

“(2) ALLOCATIONS.—

“(A) CONSERVATION AND MANAGEMENT PLANS.—Not less than 80 percent of the amount made available under this subsection for a fiscal year shall be used by the Administrator for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (g)(2).

“(B) COMPETITIVE AWARDS.—Not less than 15 percent of the amount made available under this subsection for a fiscal year shall be used by the Administrator for making competitive awards under subsection (g)(4).”

Mr. WHITEHOUSE. Mr. President, I thank the Senator from Ohio for the way we have worked together. There was a slight toll to be paid on the majority side for getting the National Estuary Program passed, but it was one we could live with, and I think these are both good pieces of legislation. I am glad we were able to pass them together.

If I could just briefly read from an editorial that was recently published by the *Westerly Sun*. *Westerly* is one of Rhode Island's cities. The area that *Westerly* is in is called South County, RI. There is a South County coastkeeper whose name is David Prescott, and he went out in a boat that belongs to an environmental group in Rhode Island called Save the Bay. He took some press folk down the Pawcatuck River with elected leaders from both Rhode Island and Connecticut.

I will read from the editorial:

Prescott shared a jarful of smelly green algae from the bottom of Little Narragansett Bay to illustrate how lawn fertilizer, engine oil and all manner of interesting items flushed down storm drains end up below the surface of what appears to be a bucolic setting around Watch Hill, Napatree Point and Sandy Point.

“If we went further up the watershed, we would actually see stuff that came right off the land, down the stormwater outfalls,” Prescott said. “This is the stuff that we know is in our developed areas. We see stuff such as oil and gas and grease and sand and trash and dog waste, and guess where it ends up? Eventually, it ends up here in the Pawcatuck River estuary and into Little Narragansett Bay.”

Based on his eight-year study of the river and bay area using water sampling, Prescott urged leaders from both states to heed Save the Bay's “call to action,” which would require developing stormwater management plans to better filter runoff, ensuring septic systems are regularly tested, encouraging homeowners to reduce or eliminate use of lawn fertilizers and pesticides, and enforcing “no-discharge” laws.

The newspaper concluded:

The Wood-Pawcatuck watershed, from Worden's Pond in South Kingstown to Watch Hill, filters the water in our aquifers and provides a quality of life many envy. We need to protect all aspects of our watershed and treat the Pawcatuck River and Little Narragansett Bay with more respect than has been shown over the decades.

I thank the *Westerly Sun* for those thoughts. I think they are very helpful. I am glad to have the chance to put them here into the record on the Senate floor.

The reason I read this is because the work of doing that upland planning

that allows an estuary to be clean for swimming, fishing, boating, and all of the things that Rhode Islanders and our summer visitors enjoy, is through this National Estuary Program. It shows the common link of the algae problem David Prescott referred to with the algae problem Senator PORTMAN has seen in Ohio.

I thank DAVID VITTER, the Senator from Louisiana, for his cosponsorship of this and for his work to get this through the Environment and Public Works Committee with me. I also thank SHERROD BROWN for cosponsoring this legislation.

If I am not mistaken, there is the Old Woman Creek National Estuarine Research Reserve in Ohio, and this will help support the work of the Old Woman Creek National Estuarine Reserve. This is in Huron, OH, on the south-central shore of Lake Erie. It is one of Ohio's few remaining examples of a natural estuary that transitions between land and water, with a variety of habitats, from marshes and swamps, to upland forests, open water, tributary streams, barrier beach, and near shores of Lake Erie.

I am pleased both of these measures have been able to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I would like to thank my colleague from Rhode Island. I was in support of his legislation. I am glad we got both bills done, and I appreciate the fact that my colleagues on both sides of the aisle realize the urgency of dealing with this blue-green algae issue, which in many cases has become a toxic algal bloom that affects our drinking water, affects recreation, and affects fishing, and it is a significant issue in my State and others.

CYBERSECURITY INFORMATION SHARING ACT OF 2015—MOTION TO PROCEED—Continued

TAX CODE REFORM

Mr. PORTMAN. Mr. President, if I could, I want to report on something that happened this week. I see that the chair of the Finance Committee, Senator HATCH, is here, and he is aware of this. This week we had a bipartisan hearing of the Permanent Subcommittee on Investigations on an issue that is also urgent. It is one that is imminent because right now many U.S. companies are leaving our shores. This means that jobs and investments are leaving America and going to other countries. It is something all of us should be concerned about because it is rapidly accelerating. It is because of one simple reason: Washington, DC, refuses to reform our outdated and antiquated Tax Code. It is Washington's fault. Unfortunately, the brunt of it is being borne by workers across our country.

