Act may serve as the Director of the Bureau of Prisons until the date that is 3 months after the date of enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the ability of the President to appoint the individual serving as the Director of the Bureau of Prisons on the date of enactment of this Act to the position of the Director of the Bureau of Prisons in accordance with section 4041 of title 18, United States Code, as amended by subsection (a).

By Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. LEVIN, and Mr. LEE):

S. 2170. A bill to amend the provisions of title 5, United States Code, which are commonly referred to as the ''Hatch Act'' to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Hatch Act Modernization Act of 2012. I am pleased that Senators LIEBERMAN, LEVIN, and LEE have joined as cosponors.

The Hatch Act restricts political activity of Federal employees, District of Columbia employees, and certain other state and local employees. Originally enacted in 1939, the Hatch Act has not been amended since 1993.

The Hatch Act plays two very important roles. First, it ensures that the government works for American citizens regardless of the political party controlling the White House or Congress. Second, the Hatch Act protects Federal employees in the workplace. Specifically, the Hatch Act restricts Federal employees' partisan political action in order to protect them for being coerced to participate in political activities in the workplace. This is essential to the merit-based system that currently exists.

In 2007, I chaired a hearing of the Senate Subcommittee of Oversight of Government Management, the Federal Workforce, and the District of Columbia, which examined whether enhancements or clarifications to the Hatch Act were necessary. Since that time, I have considered what changes to the law would be appropriate, while being mindful that the Hatch Act represents a careful balance intended to shield employees from pressure to use federal time and money for partisan gain, while also protecting employees' personal freedoms of choice and expression.

The legislation I am introducing today makes common sense changes to the Hatch Act. First, it would grant State and local employees the freedom to run for partisan elective office. Under current law, state and local employees are permitted to run for non-partisan elective office, but are prohibited from running for partisan elective office. This can lead to confusing and inconsistent rules in different locations, depending on whether a particular elective office is categorized as partisan or non-partisan. This change will also save the government money, as the Office of Special Counsel would not be required to spend valuable time and resources investigating the hundreds of complaints it receives each year on this issue.

The legislation would also modify the Hatch Act's draconian penalty provisions. The Hatch Act currently provides for a presumed penalty of termination for any violation of the law, regardless of its severity. Under the law, it is possible that a federal employee could lose his or her job for inadvertently sending an email at work containing improper political content or hanging a picture on his or her wall during a campaign season. My bill would amend these provisions of the Hatch Act to allow the Merit Systems Protection Board, which adjudicates Hatch Act complaints in the federal government, to impose a range of penalties, from termination to a reprimand, depending on the nature of the offense involved.

Finally, the legislation would ensure that employees of the District of Columbia are subject to the same restrictions on political activity that currently apply to all other state and local employees. Under present law, District of Columbia employees are subject to the Hatch Act provisions that apply to federal employees, rather than those that apply to employees of States and localities.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hatch Act Modernization Act of 2012''.

SEC. 2. PERMITTING STATE AND LOCAL EMPLOYEES TO BE CANDIDATES FOR ELECTIVE OFFICE.

(a) IN GENERAL.—Section 1502(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by adding ''or'' after the semicolon;

(2) in paragraph (2), by striking ''purposes; or'' and inserting ''purposes.''; and

(3) by striking paragraph (3).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REFERENCE TO STATE AND LOCAL OFFICIALS.—Section 1502 of title 5, United States Code, is amended by striking subsection (c).

(2) NONPARTISAN CANDIDACIES.—

(A) IN GENERAL.—Section 1503 of title 5, United States Code, is repealed.

(B) TABLE OF SECTIONS.—The table of sections for chapter 15 of title 5, United States Code, is amended by striking the item relating to section 1503.

SEC. 3. APPLICABILITY OF PROVISIONS RELATING TO STATE AND LOCAL EMPLOYEES.

(a) STATE OR LOCAL AGENCY.—Section 1501(2) of title 5, United States Code, is amended by inserting '', or the District of Columbia, or an agency or department thereof'' before the semicolon.

(b) STATE OR LOCAL OFFICER OR EMPLOYEE.—Section 1501(4) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by—

''(i) a State or political subdivision thereof;

''(ii) the District of Columbia; or

''(iii) a recognized religious, philanthropic, or cultural organization.''.

(c) MERIT SYSTEMS PROTECTION BOARD ORDERS.—Section 1506(a)(2) of title 5, United States Code, is amended by inserting ''(or in the case of the District of Columbia, in the District of Columbia)'' after ''the same State''.

