amendment that while tangential to the overall reform of the Postal Service, making sure these retirees get their benefits in a timely manner is something on which we should all agree.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Virginia most importantly for focusing our attention—I know Senator COLLINS and Senator AKAKA have also been involved in this—on this unacceptable situation, where Federal employees are retiring. Because of a lot of failures here, the failure to implement an effective—it is 2012—electronic system for this purpose, this paper processing, meaning that people have to wait these very long times after they retire, while they are waiting, they are getting a significantly reduced benefit which causes real hardship.

The Senator from Virginia is absolutely right. We mandate in this bill, the underlying bill, that the Postal Service accept the goal of 18 percent in reduction of workforce. The total number of career employees in the U.S. Postal Service is about 545,000, and 18 percent comes out to around 100,000, which is our goal for reduction. This has to happen if the Postal Service is going to get back in balance. Because as Senator COLLINS said earlier today, 80 percent of the operating budget of the Postal Service is personnel costs. Obviously, it is a labor-intensive operation. So we are going to have another 100,000 people. In fact, it keeps going. By 2017, we will have—from now, this year, we will have a total of 138,000 postal employees eligible to retire. The Postal Service is going to have to work to incentivize them to retire so the service overall can stay in balance.

I wish to thank Senator WARNER because we have worked very well together on a modification to his amendment, which I think most significantly will require the Office of Personnel Management to submit a report to Congress related to the completion of retirement claims for postal annuitants, to keep the pressure on them to end this inhumane—in many cases, unacceptable—situation.

I know when the proper time comes, we intend to support this modified amendment. It strengthens the bill. It does the right thing. I thank the Senator from Virginia for expressing his intention to support the overall bill.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico.) The Senator from Maine.

Ms. COLLINS. Mr. President, I too wish to commend the Senator from Virginia for offering this amendment in conjunction with the Senator from Maryland. I wrote to OPM in July of last year about this very issue. I was very concerned about reports in my own State and from the Washington Post about the tremendous backlog at OPM in processing the retirement applications of Federal and postal workers, and this is just wrong.

As the Senator's statement shows, it has caused some real hardship to individuals. So I was pleased the chairman and I could work with the Senator to modify his amendment so it would be germane to this bill. I look forward, at the appropriate time, to working with the chairman to accept the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I want to thank the chair and the ranking member for working with me on this amendment to get it appropriately modified. This an area that I think there is broad bipartisan consensus, that we need to make sure—whether postal workers or other workers in the Federal system—that when they choose to retire, they can expect those retirement benefits in a timely manner.

I wish to again commend the chair and the ranking member for the fact that putting in place this very reasonable plan that is going to encourage the voluntary retirements of that approximate 18 percent of the workforce—109,000 I believe it amounts to—is going to be a lot easier to make that sell if those postal workers can then expect to receive their retirement benefits in a timely manner. I think if they are hearing the current scuttlebutt that they may have to wait 12 to 18 months to get their retirement benefits, it becomes a much harder effort for the Postmaster and the management of the Postal System to make—even if they got the right incentives in place—to kind of get over that hump if they have to wait a long time.

So I very much thank again the chair and ranking member, Senator LIEBERMAN and Senator COLLINS, for their support, and I think trying to shine a light, not only on the Postal System but vis-a-vis how other Federal agencies are doing will be important. I look forward to working with them. I know they both focused on this issue in the past. I hope to lend my assistance to make sure we get this fixed.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, thanks to the Senator from Virginia. He makes a very important point: Of the $19 billion in savings that the Postal Service itself believes will result annually as of 2016, $8.1 billion will come from the reduction in salaries paid because of retirements that are incentivized under this bill.

It is common sense that if a worker is thinking about retiring and hears there is such a backlog that they are only going to get half of what they deserve for their pension until the paperwork has cleared, they are probably not going to rush to retire, and, therefore, we are going to save less money.

We are approaching the hour of 2. According to the unanimous consent that governs our activities today in the Senate, we are going to go to another matter, the NLRB rule. I wish to thank particularly Senator SESSIONS and Senator WARNER who came to the floor to discuss their amendments. Senator COLLINS and I will return at 4. We will be here until 5, when we go to the discussion of a judicial nomination. Then, we will be here after the vote tonight as late as anybody is here to discuss and debate amendments before we go to the vote tomorrow.

I thank the Chair. I thank my friend from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF THE RULE SUBMITTED BY THE NLRB RELATING TO REPRESENTATION ELECTION PROCEDURES—MOTION TO PROCEED

Mr. ENZI. Mr. President, I make a motion to proceed to S.J. Res. 36.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Motion to proceed to S.J. Res. 36, a joint resolution providing for congressional disapproval, under chapter 8 of title V, United States Code, of the rule submitted by the National Labor Relations Board relating to representation election procedures.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate equally divided and controlled between the two leaders or their designees.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to ask for disapproval to stop the National Labor Relations Board's ambush election rule. This rule I have been objecting to was put into place by an NLRB that is bound and determined to stack the odds against American employees and to put employers and employees in an unfair situation. Despite the fact that unemployment has remained above 8 percent for the past 3 years, and small business growth is the most important factor in reversing the lackluster trend, the National Labor Relations Board has chosen to impose new rules to aid big labor at the expense of employers, and particularly small business employers and the jobs they would create.

If the Senate does not act now to stop this rule by passing my resolution, it will go into effect on Monday, April 30, 10 months after it was first proposed. The changes that are being made are going to be a big surprise for the employers and employees who get

caught in this net, particularly, as I mentioned, the small employers who do not have the human resource departments or in-house counsel. I would expect that we elected representatives of the people are going to face a lot of questions about what we did to stop this blatant effort to stack the odds in big labor's favor—and we will be asked. This rule will shift the law significantly in favor of big labor.

Let me take a moment to explain. Under current practice, there is a 25-day waiting period between the setting of an election by a hearing officer and the actual secret ballot election. Employers could use this time to familiarize themselves with the requirements and restrictions of the law. This is very important because there are many ways that an unknowledgeable employer with the best intentions could make a misstep that would be heavily penalized by the NLRB. Employers also use the time to communicate with their employees about the decision they are making and correct misstatements and falsehoods that they may be hearing from union organizers.

Parties also use this time to seek review of a decision made by a hearing officer or an NLRB regional director. Under the new regulation, the 25-day waiting period is abolished and employers may face an election in as few as 10 days.

Is it fair to the employees to only have 10 days to learn how this will affect his or her life, and how much of his or her money this will cost?

Under current law, both parties are able to raise issues about the election at a preelection hearing, covering such issues as which employees should be included in the bargaining unit and whether particular employees are actually supervisors. Under the new regulation, parties will be barred from raising these questions until after the election. Employees will be forced to vote without knowing which other employees will actually be in the bargaining unit with them. This is important information that weighs heavily in most employees' vote.

Additionally, because of the NLRB's decision to allow micro-unions, such as specialty health care, unions will essentially be granted any bargaining unit they design and employers will have a very limited time to weigh in.

Under current law, when either party raises preelection issues, they are allowed to submit evidence and testimony and file posthearing briefs for the hearing officer to consider, and have 14 days in which to appeal decisions made with respect to that election.

Under the new regulation, the hearing officer is given the broad discretion to bar all evidence and testimony unrelated to the question of representation and all postelection briefs, and no appeals or requests for stays are allowed. This can be quite a disadvantage for employees as well.

What this all adds up to is an extremely small window of time from filing a petition to the actual election, little opportunity for employers to learn their rights or communicate with employees their rights, and less opportunity for employees to research the union and the ramifications of forming a union. The NLRB is ensuring that the odds are stacked against employees and businesses. This vote is an opportunity to tell the NLRB to reverse course.

If we pass this resolution, as I hope we will, the Senate will not be the only branch of government telling the NLRB it is off track. Last month, a District of Columbia Federal court told the NLRB that several provisions of its notice-posting regulation were well exceeding their authority and struck them down. This was a judge appointed by President Obama. Two weeks ago, another Federal court—this time in South Carolina—also ruled against the NLRB. It found that the entire notice-posting regulation violated congressional intent. Following up on these two rulings, the DC Court of Appeals stayed the entire rule until appeals are completed. The court in that case was frustrated that the NLRB did not postpone the rule itself, given the multiple negative treatments in the courts.

Unfortunately, that reckless sense of blind mission is consistent with this administration's NLRB. It is kind of like ''Thelma and Louise'' driving off a cliff. I, for one, don't want to see the NLRB drive our economy off a cliff. I hope this resolution will pull them back and encourage them to focus on their statutory mission.

The NLRB enforces the National Labor Relations Act, which is the carefully balanced law that protects the rights of employees to join or not join a union, and also protects the rights of employers to free speech and unrestricted flow of commerce. Since it was enacted in 1935, changes to this statute have been rare. When they have occurred, it has been the result of careful negotiations with stakeholders. This change is one-sided and super quick—an ambush to set up ambush elections.

The National Labor Relations Board is not an agency that typically issues regulations. Listen to this: In fact, in over 75 years the National Labor Relations Board has finalized only three regulations through formal rulemaking, two of which occurred last year. Let me repeat that. In over 75 years, the National Labor Relations Board has finalized three regulations through informal rulemaking, and two of them occurred just last year—under this current National Labor Relations Board. As I mentioned, one of those was already struck down by one court and stayed by another.

