Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1649

At the request of Mrs. GILLIBRAND, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 1649 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1652

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1652 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1661

At the request of Ms. KLOBUCHAR, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of amendment No. 1661 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEBB (for himself, Mr. REED, and Mr. BROWN of Ohio):

S. 2117. A bill to increase access to adult education to provide for economic growth; to the Committee on Finance.

Mr. WEBB. Mr. President, today I am reintroducing the Adult Education and Economic Growth Act of 2012. This bill will address the critical needs in our workforce by investing in adult education, job training and other workforce programs needed to build a strong and competitive 21st century workforce. I am pleased to be joined in this initiative by Senators JACK REED and SHERROD BROWN. An identical bill has been reintroduced in the House of Representatives by Congressman HINOJOSA.

By almost any measure, our Nation faces a critical need to strengthen existing programs of adult education. Our current adult education system falls short in preparing our people to compete globally. In fact, fewer than 3 million of the 93 million people who could benefit from these services actually receive them.

The U.S. labor market has changed dramatically with the advent of new technology and with the loss of jobs in the manufacturing sector. The need for well-trained and highly skilled workers has increased. At the same time, our adult education system, which should effectively prepare our low-skill workers to meet the demands of this shifting economy, has not kept pace with this changing workforce.

Since 2002, the Federal Government has consistently decreased funding for adult education. In addition, the Nation's primary Federal resource for adult education, job training and employment services, the Workforce Investment Act, has not been reauthorized for more than 10 years. Only about one in four adults with less than a high school education participates in any kind of further education or training.

There are other signs pointing to the need for a better approach to adult education. Consider adult education enrollment rates. In 1998 there were more than 4 million individuals enrolled in adult education programs. In 2007, enrollments had dropped to just 2 million. This is a 40 percent drop from when the Workforce Investment Act was originally enacted in 1998.

A growing number of U.S. skilled workers are facing retirement age and the growth in skilled labor force has stagnated. Addressing the looming skills shortage in many sectors and regions in the U.S., through reinvestment in our adult education system, will result in an educated and literate adult population.

According to the Workforce Alliance, 80 percent of jobs in today's economy require some education beyond a high school degree. Yet there are 8 million adults in the workforce who have low literacy, limited English proficiency, or lack educational credentials beyond high school.

With so many workers who are unemployed or underemployed, it is clear that we should invest in the training or re-training of U.S. workers to fill this growing gap.

Our legislation begins the vital task of addressing these problems.

Today, we are proposing a four-pronged approach to strengthen the Nation's workforce. First, we want to build ''on ramps'' for American workers who need new skills and a better education in order to improve their lives. Currently our adult education programs are operating in silos and it is critical that we improve the adult education system through partnerships with businesses and workforce development groups. Just as importantly, we want to encourage employers to help them, by offering tax credits to businesses that invest in their employees. This government has long provided employers with limited tax credits when they help their employees go to college or graduate school. It is basic logic and to the national good, that we should provide similar incentives for basic adult education.

Second, we must modernize the delivery system of adult education by harnessing the increased use of technology in workforce skills training and adult education. The bill provides incentives to states and local service providers to increase their use of technology and distance learning in adult education. Many adult learners cannot afford the time or money to travel to a classroom and deploying technology will help meet this need.

Third, our bill establishes stronger assessment and accountability measures.

This bill authorizes a rather modest $500 million increase in funding to invigorate state and local adult education programs nationwide to increase the number of adults with a high school diploma. As a result, the bill will inevitably increase the number of high school graduates who go on to college, and update and expand the job skills of the U.S. workforce. All of this is relevant to my longstanding personal goal of promoting basic economic fairness in our society.

Other provisions of the Adult Education and Economic Growth Act will improve workers' readiness to meet the demands of a global workforce by providing pathways to obtain basic skills, job training, and adult education.

The act will provide workers with greater access to on-the-job training and adult education by encouraging public-private partnerships between government, business and labor.

The act will improve access to correctional education programs to channel former offenders into productive endeavors and reduce recidivism.

The act will encourage investment in lower skilled workers by providing employers with a tax credit if they invest in their employee's education. This tax credit is aimed at encouraging general and transferable skills development that may be in the long term interest of most employers but are not always so clearly rewarded by the market.

This act focuses on addressing the unique needs of adults with limited basic skills, with no high school diploma, or with limited English proficiency. Those individuals who may have taken a different path earlier in life, and who now find themselves eager to go back to school and receive additional job training and skills, should be provided opportunities to get back on track.

I encourage my colleagues to support this important endeavor. Our Nation's workforce and local communities will be stronger for it.

By Mr. UDALL of Colorado (for himself, Mr. CARPER, Mr. COONS, Mr. FRANKEN, and Mr. UDALL of New Mexico):

S. 2119. A bill to establish a pilot program to address overweight/obesity among children from birth to age 5 in child care settings and to encourage parental engagement; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, today I am introducing the Healthy Kids from Day One Act—a bill that will add another tool to our toolbox for tackling the national epidemic of childhood obesity. Today, about one in three children is either overweight or obese, and nearly 21 percent of our littlest ones—those in preschool—are obese or overweight. This problem has become an epidemic, and I want to thank Senators COONS, CARPER, FRANKEN, and TOM UDALL for joining me in introducing this important legislation.

