States Naval Station, Guantanamo Bay, Cuba, and for other purposes.

S. 168

At the request of Mr. ROBERTS, the name of the Senator from Arizona (Mr. FLAKE) was added as a cosponsor of S. 168, a bill to codify and modify regulatory requirements of Federal agencies.

S. 182

At the request of Mr. ROBERTS, the name of the Senator from Kentucky (Mr. PAUL) was added as a cosponsor of S. 182, a bill to amend the Elementary and Secondary Education Act of 1965 to prohibit Federal education mandates, and for other purposes.

S. 209

At the request of Mr. BARRASSO, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 209, a bill to amend the Indian Tribal Energy Development and Self-Determination Act of 2005, and for other purposes.

S. 257

At the request of Mr. MORAN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 257, a bill to amend title XVIII of the Social Security Act with respect to physician supervision of therapeutic hospital outpatient services.

S. 258

At the request of Mr. ROBERTS, the name of the Senator from Indiana (Mr. DONNELLY) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to remove the 96-hour physician certification requirement for inpatient critical access hospital services.

S. 269

At the request of Mr. KIRK, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 269, a bill to expand sanctions imposed with respect to Iran and to impose additional sanctions with respect to Iran, and for other purposes.

S. 271

At the request of Mr. REID, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 271, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 289

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 289, a bill to prioritize funding for an expanded and sustained national investment in biomedical research.

S. 291

At the request of Mr. INHOFE, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 291, a bill to amend the Immigration and Nationality Act to provide for extensions of detention of certain aliens ordered removed, and for other purposes.

S. 301

At the request of Mrs. FISCHER, the names of the Senator from Missouri (Mr. BLUNT), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 301, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of Boys Town, and for other purposes.

S. 316

At the request of Mr. KIRK, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. 316, a bill to amend the charter school program under the Elementary and Secondary Education Act of 1965.

S. 334

At the request of Mr. PORTMAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 334, a bill to amend title 31, United States Code, to provide for automatic continuing resolutions.

S. 338

At the request of Mr. BURR, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 338, a bill to permanently reauthorize the Land and Water Conservation Fund.

S.J. RES. 1

At the request of Mr. VITTER, the name of the Senator from North Carolina (Mr. TILLIS) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve.

S. RES. 63

At the request of Mr. KING, his name was added as a cosponsor of S. Res. 63, a resolution congratulating the New England Patriots on their victory in Super Bowl XLIX.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEE (for himself, Mr. LEAHY, Mr. CORNYN, Mr. MORAN, Mr. GARDNER, Mrs. SHAHEEN, Mr. MERKLEY, and Mr. BLUMENTHAL):

S. 356. A bill to improve the provisions relating to the privacy of electronic communications; to the Committee on the Judiciary.

Mr. LEE. Mr. President, the Electronic Communications Privacy Act was first enacted in 1986. I would ask my colleagues, what were you doing in 1986? Mr. President, 1986 was a long time ago. In 1986 I was in the ninth grade. This was an age when not everyone had a personal computer. My family didn't have a computer. Most of the people I knew who had a computer had something like the Commodore VIC–20, which was a very small computer with very little processing power compared to what we have today. But this law, the Electronic Communications Privacy Act—or ECPA, as it is sometimes known—was and still is an important law with an increasingly important objective; that is, to ensure that government agencies respect the Fourth Amendment in accessing an individual's electronic communications.

In the nearly three decades since ECPA became law, technology has advanced rapidly, dramatically, far beyond the capacity of this particular law, ECPA, to keep up. The prevalence of email and the low cost of electronic data storage have made what were once robust protections vastly insufficient to ensure that citizens' rights are protected with respect to their electronic communications, such as email.

There is no reason we should still be operating under a law written in the analog age when we are living in a digital world. This is a little bit like operating with a DOS-based operating system in the age of much more sophisticated software systems that help us interact relatively seamlessly with our computers. That is why Senator LEAHY and I have come together to craft this truly bipartisan piece of legislation which would modernize ECPA and bring constitutional protections against worthless searches and seizures into harmony with the technological realities of the 21st century.

The Lee-Leahy ECPA Amendments Act of 2015 would prohibit electronic communications or remote computing service providers—such as Gmail or Facebook or Twitter, for example—from voluntarily disclosing the contents of customer emails or other communications. It eliminates the ambiguous and outdated 180-day rule that some government agencies believe grants them warrantless access to the content of older emails. That is any emails older than the very young age of 180 days old. Instead, all requests for the content of electronic communications would require a search warrant—a search warrant required by the Fourth Amendment, a search warrant based on probable cause—and law enforcement agencies would be required to notify within 10 days any persons whose email accounts were searched, subject to some logical and narrow exceptions, of course.

This legislation is also carefully crafted so that it would not impede the ability of law enforcement agencies to conduct legitimate investigative activities consistent with the Fourth Amendment.

I am pleased to say that our bill enjoys very broad support from the technology industry, from privacy advocates, constitutional scholars, and policy groups on both ends of the ideological spectrum in America.

The Lee-Leahy ECPA Amendments Act of 2015 is truly bipartisan in nature. The Senate bill, in addition to Senators LEAHY and myself as the principal sponsors, also has six additional cosponsors. We have Republican Senators CORNYN, MORAN, and GARDNER and Democratic Senators SHAHEEN, MERKLEY, and BLUMENTHAL. I hope and expect that we will have a lot of additional Senators of both political parties who will join us in this effort. The House version of this bill has 228 additional cosponsors—a very critical majority.

By working together as a Democrat from Vermont and a Republican from Utah, we hope all Senators will join with us to pass this meaningful, bipartisan legislation that would benefit all Americans. Congress should pass ECPA reform this year, and President Obama should sign these important privacy reforms into law.

I will end this discussion as I began. What were you doing in 1986? As it relates to your interaction with the digital world with computers, I would imagine that even though your life might be in many respects similar to what it was in 1986, it is very different in the way you interact with computers, with technology, with the online world, which basically no one was even aware of in 1986. Since 1986 the world has changed. We need to change the world to keep up with the times. We need to change the law to hold in place those protections that have been in our Constitution since 1791 to make sure the privacy rights of the American people are respected.

I encourage each of my colleagues to support this bill

Mr. LEAHY. Mr. President, I want to talk about privacy because privacy is not a partisan issue. It never has been, and never should be. Remember, 30 years ago I was in the minority. The Republicans were in the majority and controlled the Senate. It was then that I worked with my colleagues and led the effort to write the Electronic Communications Privacy Act, ECPA.

It required a lot of education because back then, electronic mail was an emerging technology. The World Wide Web was unimaginable. Electronic data storage was astronomically expensive. No one could have envisioned the way mobile technologies would transform our lives. Yet fortunately many of us in Congress had the foresight to anticipate that these new electronic communications would also need privacy protections.

That was 30 years ago. Look at what has changed since then. Now three decades later, that law is out of date. So today the Senator from Utah, Mr. LEE, and I are reintroducing the Electronic Communications Privacy Act Amendments Act of 2015. We want to bring this law into the 21st century. Our legislation is very straightforward. It ensures that the private information that we Americans electronically store in the cloud gets the same protections as the private information we Americans physically store at home. As it did in 1986, I hope the Senate will come together on a bipartisan basis to support these commonsense protections.

All of us have an expectation that the things we store in our house are private. If law enforcement wants access to them, they have to get the proper search warrants. Today, there seems to be an idea that if they are stored electronically, these rules should not apply.

I believe they should.

