

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Utility Energy Service Contracts Improvement Act of 2013”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Federal government is the largest consumer of energy in the United States;

(2) Federal agencies are expected to meet, by law, Executive order, and mandate, stringent energy efficiency and conservation targets;

(3) the utility energy service contract (referred to in this section as “UESC”) was developed to provide Federal agencies an effective means to implement energy efficiency, renewable energy and water efficiency projects, and has been used successfully to invest nearly \$2,700,000,000 in property at Federal facilities;

(4) the General Services Administration, which manages more than 9,600 Federal properties and is the lead agency for procuring utility services for the Federal government, has determined that UESCs may extend beyond a 10-year period under the law;

(5) the Federal Energy Management Program, which oversees the UESC program and is a principal office guiding agencies to use funding more effectively in meeting Federal and agency-specific energy and resource management objectives, has determined that UESCs may extend beyond a 10-year period under the law;

(6) extensive precedent exists for Federal agencies to contract for energy saving services using contracts with term limits of more than 10 years but not to exceed 25 years;

(7) a number of Federal agencies, contrary to congressional intent, have sought to limit UESC term limits to periods of less than 10 years; and

(8) greater flexibility with UESCs will help reduce the operational cost of Federal agencies, ultimately saving money for taxpayers.

**SEC. 3. UTILITY ENERGY SERVICE CONTRACTS.**

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding after section 553 (42 U.S.C. 8259b) the following:

**“SEC. 554. UTILITY ENERGY SERVICE CONTRACTS.**

“(a) IN GENERAL.—Each Federal agency may use, to the maximum extent practicable, measures provided by law to meet energy efficiency and conservation mandates and laws, including through utility energy service contracts.

“(b) CONTRACT PERIOD.—The term of a utility energy service contract entered into by a Federal agency may have a contract period that extends beyond 10 years, but not to exceed 25 years.

“(c) REQUIREMENTS.—The conditions of a utility energy service contract entered into by a Federal agency shall include requirements for measurement, verification, and performance assurances or guarantees of the savings.”.

By Mr. REED (for himself and Mr. GRASSLEY)

S. 1654. A bill to amend the Internal Revenue Code of 1986 to deny tax deductions for corporate regulatory violations; to the Committee on Finance.

Mr. REED. Mr. President, today I am introducing, along with Senator GRASSLEY, the Government Settlement Transparency and Reform Act. This bill closes a loophole that allows corporations to reap tax benefits from payments made to the government stemming from settling corporate mis-

deeds. So this bill aims to end the subsidization of illegal corporate behavior by taxpayers.

Corporations accused of illegal activity routinely settle legal disputes with the government out of court because it allows both the company and the government to avoid the time, expense, and uncertainty of going to trial. Under Federal law, money paid to settle corporate civil or criminal penalties is not deductible. But under the tax code, offending companies may often write off any portion of a settlement that is not paid directly to the government as a penalty or fine for violation of the law. Corporations exploit this provision by later characterizing settlement penalties as restitution and a tax-deductible business expense.

I think it is common sense that, for example, a corporation should not agree to pay the government \$500 million in criminal or civil fines and then when they file their taxes count those fines as a business expense and take a tax windfall. Corporations that do this are effectively using taxpayer money to subsidize their illegal behavior. In 2005, the Government Accountability Office found that of the 34 companies and \$1 billion in settlements they examined, 20 companies took a tax deduction for some or all of the money it paid to the government. Those settlements were silent on whether that \$1 billion to the government counted as penalties or restitution. According to GAO, in 2 of those settlements, company representatives said they made a mistake in deducting civil penalty payments totaling \$1.9 million and said they would amend their tax returns.

The Reed-Grassley bill would address these practices by amending 162(f) of the tax code and requiring the government and the settling party to reach pre-filing agreements on how the settlement payments should be treated for tax purposes. The bill also clarifies the rules about what settlement payments are punitive and therefore non-deductible. Furthermore, it increases transparency by requiring the government to file a return at the time of settlement to accurately reflect the tax treatment of the amounts that will be paid by the offending party.

Over a 10 year budget window, this legislation is estimated to raise between \$200 to \$300 million in revenue.

With this legislation we can close this tax loophole that flies in the face of sensible and fair tax policy. The tax code should not be used to subsidize illegal activity by corporations—when a fine is levied that fine should not be construed as a legitimate business expense. Instead, it should be paid in full, with no tax deduction taken.

I want to thank Senator GRASSLEY for working with me on this legislation. I would also thank Chairman BAUCUS who introduced similar legislation in previous Congresses. They have long championed closing this loophole. I urge our colleagues to join us by co-

sponsoring this legislation and seeking its passage.

