

Third, the Sunshine bill requires courts considering whether to approve proposed consent decrees and settlement agreements to account for public comments and compliance with regulatory process statutes and executive orders. This bill would facilitate public participation by allowing comment on any issue related to the matters alleged in the complaint or addressed in the proposed agreement. Government agencies would be required to respond to comments, and the court would assess whether the proposed schedule allows sufficient time for real and meaningful, public comment on the regulation.

Fourth, the bill requires the Attorney General or, where appropriate, the defendant agency's head, to certify to the court that he or she has approved any proposed consent decree or settlement agreement that includes terms that: convert into a duty a discretionary authority of an agency to propose, promulgate, revise, or amend regulations, commit an agency to expend funds that have not been appropriated and budgeted, commit an agency to seek a particular appropriation or budget authorization, divest an agency of discretion committed to it by statute or the Constitution, or otherwise afford any relief that the court could not enter under its own authority.

Finally, the Sunshine bill makes it easier for succeeding administrations to successfully move the courts for modifications of a prior administration's consent decrees by providing for de novo review of motions to modify if the circumstances have changed.

Sue-and-settle litigation damages the transparency, public participation and judicial review protections Congress has guaranteed for all of our citizens in the rulemaking process.

Regulations are laws. The procedure and process used to create them are important. They are part of our system. The American system of law-making and judicial review is a model for the world. Our system should not be distorted or manipulated.

Regulations must be made in the open, through the procedures and processes established under our laws.

The Sunshine for Regulatory Decrees and Settlements Act will help to ensure that established and well-grounded protections remain in place, while maintaining the government's ability to enter into consent decrees and settlement agreements, when appropriate.

I urge all of my colleagues to work with me and to support this legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table.

SA 2533. Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2534. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2535. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2536. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2537. Mr. COBURN (for himself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2538. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2539. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2540. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2541. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2542. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2543. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2544. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2545. Mr. MANCHIN (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2546. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2547. Mr. ROBERTS (for himself, Mr. HATCH, Mr. RUBIO, Mr. BURR, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. COBURN, Mr. ALEXANDER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2548. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2549. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2550. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2551. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 pro-

posed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2552. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2553. Mr. REID (for Mrs. GILLIBRAND (for herself, Mr. ISAKSON, Mr. CHAMBLISS, and Mr. DURBIN)) proposed an amendment to the bill H.R. 2527, to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

TEXT OF AMENDMENTS

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.

Section 3506 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act"), is amended by adding at the end the following:

"(j) SMALL BUSINESSES.—

"(1) SMALL BUSINESS CONCERN.—In this subsection, the term 'small business concern' has the same meaning given as in section 3 of the Small Business Act (15 U.S.C. 632).

"(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of the agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

"(A) the violation has the potential to cause serious harm to the public interest;

"(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

"(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

"(D) the violation was not corrected on or before the date that is 6 months after the date on which the small business concern receives notification of the violation in writing from the agency; or

"(E) except as provided in paragraph (3), the violation presents a danger to the public health or safety.

"(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

"(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the owner of the small business concern of notification of the violation in writing.

"(B) CONSIDERATIONS.—In determining whether to allow a small business concern 24 hours to correct a violation under subparagraph (A), the head of an agency shall take into account all of the facts and circumstances regarding the violation, including—

"(i) the nature and seriousness of the violation, including whether the violation is

technical or inadvertent or involves willful or criminal conduct;

“(ii) whether the small business concern has made a good faith effort to comply with applicable laws and to remedy the violation within the shortest practicable period of time; and

“(iii) whether the small business concern has obtained a significant economic benefit from the violation.

“(C) NOTICE TO CONGRESS.—In any case in which the head of an agency imposes a civil fine on a small business concern for a violation that presents a danger to the public health or safety and does not allow the small business concern 24 hours to correct the violation under subparagraph (A), the head of the agency shall notify Congress regarding the determination not later than 60 days after the date on which the civil fine is imposed by the agency.

“(4) LIMITED TO FIRST-TIME VIOLATIONS.—

“(A) IN GENERAL.—This subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by an agency if the small business concern previously violated any requirement regarding collection of information by the agency.

“(B) OTHER AGENCIES.—For purposes of making a determination under subparagraph (A), the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.”.

SA 2533. Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. __. PROTECTING PATIENTS FROM HIGHER PREMIUMS.

Section 9010 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), is repealed.

SA 2534. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. NO MORTGAGE INTEREST DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 163(h)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(G) NO DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.—

“(i) IN GENERAL.—Except as provided in clause (ii), no deduction shall be allowed by reason of paragraph (2)(D) for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.

“(ii) TERMINATION.—Clause (i) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the

enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO RENTAL EXPENSE DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 212 of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

“Paragraph (2) shall not apply for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year. The preceding sentence shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO GAMBLING LOSS DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 165(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “In the case of a taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for the taxable year, the preceding sentence shall not apply for any taxable year beginning before the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO DISCHARGE OF INDEBTEDNESS DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 108 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(j) NO DEDUCTION FOR MILLIONAIRES AND BILLIONAIRES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no exclusion shall be allowed by reason of this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.

“(2) TERMINATION.—Paragraph (1) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO ELECTRIC PLUG-IN VEHICLE TAX CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 30D(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(8) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no credit described in sub-

section (c)(2) shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.

“(B) TERMINATION.—Subparagraph (A) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO HOUSEHOLD AND DEPENDENT CARE CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 21 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.

“(2) TERMINATION.—Paragraph (1) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. __. NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 25D(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.

“(B) TERMINATION.—Subparagraph (A) shall not apply to any taxable year beginning after the date on which the aggregate savings from the elimination of the deductions and credits for millionaires attributable to the enactment of sections 4 through 11 of the Small Business Jobs and Tax Relief Act matches dollar for dollar the decrease in revenue attributable to the enactment of sections 2 and 3 of such Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SA 2535. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . REQUIRING HIGHER INCOME INDIVIDUALS TO PAY MORE FOR THEIR SHARE OF MEDICARE PART B.

(a) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

“(j) PAYMENT OF UNSUBSIDIZED PART B PREMIUM AMOUNT BY HIGHER INCOME INDIVIDUALS.—

“(1) IN GENERAL.—In the case of an individual whose modified adjusted gross income exceeds the applicable amount described in paragraph (2), the monthly premium determined under subsection (a) for a month after December 2012 shall be equal to the unsubsidized part B premium amount, adjusted as required in accordance with subsections (b), (c), and (f), and to reflect any credit under section 1854(b)(1)(C)(ii)(III).

“(2) APPLICABLE AMOUNT DESCRIBED.—

“(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (C), the applicable amount described in this paragraph is \$150,000.

“(B) JOINT RETURNS.—In the case of a joint return, subparagraph (A) shall be applied by substituting a dollar amount which is twice the dollar amount otherwise applicable under such subparagraph for the calendar year.

“(C) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2013, each dollar amount in this paragraph shall be increased as described in subsection (i)(5).

“(3) DEFINITIONS.—In this subsection:

“(A) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ has the meaning given such term in subparagraph (A) of subsection (i)(4), determined for the taxable year applicable under subparagraphs (B) and (C) of such section.

“(B) UNSUBSIDIZED PART B PREMIUM AMOUNT.—The term ‘unsubsidized part B premium amount’ means 200 percent of the monthly actuarial rate for enrollees age 65 and over (as determined under subsection (a)(1) for the year).”.

(b) CONFORMING AMENDMENTS.—(1) Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by inserting “, subject to subsection (j),” before “(without regard” in the first sentence.

(2) The table in section 1839(i)(3)(C) of the Social Security Act (42 U.S.C. 1395r(i)(3)(C)) is amended—

(A) in the second line—

(i) by striking “but not more than \$150,000” and inserting “but not more than the applicable amount described in subsection (j)(2)”;

and

(ii) by adding a period at the end; and

(B) by striking the third and fourth lines.

(3) Section 1844 of the Social Security Act (42 U.S.C. 1395w) is amended, in each of subsections (a)(1)(C) and (c), by striking “section 1839(i)” and inserting “subsections (i) and (j) of section 1839”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 2012.

SEC. ____ . REQUIRING HIGHER INCOME INDIVIDUALS TO PAY MORE FOR THEIR SHARE OF MEDICARE PART D.

(a) IN GENERAL.—Section 1860D–13(a) of the Social Security Act (42 U.S.C. 1395w–113(a)) is amended by adding at the end the following new paragraph:

“(8) PAYMENT OF UNSUBSIDIZED PART D PREMIUM AMOUNT BY HIGHER INCOME INDIVIDUALS.—

“(A) IN GENERAL.—In the case of an individual whose modified adjusted gross income exceeds the applicable amount described in section 1839(j)(2) (including application of subparagraph (C) of such section) for the calendar year, the monthly amount of the beneficiary premium applicable under this sec-

tion for a month after December 2012 shall be equal to the unsubsidized part D premium amount.

“(B) DEFINITIONS.—In this paragraph:

“(i) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ has the meaning given such term in subparagraph (A) of subsection (i)(4), determined for the taxable year applicable under subparagraphs (B) and (C) of such section.

“(ii) UNSUBSIDIZED PART D PREMIUM AMOUNT.—The term ‘unsubsidized part D premium amount’ means the national average monthly bid amount (computed under paragraph (4)) for the month.”.

(b) CONFORMING AMENDMENTS.—Section 1860D–13(a)(1) of the Social Security Act (42 U.S.C. 1395w–113(a)(1)) is amended—

(1) in subparagraph (A), by striking “The monthly” and inserting “Except as provided in paragraph (8), the monthly”; and

(2) in subparagraph (G), by inserting “and paragraph (8)” after “and (F)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 2012.

SA 2536. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ____ . PROHIBITION ON FEDERAL FINANCIAL ASSISTANCE BY PERSONS HAVING SERIOUSLY DELINQUENT TAX DEBTS.

(a) DEFINITION OF SERIOUSLY DELINQUENT TAX DEBT.—In this section:

(1) IN GENERAL.—The term “seriously delinquent tax debt” means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of that Code.

(2) EXCLUSIONS.—The term “seriously delinquent tax debt” does not include—

(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122 of Internal Revenue Code of 1986; and

(B) a debt with respect to which a collection due process hearing under section 6330 of that Code, or relief under subsection (a), (b), or (f) of section 6015 of that Code, is requested or pending.

(b) PROHIBITION.—

(1) GRANTS, CONTRACTS, LOANS, AND OTHER SUBSIDIES.—An individual or entity who has a seriously delinquent tax debt shall be ineligible to receive financial assistance (including any payment, loan, grant, contract, or subsidy) from the Federal government during the pendency of such seriously delinquent tax debt.

(2) TAX CREDITS.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subpart:

“Subpart K—Certain Taxpayers Ineligible for Credits

“Sec. 59AA. Certain taxpayers ineligible for credits.

“SEC. 59AA. CERTAIN TAXPAYERS INELIGIBLE FOR CREDITS.

“Notwithstanding any other provision of this part, no credit shall be allowed to a taxpayer under this part for any taxable year if such taxpayer has seriously delinquent tax debt on the last day of such taxable year.”.

(c) REGULATIONS.—The Secretary of Treasury shall issue such regulations as the Secretary considers necessary to carry out this section.

SA 2537. Mr. COBURN (for himself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . REPEAL OF HEALTH INSURANCE TAX.

Section 9010 of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), is repealed.

SA 2538. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . 1-YEAR EXTENSION OF 2012 ESTATE AND GIFT TAX RULES.

(a) IN GENERAL.—Paragraph (2) of section 901(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

(b) CONFORMING AMENDMENT.—Section 304 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is amended by inserting “in the same manner and to the same extent such section applies to the amendments made by title V of such Act” after “title”.

SA 2539. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . PERMANENT EXTENSION OF 2012 ESTATE AND GIFT TAX RULES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to—

(a) title V of such Act (relating to estate, gift, and generation-skipping transfer tax provisions), or

(b) title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

SA 2540. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . MODIFICATIONS TO IMPLEMENTATION OF INCREASES IN TAX RATES ON INVESTMENT INCOME.

(a) RATES ON CAPITAL GAINS AND DIVIDENDS.—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended—

(1) by striking “All” and inserting the following:

“(a) IN GENERAL.—All”.

(2) by striking “to taxable years beginning after December 31, 2012” and inserting “to the first termination taxable year and to all taxable years after such first termination taxable year”, and

(3) by adding at the end the following new subsection:

“(b) TERMINATION TAXABLE YEAR.—For purposes of this section—

“(1) IN GENERAL.—The term ‘termination taxable year’ means, with respect to any taxpayer, the later of—

“(A) the first taxable year beginning after December 31, 2012, or

“(B) the first taxable year ending after the date on which both the integrated capital gains rate and the integrated dividend rate do not exceed the average integrated OECD rate.

