

1 OPEN EXECUTIVE SESSION TO CONSIDER AN ORIGINAL BILL TO
2 EXTEND CERTAIN EXPIRED TAX PROVISIONS; VOTE TO CLOSE AN
3 UPCOMING EXECUTIVE SESSION CONCERNING THE IRS COMMITTEE
4 REPORT
5 TUESDAY, JULY 21, 2015
6 U.S. SENATE,
7 COMMITTEE ON FINANCE,
8 WASHINGTON, DC.

9 The meeting was convened, pursuant to notice, at
10 11:37 a.m., in room SD-215, Dirksen Senate Office
11 Building, Hon. Ron Wyden (chairman of the committee)
12 presiding.

13 Present: Senators Grassley, Crapo, Roberts, Enzi,
14 Thune, Burr, Isakson, Portman, Toomey, Coats, Heller,
15 Scott, Wyden, Schumer, Stabenow, Cantwell, Menendez,
16 Carper, Cardin, Brown, Bennet, Casey, and Warner.

17 Also present: Republican Staff: Chris Campbell,
18 Staff Director; Mark Prater, Deputy Staff Director and
19 Chief Tax Counsel; Jay Khosla, Chief Health Counsel and
20 Policy Director; Tony Coughlan, Tax Counsel; and Preston
21 Rutledge, Tax Counsel. Democratic Staff: Joshua
22 Sheinkman, Staff Director; Jocelyn Moore, Deputy Staff
23 Director; Michael Evans, General Counsel; Todd Metcalf,
24 Chief Tax Counsel; Ryan Abraham, Senior Tax and Energy
25 Counsel; and Tiffany Smith, Senior Tax Counsel.
26 Witnesses: Thomas Barthold, Chief of Staff, Joint

1 Committee on Taxation; and Mark Mazur, Assistant
2 Secretary for Tax Policy, U.S. Department of Treasury.
3 Non-designated Staff: Joshua LeVasseur, Chief Clerk and
4 Historian; and Jewel Harper, Deputy Clerk.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

3

4 The Chairman. The committee will come to order.

5 The committee has before it a Chairman's mark that
6 contains an original bill to extend certain expired tax
7 provisions.

8 I want to welcome members of the committee and
9 everyone present to the executive business meeting on
10 expired tax provisions. The extenders package we will
11 consider today is the result of a lot of bipartisan work
12 and cooperation and I hope that we can continue as we
13 progress through today's mark-up.

14 I want to note that this year marked the first time
15 in 20 years that a new Congress began with the tax
16 extenders already expired. In other words, we began this
17 Congress with a built-in disadvantage when it comes to
18 tax policy. All of these tax provisions are meant to be
19 incentives. They are meant to encourage and promote
20 certain activities. If they are expired, they are not
21 doing much good.

22 That being the case, we need to move this package
23 forward as soon as possible. This package of extenders
24 includes provisions that will assist hardworking
25 families, individuals, and small businesses. While some
26

1 tend to write off tax extenders as a special interest
2 give-away or give-aways in terms of dollars, the bulk of
3 the extenders in this package go toward very popular,
4 widely applicable provisions.

5 To be exact, 51 percent of the dollars at play in
6 this bill can be attributed to the following provisions:
7 the research and development tax credit; small business
8 expensing, the State and local sales tax deduction; bonus
9 depreciation and active financing income. Each of these
10 provisions has large constituencies and all of them have
11 broad support here in Congress.

12 I know that most of us here on the committee share
13 the desire to reform our Nation's broken Tax Code, and in
14 my view one of our goals in tax reform should be to
15 create more permanence in our tax system so that
16 individuals, families, and businesses do not have to
17 wonder how the Tax Code is going to change from year to
18 year.

19 Toward that end, I believe we should be working to
20 make a number of these tax extender provisions permanent.

21 The House has passed several bills that would do just
22 that, and I think there are enough votes here in the
23 Senate to do the same, at least with regard to some of
24 the more important provisions.

25 However, for the sake of making this mark-up less

1 contentious and to ensure we can more quickly provide
2 much-needed relief to taxpayers, I have agreed to defer
3 litigating the issue of permanence until a later time.
4 But make no mistake. As Chairman of this committee, my
5 goal is to see many of these provisions made permanent.

6 Finally, I want to say that I hope we can maintain
7 the bipartisan spirit that has so far moved this effort
8 forward. To achieve that goal, I encourage my colleagues
9 to focus their efforts today on relatively non-
10 controversial changes to recently and expired tax
11 provisions and the offsets needed for these changes. I
12 intend to enforce a fairly strict germaneness rule that
13 will keep us focused on that bipartisan and uncontentious
14 objective, number one.

15 With that -- and I will turn to Ranking Member Wyden
16 for his opening remarks.

17
18
19
20
21
22
23
24
25

1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON

3

4 Senator Wyden. Thank you very much, Mr. Chairman.

5 I want to begin by thanking Chairman Hatch and members
6 of the committee for their diligent and bipartisan work
7 in bringing this package together.

8 On December 16 of last year, the Senate passed a
9 one-year package of stop-and-go tax extenders that was
10 almost entirely retroactive. On December 19, the
11 President signed that bill into law. At the stroke of
12 midnight on January 1, the law expired and those tax
13 incentives were dead as a doornail. Americans once again
14 were back in limbo, not knowing what taxes they would owe
15 in the future.

16 Temporary tax provisions are nobody's idea of ideal
17 economic policy. If each member of this committee was
18 made king or queen for a day and wrote their own bills,
19 you would undoubtedly end up with 26 different products.

20 But the reality is, there are economic priorities in
21 this bipartisan package that are vital to families,
22 businesses, and communities and that is true in my home
23 State of Oregon and across the country.

24 With the understanding that our long-term goal is a
25 Tax Code overhaul that works for all Americans, the

1 Congress needs to get these provisions back in place.
2 Just for a moment, I want to make sure we all understand
3 what is at stake: the biggest Federal incentives for
4 scientific research and clean energy, tax credits that
5 help returning veterans and military reservists find
6 jobs, as well as a provision that helps military families
7 afford homes; a deduction of up to \$4,000 to help
8 families pay for college; a tax credit for teachers who
9 reach into their own pockets to buy school supplies for
10 their students; and a new markets tax credit which
11 promotes investment and jobs in communities that are
12 mired in poverty.

13 This legislation is going to lock those policies in
14 place for two years past the next election. The two-year
15 bill is the right way to ensure that these incentives
16 live up to hype. The budgetary math might look the same
17 throughout the year, but the economic value of these
18 incentives virtually disappears, colleagues, when
19 Congress waits and then passes a retroactive bill in
20 December. The economy would get as much use out of
21 spending those billions on eight-track tapes and pocket
22 pagers.

23 It is my hope that once the committee reports the
24 bill, the Senate will act quickly. I look forward to
25 working on a bipartisan basis this morning and in the

1 days ahead with our colleagues in both chambers to get
2 this legislation to the President's desk as soon as
3 possible, and then to get back to the critical task of
4 comprehensive tax reform.

5 Thank you very much, Mr. Chairman.

6 The Chairman. Thank you, Senator.

7 At this point we would normally turn to Senators who
8 want to make opening remarks. However, as we all know,
9 Senators from both parties have important policy lunches
10 today at 12:30 and I want to make sure that we complete
11 this meeting in time for Senators to attend their
12 respective luncheons.

13 We can put any opening statements into the record,
14 and we will be able to discuss any Senator's individual
15 amendments once we turn to the mark. Therefore, unless
16 there are strong objections, the committee will forego
17 opening statements at this time and move directly to
18 consideration of the Chairman's mark.

19 Any objection?

20 [No response.]

21 The Chairman. Without objection, we will move to
22 the mark. Now, we have a quorum here. We have a quorum
23 present.

24 Once again, the committee has before it a mark that
25 includes an original bill to extend expired tax

1 provisions, which is subject to a Chairman's modification
2 that has been agreed to by the Ranking Member. The
3 modifications are hereby incorporated into the Chairman's
4 modified mark, without objection.

5 The next order of business is to walk through the
6 mark and the modifications and to answer any questions.
7 As is our usual practice with tax legislation, I
8 recognize the Chief of Staff of the Joint Committee on
9 Taxation, Tom Barthold. Mr. Barthold, would you briefly
10 describe the mark and modifications?

11 Mr. Barthold. Thank you, Mr. Chairman and Senator
12 Wyden. The members have before them Joint Committee on
13 Taxation documents JCX-101, 103, and 104 which describe
14 the underlying mark, the modifications, and provide the
15 revenue estimates.

16 In the interest of time, I will just very briefly
17 highlight a couple of items in the modification. Among
18 the modifications, the Chairman's modification would
19 index the \$250 above-the-line deduction for teacher
20 expenses; it would index the \$500,000 limit and the
21 phase-out range for expensing under Section 179; it would
22 permit certain start-up enterprises to claim Section 41
23 research credits against payroll tax liabilities; it
24 changes the tax rates on liquid natural gas and propane
25 to a Btu-equivalent basis; and it would improve

1 individual tax compliance through more complete mortgage
2 interest reporting.

3 There are several other modifications, but I will
4 stop here and I am happy to answer any questions that the
5 members might have about the underlying mark or the
6 modifications. Thank you.

7 The Chairman. Well, thank you, Mr. Barthold.

8 Jim Lyons from the Majority Staff, Todd Metcalf from
9 the Minority Staff here on the Finance Committee are here
10 to answer any questions about the mark or the
11 modification. We are also joined by Mark Mazur, Secretary
12 for Tax Policy at the U.S. Treasury. I want to welcome
13 you, Mr. Mazur, to the committee today.

14 Do the Senators have any questions regarding the
15 mark or the modification?

16 [No response.]

17 The Chairman. All right. Then I recognize Senator
18 Wyden for comments on the mark.

19 Senator Wyden. I have no comments.

20 The Chairman. All right.

21 I recognize any Senators if there are any questions
22 about the mark.

23 [No response.]

24 The Chairman. All right. Without objection, if
25 there are no further questions, the Chairman's mark, as

1 modified, is now open for debate and amendment. We will
2 begin by recognizing Senators in the following order.
3 First, will be Senator Grassley. He has Amendment #1.
4 It is the Bio-diesel Tax Incentive Reform Act amendments.
5 I do not know whether you are going to want a vote on it
6 or just discussion on it, but it is up to you.

7 Senator Grassley. I would like to have a vote on
8 it. It can be a voice vote. My amendment would modify
9 the bio-diesel fuels blenders credit to a domestic
10 production credit. Congress created the tax incentive in
11 2005 and it provides significant benefits to our Nation.

12 Domestic bio-diesel production supports tens of
13 thousands of jobs; replacing traditional diesel with bio-
14 diesel reduces emissions and creates cleaner air.

15 Bio-diesel itself is a very diverse fuel. It can be
16 produced from a wide array of resources: recycled cooking
17 oil, soybeans, other plant oils, animal fats. Senator
18 Cantwell and I have been advocating for years
19 modification of the current incentive. We have proposed
20 in this amendment making the credit available for the
21 domestic production of bio-diesel rather than a mixture
22 credit available to the blender of the fuel.

23 Converting to a producer's credit improves the
24 incentive in many ways. The blender's credit can be
25 difficult to administer because the blending of fuel can

1 occur at many different stages of fuel distribution.
2 This can make it difficult to ensure that only fuel that
3 qualifies for the credit claims the incentive and it has
4 been susceptible to abuse because of this.

5 A credit, then, for domestic production -- which is
6 what this amendment is all about -- will also ensure that
7 we are incentivizing a domestic industry rather than
8 subsidizing imported bio-fuels. It is projected that
9 imports from Argentina, Singapore, the European Union,
10 and South Korea could exceed one billion gallons in the
11 years 2016 and 2017.