Most of the questions that come up under the law are handled through decisions of the board. Board decisions often do change the enforcement of the law significantly, but they are issued in response to an actual dispute and question of law. In contrast, the ambush election is not a response to a real problem because the current election process for certifying whether employees want to form a union is not broken. This rule was not carefully negotiated by stakeholders. Instead, it was finalized in just over 6 months despite the fact it drew over 65,000 comments in the 2-month period after it was first proposed.

Labor law history provides an interesting contrast to this rushed regulatory approach. In the late 1950s, Congress became concerned about undemocratic practices, labor racketeering, and mob influence in certain labor unions. To address this the Senate created a special committee—the Select Committee on Improper Activities in the Labor or Management Field. That operated for 3 years and heard more than 1,500 witnesses over 270 days of hearings.

Based upon their investigations, the Senate negotiated and passed legislation to protect the rights of rank-and-file union members and employers. The legislation is known as the Landrum Griffin Act.

The issue of how long a period of time there should be between the request for an election and the actual election came up during those negotiations. My colleagues may be surprised to learn it was Senator John F. Kennedy who argued vigorously for a 30-day waiting period prior to the election. As he said:

> There should be at least a 30 day interval between the request for an election and the holding of an election . . . in which both parties can present their viewpoints. . . . . The 30 day waiting period is an additional safeguard against rushing employees into an election where they are unfamiliar with the issues.

Again, that was a quote by Senator John F. Kennedy. Fairness to the employees—that is what Senator John F. Kennedy was talking about. The 30-day waiting period provision he supported did not ultimately become part of the law, and, obviously, it is not a law today. Instead, the NLRB adopted a practice of a 25-day waiting period in almost every case. But this caution about the need for employees to have a chance to become familiar with the issues is just as true today.

Employees who are not aware of the organizing activity at their worksite, and even those who are, need to have an opportunity to learn about the union they may join. They will want to research the union to ensure it has no signs of corruption. They will want to know how other work sites have fared with this union and whether they can believe the promises the union organizers may be extending. Employees should have every chance to understand the impact of unionization.

For example, they will no longer be able to negotiate a raise individually with their employer. Doing their jobs better than a fellow employee may no longer bring any benefit whatsoever. Union rules may even hinder sales.

I once had an opportunity to visit a shoe factory. I was in the retail shoe business, and we visited a shoe factory. As we went through it, I saw some boxes of some of the shoes we normally carry and was kind of interested in what the new fashion looked like. So I went over and opened a box, and the roof caved in. Not actually, but it seemed as if the roof caved in because it had to be somebody who had union authority to open that box. It couldn't be the supervisor. So I actually shut down the factory for about 30 minutes just by picking up a box to look at the shoes that were probably going to be coming to my store at one point in time.

Grievances cannot be brought straight to the employer but will, instead, have to go through the filter of union management. Once the union is certified, the National Labor Relations Board has instituted significant restrictions for when it may be decertified; in other words, when the employees can fire a union as their representative. Employees are barred from petitioning for decertification for a full year after the election and barred as well throughout the term of the collective bargaining agreement. So there is a very small window in which employees have any opportunity to get rid of a union they do not support. They are going to be rushed into judgment, and then they are stuck with it.

Four decades ago Senators recognized employees deserved the opportunity to gather this and all other relevant information before casting their votes. Unfortunately, the NLRB is choosing to ignore this caution, and rank-and-file employees will suffer. Fairness to the employee?

This situation is exactly what the Congressional Review Act was intended for. When an agency takes regulatory action that is not supported by the people and their representatives, the Congressional Review Act gives Congress the chance to repeal that regulation.

In this case those advocating for the rule are doing so because they cannot pass the bill they really want, which is card check. Card check is where you have people go in and stand over employees' shoulders while they check a box that says they want to be in a union. Then, with enough signatures or enough boxes checked, there is no secret ballot election. So many have referred to this as ''back-door card check''—this particular NLRB regulation—and for good reason. Both proposals seek to restrict all communication with employees prior to a union election for union organizers only. Under both scenarios, employees are likely to hear only one side of the story, and employers can be cut out of the process altogether.

But the other side could not pass card check because once the American public found out about what they were trying to do, they objected. It took a little while because the card check legislation was deceptively named ''The Employee Free Choice Act.'' In reality it would have forced employees into the exact opposite of free choice. Any Senator who opposed this card check legislation should also be voting for this resolution to stop ambush elections.

Another reason the Congressional Review Act was designed for just this situation is there is simply no other way we would be allowed to have a vote on this issue in this Senate. Back in December, the House of Representatives passed Chairman KLINE's legislation that would have effectively killed the ambush election regulation and codified a 35-day waiting period before an election. The Workforce Democracy and Fairness Act was passed with bipartisan support, but it has no chance of being called up for a vote in the Senate. So this vote is the one chance Senators will have to stand up for employees and small businesses that want fairness.

By any measure, the current law and certification system provides that fairness. The National Labor Relations Board keeps data on elections timing and sets up annual targets to process elections and decide complaints swiftly. Last year, they exceeded two of those targets and came within three-tenths of a percentage point of meeting the third. There is simply no justification for this regulation.

Last year, initial elections and union representation elections were conducted in a median of 38 days after the filing of the petition. Almost 92 percent of all initial elections were conducted within 56 days of the filing of the petition. Not only are the vast majority of elections occurring in a timely fashion, but unions are winning more than ever. Unions win more than 71 percent of elections—their highest win rate on record. The current system does not disadvantage labor unions at all, but it does ensure employees—whose right it is to make the decision of whether or not to form a union—have a full opportunity to hear from both sides about the ramifications of that decision.

This resolution will preserve the fairness and swift resolution of claims which occur under current law. It will not disadvantage unions or roll back any rights. Let me repeat that: This resolution will not disadvantage unions or roll back any rights. What it will do is prevent the small business employers in America from being ambushed and employees from being misled with insufficient information into union contracts they cannot get out of.

Under a successful Congressional Review Act disapproval, the agency in question is prohibited from issuing any substantially similar regulation. That means the National Labor Relations Board could not just reissue this regulation and could not finalize many of the other bad ideas they initially proposed. I will be speaking about some of those later on in this debate.

Let's not wait for the courts to strike down this rule, as they have the NLRB's other regulatory effort—which would make two out of three in the last 75 years. With the President's appointment of the National Labor Relations Board members when we were not in a Senate recess period, the Senate did not confirm the people pushing this effort—though, mostly, this was done by previous board members. But with the President's recess appointments in place, the National Labor Relations Board is poised to push forward other bad ideas aimed at helping union bosses, not employees, and not job creators. It is time to stop this agency and level the odds.

I am pleased to have 44 fellow Senators cosponsoring this resolution. I will now yield time to other Members who would like to speak in favor of it, first allowing the Senator from Iowa, the chairman of the committee, an opportunity to speak, probably, against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself whatever time I may consume.

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

Mr. HARKIN. Mr. President, I also want to clear up one parliamentary question. The occupant of the chair stated we had 2 hours evenly divided. I believe that is today. But on the agreement for the entire debate on the Congressional Review Act, if I am not mistaken, it is 4 hours evenly divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I thank the Chair.

Mr. President, this Congressional Review Act challenge is the latest chapter in an unprecedented Republican assault on unions. The amount of time this Congress has wasted scrutinizing and bullying the National Labor Relations Board over the last 2 years is simply astonishing. This time the debate is about whether the NLRB acted appropriately when it streamlined its procedures for setting up a union election and eliminated unnecessary bureaucracy to make the agency more efficient.

This seems like a commonsense and logical step that if taken by any other agency my colleagues on both sides of the aisle would be applauding as a step forward for good government and efficiency. But because these reforms were put forward by the NLRB—an agency my Republican colleagues seem to do anything to undermine—we are all standing here today debating the merits of this eminently sensible action. It is a real shame.

At a time when we should be working together to rebuild our economy and addressing the real challenges facing working families across this Nation, instead Republicans are distracting this body with partisan attacks on the National Labor Relations Board and on unions.

I would welcome the opportunity to spend this time on the Senate floor debating how to make life better for middle-class families. I would even welcome the opportunity to have a real debate about unions and the important role they play in our country. What I deeply regret is that we are instead going to spend time discussing the wild misinformation that has been spread about National Labor Relations Board rules that were properly undertaken, well within the agency's authority and completely sensible. So let me take a moment to try to set the record straight.

In December, after receiving public input, the NLRB announced that some internal agency procedures governing union elections would be changed. These are modest changes that not only make the procedures more rational and efficient but also ensure that workers and employers alike will have an opportunity to make their voices heard in an environment free of intimidation. These changes, while modest, are desperately needed. They will address the rare but deeply troubling situation where an unscrupulous employer uses delay and frivolous litigation to try to keep workers from getting a fair election. Let me briefly explain how the process works and how the new rules will help.

Ever since the passage of the National Labor Relations Act in 1935, workers have had a Federally protected right to choose whether to form a union, and our national policy, as stated in that act, has been to encourage collective bargaining. Workers who are interested in forming a union can request an election if at least 30 percent of the workers in that workplace sign a petition and present that to the National Labor Relations Board. About 90 percent of the time, the employer and the union reach an agreement covering when the election will be held, the timing of it, and who is in the bargaining unit.

That is the ideal situation. That is what happens the majority of the time. Although we would never know it from the rhetoric surrounding these rules, the new procedures address only the roughly 10 percent of situations where these preelection issues are in dispute and the rules say nothing about 90 percent of the elections, where the two parties reach a voluntary agreement on election terms.