“(2) INTEGRATED CAPITAL GAINS RATE.—The term ‘integrated capital gains rate’ means the sum of—

“(A) the highest rate of tax imposed on corporations under section 11 of the Internal Revenue Code of 1986,

“(B) the average of the highest rate of tax imposed on corporations under the laws of the States,

“(C) the highest rate of tax imposed on capital gains under section 1 of such Code, and

“(D) the rate of tax imposed under section 1411 of such Code.

“(3) INTEGRATED DIVIDENDS RATE.—The term ‘integrated dividends rate’ means the sum of—

“(A) the highest rate of tax imposed on corporations under section 11 of the Internal Revenue Code of 1986,

“(B) the average of the highest rate of tax imposed on corporations under the laws of the States,

“(C) the highest rate of tax imposed on dividends under section 1 of such Code, and

“(D) the rate of tax imposed under section 1411 of such Code.

“(4) AVERAGE INTEGRATED OECD RATE.—The term ‘average integrated OECD rate’ means the average of the highest rates of tax imposed on corporations (including taxes imposed by regional, local, or sub-central authorities) by countries with membership in the Organisation of Economic Co-operation and Development.”.

(b) ADDITIONAL TAX ON UNEARNED INCOME.—Section 1411(e) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, or”, and by adding at the end the following new paragraph:

“(3) to any other taxpayer for any taxable year ending before the date on which both the integrated capital gains rate and the integrated dividend tax rate do not exceed the average integrated OECD rate (as such terms are defined under section 303(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003).”.

SA 2541. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . PERMANENT REPATRIATION OF FOREIGN EARNINGS TO THE UNITED STATES.

(a) REPATRIATION SUBJECT TO 5 PERCENT TAX RATE.—Subsection (a)(1) of section 965 of

the Internal Revenue Code of 1986 is amended by striking “85 percent” and inserting “85.7 percent”.

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

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

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

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

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

(2) CONFORMING AMENDMENTS.—

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

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

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

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

(d) CLERICAL AMENDMENTS.—

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

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

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

(f) EMERGENCY RELIEF.—Section 125 of title 23, United States Code, as in effect on October 1, 2012, is amended by adding at the end the following:

“(h) EMERGENCY TRANSPORTATION SAFETY FUND.—

“(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Emergency Transportation Safety Fund’ (referred to in this section as the ‘Fund’), to be administered by the Secretary and to remain available without fiscal year limitation, for use in accordance with paragraph (3).

“(2) TRANSFERS TO FUND.—The Fund shall consist of amounts equal to 50 percent of the total revenues received in the Treasury resulting from the amendments made to section 965 of the Internal Revenue Code of 1986 by the Small Business Jobs and Tax Relief Act.

“(3) USE OF FUND.—

“(A) IN GENERAL.—Subject to subparagraph (E), the Secretary, in consultation with a representative sample of State and local government transportation officials, shall create a prioritized list of emergency transportation projects, which the Secretary shall use to provide funding to States to carry out those projects using amounts from the Fund.

“(B) CRITERIA.—In creating the list under subparagraph (A), the Secretary, in addition to any other criteria established by the Sec-

retary, shall rank priorities in descending order, beginning with—

“(i) whether the project is part of the interstate highway system;

“(ii) whether the project is a road or bridge that is closed for safety reasons;

“(iii) the impact of the project on interstate commerce;

“(iv) the volume of traffic affected by the project; and

“(v) the overall value of the project or entity.

“(C) REPORT.—Not later than 120 days after October 1, 2012, the Secretary shall submit to Congress a report that includes—

“(i) a prioritized list of emergency transportation projects to be funded through the Fund; and

“(ii) a description of the criteria used to establish the list under this subsection.

“(D) QUARTERLY UPDATES.—Not less frequently than 4 times per year, the Secretary shall—

“(i) update the report submitted under subparagraph (C);

“(ii) send a copy of the updated report to Congress; and

“(iii) make a copy of the updated report available to the public on the website of the Department of Transportation.

“(E) USE OF AMOUNTS.—At the end of each fiscal year, the Secretary shall make available all unobligated amounts remaining in the Fund in excess of \$500,000,000 to carry out the national highway performance program under section 119.

“(4) ANNUAL REPORTS ON FUND.—

“(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2013, the Secretary shall submit to Congress a report on the operation of the Fund during the fiscal year.

“(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

“(i) A statement of the amounts deposited into the Fund.

“(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

“(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

“(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.”.

SA 2542. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—FEDERAL RESERVE INDEPENDENCE

SEC. 701. SHORT TITLE.

This title may be cited as the “Federal Reserve Independence Act”.

SEC. 702. FINDINGS.

Congress finds the following:

(1) In October 2011, the Government Accountability Office found the following:

(A) Allowing members of the banking industry to both elect and serve on the boards of directors of Federal reserve banks poses reputational risks to the Federal Reserve System.

(B) Eighteen former and current members of the boards of directors of Federal reserve banks were affiliated with banks and companies that received emergency loans from the Federal Reserve System during the financial crisis.

(C) Many of the members of the boards of directors of Federal reserve banks own stock or work directly for banks that are supervised and regulated by the Federal Reserve System. These board members oversee the operations of the Federal reserve banks, including salary and personnel decisions.

(D) Under current regulations, members of a board of directors of a Federal reserve bank who are employed by the banking industry or own stock in financial institutions can participate in decisions involving how much interest to charge to financial institutions receiving loans from the Federal Reserve System, and the approval or disapproval of Federal Reserve credit to healthy banks and banks in "hazardous" condition.

(E) Twenty-one members of the boards of directors of Federal reserve banks were involved in making personnel decisions in the division of supervision and regulation under the Federal Reserve System.

(F) The Federal Reserve System does not publicly disclose when it grants a waiver to its conflict of interest regulations.

(2) Allowing currently employed banking industry executives to serve as directors on the boards of directors of Federal reserve banks is a clear conflict of interest that must be eliminated.

(3) No one who works for or invests in a firm receiving direct financial assistance from the Federal Reserve System should be allowed to sit on any board of directors of a Federal reserve bank or be employed by the Federal Reserve System.

SEC. 703. END CONFLICTS OF INTEREST.

(a) CLASS A MEMBERS.—The tenth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class A) is amended by striking "chosen by and be representative of the stockholding banks" and inserting "designated by the Board of Governors of the Federal Reserve System, from among persons who are not employed in any capacity by a stockholding bank".

(b) CLASS B.—The eleventh undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class B) is amended by striking "be elected" and inserting "be designated by the Board of Governors of the Federal Reserve System".

(c) LIMITATIONS ON BOARDS OF DIRECTORS.—The fourteenth and fifteenth undesignated paragraphs of section 4 of the Federal Reserve Act (12 U.S.C. 303) (relating to Class B and Class C, respectively) are amended to read as follows:

"No employee of a bank holding company or other entity regulated by the Board of Governors of the Federal Reserve System may serve on the board of directors of any Federal reserve bank.

"No employee of the Federal Reserve System or board member of a Federal reserve bank may own any stock or invest in any company that is regulated by the Board of Governors of the Federal Reserve System, without exception."

SEC. 704. REPORTS TO CONGRESS.

The Comptroller General of the United States shall report annually to Congress beginning 1 year after the date of enactment of this Act to make sure that the provisions in this title are followed.

SA 2543. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —FEDERAL RESERVE INDEPENDENCE

SEC. 01. SHORT TITLE.

This title may be cited as the "Federal Reserve Independence Act".

SEC. 02. FINDINGS.

Congress finds the following:

(1) In October 2011, the Government Accountability Office found the following:

(A) Allowing members of the banking industry to both elect and serve on the boards of directors of Federal reserve banks poses reputational risks to the Federal Reserve System.

(B) Eighteen former and current members of the boards of directors of Federal reserve banks were affiliated with banks and companies that received emergency loans from the Federal Reserve System during the financial crisis.

(C) Many of the members of the boards of directors of Federal reserve banks own stock or work directly for banks that are supervised and regulated by the Federal Reserve System. These board members oversee the operations of the Federal reserve banks, including salary and personnel decisions.

(D) Under current regulations, members of a board of directors of a Federal reserve bank who are employed by the banking industry or own stock in financial institutions can participate in decisions involving how much interest to charge to financial institutions receiving loans from the Federal Reserve System, and the approval or disapproval of Federal Reserve credit to healthy banks and banks in "hazardous" condition.

(E) Twenty-one members of the boards of directors of Federal reserve banks were involved in making personnel decisions in the division of supervision and regulation under the Federal Reserve System.

(F) The Federal Reserve System does not publicly disclose when it grants a waiver to its conflict of interest regulations.

(2) Allowing currently employed banking industry executives to serve as directors on the boards of directors of Federal reserve banks is a clear conflict of interest that must be eliminated.

(3) No one who works for or invests in a firm receiving direct financial assistance from the Federal Reserve System should be allowed to sit on any board of directors of a Federal reserve bank or be employed by the Federal Reserve System.

SEC. 03. END CONFLICTS OF INTEREST.

(a) CLASS A MEMBERS.—The tenth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class A) is amended by striking "chosen by and be representative of the stockholding banks" and inserting "designated by the Board of Governors of the Federal Reserve System, from among persons who are not employed in any capacity by a stockholding bank".

(b) CLASS B.—The eleventh undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) (relating to Class B) is amended by striking "be elected" and inserting "be designated by the Board of Governors of the Federal Reserve System".

(c) LIMITATIONS ON BOARDS OF DIRECTORS.—The fourteenth and fifteenth undesignated paragraphs of section 4 of the Federal Reserve Act (12 U.S.C. 303) (relating to Class B and Class C, respectively) are amended to read as follows:

"No employee of a bank holding company or other entity regulated by the Board of Governors of the Federal Reserve System may serve on the board of directors of any Federal reserve bank.

"No employee of the Federal Reserve System or board member of a Federal reserve

bank may own any stock or invest in any company that is regulated by the Board of Governors of the Federal Reserve System, without exception."

SEC. 04. REPORTS TO CONGRESS.

The Comptroller General of the United States shall report annually to Congress beginning 1 year after the date of enactment of this Act to make sure that the provisions in this title are followed.

SA 2544. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VII—WIRELESS TAX FAIRNESS

SECTION 701. SHORT TITLE.

This title may be cited as the "Wireless Tax Fairness Act of 2012".

SEC. 702. FINDINGS.

Congress finds the following:

(1) It is appropriate to exercise congressional enforcement authority under section 5 of the 14th amendment to the Constitution of the United States and Congress' plenary power under article I, section 8, clause 3 of the Constitution of the United States (commonly known as the "commerce clause") in order to ensure that States and political subdivisions thereof do not discriminate against providers and consumers of mobile services by imposing new selective and excessive taxes and other burdens on such providers and consumers.

(2) In light of the history and pattern of discriminatory taxation faced by providers and consumers of mobile services, the prohibitions against and remedies to correct discriminatory State and local taxation in section 306 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 11501) provide an appropriate analogy for congressional action, and similar Federal legislative measures are warranted that will prohibit imposing new discriminatory taxes on providers and consumers of mobile services and that will assure an effective, uniform remedy.

SEC. 703. MORATORIUM.

(a) IN GENERAL.—No State or local jurisdiction shall impose a new discriminatory tax on or with respect to mobile services, mobile service providers, or mobile service property, during the 5-year period beginning on the date of enactment of this Act.

(b) DEFINITIONS.—In this title:

(1) MOBILE SERVICE.—The term "mobile service" means commercial mobile radio service, as such term is defined in section 20.3 of title 47, Code of Federal Regulations, as in effect on the date of enactment of this Act, or any other service that is primarily intended for receipt on, transmission from, or use with a mobile telephone or other mobile device, including but not limited to the receipt of a digital good.

(2) MOBILE SERVICE PROPERTY.—The term "mobile service property" means all property used by a mobile service provider in connection with its business of providing mobile services, whether real, personal, tangible, or intangible (including goodwill, licenses, customer lists, and other similar intangible property associated with such business).

(3) MOBILE SERVICE PROVIDER.—The term "mobile service provider" means any entity that sells or provides mobile services, but only to the extent that such entity sells or provides mobile services.