The bill Senator LEE and I introduced today protects Americans' digital privacy—in their emails and all the other files and photographs they store in the cloud. It promotes cloud computing and other new technologies by building consumer trust. And it also provides law enforcement agencies with the tools they need to ensure public safety.

I would remind my colleagues that several years ago the U.S. Circuit Court of Appeals for the Sixth Circuit found that email was fully protected by the Fourth Amendment. It said that ''the Fourth Amendment must keep pace with the inexorable march of technological progress, or its guarantees will wither and perish.'' This bill takes up that challenge.

Obviously we have technologies today that nobody would have dreamed of just a couple of generations ago. But we have a Constitution that has protected this country for well over 200 years, and we hope it will protect it for hundreds of years into the future. We need to make sure our laws keep up with the protections we Americans expect from our Constitution.

First and most importantly, the bill enshrines in statute the fundamental Fourth Amendment warrant requirement for email, texts, and other electronic data. It requires that the government have a criminal search warrant based on possible cause to obtain the stored content of Americans' email and other electronic communications from third-party providers. This ensures that email communications have the same protections as phone calls and private documents stored in your home.

However, the bill's warrant requirement contains an important exception to address emergency circumstances. It explicitly states that it does not affect current authorities under the Wiretap Act or the Foreign Intelligence Surveillance Act. And it ensures that law enforcement can continue to investigate corporate wrong-doing by using grand jury subpoenas to obtain emails directly from corporate entities when held on their internal systems.

The second major component of the bill requires law enforcement agencies to promptly notify individuals when the government has obtained their emails through their service providers, but permits a delay of that notice to protect the integrity of ongoing investigations—no different from what we do in other law enforcement matters. The bill would also require service providers to notify the government three days before they inform a customer that the provider disclosed their information to the government.

This is not a Republican or Democratic issue, nor is it liberal or conservative. In fact, Senator LEE and I would note that we have a broad coalition of more than 50 privacy, civil liberties, civil rights, and technology industry groups and leaders from across the political spectrum who have endorsed this reform effort. Support spans from the Heritage Foundation and Americans for Tax Reform, to the Center for Democracy and Technology and the ACLU.

Mr. President, I ask unanimous consent to have printed in the RECORD the January 22, 2015, coalition letter in support of the bill.

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

JANUARY 22, 2015.

Hon. CHARLES GRASSLEY,
Chairman,
Senate Judiciary Committee.
Hon. PATRICK J. LEAHY,
Ranking Member,
Senate Judiciary Committee.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER LEAHY: We, the undersigned companies and organizations, are writing to urge speedy consideration of Sen. Leahy's and Sen. Lee's ECPA Amendments Act that we expect will be introduced in the coming weeks. The bill would update the Electronic Communications Privacy Act (ECPA) to provide stronger protection to sensitive personal and proprietary communications stored in ''the cloud.'' The legislation was considered and adopted by a voice vote in the Committee in the 113th Congress.

ECPA, which sets standards for government access to private communications, is critically important to businesses, government investigators and ordinary citizens. Though the law was forward-looking when enacted in 1986, technology has advanced dramatically and ECPA has been outpaced. Courts have issued inconsistent interpretations of the law, creating uncertainty for service providers, for law enforcement agencies, and for the hundreds of millions of Americans who use the Internet in their personal and professional lives. Moreover, the Sixth Circuit Court of Appeals in US v. Warshak has held that a provision of ECPA allowing the government to obtain a person's email without a warrant is unconstitutional.

The ECPA Amendments Act would update ECPA in one key respect, making it clear that, except in emergencies or under other existing exceptions, the government must obtain a warrant in order to compel a service provider to disclose the content of emails, texts or other private material stored by the service provider on behalf of its users.

This standard would provide greater privacy protections and create a more level playing field for technology. It would cure the constitutional defect identified by the Sixth Circuit It would allow law enforcement officials to obtain electronic communications in all appropriate cases while protecting

Americans' constitutional rights. Notably, the Department of Justice and FBI already follow the warrant-for-content rule. It would provide certainty for American businesses developing innovative new services and competing in a global marketplace. It would implement a core principle supported by Digital Due Process, www.digitalidueprocess.org, a broad coalition of companies, privacy groups, think tanks, academics and other groups.–

This legislation has seemingly been held up by only one issue—an effort to allow civil regulators to demand, without a warrant, the content of customer documents and communications directly from third party service providers. This should not be permitted. Such warrantless access would expand government power; government regulators currently cannot compel service providers to disclose their customers' communications. It would prejudice the innovative services that all stakeholders support, and would create one procedure for data stored locally and a different one for data stored in the cloud.

Because of all its benefits, there is an extraordinary consensus around ECPA reform—one unmatched by any other technology and privacy issue. Successful passage of ECPA reform sends a powerful message—Congress can act swiftly on crucial, widely supported, bipartisan legislation. Failure to enact reform sends an equally powerful message—that privacy protections are lacking in law enforcement access to user information and that constitutional values are imperiled in a digital world.

For all these reasons, we strongly urge all members of the Senate Judiciary Committee to support the ECPA Amendments Act.

Sincerely,

ACT—The App Association, Adobe, Amazon, American Association of Law Libraries, American Booksellers for Free Expression, American Civil Liberties Union, American Library Association, Americans for Tax Reform and Digital Liberty, AOL, Apple, Association of Research Libraries, Automattic, Autonet Mobile, Brennan Center for Justice, BSA |, The Software Alliance, Center for Financial Privacy and Human Rights, Center for Democracy & Technology, Center for National Security Studies, Cisco, Competitive Enterprise Institute, Computer & Communications Industry Association, Consumer Action, Council for Citizens Against Government Waste, Data Foundry, Deluxe Corporation, Demand Progress, Direct Marketing Association, Discovery Institute, Distributed Computing Industry Association (DCIA).

Dropbox, eBay, Electronic Frontier Foundation, Engine, Evernote, Facebook, First Amendment Coalition, Foursquare, FreedomWorks, Future of Privacy Forum, Gen Opp, Golden Frog, Google, Hewlett-Packard, Information Technology Industry Council (ITI), Internet Association, Internet Infrastructure Coalition (I2Coalition), Intuit, Less Government, Liberty Coalition, LinkedIn, NetChoice, New America's Open Technology Institute, Newspaper Association of America, Oracle, Personal, R Street, ServInt, SIIA: Software & Information Industry Association, Snapchat, Sonic, Taxpayers Protection Alliance, TechFreedom, TechNet, The Constitution Project, The Federation of Genealogical Societies, Tumblr, Twitter, U.S. Chamber of Commerce, Venture Politics, Yahoo.

Mr. LEAHY. I am also pleased that Senators SHAHEEN, MORAN, CORNYN, MERKLEY, GARDNER, and BLUMENTHAL have joined this effort with Senator LEE and I. I commend them because we do have an opportunity this year to make progress on bipartisan, commonsense legislation to protect the privacy of Americans' email and update our laws to keep pace with technology. And I also congratulate our House partners, Representatives YODER and POLIS, who are introducing this legislation today in the House of Representatives with 228 cosponsors from both parties.

In the last Congress, the Senate Judiciary Committee unanimously supported this bill, Republicans and Democrats alike. We have continued the hard work of building a broad bipartisan coalition in support of this bill. Now is the time to act swiftly to bring our privacy protections into the digital age.