I would like to put into the RECORD my statement with regard to this hear-

ing. It was a hearing where we were able to hear directly from companies about the impact of the Tax Code. We were able to bring in companies that have left the United States, requiring them to determine why they left. Unfortunately, it was eye-opening to the point that it requires us to deal with our broken Tax Code if we are going to retain jobs in this country, keep investment in this country, and be able to attract more jobs and investment to deal with our historically weak recovery in which we currently find ourselves.

Mr. President, I wish to address an issue that is critical to unleashing job creation and boosting wages in this country—and that is the need to reform our broken, outdated tax code.

This Congress, I took on a new role as chairman of the Senate's main investigative panel, the Permanent Subcommittee on Investigations, PSI, where I serve alongside my colleague Senator CLAIRE MCCASKILL, the subcommittee's ranking member. Last week, PSI held a hearing specifically concerning how the U.S. tax code affects the market for corporate control. It is a topic that involves the jargon of corporate finance, but the impact is measured in U.S. jobs and wages. We see headlines every week about the loss of American business headquarters—more often than not, to a country with a more competitive corporate tax rate, it is not hard to find one, and territorial system of taxation.

Our tax code makes it hard to be an American company, and it puts U.S. workers at a disadvantage. At a 39 percent combined State and Federal rate, the United States has the highest corporate rate in the industrialized world. To add insult to injury our government taxes American businesses for the privilege of reinvesting their overseas profits here at home.

Economists tell us that the burden of corporate taxes falls principally on workers—in the form of lower wages and fewer job opportunities. I am afraid this has helped create a middle-class squeeze that has made it harder for working families to make ends meet. Yet as almost all of our competitors have cut their corporate rates and eliminated repatriation taxes, America has failed to reform its outdated, complex tax code.

As a result, American businesses are headed for the exits, at a loss of thousands of jobs. The unfortunate reality is that U.S. businesses are often much more valuable in the hands of foreign acquirers who can reduce their tax bills. I believe that is one reason why the value of foreign takeovers of U.S. companies doubled last year to \$275 billion, and are on track to surpass \$400 billion this year according to Dealogic, far outpacing the increase in overall global mergers and acquisitions.

We should be very clear that foreign investment in the United States is essential to economic growth—we need more of it. But a tax code that distorts

ownership decisions by handicapping U.S. business is not good for our economy—and that is what we have today. What is happening is that the current tax system increasingly drives U.S. businesses into the hands of those best able to reduce their tax liabilities, not necessarily those best equipped to create jobs and increase wages here at home. That is bad for American workers and bad for our long-term competitiveness as a country.

To better understand the trend and inform legislative debate on tax reform, PSI decided to take a hard look at this issue. Over the past couple months, the subcommittee reviewed more than a dozen recent major foreign acquisitions of U.S. companies and mergers in which U.S. firms relocated overseas. This was a bipartisan project every step of the way with Senator McCASKILL, and I am very grateful for that.

Last week's hearing was the culmination of that work. And we heard directly from both U.S. companies that have felt the tax-driven pressures to move offshore and from foreign corporations whose tax advantages have turbocharged their growth by acquisition.

Among the U.S. business leaders we heard from was Jim Koch, the founder and chairman of Boston Beer Company, maker of Sam Adams. At a U.S. market share between 1 percent to 2 percent each, Sam Adams and Pennsylvania-based Yuengling are actually the first and second largest U.S.-based brewers left. All of the great American beer companies—Miller, Coors, and Anheuser-Busch—are now foreign-owned. And Mr. Koch testified that if we fail to reform our tax code, his company could be next.

He explained that he regularly gets offers from investment bankers to facilitate a sale, at double-digit premiums, to a foreign acquirer who can dramatically reduce his tax bill from the 39 percent rate his company now pays. Mr. Koch said he can decline those attractive offers because he owns a majority of his company's voting shares. But when he is gone, he believes that company will be driven by financial pressure to sell.