12 So the important point is, we should not provide a
13 U.S. taxpayer benefit to importer bio-fuels. By
14 restricting the credit to domestic production we will
15 save taxpayers money and reduce the cost of the extension
16 by \$90 million. So, I urge my colleagues to support this
17 common-sense cost reduction modification.

18 The Chairman. I want to thank the Senator for
19 raising this important issue. I know of its importance
20 to the Senator and I pledge to keep working with you on
21 it further, if we can pass it.

22 Senator Cantwell. Mr. Chairman? Mr. Chairman, I
23 would just say I would thank Senator Grassley for working
24 with me on this amendment. I certainly support his
25 amendment and am glad that we are getting it considered

1 today. I will put a statement in the record for
2 expediency of time here.

3 **[The prepared statement of Senator Cantwell appears**
4 **at the end of the transcript--PLEASE PROVIDE.]**

5 Senator Grassley. It is my understanding that the
6 Chairman -- that if this has trade implications, as the
7 Senator has indicated through staff, I would be glad to
8 do it, but I would like to have a vote on this and have
9 it included in the mark and then if there are problems
10 afterwards, work on that.

11 The Chairman. Is there any objection?

12 [No response.]

13 Senator Grassley. No objection.

14 The Chairman. All those in favor say aye.

15 [A Chorus of Ayes.]

16 The Chairman. All those opposed?

17 [No response.]

18 The Chairman. The amendment is agreed to.

19 Senator Grassley. Thank you.

20 The Chairman. All right. I think we are now
21 moving to Senator Roberts' amendment on the permanent
22 bonus depreciation. Let us wait until Senator Roberts
23 gets here.

24 Let us move to Senator Stabenow and mortgage
25 forgiveness.

1 Senator Stabenow. Well, thank you very much, Mr.
2 Chairman.

3 The Chairman. It is my understanding she will take
4 a voice vote on that.

5 Senator Stabenow. Yes. Absolutely. I want to
6 thank you for working with us in a bipartisan way on the
7 mark. There are a number of important provisions in this
8 mark. This is an issue that we have all been very
9 supportive of on mortgage forgiveness tax relief. The
10 original bill was passed. I authored it back in 2007 and
11 we passed it at that time. Since then, this has been
12 very much a bipartisan issue.

13 I want to thank Senator Heller, Senator Menendez,
14 Senator Isakson, all of us working together on the
15 underlying bill and this amendment. Basically, as you
16 know, before we put this policy into place when part of a
17 homeowner's mortgage was forgiven, either they did a loan
18 work-out with a bank, a short-sale, or even a foreclosure
19 in some circumstances, the law treated the canceled debt
20 as income and people had to pay taxes on it, which did
21 not make any sense. You are already struggling and then
22 you get another tax bill because you worked out something
23 with the bank.

24 So we fixed that. This amendment would simply deal
25 with a technical issue that has come up, which is

1 basically we found that homeowners sign the paperwork at
2 the end of the year, they think they are fine, but the
3 paperwork does not get filed through the bank and somehow
4 it is not considered completely done even though they
5 have no control over that piece of it, and then they do
6 not qualify.

7 So this simply indicates that if they get their
8 paperwork done and signed by the end of the year,
9 regardless of when it is signed by the bank, that they
10 would qualify and not have to pay taxes on this part of
11 loan forgiveness on their mortgage.

12 Mr. Chairman, I would be happy to take a voice vote.

13 The Chairman. All right. Is there any objection
14 to having a voice vote?

15 [No response.]

16 The Chairman. All those in favor say aye.

17 [A Chorus of Ayes.]

18 The Chairman. Those opposed?

19 [A Chorus of Nays]

20 The Chairman. It appears to me that the ayes have
21 it and the amendment is accepted.

22 Senator Wyden. Mr. Chairman, before we go to the
23 next, I ask unanimous consent that the statement for
24 Senator Nelson, who has had successful surgery, be
25 entered into the record.

1 The Chairman. Well, it certainly will and I am
2 sure happy to know that. We have been praying for him
3 and just hope everything goes well from here on in.

4 [The prepared statement of Senator Nelson appears at
5 the end of the transcript.]

6 The Chairman. We will now turn to Senator Enzi,
7 and then the only one after that would be Senator
8 Roberts, if he is available. Oh, we got some more. All
9 right.

10 Senator Enzi?

11 Senator Enzi. Mr. Chairman, I would call up
12 Amendment #1, the Tax Return Due Date Simplification and
13 Modernization. This amendment would provide for a logical
14 flow of returned information between partnerships,
15 corporations, trusts, et cetera. I recognize that this
16 does not change tax policy -- it provides better tax
17 compliance and tax administration -- and as a result I
18 will not ask for a vote on the amendment.

19 The Chairman. Well, thank you, Senator Enzi. We
20 appreciate that. We will certainly give consideration to
21 what you desire.

22 Are there any others in this particular tranche of
23 amendments?

24 [No response.]

25 The Chairman. If not, then we will go to Senator

1 Menendez. You are next.

2 Senator Menendez. Yes, Mr. Chairman. Mr.
3 Chairman, I have a couple of things here.

4 The Chairman. This is the Menendez-Enzi-Schumer-
5 Isakson-Warner-Portman-Brown-Casey-Carper amendment.
6 Sorry to interrupt you.

7 Senator Menendez. No problem. Thank you, Mr.
8 Chairman.

9 I would like to take a moment, hopefully to join
10 with some of my colleagues, understanding the narrow
11 focus of today's mark-up but taking the opportunity to
12 talk about the importance of FIRPTA reform and to
13 reiterate my call, along with others', for broad and
14 comprehensive relief from this obstacle to infrastructure
15 investment in the United States.

16 I appreciate the Chairman and the Ranking Member for
17 working with Senator Enzi and myself to report part of
18 our legislation out of the committee in February. We
19 took a strong, positive step forward that day, but there
20 is still much unfinished business before us.

21 The amendment we file today would build on the
22 success by also exempting foreign pension funds from
23 FIRPTA, thus unlocking untold billions of dollars in
24 investment in the United States. This important reform
25 measure will infuse additional investments into the U.S.

1 and incentivizing constructing and creating jobs and
2 economic growth.

3 Now, while I strongly belief that we need to
4 comprehensively deal with this antiquated tax,
5 particularly by exempting foreign pensions, I understand
6 and respect the germaneness standard the Chairman put on
7 this mark.

8 I want to make clear that the exclusion of the
9 pension provision in this mark-up does not mean it is
10 controversial or partisan in any way. Indeed, there is
11 broad bipartisan support for this provision in both
12 chambers and it has been included in the President's
13 budget.

14 There is also overwhelming consensus that the
15 current form of FIRPTA discourages foreign investment and
16 that reforming these laws will create jobs and
17 investment. Combined with our legislation reported out
18 of committee this past February, this exempting pensions
19 from FIRPTA will result in efficient and meaningful
20 reform of FIRPTA tax rules to encourage more equity
21 investment in the U.S. real estate market.

22 By increasing investment in commercial real estate,
23 reform will jump-start construction and real estate
24 modification projects and generate a need to build up
25 surrounding infrastructure, including roads and light-

1 rail projects, among others.

2 So I would like to thank all of my colleagues who
3 have supported our efforts, particularly our lead
4 colleague on the other side, Senator Enzi, Senator
5 Schumer, Senator Isakson, Senator Warner, Senator
6 Portman, to name a few. I know a few of us would like to
7 engage in a colloquy to elaborate on the merits of
8 reforming FIRPTA today with an eye towards getting this
9 done sometime this year.

10 Senator Enzi. Mr. Chairman?

11 Senator Wyden. Would my colleague just yield? I
12 want to commend Senator Menendez and Senator Enzi, in
13 particular, for their work on this. I mean, it is long
14 past time, colleagues, to get this done. The fact of the
15 matter is, what our colleagues are trying to do in a
16 bipartisan way is encourage private investment in
17 infrastructure, something I have tried to do for years
18 with bonds. So I am looking forward to this colloquy and
19 I am going to work with Senator Menendez and Senator Enzi
20 until we get this done. It is way, way overdue.

21 The Chairman. Thank you, Senator.

22 Senator Menendez and Senator Enzi raised this issue
23 when we brought the tax extenders bill before the
24 committee and I know how important this proposal is to
25 these Senators, and I thank them for not pushing this

1 matter to a vote and working cooperatively with the
2 committee. It means a lot.

3 Senator Enzi. Thank you, Mr. Chairman. I want to
4 thank Senator Menendez for working on this, as well as
5 all of the others that were mentioned. These reforms can
6 help save communities all across America from a wave of
7 commercial real estate foreclosures, it will help the
8 credit markets, it will free up capital to create jobs
9 and economic opportunities for families in every region
10 of the country. Failure to act will hurt communities. I
11 think we agree that is the last thing this economy needs.

12 The Chairman. Well, thank you, Senator.

13 The next amendment is Senator Coons.

14 Senator Menendez. Mr. Chairman, if I may.

15 The Chairman. Yes. Anybody else want to speak?

16 Senator Menendez. I understand there are one or
17 two other colleagues who want to join, but if it is
18 possible --

19 The Chairman. Senator, go ahead.

20 Senator Warner. Mr. Chairman?

21 The Chairman. Yes, Senator Warner?

22 Senator Warner. Mr. Chairman, I just want to add
23 my voice to the good work that Senator Menendez and
24 Senator Enzi have done on this. I do not understand why
25 it has taken so long. This, to me, seems to be common

1 sense, particularly when we have an office in the U.S.
2 Treasury that advises American pension funds how to
3 invest in Europe and elsewhere, because other countries
4 do not put those kind of restrictions on.

5 The fact that we cannot bring in that level of
6 foreign capital, not just within traditional REITs and
7 real estate area but particularly in infrastructure, is a
8 huge mistake in my mind, and again look forward to
9 working and getting this done.

10 The Chairman. Thank you.

11 Senator Portman. Mr. Chairman?

12 Senator Portman?

13 Senator Portman. Just quickly, again, to
14 congratulate my colleagues for the hard work they have
15 already done on this, and I appreciate the comments of
16 the Ranking Member and the Chair on this. I do think it
17 is time for us to get it done.

18 Just a couple of quick thoughts to add to the good
19 words of Senators Warner, Enzi, and Menendez. We allow
20 foreigners to invest in this country without restrictions
21 in other ways, so they can invest in bonds, they can
22 invest in stocks and we are subjecting these equity
23 investments in real estate or infrastructure to a higher
24 tax burden. That makes no sense.

25 Senator Warner talked about foreign capital, the

1 investment going there. When you go to a foreign capital
2 and you see all those cranes you wonder how many of those
3 cranes could be in the United States of America, creating
4 more jobs. That is my big concern. Huge to the tax
5 base. As much as 70 percent of the tax base in most of
6 our municipalities we represent comes from real estate in
7 one form or another, so this is an opportunity for us to
8 do something that is very straightforward, a good reform.

9 Rather than leading to foreign take-overs of U.S.
10 real estate, the bill simply encourages, as you know,
11 foreign institutional investors that take passive
12 minority positions in these broad-based, diversified real
13 estate investment funds, called REITs, and it puts
14 foreign and domestic pensions on an equal footing, which
15 is important.

16 So this is a bipartisan way to help build the good
17 will that we needed, I think, for more comprehensive
18 international tax reform as well. I urge the committee
19 to take it up at the soonest we possibly could, Mr.
20 Chairman. Again, I appreciate you and the Ranking
21 Member's support.