This chart shows us only a tiny fraction of election petitions will be affected by these rules. As I said, 90 percent of the time the proposed union and the employers reach an agreement when the election is going to be held, how it is going to be held and other procedures. They voluntarily agree on that. Only 10 percent of the time do we have employers, some that are highly unscrupulous that will do anything to prevent their workers from having any kind of a voice in the running of the facility, that go to extreme lengths to frustrate the will of those who want to form a union. Again, the rules we are talking about don't even affect 90 percent of the businesses.

This 10 percent of the time when the parties can't reach an agreement, the NLRB then holds a hearing to decide who should be in the bargaining unit. The NLRB's proposed rules deal with the mechanics of that hearing and they attempt to cut back on the frivolous litigation that has plagued the hearing process. That is the proposed rule. They deal with the mechanics of that and cut back on this frivolous litigation. Under the old rules, management could litigate every single issue they could imagine at the preelection hearing. They could file posthearing briefs over any issue no matter how minor, and they could appeal any decision to the NLRB here in Washington. In many cases, the election would be put on hold while the Board reviewed the case. The workers then had to wait for the resolution of this litigation before they could even vote.

When the management side took advantage of every opportunity for delay, the average time before workers could vote was 198 days. Again, we are talking about this 10 percent. When management took advantage of every opportunity, the average time before workers could even vote was 198 days. We have some cases where it has been as long as 13 years before employees were able to vote in a union election. While the election process drags on, workers are often subjected to harassment, threats, and, yes, firing.

A study by the Center for Economic and Policy Research found that, among workers who openly advocate for a union during an election campaign, one in five is fired. We know what kind of signal that sends to the rest of the workers. A Cornell University study found that workers were required to attend an average of ten anti-union meetings during worktime before the election. By law, workers have the right to organize. As I said, our official policy, as stated in the National Labor Relations Act, is to encourage collective bargaining, but in practice we allow delay and intimidation to make that right meaningless.

The current NLRB election reforms do not solve this problem entirely, but nevertheless they are an important step forward. They help clear the bureaucratic redtape that has wasted government resources and denied workers the right to a free choice. Under the new rules, employers and unions can still raise their concerns about the petition at a preelection hearing, but they can't play games to stall the election. For example, under the new rules, employers can't waste time before the election arguing over whether an individual worker is eligible to vote. That worker then can vote a provisional ballot, and the two sides can debate the issue after the election if it matters to the outcome. What we have had in the past is, let's say we had a proposed bargaining unit that was 200 people. Let's say they got 100 of them to sign a petition. They usually try to get about 50 percent. They present it to the NLRB. Management then says: Person A shouldn't be in that bargaining unit because they are a supervisor, and person B over here shouldn't be in here because that person is a clerk and not a handler—or whatever it might be that wouldn't correspond to the bargaining unit.

Let's say they raise that issue on five people. Under the present situation, they could then take this to the NLRB, have hearings on each one of those. If they didn't like the outcome, they could then take it to Washington, DC and drag it out.

Under the new rules, what they would say is: OK. If management is challenging those five people, we will set their ballots aside, and we will have an election. If the election was 150 to 20 that they form a union, then those 5 wouldn't make any difference one way or the other. But if the election were close and those five would, then the NLRB would step in and say: Wait a minute. The certification would be put on hold until they decided whether those people were rightfully in the bargaining unit to vote. Again, these are some of the games that have been going on.

Another example is appeals. All parties still have the right to appeal any decision they disagree with. But now, all appeals would be consolidated after the election, which allows the Board to conserve its resources and keep the election process moving forward.

These commonsense changes remove unnecessary delays from the process, they cut down on frivolous legal challenges, and give workers the right to a fair up-or-down vote in a reasonable period of time. The new rules don't encourage unionization and they don't discourage it. They just give workers the ability to say yes or no, without having to wait several months or even years to do so.

There is rampant misinformation about this rule. To be clear, the rule does not allow a so-called ambush election, where an employer is taken by surprise and has no ability or opportunity to communicate with workers about the pros and cons of a union. As anyone who has ever been around a workplace that is part of an organizing drive would know, employers always know what is going on, and they have ample opportunity to express their views. They can require their workers to listen to an anti-union message all day long every day, and that is perfectly legal, while the union isn't even allowed into the facility to talk to other workers.

This rule also does not change the content of what an employer can or cannot say to its workers. It doesn't restrict an employer's free speech rights in any way.

Finally—I wish to make this clear—the rule does not mandate that elections be held within any particular

timeframe. For anyone who has actually read the new rules, it is clear it does nothing of the sort.

What these rules do accomplish is to help ensure that employers and employees have a level playing field, where corporate executives and rank-and-file workers alike have an equal chance to make their case for or against a union. Some workplaces will choose a union, some will not. But protecting the right of workers to make that choice brings some balance and fairness to the system. Indeed, many employers have recognized that the new rules are fair and balanced. Catholic Health Care West, a health care company with 31,000 employees, filed comments stating:

> Reforms proposed by the NLRB are not pro-union or pro-business. They are pro-modernization.

Further, Catholic Health Care West said they will:

> Modernize the representation election process by improving the Board's current representation election procedures that result in unnecessary delays, allow unnecessary litigation, and fail to take advantage of modern communication technologies.

Mr. Willie West, founder and owner of West Sheet Metal Company in Sterling, VA, wrote an article in the Hill newspaper stating that:

> [t]hese seemingly minor changes certainly do not create uncertainty for me and they will not affect my ability to create jobs. In fact, if the NLRB standardizes the election process, it seems to me this will reduce uncertainty and turmoil in the workplace—especially for small businesses.

Mr. West is exactly right. The rules are an improvement for small businesses and for those who want a cooperative relationship with their employees. Again, keep in mind, 90 percent of the time they have no problems. We are only talking about this 10 percent of the time. That is what these rules are aimed at.

The new rules promote consistency among NLRB field offices. They simplify procedures for all parties, making it easier for businesses to plan. The old rules gave an advantage to the businesses with the most money and those most willing to manipulate the system to frustrate their employees' right to vote. Some of these businesses in that 10 percent could afford expensive lawyers to exploit the system and delay elections. The old rules worked well for anti-union law firms—I will grant you that—but not for small businesses on a budget.

By creating a fair, more transparent process, the NLRB is leveling the playing field for small businesses.

Most important, the rules also take a small step to level the playing field for ordinary Americans. The people who do the work in this country deserve a voice in the decisions that affect their families and their futures. Polls show that 53 percent of workers want representation in the workplace, but fewer than 7 percent of private sector workers are represented and one of the reasons is the broken NLRB election system. Even though more workers than ever are expressing an interest in having a voice on the job, the number of union representation elections conducted by the NLRB declined by an astounding 60 percent between 1997 and 2009.

When workers do file for NLRB elections, 35 percent give up in the face of extreme employer intimidation and withdraw from the election before a vote is even held. Let me repeat that. Workers have gone around, they have gotten signatures, they have gotten the requisite 30 percent. They usually get a lot more than that, 40 to 50 percent. They file with the NLRB. One out of every three of those give up in the face of extreme employer intimidation. Why? Because one out of every five is being fired because there is no real penalty against the employer for firing someone for union organizing. It is against the law to fire an employee because they were exercising their right to form a union, to be in union organizing. But it happens all the time. Why do employers not worry about it? Because there are no penalties. The penalty is backpay minus any offsets.

I had a young man in Iowa I remember very well up in Mason City. He had been involved in organizing a union at his workplace. He got fired. He filed with the NLRB saying he was wrongly dismissed because of his union-organizing activities.

They had a hearing. It dragged on for 3 years before the NLRB could reach a decision, and the decision was, yes, he was fired because of his union-organizing activities.

What was the penalty on the employer? They had to pay him 3 years' backpay minus whatever he earned in the meantime as a worker.

How many people can go through years without working? Of course, he had to work. He had to go to work, and he had to show how much money he made in the meantime that had to be deducted from what his employer had to pay him. Therefore, they had to pay practically nothing. Yet using that as an example, they were able to frustrate the organizing of a union. One-third give up in the face of extreme employer intimidation. These are the problems that need to be addressed.

It is not just a problem for unions either, but for our entire middle class and for the future of our economy. If we take a look at what is happening to the middle class in America, it is being decimated. The American people are insisting—even though we are not doing much of it in Washington, I can assure you the American people are insisting that we have a national dialog about the growing division between the haves and have-nots in this country, about the detrimental impact this is having on the standard of living of American middle-class families. This has led to important discussions about tax loopholes for corporations and millionaires. But as we learned from battles from Wisconsin to Ohio and beyond, it is very much a conversation about workers' rights.

Unions have always been the backbone of the American middle class since we started having a middle class. Since 1973, private sector unionization rates have declined from 34 percent of the labor force to 7 percent; from 1 out of every 3 workers in America belonging to a union to now only 7 percent, 1 in about 15. While unionization rates declined, so did the middle-class share of national income.

During some hearings we had last year—we had a number of hearings in our committee about this. When we track union membership—this, the blue line, from 1973 to today—and track the percent of workers covered by collective bargaining agreements, and then track the middle-class share of national income, look how they all go down the same. As unionization declined the number of workers in collective bargaining declined, and so did their share of the national income. That is what has happened to the middle class in America. Simply, the fate of America's unions parallels the fate of America's middle class.

Unions are not a relic of a bygone era, they are a vital element of a fair and successful 21st-century economy. If we want to strengthen our economy and rebuild the middle class, we should try to figure out how to make unions stronger, how to get more people in collective bargaining, not attack collective bargaining rights across the country. We should be fighting to ensure that every hard-working American has a right to be treated with dignity and respect on the job—and, yes, to have a voice on that job. The current NLRB election reforms may fall short of that lofty goal, but, as I said, they are an important step forward, and they deserve support.