(4) **NEW DISCRIMINATORY TAX.**—The term “new discriminatory tax” means a tax imposed by a State or local jurisdiction that is imposed on or with respect to, or is measured by, the charges, receipts, or revenues from or value of—

(A) a mobile service and is not generally imposed, or is generally imposed at a lower rate, on or with respect to, or measured by, the charges, receipts, or revenues from other services or transactions involving tangible personal property;

(B) a mobile service provider and is not generally imposed, or is generally imposed at a lower rate, on other persons that are engaged in businesses other than the provision of mobile services; or

(C) a mobile service property and is not generally imposed, or is generally imposed at a lower rate, on or with respect to, or measured by the value of, other property that is devoted to a commercial or industrial use and subject to a property tax levy, except public utility property owned by a public utility subject to rate of return regulation by a State or Federal regulatory authority;

unless such tax was imposed and actually enforced on mobile services, mobile service providers, or mobile service property prior to the date of enactment of this Act.

(5) **STATE OR LOCAL JURISDICTION.**—The term “State or local jurisdiction” means any of the several States, the District of Columbia, any territory or possession of the United States, a political subdivision of any State, territory, or possession, or any governmental entity or person acting on behalf of such State, territory, possession, or subdivision that has the authority to assess, impose, levy, or collect taxes or fees.

(6) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means a charge imposed by a governmental entity for the purpose of generating revenues for governmental purposes, and excludes a fee imposed on a particular entity or class of entities for a specific privilege, service, or benefit conferred exclusively on such entity or class of entities.

(B) **EXCLUSION.**—The term “tax” does not include any fee or charge—

(i) used to preserve and advance Federal universal service or similar State programs authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254);

(ii) specifically dedicated by a State or local jurisdiction for the support of E-911 communications systems; or

(iii) used to preserve and advance Federal telecommunications relay services or State programs implementing this Federal mandate pursuant to title IV of the Americans with Disabilities Act of 1990 (Public Law 101-336; 104 Stat. 327) and codified in section 225 of the Communications Act of 1934 (47 U.S.C. 225).

(c) **RULES OF CONSTRUCTION.**—

(1) **DETERMINATION.**—For purposes of subsection (b)(4), all taxes, tax rates, exemptions, deductions, credits, incentives, exclusions, and other similar factors shall be taken into account in determining whether a tax is a new discriminatory tax.

(2) **APPLICATION OF PRINCIPLES.**—Except as otherwise provided in this title, in determining whether a tax on mobile service property is a new discriminatory tax for purposes of subsection (b)(4)(A)(iii), principles similar to those set forth in section 306 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 11501) shall apply.

(3) **EXCLUSIONS.**—Notwithstanding any other provision of this title—

(A) the term “generally imposed” as used in subsection (b)(4) shall not apply to any tax imposed only on—

(i) specific services;

(ii) specific industries or business segments; or

(iii) specific types of property; and

(B) the term “new discriminatory tax” shall not include a new tax or the modification of an existing tax that—

(i) replaces one or more taxes that had been imposed on mobile services, mobile service providers, or mobile service property; and

(ii) is designed so that, based on information available at the time of the enactment of such new tax or such modification, the amount of tax revenues generated thereby with respect to such mobile services, mobile service providers, or mobile service property is reasonably expected to not exceed the amount of tax revenues that would have been generated by the respective replaced tax or taxes with respect to such mobile services, mobile service providers, or mobile service property.

SEC. 704. ENFORCEMENT.

Notwithstanding any provision of section 1341 of title 28, United States Code, or the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this title.

(1) **JURISDICTION.**—Such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this section.

(2) **BURDEN OF PROOF.**—The burden of proof in any proceeding brought under this title shall be upon the party seeking relief and shall be by a preponderance of the evidence on all issues of fact.

(3) **RELIEF.**—In granting relief against a tax which is discriminatory or excessive under this title with respect to tax rate or amount only, the court shall prevent, restrain, or terminate the imposition, levy, or collection of not more than the discriminatory or excessive portion of the tax as determined by the court.

SA 2545. Mr. MANCHIN (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend hours depreciation for an additional year, and for other purposes; which was ordered to lie on table; as follows:

At the end, add the following:

TITLE —COMMUNITY INVESTMENT —AND JOB CREATION

SEC. 01 SHORT TITLE.

This title may be cited as the “Community Investment and Job Creation Act of 2012”.

SEC. 02. SHORT FORM REPORTS OF CONDITION FOR CERTAIN COMMUNITY BANKS.

(a) **IN GENERAL.**—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

“(12) **SHORT FORM REPORTS OF CONDITION FOR COMMUNITY BANKS.**—

“(A) **IN GENERAL.**—With respect to reports of condition required under paragraph (3) for each calendar quarter, an insured depository institution described in subparagraphs (A), (B), (C), and (D) of section 10(d)(4) may submit a short form of any such report of condition in 2 nonsequential quarters of any calendar year.

“(B) **ASSET ADJUSTMENTS.**—For purposes of this paragraph—

“(i) section 10(d)(4)(A) shall be applied by substituting ‘\$10,000,000,000’ for ‘\$500,000,000’; and

“(ii) section 10(d)(4)(C) shall be applied by substituting ‘\$1,000,000,000’ for ‘\$100,000,000’.

“(C) **SHORT FORM DEFINED.**—In this paragraph, the term ‘short form’ means a report of condition required under paragraph (3) that is in a format established by the appropriate Federal banking agency, after notice and opportunity for comment, that—

“(i) is significantly and materially less burdensome for the insured depository institution to prepare than the format of the report of condition otherwise required under paragraph (3); and

“(ii) provides sufficient material information for the appropriate Federal banking agency to assure the maintenance of the safe and sound condition of the depository institution and safe and sound practices.”.

(b) **REGULATIONS.**—Any regulation required to carry out section 7(a)(12) of the Federal Deposit Insurance Act, as added by subsection (a) of this section, shall be published in final form not later than 6 months after the date of enactment of this Act.

SEC. 03. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIREMENT UNDER THE GRAMM-LEACH-BLILEY ACT.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

“(f) **EXCEPTION TO ANNUAL NOTICE REQUIREMENT.**—A financial institution shall not be required to provide an annual disclosure under this section until such time as the financial institution—

“(1) fails to provide nonpublic personal information in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b);

“(2) shares information with affiliates described in section 603(d)(2)(A) of the Fair Credit Reporting Act; or

“(3) changes its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section.

“(g) **EXCEPTION TO NOTICE REQUIREMENT.**—A financial institution shall not be required to provide any disclosure under this section if—

“(1) the financial institution is licensed by a State and is subject to existing regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State, the District of Columbia, or any territory of the United States; or

“(2) the financial institution is licensed by a State and becomes subject to future regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State, the District of Columbia, or any territory of the United States.”.

SEC. 04. AGRICULTURE LOAN GUARANTEES.

(a) **FEES.**—Section 310B(g)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)(5)) is amended by inserting before the period the following: “, except that for a loan in an amount of less than \$5,000,000, the Secretary may assess a 1-time fee of 1 percent or less of the guaranteed principal portion of the loan”.

(b) **GUARANTEE AMOUNTS.**—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended—

(1) in subsection (a)—
(A) in paragraph (3)—
(i) by striking “may” and inserting “shall”; and
(ii) by striking “standards that are not less stringent than”; and

(B) in paragraph (4), by inserting before the period the following: “, except that the Secretary may guarantee not more than 90 percent of a loan made by a certified lender if such loan is in an amount of less than \$5,000,000”; and

(2) in subsection (b)—
(A) in paragraph (1)—
(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; and”; and
(iii) by adding at the end the following:

“(D) in the absence of a demand for or experience with guaranteed loans made under a rural development program, proven experience in making small business loans.”; and

(B) in paragraph (5)(A), by inserting before the semicolon the following: “, except that the Secretary may guarantee not more than 90 percent of a loan made by a certified lender if such loan is in an amount of less than \$5,000,000”.

SEC. 05. QUALIFYING INVESTMENTS IN SMALL BANK ISSUERS.

(a) **GENERALLY.**—The principles of Internal Revenue Service Notice 2010-2 shall apply to any qualifying investment by any person in a small bank issuer in the same manner as if such investment had been made by the Department of the Treasury pursuant to any of the Programs (as defined in Notice 2010-2).

(b) **DEFINITIONS.**—For purposes of this section—

(1) the term “qualifying investment” means any investment in the equity of a small bank issuer that otherwise would have constituted an ownership change under section 382(g) of the Internal Revenue Code of 1986 (relating to limitations on net operating loss carry forward and certain built-in losses following an ownership change); and

(2) the term “small bank issuer” means any insured depository institution, as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)), which—

(A) was required under a prompt corrective action order issued pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), or a formal or informal enforcement order, to raise capital as a result of an examination that took place during calendar years 2008 through 2012 by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Federal Deposit Insurance Corporation; and

(B) at the time of the order referred to in subparagraph (A), had total consolidated assets of \$10,000,000,000 or less.

SEC. 06. CAPITAL FORMATION FOR COMMUNITY BANKS.

Section 413(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77b note) is amended—

(1) by striking “(A) IN GENERAL.—The” and inserting the following:

“(a) **ADJUSTMENTS.**—
“(1) **IN GENERAL.**—The”; and

(2) by adding at the end the following:

“(2) **EXCEPTION FOR COMMUNITY BANK PURCHASES.**—The Commission shall adjust its net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, by allowing for the inclusion of the value of the primary residence of the natural person, but only if the natural person is purchasing securities from a community bank.

“(3) **DEFINITION.**—As used in paragraph (2), the term ‘community bank’ means a depository institution having assets of less than \$10,000,000,000.”.

SA 2546. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

DIVISION B—ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS

SEC. 2001. SHORT TITLE.

This division may be cited as the “Energy Savings and Industrial Competitiveness Act of 2012”.

TITLE I—BUILDINGS

Subtitle A—Building Energy Codes

SEC. 2101. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

(a) **DEFINITIONS.**—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) by striking paragraph (14) and inserting the following:

“(14) **MODEL BUILDING ENERGY CODE.**—The term ‘model building energy code’ means a voluntary building energy code and standards developed and updated through a consensus process among interested persons, such as the IECC or the code used by—
“(A) the Council of American Building Officials;

“(B) the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or
“(C) other appropriate organizations.”; and

(2) by adding at the end the following:

“(17) **IECC.**—The term ‘IECC’ means the International Energy Conservation Code.

“(18) **INDIAN TRIBE.**—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).”.

(b) **STATE BUILDING ENERGY EFFICIENCY CODES.**—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

“SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

“(a) **IN GENERAL.**—The Secretary shall—

“(1) encourage and support the adoption of building energy codes by States, Indian tribes, and, as appropriate, by local governments that meet or exceed the model building energy codes, or achieve equivalent or greater energy savings; and
“(2) support full compliance with the State and local codes.

“(b) **STATE AND INDIAN TRIBE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.**—
“(1) **REVIEW AND UPDATING OF CODES BY EACH STATE AND INDIAN TRIBE.**—

“(A) **IN GENERAL.**—Not later than 2 years after the date on which a model building energy code is updated, each State or Indian tribe shall certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively.
“(B) **DEMONSTRATION.**—The certification shall include a demonstration of whether or not the energy savings for the code provisions that are in effect throughout the State or Indian tribal territory meet or exceed—
“(i) the energy savings of the updated model building energy code; or
“(ii) the targets established under section 307(b)(2).

“(C) **NO MODEL BUILDING ENERGY CODE UPDATE.**—If a model building energy code is not updated by a target date established under section 307(b)(2)(D), each State or Indian tribe shall, not later than 2 years after the specified date, certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively, to meet or exceed the target in section 307(b)(2).

“(2) **VALIDATION BY SECRETARY.**—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

“(A) determine whether the code provisions of the State or Indian tribe, respectively, meet the criteria specified in paragraph (1); and

“(B) if the determination is positive, validate the certification.

“(c) **IMPROVEMENTS IN COMPLIANCE WITH BUILDING ENERGY CODES.**—

“(1) **REQUIREMENT.**—

“(A) **IN GENERAL.**—Not later than 3 years after the date of a certification under subsection (b), each State and Indian tribe shall certify whether or not the State and Indian tribe, respectively, has—
“(i) achieved full compliance under paragraph (3) with the applicable certified State and Indian tribe building energy code or with the associated model building energy code; or

“(ii) made significant progress under paragraph (4) toward achieving compliance with the applicable certified State and Indian tribe building energy code or with the associated model building energy code.
“(B) **REPEAT CERTIFICATIONS.**—If the State or Indian tribe certifies progress toward achieving compliance, the State or Indian tribe shall repeat the certification until the State or Indian tribe certifies that the State or Indian tribe has achieved full compliance, respectively.