The Healthy Kids from Day One Act seeks to focus on the childcare setting as a part of our strategy to combat childhood obesity and get kids healthy and moving again. This bill recognizes that in order to reduce the prevalence

of childhood obesity, we must reach children in as many settings as possible and particularly in the places where they live, learn, and play. With 75 percent of U.S. children aged 3 to 5 years in childcare and 56 percent in centers, including nursery schools, preschools, and full-day centers, it makes sense to focus on the preschool and childcare environment. Experts are increasingly acknowledging this setting as critical to obesity prevention. For example, this past October the Robert Wood Johnson Foundation released a research synthesis on how childcare settings can promote healthy eating and physical activity. Furthermore, an article in the January 2012 issue of Pediatrics examined barriers to children's physical activity in childcare.

Childcare providers want to create healthy environments for children but vary in the expertise or resources needed to achieve this goal. This legislation builds on a bill I introduced with Senator FRANKEN in 2010 by supporting the establishment of childcare collaborative workshops at the local level to offer childcare providers the tools, training, and assistance they need to encourage healthy eating and physical activity. This bill supplements some of the work being done right now by the First Lady in her Let's Move Child Care initiative, as it would bring together, in interactive collaborative learning sessions, relevant entities needed for meaningful childhood-obesity prevention.

Obesity has serious health and economic consequences. It puts our children at greater risk of costly but preventable chronic illnesses, such as diabetes, heart disease, and stroke. Obesity also comes at a tremendous cost to our society. The total economic cost is estimated at $300 billion annually, and, as the Nation's youth continues to age, further costs will be added to the national health care system if these trends continue. Obesity also has impacted our ability to recruit healthy, young servicemembers into the military and maintain a strong national defense.

My childhood and much of my adult life has been spent in the great outdoors, and I have tried to bring my enthusiasm for being active and exploring the world around us here to the U.S. Congress as a cochair of the Senate Outdoor Recreation Caucus. I firmly believe that we need to reconnect folks with the idea that being active is fun and rewarding, and it can help us lower health care costs and improve the quality of life here in America.

I would like to thank Nemours, Trust for America's Health, the YMCA of the USA, the American Academy of Pediatrics, and the American Heart Association for working with me to develop this legislation. This bill builds upon their expertise with obesity prevention.

I urge my colleagues to join me in the fight against childhood obesity by supporting this bill.

By Mr. ENZI (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Ms. SNOWE, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, and Mr. WICKER):

S.J. Res. 36. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to representation election procedures; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today after introducing a Congressional Review Act Resolution of Disapproval to stop the National Labor Relations Board's unfair and unnecessary ambush elections rule. I am pleased that 43 fellow Senators have cosponsored this resolution. I know it will draw more support on the Senate floor as people learn the details of the new rule.

This administration's National Labor Relations Board has done a lot of controversial things, but the ambush elections rule stands out because it is a politicized and unjustified effort to make a fair system less fair, and it is being rushed into effect over tremendous objection.

The National Labor Relations Act, which the National Labor Relations Board enforces, is a carefully balanced law that protects the rights of employees to join or not join a union and also protects the rights of employers to free speech and unrestricted flow of commerce.

Since it was enacted in 1935, changes to this statute have been rare. When they do occur, it is the result of careful negotiations with all the stakeholders. Most of the questions that come up under the law are handled through decisions of the board. Board decisions often do change the enforcement of the law significantly, but they are issued in response to an actual dispute and an actual question of law. In contrast, the ambush elections rule is not a response to a real issue because the current election process for certifying whether employees want to form a union is not broken.

This rule was not carefully negotiated by stakeholders. Instead, it was rushed into place over just 6 months, despite the fact that it drew over 65,000 comments in the 2-month period after it was first proposed.

Had the board held the comment period open longer to allow more input from the regulated community, which was clearly quite engaged on the proposal, it would certainly have received even more comments. Yet this relatively small agency reported that it gone through all 65,957 comments in just the 7 weeks they took to release a modified rule, which was then finalized. The rule was finalized just days before the board lost its quorum with the expiration of Member Becker's recess appointment term. Under any circumstances, a rulemaking this hasty looks suspicious. In this case, there is simply no justification for the rush.

Today's secret ballot elections occur in a median timeframe of 38 days. Unions win more than 71 percent of elections—their highest win rate on record. The current system does not disadvantage labor unions at all. But it does ensure there is fairness for the employees whose right it is to make the decision of whether or not to form a union, to pay union dues, and to have some of their dues go into political campaigns and have the full opportunity to hear from both sides about the ramifications of that decision—to have the time to get full disclosure.

There is supposed to be a poster that notifies employees of their right not to have their money go into political campaigns, but this administration has taken that off of the poster so they are no longer informed of that right.

This principle of law has been upheld over nearly seven decades. It was Senator John F. Kennedy who argued during the debate over the 1959 amendments to the law, saying:

> There should be at least a 30-day interval between the request for an election and the holding of an election . . . in which both parties can present their viewpoints.