We also heard from the longtime CEO of the pharmaceutical company Allergan, David Pyott. Allergan was purchased by the Irish acquirer Actavis last year for \$70 billion after a year-long takeover pursuit by Canadian business, Valeant Pharmaceuticals. Mr. Pyott estimated that foreign acquirers pursuing Allergan had about a \$9 billion valuation advantage over what would have been possible for an American company, "simply because they could reduce Allergan's tax bill and gain access to its more than \$2.5 billion in locked-out overseas earnings." Mr. Pyott testified that Allergan would be an independent American company today if it weren't for our tax code. Instead, Allergan is now headquartered in Ireland and Mr.

Pyott projects that the new ownership will cut about 1,500 jobs, mostly in California.

To better understand the tax-driven advantages enjoyed by foreign acquirers, PSI took a look at Quebec-based Valeant Pharmaceuticals. Over the past 4 years, Valeant has managed to acquire more than a dozen U.S. companies worth more than \$30 billion. The subcommittee reviewed key documents to understand how tax advantages affected Valeant's three largest acquisitions to date, including the 2013 sale of New York-based eye care firm Bausch & Lomb and the 2015 sale of the North Carolina-based drug maker Salix.

We learned that, in those two transactions alone, Valeant determined that it could shave more than \$3 billion off the target companies' tax bills by integrating them into its Canada-based corporate group. Those tax savings meant that Valeant's investments in its American targets would have higher returns and pay for themselves more quickly—two key drivers of the deals. The three recent Valeant acquisitions we studied resulted in a loss of about 2,300 U.S. jobs, plus a loss of about \$16 million per year of contract manufacturing that was moved from the U.S. to Canada and the UK.

Beyond inbound acquisitions, America is also losing corporate headquarters through mergers in which U.S. businesses relocate overseas. The latest news is the U.S. agricultural business Monsanto's proposed \$45 billion merger with its European counterpart Syngenta; a key part of that proposed deal is a new global corporate headquarters—not in the U.S., but in London.

To better understand this trend, the subcommittee examined the 2014 merger of Burger King with the Canadian coffee-and-donut chain Tim Hortons—an \$11.4 billion tie-up that sent Burger King's corporate headquarters north of the border. Our review showed that Burger King had strong business reasons to team up with Tim Hortons. But the record shows that when deciding where to locate the new headquarters of the combined company, tax considerations flatly ruled out the U.S. And it wasn't about the domestic tax rates—it was about international taxation.

At the time, Burger King estimated that pulling Tim Hortons into the worldwide U.S. tax net, rather than relocating to Canada, would destroy up to \$5.5 billion in value over just 5 years—\$5.5 billion in an \$11 billion deal. Think about that. The company concluded it was necessary to put the headquarters in a country that would allow it to reinvest overseas earnings back in the U.S. and Canada without an additional tax hit. They ultimately chose Tim Hortons' home base of Canada because their territorial system of taxation allowed them to do just that.

If there is a villain in these stories, it is the U.S. tax code. And if there is a failure, it is Washington's. Our job is to

give our workers the best shot at competing in the global marketplace and yet we haven't reformed the tax code in decades while other countries have.

That fact is that if Washington fails to reform our tax code, foreign acquirers will do it for us—one American company at a time. And rather than more jobs and higher wages, we will continue to see a loss of U.S.-headquartered businesses and jobs.

With the deck stacked against American companies, I believe the solution is clear. We need a full overhaul of our current tax code. Cut both the individual and corporate rates to 25 percent, pay for the cuts by eliminating loopholes, and move to a competitive international system. Unfortunately, in our current political environment, that is simply not possible to do immediately. However, I do believe that we can take a positive first step towards reform this fall.

A big part of that first step is included in a bipartisan framework for international tax reform that Senator SCHUMER and I released last month. That includes 1) a move to an international tax system that doesn't provide disincentives for companies to bring their money home from overseas to invest in growing their business and hiring more workers; 2) a patent box to keep highly mobile intellectual property and the high-paying jobs that go with developing that property in the U.S.; and 3) sensible base erosion protections that discourage companies from doing business in tax haven jurisdictions.

I believe it should also include a tax extenders package that makes a lot of our current tax extenders permanent. I think that we can all agree that temporary tax policy is bad tax policy—and whether it is giving families certainty that there is going to be a mortgage insurance premium deduction, small businesses certainty that there is going to be expanded section 179 expensing, or innovative companies assurances that there is going to be an R&D credit, I believe that making these policies permanent would provide a big boost to our economy.