I urge my colleagues to vote no on this Congressional Review Act challenge to NLRB's rules. Now that these rules are to go into effect—and I am confident they will go into effect—it is time for this body to stop wasting time, using the NLRB as an election year political football.

I think these attacks on this modest rule go right after the intelligence of working Americans. These attacks urge this body to help prevent unions from being organized. But ordinary Americans and the middle class want us to stop this political posturing and move forward on building economic opportunity for the middle class—and, yes, to support the right of people who want to form a union, to get rid of all these delays, and to make sure we have rules in place which basically reflect 90 percent of the employers in this country.

Ninety percent of the employers reach agreements with their employees on having an election. It is that 10 percent that gets to be frustrating. This is the purpose of this rule, to make everybody sort of falls in the 90 percent, so

we have a fair and expeditious election process, one that is understandable, one that does not lead to all this frivolous litigation and delay.

We have another couple or 3 hours of debate on this matter. After this is over, I hope we can start focusing on ways to genuinely help the middle class in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, most of the small businesspeople I know consider themselves to be part of the middle class. I appreciate the statistics the chairman provided about 90 percent of the elections arriving at agreement prior to the election. What this rule is going to do is change it so that only 10 percent make agreements beforehand because there is no incentive for the union to participate at all. They have the right to just take it over.

There are some statistics about unions and the middle class, and kind of a myth, that the current election procedures discourage unionization and are the main cause of private sector union decline. In the 1950s private sector union membership reached its height of 35 percent of the unionized workforce. Today it is less than 7 percent of the private sector workforce that is unionized, and the decline of unionization in the private sector can be attributed to several social, political, and economic factors, including present-day workplace laws at both the State and Federal level that have greatly improved working conditions; a decline in the manufacturing base; the new nature of employment, where people are more transient in their careers; and the desire for contemporary employees to have a more cooperative relationship with their employers, and vice versa. It is kind of a teamwork factor that most businesses operate on today.

I think it was also said that employers have unfair access to employees and regularly bombard employees with anti-union propaganda. I think it was said it could happen 24 hours a day. The fact is employers' speech regarding unionization is closely monitored and regulated. For example, employers are restricted from visiting employees at their homes, inviting employees into certain areas of the workforce to discuss unionization, and making promises or statements that could be construed as threatening, intimidating, or coercive. That is the current law. Employers are required to provide unions with a list of employee names and home addresses for representation election purposes.

I think it was also said changes are needed because current procedures discourage employees from forming unions. The fact is all employees have the guaranteed right to discuss their support of unionization and to persuade coworkers to do likewise at work. The only restriction is that they not neglect their own work or interfere with the work of others when doing so. Employees as well as unions have the unlimited right to campaign in favor of unionization away from the workplace.

The National Labor Relations Board election rule will postpone these legitimate questions after the representation election is held and could result in more post-election litigation. So there are a lot of factors that were mentioned. I am not going to go into all of them.

As I have stated throughout the debate, the National Labor Relations Board's ambush election rule is an attempt to stack the odds against American employers, particularly small businesses that do not have a specialist in that area or in-house counsel. Most small businesses today cannot afford either of those. They can be put into this situation of having to figure it all out in less than 10 days. That is just to figure out the rules so they do not get some heavy fines from the National Labor Relations Board.

Coupled with two other changes the administration is forcing, some employers will be caught in a perfect storm. Taken together, ambush elections, the National Labor Relations Board's micro-union decision, and the Department of Labor's proposed rule on persuader activity create a major shift in favor of organized labor.

The Supreme Court has expressly stated that an employer's free speech rights to communicate his views to his employees is firmly established and cannot be infringed by a union or the board under the National Labor Relations Act. Yet the overarching goal of the National Labor Relations Board and the Labor Department's efforts is to put up barriers that can have the effect of limiting employer free speech.

Under the specialty health care decision permitting micro-unions, unions can now gerrymander a bargaining unit so it is made up of a majority of employees who support the union. In this decision, the standard for whether a union's petition for a bargaining unit is appropriate was changed to make it very difficult for employers to prove it is not appropriate. The decision will lead to smaller units which will be easier to organize and cause fragmentation and discord in the workplace. Allowing micro-unions will increase the number of bargaining units in the workplace. The result means an employer could face multiple simultaneous organizing campaigns, all with shortened election periods, thanks to this ambush rule. Those two combined can be pretty dangerous.

Under the Department of Labor's proposed regulation to require increased reporting of persuader activity, an employer, especially a small employer, will rethink obtaining advice from lawyers or consultants on what to do when faced with a union organizing campaign. Taking away the ability to consult outside parties, combined with a shortened election period, makes it nearly impossible for an employer to not only educate his employees, but also to ensure his actions are within the law.

For over 50 years the Department of Labor has been exempted from reporting requirements advice provided to employers. The proposed rule will significantly affect that definition. The complexities of the National Labor Relations Act almost require an employer to seek advice on what he is permitted to do or say to employees during a union election, especially if the election period is as short as 10 days.

The proposed rule on persuader activity will chill employer speech to the point that employers will not seek, and attorneys will not provide, advice on any labor-related issue. So unions have turned to these regulatory initiatives after losing the public and political battle over the Employee Free Choice Act, otherwise known as card check. Organized labor's end game remains the same, making it easier to organize by taking away the employer's free speech right and the employee's right to fair information.

Supporters of organized labor have acknowledged the winning strategy is to gain voluntary recognition of the union from employers instead of allowing employees to vote in a secret ballot election, despite a 71-percent win rate. Ambush elections, increased reporting on persuader activity, and the decision to allow micro-unions will set the bar for an employer winning elections impossibly high, essentially coercing them into voluntarily recognizing the union.

I do thank the Senator for mentioning that in 90 percent of the elections there is an agreement before the election done in a relatively short period of time that takes care of all the disputes. I don't know if the purpose of Congress is to make sure 100 percent of situations never occur or 90 percent or 99 percent, but everything cannot be solved by doing a new rush to action regulation, particularly by an organization that doesn't do those regulations normally.

In 75 years there have only been three regulations. Two of them were done by the Labor Relations Board in the last year, and one of those has already been set aside by the courts. So this is a rush-to-action situation, and I hope my colleagues will join me in this resolution of disapproval of the Congressional Review Act.

It is a very difficult bar to reach because the Senate will have to pass the resolution of disapproval twice with a majority of votes. That gives the other side the opportunity to see who might support it the first time and see if they can talk them out of it the second time. But after that, it has to go through the House, and then this is the surprising part to me—if it passes both bodies where both bodies have said they do not think the agency correctly interpreted what we put in law, meaning Congress, who are the only ones with the right to pass a law—what we

put into law, they are trying to change, and that third step is that it requires the signature of the President in order for the Congressional Review Act to become effective. We are an equal branch of government to the administration. The administration writes the rule. We disapprove of the rule because we say it doesn't follow the laws we have already passed, and then the administration which wrote the law gets to say whether the votes of the people in the House and in the Senate had any effect at all.

The Congressional Review Act has a definite place, but it should have been done using the authority of Congress itself, not the authority of the Congress and the administration combined. We are at a point where there is a heavy hand in the administration, and that will have a drastic effect on business in this country. And if business fails, there will be less employees, not more.

Mr. HARKIN. Mr. President, how much time do have I remaining?

The PRESIDING OFFICER. The majority has 36 minutes 25 seconds.

Mr. HARKIN. Mr. President, we are going to have a lot of time to flush out some of these arguments again tomorrow when the vote gets near, but I thought I might pick up on a couple of things here that my good friend from Wyoming said. We do a lot of work together, and he is a great Senator and a good friend of mine. He just happens to be wrong on this issue, but other than that, he is a good friend of mine. This is a good, healthy debate on policy.

There is a lot of talk about these ambush elections. Now we are going to have ambush elections. Well, that is not so. The current median time from when a petition is filed and when the election occurs is about 37 to 38 days. Again, I heard from my friend saying this could be ambush elections, and all that kind of stuff. Even one of the Nation's largest management-side law firm disagrees. One of the attorneys from Jackson Lewis told the Wall Street Journal that he thinks the time would be shaved between 19 and 23 days under the proposal.

Mr. Trauger, vice president of the National Association of Manufacturers, said the elections would be held in 20 to 25 days under the new rule. So that is not an ambush election at all. All this rule does is remove these extra legal hurdles that can cause excessive delays.

We keep hearing about rulemaking, and saying: Well, this board has only issued three of these rules in the past 75 years, two of these rules in the last couple of years. It makes it sound as though the NLRB has ridden off the range here in terms of reasonableness. But the fact is that when the board promulgated rules in the past, they did it through the adjudicative process, not through rulemaking.

The Supreme Court and the U.S. Courts of Appeal have criticized the board in the past for underutilizing its rulemaking authority. Courts have said the rulemaking process is more transparent and more inclusive. So through rulemaking this board has solicited broader public input in its decisions.

What the NLRB has done in the last couple of years is opened up the process for comment periods and rulemaking through the Administrative Procedures Act, something the courts have been asking and advising the NLRB that they should have been doing all along rather than relying on the adjudicative process.

So, yes, my friend may be right about two of the three last couple of years, but actually that is a move in the right direction. That is a move for transparency and openness and letting all different sides have their comments before they issue a final rule rather than doing it through adjudication.