Frankly, whenever I hear a government decision that aims to limit information available to citizens and depress free speech, I am very concerned. It was that sort of agenda that was behind the card check legislation which was defeated in the Senate. Let me repeat that. It was that sort of agenda that was behind the card check legislation that was defeated in the Senate. I am afraid this rule has been hatched in the same laboratory, and I hope it will meet the same fate.

The ambush elections rule eliminates the 25-day waiting period to conduct elections in cases where a party has filed a preelection request for review. It effectively eliminates the opportunity for parties to voice objections and settle issues before the elections and limits the ability to address them after elections as well.

What are we trying to hide? The effect of these changes will be union certification elections held in as few as 10 days. Union organizers will hand-select members of the bargaining unit, and any review of the appropriateness of the unit makeup or status of employees who may qualify as supervisors will be postponed until after the election—something always done before the election. Employees will be voting on

whether to form a union without any idea of who will actually be in the bargaining unit.

Employers will be caught off guard and potentially flying blind with regard to their rights under the law, particularly small businesses. Union organizers spend months, if not years, organizing and spreading their message to the employees, unbeknownst to the employer. So when a union files a representation petition, employers are already at a significant disadvantage in educating employees about their views on unionization. Employers also use this time to consult with their attorneys to ensure their actions are permissible under the law. Shortening the time period will increase the likelihood that employers will act hastily, opening themselves to unfair labor practice charges that have very severe consequences.

I am particularly concerned about the small businesses that will be ambushed under this rule. Instead of focusing on growing and creating more jobs, they will be swamped with legal issues, with bargaining obligations, a less flexible workforce, and increased costs across the board. Most small businesses likely have no idea about the changes being made by the National Labor Relations Board because the rule was rushed into place so hastily.

Instead of directing the National Labor Relations Board to focus on enforcing current law rather than ambushing small business job creators and their employees, President Obama has stacked the Board with unconstitutional recess appointees and requested a $15 million increase in their budget. He simply doesn't understand. He doesn't get it.

By passing this resolution through both the House and Senate, we will strike a victory for those on the side of job creation and fairness to employees. It will also send a very important message to a runaway agency. Under this administration, the National Labor Relations Board has been more controversial than most observers can ever remember. They have flouted the intentions of Congress repeatedly.

The President has redefined a recess appointment in order to keep it going. There is no law that allowed that. There is no change that has been made that would allow a President to do something different than has ever been done before. But he did it. He redefined the recess appointment in order to keep the Board going.

A few weeks ago, National Labor Relations Board Chairman Pearce announced that he intends to push through even more controversial changes to the elections rules before the end of the year. He is planning to require a mandatory hearing 7 days after a petition is filed. Employers would be forced to file a position statement on important legal questions at the hearing or lose the right to subsequently argue those issues. He plans to require employers to provide personal employee information to union organizers, such as e-mail addresses, within 2 days. Do you think the employees want to be harassed with e-mails? I doubt it. These changes would completely cripple any employer's ability to have a voice in the decisionmaking process, let alone a small employer's.

Enacting a resolution of disapproval of the ambush elections rule would prevent Chairman Pearce from promulgating these destruction changes. It would not roll back any rights or privileges, it would simply return these workplace rules to current law. Current law. Not current rule, current law. It just returns it to the workplace rules we have under current law. I will remind my colleagues that current law is a fair system under which employees retain the right to decide by secret ballot election whether to form a union. Elections occur in a median of 38 days, and unions win 71 percent of the elections.

I ask unanimous consent to have printed in the RECORD letters of support from a number of groups.

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

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, February 16, 2012.

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

DEAR SENATOR ENZI: On behalf of the National Association of Manufacturers (NAM), I am writing to express manufacturers' strong support for S.J. Res. 36, the ''Resolution of Disapproval'' of the National Labor Relations Board's (NLRB) rule relating to representation election procedures.

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM's mission is to enhance the competitiveness of the manufacturing economy by advocating policies that are conducive to U.S. economic growth.

The NLRB's rule relating to representation election procedures, finalized in December, represents one of many recent actions and decisions made by the NLRB, stifling economic growth and job creation. These actions would burden manufacturers with harsh rules, making it harder to do business in the United States. The rule would limit what issues and evidence can be presented at a pre-election hearing, potentially leaving important questions unresolved until after an election has taken place, making these questions moot.

Furthermore, the rule would also eliminate the current 25–day ''grace period,'' compressing the time frame for elections to occur in approximately 20 days. Business owners would effectively be stripped of legal rights ensuring a fair election and those who lack resources, or in house legal expertise, will be left scrambling to navigate and understand complex labor processes with too little time. Moreover, employees will be denied the ability to make fully informed decisions about whether they want to join a union. Finally, the NLRB has not provided any evidence such a rule is needed in order to address a systematic problem of representation election delays. Absent any justification, the NAM believes the rule is unnecessary and will create problems where none currently exist.

S.J. Res. 36 would send a strong message to the NLRB and rein in the agency, whose actions have resulted in the most dramatic changes to labor law in 75 years, threatening the ability of business owners to create and retain jobs. We look forward to continuing to work with you on our shared goals for a strong economy, job creation and promoting fair and balanced labor laws.