“(2) **MEASUREMENT OF COMPLIANCE.**—A certification under paragraph (1) shall include documentation of the rate of compliance based on—
“(A) independent inspections of a random sample of the buildings covered by the code in the preceding year; or
“(B) an alternative method that yields an accurate measure of compliance.

“(3) **ACHIEVEMENT OF COMPLIANCE.**—A State or Indian tribe shall be considered to achieve full compliance under paragraph (1) if—
“(A) at least 90 percent of building space covered by the code in the preceding year substantially meets all the requirements of the applicable code specified in paragraph (1), or achieves equivalent or greater energy savings level; or

“(B) the estimated excess energy use of buildings that did not meet the applicable code specified in paragraph (1) in the preceding year, compared to a baseline of comparable buildings that meet this code, is not more than 5 percent of the estimated energy use of all buildings covered by this code during the preceding year.

“(4) **SIGNIFICANT PROGRESS TOWARD ACHIEVEMENT OF COMPLIANCE.**—A State or Indian tribe shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State or Indian tribe—

“(A) has developed and is implementing a plan for achieving compliance during the 8-year-period beginning on the date of enactment of this paragraph, including annual targets for compliance and active training and enforcement programs; and

“(B) has met the most recent target under subparagraph (A).

“(5) **VALIDATION BY SECRETARY.**—Not later than 90 days after a State or Indian tribe

certification under paragraph (1), the Secretary shall—

“(A) determine whether the State or Indian tribe has demonstrated meeting the criteria of this subsection, including accurate measurement of compliance; and

“(B) if the determination is positive, validate the certification.

“(d) STATES OR INDIAN TRIBES THAT DO NOT ACHIEVE COMPLIANCE.—

“(1) REPORTING.—A State or Indian tribe that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

“(A) the status of the State or Indian tribe with respect to meeting the requirements and submitting the certification; and

“(B) a plan for meeting the requirements and submitting the certification.

“(2) FEDERAL SUPPORT.—For any State or Indian tribe for which the Secretary has not validated a certification by a deadline under subsection (b) or (c), the lack of the certification may be a consideration for Federal support authorized under this section for code adoption and compliance activities.

“(3) LOCAL GOVERNMENT.—In any State or Indian tribe for which the Secretary has not validated a certification under subsection (b) or (c), a local government may be eligible for Federal support by meeting the certification requirements of subsections (b) and (c).

“(4) ANNUAL REPORTS BY SECRETARY.—

“(A) IN GENERAL.—The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on—

“(i) the status of model building energy codes;

“(ii) the status of code adoption and compliance in the States and Indian tribes;

“(iii) implementation of this section; and

“(iv) improvements in energy savings over time as result of the targets established under section 307(b)(2).

“(B) IMPACTS.—The report shall include estimates of impacts of past action under this section, and potential impacts of further action, on—

“(i) upfront financial and construction costs, cost benefits and returns (using investment analysis), and lifetime energy use for buildings;

“(ii) resulting energy costs to individuals and businesses; and

“(iii) resulting overall annual building ownership and operating costs.

“(e) TECHNICAL ASSISTANCE TO STATES AND INDIAN TRIBES.—The Secretary shall provide technical assistance to States and Indian tribes to implement the goals and requirements of this section, including procedures and technical analysis for States and Indian tribes—

“(1) to improve and implement State residential and commercial building energy codes;

“(2) to demonstrate that the code provisions of the States and Indian tribes achieve equivalent or greater energy savings than the model building energy codes and targets;

“(3) to document the rate of compliance with a building energy code; and

“(4) to otherwise promote the design and construction of energy efficient buildings.

“(f) AVAILABILITY OF INCENTIVE FUNDING.—

“(1) IN GENERAL.—The Secretary shall provide incentive funding to States and Indian tribes—

“(A) to implement the requirements of this section;

“(B) to improve and implement residential and commercial building energy codes, including increasing and verifying compliance with the codes and training of State, tribal, and local building code officials to implement and enforce the codes; and

“(C) to promote building energy efficiency through the use of the codes.

“(2) ADDITIONAL FUNDING.—Additional funding shall be provided under this subsection for implementation of a plan to achieve and document full compliance with residential and commercial building energy codes under subsection (c)—

“(A) to a State or Indian tribe for which the Secretary has validated a certification under subsection (b) or (c); and

“(B) in a State or Indian tribe that is not eligible under subparagraph (A), to a local government that is eligible under this section.

“(3) TRAINING.—Of the amounts made available under this subsection, the State may use amounts required, but not to exceed \$750,000 for a State, to train State and local building code officials to implement and enforce codes described in paragraph (2).

“(4) LOCAL GOVERNMENTS.—States may share grants under this subsection with local governments that implement and enforce the codes.

“(g) STRETCH CODES AND ADVANCED STANDARDS.—

“(1) IN GENERAL.—The Secretary shall provide technical and financial support for the development of stretch codes and advanced standards for residential and commercial buildings for use as—

“(A) an option for adoption as a building energy code by local, tribal, or State governments; and

“(B) guidelines for energy-efficient building design.

“(2) TARGETS.—The stretch codes and advanced standards shall be designed—

“(A) to achieve substantial energy savings compared to the model building energy codes; and

“(B) to meet targets under section 307(b), if available, at least 3 to 6 years in advance of the target years.

“(h) STUDIES.—The Secretary, in consultation with building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient residential and commercial buildings, code officials, and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of—

“(1) code improvements that would require that buildings be designed, sited, and constructed in a manner that makes the buildings more adaptable in the future to become zero-net-energy after initial construction, as advances are achieved in energy-saving technologies;

“(2) code procedures to incorporate measured lifetimes, not just first-year energy use, in trade-offs and performance calculations; and

“(3) legislative options for increasing energy savings from building energy codes, including additional incentives for effective State and local action, and verification of compliance with and enforcement of a code other than by a State or local government.

“(i) EFFECT ON OTHER LAWS.—Nothing in this section or section 307 supersedes or modifies the application of sections 321 through 346 of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.).

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section and section 307 \$200,000,000, to remain available until expended.”

(c) FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended by striking “voluntary building energy code” each place it appears in subsections (a)(2)(B) and (b) and inserting “model building energy code”.

(d) MODEL BUILDING ENERGY CODES.—Section 307 of the Energy Conservation and Pro-

duction Act (42 U.S.C. 6836) is amended to read as follows:

“SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY CODES.

“(a) IN GENERAL.—The Secretary shall support the updating of model building energy codes.

“(b) TARGETS.—

“(1) IN GENERAL.—The Secretary shall support the updating of the model building energy codes to enable the achievement of aggregate energy savings targets established under paragraph (2).

“(2) TARGETS.—

“(A) IN GENERAL.—The Secretary shall work with State, Indian tribes, local governments, nationally recognized code and standards developers, and other interested parties to support the updating of model building energy codes by establishing 1 or more aggregate energy savings targets to achieve the purposes of this section.

“(B) SEPARATE TARGETS.—The Secretary may establish separate targets for commercial and residential buildings.

“(C) BASELINES.—The baseline for updating model building energy codes shall be the 2009 IECC for residential buildings and ASHRAE Standard 90.1-2010 for commercial buildings.

“(D) SPECIFIC YEARS.—

“(i) IN GENERAL.—Targets for specific years shall be established and revised by the Secretary through rulemaking and coordinated with nationally recognized code and standards developers at a level that—

“(I) is at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective, while accounting for the economic considerations under paragraph (4);

“(II) is higher than the preceding target; and

“(III) promotes the achievement of commercial and residential high-performance buildings through high performance energy efficiency (within the meaning of section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

“(ii) INITIAL TARGETS.—Not later than 1 year after the date of enactment of this clause, the Secretary shall establish initial targets under this subparagraph.

“(iii) DIFFERENT TARGET YEARS.—Subject to clause (i), prior to the applicable year, the Secretary may set a later target year for any of the model building energy codes described in subparagraph (A) if the Secretary determines that a target cannot be met.

“(iv) SMALL BUSINESS.—When establishing targets under this paragraph through rulemaking, the Secretary shall ensure compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note; Public Law 104-121).

“(3) APPLIANCE STANDARDS AND OTHER FACTORS AFFECTING BUILDING ENERGY USE.—In establishing building code targets under paragraph (2), the Secretary shall develop and adjust the targets in recognition of potential savings and costs relating to—

“(A) efficiency gains made in appliances, lighting, windows, insulation, and building envelope sealing;

“(B) advancement of distributed generation and on-site renewable power generation technologies;

“(C) equipment improvements for heating, cooling, and ventilation systems;

“(D) building management systems and SmartGrid technologies to reduce energy use; and

“(E) other technologies, practices, and building systems that the Secretary considers appropriate regarding building plug load and other energy uses.

“(4) ECONOMIC CONSIDERATIONS.—In establishing and revising building code targets

under paragraph (2), the Secretary shall consider the economic feasibility of achieving the proposed targets established under this section and the potential costs and savings for consumers and building owners, including a return on investment analysis.

“(c) TECHNICAL ASSISTANCE TO MODEL BUILDING ENERGY CODE-SETTING AND STANDARD DEVELOPMENT ORGANIZATIONS.—

“(1) IN GENERAL.—The Secretary shall, on a timely basis, provide technical assistance to model building energy code-setting and standard development organizations consistent with the goals of this section.

“(2) ASSISTANCE.—The assistance shall include, as requested by the organizations, technical assistance in—

“(A) evaluating code or standards proposals or revisions;

“(B) building energy analysis and design tools;

“(C) building demonstrations;

“(D) developing definitions of energy use intensity and building types for use in model building energy codes to evaluate the efficiency impacts of the model building energy codes;

“(E) performance-based standards;

“(F) evaluating economic considerations under subsection (b)(4); and

“(G) developing model building energy codes by Indian tribes in accordance with tribal law.

“(3) AMENDMENT PROPOSALS.—The Secretary may submit timely model building energy code amendment proposals to the model building energy code-setting and standard development organizations, with supporting evidence, sufficient to enable the model building energy codes to meet the targets established under subsection (b)(2).

“(4) ANALYSIS METHODOLOGY.—The Secretary shall make publicly available the entire calculation methodology (including input assumptions and data) used by the Secretary to estimate the energy savings of code or standard proposals and revisions.

“(d) DETERMINATION.—

“(1) REVISION OF MODEL BUILDING ENERGY CODES.—If the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall make a preliminary determination not later than 90 days after the date of the revision, and a final determination not later than 15 months after the date of the revision, on whether or not the revision will—

“(A) improve energy efficiency in buildings compared to the existing model building energy code; and

“(B) meet the applicable targets under subsection (b)(2).

“(2) CODES OR STANDARDS NOT MEETING TARGETS.—

“(A) IN GENERAL.—If the Secretary makes a preliminary determination under paragraph (1)(B) that a code or standard does not meet the targets established under subsection (b)(2), the Secretary may at the same time provide the model building energy code or standard developer with proposed changes that would result in a model building energy code that meets the targets and with supporting evidence, taking into consideration—

“(i) whether the modified code is technically feasible and life-cycle cost effective;

“(ii) available appliances, technologies, materials, and construction practices; and

“(iii) the economic considerations under subsection (b)(4).

“(B) INCORPORATION OF CHANGES.—

“(i) IN GENERAL.—On receipt of the proposed changes, the model building energy code or standard developer shall have an additional 270 days to accept or reject the proposed changes of the Secretary to the model

building energy code or standard for the Secretary to make a final determination.

“(ii) FINAL DETERMINATION.—A final determination under paragraph (1) shall be on the modified model building energy code or standard.

“(e) ADMINISTRATION.—In carrying out this section, the Secretary shall—

“(1) publish notice of targets and supporting analysis and determinations under this section in the Federal Register to provide an explanation of and the basis for such actions, including any supporting modeling, data, assumptions, protocols, and cost-benefit analysis, including return on investment; and

“(2) provide an opportunity for public comment on targets and supporting analysis and determinations under this section.

“(f) VOLUNTARY CODES AND STANDARDS.—Notwithstanding any other provision of this section, any model building code or standard established under this section shall not be binding on a State, local government, or Indian tribe as a matter of Federal law.”

Subtitle B—Worker Training and Capacity Building

SEC. 2111. BUILDING TRAINING AND ASSESSMENT CENTERS.

