

February 17, 2012

## Tell Alabama's U.S. Senators to Join Fight for E-Fairness

### State Panel Recommends Single Sales and Use Tax Administrator

This week, the Alabama Streamlined Sales and Use Tax Commission issued its recommendations to the Alabama Legislature. Meanwhile, the author of two federal bills that call for an end to Internet retailers' tax advantage said without a national solution, some main streets "could disappear."

In anticipation of federal e-fairness legislation, the Alabama Streamlined Sales and Use Tax Commission issued its report Monday to the Alabama Legislature recommending the Alabama Department of Revenue be the single administrator for state and local sales and use taxes. **ARA thanks Alvin Lewis, vice president of tax and payroll for Birmingham-based Books-A-Million, for his continued service as ARA's appointee to the Alabama Streamlined Sales and Use Tax Commission.**



[>> Read the commission's full report](#)

Without federal legislation to level the sales tax collection playing field between online and Main Street retailers, many retail businesses in Alabama and elsewhere will fail.

"It's not a stretch to say entire Main Street shopping districts could disappear," Senate Majority Whip Richard Durbin, D-Ill., said on the floor of the U.S. Senate. Durbin is the lead sponsor of the long-pending Main Street Fairness Act ([S. 1452](#) and [H.R. 2701](#)) and a co-sponsor of the more recent Marketplace Fairness Act ([S. 1832](#)). Another bill, [H.R. 3179](#), the Marketplace Equity Act, also is before Congress. Any of the three federal bills would make it easier for states to require Internet sellers to collect sales tax just as local stores do.

[>> Read a synopsis of the three federal bills](#)

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#### Previous Issues

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Reach out to Alabama's senators, Richard Shelby and Jeff Sessions, and ask them to support and/or co-sponsor S. 1832.

**Call Shelby at (202) 224-5744 or [e-mail him](#).**  
**Call Sessions at (202) 224-4124 or [e-mail him](#).**

Fighting for a fix to the sales tax collection inequity is the Alabama Retail Association's top legislative priority.

To make any federal legislation work, Alabama will have to adjust its tax laws. [HB 153](#) by [Rep. Jack Williams, R-Birmingham](#), and [SB 291](#) by [Sen. Greg Reed, R-Jasper](#), would create a 20-member Alabama Sales, Use, and Lease Tax Simplification Task Force to further study the issue of streamlining and simplifying the administration and remittance of sales, use and lease taxes. The panel, which is part of the Republican majority's 2012 legislative agenda, is to report its findings to the Legislature by the third legislative day of the 2013 regular session.

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## JOB

### House OKs Income Taxes Withheld Incentive to Build, Expand or Retain Businesses

This week, the Alabama House of Representatives approved a two-bill package described by its sponsor as the "*No. 1 issue in the state of Alabama*" and by one of its opponents as the "*most dangerous*."

After making several amendments Tuesday, the Alabama House voted 69-19-1 to approve [HB 160](#) by [Rep. Barry Mask, R-Wetumpka](#), which allows companies in certain instances to use income taxes withheld from full-time employees to build, expand or retain operations in Alabama.

Most of Thursday's House debate involved [HB 159](#), a constitutional amendment that requires the state's voters to approve the provisions of HB 160. The House approved the constitutional amendment on a vote of 65-22-2.

Under HB 160, from 50 to 90 percent of state income taxes normally withheld for additional employees hired as a result of an expansion, building or modernization project could be retained and used by the company to offset the project costs, depending on the number of jobs created.

Companies modernizing in order to keep jobs could also qualify if the company invests at least \$500,000 in a disadvantaged area or \$2 million elsewhere. Depending on where it is located, a retention project would have to retain between 67 and 80 percent of its current employees for five years to qualify.

[SB 271](#), the companion measure by [Sen. Phil Williams, R-Rainbow City](#), is pending before the Senate Job Creation and Economic Development Committee.