**SUBMITTED RESOLUTIONS****SENATE RESOLUTION 286—CONGRATULATING ORACLE TEAM USA FOR WINNING THE 34TH AMERICA'S CUP**

Mrs. FEINSTEIN (for herself, Mr. WHITEHOUSE, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 286

Whereas the America's Cup is known as the oldest trophy in sports;

Whereas the United States has long maintained one of the most successful sailing traditions in the world, with its teams having won more America's Cup competitions than those of any other nation;

Whereas the America's Cup was hosted 13 times in New York City between 1870 and 1920, 12 times in Newport, Rhode Island, between 1930 to 1987, and 3 times in San Diego, California, between 1988 and 1995;

Whereas Newport, Rhode Island hosted the inaugural America's Cup World Series Season Championship, the final race in the new AC45 professional circuit in the lead-up to the 2013 finals, and is proud of its America's Cup heritage;

Whereas America's Cup World Series races were also held in San Diego and San Francisco, California;

Whereas on September 25, 2013, in San Francisco, California, Oracle Team USA won the 34th America's Cup, defeating Emirates Team New Zealand 9 races to 8;

Whereas this is the second consecutive America's Cup victory for Oracle Team USA, which previously won the 33rd America's Cup on February 14, 2010 in Valencia, Spain;

Whereas on September 18, 2013, Oracle Team USA had lost 8 of the first 11 races in the America's Cup finals to Emirates Team New Zealand, but refused to give up;

Whereas despite this deficit, skipper James Spithill declared: “We will keep fighting all the way to the end. There is still a lot of racing and I am still convinced that we can win races. We will go out in every single race thinking we can win; we have to.”;

Whereas beginning on September 19, 2013, Oracle Team USA was able to win 7 consecutive races to set up a winner-take-all race on the San Francisco Bay course;

Whereas Oracle Team USA was able to accomplish one of the greatest comebacks in sporting history by winning the final race in decisive fashion and securing their second consecutive America's Cup;

Whereas Ben Ainslie, Darren Bundock, Simon Daubney, Dirk de Ridder, Shannon Falcone, Kinley Fowler, Murray Jones, Rome Kirby, John Kosteccki, Kyle Langford, Jonathan Macbeth, Brian MacInnes, Matthew Mason, Will McCarthy, Matt Mitchell, Joe Newton, Sam Newton, Gilberto Nobili, Philippe Persti, Tom Slingsby, Joe Spooner, Simeon Tienpont, and Brad Webb came together to form one of the most exciting and skilled crews to have ever raced in the America's Cup; and

Whereas the partnership between the City and County of San Francisco and Oracle Team USA owner Larry Ellison produced the most visually stunning and publicly accessible series of races in the history of the America's Cup: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates Oracle Team USA for winning the 34th America's Cup;

(2) recognizes the achievements of all the crew, coaches, and staff who contributed to the victory; and

(3) offers best wishes and support for the team as it prepares to defend its title once again in American waters.

# SENATE RESOLUTION 287—CONGRATULATING THE BOSTON RED SOX ON WINNING THE 2013 WORLD SERIES

Ms. WARREN (for herself, Mr. MARKEY, Mr. REED, Mr. WHITEHOUSE, Mr. MURPHY, Mr. LEAHY, Ms. AYOTTE, Mr. SANDERS, Mrs. SHAHEEN, Mr. KING, and Mr. BLUMENTHAL) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas, on October 30, 2013, the Boston Red Sox won the 2013 World Series by defeating the St. Louis Cardinals;

Whereas the Boston Red Sox won the World Series before the Fenway Faithful for the first time since 1918, igniting the city with pride;

Whereas the St. Louis Cardinals demonstrated sportsmanship, skill, and perseverance;

Whereas the St. Louis Cardinals are recognized for their phenomenal effort and success throughout the 2013 baseball season, posting a record of 97-65 and winning their fourth National League pennant in 10 years;

Whereas Boston's victory marks their third world title in 10 years and their 8th world title in the treasured and beloved Red Sox team's 113-year history;

Whereas the Red Sox players and staff showed the most advanced skill, heart, and grit through the entire regular season and postseason, winning the American League Division Series, the American League Championship Series, and the World Series;

Whereas the Red Sox made history and showed tremendous resilience in becoming the first team to win the World Series after losing at least 93 games the previous year;

Whereas the 2013 team will be remembered for the inspiration they drew from the city of Boston, the joy they brought to the city and the region, and their embodiment of "Boston Strong";

Whereas the Red Sox players' beards will be remembered as a symbol of the 2013 Boston Red Sox's spirit and unity;

Whereas the Red Sox World Series victory paid tribute to former Red Sox legends, including Bobby Doerr, Joe Cronin, Johnny Pesky, Carl Yastrzemski, Ted Williams, Carlton Fisk, and Jim Rice;

Whereas Red Sox manager John Farrell has won his first World Series title at the helm of the Red Sox and assembled one of the greatest Red Sox teams of all time;