I will continue to work with Senator LEE, Senator CORNYN, Senator MORAN, Senator SHAHEEN, Senator MERKLEY, Senator GARDNER, and Senator BLUMENTHAL on this issue because while I am proud to have them as cosponsors, I am also proud that we are doing the right thing

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By Mrs. FEINSTEIN (for herself, Ms. AYOTTE, Mrs. GILLIBRAND, Mrs. BOXER, Ms. HEITKAMP, Ms. BALDWIN, Mr. BROWN, Ms. MIKULSKI, Ms. STABENOW, Mrs. CAPITO, Mrs. SHAHEEN, Mr. CASEY, Ms. HIRONO, Mrs. MCCASKILL, Ms. WARREN, and Ms. CANTWELL):

S. 370. A bill to require breast density reporting to physicians and patients by facilities that perform mammograms, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, even though we have made great strides in the treatment and diagnosis of breast cancer, this disease continues to be the second leading cause of death for women in the United States.

When women receive their mammography report and it comes out normal, they usually move on with their day thinking everything is just fine. This may be the case, but for women with dense breast tissue this ''normal'' report doesn't capture the whole picture. This is because cancer may still be present and missed on their mammogram because it is obscured by dense breast tissue.

It is vital for women to be told this simple, yet potentially life-saving, information about their own health so they can discuss with their doctor if additional screening makes sense for them. That could be the difference between catching breast cancer early and surviving, or waiting until its too late because you were never told your full medical information.

Even though there is a risk for cancer being missed, when women receive their mammogram report there is currently no federal requirement to include notice that they have dense breast tissue. This is the case even though the radiologist makes that determination upon reading the mammogram

This bill is a simple solution. It requires that women be informed on the mammogram report, that they already receive, if they have dense breast tissue, and that they may want to talk with their doctor if they have questions and if they might benefit from additional screening. Withholding this kind of medical information from women just doesn't make any sense.

This bill doesn't change any state laws. It sets a minimum Federal standard, so any state that wants to have additional reporting requirements may do so. The bill also requires the Department of Health and Human Services to focus on research and improved screening for patients with dense breast tissue. Early detection is the key to beating cancer. Every patient deserves access to their own information, especially when it may be what saves their life.

I want to thank Senator AYOTTE for working with me on this bill. I urge my colleagues to join us, and Senators GILLIBRAND, BOXER, HEITKAMP, BALDWIN, BROWN, MIKULSKI, STABENOW, CAPITO, SHAHEEN, CASEY, HIRONO, MCCASKILL, and WARREN in cosponsoring the Breast Density and Mammography Reporting Act. This bill is supported by organizations including the American Cancer Society Cancer Action Network, Are You Dense Advocacy, Breast Cancer Fund, and Susan G. Komen.

I look forward to working with my colleagues on this important issue.

By Mr. CARDIN (for himself, Ms. COLLINS, Ms. BALDWIN, Mr. COCHRAN, Mr. BLUMENTHAL, Mr. KIRK, Mr. CARPER, Ms. MURKOWSKI, Mr. CASEY, Mr. PORTMAN, Ms. CANTWELL, Mr. COONS, Mr. HEINRICH, Ms. HIRONO, Mr. KING, Mr. LEAHY, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MURPHY, Mr. SANDERS, Mr. SCHUMER, Mr. WYDEN, and Ms. KLOBUCHAR):

S. 375. A bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain qualifying producers; to the Committee on Finance.

Mr. CARDIN. Mr. President, I am pleased to rise today with my friend and colleague, the senior Senator from Maine, Senator COLLINS, to re-introduce the Small Brewer Reinvestment & Expanding Workforce Act of 2015, otherwise known as the Small BREW Act. Our esteemed former colleague, Senator Kerry, now Secretary of State, introduced this bill in the 112th Congress. I was honored to take up the mantel in the 113th Congress.

The Small BREW Act of 2015 would reduce the excise tax on America's craft brewers. Under current Federal law, brewers producing 2 million or fewer barrels annually pay $7 per barrel on the first 60,000 barrels they brew, and $18 per barrel on every barrel thereafter, one barrel = 31 gallons. The Small BREW Act would create a new excise tax rate structure that helps

start-up and small breweries and reflects the evolution of the craft brewing industry. The rate for the smallest packaging breweries and brewpubs would be $3.50 per barrel on the first 60,000 barrels. For production between 60,001 and 2 million barrels, the rate would be $16.00 per barrel. Thereafter, the rate would be $18.00 per barrel. Breweries with an annual production of 6 million barrels or less would qualify for these recalibrated tax rates.

The small brewer threshold and tax rate were established in 1976 and have never been updated. Since then, the largest multinational producer of beer has increased its annual production from 45 million barrels to 97 million barrels domestically and 325 million barrels globally. To put the matter in perspective, the biggest domestic craft brewer produces 2.7 million barrels of beer annually. Raising the ceiling that defines small breweries from 2 million barrels to 6 million barrels more accurately reflects the intent of the original differentiation between large and small brewers in the U.S. Because of differences in economies of scale, small brewers have higher costs for raw materials, production, packaging, and market entry compared to larger, well-established multi-national competitors. Adjusting the excise tax rate would provide small brewers with an additional $67 million each year they could use to start or expand their businesses on a local, regional, or national scale.

This past November, the Joint Committee on Taxation, JCT, estimated the bill would cost $253 million through 2019 and $641 million over 10 years. A March 2013 study on the costs and benefits of the Small BREW Act bill which then-Harvard University economist John Friedman prepared on behalf of the Brewers Association, BA, indicates that the bill would directly reduce the excise tax revenue the Federal Government collects by $67.0 million the first year after enactment. But Professor Friedman notes that such a loss would be offset in large part by $49.1 million in new payroll and income taxes collected on increased economic activity. Professor Friedman believes that demand for craft beer will continue to increase and the Federal Government would collect an additional $1.1 million in excise taxes from the increased sales. The net revenue loss, therefore, would be $16.9 million the first year after enactment. The total net revenue loss over 5 years would be $95.9 million. The bill would lead to the creation of 5,230 new jobs in the first 12–18 months after passage and the cost of each new job in foregone revenue would be just $3,300.

While some people may think this is a bill about beer, it is really about jobs. Blue collar jobs and white collar jobs. Small brewers are small business owners in communities in each and every State across the country. Roughly 75 percent of Americans now live within 10 miles of a brewery. Nationally, small and independent brewers employ over 110,000 full- and part-time employees, generate more than $3 billion in wages and benefits, and pay more than $2.3 billion in business, personal and consumption taxes, according to the BA. As the craft beer industry grows so, too, does the demand for American-grown barley and hops and American-made brewing, bottling, canning, and other equipment. That demand creates more good jobs.

Maryland is home to 43 craft brewers, up from 34 in 2013, with 24 more in the planning stages. The existing breweries and brew-pubs employ roughly 600 people who were directly involved in producing craft beer in the State last year, and another 700 to 1,400 part-time workers including brew-pub restaurant staff and associated employees. In 2012, the Brewers Association determined that the economic impact of the craft brewing industry on the State was $455 million and that the industry created a total of 5,422 ''full-time equivalent'', FTE, jobs in Maryland, including indirect and induced jobs, paying over $185 million in wages. Based on 2013 production figures, the Small BREW Act would provide Maryland's small brewers with roughly $570,000 to reinvest in their growing businesses and hire more workers.