The Alabama Education Association (AEA) objects to the legislation saying it depletes the funds earmarked for education. AEA instead supports a \$50 million bond issue that would put \$30 million into career education and provide \$20 million to encourage the Goodyear Tire and Rubber Co. to keep its plant and about 1,500 employees in Gadsden, which is one of the purposes of the legislation being

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## BILLS

### House

- [HB 15](#)
- [HB 37](#)
- [HB 72](#)
- [HB 140](#)
- [HB 150](#)
- [HB 152](#)
- [HB 153](#)
- [HB 159](#)
- [HB 160](#)
- [HB 199](#)
- [HB 200](#)
- [HB 207](#)
- [HB 215](#)
- [HB 264](#)
- [HB 267](#)
- [HB 268](#)
- [HB 285](#)
- [HB 307](#)

### Senate

- [SB 48](#)
- [SB 73](#)
- [SB 77](#)
- [SB 137](#)
- [SB 158](#)
- [SB 163](#)
- [SB 174](#)
- [SB 222](#)
- [SB 252](#)
- [SB 258](#)
- [SB 271](#)
- [SB 291](#)
- [SB 294](#)
- [SB 300](#)
- [SB 304](#)
- [SB 309](#)
- [SB 315](#)
- [SB 333](#)

### Federal

- [S. 1452](#)
- [S. 1666](#)
- [S. 1832](#)
- [H.R. 2701](#)
- [H.R. 2833](#)
- [H.R. 2854](#)
- [H.R. 3179](#)

pushed by the governor and other GOP leadership. Kentucky, Georgia and Mississippi have similar legislation. "Other states are trying to lure our existing industry away," Mask told lawmakers.

• [H.R. 3630](#)

## IN THE NEWS

### Senate Sends Capital Credits Bill to House

Tuesday, the Alabama Senate unanimously approved [SB 48](#) by [Sen. Arthur Orr, R-Decatur](#), which would allow companies that spend at least \$100 million on capital improvements and hire at least 100 people to hold on to a tax credit for up to four years. Companies typically get a credit for 20 percent of their investment each year for 20 years. Orr's bill would allow a company that invests \$400 million to carry over the credit for four additional years. The credit can be held for three extra years for a \$300 million investment, two years for \$200 million and one year for \$100 million. The House companion, [HB 140](#) by [Rep. Micky Hammon, R-Decatur](#), is set for a 1:15 p.m. Wednesday public hearing before the House Economic Development and Tourism Committee.

### Tax Credit for Hiring Veterans Goes To Senate

Tuesday, the House unanimously approved [HB 152](#), *The Heroes for Hire Tax Credit Act*, by [Rep. DuWayne Bridges, R-Valley](#), which gives businesses a total of \$2,000 in tax credits for hiring veterans who recently returned home from a war. The bill increases the current \$1,000 tax credit by another \$1,000. The bill also gives recently discharged veterans tax credits of up to \$2,000 for starting their own businesses. The bill, aimed at helping Iraq and Afghanistan war veterans, applies to unemployed veterans who are Alabama residents and were honorably discharged within two years of the date of hire. Wednesday, the Senate Finance and Taxation Education Committee approved the Senate companion, [SB 163](#) by [Sen. Tom Whatley, R-Auburn](#).

## ARA AGENDA IN ACTION

### House OKs Unemployment Compensation Fraud Bill

On a vote of 78-15 Thursday, the House approved [HB 72](#) by [Rep. Paul DeMarco, R-Homewood](#), which would require anyone convicted of falsely receiving unemployment compensation benefits to fully repay the state and disqualify them from receiving benefits for a year. That punishment would be in addition to criminal penalties and fines that already exist, plus the bill strengthens those punishments.

Fraud "means less money in the state's unemployment account for those who are truly unemployed," DeMarco told representatives. Paying out less in fraudulent benefits also would mean "the state won't have to increase the assessment for businesses," he said. The Alabama Department of Industrial Relations (DIR) estimates more than 12,000 people fraudulently received unemployment compensation in Alabama in 2011. During debate, DeMarco said that in the last two quarters, 6,567 cases of unemployment compensation fraud representing \$5 million have been prosecuted.