(a) IN GENERAL.—The Secretary of Energy shall provide grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and Tribal Colleges or Universities (as defined in section 316(b) of that Act (20 U.S.C. 1059c(b))) to establish building training and assessment centers—

(1) to identify opportunities for optimizing energy efficiency and environmental performance in buildings;

(2) to promote the application of emerging concepts and technologies in commercial and institutional buildings;

(3) to train engineers, architects, building scientists, building energy permitting and enforcement officials, and building technicians in energy-efficient design and operation;

(4) to assist institutions of higher education and Tribal Colleges or Universities in training building technicians;

(5) to promote research and development for the use of alternative energy sources and distributed generation to supply heat and power for buildings, particularly energy-intensive buildings; and

(6) to coordinate with and assist State-accredited technical training centers, community colleges, Tribal Colleges or Universities, and local offices of the National Institute of Food and Agriculture and ensure appropriate services are provided under this section to each region of the United States.

(b) COORDINATION AND NONDUPLICATION.—

(1) IN GENERAL.—The Secretary shall coordinate the program with the Industrial Assessment Centers program and with other Federal programs to avoid duplication of effort.

(2) COLLOCATION.—To the maximum extent practicable, building, training, and assessment centers established under this section shall be collocated with Industrial Assessment Centers.

TITLE II—BUILDING EFFICIENCY FINANCE

SEC. 2201. LOAN PROGRAM FOR ENERGY EFFICIENCY UPGRADES TO EXISTING BUILDINGS.

Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by adding at the end the following:

“SEC. 1706. BUILDING RETROFIT FINANCING PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) CREDIT SUPPORT.—The term ‘credit support’ means a guarantee or commitment

to issue a guarantee or other forms of credit enhancement to ameliorate risks for efficiency obligations.

“(2) EFFICIENCY OBLIGATION.—The term ‘efficiency obligation’ means a debt or repayment obligation incurred in connection with financing a project, or a portfolio of such debt or payment obligations.

“(3) PROJECT.—The term ‘project’ means the installation and implementation of efficiency, advanced metering, distributed generation, or renewable energy technologies and measures in a building (or in multiple buildings on a given property) that are expected to increase the energy efficiency of the building (including fixtures) in accordance with criteria established by the Secretary.

“(b) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Notwithstanding sections 1703 and 1705, the Secretary may provide credit support under this section, in accordance with section 1702.

“(2) INCLUSIONS.—Buildings eligible for credit support under this section include commercial, multifamily residential, industrial, municipal, government, institution of higher education, school, and hospital facilities that satisfy criteria established by the Secretary.

“(c) GUIDELINES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall—

“(A) establish guidelines for credit support provided under this section; and

“(B) publish the guidelines in the Federal Register; and

“(C) provide for an opportunity for public comment on the guidelines.

“(2) REQUIREMENTS.—The guidelines established by the Secretary under this subsection shall include—

“(A) standards for assessing the energy savings that could reasonably be expected to result from a project;

“(B) examples of financing mechanisms (and portfolios of such financing mechanisms) that qualify as efficiency obligations;

“(C) the threshold levels of energy savings that a project, at the time of issuance of credit support, shall be reasonably expected to achieve to be eligible for credit support;

“(D) the eligibility criteria the Secretary determines to be necessary for making credit support available under this section; and

“(E) notwithstanding subsections (d)(3) and (g)(2)(B) of section 1702, any lien priority requirements that the Secretary determines to be necessary, in consultation with the Director of the Office of Management and Budget, which may include—

“(i) requirements to preserve priority lien status of secured lenders and creditors in buildings eligible for credit support;

“(ii) remedies available to the Secretary under chapter 176 of title 28, United States Code, in the event of default on the efficiency obligation by the borrower; and

“(iii) measures to limit the exposure of the Secretary to financial risk in the event of default, such as—

“(I) the collection of a credit subsidy fee from the borrower as a loan loss reserve, taking into account the limitation on credit support under subsection (d);

“(II) minimum debt-to-income levels of the borrower;

“(III) minimum levels of value relative to outstanding mortgage or other debt on a building eligible for credit support;

“(IV) allowable thresholds for the percent of the efficiency obligation relative to the amount of any mortgage or other debt on an eligible building;

“(V) analysis of historic and anticipated occupancy levels and rental income of an eligible building;

“(VI) requirements of third-party contractors to guarantee energy savings that will result from a retrofit project, and whether financing on the efficiency obligation will amortize from the energy savings;

“(VII) requirements that the retrofit project incorporate protocols to measure and verify energy savings; and

“(VIII) recovery of payments equally by the Secretary and the retrofit.

“(3) EFFICIENCY OBLIGATIONS.—The financing mechanisms qualified by the Secretary under paragraph (2)(B) may include—

“(A) loans, including loans made by the Federal Financing Bank;

“(B) power purchase agreements, including energy efficiency power purchase agreements;

“(C) energy services agreements, including energy performance contracts;

“(D) property assessed clean energy bonds and other tax assessment-based financing mechanisms;

“(E) aggregate on-meter agreements that finance retrofit projects; and

“(F) any other efficiency obligations the Secretary determines to be appropriate.

“(4) PRIORITIES.—In carrying out this section, the Secretary shall prioritize—

“(A) the maximization of energy savings with the available credit support funding;

“(B) the establishment of a clear application and approval process that allows private building owners, lenders, and investors to reasonably expect to receive credit support for projects that conform to guidelines;

“(C) the distribution of projects receiving credit support under this section across States or geographical regions of the United States; and

“(D) projects designed to achieve whole-building retrofits.

“(d) LIMITATION.—Notwithstanding section 1702(c), the Secretary shall not issue credit support under this section in an amount that exceeds—

“(1) 90 percent of the principal amount of the efficiency obligation that is the subject of the credit support; or

“(2) \$10,000,000 for any single project.

“(e) AGGREGATION OF PROJECTS.—To the extent provided in the guidelines developed in accordance with subsection (c), the Secretary may issue credit support on a portfolio, or pool of projects, that are not required to be geographically contiguous, if each efficiency obligation in the pool fulfills the requirements described in this section.

“(f) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive credit support under this section, the applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be necessary.

“(2) CONTENTS.—An application submitted under this section shall include assurances by the applicant that—

“(A) each contractor carrying out the project meets minimum experience level criteria, including local retrofit experience, as determined by the Secretary;

“(B) the project is reasonably expected to achieve energy savings, as set forth in the application using any methodology that meets the standards described in the program guidelines;

“(C) the project meets any technical criteria described in the program guidelines;

“(D) the recipient of the credit support and the parties to the efficiency obligation will provide the Secretary with—

“(i) any information the Secretary requests to assess the energy savings that result from the project, including historical energy usage data, a simulation-based benchmark, and detailed descriptions of the

building work, as described in the program guidelines; and

“(ii) permission to access information relating to building operations and usage for the period described in the program guidelines; and

“(E) any other assurances that the Secretary determines to be necessary.

“(3) DETERMINATION.—Not later than 90 days after receiving an application, the Secretary shall make a final determination on the application, which may include requests for additional information.

“(g) FEES.—

“(1) IN GENERAL.—In addition to the fees required by section 1702(h)(1), the Secretary may charge reasonable fees for credit support provided under this section.

“(2) AVAILABILITY.—Fees collected under this section shall be subject to section 1702(h)(2).

“(h) UNDERWRITING.—The Secretary may delegate the underwriting activities under this section to 1 or more entities that the Secretary determines to be qualified.

“(i) REPORT.—Not later than 1 year after commencement of the program, the Secretary shall submit to the appropriate committees of Congress a report that describes in reasonable detail—

“(1) the manner in which this section is being carried out;

“(2) the number and type of projects supported;

“(3) the types of funding mechanisms used to provide credit support to projects;

“(4) the energy savings expected to result from projects supported by this section;

“(5) any tracking efforts the Secretary is using to calculate the actual energy savings produced by the projects; and

“(6) any plans to improve the tracking efforts described in paragraph (5).

“(j) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$400,000,000 for the period of fiscal years 2012 through 2021, to remain available until expended.

“(2) ADMINISTRATIVE COSTS.—Not more than 1 percent of any amounts made available to the Secretary under paragraph (1) may be used by the Secretary for administrative costs incurred in carrying out this section.”.

TITLE III—INDUSTRIAL EFFICIENCY AND COMPETITIVENESS

Subtitle A—Manufacturing Energy Efficiency SEC. 2301. STATE PARTNERSHIP INDUSTRIAL ENERGY EFFICIENCY REVOLVING LOAN PROGRAM.

Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h-1) is amended—

(1) in the section heading, by inserting “and industry” before the period at the end;

(2) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (g) the following:

“(h) STATE PARTNERSHIP INDUSTRIAL ENERGY EFFICIENCY REVOLVING LOAN PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall provide grants to eligible lenders to pay the Federal share of creating a revolving loan program under which loans are provided to commercial and industrial manufacturers to implement commercially available technologies or processes that significantly—

“(A) reduce systems energy intensity, including the use of energy-intensive feedstocks; and

“(B) improve the industrial competitiveness of the United States.

“(2) ELIGIBLE LENDERS.—To be eligible to receive cost-matched Federal funds under this subsection, a lender shall—

“(A) be a community and economic development lender that the Secretary certifies meets the requirements of this subsection;

“(B) lead a partnership that includes participation by, at a minimum—

“(i) a State government agency; and

“(ii) a private financial institution or other provider of loan capital;

“(C) submit an application to the Secretary, and receive the approval of the Secretary, for cost-matched Federal funds to carry out a loan program described in paragraph (1); and

“(D) ensure that non-Federal funds are provided to match, on at least a dollar-for-dollar basis, the amount of Federal funds that are provided to carry out a revolving loan program described in paragraph (1).

“(3) AWARD.—The amount of cost-matched Federal funds provided to an eligible lender shall not exceed \$100,000,000 for any fiscal year.

“(4) RECAPTURE OF AWARDS.—

“(A) IN GENERAL.—An eligible lender that receives an award under paragraph (1) shall be required to repay to the Secretary an amount of cost-match Federal funds, as determined by the Secretary under subparagraph (B), if the eligible lender is unable or unwilling to operate a program described in this subsection for a period of not less than 10 years beginning on the date on which the eligible lender first receives funds made available through the award.

“(B) DETERMINATION BY SECRETARY.—The Secretary shall determine the amount of cost-match Federal funds that an eligible lender shall be required to repay to the Secretary under subparagraph (A) based on the consideration by the Secretary of—

“(i) the amount of non-Federal funds matched by the eligible lender;

“(ii) the amount of loan losses incurred by the revolving loan program described in paragraph (1); and

“(iii) any other appropriate factor, as determined by the Secretary.

“(C) USE OF RECAPTURED COST-MATCH FEDERAL FUNDS.—The Secretary may distribute to eligible lenders under this subsection each amount received by the Secretary under this paragraph.

“(5) ELIGIBLE PROJECTS.—A program for which cost-matched Federal funds are provided under this subsection shall be designed to accelerate the implementation of industrial and commercial applications of technologies or processes (including distributed generation, applications or technologies that use sensors, meters, software, and information networks, controls, and drives or that have been installed pursuant to an energy savings performance contract, project, or strategy) that—

“(A) improve energy efficiency, including improvements in efficiency and use of water, power factor, or load management;

“(B) enhance the industrial competitiveness of the United States; and

“(C) achieve such other goals as the Secretary determines to be appropriate.

“(6) EVALUATION.—The Secretary shall evaluate applications for cost-matched Federal funds under this subsection on the basis of—

“(A) the description of the program to be carried out with the cost-matched Federal funds;

“(B) the commitment to provide non-Federal funds in accordance with paragraph (2)(D);

“(C) program sustainability over a 10-year period;

“(D) the capability of the applicant;

“(E) the quantity of energy savings or energy feedstock minimization;

“(F) the advancement of the goal under this Act of 25-percent energy avoidance;

“(G) the ability to fund energy efficient projects not later than 120 days after the date of the grant award; and

“(H) such other factors as the Secretary determines appropriate.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, \$400,000,000 for the period of fiscal years 2012 through 2021.”.

SEC. 2302. COORDINATION OF RESEARCH AND DEVELOPMENT OF ENERGY EFFICIENT TECHNOLOGIES FOR INDUSTRY.

(a) IN GENERAL.—As part of the research and development activities of the Industrial Technologies Program of the Department of Energy, the Secretary shall establish, as appropriate, collaborative research and development partnerships with other programs within the Office of Energy Efficiency and Renewable Energy (including the Building Technologies Program), the Office of Electricity Delivery and Energy Reliability, and the Office of Science that—

(1) leverage the research and development expertise of those programs to promote early stage energy efficiency technology development;

(2) support the use of innovative manufacturing processes and applied research for development, demonstration, and commercialization of new technologies and processes to improve efficiency (including improvements in efficient use of water), reduce emissions, reduce industrial waste, and improve industrial cost-competitiveness; and

(3) apply the knowledge and expertise of the Industrial Technologies Program to help achieve the program goals of the other programs.