22 The Chairman. Well, thank you, Senator. We
23 appreciate your comments.

24 Senator Isakson. Mr. Chairman?

25 The Chairman. Who is next? I am sorry.

1 Senator Isakson. Senator Isakson. I just want to
2 elaborate on what Senator Warner said. This is what my
3 grandchildren call a ``no brainer.'' This law is a
4 reaction to a *Time, Inc.* cover a number of years ago when
5 Japan bought a bunch of buildings in the United States.
6 There was a fear Japan was going to buy America. That
7 obviously did not happen, and has not happened. It is
8 time we attracted foreign investment and domestic real
9 estate, and I wholeheartedly support the amendment.

10 The Chairman. Thank you, Senator.

11 Senator Menendez. Mr. Chairman, I would just like
12 to ask, Senator Schumer joins us in this effort but he
13 could not be here at the moment, so I would ask unanimous
14 consent that his statement be included in the record at
15 this point.

16 The Chairman. Without objection.

17 [The prepared statement of Senator Schumer appears
18 at the end of the transcript.]

19 The Chairman. Anybody's statement will be placed
20 in the record. Any further statements?

21 [No response.]

22 The Chairman. Well, with that, we appreciate the
23 Senators for not pushing the matter to a vote in this
24 particular mark-up and working cooperatively with the
25 committee.

1 We will now turn to Senator Thune.

2 Senator Thune. Thank you, Mr. Chairman. Thanks
3 for doing this mark-up. I do want to call up an
4 amendment which I will not ask to have a vote on, but
5 Amendment #1 is with Senators Roberts and Portman and it
6 would incorporate into the bill before us the eight tax
7 permanency measures that have already passed the House of
8 Representatives this year. All eight of these provisions
9 included in today's mark are in temporary form.

10 My amendment would simply make them permanent.
11 These are measures that have significant bipartisan
12 support, such as making the R&D tax credit permanent,
13 making the higher Section 179 small business expensing
14 limits permanent, and making the special rules for
15 conservation easements permanent.

16 In total, these provisions provide taxpayers with
17 roughly \$315 billion in tax relief over the next 10 years
18 relative to current law, but in reality my amendment
19 simply acknowledges what we all know, that these are
20 popular provisions that Congress is going to extend year
21 after year.

22 Even in the face of a presidential veto earlier this
23 year, 37 House Democrats voted in favor of making the
24 research credit permanent, and 33 House Democrats voted
25 in favor of making the \$500,000 small business expensing

1 limit permanent.

2 If the President wants to veto these measures he can
3 do so, but I believe Congress ought to be on record for
4 an honest baseline for tax reform and tax policies that
5 give taxpayers certainty that they can plan for.

6 Now some, Mr. Chairman, will object to making these
7 measures permanent because they lose revenue, but I want
8 to point out again that is the case only against a
9 current law baseline. If you assume that Congress is
10 going to continue to extend these provisions year after
11 year, then there is no cost. In other words, against a
12 baseline that actually reflects reality there is no cost
13 to the Federal Treasury.

14 Now, we should acknowledge that many of the
15 temporary provisions that we are extending today have
16 been around for a decade or more and are, in fact,
17 temporary in name only. Now, I realize today's mark-up is
18 only a temporary extension of expired provisions. I hope
19 that we will have an opportunity on the Senate floor to
20 debate the merits of making many of these items
21 permanent.

22 So with that, Mr. Chairman, I will, because this is
23 outside the scope of the mark-up today, withdraw that
24 amendment. But I think it is really important that we
25 debate permanent tax law that provides the certainty, the

1 predictability, and the reliability in policy that people
2 around the country need if they are going to invest.

3 Thank you.

4 The Chairman. I thank the Senator.

5 Any further discussion on this amendment?

6 [No response.]

7 The Chairman. I thank the Senator for withdrawing.

8 Let us turn to Senator Burr, his #2 amendment.

9 Excuse me, Senator Carper. I am sorry.

10 Senator Carper. Thanks, Mr. Chairman. Mr.
11 Chairman and colleagues, I want to call up my Amendment
12 #1. This amendment allows stationery fuel cell projects
13 that started to be built before December 31, 2016, to be
14 eligible for the investment tax credit.

15 Currently, only stationery fuel cell projects that
16 are fully built before December 31, 2016, receive this
17 tax credit. For years, fuel cells were in the
18 development phase. However, today the technology is
19 finally transitioning to commercialization and being
20 built and installed throughout the U.S.

21 In fact, States like Delaware, Ohio, Kansas,
22 Pennsylvania, New York, Maryland, California are among
23 the many that are seeing good-paying jobs from this
24 commercialization of this new clean energy technology.

25 Currently, stationery fuel cells do not require

1 additional transmission capability to move electricity to
2 the end user, and this flexibility allows fuel cell
3 technology to provision reliable electricity even when
4 the electric grid goes down.

5 The fuel cell cycle is 12 months or more and the
6 insulation process takes approximately 6 months. Given
7 that there is an approximate 18-month lead time, a
8 December 2016 tax expiration will begin to affect U.S.
9 fuel cell companies in the next few months.

10 This amendment will delay some of those impacts,
11 keeping those good-paying jobs I mentioned earlier, and
12 all for a comparatively low cost of about \$18 million
13 over the next 10 years.

14 I think it is important to note that fuel cell
15 technology can use many types of clean energy, including
16 natural gas and methane, as a feedstock. An addition of
17 commence construction puts this technology on parity with
18 other wind and renewable technologies.

19 However, fuel cell technology is not the only clean
20 energy technology that needs more certainty. Other
21 technologies such as solar and combined heat and power
22 face similar concerns.

23 My colleagues Senator Heller, Senator Bennet,
24 Senator Portman, Senator Cantwell have an amendment that
25 not only addresses fuel cells, but expands commence

1 construction to all technologies that receive an
2 investment tax credit. I strongly support this amendment
3 and ask unanimous consent, Mr. Chairman, to be added as a
4 co-sponsor to the Heller Amendment #4.

5 The Chairman. Without objection.

6 Senator Carper. Thank you. It is my understanding
7 that my colleagues are continue to work with the Chairman
8 on Heller Amendment #4 in hopes that there is an
9 agreement on that amendment, and hopefully there will be.

10 I will not ask for a vote on my Amendment #1 and I,
11 thus, withdraw this amendment. Thank you, sir.

12 The Chairman. Well, the Senator has raised this
13 issue when we brought the tax offenders bill before the
14 committee, and I know how important this proposal is to
15 the Senator. So, I thank him for not pushing this matter
16 to a vote in this particular mark-up and for working
17 cooperatively with the committee.

18 Moving ahead, we will turn to Senator Burr at this
19 point.

20 Senator Burr. Thank you, Mr. Chairman. I am going
21 to address Burr Amendment #2, and I will withdraw it.

22 Let me say to my colleagues, the Able Act, I think
23 when we passed it, was the most significant legislation
24 to affect those with disabilities in this country since
25 the ADA. Senator Casey was a tremendous partner.

1 Its passage meant that we allowed States to create
2 529 accounts for anybody that had disabilities before the
3 age of 26. Mr. Chairman, this took eight years to
4 accomplish, eight long years, but we finally got across
5 the goal line.

6 The one mistake that we made, if there was one, was
7 that we left in place a residency requirement. Now, what
8 does that mean? If you compare an Able 529 to a college
9 529 that does not have a residency act, it means that you
10 can establish that 529 account in any State. We do not
11 have that capability.

12 This has already been recognized by entities like
13 the Department of Treasury, where the Department of
14 Treasury has attempted to address the residency issue in
15 its recent Notice of Proposed Rulemaking where it
16 provides that an Able account beneficiary, upon moving to
17 a different State, will have the option to either
18 maintain an Able account created in that prior State or
19 to close the account and open a new Able account if in
20 fact that State has Able accounts within the State.

21 So I share that with you to display there is a
22 problem and agencies are beginning to handle this. What
23 would solve it? It is real easy: if we did away with the
24 residency requirement and we allowed the 529s for
25 individuals with disabilities to reflect exactly the same

1 structure that we do for educational 529s.

2 If I could just read, just briefly, a letter that
3 Senator Casey and I received from most, if not all, of
4 the organizations and associations and corporations which
5 span the disability community, financial sector, State
6 agencies, and other entities preparing for Able
7 administration.

8 They say, "We want to offer our strong and
9 overwhelming support to eliminate the 529(a) State
10 residency requirement found in the Able Act." The
11 legislation change would make the 529 program consistent
12 with the traditional 529 programs.

13 It goes on to say, "The door has already been
14 opened to this amendment by existing language in the
15 Federal Able Act, which allows States to contract with
16 each other," additionally, what I stated about the
17 Department of Treasury in their most recent determination
18 about the transferability of an Able account or the
19 existence of an Able account in a State that you left and
20 your residency is somewhere else.

21 So I say to my colleagues, this is a really, really
22 important technical change that I hope we will find the
23 will to do. I realize this vehicle may not be the
24 germane way to do it, but I would ask the Chair, the
25 Ranking Member, and staffs to work with us as we find the

1 way to handle this most basic technical change.

2 The Chairman. Yes, sir. We will certainly try to
3 do that.

4 Senator Casey. Mr. Chairman?

5 The Chairman. Senator? Senator Casey?

6 Senator Casey. Just a brief comment. Number one,
7 I want to thank Senator Burr for his work on the
8 amendment. I support it wholeheartedly. And for his
9 work, and for the work of this committee, getting the
10 Able Act done. The Chairman goes back a long way with
11 this issue as well, and the Ranking Member as well.

12 The reason I think we finally got this done was
13 because people on this committee, Senators of both
14 parties, believe that people with disabilities have a lot
15 of ability, and that is why we got it done. Eliminating
16 this residency requirement would be in furtherance of
17 that goal and I am just grateful for the work that has
18 been done to date and support it when we can get to a
19 vote on it. I want to thank Senator Burr.

20 The Chairman. I thank both of the Senators.

21 Anybody else care to make any comments?

22 [No response.]

23 The Chairman. Well, I appreciate you withdrawing
24 that amendment, and we will see what we can do.

25 All right. We will turn to Senator Cardin at this

1 time.

2 Senator Cardin. Well, thank you, Mr. Chairman. I
3 am going to offer Cardin Amendment #3 and withdraw, and
4 thank the Chair for the attention of Section 179(d). The
5 amendment that I offer is on behalf of myself, Senators
6 Roberts, Brown, and Warner.

7 Section 179(d), as I know my colleagues are well
8 aware, is a cost recovery regarding energy efficiency
9 improvements to a building, slighting its HVAC and its
10 envelope. The underlining bill extends the Section
11 179(d), and we are very appreciative of that. It also
12 includes certain recommendations we made to update the
13 energy efficiency standards.

14 Current law applies the credit to public buildings
15 through an allocation system. The amendment that was
16 included allows that to be allowed to nonprofit building
17 owners and tribal government building owners, and we very
18 much appreciate that being included in the underlying
19 bill.

20 There is one additional provision that we had hoped
21 would be included in the Chairman's mark, and that is to
22 allow S corporations/pass-throughs to be able to get the
23 same benefit as a C corporation. Some of this came out
24 of the work of our Working Group on Business Taxes and
25 trying to provide equality not dependent upon the

1 business structure you use for taxes.

2 One of the reasons I understand that it was not
3 included in the Chairman's mark is that we do not have a
4 good score on this particular issue, so I would just ask
5 Mr. Barthold, if I might, if he would give this attention
6 if there is an opportunity as we move further in this
7 process to include improvements for pass-through
8 corporations for 179(d), if we could try to get a score
9 on that so we can work with this as the bill moves
10 forward. If I could ask the Joint Tax that request.

11 Mr. Barthold. Senator Cardin, I am sorry that we
12 were not able to come up with an analysis for the current
13 mark-up. There is some detailed work to do with
14 partnership returns, S corp returns, and the returns of
15 REITs, and we are continuing to work on that and we will
16 follow up with you, sir.