(d) PROVISIONS RELATING TO FEDERAL EMPLOYEES MADE INAPPLICABLE.—Section 7322(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by adding ''or'' at the end;

(2) in subparagraph (B), by striking ''or'' at the end;

(3) by striking subparagraph (C); and

(4) by striking ''services;'' and inserting ''services or an individual employed or holding office in the government of the District of Columbia;''.

SEC. 4. HATCH ACT PENALTIES FOR FEDERAL EMPLOYEES.

Chapter 73 of title 5, United States Code, is amended by striking section 7326 and inserting the following:

''§ 7326. Penalties

''An employee or individual who violates section 7323 or 7324 shall be subject to removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.''.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act.

(b) APPLICABILITY RULE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by section 4 shall apply with respect to any violation occurring before, on, or after the effective date of this Act.

(2) EXCEPTION.—The amendment made by section 4 shall not apply with respect to an alleged violation if, before the effective date of this Act—

(A) the Special Counsel has presented a complaint for disciplinary action, under section 1215 of title 5, United States Code, with respect to the alleged violation; or

(B) the employee alleged to have committed the violation has entered into a signed settlement agreement with the Special Counsel with respect to the alleged violation.

By Ms. SNOWE (for herself, Mrs. GILLIBRAND, Ms. LANDRIEU, Mr. BENNET, Mrs. SHAHEEN, Ms. MIKULSKI, and Ms. MURKOWSKI):

S. 2172. A bill to remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today, at the onset of Women's History Month, along with my colleagues Senators GILLIBRAND, LANDRIEU, BENNET, SHAHEEN, MIKULSKI, and MURKOWSKI to introduce the Fairness in Women-Owned Small Business Contracting Act. The purpose of the bill is to remove inequities that exist in the women-owned small business contracting program, when compared to other socio-economic programs.

As former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I have long championed women entrepreneurship and have urged both past and present Administrations to implement the woman-owned small business, WOSB, Federal contracting program, which was enacted into law 10 years ago. On March 4, 2010, the Small Business Administration, SBA, finally proposed a workable rule to implement the women's procurement program. I am pleased to report that today there is a functional WOSB contracting program, however, the program lacks the critical elements that the SBA's 8(a), historically underutilized business zones, and the service-disabled veteran-owned government contracting programs include.

To remedy this, our bipartisan bill will help provide tools women need to compete fairly in the Federal contracting arena by allowing for receipt of non-competitive contracts, when circumstances allow. Moreover, the legislation would eliminate a restriction on the dollar amount of a contract that a WOSB can compete for, thus putting them on a level playing field with the other socio-economic contracting programs.

Women-owned small businesses have yet to receive their fair share of the Federal marketplace. In fact, our government has never achieved its goal of five percent of contracts going to WOSBs, achieving only 4.04 percent in fiscal year 2010. Our bill would greatly assist Federal agencies in achieving the small business goaling requirement for WOSBs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness in Women-Owned Small Business Contracting Act of 2012''.

SEC. 2. PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.

Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''who are economically disadvantaged'';

(B) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(C) by striking subparagraph (D); and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) by adding at the end the following:

''(7) SOLE SOURCE CONTRACTS.—A contracting officer may award a sole source contract under this subsection to a small business concern owned and controlled by women under the same conditions as a sole source contract may be awarded to a qualified HUBZone small business concern under section 31(b)(2)(A).''.

SEC. 3. STUDY AND REPORT ON REPRESENTATION OF WOMEN.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify any United States industry, as defined under the North American Industry Classification System, in which women are underrepresented.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 390—HONORING THE LIFE AND LEGACY OF THE HONORABLE DONALD M. PAYNE

Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. CARDIN, Mr. LEVIN, and Mr. COONS) submitted the following resolution; which was considered and agreed to:

S. RES. 390

Whereas the Honorable Donald M. Payne was born in Newark, New Jersey on July 16, 1934, graduated from Barringer High School in Newark and Seton Hall University in South Orange, New Jersey, and pursued graduate studies at Springfield College in Massachusetts;

Whereas the Honorable Donald M. Payne was an educator in the Newark and Passaic, New Jersey public schools and was an executive at Prudential Financial and at Urban Data Systems Inc;

Whereas the Honorable Donald M. Payne became the first African American national president of the YMCA in 1970 and served as Chairman of the World Refugee and Rehabilitation Committee of the YMCA from 1973 to 1981;

Whereas the Honorable Donald M. Payne served 3 terms on the Essex County Board of Chosen Freeholders and 3 terms on the Newark Municipal Council;

Whereas, in 1988, the Honorable Donald M. Payne became the first African American elected to the United States House of Representatives from the State of New Jersey;