NLRB REPRESENTATION ELECTION STATUS THROUGH THE YEARS

Fiscal year	Cases	Election agreement %	Median days	56-day %
2011				
2010	1790	92.1	38	95.1
2009	1690	91.9	37	95.5
2008	2085	91.8	38	95.1
2007	2080	91.2	39	93.9
2006	2296	91.1	38	94.2
2005	2715	89	39	93.6
2004	2537	89	39	93.6
2003	2659	88.5	40	92.5
2002	2871	86.1	41	91
2001	2842	88.2	40	N/A
10 year Average	2356	89.9	38.9	93.8

NATIONAL RESTAURANT ASSOCIATION,
February 15, 2012.

MICHAEL B. ENZI,
Ranking Member, Senate Health, Education, Labor, & Pensions,Washington, DC.

DEAR SENATOR ENZI: We write on behalf of the National Restaurant Association to commend you on your leadership urging the use of the Congressional Review Act (CRA) to challenge the National Labor Relations Board's (NLRB) decision to issue ''ambush election'' regulations. These regulations make it more difficult for small businesses to respond and educate their employees during union election campaigns.

The ambush election regulations would, in practice, deny employees' proper access to information on unions, while restricting employers' rights of free speech and due process. Specifically, the ambush election regulations restrict an employer's ability to raise substantive issues and concerns prior to a union election, such as allowing the NLRB

to limit the issues raised at a pre-election hearing and preventing an employer from raising objections to the size and scope of a unit.

The ambush election regulations would also eliminate the requirement that a union election not be held within 25 days after a hearing judge rules on pre-election matters. As NLRB Board Member Brian Hayes points out, the intent of the ambush election regulations is to ''eviscerate an employer's legitimate opportunity to express its views about collective bargaining.''

We praise your leadership on this issue and look forward to assisting you as this matter moves toward a floor vote in the US Senate.

Sincerely,

ANGELO I. AMADOR, ESQ.,
Vice President Director, Labor & Workforce Policy.
MICHELLE REINKE NEBLETT,
Director, Labor & Workforce Policy.

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
February 16, 2012.

The Hon. MICHAEL B. ENZI,
U.S. Senate,
Washington, DC.

DEAR SENATOR ENZI: On behalf of Associated Builders and Contractors (ABC), a national association with 74 chapters representing more than 22,000 merit shop construction and construction-related firms, I am writing to thank you for introducing S.J. Res. 36, which provides for congressional disapproval and nullification of the National Labor Relations Board's (NLRB) rule related to representation election procedures. ABC supports S.J. Res. 36 and urges Congress to immediately pass this much-needed resolution, which will nullify the ambush election proposal.

The ambush election rule is nothing more than the Board's attempt to promote the interests of organized labor by effectively denying employees access to critical information about the pros and cons of union representation. Stripping employers of free speech and the ability to educate their employees, the rule poses a threat to both employees and employers.

In August, ABC criticized the NLRB proposed ambush rule that could dramatically shorten the time frame for union organizing elections from the current average of 38 days to as few as 10 days between when a petition is filed and the election occurs. ABC submitted comments to the NLRB stating the proposed rule would significantly impede the ability of construction industry employers to protect their rights in the pre-election hearing process; hinder construction employers ability to share facts and information regarding union representation with their employees; and impose numerous burdens without any reasoned justification on small merit shop businesses and their employees, which constitute the majority of the construction industry. In the largest response on record, the NLRB received more than 70,000 comments regarding the proposal, many of which strongly opposed the changes.

The Board published a final rule on December 22, 2011, with an April 30, 2012 effective date. While it somewhat modified the original proposal, disposing of the rigid seven-and two-day requirements, the final rule is identical in purpose and similar in effect to the August proposal.

At this time of economic challenges, it is unfortunate that the NLRB continues to move forward with policies that threaten to paralyze the construction industry and stifle job growth. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of American workers. We applaud you for introducing S.J. Res. 36 and urge Congress to immediately pass this much-needed resolution.

Sincerely,

GEOFFREY G. BURR,
Vice President, Federal Affairs.

NATIONAL RETAIL FEDERATION,
February 16, 2012.

Hon. MICHAEL B. ENZI,
U.S. Senate, 379A Russell Senate Office Building, Washington, DC.

DEAR SENATOR ENZI: On behalf of the National Retail Federation (NRF), I am writing to you urge your support for the Joint Resolution of Disapproval challenging the National Labor Relations Board's (NLRB) rule on ambush elections. Senator Mike Enzi has introduced this resolution, and NRF urges you to support this legislation.

As the world's largest retail trade association and the voice of retail worldwide, NRF's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the U.S., NRF represents an industry that includes more than 3.6 million establishments and which directly and indirectly accounts for 42 million jobs—one in four U.S. jobs. The total U.S. GDP impact of retail is $2.5 trillion annually, and retail is a daily barometer of the health of the nation's economy.

Senator Enzi's resolution will relieve the serious threat to both employees and employers posed by a recently finalized NLRB rule regarding election timing. The rule, announced December 21, 2011, would drastically change the process for union representation elections and would severely limit worker access to information needed to make an informed decision about whether or not to vote in favor of a union.

The average amount of time that elapses in a NLRB election is presently 37 days. Under the new rule, a vote could happen in as few as fourteen days, leaving an employer little time to prepare for an election. Moreover, since a union can be organizing for an election and talking to employees for up to a year before a formal petition for an election is submitted to the NLRB, the new rule severely tilts the playing field against employers. As a result, the quality and quantity of information available to employees in consideration of the issue will be severely unbalanced; and the rights of employees who do not favor the union position will be undermined.