17 Senator Cardin. I appreciate that. I appreciate
18 the cooperation of the Chair and Ranking Member on what
19 you have included in this bill, and look forward to
20 working with you so that we can be fairer in the way that
21 the 179(d) works.

22 The Chairman. Well, thanks, Senator. Any further
23 comment?

24 [No response.]

25 The Chairman. I thank the Senator. I know how

1 important this proposal is to the Senator and I thank him
2 for not pushing this matter to a vote and working
3 cooperatively with the committee.

4 We will now turn to Senator Isakson.

5 Senator Isakson. Thank you, Mr. Chairman. I will
6 also withdraw my amendment, except to say that this
7 amendment dealing with American Samoa is an attempt to
8 level the playing field between domestic fisheries in the
9 United States and fisheries in the territory of Samoa who
10 have an unfair advantage and competition because of both
11 tax treatment and waste treatment. I appreciate the
12 Chairman letting me bring it up, and I withdraw the
13 amendment.

14 The Chairman. I thank the Senator.

15 Any further comment on that?

16 [No response.]

17 The Chairman. Then we will move to the next
18 amendment queue. We will turn to Senator Brown. He is
19 not here. We will turn to Senator Portman for his
20 amendment, the Work Opportunity Tax Credit permanence.

21 Senator Portman. Thank you, Mr. Chairman.

22 I will also withdraw the amendment because I am told
23 it is not germane, but this is to make the Work
24 Opportunity Tax Credit permanent. I notice a number of
25 amendments to make things permanent; in fact, I think

1 there are about 20 of them in total.

2 This obviously raises this broader issue, should we
3 not make all these things permanent, at least those that
4 make sense? I certainly believe that. I think this is
5 the wrong way to put together tax policy. As much as we
6 want to be sure that these do not expire, I know you, Mr.
7 Chairman, believe this, that we ought to be doing tax
8 reform and in the context of that making things
9 permanent.

10 I think we may have an opportunity to do that later
11 this year. It would be in the context probably of
12 international business reform, not the broad tax reform
13 many of us would like to see. But I do hope that we can,
14 after this mark-up today, focus on making all of these
15 permanent.

16 I say all of these, not that I support all of them,
17 but the fact is, I think on both sides of the aisle we
18 are going to have to make some concessions in order to
19 achieve permanence. I think that is just much better tax
20 policy and should be done in the context of tax reform.

21 The Work Opportunity Tax Credit is one that should
22 certainly be made permanent because it would be so much
23 more effective, just like Section 179 would be for small
24 businesses, or the R&D credit would be for so many
25 American companies who want to depend on it, or the

1 mortgage insurance deduction for our families out there.

2 They go to their accountants, their accountants say this
3 is not permanent, we do not know whether you are going to
4 get it or not. So it terrible policy not to make these
5 permanent.

6 On the Work Opportunity Tax Credit, this involves
7 helping people who are in a tough situation, people who
8 are in TANF, SNP, SSI recipients, ex-felons. It gives a
9 preference to hire veterans, the disabled, summer youth
10 employees.

11 The amendment that I would like to offer today and
12 then withdraw is to add to this list of eligible
13 populations, and that would be for an employer hiring
14 someone who has exhausted their 26 weeks of regular
15 unemployment benefit. So it would be for the long-term
16 unemployed.

17 This is important because we have more and more
18 Americans who are, unfortunately, long-term unemployed.
19 The number of long-term unemployed as a percent of the
20 total unemployed now stands at over 25 percent, which is
21 historically high, well over the historical average.

22 Studies show, of course, that people out of work
23 this long are less likely to receive calls back and it is
24 harder for them to find a job. Often their unemployment
25 is through no fault of their own, and yet because they

1 are long-term unemployed they have a tougher time finding
2 a job.

3 So this is one I think that fits very well with what
4 I think all of us would like to do on this committee,
5 which is to help get these people back to work and avoid
6 them doing what unfortunately so many of them do, which
7 is drop out of the workforce altogether. This is one
8 reason we have these levels of labor force participation
9 that are so low that you have to go back to the 1970s,
10 before many women were actively in the workforce, to find
11 such low levels of workforce participation.

12 So this is exactly the kind of approach that will
13 help to get people back to work, to help create more
14 opportunities for people we represent, and more middle
15 class opportunities in particular in terms of the
16 workforce.

17 So I look forward to working with you, Mr. Chairman,
18 on our amendment in the modified mark. I appreciate your
19 including the extension. I know that permanence is
20 something that we are going to have to work on going
21 forward. Again, I really look forward to working with you
22 and the Ranking Member on broader tax reform that
23 includes permanence of these extenders.

24 The Chairman. Well, thank you, Senator.

25 Senator Carper. Mr. Chairman?

1 The Chairman. Yes?

2 Senator Carper. Just very briefly.

3 The Chairman. Senator Carper?

4 Senator Carper. I just want to thank Senator
5 Portman for his leadership on the Work Opportunity Tax
6 Credit and for his leadership to include long-term
7 unemployed as eligible for the Work Opportunity Tax
8 Credit. I think it is very important. This tool has
9 worked so effectively in getting people employed and its
10 return is very positive, there is no question about it.
11 I just want to thank him for his leadership on this
12 issue.

13 The Chairman. Well, thank you, Senator.

14 Any further comment?

15 [No response.]

16 The Chairman. Then with that, I know this issue
17 was a priority for the Senator. The Senator brought it
18 before the committee, both Senators, and we found
19 bipartisan support for it. For that reason we were
20 pleased to include it in the modification to the
21 Chairman's mark.

22 Senator Portman. Thank you, Mr. Chairman.

23 The Chairman. All right.

24 Senator Roberts is here. He was in the first
25 tranche. Do you want to bring up your amendment?

1 Senator Roberts. Mr. Chairman, I am desperately
2 looking for my wonderful speech. I have been taking part
3 in a British-American parliamentary exchange. So,
4 cheerio and all that.

5 I have an amendment that I am going to withdraw,
6 unfortunately, but I did want to speak on it. The
7 economy, everybody knows, remains in a shape that we
8 would like to see improve.

9 The reported unemployment rate remains close to 6
10 percent and economic growth continues to move along at a
11 very anemic annual pace. One of the main reasons for
12 this has been the lack of investment in capital stock,
13 property, plant and equipment.

14 This is why I am asking -- I would like to ask --
15 the committee to join with me and my colleagues Senators
16 Portman, Toomey and Isakson, to encourage investments in
17 new plant and equipment by making 50 percent bonus
18 depreciation permanent.

19 This would allow businesses to immediately deduct
20 half the cost of new equipment purchases and property
21 rather than waiting for years to depreciate the cost.
22 Bonus depreciation is one of the key tools to help grow
23 the economy. It drives new investment in business assets
24 because it reduces the risk of such investment, which in
25 turn creates jobs and frees up cash that can be

1 reinvested in the company.

2 In addition, bonus depreciation does not increase
3 the total amount a company can write off for a given
4 investment. Instead, it allows businesses to deduct more
5 of the cost now and less in the future, but that reduces
6 their current taxes at the cost of higher taxes later, a
7 concept that we call deferral.

8 By making bonus depreciation permanent, the
9 legislation would add certainty and predictability to the
10 Tax Code so that businesses can better plan investments
11 that result in jobs and growth. In a slow-growth
12 economy, bonus depreciation is a boost that we cannot
13 afford to ignore. I hope we can move this legislation
14 later this year and I appreciate the Chairman giving me
15 time to talk about it.

16 The Chairman. Thank you, Senator Roberts.

17 Any other comments?

18 [No response.]

19 The Chairman. Then we will turn to Senator Casey
20 at this point.

21 Senator Casey. Thank you, Mr. Chairman. I wanted
22 to speak just for a couple of moments about the Adoption
23 Tax Credit, which we seek by way of this amendment to
24 make it refundable. A lot of folks believe that the
25 families that are usually adopting are overwhelmingly

1 wealthy, higher income folks.

2 By one estimate, 46 percent of the families adopting
3 from foster care have incomes at or below \$200,000, or
4 200 percent, I should say, of poverty. So that is about,
5 for a family of four, about 48,000 bucks. So, a lot of
6 lower income families adopting cannot take advantage of
7 or benefit from the refundability because their tax
8 burden is so low, so this amendment would make it
9 refundable. It is the right thing to do and I look for
10 support when we get to the point of having a vote.

11 Thank you, Mr. Chairman.

12 The Chairman. I thank the Senator for raising this
13 important issue. I know of its importance to the Senator
14 and I pledge to keep working with you on it further.

15 Senator Warner, you are next.

16 Senator Warner. Thank you, Mr. Chairman.

17 With apologies to Senator Roberts, I want to speak
18 on bonus depreciation from the opposite proposal, not
19 because it is necessarily a bad thing to do, but bonus
20 depreciation was put in in 2008 as part of the reactions
21 to the recession. It was supposed to stimulate the
22 economy. It was never meant to be a permanent part of
23 the Tax Code. Making it permanent -- and I would point
24 out Chairman Camp's proposal eliminates it -- will cost
25 us \$262 billion, making that permanent.

1 I think this simply points out one of the areas that
2 we have to look at if we are going to be serious long-
3 term about tax reform. We put a lot of things in around
4 the stimulus. There are a lot of great proposals here
5 about making things permanent. I would support some of
6 those.

7 But it has been interesting being new on the
8 committee. I remember last year being very adamant,
9 making statements that many of us made, that last year
10 was the last extenders package we were going to do. I
11 have now learned that probably is not the case, and we
12 are still here doing it again. I would hope, though,
13 that as we think about -- and I was going to offer an
14 amendment that would take bonus depreciation and cut it
15 from 50 percent to 30 percent in the second year.

16 I mentioned that to my Democrat colleagues and did
17 not get a lot support, as you can imagine. But I just
18 would plead with all my colleagues at some point we have
19 to move past these discussions simply around extenders.

20 If there is one thing that came through with the
21 very good working groups that you and the Ranking Member
22 had us participate in, is that while we sit and talk
23 about tax reform the rest of the world is moving.

24 As a matter of fact, the whole goal that we have,
25 that we have had for the last decade, of trying to get

1 our rates down to 28, to 25 percent on the corporate
2 side, with the advent of patent box and innovation box,
3 our competitors are moving to tax regimes that are going
4 to have their rates mid-teens.

5 So while we discuss these small, but important,
6 provisions, even getting to 28 or 25 percent is not going
7 to keep us competitive if the U.K., with a patent box, is
8 going to have a blended rate of 14 percent. So I think
9 at some point we are going to have to take some of these
10 and make some of them permanent but take some of them and
11 frankly make the hard choices. I would put bonus
12 depreciation into that category for discussion.

13 Thank you.

14 Senator Toomey. Mr. Chairman? Mr. Chairman?

15 The Chairman. Senator Toomey?

16 Senator Toomey. Mr. Chairman, I would just like to
17 respond to my colleague from Virginia on this. As we
18 engage in this debate he is certainly right about the
19 need to do permanent and profound tax reform, but I think
20 that trading various ways of accelerating cost recovery
21 and depreciation for a lower rate is the wrong way to go,
22 and I would argue strongly for making bonus depreciation
23 and other ways to expense costs, to accelerate those. It
24 is very pro-growth. It is very pro-growth to allow a
25 business to recognize the expense of capital purchases

1 when they occur. It encourages the very investment
2 activity we are trying to generate.

3 Also, we should keep in mind, this is a timing shift
4 on revenue. That is all this is, a company that makes an
5 outlay and is not allowed to recognize it immediately but
6 rather to depreciate it over time.

7 If we change that to allow it to be fully offset
8 initially, then they do not get to depreciate it over
9 time and they pay more taxes in the future. So it is a
10 timing shift. The question is, to whom does that matter
11 the most? I can tell you to whom it matters the least, it
12 is the person with the lowest cost of funds, and that is
13 the U.S. Government.