In fact, yesterday, the Joint Committee on Taxation found that the short-term extenders package passed by the Senate Finance Committee last month would create \$10.4 billion in dynamic tax revenue. Imagine the growth if those were made permanent?

If we don't start to take steps to reform our code now, I am worried that we are going to turn around in a couple of years and say, "what happened? Where did our jobs go? What happened to the American tax base?" If we do get to that place, we will have no one to blame but ourselves.

I thank the Chair for his indulgence this evening.

I yield back my time.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of Executive Calendar Nos. 272 through 295 and all the nominations on the Secretary's desk in the Air Force, Army, and Navy and that the commerce committee be discharged from further consideration of PN601 and PN641; that all the nominations be confirmed en bloc, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brig. Gen. David S. Baldwin

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Aaron M. Prupas

IN THE ARMY

The following named officer for appointment as the Chief of Staff of the Army and appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3033:

To be general

Gen. Mark A. Milley

IN THE NAVY

The following named officer for appointment as Chief of Naval Operations and appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 5033:

To be admiral

Adm. John M. Richardson

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Christopher P. Azzano

IN THE MARINE CORPS

The following named officer for appointment as Commandant of the Marine Corps and appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 5043:

To be general

Lt. Gen. Robert B. Neller

IN THE AIR FORCE

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Theron G. Davis

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John M. Murray

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Anthony R. Ierardi

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Garrett S. Yee

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Patrick J. Reinert

IN THE NAVY

The following named officer for appointment to the grade of admiral in the United States Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and title 50, U.S.C., section 2511:

To be admiral

Vice Adm. James F. Caldwell, Jr.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Joseph P. Aucoin

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Cedric E. Pringle

IN THE ARMY

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Colonel Brett W. Andersen

Colonel Wallace S. Bonds

Colonel John C. Boyd

Colonel David L. Boyle

Colonel Mark N. Brown

Colonel Robert D. Burke

Colonel Thomas M. Carden, Jr.

Colonel Patrick J. Center
Colonel Laura L. Clellan
Colonel Johanna P. Clyborne
Colonel Alan C. Cranford
Colonel Anita K.W. Curington
Colonel Darrell D. Darnbush
Colonel Aaron R. Dean, II
Colonel Damian T. Donahoe
Colonel John H. Edwards, Jr.
Colonel Lee M. Ellis
Colonel Pablo Estrada, Jr.
Colonel James R. Finley
Colonel Thomas C. Fisher
Colonel Lapthe C. Flora
Colonel Michael S. Funk
Colonel Michael J. Garshak
Colonel Harrison B. Gilliam
Colonel Michael J. Glisson
Colonel Wallace A. Hall, Jr.
Colonel Kenneth S. Hara
Colonel Marcus R. Hatley
Colonel Gregory J. Hirsch
Colonel John E. Hoefert
Colonel Lee W. Hopkins
Colonel Lyndon C. Johnson
Colonel Russell D. Johnson
Colonel Peter S. Kaye
Colonel Jesse J. Kirchmeier
Colonel Richard C. Knowlton
Colonel Martin A. Lafferty
Colonel Edwin W. Larkin
Colonel Bruce C. Linton
Colonel Kevin D. Lyons
Colonel Robert B. McCastlain
Colonel Mark D. McCormack
Colonel Marshall T. Michels
Colonel Michael A. Mitchell
Colonel Shawn M. O'Brien
Colonel David F. O'Donahue
Colonel John O. Payne
Colonel Troy R. Phillips
Colonel Rafael A. Ribas
Colonel Edward D. Richards
Colonel Hamilton D. Richards
Colonel John W. Schroeder
Colonel Scott C. Sharp
Colonel Cary A. Shillcutt
Colonel Bennett E. Singer
Colonel Raymond G. Strawbridge
Colonel Tracey J. Trautman
Colonel Suzanne P. Vares-Lum
Colonel David N. Vesper
Colonel Clint E. Walker
Colonel James B. Waskom
Colonel Michael J. Willis
Colonel Kurtis J. Winstead
Colonel David E. Wood

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. Laura L. Yeager

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. William J. Edwards

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brig. Gen. Robert W. Enzenauer

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Randy A. Alewel