There was this quote about John Kennedy about a 30-day waiting period. Well, I don't know, I have not looked at then-Senator Kennedy's entire record. I suppose there are some things I might agree with him on and some things I probably would not agree with him on. I don't know what his thought processes were. All I can tell you is that no matter what he said at that time as a Senator, the final bill did not have a waiting period. The Senate put it in, the House did not, and when it went to conference, they dropped it. So I think the rejection of that proposed amendment could be more reasonably understood as an indication that Congress did not believe a minimum time between petition and election is necessary.

Sure, you can quote Kennedy, and I guess I can quote President Dwight D. Eisenhower, and here is what he said:

> Only a fool would try to deprive working men and women of the right to join a union of their choice.

Well, we better not try to prevent them from joining a union of their choice.

I have also heard this charge that somehow these rules tilt this more in favor of the unions than management. No, they don't. Again, we have mostly been talking here about the certification process. When union organizers get the signatures, they file with NLRB and we have an NLRB process. Basically that is what we are talking about here. But I would point out to my friend on the other side of the aisle that these procedures we are talking about also apply to decertification elections as well. So since the same rules will apply to decertification elections, the proposed rule will ensure that employees who have union representation will be able to have a timely up-or-down vote to also get rid of the union. So, to me, it is both. It is both on the certification and the decertification side. It makes for things to be much more expeditious, much clearer, and more understandable. That is why I think many management firms and businesses see this as a reasonable rule because when they would try to decertify, they don't have to go through all of this frivolous litigation on the other side. It applies to both certification and decertification, so it doesn't tilt the playing field one way or the other.

Again, I applaud the National Labor Relations Board for moving in the direction of more rulemaking, making it more open, making it more transparent than what they have done in the past. But you know what it boils down to? As long as I have been here, since 1985 in this body, we have had ups and downs on the National Labor Relations Board. Let's face it, what happens is the National Labor Relations Board has three members from the President's political party and two from the other side. So when you have a Democratic President in, then NLRB gets attacked by Republicans. When a Republican President is in, it gets attacked by Democrats, and it becomes kind of a political football. I understand that, and we should all understand that is what this is too. That is what this is all about.

I was just notified that a Statement of Administration Policy, SAP, from the administration just came through. It said even if this vote were held and the other side won—if it was voted to overrule the NLRB—the President would veto it. And, surely, no one thinks there is a two-thirds vote here to override the President's veto on this issue. We are kind of wasting our time here. It is sort of another political shot when there are so many important things we should be talking about in terms of jobs, job creation, the economy, fair taxation, keeping our jobs from going overseas, education, job retraining, and yet we are spending our time talking about this. Well, be that as it may, the facts are on the side that this rule is eminently reasonable, fair, and I think will lead to a more predictable and less litigious and less conflicting process when people want to form a union in this country.

As I said, 90 percent of the time we don't have these problems. But for those 10 percent, it can be devastating, and it can thwart individual workers who want to form a union. So I am hopeful we can have a little bit more debate on this. I hope the vote tomorrow will be conclusive and that we will turn this down and move ahead with more important business confronting this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, we are having an interesting duel of statistics here, because to take care of the 10 percent that the Senator from Iowa says has a problem, we will turn the other 90 percent on their head. It also doesn't surprise me that the President has put out a Statement of Administration Policy, a SAP. I always thought those were pretty aptly named, but not surprised my resolution would be opposed.

As I explained, this is a regulation written by the administration so I

would expect the administration would not like and would veto it. There has been only been one Congressional review action that has succeeded and that was regarding the rule on ergonomics. And what happened was the Department of Labor rushed through a 50-day regulation, and then we had a change of Presidents and the new President didn't like it, so he was willing to sign the Congressional Review Act resolution of disapproval.

This is not a waste of time. This is an important action. It is to warn agencies and boards that the ones that make the laws are Congress, and we delegate that rulemaking authority, and it was delegated to the administration of the National Labor Relations Board, and they are abusing their authority.

What has changed? Well, there is the pre-election hearing. In the new rule it says: ''A pre-election hearing is solely to determine whether a question of representation exists.'' The important question, such as which employee should be included in the bargaining unit or the eligibility of an employee, won't be heard prior to an election.

A hearing officer may unilaterally bar testimony or evidence he or she deems not relevant to a question raised at a pre-election hearing—under this new regulation.

The effect?

A hearing officer will have wide latitude to prohibit certain evidence introduced at a pre-election hearing, even if such evidence is undisputed or stipulated, essentially leading to the conclusion that an election is proper.

Under the new rule:

Parties are prohibited from seeking a review of a regional director's decision and direction of an election by the Board. All issues to review would be heard after an election. Parties could seek a pre-election appeal if the issue would otherwise escape Board review.

The effect?

Parties with a legitimate legal bar to an election will be forced to run an unnecessary election. An unintended consequence is that an employer would have to commit an unfair labor practice in order to have their issues reviewed by the full Board.

If you ask me, that is a pretty high bar they are putting in there. The new rule says:

The 25-day waiting period between the direction of the election and election date is eliminated.

The impact?

The 25 days allowed parties to digest and understand the parameters of the regional director's decision to direct an election, and for the Board to rule on the parties' requests for the review of the decision.

Although not included in the Final Rule, the Board originally proposed that a pre-election hearing will occur 7 days after the filing of a petition absent special circumstances.

The effect? It forces employers to scramble to retain counsel. Again, we are talking about small businessmen here. There is no limit on how small of a business you can organize in this. It forces employers to scramble to retain counsel, develop a strategy, prepare for a hearing, and develop evidence. Many employers, especially small ones, will be unable to provide a reasonable response so quickly, leading them to agree to a stipulated election. There is not anything in this provision that gives any protection for the person in the middle class running a small business and trying to keep his business afloat. There used to be some protections, but this new regulation—and, again, agencies do write a lot of rules, but they don't write ones of this significance—is only the third time it has been done by the National Labor Relations Board. It was done in a hurry-up situation. Two out of the three were done by this administration. One of those has already been set aside by the courts. That is not a very good record. Now we are trying to do this one on a hurry-up basis. I think there ought to be more consideration for it.

Part of the role of Congress is to take a look at what the administration is doing with their regulations, which we ultimately give them the authority to do, to see if they are being done properly. So this is just a major part of the need for oversight. Thankfully, there is a process whereby we can get the right to debate this oversight. That is what we are doing at this point.

I yield the floor to Senator BARRASSO for such time as he needs.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I rise in support of my colleague from Wyoming and the excellent work he is doing and continues to do, as well as the leadership he continues to provide for all the Senate and certainly for the people of Wyoming. He is the captain of our team. I agree with him and wish to associate myself with the remarks of the Senator from Wyoming and express my concerns about the new ambush election rule issued by the National Labor Relations Board.

The National Labor Relations Board is the Federal agency charged with conducting labor elections and investigating unfair labor practice charges. The appointed members of this board are meant to help facilitate a level playing field in the private sector workplace. Unfortunately, recent actions have demonstrated that the board is much more interested, in my opinion, in pursuing regulatory changes that favor unions. They should be focused on ensuring that workers are able to make informed decisions about their place of employment, not on showing favoritism.

Let's take a look at the ambush election rule. On December 22 of last year, the National Labor Relations Board issued a new rule. The new rule greatly shortens the time period between the filing of a petition for union representation and when that election is held. Under the current rules, most union elections take place within about 38 days. Under the new rules, the time could be cut almost in half. The ambush election rule also narrows the scope of preelection hearings while limiting the rights of a party to preelection appeals.

I believe this misguided rule undermines the basic fairness in the representation election process. It limits the amount of information received by employees regarding the impact of unionization on their workplace. The rule also significantly restricts the ability of employers to educate their employees and to share their perspective.

I believe this causes harm to workers. The decision on whether to join or form a union is a very important decision for workers. Employment decisions directly affect an individual's ability to support their family, to pay their bills, and to sustain their livelihood. Workers deserve to have all the information needed to make a well-informed decision.

In order to seriously consider their options, employees must have the opportunity to hear from both sides on the implications of unionization. The ambush election rule, in my opinion, attempts to quickly rush employees through the union election process, without giving those employees the full picture and a clear understanding of the issues.

I have great concerns about what I believe is a disregarding of employer input. The ambush election rule disregards the rights of small businesses and employers across this country. The new rule is attempting to silence employers from discussing vital information with their employees about unionization and the impact on their lives and on their jobs. Under the new rule, employers would have a very limited amount of time to share their views, to provide counterarguments, and to explain what unionization would mean in the workplace. Employers should be allowed time to fully explain the information to their employees. Ultimately, I believe the purpose of the recently released rule is to leave employers unable to effectively communicate with workers about important workplace issues. The Board is infringing upon the free speech rights of the employers.

I believe this new rule prevents employers from getting counsel. In this tough economic environment, small business owners are facing an incredible amount of pressure and responsibility. Job creators are working hard to ensure their products and services are competitive. They are working to find available markets for their goods and services. They are trying to deal with the financial health of their businesses.

Many small business owners are unaware of the complicated Federal laws they must adhere to during the union election process. Due to the variety of competing priorities and limited resources, small businesses all across this country often don't employ inhouse legal counsel or human resource professionals familiar with unionization laws. Under the new rule,

however, the time constraints will make it even more difficult for them to find appropriate counsel, to consult on the issues, and to prepare for the election process. Employers will be scrambling to find a labor attorney or a human resource professional to help explain their rights and to ensure that their actions are permissible under current law. As a result, many employers will be left at risk for unintentionally violating certain Federal labor laws or silenced.

The National Labor Relations Board should not be forcing employers to preemptively analyze Federal labor laws and figure out how best to communicate their views of unionization in case a union petition happens to pop up. Job creators should be focusing their scarce time and resources on managing and growing their businesses, on trying to put Americans back to work at a time of over 8 percent unemployment.