14 No business has a cost of funds as low as the
15 Federal Government, so the government can wait for its
16 money at a much lower cost than a business can. So I
17 would just encourage us to remember how very constructive
18 it is for economic growth to allow accelerated
19 depreciation, bonus depreciation, expensing, anything
20 that we can. It is very constructive tax policy, Mr.
21 Chairman.

22 Senator Stabenow. Mr. Chairman?

23 The Chairman. Senator Stabenow?

24 Senator Stabenow. Thank you, Mr. Chairman. I also
25 would like to engage in this debate and share the opinion

1 just expressed by Senator Toomey and by Senator Roberts
2 as well, and my good friend from Virginia knows we are on
3 opposite sides of this one. But this is incredibly
4 important if we want manufacturing investment here in
5 America.

6 In fact, I have an amendment that I will not offer
7 today, but actually would help even more. We have a
8 small policy that says if you do not qualify for bonus
9 depreciation because you were so hard hit during the
10 Great Recession that you are not making a profit, to be
11 able to use AMT credits.

12 We have a lot of manufacturers that have built up
13 AMT credits that I believe should be able to be used. We
14 allow a small piece; I believe it should be higher. I
15 have legislation, bipartisan legislation, that would
16 actually raise that cap.

17 So I am in the camp of saying whatever we can do to
18 encourage capital investment, to encourage more
19 investment sooner, would be a good thing for jobs and a
20 good thing for the country.

21 Senator Toomey. Mr. Chairman, I would simply -- I
22 know our time is quick and I will just -- I have great
23 respect for all my colleagues who support this. As
24 somebody who has, as you know, spent a career in
25 business, I think we can argue the merits of bonus

1 depreciation in terms of economic effect.

2 I would simply point out, though, that at some
3 point, based on our scoring, making it permanent is north
4 of \$250 billion. Now again, we can argue about scoring
5 and dynamic scoring, but it begs what I think is the
6 larger question, is that we continue to put in changes on
7 a short-term basis to the Tax Code, some of which merit
8 long-term permanence, many of which do not, and in the
9 meantime our competitors are moving to tax regimes that,
10 even with 100 percent bonus depreciation, is not going to
11 make us competitive if we are in the 30s or, even what I
12 am increasingly believing, if we are in the mid-20s.

13 What I was going to do, but got talked out of, was
14 actually say let us put a 10 percent haircut on all tax
15 extenders on the second year as a proposal, but I thought
16 that would garner even less support.

17 The Chairman. Well, the Senator has raised this
18 issue when we brought the tax extenders bill before the
19 committee. I know how important this proposal is to the
20 Senator, so thank you for not pushing the matter to a
21 vote at this point. I appreciate that.

22 We will now turn to the Heller State and Local Sales
23 Tax Deduction amendment.

24 Senator Heller. Thank you, Mr. Chairman. I
25 appreciate your hard work and the effort of you and the

1 Ranking Member to get to where we are today. I know it
2 is difficult.

3 I have a number of amendments, so what I will do is
4 instead of taking them one at a time I will discuss them
5 briefly. They were all deemed non-germane because of
6 their permanent relief, so that being the case I will
7 withdraw them. But I would liked to speak briefly on
8 them, and also on one other issue dealing with commence
9 construction.

10 But I want you to know I am disappointed. I am
11 disappointed going into today that one of the amendments
12 that I filed, which is namely parity for the solar
13 industry, an issue that is ongoing before this committee,
14 disappointed that we cannot reach consensus on language
15 that will truly give parity for an industry that is not
16 only for my home State of Nevada, but frankly it helps to
17 diversify our Nation's energy portfolio.

18 But before I talk about solar I want to briefly
19 discuss the other amendments that I have mentioned, but I
20 want to thank Senator Portman for his comments about
21 making permanent some of this tax relief and how
22 important it is for comprehensive tax reform to get us to
23 where we need to be. So to that, Senator Portman, I
24 appreciate your comments and I do agree with those.

25 On State and local sales tax, it is a priority in my

1 State, along with fellow colleagues Senator Cantwell and
2 also Senator Thune -- to make permanent the State and
3 local sales tax deduction.

4 Under current law, taxpayers and States which are
5 funded by sales tax rather than income tax are provided
6 only temporary relief, and this has been a deduction that
7 has been extended every year since 2004 and it is
8 significant in not only stimulating the economy in our
9 home States, but frankly it is a matter of fairness.

10 I would like to go to mortgage debt relief quickly,
11 if I can, Mr. Chairman. I want to congratulate Senator
12 Stabenow for her temporary relief on today's issue. We
13 both want to make it permanent, but we are where we are
14 today and I certainly do appreciate her hard work and
15 effort on behalf of my home State, and obviously many
16 other home States, as we see a decline in home prices,
17 rising foreclosure rates that have forced many families
18 to sell their homes, unfortunately for less than they
19 paid for them, sometimes less than their outstanding
20 debt. More than 1 in 6 American homeowners are currently
21 under water, which is a rate of about 16.9 percent.

22 So along with Senator Stabenow, who has been a great
23 friend on this issue, we filed an amendment to make this
24 permanent. But like I said, under the circumstances that
25 was deemed non-germane for today's discussion, but we

1 will continue to work together on that.

2 I also want to talk briefly on conservation
3 easements, another thing that Senator Stabenow and I have
4 also consistently offered legislation, providing land
5 owners an important tool to conserve our State's precious
6 natural resources, increase outdoor recreation
7 activities, and preserve our proud tradition of ranching.

8 Our amendment encourages voluntary conservation of
9 farm and range lands, while providing farmers, ranchers,
10 and forest owners the certainty that families have long-
11 term plans on their own schedule.

12 But finally, I would like to go to the solar
13 commence construction. If I may, Mr. Chairman, I would
14 like to add Senator Schumer, Menendez, Brown and Cardin,
15 by unanimous consent, to my amendment.

16 The Chairman. Without objection.

17 Senator Heller. I want to thank Senator Carper
18 also for your support earlier and your efforts.

19 So the last issue I wanted to mention is as regard
20 to providing parity for the renewable industry. I again
21 want to thank Senator Portman for his leadership on this
22 issue. Energy is one of Nevada's greatest assets and, in
23 2013, Nevada ranked second in the Nation for geothermal
24 production, third in solar production. Eighteen percent
25 of our total electricity generated in Nevada comes from

1 renewables. That is well above the national average by
2 more than 5 percent.

3 Just as I believe that we as a Nation must diversify
4 our energy portfolio, I am also a strong believer in
5 overhauling our broken Tax Code. I worked tirelessly
6 with my friend Senator Bennet to find solutions in our
7 infrastructure working group. I am proud of the work
8 that we accomplished together. That being said, if tax
9 reform is not moving in the near future the Tax Code
10 should provide parity across the energy sector.

11 I filed an amendment today for today's mark-up in
12 regards to the renewable industry, modifying Sections 48
13 of the Investment Tax Credit and a place in service
14 standard of eligibility to commence construction date and
15 extenders as a top priority for me and others here on
16 this committee.

17 This change is about providing parity across
18 renewable energy sectors so that all technologies are
19 treated equally. Since 2006, the solar industry alone has
20 provided more than 119,000 American jobs in all 50 States
21 at an annual growth rate of 77 percent, and the industry
22 contributed \$11.5 billion to the U.S. economy in 2012.

23 My amendment would allow large-scale solar projects
24 which have multiple years to permit, finance, construct,
25 and place in service to receive equal treatment with

1 renewal industries like wind, even for projects that are
2 already under development today. Unfortunately, ITC is
3 essentially expired now.

4 So as I said before, I am disappointed that this is
5 still an outstanding issue within the Tax Code. This is
6 something I believe that should have been resolved last
7 Congress before this committee.

8 Due to this disagreement from some of my colleagues
9 across the aisle there is additional work that needs to
10 be done to truly provide parity within the Code. I am
11 committed not only to address this issue, but also to
12 moving this provision forward before the end of the year
13 and would ask the Chairman for his commitment as well.

14 With that, I offer and withdraw my amendments, but I
15 want to thank the Chairman, I want to thank the Ranking
16 Member as this committee works to relief unnecessary tax
17 burdens on the American people. Thanks, Mr. Chairman.

18 The Chairman. Well, thank you. Thanks. That
19 means a lot. Let me just say this. You have worked very
20 hard on this and we are going to continue to discuss it
21 and work on it and hopefully get it done. Frankly, I
22 think the Ranking Member would agree that we are working
23 assiduously on this, and it will be because of your
24 efforts that we will get this done ultimately. I suspect
25 that, as you know, it is non-germane for today and

1 because you are working with us on it, hopefully we will
2 get this done and you will be very happy in the end.

3 Senator Heller. Mr. Chairman, thank you.

4 Senator Cantwell. Mr. Chairman?

5 The Chairman. Senator Cantwell?

6 Senator Cantwell. Mr. Chairman, if I could, I
7 thank the Senator from Nevada for all of his comments.
8 At this moment, I just want to comment on his amendment
9 to make the sales tax deduction permanent. Many of my
10 colleagues know that this was part of the Code for a long
11 time. It had a short period of repeal for about -- I
12 think it was a dozen-plus years, and then we reinstated
13 it on a temporary basis.

14 If we are saying to other States in the Union that
15 you can deduct your income tax for the State from your
16 Federal obligations, you should be able to do the same
17 with your State sales tax as it relates to deducting it
18 from your Federal obligation. This committee, nor the
19 Congress, should have prejudice against the way a State
20 collects its State revenue.

21 What we want to have parity on is that States are
22 treated the same in their ability to deduct that State
23 obligation from their Federal obligation. So while we
24 have been through this process now of a couple of years
25 of extension and a couple more years of extension, it is

1 time to make this permanent. I hope our colleagues will
2 do that as we move to tax reform and make the sales tax
3 for these States and give them the same rights as other
4 States.

5 Thank you.

6 The Chairman. Well, thank you, Senator. I will
7 say that we are going to work on this together on solar.

8 I appreciate --

9 Senator Cantwell. Well, I do not know that we are
10 done with that issue yet, Mr. Chairman.

11 The Chairman. That is fine. We are going to work
12 together on it. I pledge to help the distinguished
13 Senator from Nevada to see if he can get this done.

14 The distinguished Senator from Colorado.

15 Senator Bennet. Thank you, Mr. Chairman. I want
16 to thank you very much for commitment to work together on
17 this. I want to thank Senator Heller for his leadership
18 on commence construction. I agree with him 1,000
19 percent. I know we are trying to get -- you are trying
20 to conclude this, so I would ask that my statement of
21 support for his effort to be placed in the record.

22 The Chairman. It will definitely be placed in the
23 record.

24 [The prepared statement of Senator Bennet appears at
25 the end of the transcript.]

1 The Chairman. I appreciate the Senator
2 withdrawing.

3 Senator Bennet. Thank you.

4 The Chairman. I know it is difficult for him. But
5 we intend to work with him and we think you have done a
6 great job up until now.

7 Senator Schumer. Mr. Chairman?

8 The Chairman. Yes, Senator Schumer?

9 Senator Schumer. I would just ask unanimous
10 consent that my statement in support of commence
11 construction be added to the record as well behind Mr.
12 Bennet's.

13 The Chairman. Without objection.

14 [The prepared statement of Senator Schumer appears
15 at the end of the transcript.]

16 The Chairman. We are now going to turn to Senator
17 Toomey for his repeal of Crony Capitalist Tax Credits.

18 Senator Toomey. Thank you, Mr. Chairman. We used
19 the most neutral-sounding name we could think of.

20 [Laughter.]

21 Senator Toomey. We talked a little bit about the
22 things that we ought to be making permanent instead of
23 doing this two-year extension. The other right way to
24 approach this, in my view, is to eliminate the things
25 that should never have been here in the first place, and

1 certainly by now should go away. I would put the
2 production tax credit squarely in that category.