This action by the NLRB, taken along with a series of other extraordinary rulings over the course of the last nine months, are nothing more than an attempt to impose the Employee Free Choice Act (card-check) on employees and employers through regulation. We urge you to strongly reject this ''backdoor'' card check agenda by a board of unelected bureaucrats and restore balance to the organizing process so that we can start removing the economic uncertainty facing both employers and employees.

NRF is fully behind Senator Enzi's effort, and we urge you to support the Joint Resolution of Disapproval. We look forward to working with the Senate to move this Resolution forward.

Sincerely,

DAVID FRENCH,
Senior Vice President, Government Relations.

COALITION FOR A DEMOCRATIC WORKPLACE,
February 16, 2012.

DEAR SENATORS ENZI AND ISAKSON AND REPRESENTATIVES KLINE, ROE AND GINGREY: On behalf of millions of job creators concerned with mounting threats to the basic tenets of free enterprise, the Coalition for a Democratic Workplace thanks you for introducing S.J. Res. 36 and its companion resolution in the House of Representatives, which provide for congressional disapproval and nullification of the National Labor Relations Board's (NLRB or Board) rule related to representation election procedures. This ''ambush'' election rule is nothing more than the Board's attempt to placate organized labor by effectively denying employees' access to critical information about unions and stripping employers of free speech and dues process rights. The rule poses a threat to both employees and employers. We support S.J. Res. 36 and its House companion and urge Congress to immediately pass these much-needed resolutions, which will nullify the ambush election proposal.

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

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

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

The current election time frames are not only reasonable, but permit employees time to hear from both the union and the employer and make an informed decision, which

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

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

Sincerely,

GEOFFREY BURR,
Chairman.

Mr. ENZI. Mr. President, I look forward to the opportunity to debate this resolution on the floor, and I thank the Senators who have joined me as original cosponsors.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

By Mr. INHOFE:

S.J. Res. 37. A joint resolution to disapprove a rule promulgated by the Administrator of the Environmental Protection Agency relating to emission standards for certain steam generating units; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I want to announce that I introduced a resolution of disapproval just a few minutes ago under the Congressional Review Act.

A lot of people don't know what the Congressional Review Act is, but it is an act that will allow Congress to look at some of the regulations. If there is something they don't believe is in the best interest of the country, they are able to introduce something to rescind that. It would call for a vote, and the vote would be a 51-vote. So it is one that has not been used very much, but it is a measure that would prevent, in this case the Obama EPA, from going through with its Utility MACT.

MACT is the maximum achievable control technology. That is used quite often because there are sometimes requirements in these EPA rules that require different industries to do things where there is no technology available to allow them to get that done. So the Utility MACT is one of the most expensive environmental rules in American history, second only to President Obama's cap-and-trade rules, which he was unable to achieve legislatively. Left untouched, the Utility MACT would destroy over 1 million jobs and cost the American economy billions of dollars.

My CRA, the Congressional Review Act, will be the moment of truth for a majority in this body who understand how harmful the Obama EPA regulatory agenda will be for their constituents. Remember, last year at this time 64 Senators voted in different ways to rein in the EPA's destructive greenhouse gas regulations. I had a bill to take away the jurisdiction from the Environmental Protection Agency to regulate greenhouse gases. It was called the Energy Tax Prevention Act. At the same time, there was another I call a cover vote. Sometimes when you want to tell people at home that you are against something, you can have a less maybe severe vote, and there happens to be a cover vote that takes place.

The bottom line is 64 of the 100 Senators voted to do something about the overregulation that is coming out of the Environmental Protection Agency. That particular one was on the regulation that would be the most expensive of all.

The Utility MACT I am offering the CRA on now is probably the second most expensive. But to refresh your memory, in order to have the EPA have jurisdiction of the greenhouse gases, they had to somehow come up with an endangerment finding. They did, and they based it on the IPCC science that gave rise to the concern that was exposed in climategate. I think everyone understands that was flawed science. But, nonetheless, that is what they used. That is why we were able to get two-thirds of this body to object to the EPA regulating greenhouse gases.

I think the bottom line now is that there are more than a dozen Senate Democrats who have claimed they want to rein in the EPA because they know the devastating impact the Agency's regulatory train wreck will have at home. The Senators understand if their constituents lose their jobs as a result of these overregulations, they might lose their jobs.

So today the Senate can look forward to having one more opportunity to stand up to President Obama's war on affordable energy. They can vote for this CRA which will put a halt to one of the Obama EPA's most expensive and economically destructive rules.

Under the Utility MACT, it would cost American families—and nobody disagrees with this—the range is between $11 billion and $18 billion in electricity rate increases. That is over an 11-percent rate increase on average that it would cost if we were to pass this Utility MACT under the regulations of the utilities. This would send ripple effects throughout the economy, causing approximately 1.4 million net job losses by 2020. And it is not just jobs in the coal industry that would be affected.