Small brewers have been anchors of local communities and America's economy since the start of our history. Indeed, there is a Mayflower document published in 1622 that explains why the Pilgrims landed at Plymouth Rock which states, ''For we could not now take time for further search or consideration: our victuals being much spent, especially our beer.'' Presidents from George Washington to Barack Obama have been homebrewers. Going back much further, the oldest extant recipe is for beer. And many people would argue that our thirst for beer is what drove man from being a hunter-gatherer to a crop cultivator since the earliest domesticated cereal grains were various types of barley better suited for beer production than making bread. Saint Arnulf of Metz, also known as St. Arnold, who lived from roughly 582 to 640 AD, is known as the ''Patron Saint of Brewers'' because he recognized that beer, which is boiled first, contains alcohol and is slightly acidic, was much safer to consume than water. French chemist and microbiologist Louis Pasteur, 1822–1895, who discovered yeast and propounded the germ theory that is the basis of so much of modern medicine, worked for breweries for much of his career. The pH scale, the standard measurement of acidity, was developed by the head of Carlsberg Laboratory's Chemical Department in 1909. Dr Soren Sorensen, 1868–1939, developed the pH scale during his pioneering research into proteins, amino acids and enzymes—the basis of today's protein chemistry. So it is fair to say that civilization and beer go hand-in-hand.

In addition to making high-quality beers, craft brewers such as Maryland's Flying Dog, Union Craft, Ruddy Duck, Baying Hound, Heavy Seas, and The Brewers Art create jobs and reinvest their profits back into their local economies. The Federal Government needs to be investing in industries that invest in America and create real jobs here at home. With more than 3,200 small and independent breweries and brew-pubs currently operating in the United States—and many more being planned—now is the time to take meaningful action to help them and our economy grow. An article in today's New York Times entitled ''Betting on the Growth of Microbreweries'' quotes BA economist Dr. Bart Watson as saying, ''Brewery after brewery is looking for ways to grow because when you talk to these companies, the biggest constraint is capacity. They're selling beer as fast as they can make it.'' Let us help them grow.

I am proud to announce that Senators BALDWIN, BLUMENTHAL, CANTWELL, CARPER, CASEY, COCHRAN, COONS, HEINRICH, HIRONO, KING, KIRK, KLOBUCHAR, LEAHY, MARKEY, MENENDEZ, MERKLEY, MIKULSKI, MURKOWSKI, MURPHY, PORTMAN, SANDERS, SCHUMER, and WYDEN have all signed on as original co-sponsors of the Small BREW Act, and I encourage the rest of my Senate colleagues to consider joining us in this worthwhile legislative endeavor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Brewer Reinvestment and Expanding Workforce Act'' or as the ''Small BREW Act''.

SEC. 2. REDUCED RATE OF EXCISE TAX ON BEER PRODUCED DOMESTICALLY BY CERTAIN QUALIFYING PRODUCERS.

(a) IN GENERAL.—Paragraph (2) of section 5051(a) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

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

''(A) IN GENERAL.—In the case of a brewer who produces not more than 6,000,000 barrels of beer during the calendar year, the per barrel rate of tax imposed by this section shall be—

''(i) $3.50 on the first 60,000 qualified barrels of production, and

''(ii) $16 on the first 1,940,000 qualified barrels of production to which clause (i) does not apply.

''(B) QUALIFIED BARRELS OF PRODUCTION.—For purposes of this paragraph, the term 'qualified barrels of production' means, with respect to any brewer for any calendar year, the number of barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 5051(a)(2) of such Code, as redesignated by this section, is amended—

(A) by striking ''2,000,000 barrel quantity'' and inserting ''6,000,000 barrel quantity'', and

(B) by striking ''60,000 barrel quantity'' and inserting ''60,000 and 1,940,000 barrel quantities''.

(2) Subparagraph (D) of such section, as so redesignated, is amended by striking ''2,000,000 barrels'' and inserting ''6,000,000 barrels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to beer removed during calendar years beginning after the date of the enactment of this Act.

By Mr. GRASSLEY (for himself, Mr. BLUNT, Mr. CRUZ, Mr. HATCH, Mr. PAUL, Mr. CORNYN, Mr. RUBIO, Mr. INHOFE, Mrs. FISCHER, Mr. FLAKE, Mr. LEE, Mrs. CAPITO, and Mr. GARDNER):

S. 378. A bill to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce an important piece of regulatory reform legislation.

A study released this past fall by the National Association of Manufacturers estimates that U.S. Federal Government regulations imposed over $2 trillion in compliance costs on American businesses in 2012. This is an amount equal to 12 percent of our Nation's GDP.

The study also demonstrated—and this should come as no surprise—that the cost of complying with all those regulations falls disproportionately on small businesses. Small manufacturing firms, in particular, grapple with regulatory compliance costs that are more than three times those felt by the average company in the United States.

It is no wonder why many American businesses are shuttering or moving their entire operation overseas. And how many folks dreamed of starting a small business but ultimately decided against taking the risk because of the overwhelming burden and uncertainty of our regulatory state?

We have to do better.

Small businesses are fed up with excessive Federal regulation, and they are making sure we know about it. A November 2014 survey conducted by the National Federation of Independent Business asked small business owners across the country to rank the ten most pressing problems they face. Overwhelmingly, the top two answers from small business owners were taxes and complying with government red tape. I am happy to say that this Congress intends to confront these issues head-on.

The Federal Government needs to do everything possible to promote an environment that will allow private sector employers to create jobs. To accomplish that, common sense would tell us that the government needs to remove barriers to job creation rather than put up new ones.

Unfortunately, the Obama administration has proven time and again that it would rather push forward with its interest-driven regulatory agenda than ease the heavy burden upon our economy and our entrepreneurs.

To make matters worse, this administration is pursuing new regulations through litigation tactics that take an end-run around the laws enacted by Congress to ensure transparency and accountability in the regulatory process. This strategy has come to be known as sue-and-settle, and regulators have been using it to speed up rulemaking and to keep the public, industries, and even the States away from the table when regulatory decisions are negotiated behind closed doors.

Sue-and-settle cases typically follow a similar pattern. First, an interest group files a lawsuit against a Federal agency, claiming that the agency has failed to take a certain regulatory action by a statutory deadline. Through the complaint, the interest group seeks to compel the agency to take action by a new, often-rushed deadline. The plaintiff-interest group frequently will be one that shares a common regulatory and policy agenda with the agency that it sues, such as when an environmental group sues the Environmental Protection Agency, EPA.

Next, the agency and interest group enter into friendly negotiations to produce either a settlement agreement or consent decree behind closed doors that commits the agency to satisfying the interest group's demands. The agreement is then entered by a court, binding executive discretion to undertake a regulatory action. And noticeably absent from these negotiations are the very parties who will likely be most impacted by the new regulation.

Sue-and-settle tactics by advocacy groups and complicit government agencies have severe consequences on transparency, public accountability, and ultimately on the quality of the resulting public policy.

Such tactics undermine congressional intent by shutting out affected parties, such as industries and even the States that are charged with implementing new regulations.

The Administrative Procedure Act, APA, which has been characterized as the citizens' ''regulatory bill of rights,'' was enacted to ensure transparency and public accountability in our Federal rulemaking process. A central aspect of the APA is the notice-and-comment process, which requires agencies to notify the public of proposed regulations and to respond to comments submitted by interested parties.

Rulemaking driven by sue-and-settle tactics, however, frequently results in reprioritized agency agendas and truncated deadlines for regulatory action. This renders the notice-and-comment requirements of the APA a mere formality, depriving regulated entities, the States and the public of sufficient time to have any meaningful input on the final rules. The resulting regulatory action is driven not by the public interest, but by special interest priorities, and often comes as a complete surprise to those most affected by it.

Sue-and-settle litigation also helps agencies avoid accountability. Instead of having to answer to the public for controversial regulations and policy decisions, agency officials are able to simply point to a court order entering the agreement and maintain that they were required to take action under its terms.