I view this whole new rule as unnecessary. There is no reason for the new rule. The median timeframe for union elections has been 38 days from the filing of the petition. About 91 percent of all the elections held in 2011 occurred within 56 days. These numbers indicate the petitions and elections are handled, and have been handled, in a timely manner. Furthermore, the current election procedures are not impeding the ability of unions to win the representation elections. According to the National Labor Relations Board's own statistics, unions won about 71 percent of elections held in 2011.

When I take a look at what is happening with the National Labor Relations Board, what comes to mind are the recent recess appointments made by the President. This new rule we are facing and discussing is not the first time the Obama administration has attempted to use the NLRB to pursue the union's agenda. The administration continues to take actions and push through policies that are unwise and even, in my opinion, unconstitutional, in order to do the bidding of unions.

In an action that was both unprecedented and unconstitutional, President Obama recess appointed three new members to the National Labor Relations Board during a pro forma session of this Senate. President Obama appointed three individuals. The nominations of two of them, Sharon Block and Richard Griffin, were sent to the Senate only a few days before the pro forma session began. As a result, the Senate had no opportunity—none at all—to hold hearings or debate the nominees. President Obama completely disregarded the constitutional requirement of advice and consent for executive nominees. The appointments were a heavy-handed effort by this administration to curry favor, in my opinion, with the unions.

I come to the floor as someone who has talked at great length about the impact of regulations and how they make it harder and more expensive for our small businesses to hire people around the country. Businesses are already having trouble keeping track of all the changing rules and trying to abide by all the new requirements they face on almost a daily basis. The only certainty being offered to the job creators in the United States is that the Obama administration is going to continue to change the rules of the game on businesses to meet its own agenda. The ambush election rule is the exact type of regulatory change that makes employers nervous and reluctant to expand their businesses, to create new jobs, to hire and put people back to work. This Federal Government should be focused on giving employers stability, predictability, and opportunities for growth instead of stacking the deck, as we see it, in favor of labor unions.

I come to the floor, as I know my colleagues will as well, in a call to action to employ the Congressional Review Act. Under the Congressional Review Act, Congress is able to overturn the ambush election rule by passing a resolution of disapproval. I am proud to be an original cosponsor of S.J. Res. 36, introduced by Senator ENZI. The resolution of disapproval rescinds the new union election rule issued by the National Labor Relations Board. Unless Congress takes action, the new rule is scheduled to take effect on April 30 of this year—just the end of this month. I call upon the Senate to pass S.J. Res. 36 and prevent this dangerous rule from silencing employers and hindering the ability of American workers to make informed decisions.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent to have several letters of support printed in the RECORD, along with a list of 18 organizations that support the resolution.

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

CONGRESSIONAL REVIEW ACT (S.J. RES. 36) DISAPPROVAL OF NLRB AMBUSH ELECTION RULE

SUPPORT LETTERS (17)

Associated Builders and Contractors, Associated General Contractors of America, Association of Equipment Manufacturers, Coalition for a Democratic Workplace, U.S. Chamber of Commerce, Food Marketing Institute, H.R. Policy Association, National Association of Home Builders, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Council of Chain Restaurants, National Federation of Independent Business, National Grocers Association, National Retail Federation, National Restaurant Association, National Roofing Contractors Association, Retail Industry Leaders Association.

Conservative and Free Market Groups: American Commitment, Americans for Tax Reform, Alliance for Worker Freedom, Competitive Enterprise Institute, WorkPlaceChoice.org, Taxpayers Protection Alliance, Frontiers of Freedom, The Heartland Institute, Ohioans for Workplace Freedom, 60 Plus Association, Eagle Forum, Institute for Liberty, Center for Freedom and Prosperity, Independent Women's Voice, Americans for Prosperity, Let Freedom Ring, Center for Individual Freedom, ConservativeHQ.com, Less Government, National Center for Public Policy Research, Citizens for the Republic, The James Madison Institute, Heritage Action for America, The Club for Growth, The American Conservative Union, National Taxpayers Union, The Committee for Justice.

ADDITIONAL SUPPORT (SIGNATORIES OF CDW LETTER)

National Organization (119): 60 Plus Association, Aeronautical Repair Station Association, Agricultural Retailers Association, AIADA, American International Automobile Dealers Association, Air Conditioning Contractors of America, American Apparel & Footwear Association, American Bakers Association, American Concrete Pressure Pipe Association, American Council of Engineering Companies, American Feed Industry Association, American Fire Sprinkler Association, American Foundry Society, American Frozen Food Institute, American Hospital Association, American Hotel and Lodging Association, American Meat Institute, American Nursery & Landscape Association, American Organization of Nurse Executives, American Pipeline Contractors Association, American Rental Association, American Seniors Housing Association, American Society for Healthcare Human Resources Administration, American Society of Employers, American Staffing Association, American Supply Association, American Trucking Associations, American Wholesale Marketers Association, AMT—The Association For Manufacturing Technology, Assisted Living Federation of America, Association of Millwork Distributors, Associated Builders and Contractors, Associated Equipment Distributors, Associated General Contractors of America, Association of Equipment Manufacturers, Automotive Aftermarket Industry Association, Brick Industry Association, Building Owners and Managers Association (BOMA) International, Center for Individual Freedom.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, February 16, 2012.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, urges you to support and co-sponsor S.J. Res. 36, a resolution of disapproval that would repeal recent revisions the National Labor Relations Board (NLRB or Board) made to regulations governing union representation elections.

These regulations replace a process that, in the vast majority of cases, worked fairly and efficiently. In fiscal year 2010, the average time for union representation elections was just 38 days, with more than 95 percent of all elections occurring within 56 days. However, rather than look at targeted solutions for the small percentage of cases that take too long, the Board made sweeping changes that will apply to all elections.

While the substantive regulations adopted by the NLRB are detailed and complex, the end result is that election time will likely decrease significantly at the expense of important due process and free speech rights. The simple fact is that employees deserve a fair campaign period to hear from all sides and employers deserve an opportunity to have critical election-related questions settled before an election occurs. Organized labor has long sought to radically reduce or

even eliminate this campaign period, which was precisely the goal of the ''card check'' provisions of the deceptively named ''Employee Free Choice Act'' (EFCA). Congress was right to reject EFCA and it should likewise reject the NLRB's new election regulations.

Due to the critical importance of this issue to the business community, the Chamber strongly urges you to support and co-sponsor S.J. Res. 36.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

APRIL 16, 2012.

DEAR SENATOR: On behalf of millions of job creators concerned with mounting threats to the basic tenets of free enterprise, the Coalition for a Democratic Workplace urges you to support S. J. Res. 36, which provides for congressional disapproval and nullification of the National Labor Relations Board's (NLRB or Board) rule related to representation election procedures. This ''ambush'' election rule is nothing more than the Board's attempt to placate organized labor by effectively denying employees' access to critical information about unions and stripping employers of free speech and due process rights. The rule poses a threat to both employees and employers. Please vote in favor of S. J. Res. 36 when it comes to the Senate floor next week.

The Coalition for a Democratic Workplace, a group of more than 600 organizations, has been united in its opposition to the so-called ''Employee Free Choice Act'' (EFCA) and EFCA alternatives that pose a similar threat to workers, businesses and the U.S. economy. Thanks to the bipartisan group of elected officials who stood firm against this damaging legislation, the threat of EFCA is less immediate this Congress. Politically powerful labor unions, other EFCA supporters and their allies in government are not backing down, however. Having failed to achieve their goals through legislation, they are now coordinating with the Board and the Department of Labor (DOL) in what appears to be an all-out attack on job-creators and employees in an effort to enact EFCA through administrative rulings and regulations.

On June 21, 2011, the Board proposed its ambush election rule, which was designed to significantly speed up the existing union election process and limit employer participation in elections. At the time, Board Member Hayes warned that ''the proposed rules will (1) shorten the time between filing of the petition and the election date, and (2) substantially limit the opportunity for full evidentiary hearing or Board review on contested issues involving, among other things, appropriate unit, voter eligibility, and election misconduct.'' Hayes noted the effect would be to ''stifle debate on matters that demand it.'' The Board published a final rule on December 22, 2011, with an April 30, 2012 effective date. While it somewhat modified the original proposal, the final rule is identical in purpose and similar in effect.

The NLRB's own statistics reveal the average time from petition to election was 31 days, with over 90% of elections occurring within 56 days. There is no indication that Congress intended a shorter election time frame, and indeed, based on the legislative history of the 1959 amendments to the National Labor Relations Act, it is clear Congress believed that an election period of at least 30 days was necessary to adequately assure employees the ''fullest freedom'' in exercising their right to choose whether they wish to be represented by a union. As then Senator John F. Kennedy Jr. explained, a 30–day period before any election was a necessary ''safeguard against rushing employees into an election where they are unfamiliar with the issues.'' Senator Kennedy stated ''there should be at least a 30-day interval between the request for an election and the holding of the election'' and he opposed an amendment that failed to provide ''at least 30 days in which both parties can present their viewpoints.''