Dr. Bernard Weinstein of the Maguire Energy Institute at Southern Methodist University has estimated EPA's air rules could endanger 1 million manufacturing jobs outside of the coal and utility industry losses. Workers recently laid off in Ohio, Kentucky, and West Virginia are feeling the devastating impacts of the rule. Sadly, these lost jobs are all part of Obama's wider war on coal and fossil fuels.

You might remember that he admitted this was his goal in the campaign of 2008 when he said:

> If somebody wants to build a coal-fired plant they can. It's just that it will bankrupt them. And under my plan of a cap-and-trade system, electricity rates would necessarily skyrocket.

When the cap-and-trade failed, Obama began aggressively pursuing these goals through an executive regulatory barrage of unelected bureaucrats. So companies such as Solyndra got big cash payoffs while a regulatory train wreck was unleashed by the EPA to destroy America's fossil fuel industry.

The political climate is much different now than it was in the days when global warming alarmists could bask in their historical gloom-and-doom predictions about the end of the world. Now, President Obama wouldn't dare say anything like that because the American people no longer are buying it. Instead, he has begun touting oil and gas development and saying he is for an all-out, all-of-the-above energy strategy. In an election year, he knows the American people want the hundreds of thousands of jobs and affordable energy prices that come with domestic oil and gas.

But he is clearly still determined to achieve his global warming agenda. His war on affordable energy is moving underneath the radar and wrapped in lies about protecting public health. Make no mistake, the train wreck will achieve all of Obama's global warming objectives, and it will severely undermine our Nation's economy in the process. So I will spend just a moment on that.

When President Obama could not achieve cap-and-trade through legislation, he said he would just do it through regulations. EPA's greenhouse gas regime will cost American families between $300 billion and $400 billion a year. This is important because no one has refuted this. We have gone through the Kyoto convention, and that was a range that was given to us by the Wharton econometrics survey at that time. And several others chimed in—MIT chimed in, CRA chimed in. So the cost of regulating greenhouse gas

would be about $300 billion to $400 billion a year.

When we talk about billions and trillions of dollars, I am like everybody else. I have a hard time seeing how that really affects us. In my State of Oklahoma, I regularly determine each year how many families in my State of Oklahoma are going to file a tax return, and then I do the math. This particular one, at $300 billion a year, would cost each family filing a tax return in my State of Oklahoma about $3,000 a year. Now, that is not just once, that would be every year.

What do you get for it? And this is the thing that I think is important, and the American people finally have caught on. They have admitted that through the EPA, when you ask them if we were to pass one of these things regulating CO_2 through the cap-and-trade legislation that we have defeated, would this reduce greenhouse gases, the answer from the Administrator of the EPA is, no, it wouldn't because this only would affect the United States of America. This isn't where the problem is. China would still be doing its thing, India would be doing its thing, and Mexico.

I have contended if we are regulating these in the United States, it could actually have the effect of increasing the emissions because, as we chase our manufacturing base overseas to find energy, they would be going to countries such as China and India where they don't have the regulatory restrictions we have in this country.

So the Utility MACT is second only to the greenhouse gas regulations in terms of what it would cost, in terms of costing the people in terms of jobs and money. Actually, the regulatory thing would be worse when we are talking about greenhouse gases because under the bills that were introduced starting in 2003—that was the McCain-Lieberman bill, going all the way forward to the Waxman-Markey bill—the assumption has been that they would regulate industries and emitters that were over the 25,000 tons a year.

Now, if we do it through regulation, as they are trying to do it right now, the Clean Air Act has a limit of 250 tons. So we would be talking about regulating virtually every church, school, and hospital in America and not just the very large utilities. So that is where we were on that issue.

On oil, President Obama has been congratulating himself on decreasing the imports of oil from the Middle East, but he fails to mention his policies have been consistently against oil and gas. In fact, he and people in his administration have said they want to do away with fossil fuels. Secretary of Energy Steven Chu said they wanted to ''boost the price of gasoline to the levels in Europe.''

Well, that is $7 or $8 a gallon. Right now we are looking at $4 a gallon, and that is what they want to do. What is their motive? To do away with fossil fuels. He claims to care about energy security, yet he stopped the Keystone Pipeline.

I am very proud of a lot of Senators in here who have talked about it. Senator HOEVEN, for example, is very familiar with it because of the production in his State. We are talking about the sands up in Alberta and bringing them down through the United States. I am interested in this because Cushing, OK, happens to be one of the intersections that is there for the pipeline.

So here is something there is absolutely no reason to do away with except to kill oil because we know the pipeline is going to bring oil down into the United States through, I might say, my State of Oklahoma down to the coast where it can be used. A lot of people don't understand this because they have been told things that, quite frankly, are not true.

In terms of oil, gas, and coal, the United States of America has the largest recoverable reserves in the world. People keep saying over and over again: Well, we only have 3 percent of the reserves. Yet we use 25 percent. Quite frankly, they are talking about proven reserves. You can't get a recoverable reserve until you drill. If they don't let us drill because of the policies of this administration, then, obviously, we would be stuck with just the very small amount we could produce. Nonetheless, it is out there. We are the only country in the world that our politicians don't allow us to explore and recover our own reserves—the only country in the world.