Whereas David Ortiz, a vital Red Sox and member of the 2004 and 2007 World Series championship teams and with 103 runs-batted-in (RBIs) during the season, was recognized as the Most Valuable Player in the 2013 World Series, batting .688, hitting two critical home runs, and cementing his reputation as one of the greatest postseason performers in baseball history;

Whereas John Lackey and Clay Buchholz dominated opposing batters throughout the American League Championship, and Jon Lester had an overpowering performance in Game 5 of the World Series, tying the Red Sox post-season record for wins with six;

Whereas Koji Uehara delivered unmatched relief pitching performances throughout the regular season, earning 21 saves with just a 1.09 earned run average and silenced opposing hitters during the playoffs;

Whereas Mike Napoli blasted a game-deciding home run in game 3 of the American League Championship Series and produced key hits and leadership for the Red Sox throughout the World Series;

Whereas Shane Victorino solidified his legend in postseason baseball lore by blasting a grand slam that drove the Red Sox past the Detroit Tigers in game 6 of the American League Championship Series, hitting a three run double in the World Series-clinching win at Fenway Park, and earning a Gold Glove award for his stellar performance in right field;

Whereas Dustin Pedroia, a sure-handed fielder, was awarded the Gold Glove for his unshakeable defensive play at second base during the 2013 regular season, provided relentless leadership in the Red Sox clubhouse, and set an example for countless young baseball fans across our country;

Whereas the Boston Red Sox were led to the World Series by the determination of every Red Sox player this season, including Alfredo Aceves, Quintin Berry, Xander Bogaerts, Craig Breslow, Clay Buchholz, Mike Carp, Ryan Dempster, Jonathan Diaz, Felix Doubront, Stephen Drew, Jacoby Ellsbury, Jonny Gomes, Brock Holt, John Lackey, Ryan Lavarney, Jon Lester, Will Middlebrooks, Franklin Morales, Mike Napoli, Daniel Nava, Jake Peavy, Dustin Pedroia, David Ortiz, David Ross, Jarrod Saltalamacchia, Junichi Tazawa, Koji Uehara, Shane Victorino, and Brandon Workman;

Whereas Red Sox owners John Henry and Tom Werner and Red Sox president and chief executive officer Larry Lucchino and general manager Ben Cherington deserve credit for building on the success of the 2004 and 2007 World Championship teams;

Whereas Bill James, the father of modern statistical analysis of baseball and a pioneer in the sabermetric movement, won his third World Series as a member of the Red Sox staff;

Whereas the Boston Red Sox have been serving charities throughout New England, including the "Jimmy Fund" of the Dana-Farber Cancer Institute for 60 years and joining the fight against cancer; and

Whereas fans of the Red Sox, not only in Boston or New England but across the world, join together to triumphantly celebrate the win after mourning the tragic events of the 2013 Boston Marathon earlier this year; and

Whereas the Fenway Faithful and Red Sox Nation thank the Red Sox organization for their loyalty to the city and delivery of the 2013 World Series title: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates—

(A) the Boston Red Sox for bringing the World Series title back to Boston, and the players, manager, coaches, support staff, and owners whose dedication, commitment, and spirit made this season a historic success; and

(B) the St. Louis Cardinals for their accomplishments and dedication during the 2013 season and in winning the National League Championship; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Red Sox manager John Farrell;

(B) Red Sox general manager Ben Cherington;

(C) Red Sox president and chief executive officer Larry Lucchino;

(D) Red Sox principal owner John Henry; and

(E) Red Sox chairman Tom Werner.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MARKEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 5, 2013, at 10 a.m., to conduct a hearing entitled "Housing Finance Reform: Protecting Small Lender Access to the Secondary Mortgage Market."

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. MARKEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 4, 2013, at 2:30 p.m., to hold a hearing entitled "Convention on the Rights of Persons with Disabilities".

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

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MARKEY. 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 on November 5, 2013, at 10 a.m. in room SD-106 of the Dirksen Senate Office Building, to conduct a hearing entitled "The Online Federal Health Insurance Marketplace: Enrollment Challenges and the Path Forward."

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

### SELECT COMMITTEE ON INTELLIGENCE

Mr. MARKEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 5, 2013, at 2:30 p.m.

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

### SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY

Mr. MARKEY. Mr. President, I ask unanimous consent that the Aviation Operations, Safety, and Security Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 5, 2013, at 2:30 p.m. in room SR-253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, "The U.S. Aviation Industry and Jobs: Keeping American Manufacturing Competitive."

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

### SUBCOMMITTEE ON BANKRUPTCY AND THE COURTS

Mr. MARKEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Bankruptcy and the Courts, be authorized to meet during the session of the Senate, on November 5, 2013, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Changing the