Under the bill, DIR could intercept any federal or state funds due to those convicted of such fraud to recover the state's money. **ARA supports legislation to reduce both unemployment and workers'**

[Alabama has nation's fourth-highest local sales tax rate](#)

[Tax Foundation Report: State and Local Sales Taxes in 2012](#)

[Pennsylvania residents must pay Internet sales tax](#)

[Michigan council formed to demand enforcement of tax on internet sales](#)

[N.J. retailers balk at Amazon's proposal to open two warehouses in exchange for sales tax holiday](#)

[Idaho lawmakers propose making online sales subject to state sales tax](#)

[Missouri lawmaker works on Internet sales tax measure](#)

[Amendment that could aid Goodyear passes House, goes to Senate](#)

[Alabama House OKs use of tax breaks for business](#)

[House passes key economic development legislation](#)

[Bridges' jobs bill passed in House](#)

[Huntsville man took unemployment after falsely claiming workplace destroyed by tornadoes](#)

[Bentley, budget chairmen differ on \\$500 million request for Medicaid](#)

[Bentley proposes sales tax holiday for storm gear](#)

[Senate passes bill for online notices](#)

## **compensation fraud as part of its 2012 agenda.**

A public hearing on a similar bill, [SB 137](#) by [Sen. Paul Bussman, R-Cullman](#), is set for 9 a.m. Wednesday before the Senate Business and Labor Committee.

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## **UNEMPLOYMENT COMPENSATION**

### **House Panel Approves; Senate Panel to Consider Moving Unemployment Waiting Week**

Wednesday, the House Commerce and Small Business Committee approved [HB 285](#) by [Rep. Jack Williams, R-Birmingham](#), which would move the one-week, unpaid waiting period for unemployment compensation from the 14th to the 1st week of benefits.

The Senate companion, [SB 300](#) by [Sen. Trip Pittman, R-Daphne](#), will come before the Senate Job Creation and Economic Development Committee at 3:30 p.m. Tuesday.

States with waiting periods in the first week of eligibility do so to give unemployment benefit administrators time to better evaluate what the unemployed individual is owed, cut down on overpayment and diminish the possibility of fraud.

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## **MEDICAID**

### **Medicaid Asks for \$500 Million; Legislators' Initial Reaction is 'No'**

Alabama Medicaid Commissioner Bob Mullins told lawmakers Wednesday that Medicaid needs \$500 million in next year's budget to be viable. His budget assumes the agency can achieve \$40 million in savings from hospitals and other health-care providers and another \$30 million in savings from programs such as managed care for high-cost patients.

Mullins said he hopes to find savings in a pharmacy program aimed at reducing drug costs and a pilot program aimed at improving care while reducing utilization, a significant driver of health care costs. Medicaid serves about 900,000 Alabamians, 19 percent of the state's population. Legislative budgetary leaders expressed doubts that the agency will get the \$500 million it is seeking.

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## **TAXES**

### **Senate Panel OKs Carrying Forward Capital Losses for Three Years**

A bill to allow Alabama taxpayers to carry forward income tax deductions for capital losses for up to three years is headed to the full Senate for consideration. Wednesday, the Senate Finance & Taxation Education Committee approved [SB 252](#) by [Sen. Slade Blackwell, R-Birmingham](#), on a vote of 7-1-1.

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### **No Bill Yet, But Governor Proposes Severe Weather Sales Tax Holiday**

### [Bill aims to remove federal health care oversight](#)

### [Alabama starting to win war on meth](#)

### [Legislators working on state immigration law changes](#)

### [Senate panel delays vote on bill to ban occupation taxes in state](#)

### [Congress approves payroll tax cut extension](#)

### [Obama budget seeks \\$4 trillion in cuts over decade, higher taxes for wealthy](#)

### [Interchange revenue at banks growing](#)

*[For more stories concerning legislative action and news of interest to retailers, go to In the News](#)*

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To contact members of the Alabama Legislature:

**WRITE:**  
Alabama State House  
11 South Union Street  
Montgomery, AL 36130

**CALL:**  
HOUSE: (334) 242-7600  
SENATE: (334) 242-7800

**E-MAIL:**  
Most representatives can be



While designating next week as Severe Weather Preparedness Week, Gov. Robert Bentley this week proposed a once-a-year sales tax holiday on weather radios, flashlights, generators and other supplies needed to help prepare for weather disasters. Such legislation has yet to be introduced this session.