The current election time frames are not only reasonable, but permit employees time to hear from both the union and the employer and make an informed decision, which would not be possible under the ambush election rule. In fact, in other situations involving ''group'' employee issues, Congress requires that employees be given at least 45 days to review relevant information in order to make a ''knowing and voluntary'' decision (this is required under the Older Workers Benefit Protection Act when employees evaluate whether to sign an age discrimination release in the context of a program offered to a group or class of employees). Under the rule's time frames, employers, particularly small ones, will not have enough time to secure legal counsel, let alone an opportunity to speak with employees about union representation or respond to promises made by union organizers, even though many of those promises may be completely unrealistic. Given that union organizers typically lobby employees for months outside the workplace without an employer's knowledge, these ''ambush'' elections would often result in employees' receiving only half the story. They would hear promises of raises and benefits that unions have no way of guaranteeing, without an opportunity for the employer to explain its position and the possible inaccuracies put forward by the union.

For these reasons, we urge you to support S.J. Res. 36 and Congress to pass this much needed resolution. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, U.S. workers they have hired or would like to hire, and consumers.

The Coalition for a Democratic Workplace and National Organization (119): 60 Plus Association, Aeronautical Repair Station Association, Agricultural Retailers Association, AIADA, American International Automobile Dealers Association, Air Conditioning Contractors of America, American Apparel & Footwear Association, American Bakers Association, American Concrete Pressure Pipe Association, American Council of Engineering Companies, American Feed Industry Association, American Fire Sprinkler Association, American Foundry Society, American Frozen Food Institute, American Hospital Association, American Hotel and Lodging Association, American Meat Institute, American Nursery & Landscape Association, American Organization of Nurse Executives, American Pipeline Contractors Association, American Rental Association, American Seniors Housing Association, American Society for Healthcare Human Resources Administration, American Society of Employers, American Staffing Association, American Supply Association.

American Trucking Associations, American Wholesale Marketers Association, AMT—The Association For Manufacturing Technology, Assisted Living Federation of America, Association of Millwork Distributors, Associated Builders and Contractors, Associated Equipment Distributors, Associated General Contractors of America, Association of Equipment Manufacturers, Automotive Aftermarket Industry Association, Brick Industry Association, Building Owners and Managers Association (BOMA) International, Center for Individual Freedom, Center for the Defense of Free Enterprise Action Fund, Coalition of Franchisee Associations, College and University Professional Association for Human Resources, Consumer Electronics Association, Council for Employment Law Equity, Custom Electronic Design & Installation Association, Environmental Industry Associations, Fashion Accessories Shippers Association, Federation of American Hospitals, Food Marketing Institute, Forging Industry Association, Franchise Management Advisory Council, Heating, Air-Conditioning and Refrigeration Distributors International, HR Policy Association, INDA, Association of the Nonwoven Fabrics Industry, Independent Electrical Contractors, Industrial Fasteners Institute, Institute for a Drug-Free Workplace.

Interlocking Concrete Pavement Institute, International Association of Refrigerated Warehouses, International Council of Shopping Centers, International Foodservice Distributors Association, International Franchise Association, International Warehouse Logistics Association, Kitchen Cabinet Manufacturers Association, Metals Service Center Institute, Modular Building Institute, Motor & Equipment Manufacturers Association, NAHAD—The Association for Hose & Accessories Distribution, National Apartment Association, National Armored Car Association, National Association of Chemical Distributors, National Association of Convenience Stores, National Association of Electrical Distributors, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Automobile Dealers Association, National Club Association, National Council of Chain Restaurants, National Council of Farmer Cooperatives, National Council of Investigators and Security, National Council of Security and Security Services, National Council of Textile Organizations, National Federation of Independent Business, National Franchisee Association, National Grocers Association, National Lumber and Building Material Dealers Association, National Marine Distributors Association, Inc., National Mining Association, National Multi Housing Council.

National Pest Management Association, National Ready Mixed Concrete Association, National Retail Federation, National Roofing Contractors Association, National School Transportation Association, National Small Business Association, National Solid Wastes Management Association, National Stone, Sand & Gravel Association, National Systems Contractors Association, National Tank Truck Carriers, National Tooling and Machining Association, National Utility Contractors Association, North American Die Casting Association, North American Equipment Dealers Association, Northeastern Retail Lumber Association, Outdoor Power Equipment and Engine Service Association, Inc., Plastics Industry Trade Association, Precision Machined Products Association, Precision Metalforming Association, Printing Industries of America, Professional Beauty Association, Retail Industry Leaders Association, Snack Food Association, Society for Human Resource Management, SPI: The Plastics Industry Trade Association, Textile Care Allied Trades Association, Textile Rental Services Association, Truck Renting & Leasing Association, U.S. Chamber of Commerce, United Motorcoach Association, Western Growers Association.

State and Local Organizations (60): Arkansas State Chamber of Commerce, Associated Builders and Contractors, Inc. Central Florida Chapter, Associated Builders and Contractors, Inc. Central Pennsylvania Chapter. Associated Builders and Contractors, Inc. Chesapeake Shores Chapter, Associated

Builders and Contractors, Inc. Connecticut Chapter, Associated Builders and Contractors, Inc. Cumberland Valley Chapter, Associated Builders and Contractors, Inc. Delaware Chapter, Associated Builders and Contractors, Inc. Eastern Pennsylvania Chapter, Associated Builders and Contractors, Inc. Florida East Coast Chapter, Associated Builders and Contractors, Inc. Florida Gulf Coast Chapter, Associated Builders and Contractors, Inc. Georgia Chapter, Associated Builders and Contractors, Inc. Greater Houston Chapter, Associated Builders and Contractors, Inc. Hawaii Chapter, Associated Builders and Contractors, Inc. Heart of America Chapter, Associated Builders and Contractors, Inc. Indiana Chapter, Associated Builders and Contractors, Inc. Inland Pacific Chapter, Associated Builders and Contractors, Inc. Iowa Chapter, Associated Builders and Contractors, Inc. Keystone Chapter, Associated Builders and Contractors, Inc. Massachusetts Chapter, Associated Builders and Contractors, Inc. Michigan Chapter, Associated Builders and Contractors, Inc. Mississippi Chapter, Associated Builders and Contractors, Inc. Nevada Chapter, Associated Builders and Contractors, Inc. New Orleans/Bayou Chapter, Associated Builders and Contractors, Inc. Ohio Valley Chapter, Associated Builders and Contractors, Inc. Oklahoma Chapter, Associated Builders and Contractors, Inc. Pacific Northwest Chapter, Associated Builders and Contractors, Inc. Pelican Chapter, Associated Builders and Contractors, Inc. Rhode Island Chapter, Associated Builders and Contractors, Inc. Rocky Mountain Chapter, Associated Builders and Contractors, Inc. South East Texas Chapter, Associated Builders and Contractors, Inc. Virginia Chapter, Associated Builders and Contractors, Inc. Western Michigan Chapter, Associated Builders and Contractors, Inc. Western Washington Chapter, Associated Builders and Contractors, Inc. North Alabama Chapter.

Associated Industries of Arkansas, Associated Industries of Massachusetts, CA/NV/AZ Automotive Wholesalers Association (CAWA), California Delivery Association, Capital Associated Industries (NC), Employers Coalition of North Carolina, First Priority Trailways (MD), Garden Grove Chamber of Commerce, Georgia Chamber of Commerce, GO Riteway Transportation Group (WI), Greater Columbia Chamber of Commerce (SC), Greater Reading Chamber of Commerce & Industry (PA), Kansas Chamber of Commerce, Little Rock Regional Chamber of Commerce (AR), London Road Rental Center (MN), Long Beach Area Chamber of Commerce, Minnesota Grocers Association, Montana Chamber of Commerce, Nebraska Chamber of Commerce & Industry, Nevada Manufacturers Association, New Jersey Food Council, New Jersey Motor Truck Association, North Carolina Chamber, Northern Liberty Alliance (MN), Ohio Chamber of Commerce, Texas Hospital Association.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, February 27, 2012.

Hon. MICHAEL ENZI,
Ranking Member, U.S. Senate, Committee on Health, Education, Labor and Pensions (HELP), Washington, DC.

DEAR RANKING MEMBER ENZI: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing in support of S.J. Res. 36, a resolution of disapproval in response to the National Labor Relation Board's (NLRB) rule related to ''ambush'' elections. The ambush election rule significantly alters the pre-election labor union process in ways that would particularly harm small businesses, and we appreciate your resolution of disapproval to nullify this rule.

Despite Congress refusing to pass card check legislation, it seems clear that the NLRB is intent on implementing card check by regulation. The Board's rule on ''ambush'' elections will significantly undermine an employer's opportunity to learn of and respond to union organization by reducing the so-called ''critical period'' from petition-filing to election, from the current average time of 31 days to as few as 10–21 days. NFIB believes that employee informed choice will be compromised because the shortened time frame will have business owners scrambling to obtain legal counsel, and they will have hardly any time to talk to their employees. This shortened time frame will hit small businesses particularly hard, since small employers usually lack labor relations expertise and in-house legal departments.

With the proposed ''ambush'' election rule, the NLRB has demonstrated that it has little understanding or concern for the unique demands that these actions would place on small business. It is always a challenge for small business owners to stay updated with new regulations and labor laws, especially in the current economic environment. NFIB's monthly economic surveys indicate that the small business economy is still at recession levels, and nearly 20 percent of small business owners surveyed indicate that economic and political uncertainty is their number one concern. Unfortunately, the pro-union actions of the NLRB will only create more uncertainty for small business owners at a time when the country needs them to be creating more jobs.

Thank you for introducing this legislation to help America's small businesses. I look forward to working with you to protect small business as the 112th Congress moves forward.

Sincerely,

SUSAN ECKERLY,
Senior Vice President, Public Policy.

Mr. ENZI. I also ask unanimous consent to have printed in the RECORD an article by Phil Kerpen in the Daily Caller entitled ''Will any Senate Democrat stand up to Obama's NLRB?''