(b) REPORTS.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to Congress a report that describes actions taken to carry out subsection (a) and the results of those actions.

SEC. 2303. REDUCING BARRIERS TO THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this section:

(1) INDUSTRIAL ENERGY EFFICIENCY.—The term “industrial energy efficiency” means the energy efficiency derived from commercial technologies and measures to improve energy efficiency or to generate or transmit electric power and heat, including electric motor efficiency improvements, demand response, direct or indirect combined heat and power, and waste heat recovery.

(2) INDUSTRIAL SECTOR.—The term “industrial sector” means any subsector of the manufacturing sector (as defined in North American Industry Classification System codes 31-33 (as in effect on the date of enactment of this Act)) establishments of which have, or could have, thermal host facilities with electricity requirements met in whole, or in part, by onsite electricity generation, including direct and indirect combined heat and power or waste recovery.

(3) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) REPORT ON THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing—

(A) the results of the study conducted under paragraph (2); and

(B) recommendations and guidance developed under paragraph (3).

(2) STUDY.—The Secretary, in coordination with the industrial sector, shall conduct a study of the following:

(A) The legal, regulatory, and economic barriers to the deployment of industrial energy efficiency in all electricity markets (including organized wholesale electricity markets, and regulated electricity markets), including, as applicable, the following:

(i) Transmission and distribution interconnection requirements.

(ii) Standby, back-up, and maintenance fees (including demand ratchets).

(iii) Exit fees.

(iv) Life of contract demand ratchets.

(v) Net metering.

(vi) Calculation of avoided cost rates.

(vii) Power purchase agreements.

(viii) Energy market structures.

(ix) Capacity market structures.

(x) Other barriers as may be identified by the Secretary, in coordination with the industrial sector.

(B) Examples of—

(i) successful State and Federal policies that resulted in greater use of industrial energy efficiency;

(ii) successful private initiatives that resulted in greater use of industrial energy efficiency; and

(iii) cost-effective policies used by foreign countries to foster industrial energy efficiency.

(C) The estimated economic benefits to the national economy of providing the industrial sector with Federal energy efficiency matching grants of \$5,000,000,000 for 5- and 10-year periods, including benefits relating to—

(i) estimated energy and emission reductions;

(ii) direct and indirect jobs saved or created;

(iii) direct and indirect capital investment;

(iv) the gross domestic product; and

(v) trade balance impacts.

(D) The estimated energy savings available from increased use of recycled material in energy-intensive manufacturing processes.

(3) RECOMMENDATIONS AND GUIDANCE.—The Secretary, in coordination with the industrial sector, shall develop policy recommendations regarding the deployment of industrial energy efficiency, including proposed regulatory guidance to States and relevant Federal agencies to address barriers to deployment.

SEC. 2304. FUTURE OF INDUSTRY PROGRAM.

(a) IN GENERAL.—Section 452 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111) is amended by striking the section heading and inserting the following: “future of industry program”.

(b) DEFINITION OF ENERGY SERVICE PROVIDER.—Section 452(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(a)) is amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (3):

“(5) ENERGY SERVICE PROVIDER.—The term ‘energy service provider’ means any private company or similar entity providing technology or services to improve energy efficiency in an energy-intensive industry.”.

(c) INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—

(1) IN GENERAL.—Section 452(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(e)) is amended—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting appropriately;

(B) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”;

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by inserting before the

semicolon at the end the following: “, including assessments of sustainable manufacturing goals and the implementation of information technology advancements for supply chain analysis, logistics, system monitoring, industrial and manufacturing processes, and other purposes”; and

(D) by adding at the end the following:

“(2) CENTERS OF EXCELLENCE.—

“(A) IN GENERAL.—The Secretary shall establish a Center of Excellence at up to 10 of the highest performing industrial research and assessment centers, as determined by the Secretary.

“(B) DUTIES.—A Center of Excellence shall coordinate with and advise the industrial research and assessment centers located in the region of the Center of Excellence.

“(C) FUNDING.—Subject to the availability of appropriations, of the funds made available under subsection (f), the Secretary shall use to support each Center of Excellence not less than \$500,000 for fiscal year 2012 and each fiscal year thereafter, as determined by the Secretary.

“(3) EXPANSION OF CENTERS.—The Secretary shall provide funding to establish additional industrial research and assessment centers at institutions of higher education that do not have industrial research and assessment centers established under paragraph (1), taking into account the size of, and potential energy efficiency savings for, the manufacturing base within the region of the proposed center.

“(4) COORDINATION.—

“(A) IN GENERAL.—To increase the value and capabilities of the industrial research and assessment centers, the centers shall—

“(i) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology;

“(ii) coordinate with the Building Technologies Program of the Department of Energy to provide building assessment services to manufacturers;

“(iii) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise and technologies of the National Laboratories for national industrial and manufacturing needs;

“(iv) increase partnerships with energy service providers and technology providers to leverage private sector expertise and accelerate deployment of new and existing technologies and processes for energy efficiency, power factor, and load management;

“(v) identify opportunities for reducing greenhouse gas emissions; and

“(vi) promote sustainable manufacturing practices for small- and medium-sized manufacturers.

“(5) OUTREACH.—The Secretary shall provide funding for—

“(A) outreach activities by the industrial research and assessment centers to inform small- and medium-sized manufacturers of the information, technologies, and services available; and

“(B) a full-time equivalent employee at each center of excellence whose primary mission shall be to coordinate and leverage the efforts of the center with—

“(i) Federal and State efforts;

“(ii) the efforts of utilities and energy service providers;

“(iii) the efforts of regional energy efficiency organizations; and

“(iv) the efforts of other centers in the region of the center of excellence.

“(6) WORKFORCE TRAINING.—

“(A) IN GENERAL.—The Secretary shall pay the Federal share of associated internship programs under which students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers.

“(B) FEDERAL SHARE.—The Federal share of the cost of carrying out internship programs described in subparagraph (A) shall be 50 percent.

“(C) FUNDING.—Subject to the availability of appropriations, of the funds made available under subsection (f), the Secretary shall use to carry out this paragraph not less than \$5,000,000 for fiscal year 2012 and each fiscal year thereafter.

“(7) SMALL BUSINESS LOANS.—The Administrator of the Small Business Administration shall, to the maximum practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) to implement recommendations of industrial research and assessment centers established under paragraph (1).”.

SEC. 2305. SUSTAINABLE MANUFACTURING INITIATIVE.

(a) IN GENERAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341) is amended by adding at the end the following:

“SEC. 376. SUSTAINABLE MANUFACTURING INITIATIVE.

“(a) IN GENERAL.—As part of the Industrial Technologies Program of the Department of Energy, the Secretary shall carry out a sustainable manufacturing initiative under which the Secretary, on the request of a manufacturer, shall conduct onsite technical assessments to identify opportunities for—

“(1) maximizing the energy efficiency of industrial processes and cross-cutting systems;

“(2) preventing pollution and minimizing waste;

“(3) improving efficient use of water in manufacturing processes;

“(4) conserving natural resources; and

“(5) achieving such other goals as the Secretary determines to be appropriate.

“(b) COORDINATION.—The Secretary shall carry out the initiative in coordination with the private sector and appropriate agencies, including the National Institute of Standards and Technology to accelerate adoption of new and existing technologies or processes that improve energy efficiency.

“(c) RESEARCH AND DEVELOPMENT PROGRAM FOR SUSTAINABLE MANUFACTURING AND INDUSTRIAL TECHNOLOGIES AND PROCESSES.—As part of the Industrial Technologies Program of the Department of Energy, the Secretary shall carry out a joint industry-government partnership program to research, develop, and demonstrate new sustainable manufacturing and industrial technologies and processes that maximize the energy efficiency of industrial systems, reduce pollution, and conserve natural resources.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be to carry out this section \$10,000,000 for the period of fiscal years 2012 through 2021.”.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part E of title III the following:

“Sec. 376. Sustainable manufacturing initiative.”.

SEC. 2306. STUDY OF ADVANCED ENERGY TECHNOLOGY MANUFACTURING CAPABILITIES IN THE UNITED STATES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study of the development of advanced manufacturing capabilities for various energy technologies, including—

(1) an assessment of the manufacturing supply chains of established and emerging industries;

(2) an analysis of—

(A) the manner in which supply chains have changed over the 25-year period ending on the date of enactment of this Act;

(B) current trends in supply chains; and

(C) the energy intensity of each part of the supply chain and opportunities for improvement;

(3) for each technology or manufacturing sector, an analysis of which sections of the supply chain are critical for the United States to retain or develop to be competitive in the manufacturing of the technology;

(4) an assessment of which emerging energy technologies the United States should focus on to create or enhance manufacturing capabilities; and

(5) recommendations on leveraging the expertise of energy efficiency and renewable energy user facilities so that best materials and manufacturing practices are designed and implemented.

(b) REPORT.—Not later than 2 years after the date on which the Secretary enters into the agreement with the Academy described in subsection (a), the Academy shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary a report describing the results of the study required under this section, including any findings and recommendations.

SEC. 2307. INDUSTRIAL TECHNOLOGIES STEERING COMMITTEE.

The Secretary shall establish an advisory steering committee that includes national trade associations representing energy-intensive industries or energy service providers to provide recommendations to the Secretary on planning and implementation of the Industrial Technologies Program of the Department of Energy.

Subtitle B—Supply Star

SEC. 2311. SUPPLY STAR.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

“SEC. 324B. SUPPLY STAR PROGRAM.

“(a) IN GENERAL.—There is established within the Department of Energy a Supply Star program to identify and promote practices, recognize companies, and, as appropriate, recognize products that use highly efficient supply chains in a manner that conserves energy, water, and other resources.

“(b) COORDINATION.—In carrying out the program described in subsection (a), the Secretary shall—

“(1) consult with other appropriate agencies; and

“(2) coordinate efforts with the Energy Star program established under section 324A.

“(c) DUTIES.—In carrying out the Supply Star program described in subsection (a), the Secretary shall—

“(1) promote practices, recognize companies, and, as appropriate, recognize products that comply with the Supply Star program as the preferred practices, companies, and products in the marketplace for maximizing supply chain efficiency;

“(2) work to enhance industry and public awareness of the Supply Star program;

“(3) collect and disseminate data on supply chain energy resource consumption;

“(4) develop and disseminate metrics, processes, and analytical tools (including software) for evaluating supply chain energy resource use;

“(5) develop guidance at the sector level for improving supply chain efficiency;

“(6) work with domestic and international organizations to harmonize approaches to analyzing supply chain efficiency, including the development of a consistent set of tools, templates, calculators, and databases; and

“(7) work with industry, including small businesses, to improve supply chain efficiency through activities that include—

“(A) developing and sharing best practices; and

“(B) providing opportunities to benchmark supply chain efficiency.

“(d) EVALUATION.—In any evaluation of supply chain efficiency carried out by the Secretary with respect to a specific product, the Secretary shall consider energy consumption and resource use throughout the entire lifecycle of a product, including production, transport, packaging, use, and disposal.

“(e) GRANTS AND INCENTIVES.—

“(1) IN GENERAL.—The Secretary may award grants or other forms of incentives on a competitive basis to eligible entities, as determined by the Secretary, for the purposes of—

“(A) studying supply chain energy resource efficiency; and

“(B) demonstrating and achieving reductions in the energy resource consumption of commercial products through changes and improvements to the production supply and distribution chain of the products.

“(2) USE OF INFORMATION.—Any information or data generated as a result of the grants or incentives described in paragraph (1) shall be used to inform the development of the Supply Star Program.

“(f) TRAINING.—The Secretary shall use funds to support professional training programs to develop and communicate methods, practices, and tools for improving supply chain efficiency.

“(g) EFFECT OF IMPACT ON CLIMATE CHANGE.—For purposes of this section, the impact on climate change shall not be a factor in determining supply chain efficiency.

“(h) EFFECT OF OUTSOURCING OF AMERICAN JOBS.—For purposes of this section, the outsourcing of American jobs in the production of a product shall not count as a positive factor in determining supply chain efficiency.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for the period of fiscal years 2012 through 2021.”.