Further, the abuse of consent decrees as a method for taking regulatory action can have lasting negative impact on the ability of future administrations to adapt the Federal regulatory scheme to changing circumstances. Not only does this raise serious concerns about bad public policy; it also puts into question the constitutional impact of one administration's actions binding the hands of its successors.

Sue-and-settle, and the consequences that come with such tactics, is not a new phenomenon. Evidence of sue-and-settle tactics and closed-door rulemaking can be found in nearly every administration over the previous few decades.

But there has been an alarming increase in sue-and-settle tactics under the Obama administration. A study by the U.S. Chamber of Commerce shows that just during President Obama's first term, 60 Clean Air Act lawsuits against the EPA were resolved through consent decrees or settlement agreements, an increase from 28 during President George W. Bush's second term.

Since 2009, sue-and-settle cases against the EPA have imposed at least $13 billion in annual regulatory costs.

In November 2010, environmental advocacy groups filed a complaint against the EPA under the Clean Water Act to compel the agency to revise wastewater regulations. Interestingly, the same day that the complaint was filed, the plaintiff-advocacy groups filed a proposed consent decree already signed by the EPA and requiring prompt regulatory action. As is characteristic of sue-and-settle cases, potentially affected parties were kept out of the lawsuit and negotiations. Such a scenario should raise serious concerns over how truly adversarial these lawsuits really are.

In another case, environmental advocacy groups filed suit against the EPA to compel the agency to issue new air quality standards for pollutants from coal and oil-fired power plants. The plaintiff-advocacy groups alleged that the EPA had violated its statutory duty to issue new standards.

An industry group intervened in the case to represent utility companies but was ultimately left out of subsequent negotiations between the plaintiffs and the EPA, which resulted in a consent decree. The industry group challenged the consent decree on numerous grounds, including the rulemaking timeframe established under the decree

which was arguably too short to allow the public to participate fully in the rulemaking process.

Nevertheless, the court approved and entered the consent decree, with the judge concluding that ''[s]hould haste make waste, the resulting regulations will be subject to successful challenge. . . If EPA needs more time to get it right, it can seek more time.''

The resulting rule, despite its opaque promulgation, was estimated by the EPA to cost $9.6 billion annually by 2015. And according to estimates by the American Coalition for Clean Coal Electricity, the rule promulgated under the consent decree would contribute to a loss of 1.44 million jobs in the U.S. between 2013 and 2020.

The EPA could have done things right the first time by crafting a sensible, workable rule that protects the environment without causing unnecessary job losses or higher electricity prices for hard-working American families. But as a result of backroom, sue-and-settle tactics, we were left with a controversial regulation that fails to properly take into account the impact on affected parties and that remains the subject of litigation to this day.

The EPA, it seems, has turned a blind eye to the calls for more transparency and public accountability in our Federal rulemaking process. In February 2014, EPA's General Counsel issued a statement declaring:

The sue and settle rhetoric, strategically mislabeled by its proponents, is an often-repeated but a wholly invented accusation that gets no more true with frequent retelling.

I think many would take issue with that assessment. In fact, the Environmental Council of the States, or ECOS—a national non-profit, non-partisan association made up of State and territorial environmental agency leaders—adopted a resolution entitled ''The Need for Reform and State Participation in EPA's Consent Decrees which Settle Citizen Suits,'' stating, among other things:

[S]tate environmental agencies are not always notified of citizen suits that allege U.S. EPA's failure to perform its nondiscretionary duties, are often not parties to these citizen suits, and are usually not provided with an opportunity to participate in the negotiation of agreements to settle citizen suits[.]

ECOS further resolved that:

[G]reater transparency of citizen suit settlement agreements is needed for the public to understand the impact of these agreements on the administration of environmental programs[.]

I agree.

Clearly, the EPA has no intention of acknowledging the use or consequences of sue-and-settle tactics. And unfortunately, I think this sentiment is shared by other executive branch agencies today.

That is why today I am introducing the Sunshine for Regulatory Decrees and Settlements Act of 2015. Senators BLUNT, HATCH, CRUZ, PAUL, CORNYN, RUBIO, INHOFE, FISCHER, FLAKE, LEE, CAPITO and GARDNER are cosponsors of this important bill, and I thank them for their support.

In the House, Representative DOUG COLLINS of Georgia is introducing a companion bill.

By enacting reasonable, pro-accountability measures, the Sunshine bill aims to address many of the problems I have outlined so far.

This bill provides for greater transparency by shedding light on sue-and-settle tactics. It requires agencies to publish sue-and-settle complaints and notices of intent-to-sue in a readily accessible manner.

The bill requires agencies to publish proposed consent decrees and settlement agreements at least 60 days before they can be filed with a court. This provides a valuable opportunity for affected parties to weigh-in, which will increase public accountability in the rulemaking process. It will also prevent those scenarios where lawsuits are filed on the same day as previously negotiated agreements, a practice that effectively blocks any meaningful participation by affected parties.

The bill also makes it easier for affected parties such as States and business owners to take part in both the lawsuit and settlement negotiations to ensure that their interests are properly represented. It requires the Attorney General or, if appropriate, the head of the defendant-agency, to certify to the court that he or she has personally approved certain proposed consent decrees or settlement agreements that, for example, convert a discretionary authority of an agency into a non-discretionary duty to act. It requires that courts consider whether the terms of a proposed agreement are contrary to the public interest.

The bill promotes greater transparency by requiring agencies to publicly post and report to Congress information on sue-and-settle complaints, consent decrees and settlement agreements.

Finally, the bill resolves key constitutional concerns by making it easier for succeeding administrations to modify the effect of a prior administration's consent decrees. It does so by providing for de novo review of motions to modify existing consent decrees due to changed circumstances.

The Sunshine for Regulatory Decrees and Settlements Act will shed light on the problem. It will help rein in backroom rulemaking, encourage the appropriate use of consent decrees and settlements, and reinforce the procedures laid out decades ago to ensure a transparent and accountable regulatory process.

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

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sunshine for Regulatory Decrees and Settlements Act of 2015''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''agency'' and ''agency action'' have the meanings given those terms under section 551 of title 5, United States Code;

(2) the term ''covered civil action'' means a civil action—

(A) seeking to compel agency action;

(B) alleging that the agency is unlawfully withholding or unreasonably delaying an agency action relating to a regulatory action that would affect the rights of—

(i) private persons other than the person bringing the action; or

(ii) a State, local, or tribal government; and

(C) brought under—

(i) chapter 7 of title 5, United States Code; or

(ii) any other statute authorizing such an action;

(3) the term ''covered consent decree'' means—

(A) a consent decree entered into in a covered civil action; and

(B) any other consent decree that requires agency action relating to a regulatory action that affects the rights of—

(i) private persons other than the person bringing the action; or

(ii) a State, local, or tribal government;

(4) the term ''covered consent decree or settlement agreement'' means a covered consent decree and a covered settlement agreement; and

(5) the term ''covered settlement agreement'' means—

(A) a settlement agreement entered into in a covered civil action; and

(B) any other settlement agreement that requires agency action relating to a regulatory action that affects the rights of—

(i) private persons other than the person bringing the action; or

(ii) a State, local, or tribal government.

SEC. 3. CONSENT DECREE AND SETTLEMENT REFORM.

(a) PLEADINGS AND PRELIMINARY MATTERS.—

(1) IN GENERAL.—In any covered civil action, the agency against which the covered civil action is brought shall publish the notice of intent to sue and the complaint in a readily accessible manner, including by making the notice of intent to sue and the complaint available online not later than 15 days after receiving service of the notice of intent to sue or complaint, respectively.