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

[From the Daily Caller, Apr. 19, 2012]

WILL ANY SENATE DEMOCRAT STAND UP TO OBAMA'S NLRB?

(By Phil Kerpen)

With the spectacle of Senate Budget Chairman Kent Conrad being forced to back down on actually offering a budget, it's clearer than ever that Senate Democrats are pursuing a deliberate strategy of doing nothing, blocking House-passed bills and giving President Obama a free hand to use regulators and bureaucrats to push his agenda forward. The Senate has already failed to stand up to the EPA's back-door cap-and-trade energy taxes and the FCC's self-created legally dubious power to regulate the Internet. Next week we'll find out if there are any Senate Democrats willing to stand up to the NLRB bureaucrats who are imposing the failed card-check legislation in bite-size pieces via bureaucratic decree.

The NLRB is giving the EPA a run for our money in the race to see which agency can cause the most damage to our free-market economy. Not only did the NLRB infamously sue Boeing for opening a new plant in a right-to-work state, it is now suing the state of Arizona to overturn the state's constitutional guarantee of secret ballot protections in union organizing elections. It has also pursued a dizzying array of regulations and decisions designed to force workers into unions against their will.

The NLRB suffered a setback this week when a district court struck down its rule forcing employers to display posters in the workplace touting the benefits of unionization. Next week it could be dealt an even bigger blow if just a handful of Senate Democrats stand up for the economic interests of their constituents and the basic constitutional principle that the people's elected representatives should make the laws in this country.

The vote is on Senator Mike Enzi's (R–WY) Congressional Review Act (CRA) resolution of disapproval, S.J. Res 36, which would simply overturn the NLRB's ambush elections rule, which allows union organizers to spring elections on employers and workers. Because of the CRA's special procedures, the resolution cannot be filibustered and therefore needs just 51 votes to pass. All but two Republicans—Lisa Murkowski (R–AK) and Scott Brown (R–MA)—are cosponsors, but not a single Democrat has signed onto the resolution.

The ambush rule at issue was forced through the NLRB on a 2–to–1 party-line vote late last year, just before infamous union lawyer Craig Becker's recess appointment to the board expired. It could be the last action of the NLRB that will have legal force for some time, because after Becker expired at the end of the year, the board lacked the quorum necessary to make decisions and issue rules. (Obama tried to re-establish a quorum by non-recess-appointing another radical union lawyer, Richard Griffin, among others, but those appointments should be found invalid in court.)

The ambush rule is a prime example of the NLRB advancing an element of legislation already rejected by Congress and putting the interests of labor bosses above those of workers. After the first version of card check that eliminated private ballot elections entirely crashed into a wall of public opposition, a revamped version of the legislation retained elections but allowed union organizers to catch workers and employers by surprise with ambush elections. That version also failed in Congress, but the NLRB is pretending it passed and moving forward just the same.

The current average period before an election after a union files a petition is 38 days. This gives both the union and management an opportunity to explain the facts and ensure workers understand the high stakes in a representation election. The new rule will shorten it to as little as 10 days and eliminate procedural safeguards employers currently have to make sure union elections are duly authorized and eligible workers are properly defined before an election takes place.

NLRB Chairman Mark Pearce has indicated that if the rule stands he intends to go much further. ''We keep our eye on the prize,'' Pearce said in January, promising to force employers to make confidential employee information, including phone numbers and email addresses, available to union organizers. That would potentially expose workers to harassment, intimidation or even violence.

The vote on S.J. Res 36 will give the Senate an opportunity to exercise its constitutional duty under Article I, Section 1 and stop the usurpation of legislative power by unaccountable federal bureaucrats at the NLRB. Unfortunately, it appears likely that once again Democratic senators will find it more convenient to obstruct and allow the Obama administration a free hand to govern by regulation.

Voters should watch next week's vote with this question in mind: If my senator will not do the job of legislating, shouldn't I elect someone who will?

Ms. COLLINS. Mr. President, I rise today to speak in favor of Senate Joint Resolution 36, which would reject the National Labor Relations Board's, NLRB, rule on representation procedures, the so-called ''ambush election'' rule. I am pleased to be an original cosponsor of this important legislation, introduced by Senator ENZI with 44 cosponsors.

On December 22, 2011, the NLRB finalized new regulations, which will become effective on April 30, 2012, significantly limiting the time for holding union representation elections. This change would result in employees making the critical decision about whether or not to form a union in as little as 10 days.

Back in 1959, then-Senator John F. Kennedy explained that ''the 30-day waiting period [before a union election] is an additional safeguard against rushing employees into an election where they are unfamiliar with the issues . . . there should be at least a 30-day interval between the request for an election and the holding of the election'' to provide ''at least 30 days in which both parties can present their viewpoints.'' I agree with our former President and Senator. An expedited timeframe would limit the opportunity of employers to express their views, and leave employees with insufficient information to make an informed decision.

According to the NLRB, in 2011 union representation elections were held on average within 38 days. That is already below the NLRB's stated target of 42 days. Therefore, this begs the question of why yet another regulation is even necessary.

Businesses, our nation's job creators and the engine of any lasting economic growth, have been saying for some time that the lack of jobs is largely due to a climate of uncertainty, most notably the uncertainty and cost created by new federal regulations.

This ambush election rule will particularly negatively affect small businesses. Small business owners often lack the resources and legal expertise to navigate and understand complex labor processes within such a short time frame. In our current economy, it is critical that we do everything possible to advance policies that promote U.S. economic growth and jobs.

The Joint Resolution of Disapproval will not change current law. It simply will protect employers and employees by allowing them to conduct representation elections in the same manner that has been done for decades.

The NLRB's goal should be to ensure fair elections and a level playing field for all.

Mr. ENZI. Unless there is further debate, I yield back the balance of our time for today.

Mr. HARKIN. Mr. President, this side yields back the balance of our time for today as well.

The PRESIDING OFFICER. All time has been yielded back.

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1925.

Mr. BARRASSO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

TRAGEDY AT L'AMBIANCE PLAZA

Mr. BLUMENTHAL. Mr. President, on this day, almost exactly at this hour, 25 years ago in Bridgeport, CT, the L'Ambiance Plaza became a scene of devastation and destruction and death. Almost every year in these 25 years we have commemorated that destruction and tragedy with a ceremony. We did the same this morning in Bridgeport. We went first to the site and then to city hall and then to lay a wreath at the memorial for the 28 workers who were killed on this day 25 years ago. L'Ambiance is ground zero for worker safety.

I rise today to talk about all who have been injured or lost their lives because of unsafe work conditions.

L'Ambiance Plaza was a tragedy, but it was not the result of human error, it was the result of an employer cutting corners to put profits above safety. It was an avoidable and preventable catastrophe.

One of the tasks we have as public officials is to ensure basic safety for our citizens, particularly for workers who leave their homes in the morning hoping for nothing more than to come home at night to their families, put food on the table and a roof over the heads of their children. Those 28 workers who perished on this day 25 years ago wanted nothing more than those simple opportunities that should be guaranteed in the United States of America, the greatest Nation in the history of the world.

In protecting workplace safety, we have an agency called the Occupational Safety and Health Administration, known as OSHA. It is charged by this Congress and every Congress since its creation with setting standards and providing for enforcement of those standards so as to ensure basic safety for workers when they leave home every day and go to their jobs.

In Bridgeport, at L'Ambiance, a technique of construction known as lift slab was in use. It was under review by OSHA. It had been under review for 5 years before the L'Ambiance collapse. In 1994, years after L'Ambiance, it was prohibited unless certain conditions were met. If that standard had been in effect on this day 25 years ago, 28 lives would have been saved.

This morning I was in Bridgeport for that ceremony with many of the families who must live with the tragedies of their loved ones having perished needlessly and tragically on this date. There were speeches. There was a bell-ringing ceremony. There were tributes not only to the workers and their families but also to their brothers and sisters who searched with a ferocity and determination in the hours and days for their remains after it became clear they could not be rescued. But none of today's ceremonies or any of the other ceremonies in the past 25 years can bring back those workers who perished because lift-slab construction was used on that site. And when the upper story fell first, all of the bottom stories collapsed as well, meaning that those who worked under that top story could not be saved.

Eventually, when OSHA adopted the standard to be applied to lift-slab construction, it said no one could work under that top story when it was put in place. OSHA, in short, recognized the hazards of lift-slab construction well before L'Ambiance collapsed, and its inaction over the process of adopting those regulations—the 8.7 years it took to adopt the standard—contributed significantly to the collapse that occurred 25 years ago to this day.

I wish I could say OSHA has learned from this horrific incident at L'Ambiance. I wish I could say the standard setting that is so necessary to be achieved promptly and effectively now is done routinely. Unfortunately, the contrary seems to be true.

I wish to thank Senator HARKIN, the chairman of the Senate Committee on Health, Education, Labor, and Pensions, for a hearing last week that illuminated so dramatically how much work there is still to be done.

The GAO has done a study showing that average length of time to complete these standards is more than 7 years. That figure takes into account the standards set since 1981 to the year 2000. The final number of regulations published by OSHA has declined every decade since the 1980s. While 24 final standards were published in the 1980s, only 10 final standards were published between 2000 and 2010.

Workers are still at risk because regulations are delayed for years. One example is that the dangerous health effects resulting from the inhalation of silica dust, found in common sand, have been widely known for many years. Silica dust has been classified as a carcinogen to humans by the U.S. National Toxicology Program. It is a known cause of lung cancer and silicosis, an often fatal disease. Yet, despite the scientific evidence and the