Subtitle C—Electric Motor Rebate Program

SEC. 2321. ENERGY SAVING MOTOR CONTROL REBATE PROGRAM.

(a) ESTABLISHMENT.—Not later than January 1, 2012, the Secretary of Energy (referred to in this section as the “Secretary”) shall establish a program to provide rebates for expenditures made by entities for the purchase and installation of a new constant speed electric motor control that reduces motor energy use by not less than 5 percent.

(b) REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including—

(A) demonstrated evidence that the entity purchased a constant speed electric motor control that reduces motor energy use by not less than 5 percent; and

(B) the physical nameplate of the installed motor of the entity to which the energy saving motor control is attached.

(2) AUTHORIZED AMOUNT OF REBATE.—The Secretary may provide to an entity that meets the requirements of paragraph (1) a rebate the amount of which shall be equal to the product obtained by multiplying—

(A) the nameplate horsepower of the electric motor to which the energy saving motor control is attached; and

(B) \$25.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out this section \$5,000,000 for each of fiscal years 2012 and 2013, to remain available until expended.

Subtitle D—Transformer Rebate Program

SEC. 2331. ENERGY EFFICIENT TRANSFORMER REBATE PROGRAM.

(a) **DEFINITION OF QUALIFIED TRANSFORMER.**—In this section, the term “qualified transformer” means a transformer that meets or exceeds the National Electrical Manufacturers Association (NEMA) Premium Efficiency designation, calculated to 2 decimal points, as having 30 percent fewer losses than the NEMA TP-1-2002 efficiency standard for a transformer of the same number of phases and capacity, as measured in kilovolt-amperes.

(b) **ESTABLISHMENT.**—Not later than January 1, 2012, the Secretary of Energy (referred to in this section as the “Secretary”) shall establish a program to provide rebates for expenditures made by owners of commercial buildings and multifamily residential buildings for the purchase and installation of a new energy efficient transformers.

(c) REQUIREMENTS.—

(1) **APPLICATION.**—To be eligible to receive a rebate under this section, an owner shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the owner purchased a qualified transformer.

(2) **AUTHORIZED AMOUNT OF REBATE.**—For qualified transformers, rebates, in dollars per kilovolt-ampere (referred to in this paragraph as “kVA”) shall be—

(A) for 3-phase transformers—

(i) with a capacity of not greater than 10 kVA, \$15;

(ii) with a capacity of not less than 10 kVA and not greater than 100 kVA, the difference between 15 and the quotient obtained by dividing—

(I) the difference between—

(aa) the capacity of the transformer in kVA; and

(bb) 10; by

(II) 9; and

(iii) with a capacity greater than or equal to 100 kVA, \$5; and

(B) for single-phase transformers, 75 percent of the rebate for a 3-phase transformer of the same capacity.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2012 and 2013, to remain available until expended.

TITLE IV—FEDERAL AGENCY ENERGY EFFICIENCY

SEC. 2401. ADOPTION OF PERSONAL COMPUTER POWER SAVINGS TECHNIQUES BY FEDERAL AGENCIES.

(a) **IN GENERAL.**—Not later than 360 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services, shall issue guidance for Federal agencies to employ advanced tools allowing energy savings through the use of computer hardware, energy efficiency software, and power management tools.

(b) **REPORTS ON PLANS AND SAVINGS.**—Not later than 180 days after the date of the issuance of the guidance under subsection (a), each Federal agency shall submit to the Secretary of Energy a report that describes—

(1) the plan of the agency for implementing the guidance within the agency; and

(2) estimated energy and financial savings from employing the tools described in subsection (a).

SEC. 2402. AVAILABILITY OF FUNDS FOR DESIGN UPDATES.

Section 3307 of title 40, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

“(d) **AVAILABILITY OF FUNDS FOR DESIGN UPDATES.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), for any project for which congressional approval is received under subsection (a) and for which the design has been substantially completed but construction has not begun, the Administrator of General Services may use appropriated funds to update the project design to meet applicable Federal building energy efficiency standards established under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) and other requirements established under section 3312.

“(2) **LIMITATION.**—The use of funds under paragraph (1) shall not exceed 125 percent of the estimated energy or other cost savings associated with the updates as determined by a life-cycle cost analysis under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254).”

SEC. 2403. BEST PRACTICES FOR ADVANCED METERING.

Section 543(e) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e)) is amended by striking paragraph (3) and inserting the following:

“(3) **PLAN.**—

“(A) **IN GENERAL.**—Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

“(i) how the agency will designate personnel primarily responsible for achieving the requirements; and

“(ii) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

“(B) **UPDATES.**—Reports submitted under subparagraph (A) shall be updated annually.

“(4) **BEST PRACTICES REPORT.**—

“(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2012, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy use in Federal facilities, buildings, and equipment by Federal agencies.

“(B) **UPDATING.**—The report described under subparagraph (A) shall be updated annually.

“(C) **COMPONENTS.**—The report shall include, at a minimum—

“(i) summaries and analysis of the reports by agencies under paragraph (3);

“(ii) recommendations on standard requirements or guidelines for automated energy management systems, including—

“(I) potential common communications standards to allow data sharing and reporting;

“(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

“(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

“(iii) an analysis of—

“(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

“(II) existing techniques used within the private sector or other non-Federal government buildings.”

SEC. 2404. FEDERAL ENERGY MANAGEMENT AND DATA COLLECTION STANDARD.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by redesignating the second subsection (f) (as added by section 434(a) of Public Law 110-140 (121 Stat. 1614)) as subsection (g); and

(2) in subsection (f)(7), by striking subparagraph (A) and inserting the following:

“(A) **IN GENERAL.**—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B)—

“(i) to certify compliance with the requirements for—

“(I) energy and water evaluations under paragraph (3);

“(II) implementation of identified energy and water measures under paragraph (4); and

“(III) follow-up on implemented measures under paragraph (5); and

“(ii) to publish energy and water consumption data on an individual facility basis.”

SEC. 2405. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.

Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended—

(1) in subparagraph (A), by striking “or” after the semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) a measure to support the use of electric vehicles or the fueling or charging infrastructure necessary for electric vehicles.”

SEC. 2406. FEDERAL PURCHASE REQUIREMENT.

Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

(1) in subsections (a) and (b)(2), by striking “electric energy” each place it appears and inserting “electric, direct, and thermal energy”; and

(2) in subsection (b)(2)—

(A) by inserting “, or avoided by,” after “generated from”; and

(B) by inserting “(including ground-source, reclaimed, and ground water)” after “geothermal”;

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following:

“(d) **SEPARATE CALCULATION.**—Renewable energy produced at a Federal facility, on Federal land, or on Indian land (as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501))—

“(1) shall be calculated (on a BTU-equivalent basis) separately from renewable energy used; and

“(2) may be used individually or in combination to comply with subsection (a).”

SEC. 2407. STUDY ON FEDERAL DATA CENTER CONSOLIDATION.

(a) **IN GENERAL.**—The Secretary of Energy shall conduct a study on the feasibility of a government-wide data center consolidation, with an overall Federal target of a minimum of 800 Federal data center closures by October 1, 2015.

(b) **COORDINATION.**—In conducting the study, the Secretary shall coordinate with Federal data center program managers, facilities managers, and sustainability officers.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study, including a description of agency best practices in data center consolidation.

TITLE V—MISCELLANEOUS**SEC. 2501. OFFSETS.**

(a) ZERO-NET ENERGY COMMERCIAL BUILDINGS INITIATIVE.—Section 422(f) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(f)) is amended by striking paragraphs (2) through (4) and inserting the following:

“(2) \$50,000,000 for each of fiscal years 2009 through 2012;

“(3) \$100,000,000 for fiscal year 2013; and

“(4) \$200,000,000 for each of fiscal years 2014 through 2018.”.

(b) ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS.—Subsection (j) of section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h-1) (as redesignated by section 2301(2)) is amended—

(1) in paragraph (1), by striking “through 2013” and inserting “and 2010, \$100,000,000 for each of fiscal years 2011 and 2012, and \$250,000,000 for fiscal year 2013”; and

(2) in paragraph (2), by striking “through 2013” and inserting “and 2010, \$100,000,000 for each of fiscal years 2011 and 2012, and \$425,000,000 for fiscal year 2013”.

(c) WASTE ENERGY RECOVERY INCENTIVE PROGRAM.—Section 373(f)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6343(f)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by striking subparagraph (A) and inserting the following:

“(A) \$100,000,000 for fiscal year 2008;

“(B) \$200,000,000 for each of fiscal years 2009 and 2010;

“(C) \$100,000,000 for each of fiscal years 2011 and 2012; and”.

(d) ENERGY-INTENSIVE INDUSTRIES PROGRAM.—Section 452(f)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(f)(1)) is amended—

(1) in subparagraph (D), by striking “\$202,000,000” and inserting “\$102,000,000”; and

(2) in subparagraph (E), by striking “\$208,000,000” and inserting “\$108,000,000”.

SEC. 2502. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 2503. ADVANCE APPROPRIATIONS REQUIRED.

The authorization of amounts under this division and the amendments made by this division shall be effective for any fiscal year only to the extent and in the amount provided in advance in appropriations Acts.

SA 2547. Mr. ROBERTS (for himself, Mr. HATCH, Mr. RUBIO, Mr. BURR, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. COBURN, Mr. ALEXANDER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . REPEAL OF DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111-148) and

the amendments made by such section are repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SA 2548. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE ____—ENTREPRENEURIAL TRAINING**SEC. ____ . RULEMAKING.**

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Labor shall establish alternate guidelines for measuring State and local performance, under section 136 of the Workforce Investment Act of 1998 (42 U.S.C. 2871), regarding entrepreneurial training services, as authorized in section 134(d)(4)(D)(vi) of such Act (29 U.S.C. 2864(d)(4)(D)(vi)), and provide the State and local workforce investment boards with specific guidance on successful approaches to collecting performance information on entrepreneurial training, notwithstanding section 136(f)(2) of such Act (42 U.S.C. 2871(f)(2)).

(b) CONSIDERATIONS.—In determining the alternate guidelines, the Secretary shall consider utilizing authorities granted under the Workforce Investment Act of 1998, including a State’s waiver authority, as authorized in section 189(i)(4) of such Act (29 U.S.C. 2939(i)(4)).

(c) REPORT.—Not later than 12 months after publication of the final rule establishing the guidelines, the Secretary shall issue a report on the progress of State and local workforce investment boards in implementing new entrepreneurial training programs and any ongoing challenges to offering entrepreneurial training programs, with recommendations to Congress on how best to address those challenges.

SA 2549. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES**SEC. 01. SHORT TITLE.**

This title may be cited as the “Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012”.

SEC. 02. FINDINGS.

Congress finds the following:

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

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

(3) Uniform Federal regulatory and reporting requirements in many instances have im-

posed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

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

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

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

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

SEC. 03. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

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

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

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

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

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

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

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

SEC. 04. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

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

(1) in paragraph (1), by inserting “603,” after “601.”;

(2) in paragraph (2), by inserting “603,” after “601.”;

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

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

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

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

(4) in paragraph (4)—

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

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

(C) by adding at the end the following:

“(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.”.

SEC. 05. PERIODIC REVIEW.

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

“§ 610. Periodic review of rules

“(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, each agency shall establish a plan for the periodic review of—

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

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

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

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

“(B) continue in effect without change.

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

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

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

“(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

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

“(B) every 9 years thereafter; and

“(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

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

“(B) every 9 years thereafter.

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

“(1) the continued need for the rule;

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

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

“(4) the complexity of the rule;

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

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

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

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

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

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

“(C) the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including—

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

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

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

“(A) Congress; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 06. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

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

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “a covered agency” and inserting “an agency designated under subsection (d)”;

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

(2) by striking subsection (d) and inserting the following:

“(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, the Environmental Protection Agency, the Bureau of Consumer Financial Protection, and the Occupational Safety and Health Administration of the Department of Labor shall be—

“(A) agencies designated under this subsection; and

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

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

“(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012;

“(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012; and

“(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012.

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, is amended—

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

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

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

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

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

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

(ii) by striking “the agency” and inserting “the Bureau”.

SEC. 07. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

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

SEC. 08. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

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

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 03 of this title, is amended—

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

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

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

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

SEC. 09. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

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

(1) in subsection (a)—

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

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

(B) by adding at the end the following:

“(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.”; and

(2) in subsection (c)—

(A) by striking “Agencies shall report” and all that follows through “the scope” and inserting “Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope”; and

(B) by striking “and the total amount of penalty reductions and waivers” and insert-

ing “the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)”.