Natural gas. We know it is happening right now. We know in areas like New York and Pennsylvania with the Marcellus debate, we have opportunities we have never had in this country. We have the opportunity to recover more natural gas. When the President made a statement in the State of the Union Message about being supportive of ''all the above,'' talking about natural gas, he slipped in one little statement: Well, we don't want to poison the Earth—or something like that.

What he is talking about is they have spent countless hours trying to regulate a process called hydraulic fracturing—a process that started in my State of Oklahoma in 1949. There has never been a documented case of ground water contamination since they have been using hydraulic fracturing. And we can't get into these tight formations without hydraulic fracturing. It can't be done.

So the President can get by with saying he wants to produce the natural gas we have locally, and at the same time take over the regulation of hydraulic fracturing by the Federal Government. We know what that would mean. I think the best evidence of that is President Obama in his current budget is doubling the funding for the antifracking agenda in the 2013 budget. Nuclear? That is agreed. If we believe in ''all of the above,'' you have to have fossil fuel as coal, oil, and gas, but also nuclear. It is a very important component. It is interesting that only yesterday President Obama sent his Energy Secretary, Steven Chu, to Georgia, to take credit for the 5,800 jobs that will be created when two new nuclear reactors are built there. As Secretary Chu said yesterday:

> In his State of the Union Address, President Obama outlined a blueprint for an American economy that is built to last and develops every available source of American energy. Nuclear power is an important part of that blueprint.

Yes, nuclear power is so important that President Obama forgot to mention it in his very long State of the Union message. To send Secretary Chu to Georgia is kind of ironic, given that Chu is the one who said that nuclear power is the ''lesser of two evils.'' It was the President himself who designated a Chairman of the Nuclear Regulatory Commission who had been leading the antinuclear energy group for quite some time. In fact, Chairman Jaczko tried to delay the progress on licensing the very reactors in Georgia that they went up to try to take credit for.

We see this over and over again.

What does this all mean? President Obama knows he needs to talk the talk on domestic energy because people have caught on. I think people know now that we have the recoverable reserves to be completely free from the Middle East. All we have to do in a short period of time is develop our own resources. I know my environmental friends are already saying, about the CRA on the Utility MACT—the NRDC jumped on the story today with the headline ''Let Loose the Defenders of Mercury Poisoning.'' Nothing could be further from the truth.

I remember in 2003 and 2005 when we had the Clear Skies bill. The Clear Skies bill would have had mandatory reductions—keep in mind we are talking about 2003—mandatory reductions on mercury emissions by 70 percent by 2018. It was a matter of a few years from now, that would be reality. Think about it, 6 years from now we would already have a 70-percent reduction if the Democrats had not stopped the bill. The reason they did is because we refused—we want to have SO_X, NO_X, and mercury, which are the real pollutants, reduced and reduced in a rapid fashion, faster than President Clinton or anybody else has tried to do it. They held it hostage because they also wanted CO_2 included in it, so we got none of the above as a result of it.

The EPA's Utility MACT is designed to destroy jobs by killing off the coal industry. EPA admits itself that the Utility MACT rule would cost an unprecedented $11 billion to implement. Of course these costs will come in the form of higher electricity rates for every American. Importantly, the EPA also admits that the $11 billion in costs will yield a mere $6 billion in direct benefits.

Do the math. It means the agency has by its own admission completely

failed the cost-benefit test. It has the advantage of reducing emissions without killing jobs and the Utility MACT would do little for the environment but destroy millions of jobs. Why did Clear Skies fail? As I said, it was held hostage because they didn't want us to just lose SO_X, NO_X, and mercury, the real pollutants. They wanted to include CO_2.

Before Obama's decision to halt the ozone rule, which would have put hundreds of thousands of jobs at risk, then-White House Chief of Staff Bill Daley asked: What are the health impacts of unemployment?

That is a good question. What are the health impacts of skyrocketing electricity rates which hurt the poor the most? What are the health impacts on children whose parents will lose one of the 1.4 million jobs that will be destroyed by the EPA's rules on powerplants?

The Senate needs to focus on promoting policies that improve our environment without harming our economy. The EPA's Utility MACT does the opposite. My CRA, I think, is one of the things about which they say: You will never get it done. I have criticized people for bringing a Congressional Review Act up against regulations where I know the votes are not there. It takes just 51 votes. The reason I think the votes should be here now is if the people at home care enough to put the pressure on. That is exactly what happened on the ozone requirements. They said the President was committed to ozone changes. He changed his mind because of that.

Remember the farm dust rule? The President was going to have a farm dust rule on emissions that would hit the air. I always remember, I had a news conference in my State of Oklahoma, in the western part of the State. We had a couple of people there from Washington who had never been west of the Mississippi. We got down there in this area of Oklahoma. We were talking about farm dust. I said: You see this brown stuff down here? That is dirt. You see that round green thing? That is cotton. Hold your finger up in the air—that is wind. Are there any questions?

There is no technology to do that, yet the expense to each of my farmers in a farm State like Oklahoma would have been hundreds of thousands of dollars a year and not accomplishing anything. We were able to get the public to write in to complain about that. As a result of that, the President pulled back.

I hope enough people are concerned about Utility MACT and its devastating effect on our economy and on jobs in America that they will join in and apply the pressure necessary to help the people in this Chamber understand that we should pass this Congressional Review Act and do away with this particular, very harmful regulation that is before us.