(2) ENTRY OF A COVERED CONSENT DECREE OR SETTLEMENT AGREEMENT.—A party may not make a motion for entry of a covered consent decree or to dismiss a civil action pursuant to a covered settlement agreement until after the end of proceedings in accordance with paragraph (1) and subparagraphs (A) and (B) of paragraph (2) of subsection (d) or subsection (d)(3)(A), whichever is later.

(b) INTERVENTION.—

(1) REBUTTABLE PRESUMPTION.—In considering a motion to intervene in a covered civil action or a civil action in which a covered consent decree or settlement agreement has been proposed that is filed by a person who alleges that the agency action in dispute would affect the person, the court shall presume, subject to rebuttal, that the interests of the person would not be represented adequately by the existing parties to the action.

(2) STATE, LOCAL, AND TRIBAL GOVERNMENTS.—In considering a motion to intervene in a covered civil action or a civil action in which a covered consent decree or settlement agreement has been proposed that is filed by a State, local, or tribal government, the court shall take due account of whether the movant—

(A) administers jointly with an agency that is a defendant in the action the statutory provisions that give rise to the regulatory action to which the action relates; or

(B) administers an authority under State, local, or tribal law that would be preempted by the regulatory action to which the action relates.

(c) SETTLEMENT NEGOTIATIONS.—Efforts to settle a covered civil action or otherwise reach an agreement on a covered consent decree or settlement agreement shall—

(1) be conducted pursuant to the mediation or alternative dispute resolution program of the court or by a district judge other than the presiding judge, magistrate judge, or special master, as determined appropriate by the presiding judge; and

(2) include any party that intervenes in the action.

(d) PUBLICATION OF AND COMMENT ON COVERED CONSENT DECREES OR SETTLEMENT AGREEMENTS.—

(1) IN GENERAL.—Not later than 60 days before the date on which a covered consent decree or settlement agreement is filed with a court, the agency seeking to enter the covered consent decree or settlement agreement shall publish in the Federal Register and online—

(A) the proposed covered consent decree or settlement agreement; and

(B) a statement providing—

(i) the statutory basis for the covered consent decree or settlement agreement; and

(ii) a description of the terms of the covered consent decree or settlement agreement, including whether it provides for the award of attorneys' fees or costs and, if so, the basis for including the award.

(2) PUBLIC COMMENT.—

(A) IN GENERAL.—An agency seeking to enter a covered consent decree or settlement agreement shall accept public comment during the period described in paragraph (1) on any issue relating to the matters alleged in the complaint in the applicable civil action or addressed or affected by the proposed covered consent decree or settlement agreement.

(B) RESPONSE TO COMMENTS.—An agency shall respond to any comment received under subparagraph (A).

(C) SUBMISSIONS TO COURT.—When moving that the court enter a proposed covered consent decree or settlement agreement or for dismissal pursuant to a proposed covered consent decree or settlement agreement, an agency shall—

(i) inform the court of the statutory basis for the proposed covered consent decree or settlement agreement and its terms;

(ii) submit to the court a summary of the comments received under subparagraph (A) and the response of the agency to the comments;

(iii) submit to the court a certified index of the administrative record of the notice and comment proceeding; and

(iv) make the administrative record described in clause (iii) fully accessible to the court.

(D) INCLUSION IN RECORD.—The court shall include in the court record for a civil action the certified index of the administrative record submitted by an agency under subparagraph (C)(iii) and any documents listed in the index which any party or amicus curiae appearing before the court in the action submits to the court.

(3) PUBLIC HEARINGS PERMITTED.—

(A) IN GENERAL.—After providing notice in the Federal Register and online, an agency may hold a public hearing regarding whether to enter into a proposed covered consent decree or settlement agreement.

(B) RECORD.—If an agency holds a public hearing under subparagraph (A)—

(i) the agency shall—

(I) submit to the court a summary of the proceedings;

(II) submit to the court a certified index of the hearing record; and

(III) provide access to the hearing record to the court; and

(ii) the full hearing record shall be included in the court record.

(4) MANDATORY DEADLINES.—If a proposed covered consent decree or settlement agreement requires an agency action by a date certain, the agency shall, when moving for entry of the covered consent decree or settlement agreement or dismissal based on the covered consent decree or settlement agreement, inform the court of—

(A) any required regulatory action the agency has not taken that the covered consent decree or settlement agreement does not address;

(B) how the covered consent decree or settlement agreement, if approved, would affect the discharge of the duties described in subparagraph (A); and

(C) why the effects of the covered consent decree or settlement agreement on the manner in which the agency discharges its duties is in the public interest.

(e) SUBMISSION BY THE GOVERNMENT.—

(1) IN GENERAL.—For any proposed covered consent decree or settlement agreement that contains a term described in paragraph (2), the Attorney General or, if the matter is being litigated independently by an agency, the head of the agency shall submit to the court a certification that the Attorney General or head of the agency approves the proposed covered consent decree or settlement agreement. The Attorney General or head of the agency shall personally sign any certification submitted under this paragraph.

(2) TERMS.—A term described in this paragraph is—

(A) in the case of a covered consent decree, a term that—

(i) converts into a nondiscretionary duty a discretionary authority of an agency to propose, promulgate, revise, or amend regulations;

(ii) commits an agency to expend funds that have not been appropriated and that have not been budgeted for the regulatory action in question;

(iii) commits an agency to seek a particular appropriation or budget authorization;

(iv) divests an agency of discretion committed to the agency by statute or the Constitution of the United States, without regard to whether the discretion was granted to respond to changing circumstances, to make policy or managerial choices, or to protect the rights of third parties; or

(v) otherwise affords relief that the court could not enter under its own authority upon a final judgment in the civil action; or

(B) in the case of a covered settlement agreement, a term—

(i) that provides a remedy for a failure by the agency to comply with the terms of the covered settlement agreement other than the revival of the civil action resolved by the covered settlement agreement; and

(ii) that—

(I) interferes with the authority of an agency to revise, amend, or issue rules under the procedures set forth in chapter 5 of title 5, United States Code, or any other statute or Executive order prescribing rulemaking procedures for a rulemaking that is the subject of the covered settlement agreement;

(II) commits the agency to expend funds that have not been appropriated and that have not been budgeted for the regulatory action in question; or

(III) for such a covered settlement agreement that commits the agency to exercise in a particular way discretion which was committed to the agency by statute or the Constitution of the United States to respond to changing circumstances, to make policy or managerial choices, or to protect the rights of third parties.

(f) REVIEW BY COURT.—

(1) AMICUS.—A court considering a proposed covered consent decree or settlement agreement shall presume, subject to rebuttal, that it is proper to allow amicus participation relating to the covered consent decree or settlement agreement by any person who filed public comments or participated in a public hearing on the covered consent decree or settlement agreement under paragraph (2) or (3) of subsection (d).

(2) REVIEW OF DEADLINES.—

(A) PROPOSED COVERED CONSENT DECREES.—For a proposed covered consent decree, a court shall not approve the covered consent decree unless the proposed covered consent decree allows sufficient time and incorporates adequate procedures for the agency to comply with chapter 5 of title 5, United States Code, and other applicable statutes that govern rulemaking and, unless contrary to the public interest, the provisions of any Executive order that governs rulemaking.

(B) PROPOSED COVERED SETTLEMENT AGREEMENTS.—For a proposed covered settlement agreement, a court shall ensure that the covered settlement agreement allows sufficient time and incorporates adequate procedures for the agency to comply with chapter 5 of title 5, United States Code, and other applicable statutes that govern rulemaking and, unless contrary to the public interest, the provisions of any Executive order that governs rulemaking.