Alabama Department of Emergency Management Agency spokeswoman Yasamie August told reporters that such severe-weather emergency essentials as bandages, disinfectant, other first-aid supplies and prepackaged tornado emergency kits could also be included in a sales tax holiday.

Meanwhile Thursday, Sen. Cam Ward, R-Alabaster, introduced [SB 304](#), companion legislation to [HB 267](#), introduced last week by [Rep. Greg Wren, R-Montgomery](#), to add energy-efficient furnaces, refrigerators and other energy-efficient appliances and products valued at \$1,500 or less to the list of items included in Alabama's annual sales tax holiday, which is held in August. **ARA supports sales tax holidays as a way to encourage retail sales and create savings for consumers.**

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## Now Both a Senate and a House Bill Propose Unitary Combined Reporting

[Sen. Marc Keahey, D-Grove Hill](#), this week introduced [SB 333](#), which would require corporations to follow a set of unitary combined reporting rules when calculating their Alabama income taxes. Last week, [Rep. Richard Lindsey, D-Roanoke](#), introduced an identical bill, [HB 199](#). Such legislation would be detrimental to Alabama's ability to attract new businesses and keep the ones it has. **Opposition to required unitary combined reporting for corporate taxpayers is part of ARA's 2012 Legislative Agenda.**

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## Lawmakers Propose Tax-Exempt Insulin and Other Diabetes Treatment Items

Lawmakers this week introduced legislation that would make the sale of insulin, insulin syringes, blood or urine testing supplies and related items used to treat diabetes exempt from any state, county, and municipal sales and use taxes if prescribed. The bill applies retroactively to open tax periods. [HB 307](#) by [Rep. Ron Johnson, R-Sylacauga](#), awaits consideration by the House Ways and Means Education Committee, while [SB 309](#) [Sen. Gerald Dial, R-Lineville](#), awaits consideration by the Finance and Taxation General Fund Committee.

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## LEGAL NOTICES

### Senate OKs Requirement for Online Legal Notices

Thursday, the Senate unanimously voted to approve [SB 73](#) by [Sen.](#)

reached through the House e-mail system by using the following format:

[firstname.lastname@alhouse.org](mailto:firstname.lastname@alhouse.org).

Those without e-mail addresses can be reached through the general e-mail address:

[house3@alhouse.org](mailto:house3@alhouse.org)

There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact information.

### LINKS GO TO CONTACT INFO:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information. You can also find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of [alabamaretail.org](http://alabamaretail.org).

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[Cam Ward, R-Alabaster](#), which requires legal notices be posted both in print and online. It requires that legal notices be uploaded to a statewide website and to the publication's website, if it has one, without an additional charge to whoever placed the legal ad in the print publication. The Senate Judiciary Committee approved the bill on Wednesday, Feb. 8. The bill now awaits consideration by the House Judiciary Committee.

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## CREDIT

### Credit Report Security Freeze Clears House Panel

Wednesday, the House Financial Services Committee approved [HB 15](#) by [Rep. DuWayne Bridges, R-Valley](#), which would regulate Alabama residents' power to put a security freeze on their credit report. The bill prohibits a credit reporting agency from releasing a frozen credit report or score to a third party without the explicit consent of the consumer. The legislation also sets up methods by which a consumer can have the freeze lifted in under 15 minutes, should he/she wish to apply for credit. **The bill incorporates ARA-requested changes.**

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## CHILD LABOR

### Child Labor Law Revisions Moving

Legislation to update and clarify the state's child labor laws began moving through the legislative process this week. On a vote of 5-2-1 Tuesday, the Senate Governmental Affairs approved [SB 174](#) by [Sen. Jimmy Holley, R-Elba](#). The House State Government Committee will debate the House companion, [HB 268](#) by [Rep. Blaine Galliher, R-Gadsden](#), at 3 p.m. Wednesday.