3 First of all, it is expensive. The 10-year cost of
4 this 2-year extension is over \$10 billion. We have been
5 hearing for some nearly 20 years now how very close this
6 industry is to being competitive and how just one more
7 extension of this handout from taxpayers will be enough
8 to see the industry through to being an efficient
9 producer of energy, but somehow it always seems to elude
10 us.

11 But it does more damage than just the cost, Mr.
12 Chairman. Let us be clear about exactly what this is.
13 The taxpayers are forced to write a check to, especially
14 the wind industry, the people who produce electricity
15 from wind, for producing energy inefficiently. That is
16 what happens here. That is what this tax credit is all
17 about.

18 So it incentivizes the unreliable energy relative to
19 the much more dependable forms of energy that we are more
20 accustomed to, and it also creates huge distortions. You
21 may be aware that in the PJM, the Mid-Atlantic grid,
22 there are times when the spot price of electricity goes
23 negative.

24 Now, think about this. When you produce electricity
25 there is a cost, so like most commodities you need to

1 sell it and be paid. But because of the perverse
2 consequences of the subsidies we send to those who
3 generate electricity through wind, there are times when
4 they are willing to pay the grid to have their
5 electricity taken from them, so you actually have a
6 negative price for electricity on the occasions when
7 there is not much demand but it happens to be windy so
8 there is a lot of production.

9 This undermines, of course, the more efficient
10 sectors. Let me stress the biggest reason why this is a
11 problem. Let me be very clear about this. This program
12 costs us jobs. Let us not kid ourselves or pretend
13 anything to the contrary. Any source of energy that
14 requires subsidies necessarily costs jobs. We are
15 misallocating resources.

16 Of course we can always point to the folks who are
17 employed manufacturing the windmill. What we cannot
18 identify as clearly but is as every bit as real are the
19 jobs that do not occur because we are allocating
20 resources to buying electricity that is more expensive
21 than it needs to be.

22 Now, if we had the political courage to force
23 consumers to pay the full price of this more expensive
24 electricity, which of course that bill would not pass
25 because people want to disguise the true cost, but if we

1 did that then everybody acknowledges that consumers would
2 have less money in their pocket to spend on everything
3 else. This is why this ends up costing us jobs on
4 balance and why it is a really mistaken policy, in my
5 view.

6 Now, I know the fans of this will point to the
7 fossil fuel industry's treatments like various
8 depreciation allowances that they get. Let me just say
9 that these provisions are minuscule by comparison to the
10 magnitude of the subsidies for wind generation. And by
11 the way, I would be in favor of extending them to all
12 forms of electricity generation and energy production if
13 we would wipe out the Production Tax Credit. I know the
14 folks on the other side would not go with that deal
15 because we would never have another windmill put into
16 service.

17 Unfortunately, we are extending this in this mark-
18 up, Mr. Chairman. I have an amendment that would
19 eliminate this tax credit entirely. I know we do not
20 have the votes for it in this committee so I am not going
21 to take that to a vote, but I do hope that we will have
22 an honest discussion about not only those provisions in
23 this extenders package that encourage economic growth,
24 but getting rid of those that destroy economic growth and
25 destroy jobs.

1 The Chairman. Well, thank you, Senator. I
2 appreciate you withdrawing.

3 Let me just suggest to the committee, we could get
4 through this by 1:00 if we can be short in our arguments.
5 Make the principal argument you have to, but I would like
6 to kind of finish this if we can rather than have to come
7 back after lunch. So let us see what we can do, all
8 right? I appreciate you, Senator Toomey.

9 We will go to Senator Coats at this time for his
10 amendment, which is the phase-down of the wind BTC.

11 Senator Coats. Thank you, Mr. Chairman. Mr.
12 Chairman, in light of what you just said and in light of
13 the spirit of moving this process through quickly so we
14 can go to lunch, I will second what Senator Toomey has
15 said because it makes the basic point in terms of the
16 cost to the taxpayer for inefficient
17 processing/production of energy.

18 It is obvious -- apparently obvious -- that the
19 support for what Senator Toomey's amendment would do,
20 which I think is what should be done, is not going to
21 pass. But what I would like to propose to my colleagues
22 is what the industry essentially has proposed, and that
23 is a gradual phase-down of the Production Tax Credit for
24 windmills.

25 Now, Senator Toomey said this goes back 20 years.

1 Actually, it goes back into the very early 1980s when
2 this subsidy was first put in place. I have a whole
3 bunch of pages here of statements from the industry
4 itself -- which I will not take time, in the interest of
5 saving time -- saying we are going to be competitive by
6 the early 1990s. In the 1990s, they said we are going to
7 be competitive by 1999 or 2000, this decade. You will
8 not have to continue to provide Production Tax Credits
9 for us to build windmills.

10 Then at 2000, they started talking about, by 2010,
11 we are going to be competitive. I could read all these,
12 but what happens when you put a subsidy in place and you
13 do not take the industry at its word, or when it fails to
14 achieve its achievements, you end up with people like
15 Warren Buffett who say this: "On wind energy, we get a
16 tax credit if we build a lot of wind farms. That's the
17 only reason to build them. They don't make any sense
18 without the tax credit." That has been proven now over a
19 period of 30 years.

20 So what I would suggest, as a number of the industry
21 people have suggested and said to me, including wind
22 people in my own State, yes, this ought to be phased
23 down. We ought to come to some type of equality in terms
24 of our ability to be competitive in the marketplace.

25 So what I am proposing here with this amendment is

1 to simply keep the 100 percent tax credit for the year
2 2015, but reduce it to 80 percent, just a small, little
3 haircut here to start us in the direction of moving wind
4 energy to a point of competitiveness. I cannot tell you
5 how many nights and days I have driven up and down the
6 roads of Indiana and seen windmills not moving, and we
7 continue to install. This is true across America.

8 Senator Toomey talked about negative costs. You pay
9 somebody to take your energy because you cannot sell it,
10 and you cannot sell it because you are not competitive.
11 So that is the thrust of the amendment. I am sort of
12 looking at the committee to see if there are any heads
13 nodding that would lead me to ask for a recorded vote. I
14 count a couple.

15 [Laughter.]

16 Senator Coats. I see some going the other way. I
17 will tell you what, Mr. Chairman. In the spirit of the
18 Kum Ba Ya experience that we are having here with the
19 committee today, I will withdraw this for now. But
20 Senator Toomey and I will be back.

21 But colleagues, let us think about something that
22 even the industry is embarrassed about. That is, it is
23 40 years on. We are not there yet. A small start of a
24 phase-down in terms of production here so that the
25 Democrats favor it, and a multi-billionaire, Warren

1 Buffett, does not come out with statements saying the
2 only reason we build these things is because they are
3 subsidized.

4 Senator Bennet. Mr. Chairman?

5 The Chairman. Yes, Senator?

6 Senator Bennet. Also in the interest of the
7 bipartisan nature of this hearing I would like to ask
8 unanimous consent for my statement in opposition to these
9 amendments to be included. I will not speak to it,
10 except to invite Senators Toomey and Coats to Colorado,
11 where you will see windmills that spin and that are
12 generating electricity and creating real American jobs
13 right here in Colorado. We strongly believe in the work
14 that is happening there.

15 I am open to the idea of having a discussion about a
16 length of time for this, but I strongly oppose these
17 amendments as written.

18 Thank you, Mr. Chairman.

19 The Chairman. Well, I appreciate all sides on
20 this. It is an interesting debate as far as I am
21 concerned. Senator Coats, I am really pleased that you
22 brought a sense of humor to this otherwise drab --

23 Senator Coats. That was my only option after what
24 I have heard this morning. Thank you, Mr. Chairman.

25 The Chairman. We are going to go to Senator

1 Portman next.

2 Senator Portman. Thanks, Mr. Chairman.

3 Senator Wyden. I think Senator Stabenow.

4 The Chairman. Senator Stabenow. Senator Portman,
5 we will take you and then we will go to Senator Stabenow.

6 Senator Portman. Thank you, Mr. Chairman. I will
7 be brief.

8 My Amendment #4 I will offer and withdraw because it
9 really is consistent with what we have heard here today.

10 I think it is unfair to immediately eliminate both the
11 PTC and the ITC. People have made investments, made
12 decisions, but I do think they need to be phased out. I
13 say that because they are more competitive. I mean, it
14 is a mature technology now.

15 Having talked to the industry, and I know some of my
16 colleagues on the other side of the aisle are not
17 supportive of a phase-out, I encourage you to talk to
18 them because they say that by 2020 they can be
19 competitive. I also think Senator Heller made a good
20 point, which is we ought to have parity. So I think the
21 commence construction standard is also the right way to
22 go with that phase-out.

23 So that is what my amendment does. I am not going
24 to push it because it sounds like Senator Coats is going
25 to withdraw his, but I do think this is a place where we

1 could find some common ground. Listening to the
2 industry, let us do a phase-out. Mine is a little
3 different than Senator Coats' because it includes the ITC
4 as well as the PTC, but it is very similar in terms of
5 the phase-out. It is beyond a two-year period here, so
6 apparently it is not germane to this mark-up.

7 But I think that by 2020 we should set ourselves on
8 a course to phase out and eliminate both, and in the
9 meantime be sure that there is parity as to commence
10 construction. Companies for solar in my State of Ohio are
11 disadvantaged now by the lack of parity, and that would
12 help.

13 But they also understand that because this
14 technology -- both the solar side and the wind side --
15 are nearing maturity, this is an opportunity for us to
16 have tax policy that allows these resources to be more
17 efficiently allocated, as was said earlier, and for us to
18 provide for a sensible, reasonable guided slope here to
19 get to this phase-out and better tax policy.

20 Thank you, Mr. Chairman.

21 The Chairman. I thank the Senator for withdrawing.
22 If we can keep our remarks short we can get through this.

23 Senator Stabenow, you are next.

24 Senator Stabenow. Well, thank you, Mr. Chairman.

25 I will be brief. In the interest of talking about jobs,

1 on this committee alone there are over 30,000 jobs in the
2 recycled paper manufacturing industry. I want to briefly
3 speak about an amendment. I will not ask for a vote.

4 But Senators Isakson, Brown and I have offered an
5 amendment to basically update current law, which was
6 originally championed by myself and Senators Isakson,
7 Boozman, and Carper. It is Section 45 in the Code, which
8 limits the tax credit for the burning of municipal solid
9 waste to prevent waste energy facilities from receiving
10 the Production Tax Credit -- this actually saves money --
11 for burning commonly recyclable paper.

12 We want people to be incentivized in businesses to
13 recycle paper, not burn recycled paper. So what we are
14 finding now is that some municipal waste facilities are
15 collecting it in one system and basically it gets ruined,
16 the recyclable paper gets ruined, but they are somehow
17 still collecting this tax credit.

18 So this would actually save some money if you are
19 looking for a pay-for, Mr. Chairman. Our amendment would
20 clarify that we want to recycle paper, not burn it, and
21 not incentivize those that are in the municipal waste
22 industry from doing that.

23 So I hope we can work together, Mr. Chairman. This
24 is really something that needs to get fixed and affects
25 tens of thousands of jobs and more actually beyond this

1 committee. I am hopeful that we can work together to get
2 this fixed, and I would ask the Chairman and Ranking
3 Member for your support to do that.

4 The Chairman. Thanks, Senator. I know how
5 important this proposal is to the Senator. I want to
6 thank you for not pushing it here in this mark-up. I
7 appreciate it very much.

8 Senator Scott, you are next.

9 Senator Scott. Thank you, Mr. Chairman. Thank you
10 for all your hard work.

11 I have an amendment that I have filed but will not
12 call up. I would also like to ask for unanimous consent
13 to add Senator Isakson as a co-sponsor of that amendment
14 that I will call up.