SEC. 10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

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

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

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

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

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

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

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

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

(2) by adding at the end the following:

“(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

“(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

“(2) if no submission to the Office of Information and Regulatory Affairs is required—

“(A) a reasonable period before publication of the rule by the agency; and

“(B) in any event, not later than 3 months before the date on which the agency publishes the rule.”.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting “detailed” before “description” each place it appears;

(B) in paragraph (2)—

(i) by inserting “detailed” before “statement” each place it appears; and

(ii) by inserting “(or certification of the proposed rule under section 605(b))” after “initial regulatory flexibility analysis”;

(C) in paragraph (4), by striking “an explanation” and inserting “a detailed explanation”; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111-240; 124 Stat. 2251), by inserting “detailed” before “statement”.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

“(b) The agency shall—

“(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

“(2) publish in the Federal Register the final regulatory flexibility analysis, or a

summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.”.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

“(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.”.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking “statement providing the factual” and inserting “detailed statement providing the factual and legal”.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

“§ 607. Quantification requirements

“In complying with sections 603 and 604, an agency shall provide—

“(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

“(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.”.

SEC. 11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

“(A) publishing an initial regulatory flexibility analysis for public comment; or

“(B) re-proposing the rule with an initial regulatory flexibility analysis.

“(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

“(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

“(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

“(C) the number of affected small entities for which that cost will be significant.

“(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

“(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

“(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.”.

SEC. 12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94-305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (6) the following:

“(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.”.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **HEADING.**—Section 605 of title 5, United States Code, is amended, in the section heading, by striking “**Avoidance**” and all that follows and inserting the following: “**Incorporations by reference and certification.**”.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

“605. Incorporations by reference and certifications.”;

and

(2) by striking the item relating to section 607 inserting the following:

“607. Quantification requirements.”.

SA 2550. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —FREEDOM FROM RESTRICTIVE EXCESSIVE EXECUTIVE DEMANDS AND ONEROUS MANDATES

SEC. 01. SHORT TITLE.

This title may be cited as the “Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012”.

SEC. 02. FINDINGS.

Congress finds the following:

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

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

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

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

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

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential

for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

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

SEC. 03. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

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

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

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

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

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

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

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

SEC. 04. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

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

(1) in paragraph (1), by inserting “603,” after “601.”;

(2) in paragraph (2), by inserting “603,” after “601.”;

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

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

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

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

(4) in paragraph (4)—

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

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

(C) by adding at the end the following:

“(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.”.

SEC. 05. PERIODIC REVIEW.

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

“§ 610. Periodic review of rules

“(a)(1) Not later than 180 days after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, each agency shall establish a plan for the periodic review of—

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

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

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

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

“(B) continue in effect without change.

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

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

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

“(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

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

“(B) every 9 years thereafter; and

“(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012—

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

“(B) every 9 years thereafter.

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

“(1) the continued need for the rule;

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

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

“(4) the complexity of the rule;

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

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

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

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

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

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

“(C) the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including—

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

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

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

“(A) Congress; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 06. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.

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(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “a covered agency” and inserting “an agency designated under subsection (d)”;

and

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

(2) by striking subsection (d) and inserting the following:

“(d)(1) On and after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, the Environmental Protection Agency, the Bureau of Consumer Financial Protection, and the Occupational Safety and Health Administration of the Department of Labor shall be—

“(A) agencies designated under this subsection; and

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

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

“(A) 3 agencies for the first year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012;

“(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012; and

“(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012.

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, is amended—

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

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

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

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

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

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

(ii) by striking “the agency” and inserting “the Bureau”.

SEC. 07. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

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

SEC. 08. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

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

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 03 of this title, is amended—

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

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

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

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

SEC. 09. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.

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

(1) in subsection (a)—

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

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

(B) by adding at the end the following:

“(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.”; and

(2) in subsection (c)—

(A) by striking “Agencies shall report” and all that follows through “the scope” and inserting “Not later than 2 years after the date of enactment of the Freedom from Restrictive Excessive Executive Demands and Onerous Mandates Act of 2012, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope”; and

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

SEC. 10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

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

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

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

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

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

“(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including

an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

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

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

(2) by adding at the end the following:

“(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

“(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

“(2) if no submission to the Office of Information and Regulatory Affairs is required—

“(A) a reasonable period before publication of the rule by the agency; and

“(B) in any event, not later than 3 months before the date on which the agency publishes the rule.”.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting “detailed” before “description” each place it appears;

(B) in paragraph (2)—

(i) by inserting “detailed” before “statement” each place it appears; and

(ii) by inserting “(or certification of the proposed rule under section 605(b))” after “initial regulatory flexibility analysis”;

(C) in paragraph (4), by striking “an explanation” and inserting “a detailed explanation”; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting “detailed” before “statement”.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

“(b) The agency shall—

“(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

“(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.”.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

“(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.”.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking “statement providing the factual” and inserting “detailed statement providing the factual and legal”.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

“§ 607. Quantification requirements

“In complying with sections 603 and 604, an agency shall provide—

“(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

“(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.”.

SEC. 11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(2) by adding at the end the following:

“(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

“(A) publishing an initial regulatory flexibility analysis for public comment; or

“(B) re-proposing the rule with an initial regulatory flexibility analysis.

“(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

“(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

“(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

“(C) the number of affected small entities for which that cost will be significant.

“(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

“(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

“(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.”.

SEC. 12. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”;

(3) by inserting after paragraph (6) the following:

“(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.”.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended, in the section heading, by striking “Avoidance” and all that follows and inserting the following: “Incorporations by reference and certification.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

“605. Incorporations by reference and certifications.”;

and

(2) by striking the item relating to section 607 inserting the following:

“607. Quantification requirements.”.

SA 2551. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

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

Section 601 of title 5, United States Code, is amended—

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

(2) in paragraph (7)(B), by striking the period at the end and inserting a semicolon;

(3) in paragraph (8)—

(A) by striking “RECORDKEEPING REQUIREMENT.—The” and inserting “the”; and

(B) by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

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

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

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

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

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

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

SA 2552. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

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

Section 601 of title 5, United States Code, is amended—

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

(2) in paragraph (7)(B), by striking the period at the end and inserting a semicolon;

(3) in paragraph (8)—

(A) by striking “RECORDKEEPING REQUIREMENT.—The” and inserting “the”; and

(B) by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

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

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

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

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

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

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

SA 2553. Mr. REID (for Mrs. GILLIBRAND (for herself, Mr. ISAKSON, Mr. CHAMBLISS, and Mr. DURBIN)) proposed an amendment to the bill H.R. 2527, to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Baseball Hall of Fame Commemorative Coin Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On June 12, 1939, the National Baseball Hall of Fame and Museum opened in Cooperstown, New York. Ty Cobb, Walter Johnson, Christy Mathewson, Babe Ruth, and Honus Wagner comprised the inaugural class of inductees. This class set the standard for all future inductees. Since 1939, just one percent of all Major League Baseball players have earned induction into the National Baseball Hall of Fame.

(2) The National Baseball Hall of Fame and Museum is dedicated to preserving history, honoring excellence, and connecting generations through the rich history of our national pastime. Baseball has mirrored our Nation's history since the Civil War, and is now an integral part of our Nation's heritage.

(3) The National Baseball Hall of Fame and Museum chronicles the history of our national pastime and houses the world's largest collection of baseball artifacts, including more than 38,000 three dimensional artifacts, 3,000,000 documents, 500,000 photographs, and 12,000 hours of recorded media. This collection ensures that baseball history and its unique connection to American history will be preserved and recounted for future generations.

(4) Since its opening in 1939, more than 14,000,000 baseball fans have visited the National Baseball Hall of Fame and Museum to learn about the history of our national pastime and the game's connection to the American experience.

(5) The National Baseball Hall of Fame and Museum is an educational institution, reaching 10,000,000 Americans annually. Utilizing video conference technology, students and teachers participate in interactive lessons led by educators from the National Baseball Hall of Fame Museum. These award-winning educational programs draw upon the wonders of baseball to reach students in classrooms nationwide. Each educational program uses baseball as a lens for teaching young Americans important lessons on an array of topics, including mathematics, geography, civil rights, women's history, economics, industrial technology, arts, and communication.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In recognition and celebration of the National Baseball Hall of Fame, the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue the following coins:

(1) \$5 GOLD COINS.—Not more than 50,000 \$5 coins, which shall—

(A) weigh 8.359 grams;

(B) have diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) \$1 SILVER COINS.—Not more than 400,000 \$1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF-DOLLAR CLAD COINS.—Not more than 750,000 half-dollar coins which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half-dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent possible without significantly adding to the purchase price of the coins, the \$1 coins and \$5 coins minted under this Act should be produced in a fashion similar to the 2009 International Year of Astronomy coins issued by Monnaie de Paris, the French Mint, so that the reverse of the coin is convex to more closely resemble a baseball and the obverse concave, providing a more dramatic display of the obverse design chosen pursuant to section 4(c).

SEC. 4. DESIGN OF COINS.

(a) IN GENERAL.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the National Baseball Hall of Fame;

(B) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(b) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year “2014”; and

(3) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(c) SELECTION AND APPROVAL PROCESS FOR OBTAINING DESIGN.—

(1) IN GENERAL.—The Secretary shall hold a competition to determine the design of the common obverse of the coins minted under this Act, with such design being emblematic of the game of baseball.

(2) SELECTION AND APPROVAL.—Proposals for the design of coins minted under this Act may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary. The Secretary shall encourage 3-dimensional models to be submitted as part of the design proposals.

(3) PROPOSALS.—As part of the competition described in this subsection, the Secretary may accept proposals from artists, engravers of the United States Mint, and members of the general public.

(4) COMPENSATION.—The Secretary shall determine compensation for the winning design under this subsection, which shall be not less than \$5,000. The Secretary shall take into account this compensation amount when determining the sale price described in section 6(a).

(d) REVERSE DESIGN.—The design on the common reverse of the coins minted under this Act shall depict a baseball similar to those used by Major League Baseball.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2014.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of \$35 per coin for the \$5 coin.

(2) A surcharge of \$10 per coin for the \$1 coin.

(3) A surcharge of \$5 per coin for the half-dollar coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Baseball Hall of Fame to help finance its operations.

(c) AUDITS.—The National Baseball Hall of Fame shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

SEC. 8. FINANCIAL ASSURANCES.

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

SEC. 9. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in

the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m. in room SR-253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, "Medication and Performance Enhancing Drugs in Horse Racing."

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on July 12, 2012, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on July 12, 2012, at 10:15 a.m. in room SD-406 of the Dirksen Senate Office Building to conduct a hearing entitled, "The Latest Science on Lead's Impacts on Children's Development and Public Health."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 12, 2012, at 9 a.m. to hold a hearing entitled, "Convention on the Rights of Persons with Disabilities (Treaty Doc. 112-7)."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 12, 2012, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled, "Beyond Seclusion and Restraint: Creating Posi-

tive Learning Environments for All Students" on July 12, 2012, at 10:30 a.m. in room SD-106 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 12, 2012, at 10 a.m. to conduct a hearing entitled, "The Future of Homeland Security: The Evolution of the Homeland Security Department's Roles and Missions."

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on July 12, 2012, in room SD-628 of the Dirksen Senate Office Building, at 2:15 p.m., to conduct a hearing entitled "Federal Recognition: Political and Legal Relationship between Governments."

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

COMMITTEE ON THE JUDICIARY

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 12, 2012, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 12, 2012, at 2:30 p.m.

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

DISTRICT OF COLUMBIA SPECIAL ELECTION REFORM ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 448.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 3902) to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time and the Senate proceed to passage of the bill.

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

The bill (H.R. 3902) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Shall the bill pass?

The bill (H.R. 3902) was passed.

Mr. REID. I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

NATIONAL BASEBALL HALL OF FAME COMMEMORATIVE COIN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 2527 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2527) to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that a Gillibrand substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 2553) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the 'National Baseball Hall of Fame Commemorative Coin Act'.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On June 12, 1939, the National Baseball Hall of Fame and Museum opened in Cooperstown, New York. Ty Cobb, Walter Johnson, Christy Mathewson, Babe Ruth, and Honus Wagner comprised the inaugural class of inductees. This class set the standard for all future inductees. Since 1939, just one percent of all Major League Baseball players have earned induction into the National Baseball Hall of Fame.

(2) The National Baseball Hall of Fame and Museum is dedicated to preserving history, honoring excellence, and connecting generations through the rich history of our national pastime. Baseball has mirrored our Nation's history since the Civil War, and is now an integral part of our Nation's heritage.