The proposed revisions to current law would prohibit 14 or 15 year olds from working in a warehouse; require that employee records for minors be kept at the location where the minor works; clarify the acceptable documents needed to verify a minor's age; require employers to post their Child Labor Certificate; clarify that 16-year-olds and up can be employed as busboys and in other non-server positions in establishments where liquor is served; prohibit anyone younger than 18 from working in an adult establishment; allow for a range of civil penalties from \$1,000 to \$5,000.

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## ALCOHOL

### Senate Next to Debate Bigger Beer Containers

Tuesday, a Senate panel approved legislation to allow bigger beer containers. [SB 294](#) by [Sen. Paul Sanford, R-Huntsville](#), sets a new maximum size for a can or bottle of beer at 24.5 ounces, an increase from the current 16-ounce maximum. The House companion, [HB 264](#) By [Rep. Jim Barton, R-Mobile](#), awaits action by the House Economic Development and Tourism Committee.

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## FOOD

## Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, ARA members get rates normally reserved for only the largest stores.

## Discounted Inbound and Outbound Shipping:

Through our arrangement with **PartnerShip** ARA members can save up to 27% on FedEx services and up to 70% on other shipping needs.

## Budget Friendly Email Marketing

**Constant Contact** brings ARA members cutting edge e-mail marketing technology for as low as \$15 a month; members save up to 25%

## **Bill Proposes 4% Rebate to Restaurants that Buy Alabama-Grown Food**

Legislation to offer restaurants a rebate for buying Alabama-grown food products will be before the House Agriculture and Forestry Committee at 3:30 p.m. Wednesday. Under [HB 37](#) by [Rep. Joe Hubbard, D-Montgomery](#), restaurants could submit documentation of annual purchases of Alabama agricultural products to apply for a four-percent rebate from a state fund established by the bill. To be viable, the Legislature would have to appropriate money to the fund.

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## **SMALL BUSINESS**

### **Ask Agencies to Consider Small Business Before Rulemaking, Panel Says**

Wednesday, the House Commerce and Small Business Committee approved [HB 150](#) by [Rep. April Weaver, R-Brierfield](#), which requires a small business regulatory flexibility analysis and a small business economic impact statement when a state agency proposes a new rule or rule change. The Administrative Procedure Act is now ready for consideration by the full House. The Senate Business and Labor Committee will take up the companion bill, [SB 222](#) by [Sen. Bill Holtzclaw, R-Decatur](#), next week.

This legislation also requires agencies to review rules that could impact small businesses every five years. Under the bills, a business is considered small if it is independently owned and operated and employs fewer than 250 full-time employees or has gross annual sales of less than \$25 million.

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### **Senate Panel Delays Vote on Small Business Loan Bill**

The Senate Finance and Taxation General Fund Committee debated but did not vote Wednesday on [SB 158](#) by [Sen. Quinton T. Ross Jr., D-Montgomery](#), a constitutional amendment to transfer \$150 million over three years from the Alabama Trust Fund to a Small Business and Job Creation Fund. The fund administered by the Alabama Development Office would provide loans to businesses. The maximum loan amounts would be \$25,000 for businesses creating five to 10 jobs and \$100,000 for businesses creating 11 or more jobs. As businesses make payments on the loans, the funds would be deposited back into the Alabama Trust Fund.

Committee members asked for more time to study the constitutional amendment and its ramifications.