(g) ANNUAL REPORTS.—Each agency shall submit to Congress an annual report that, for the year covered by the report, includes—

(1) the number, identity, and content of covered civil actions brought against and covered consent decree or settlement agreements entered against or into by the agency; and

(2) a description of the statutory basis for—

(A) each covered consent decree or settlement agreement entered against or into by the agency; and

(B) any award of attorneys fees or costs in a civil action resolved by a covered consent decree or settlement agreement entered against or into by the agency.

SEC. 4. MOTIONS TO MODIFY CONSENT DECREES.

If an agency moves a court to modify a covered consent decree or settlement agreement and the basis of the motion is that the terms of the covered consent decree or settlement agreement are no longer fully in the public interest due to the obligations of the agency to fulfill other duties or due to changed facts and circumstances, the court shall review the motion and the covered consent decree or settlement agreement de novo.

SEC. 5. EFFECTIVE DATE.

This Act shall apply to—

(1) any covered civil action filed on or after the date of enactment of this Act; and

(2) any covered consent decree or settlement agreement proposed to a court on or after the date of enactment of this Act.

By Mr. HATCH (for himself, Mr. CORNYN, Mr. LEE, Mr. MCCAIN,

Mr. ENZI, Mr. SCOTT, Mr. JOHNSON, Mr. INHOFE, Mr. BLUNT, Mr. MORAN, Mr. ISAKSON, Mr. GARDNER, Mr. HOEVEN, Mr. BARRASSO, Mr. CRAPO, Mr. WICKER, Mr. VITTER, Mr. HELLER, Mr. ALEXANDER, Mr. TOOMEY, Mr. BOOZMAN, Ms. AYOTTE, Mr. THUNE, Mr. KIRK, Mr. ROBERTS, Mr. PORTMAN, Mr. CRUZ, Mr. GRAHAM, Mr. CASSIDY, Mr. RUBIO, Ms. MURKOWSKI, Mrs. FISCHER, Mr. FLAKE, Mr. RISCH, Mr. PERDUE, Mr. COCHRAN, Mr. LANKFORD, Mr. BURR, Mrs. CAPITO, Mr. SULLIVAN, Mr. DAINES, Mr. ROUNDS, Mr. MCCONNELL, Mr. GRASSLEY, Mr. COATS, Mrs. ERNST, Mr. TILLIS, Mr. COTTON, Ms. COLLINS, Mr. SHELBY, Mr. CORKER, Mr. PAUL, Mr. SESSIONS, and Mr. SASSE):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States relative to balancing the budget; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, today I am introducing a resolution proposing a constitutional amendment to require that Congress and the President handle the American people's money more responsibly and balance the Nation's debt and budget. Like the last two Congresses, the entire Republican Conference has cosponsored this proposal.

I know the Constitution sets a high threshold for Congress to propose an amendment, but it is critical we do so for three reasons:

First, piling up more debt year after year is imposing greater and greater harm to our economy and to our society. Last week, Congressional Budget Office Director Douglas Elmendorf testified before the House Budget Committee, noting that the national debt is expected to swell by another $7.6 trillion—trillion with a T—over the next 10 years. He said:

> Such large and growing national debt would have serious negative consequences, including increasing Federal spending for interest payments; restraining economic growth in the long term; giving policymakers less flexibility to respond to unexpected challenges; and eventually heightening the risk of a fiscal crisis.

He is the Director of the Federal budget office and he said that on January 21, 2015. Just think about that. And he is a Democrat. He has been a very good budget director, as far as I am concerned, and I have enjoyed looking at his analyses over the years.

Our Nation is on an unsustainable path and we simply cannot wait any longer to make responsible decisions for our future.

Second, Washington will not keep our fiscal house in order unless required to do so by the Constitution. Congress has pretended that good intentions alone would keep our checkbook balanced. Congress has tried putting limits in place by legislation or other rules. Congress has stuck its head in the sand or at other times cried that the sky would fall if we really did get our fiscal act together. Over many decades we have demonstrated that nothing short of a constitutional requirement will work.

Third, the American people have the right to set rules for how Washington handles their money. The Constitution is a rulebook for government and it belongs to the American people. Proposing an amendment does not add it to the Constitution but only sends it to the States for debate and consideration. And while it takes two-thirds of Congress to propose an amendment to the Constitution, it takes three-fourths of the States to ratify it. That high level of national consensus may or may not exist, but the American people deserve the opportunity to find out.

On June 7, 1979, nearly 36 years ago, I stood on this floor when I introduced Senate Joint Resolution 86, my first balanced budget amendment. In today's dollars the budget deficit that year was $95 billion and the national debt was $2.6 trillion, which was about 30 percent of our gross domestic product. I said then that only in Washington could this situation be described as anything less than obscene.

The more things change, the more they stay the same. I concede a few things have changed since 1979. For example, the deficit for the current fiscal year is six times higher than it was in 1979, and the national debt is seven times as large. To put that number in perspective, the national debt is now larger than our entire economy.

The situation is not only getting worse, it is getting worse faster than ever. More than 40 percent of the national debt accumulated since our founding has piled up under President Obama, and he has 2 more years in office. While those things have changed, and changed for the worse, the choice before us remains the same.

Some of my colleagues might disagree with the CBO Director and think that piling up trillions and trillions of dollars in debt is no big deal; that these are just numbers in the air with no impact on the real world. Perhaps they think our large and growing national debt won't have any negative consequences, won't impede economic growth, won't restrain policymakers' flexibility to respond to challenges, and won't heighten the risk of the fiscal crisis. Some of my colleagues might believe we have no obligation to handle the American people's money responsibly or perhaps they believe this money belongs to government and not the American people at all.

Some of my colleagues might insist, despite decades of demonstrated failure, that Congress can somehow get its fiscal act together on its own. One definition of insanity is doing the same thing over and over and expecting different results.

Some of my colleagues might say the American people should not be able to set fiscal rules for the government they elect. Perhaps they think the Federal Government should control the Constitution, not the other way around.

I say to my colleagues who think those things: I can understand why you would oppose sending this balanced budget amendment to the States for consideration.

But now a word to my other colleagues: If you think this growing mountain of debt is dangerous and must be stopped, if you believe we have exhausted every other means of stopping it, and if you say the American people have the right to decide how their government should operate, then I invite you to support this joint resolution, S.J. Res. 6.

The Senate has on four separate occasions voted on a balanced budget amendment since I introduced that proposal in 1979. You can see it on this chart. We actually passed one in 1982 when the national debt was $2.5 trillion. But the House, controlled by Democrats at the time, did not take it up.

The Senate voted on another balanced budget amendment in 1994 when the national debt was $6.9 trillion. It fell a few votes short.

Three years later, when the national debt was $7.9 trillion, we came within a single vote of passage in 1997.

And in 2011, the fourth from the left there on the chart, we voted on the last balanced budget amendment I introduced. At that time, the national debt had grown to $15.1 trillion, and it is almost $3 trillion higher today.

CBO tells us not only that the national debt will swell by an additional $7.6 trillion in the next 10 years, but that interest on that debt will be a larger and larger portion of the budget. The low interest rates we see today, after all, will not last forever.

CBO warns that, on our current path, interest costs alone will quadruple from $200 billion today to nearly $800 billion in 10 years. In only 6 years, if we do not change course, spending on interest will surpass either defense or nondefense spending. Every dollar spent to service debt cannot be spent protecting our country or helping our citizens. This is the fiscal equivalent of fiddling while Rome burns. The debt keeps growing, the danger keeps building, while Congress keeps pretending and stalling.