15 The Chairman. Without objection.

16 Senator Scott. Thank you, sir.

17 In 2005, Congress passed provisions to incentivize
18 the construction of clean nuclear energy. We in South
19 Carolina and my friends in Georgia took the government up
20 on that offer. All of the credits under 45J are
21 currently allocated.

22 My amendment permits the public/private partnerships
23 that receive the nuclear PTC to use them more
24 efficiently. By streamlining how these credits are
25 monetized, we could greatly help to provide affordable,

1 reliable clean energy to hundreds of thousands of
2 families at lower rates.

3 This amendment is not about the investors, it is
4 actually simply about the thousands of families in South
5 Carolina and throughout the rest of the Southeast that
6 live paycheck to paycheck. Electric bills are a fixed
7 cost. Reducing that cost is a meaningful change.

8 So I would look forward to working with you, Mr.
9 Chairman, to improve the efficiency of the Nuclear
10 Production Tax Credit. Thank you so much for the
11 opportunity to address this issue.

12 The Chairman. Well, thank you, Senator. We
13 appreciate it and we will continue to look into it at
14 your suggestion.

15 Senator Menendez is next.

16 Senator Menendez. Thank you, Mr. Chairman.

17 Before I turn to the amendment I want to talk about
18 I just want to thank you and the Ranking Member for
19 including a piece of our Start-up Jobs and Innovation Act
20 in the modified mark, which basically increases the value
21 of small business expensing by indexing the thresholds
22 which define eligible firms to inflation. I think it
23 gives small businesses a fighting chance.

24 The amendment I want to call up, and of course
25 pursuant to the Chair's overall sense of germaneness I

1 will not call for a vote, but it is one that repeals the
2 unexpected tax bill that afflicts far too many families
3 struggling to pay off student loans. I want to thank
4 Senators Brown and Stabenow for joining me in co-
5 sponsoring.

6 Our amendment would repeal the tax on forgiven
7 college loans due to death, disability, or Federal
8 repayment and forgiveness programs. Currently, Federal
9 loans that are forgiven under these circumstances are
10 actually considered part of the borrowers' income for tax
11 purposes.

12 This results in an unexpected and often massive tax
13 bill for an individual or an individual's family, which
14 exacerbates the high tuition rates and the drag on the
15 economy as a result of that. Our amendment would prevent
16 this tax by exempting debts forgiven in these instances.

17 Now, this is not a new idea. Exemptions already
18 exist for other debt forgiveness programs such as the
19 National Health Service Corps Loan Repayment Program, the
20 Public Sector Loan Forgiveness Program, certain State-
21 and professional-based loan programs.

22 Our amendment would simply extend similar treatment
23 to student loan debt forgiven for income-based or income-
24 contingent repayment programs, loans discharged due to
25 death or disability, and loans forgiven or repaid through

1 other Federal programs.

2 To get hit with a tax bill when you die and you
3 still have a student loan program, or you are disabled
4 and you still have a student loan program, there is a
5 forgiveness and because of the forgiveness you get hit
6 with a tax bill, is really an incredible burden to
7 families and to individuals.

8 So I hope that we can at some point have an
9 opportunity not just to talk about this provision, but to
10 put it to a vote. With that, Mr. Chairman, I will
11 withdraw the amendment.

12 The Chairman. All right. As I understand it, the
13 amendment is withdrawn? I am sorry.

14 Senator Menendez. Yes.

15 The Chairman. All right. I appreciate that.
16 Thanks, Senator Menendez.

17 We will now go to Senator Enzi on the Marketplace
18 Fairness Act. We will skip that then.

19 Our next one will be Senator Cardin, Source Natural
20 Energy-Efficient Transmission.

21 Senator Cardin. Thank you, Mr. Chairman. We have
22 been having a good discussion on energy issues and I
23 think we do need to talk about what the energy tax policy
24 should be. One of the reasons that renewables have
25 difficulty is the transmission issue, so my amendment

1 would provide a credit for energy-efficient transmission
2 so that we can have a more competitive, neutral source
3 where energy comes from.

4 The provision invests less than one-tenth of one
5 percent of the cost of the bill and the transmission of
6 American electric grid technology that will one day
7 efficiently move electric power underground with the
8 speed and efficiency that the internet moves information
9 from coast to coast.

10 It would invest in locating underground, eliminating
11 the future not-in-my-backyard issue, whether-related
12 blackouts and vulnerability to natural and unnatural
13 electromagnetic power events. The provision invests in
14 electric grid technology that one day eliminates the need
15 for renewable generation subsidies, something we have
16 talked about here, because it will bring the power from
17 its source directly to those who need it.

18 It also would neutralize some of the price
19 differentials between different regions in this country
20 if we had a grid that truly would allow us to connect
21 with all energy sources. It is my understanding that this
22 is not germane to the bill, but I appreciate the
23 opportunity of bringing it to my colleagues' attention.
24 I hope we will get into a discussion as to the proper tax
25 policy for energy in this country.

1 The Chairman. Well, thank you, Senator.

2 We still have enough here to continue amendments.
3 Senator Thune was next, but he has had to step out. I am
4 going down this one list here. Senator Burr? Oh, we
5 skipped Senator Carper? Did we? Well, Senator Carper,
6 you are it. I am sorry, they gave me the wrong list.

7 Senator Carper. It is all right. Not to worry.
8 Thanks so much, Mr. Chairman. As we all know, private
9 investment in R&D serves as the lifeblood of innovation.
10 However, some provisions in the R&D tax credit actually
11 served to undercut Federal support for research that
12 would otherwise take place.

13 Senator Toomey and I have been working to address
14 that. Let me take a minute, if I could, to talk about it.

15 Our amendment, proposed by the two of us, makes major
16 improvements to the current system for inter-company
17 contract research.

18 Under current law, you may know, if a company
19 conducts research in-house, that company can claim the
20 full value of the R&D tax credit. However, if one
21 company contracts with a second company, one that has
22 more technical expertise, for example, to do the very
23 same research, the first company gets less than two-
24 thirds of the value of the R&D credit. The second firm,
25 the company that actually conducted the research, gets

1 nothing. This amendment that Senator Toomey and I would
2 offer would rectify this problem.

3 Our proposal would allow the payee company, the firm
4 that actually conducts the research, to claim a portion
5 of the R&D tax credit for the research spending.
6 Overall, making this change to the R&D credit will
7 increase the Tax Code's incentives for businesses to
8 undertake collaborative R&D projects.

9 I thank Senator Toomey for joining me in our
10 collective efforts on this, and we look forward to
11 working with our Chairman, our Ranking Member, and our
12 colleagues to see if this provision could be included in
13 a Finance Committee product in the very near future.

14 With that, I would withdraw this amendment.

15 The Chairman. Thank you. I appreciate you
16 withdrawing the amendment.

17 We will go to Senator Menendez on the Small Business
18 R&D Partnerships if you care to. You pass? All right.

19 Is there anybody else here who wants to get
20 recognized?

21 [No response.]

22 The Chairman. Let us at least get Senator Wyden
23 back here. All right. Please wait if you can. We are
24 going to have a vote one way or the other here.

25 Should I call on you, Senator Wyden?

1 Senator Wyden. No.

2 The Chairman. All right. Well, then we are
3 prepared to vote?

4 Senator Cantwell. Mr. Chairman, if I could, just
5 because my colleagues on the other side had a lot of
6 discussion about some things, I just wanted to add in.

7 Our oil and gas revenue tax credits are about \$4
8 billion a year, so I know we did not have a lot of
9 amendments filed on that. But I think the issue is that
10 the view from our side -- or at least from me, I should
11 say -- I like to invest in things that are nascent
12 technologies that the marketplace, by encouragement of
13 tax credits, continues to invest in.

14 So I think the difference, some of my colleagues
15 from the Midwest -- who I appreciate may have a different
16 energy mix than, say, the Pacific Northwest has or some
17 other States -- that I very much support these tax
18 credits because I want to continue to incent an industry
19 that I think is going to be valuable for us from a
20 renewable perspective.

21 I am happy to discuss getting rid of the oil and gas
22 revenues and setting a termination date on all of these
23 things, but to think that we keep incenting an industry
24 that has done quite well and made billions of dollars and
25 is adding to other problems to our challenges with CO₂, I

1 would say that we are getting a very fair deal on
2 continuing to incent both wind and solar. I look forward
3 to working with the Chairman and the Ranking Member on
4 these issues as we move forward.

5 The Chairman. If there is no further debate I
6 would entertain a motion that the committee order the
7 mark reported, as modified.

8 Senator Wyden. I so move.

9 The Chairman. Does any Senator require a recorded
10 vote?

11 [No response.]

12 The Chairman. Well, if not, then all in favor say
13 aye.

14 [A Chorus of Ayes.]

15 The Chairman. The bill passes and we will --

16 Senator Schumer. Roll call. What did we wait here
17 for?

18 The Chairman. Do you want a roll call? All right.
19 Roll call.

20 Senator Wyden. No, we do not want a roll call.

21 The Chairman. All right. How many are opposed? I
22 had better say that.

23 [A Chorus of Ayes.]

24 The Chairman. All right. We have one opposed.

25 Then the ayes have it. The mark is modified as ordered

1 and reported.

2 I ask consent that the staff be granted customary
3 authority to make technical, conforming, and budgetary
4 changes. Without objection, it is so ordered.

5 If we could have order. Let us have order. A
6 recorded vote has been requested. We are coming to a
7 conclusion of the committee's investigation of the
8 Internal Revenue Code's handling of tax-exempt status
9 applications under Internal Revenue Code Section
10 501(c)(4).

11 We have to proceed because we expect that the
12 committee's report will contain information covered by
13 Section 6103 of the Internal Revenue Code. Section 6103
14 requires certain information be treated as confidential
15 unless, among other things, properly authorized for
16 disclosure in the form of a report authorized by the
17 Senate. We expect the committee to act on this matter
18 prior to the August recess.

19 To facilitate this process, I make the following
20 motion. I move, pursuant to Paragraph 5(b) of Senate Rule
21 26, to authorize the Chairman, in consultation with the
22 Ranking Member, to convene a closed meeting of the
23 committee to consider a report on the committee's
24 investigation of the Internal Revenue Service's handling
25 of applications for tax-exempt status under Internal

1 Revenue Code Section 501(c)(4).

2 Senator Wyden. Mr. Chairman, I will be very, very
3 brief. This is an issue that was begun by then-Chairman
4 Baucus and Senator Hatch so there would be at least one
5 bipartisan inquiry on the IRS. I wanted the committee to
6 issue and report last year when I was Chair, but the IRS
7 discovered that there were missing emails from a key IRS
8 official who was involved and it took a year to get to
9 the bottom of it.

10 Today, the Chairman would like the committee to
11 continue its bipartisan inquiry. I think it is extremely
12 important that we move carefully. The report involves
13 taxpayer-related information that appropriately can only
14 be disclosed in the form of a report to the Senate if the
15 committee votes to submit such a report.

16 What we are doing today is voting to have a closed
17 session in two weeks. I would urge the support for it.

18 Senator Schumer. Mr. Chairman?

19 The Chairman. Senator?

20 Senator Schumer. Yes. I am all for this, that is
21 fine, but I just think we have such agreement on the
22 extenders, it would help us on the floor and through the
23 House if we had a roll call vote, if no one objects,
24 because it would pass overwhelmingly and that is a good
25 idea here. So if no one objects -- I mean, I would need

1 unanimous consent -- I would ask for a roll call vote on
2 the extenders package.

3 The Chairman. Is there any objection?

4 [No response.]