The companion is [HB 215](#) by [Rep. Joe Hubbard, D-Montgomery](#), awaits consideration by the House Economic Development and Tourism Committee. **ARA will continue to monitor both bills.**

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## **HEALTH**

### **Alabama, Other States Should Control Federal Health Funds, Panel Votes**

Wednesday, the Senate Health Committee voted 5-2-1 to establish a Health Care Compact to remove Alabama and other states from

federal health-care oversight. [SB 258](#) by the committee's chairman, [Sen. Greg Reed, R-Jasper](#), now goes to the full Senate. The legislation is being pushed by the American Legislative Exchange Council (ALEC) to create the Interstate Advisory Health Care Commission, which, with the approval of Congress, would be allowed to spend federal money on health care without having to abide by federal regulations.

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## CAMPAIGN FINANCES

### Campaign Finance Bills Sent to Subcommittee

Wednesday, the House Ethics and Campaign Finance Committee referred two bills that would change campaign financing in Alabama to a subcommittee for further study. [HB 200](#) by [Rep. Chris England, D-Tuscaloosa](#), would prohibit corporations from contributing to a political action committee. [HB 207](#) by [Rep. Merika Coleman, D-Birmingham](#), limits campaign contributions to \$500 for every election a candidate's name is on the ballot beginning with this year's election cycle.

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## OIL AND GAS

### Dial Bill Would Repeal Gas Discount Ban

The Senate Commerce, Transportation and Utilities Committee on Thursday approved [SB 315](#) by [Sen. Gerald Dial, R-Lineville](#), which would repeal the prohibition against gasoline rebates or discounts that make the selling price at the pump below a retailer's or wholesaler's cost. The bill now goes to the full Senate.

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## NEXT LEGISLATIVE DAY:

**The Alabama House meets at 3:30 p.m. Tuesday, Feb. 21, for the sixth meeting day of the 2012 regular session. The Senate meets at 5 p.m.**

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## FEDERAL

### Joint Resolution Would Overturn 'Ambush' Union Elections

A joint resolution ([SJR 36](#)) introduced Thursday in both chambers of Congress would overturn a National Labor Relations Board (NLRB) decision that dramatically shortens the election period before a unionization vote. The resolution calls for Congress to use the Congressional Review Act to overturn the new election rules adopted by the NLRB in December. Under those rules, union organizing elections could be held in as little as 14 days after a union files a petition, down from a current median of 37 days for most elections and an average 101 days for those where legal challenges are filed. Without congressional intervention, those changes are scheduled to



take effect April 30.

Unlike typical bills that require 60 votes to clear procedural hurdles in the Senate, the Congressional Review Act would require only a simple 51-vote majority to pass. The measure would then require House approval before the NLRB regulations could be overturned. The Review Act has been successfully used only once before, to overturn Labor Department ergonomics regulations in 2001.

**ARA, the Retail Industry Leaders Association  
and the National Retail Federation support this effort.**

Part of the December rules set to take effect at the end of April is a requirement that virtually every private employer post an **11-by-17 notice of employees' rights** under the National Labor Relations Act (NLRA). A Senate bill (**S. 1666**) and two House bills (**H.R. 2833** and **2854**) also would block that posting requirement.

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## **Congress Extends Payroll Tax Cut**

Congress voted today to renew the payroll tax cut and jobless benefits. The Senate approved the \$143 billion measure on a 60-36 vote minutes after the House approved it 293-132. The president was expected to sign **HR 3630** today.

The legislation allows workers to continue to receive a two percentage point increase in pay and allows people out of work for more than six months to keep their jobless benefits. The bill also prevents a 27 percent cut in federal reimbursements to physicians who treat Medicare patients.

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## **Corporate Tax Reform Part of Obama's Budget Plan**

In his annual budget proposal to Congress on Monday, President Obama called for lowering the top corporate tax rate, which could help retailers create jobs. The United States has one of the highest corporate tax rates in the world, with the retail industry paying one of the highest rates of any industry group. While the president did not specify a tax rate, House Ways and Means Committee Chairman Dave Camp, R-Mich., last October proposed lowering the top rate from 35 percent to 25 percent.

However, the president's proposed \$3.8 trillion budget also includes about \$1.6 trillion in tax increases.