What if we had sent a balanced budget amendment to the States in the 1970s, 1980s, or even 1990s? How different would the budget process be today?

When I spoke here in June 1979, I offered two additional reasons for adopting a balanced budget amendment.

First, I said a fixed spending ceiling ''requires that Congress think in order of budget priorities.''

Second, I said:

> In my mind, a balanced budget or spending limitation amendment offers the potential to impose new limits upon the National Government, replacing those that have largely been eroded over the years.

That is why the American people have never been able to use their Constitution to set fiscal rules for Washington—because doing so would set limits the national government does not want. But our liberty depends on setting and enforcing such limits.

I will repeat what I said here in 1979:

This is certainly not a trivial objective. Rather, it goes to the heart of what our system of government is going to be in the future.

That is the choice before us, and before the American people.

I have to say that if we look at the current budget, it is a fraud the President has submitted. It is pathetic. And even with that current budget, saying they are going to save us money, we are about a half trillion dollars in debt—in further debt, I might add. It is piling up in irreducible ways. It is something we have to do something about. We can no longer sit around and pretend that, somehow, Congress is going to take care of it, when Congress doesn't have the will to take care of it. A balanced budget amendment is an important part of changing that.

I will speak later on the actual amendment and what it says and what it means and how it will work. I believe it is an appropriate way of bringing this country under control and getting us to live within our means. It will take time even if we start today. But we are not starting today.

This administration cannot get anywhere near what it wants in this budget without a huge tax increase. We have had tax increase after tax increase after tax increase, and it never makes a dip in the Federal debt. We have to wake up around here and start doing some things right, or this country—the greatest country in the world—will not be able to remain so. But it has to.

If we look at the rest of the world—we are in terrible shape throughout the rest of the world. There is no other country in this world that can lead like ours can—except for evil. There are countries that can really lead, but they would lead for evil. We have got to stop that. And the only way we can is to have a nation that lives within its means, does what is right, and balances its budget. It is going to take years, if we pass this amendment, to balance the budget. If the amendment gets passed and then is supported by three-quarters of the States—38 States—this amendment will do the job.

Whatever we do, it is going to be tough. But that is better than a profligacy that is continuing to go along under all kinds of phony arguments that, when we look back on them, are really phony. They act as though they are really trying to do something about this, while spending us into bankruptcy, and more and more causing us to not be able to live within our means.

We have got to change this, and I am convinced the only way we will is with a balanced budget amendment to the Constitution. It is the only way we can find enough people in this country who respect the Constitution to cause the result that we live—or at least start living—within our means.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—SUPPORTING EFFORTS TO BRING AN END TO VIOLENCE PERPETRATED BY BOKO HARAM, AND URGING THE GOVERNMENT OF NIGERIA TO CONDUCT TRANSPARENT, PEACEFUL, AND CREDIBLE ELECTIONS

Mr. MENENDEZ (for himself, Mrs. SHAHEEN, Mr. COONS, Mr. ISAKSON, Mr. BOOZMAN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 65

Whereas Nigeria is the most populous nation in Africa, with the largest economy;

Whereas the Governments of the United States and Nigeria have had a strong bilateral relationship, and Nigeria has been a valued partner of the United States since its transition to civilian rule;

Whereas the Government of Nigeria is currently confronted with threats to internal security by terrorists, insurgents, and communal violence that have caused considerable population displacement, and at the same time must administer transparent and peaceful elections with a credible outcome;

Whereas the government and those who aspire to hold office in Nigeria must demonstrate the political will to address both of these challenges in a responsible way, including by ensuring full enfranchisement, with particular emphasis on developing a means for enfranchisement for the hundreds of thousands displaced by violence;

Whereas the members of Jama'atu Ahlis Sunna Lidda'awati wal-Jihad, commonly known as Boko Haram, have terrorized the people of Nigeria with increasing violence since 2009, targeting military, government, and civilian sites in Nigeria, including schools, mosques, churches, markets, villages, and agricultural centers, and killing thousands and abducting hundreds of civilians in Nigeria and the surrounding countries;

Whereas the Department of State named several individuals linked to Boko Haram, including its leader, Abubakar Shekau, as Specially Designated Global Terrorists in 2012, and designated Boko Haram as a Foreign Terrorist Organization (FTO) in November 2013;

Whereas, in May 2014, the United Nations Security Council added Boko Haram to its al Qaeda sanctions list, and on January 19, 2015, the United Nations Security Council issued a presidential statement condemning the recent escalation of attacks in northeastern Nigeria and surrounding countries and expressing concern that the situation was undermining peace and security in West and Central Africa;

Whereas the over 200 school girls abducted by Boko Haram on April 14, 2014, from the Government Girls Secondary School in the northeastern state of Borno, whose kidnapping sparked domestic and international outrage spawning the Twitter campaign #BringBackOurGirls, are still missing;

Whereas the militant group is an increasing menace to the countries along Nigeria's northeastern border, prompting the African Union, the Lake Chad Basin Commission, the European Union, and the United Nations Security Council to recognize that there must be a regional response;

Whereas the United States Government has stepped forward to offer assistance through intelligence sharing, bilateral and international sanctioning of Boko Haram leaders, counterterrorism assistance through the Global Security Contingency Fund program for countries in the region to counter the militant group, and humanitarian services to populations affected by and vulnerable to Boko Haram violence;

Whereas Boko Haram emerged partially as a response to underdevelopment in northeastern Nigeria, and inequality, elite impunity, and alleged human rights abuses by security forces may be fueling anti-government sentiment;

Whereas it is clear that a military approach alone will not eliminate the threat of Boko Haram, and gross human rights abuses and atrocities by security forces causes insecurity and mistrust among the civilian population;

Whereas it is imperative that the Government of Nigeria implement a comprehensive, civilian security focused plan that prioritizes protecting civilians and also addresses legitimate political and economic grievances of citizens in northern Nigeria;

Whereas Nigeria is scheduled to hold national elections in February 2015, and the elections appear to be the most closely contested in Nigeria since the return to civilian rule;

Whereas election-related violence has occurred in Nigeria in successive elections, including in 2011, when nearly 800 people died in clashes following the presidential election;

Whereas President Goodluck Ebele Azikiwe Jonathan, General Muhammadu Buhari, and other presidential candidates pledged to reverse this trend by signing the ''Abuja Accord'' on January 14, 2015, in which they committed themselves and their campaigns to refraining from public statements that incite violence, to running issue-based campaigns that do not seek to divide citizens along religious or ethnic lines, and to supporting the impartial conduct of the electoral commission and the security services;

Whereas Secretary of State John Kerry visited Nigeria on January 25, 2015, to emphasize the importance of ensuring the upcoming elections are peaceful, nonviolent, and credible;

Whereas tensions in the country remain high, and either electoral fraud or violence could undermine the credibility of the upcoming election;

Whereas the people of Nigeria aspire for a fair, competently executed, and secure electoral process, as well as an outcome that can be accepted peacefully by all citizens; and

Whereas it is in the best interest of the United States to maintain close ties with a politically stable, democratic and economically sound Nigeria: Now, therefore, be it

Resolved, That the Senate—

(1) condemns Boko Haram for its violent attacks, particularly the indiscriminate targeting of civilians, especially women and girls, and the use of children as fighters and suicide bombers;

(2) stands with—

(A) the people of Nigeria in their right to live free from fear or intimidation by state or nonstate actors, regardless of their ethnic, religious, or regional affiliation;

(B) the people of Cameroon, Chad, and Niger who are increasingly at risk of becoming victims of Boko Haram's violence; and

(C) the international community in its efforts to defeat Boko Haram;