5 Senator Schumer. Did we lose anybody?

6 Senator Wyden. Colleagues, I support Senator
7 Schumer's request on extenders. First, and I hope it
8 will be a voice vote on the question on the IRS
9 investigation.

10 The Chairman. Does anybody desire a recorded vote
11 on this question of having a closed meeting?

12 [No response.]

13 The Chairman. Without objection? All in favor say
14 aye.

15 [A Chorus of Ayes.]

16 The Chairman. Any opposed, say no.

17 [No response.]

18 The Chairman. All right. Then we will have that
19 closed meeting.

20 Senator Schumer. I ask unanimous consent, if no
21 one has left here, we do a roll call vote on the
22 extenders.

23 Senator Burr. We have lost Senator Isakson.

24 Senator Schumer. Who was here a minute ago?

25 The Chairman. We do have a quorum, though.

1 Senator Coats. Senator Warner is gone.
2 Senator Schumer. Warner was not here.
3 Senator Coats. Menendez.
4 Senator Schumer. Menendez is here.
5 The Chairman. Is there any objection to a recorded
6 vote?
7 Senator Schumer. I ask for a roll call vote.
8 The Chairman. Well, then the Clerk will call the
9 roll.
10 The Clerk. Mr. Grassley?
11 Senator Grassley. Aye.
12 The Clerk. Mr. Crapo?
13 Senator Crapo. Aye.
14 The Clerk. Mr. Enzi?
15 Senator Enzi. No.
16 The Clerk. Mr. Cornyn?
17 The Chairman. Aye by proxy.
18 The Clerk. Mr. Thune?
19 The Chairman. Aye by proxy.
20 The Clerk. Mr. Burr?
21 Senator Burr. Aye.
22 The Clerk. Mr. Isakson?
23 The Chairman. Aye by proxy.
24 The Clerk. Mr. Portman?
25 Senator Portman. Aye.

1 The Clerk. Mr. Toomey?
2 Senator Toomey. No.
3 The Clerk. Mr. Coats?
4 Senator Coats. No.
5 The Clerk. Mr. Heller?
6 Senator Heller. Aye.
7 The Clerk. Mr. Scott?
8 Senator Scott. Aye.
9 The Clerk. Mr. Wyden?
10 Senator Wyden. Aye.
11 The Clerk. Mr. Schumer?
12 Senator Schumer. Aye.
13 The Clerk. Ms. Stabenow?
14 Senator Stabenow. Aye.
15 The Clerk. Ms. Cantwell?
16 Senator Cantwell. Aye.
17 The Clerk. Mr. Nelson?
18 Senator Wyden. Aye by proxy.
19 The Clerk. Mr. Menendez?
20 Senator Menendez. Aye.
21 The Clerk. Mr. Carper?
22 Senator Carper. Aye.
23 The Clerk. Mr. Cardin?
24 Senator Cardin. Aye.
25 The Clerk. Mr. Brown?

1 Senator Wyden. Aye by proxy.

2 The Clerk. Mr. Bennet?

3 Senator Bennet. Aye.

4 The Clerk. Mr. Casey?

5 Senator Casey. Aye.

6 The Clerk. Mr. Warner?

7 Senator Wyden. Aye by proxy.

8 The Clerk. Mr. Chairman?

9 The Chairman. Aye. The Clerk will report the
10 vote.

11 The Clerk. Mr. Chairman, the final tally is 23
12 ayes and 3 nays.

13 The Chairman. Well, we appreciate everybody being
14 here today and working so hard. I want to once again
15 thank my colleagues for their cooperation in what has
16 been another successful bipartisan mark-up.

17 Every single one of the bills we have reported has
18 bipartisan support, every one of them. Of course, I
19 cannot take credit for this. We have got a great group
20 of Senators here on the committee from both sides the
21 aisle, and they have all been committed to working
22 together to address the concerns of the American people.

23 I am very appreciative of the Ranking Member's work
24 on this committee, and of everyone's willingness to work
25 with Senator Wyden and myself to make these efforts

1 successful.

2 Working together, I know we can continue to do some
3 good things for our States and our constituents, and so I
4 expect to continue to move forward. I look forward to
5 working with all of our members of the committee on the
6 challenges that lie ahead.

7 Senator Wyden, do you have anything to say?

8 Senator Wyden. Mr. Chairman, I think it is
9 appropriate you adjourn. I think there was a lot of
10 cooperation and a lot of good will here, and that is why
11 we got some important work done. Thank you.

12 The Chairman. With that, the committee is
13 adjourned.

14 [Whereupon, at 1:10 p.m., the meeting was
15 concluded.]

16

17

18

19

20

21

22

23

24

25

I N D E X

PAGE

STATEMENT OF:

THE HONORABLE ORRIN G. HATCH
A United States Senator
from the State of Utah 2

THE HONORABLE RON WYDEN
A United States Senator
from the State of Oregon 6

Statement for the record Senator Bill Nelson
July 21, 2015
Original Bill to Extend Certain Expired Tax Provisions

Mr. Chairman, thank you for having this mark-up today. I am unable to attend, but I would like to commend you and the Ranking Member for working with all of us to find some common ground on the tax extenders bill and bringing it before the Committee.

We must not repeat last year's events when we waited until the tail end of the year to pass an extension. Enacting tax provisions in such a manner severely undermines their effectiveness and is bad policy.

I've long been a supporter of many of these important tax provisions, which help grow our economy and create jobs.

Extending these provisions, which expired at the end of 2014, for two years will give us time to take a careful look at the tax code and see how we can move the ball forward on fundamental tax reform.

I appreciate that this bill is similar to last year's Senate Finance Committee's bipartisan work done on tax extenders last Congress, and I hope it will be passed into law in short order.

There are a number of provisions in this package that are important to me and the State of Florida.

This includes an extension of the state sales tax deduction. Florida—like many other states—does not have an income tax, so Floridians do not benefit from the state and local income tax deduction. Almost two million Florida families and individuals rely on the state sales tax deduction.

In 2012, these Florida taxpayers deducted more than \$2.6 billion in state sales taxes on their federal returns. The deduction helps level the playing field with the vast majority of States that do have an income tax. I appreciate and support the effort to make this permanent.

The bill also includes policy vital to our housing recovery.

The bill extends a provision that allows underwater homeowners to sell their homes in a short sale without taking a massive tax hit. This provision helps underwater homeowners get back on their feet, and it provides a major boost to the housing market. The effects of the housing crisis are still being felt throughout many parts of the country, so the need for this provision continues.

I am glad we are extending this law, and I support my colleagues' efforts to improve its usefulness.

There are also a number of provisions in this bill as well as amendments to the bill that support clean and renewable energy. Our tax incentives should not discriminate against certain types of renewable energy, which is why I support Senator Heller, Cantwell, Portman and Bennet's amendment to provide parity for solar energy facilities to take advantage of the investment tax credit.

I support a permanent extension of the enhanced charitable incentive for the donation of conservation easements. I have heard from numerous groups in Florida about the significant work they are doing to preserve important wildlife habitats, open spaces, and threatened farm and ranch land. This tax provision is a successful approach to allow land owners to preserve land that will benefit generations to come.

I also applaud Senator Wyden's amendment to improve the short line railroad tax credit—a credit I have long supported.

Further, I am a cosponsor of Senator Sherrod Brown's bill to extend the more robust Child Tax Credit and Earned Income Tax Credit beyond their expiration in 2017, and I support his amendment at this markup. If the reformed CTC and EITC are not extended before 2017, more than 1.7 million children and more than one million families in Florida will lose important tax credits that help them pay for necessities, like food, shelter and clothing.

Mr. Chairman, I look forward to passing this legislation out of Committee and enacting it into law as soon as possible.

Charles E. Schumer

FIRPTA Statement for the Record

Mr. Chairman, Ranking Member Wyden, I'd like to echo the thoughts of my colleagues who have already spoken on this issue. New York City is the gold standard for commercial real estate, but the package of FIRPTA reforms we have been working on may be even more important for my communities in upstate New York which have a harder time attracting investment. As so many of my colleagues here already know (which is why there is so much support for FIRPTA reform), towns and cities all across America need more investment in real estate and infrastructure.

The reforms we've been working to develop—not only in this committee but also in coordination with our colleagues on the Ways and Means Committee—over the past year achieves these objectives and does so in a bipartisan way. So while I'm pleased with the progress we've made earlier this year by moving the safe harbor provision through committee; I want to strongly emphasize that there is much more work to be done before this package is ready to be signed into law.

Specifically, we have a history of bipartisan, bicameral support for the provision to treat foreign pension fund investments the same as U.S. pension funds. It makes eminent sense to make this change so that pension fund investments that are currently going abroad can instead be directed to help fill our infrastructure needs; and we should continue working to identify other reasonable and appropriate policy changes to make this relief more broadly applicable.

Again, I appreciate the progress we have made thus far; and Mr. Chairman I appreciate the commitment you have made to expanding upon it. I look forward to working with you and all my colleagues on this committee to build out this package of relief in the weeks and months ahead.

Charles E. Schumer

Solar Investment Tax Credit Statement for the Record

I want to echo the frustrations of my colleagues and thank Senator Cantwell for her leadership on this issue. The solar investment tax credit expires at the end of 2016, the same as the window for this package. But it can be recaptured if construction of a project isn't finished on time, by the end of 2016.

We all know that's not a reasonable standard, given that construction timetables can be difficult to predict. This is exactly why this policy change has been made for projects under the Production Tax Credit already; and why we need to do the same for the Investment Tax Credit. I strongly support this policy change and hope we can find a way to get it enacted this year.

Senator Michael F. Bennet
Remarks in favor of Heller/Cantwell/Portman/Bennet Amendment #4

Mr. Chairman, I would like to speak in favor of the commence construction amendment. This amendment is based on a bill that Senator Heller and I introduced last year. The goal of this amendment is to extend parity to the solar industry for the remaining two years of the ITC.

I know we've had lots of discussions about the germaneness of this provision. The ITC expires at the end of 2016, so it seems, logically, that changes to the ITC should be germane to this bill. But all of that aside, this is just a simple fix to make sure that the solar industry can take advantage of the tax credit that Congress has already provided to them. If we don't make this change, the ITC will be at a disadvantage compared to other renewable credits.

A wind project that starts construction in 2016 will be able to claim the PTC. But a large solar project that starts construction at the same time most likely won't be able to claim the ITC. Any large energy project takes a long time to finance, permit, and build. For example, the 156 megawatt Comanche Solar Project being built near Pueblo, Colorado will finally begin construction this year and won't reach completion until mid-2016. When it's completed, it will be the largest solar installation east of the Rockies. And it will generate enough electricity to power more than 31,000 homes.

Many other projects that have not already broken ground have no hope of accessing the ITC before the end of 2016. For these solar projects, the ITC has already expired. And that means lost investment, lost jobs, and lost opportunities for growth of clean energy. This fix would allow these solar projects to fully access the ITC through 2016. It simply gives the solar industry the ability to use the credit that Congress already gave to them.

I hope that we can continue to work together on this important issue.

Senator Michael F. Bennet

Remarks in opposition to Toomey/Coats Amendment #4 and Coats Amendment #2

The PTC is not just about energy production, it's also about manufacturing and jobs, and ensuring that the U.S. remains a world leader in technology development.

Colorado has more than 1,600 installed wind turbines that can produce enough energy to power approximately 600,000 households. And we have the fastest growing wind industry in the country. Colorado ranks third in the U.S. in total wind industry jobs, employing more than 6,000 people. None of the communities that these jobs help support would call this “picking winners and losers”—which, by the way, our tax code already does.

Every industry needs certainty and a clear economic case to do business. After the wind PTC expired at the end of 2012, new installations dropped by 92 percent. This lack of certainty cost jobs in communities across the state of Colorado.

For these reasons, I urge my colleagues to vote against the Toomey amendment.