I have often said—a lot of people do not understand this—but Presidents are the ones who put the budgets down every year. A lot of times they try to blame the House or Senate, Democrats or Republicans. No. It doesn't matter. Who is in the White House, they are the ones who determine what the budget is. During the Bush years there was a total of $2 trillion of deficits in 8 years. However, after this budget came out last week, in the Obama 4 years the increase has been, in deficits, $5.3 trillion. That is $5.3 trillion in 4 years as opposed to $2 trillion in 8 years.

As bad as that is, I contend that the regulations of this administration are actually more expensive to the American people than servicing this debt. So I think it is important that we talk about this, talk about not just Utility MACT but all of these. Utility MACT is where we should draw the line, however, because that is one that directly affects our ability to provide energy for America, for our manufacturing jobs. We are right now a little bit under 50 percent dependent upon coal for our ability to run this machine called America. If you do this, we would lose, it is anticipated, 20 percent of our generation capacity and that translates into a lot of money, as I have noted.

That is what we have introduced today. I encourage my Democratic and Republican colleagues to join us in passing the CRA.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 379—CONDEMNING VIOLENCE BY THE GOVERNMENT OF SYRIA AGAINST THE SYRIAN PEOPLE

Mr. KERRY submitted the following resolution; from the Committee on Foreign Relations; which was placed on the calendar:

S. RES. 379

Whereas the Syrian Arab Republic is a party to the International Covenant on Civil and Political Rights (ICCPR), adopted at New York December 16, 1966, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

Whereas Syria voted in favor of the Universal Declaration of Human Rights, adopted at Paris, December 10, 1948;

Whereas, in March 2011, peaceful demonstrations in Syria began against the authoritarian rule of Bashar al-Assad;

Whereas, in response to the demonstrations, the Government of Syria launched a brutal crackdown, which has resulted in gross human rights violations, use of force against civilians, torture, extrajudicial killings, arbitrary executions, sexual violence, and interference with access to medical treatment;

Whereas the United Nations, as of January 25, 2012, estimated that more than 5,400 people in Syria have been killed since the violence began in March 2011;

Whereas, on February 4, 2012, President Barack Obama stated that President Bashar al-Assad ''has no right to lead Syria, and has lost all legitimacy with his people and the international community'';

Whereas the Department of State has repeatedly condemned the Government of Syria's crackdown on its people, including on January 30, 2012, when Secretary of State Hillary Clinton stated ''The status quo is unsustainable. . .The longer the Assad regime continues its attacks on the Syrian people and stands in the way of a peaceful transition, the greater the concern that instability will escalate and spill over throughout the region.'';

Whereas President Obama, on April 29, 2011, designated 3 individuals subject to sanctions for humans rights abuses in Syria: Mahir al-Assad, the brother of Syrian President Bashar al-Assad and brigade commander in the Syrian Army's 4th Armored Division; Atif Najib, the former head of the Political Security Directorate for Daraa Province and a cousin of Bashar al-Assad; and Ali Mamluk, director of Syria's General Intelligence Directorate;

Whereas, on May 18, 2011, President Obama issued an executive order sanctioning senior officials of the Syrian Arab Republic and their supporters, specifically designating 7 people: President Bashar al-Assad, Vice President Farouk al-Shara, Prime Minister Adel Safar, Minister of the Interior Mohammad Ibrahim al-Shaar, Minister of Defense Ali Habib Mahmoud, Head of Syrian Military Intelligence Abdul Fatah Qudsiya, and Director of Political Security Directorate Mohammed Dib Zaitoun;

Whereas President Obama, on August 17, 2011, issued Executive Order 13582, blocking property of the Government of Syria and prohibiting certain transactions with respect to Syria;

Whereas, on December 1, 2011, the Department of the Treasury designated 2 individuals, Aus Aslan and Muhammad Makhluf, under Executive Order 13573 and 2 entities, the Military Housing Establishment and the Real Estate Bank of Syria, under Executive Order 13582;

Whereas, on May 6, 2011, the European Union's 27 countries imposed sanctions on the Government of Syria for the human rights abuses, including asset freezes and visa bans on members of the Government of Syria and an arms embargo on the country;

Whereas, on November 12, 2011, the League of Arab States voted to suspend Syria's membership in the organization;

Whereas, on December 2, 2011, the United Nations Human Rights Council passed Resolution S-18/1, which deplores the human rights situation in Syria, commends the League of Arab States, and supports implementation of its Plan of Action;

Whereas the League of Arab States approved and implemented a plan of action to send a team of international monitors to Syria, which began December 26, 2011;

Whereas, on January 28, 2012, the League of Arab States decided to suspend its international monitoring mission due to escalating violence within Syria;

Whereas, on February 4, 2012, the Russian Federation and People's Republic of China vetoed a United Nations Security Council Resolution in support of the League of Arab States' Plan of Action;

Whereas, on February 14, 2012, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate that Syria ''is a much different situation than we collectively saw in Libya,'' presenting a ''very different challenge'' in which ''we also know that other regional actors are providing support'' as a part of a ''Sunni majority rebelling against an oppressive Alawite-Shia regime'';

Whereas the Governments of the Russian Federation and the Islamic Republic of Iran